

This Statutory Instrument includes an amendment made in consequence of a defect in S.I. 2024/102 and is being issued free of charge to all known recipients of that Statutory Instrument.

Draft Regulations laid before Parliament under section 429(9) of the Financial Services and Markets Act 2000 and sections 4(9) and 84(5) of the Financial Services and Markets Act 2023 (c. 29), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No. ****

FINANCIAL SERVICES AND MARKETS

The Securitisation (Amendment) Regulations 2024

Made - - - -

Coming into force in accordance with regulation 1(2) and (3)

The Treasury make these Regulations in exercise of the powers conferred by sections 71R and 428(3) of the Financial Services and Markets Act 2000(a) and sections 4, 83(1) and (2), 84(2) and 86(5) and (6) of the Financial Services and Markets Act 2023(b).

In accordance with section 429(9) of the Financial Services and Markets Act 2000 and sections 4(9) and 84(5) of the Financial Services and Markets Act 2023 a draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Securitisation (Amendment) Regulations 2024.
- (2) The following provisions come into force on the day after that on which these Regulations are made—
 - (a) regulation 2(2);
 - (b) paragraph 10(3) of Schedule 2, and regulation 3 so far as relating to that provision.
- (3) The remaining provisions of these Regulations come into force on 1st November 2024.
- (4) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Amendments to the Securitisation Regulations 2024

- 2.—(1) The Securitisation Regulations 2024(c) are amended as follows.
- (2) In regulation 2 (commencement), in paragraph (2), for the words from “the day” to “into force” substitute “1st November 2024”.

(a) 2000 c. 8. Section 71R was inserted by section 8(2) of the Financial Services and Markets Act 2023 (c. 29); section 428(3) was amended by section 66(3) of that Act.
(b) 2023 c. 29.
(c) S.I. 2024/102.

- (3) In regulation 3 (interpretation), in paragraph (1), after the definition of “originator” insert—
- ““overseas STS securitisation” has the meaning given in regulation 12(2);”.
- (4) In regulation 6 (power of FCA to give directions), in paragraph (3)(a)—
- (a) at the end of paragraph (i), omit “or”;
- (b) after paragraph (i) insert—
- “(ia) by regulation 8A (restriction on establishment of an SSPE), or”.
- (5) After regulation 8 insert—

“PART 3A

Restriction on establishment of a securitisation special purpose entity

Restriction on establishment of a securitisation special purpose entity

8A.—(1) The originator and sponsor in relation to a securitisation must ensure that the securitisation is not carried out by means of a securitisation special purpose entity that is established in a country or territory outside the United Kingdom that is for the time being listed by the Financial Action Task Force^(a) as a high-risk jurisdiction subject to—

- (a) a call on members to apply proportionate enhanced due diligence measures, or
- (b) a call on members and other jurisdictions to apply countermeasures.

(2) An institutional investor must not invest in a securitisation carried out by means of a securitisation special purpose entity that is established in a country or territory outside the United Kingdom to which paragraph (1) applies.”.

- (6) In regulation 13 (overseas simple, transparent and standardised securitisations regime), after paragraph (7) insert—

“(7A) Regulations under paragraph (1) may—

- (a) specify matters that a person carrying out a due-diligence assessment required by regulations 32B and 32C must consider with regard to an overseas STS securitisation;
- (b) in relation to a matter specified, specify the extent to which the person may rely on the matter.”.

- (7) In Part 7 (due-diligence requirements), before regulation 33 insert—

“Interpretation of Part 7

32A In this Part—

“applicable FCA or PRA rules”, in relation to an originator, sponsor, original lender or securitisation special purpose entity, means such of the following as are applicable to the originator, sponsor, original lender or securitisation special purpose entity—

- (a) designated activity rules made by virtue of regulation 5;
- (b) rules made by the PRA under section 137G of FSMA 2000^(b);

(a) See <https://fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions>.

(b) Section 137G was inserted by section 24(1) of the Financial Services Act 2012 (c. 21).

“fully-supported ABCP programme” means an ABCP programme that is a fully-supported ABCP programme as defined in designated activity rules made by virtue of regulation 5;

“fully-supported ABCP transaction” means an ABCP transaction that is a fully-supported ABCP transaction as defined in designated activity rules made by virtue of regulation 5;

“liquidity facility” means the securitisation position arising from a contractual agreement to provide funding to ensure timeliness of cash flows to investors.

Due-diligence requirements for occupational pension schemes: before holding a securitisation position

32B.—(1) Before holding a securitisation position, the trustees or managers of an occupational pension scheme who are not the originator, sponsor or original lender must verify the following matters—

- (a) where the originator or original lender is established in the United Kingdom and is not a CRR firm or an FCA investment firm, that the originator or original lender—
 - (i) grants all the credits giving rise to the underlying exposures, unless they are trade receivables not originated in the form of a loan, on the basis of sound and well-defined criteria and clearly established processes for approving, amending, renewing and financing those credits in accordance with any applicable FCA or PRA rules relating to credit-granting requirements, and
 - (ii) has effective systems in place to apply those criteria and processes in accordance with any applicable FCA or PRA rules relating to credit-granting requirements;
- (b) where the originator or original lender is not established in the United Kingdom, that the originator or original lender—
 - (i) grants all the credits giving rise to the underlying exposures, unless they are trade receivables not originated in the form of a loan, on the basis of sound and well-defined criteria and clearly established processes for approving, amending, renewing and financing those credits, and
 - (ii) has effective systems in place to apply those criteria and processes to ensure that credit-granting is based on a thorough assessment of the obligor’s creditworthiness;
- (c) where the originator, sponsor or original lender is established in the United Kingdom, that—
 - (i) the originator, sponsor or original lender continually retains a material net economic interest in accordance with any applicable FCA or PRA rules relating to risk retention requirements, and
 - (ii) that risk retention is disclosed to the trustees or managers of the occupational pension scheme in accordance with any applicable FCA or PRA rules relating to transparency requirements;
- (d) where the originator, sponsor or original lender is not established in the United Kingdom—
 - (i) that the originator, sponsor or original lender continually retains a material net economic interest which, in any event, must not be less than 5%, determined in accordance with rules made by the FCA or PRA relating to

risk retention requirements which would be applicable FCA or PRA rules were the originator, sponsor or original lender to be established in the United Kingdom, and

- (ii) that the originator, sponsor or original lender discloses the risk retention to the trustees or managers of the occupational pension scheme;
- (e) that the originator, sponsor or securitisation special purpose entity—
 - (i) has made available sufficient information to enable the trustees or managers of the occupational pension scheme independently to assess the risks of holding the securitisation position, and
 - (ii) has committed to make available further information on an ongoing basis as appropriate.

(2) In paragraph (1)(a)—

“CRR firm” has the meaning given in Article 4(1)(2A) of the Capital Requirements Regulation**(a)**;

“FCA investment firm” has the meaning given in Article 4(1)(2AB) of the Capital Requirements Regulation**(b)**.

(3) In the case of a fully-supported ABCP transaction, the trustees or managers of an occupational pension scheme are not required to verify the matters referred to in paragraph (1)(a).

(4) The information referred to in paragraph (1)(e) must include at least the information specified in the first column of Schedule A1, which must be provided at least with the frequency, or on the occasions, specified in the corresponding entry in the second column of that Schedule.

(5) Before holding a securitisation position, the trustees or managers of an occupational pension scheme who are not the originator, sponsor or original lender must carry out a due-diligence assessment which enables them to assess the risks involved and consider at least all of the following—

- (a) the risk characteristics of the individual securitisation position and of the underlying exposures;
- (b) any of the structural features of the securitisation that could materially impact the performance of the securitisation position, including the contractual priorities of payment and priority of payment-related triggers, credit enhancements, liquidity enhancements, market value triggers, and transaction-specific definitions of default;
- (c) with regard to a securitisation included on the list maintained under regulation 10(2), compliance with the STS criteria and with any applicable designated activity rules relating to the notification mentioned in regulation 10(1);
- (d) with regard to a securitisation that appears to the trustees or managers to be an overseas STS securitisation—
 - (i) whether the securitisation falls within a description of securitisation specified in regulations under regulation 13(1) in relation to a country or territory designated under those regulations, and
 - (ii) any matters specified for the purposes of regulation 13(7A)(a) in regulations under regulation 13(1);

(a) For the meaning of “the Capital Requirements Regulation” see regulation 3(1) of S.I. 2024/102. Article 4(1)(2A) was inserted by S.I. 2018/1401 and amended by section 1(3) of the Financial Services Act 2021 (c. 22).

(b) Article 4(1)(2AB) was inserted by section 1(4) of the Financial Services Act 2021.

(e) with regard to a securitisation falling within paragraph (3)(b) and (c) of regulation 12, compliance with the requirements referred to in paragraph (3)(a) of that regulation and with Article 27 of the EU Securitisation Regulation 2017 as it had effect in relation to the European Union at the time of the notification mentioned in paragraph (3)(b) of that regulation.

(6) In addition to the matters specified in paragraph (5)(a) and (b), in the case of a fully-supported ABCP programme, the trustees or managers of an occupational pension scheme investing in the commercial paper issued by that ABCP programme must consider the features of the ABCP programme and the full liquidity support.

(7) The duty in paragraph (5)(c) applies whether or not a third party verifier has assessed compliance of the securitisation with the STS criteria.

(8) In considering the matter referred to in paragraph (5)(c), the trustees or managers of an occupational pension scheme may rely to an appropriate extent on the STS notification and on the information disclosed by the originator, sponsor and securitisation special purpose entity concerning compliance with the STS criteria, without solely or mechanistically relying on that notification or information.

(9) In relation to an overseas STS securitisation, the trustees or managers of an occupational pension scheme may rely on a matter specified under regulation 13(7A)(b) to such extent as regulations under regulation 13(1) provide.

(10) In considering the matter referred to in paragraph (5)(e), the trustees or managers of an occupational pension scheme may rely to an appropriate extent on the notification referred to in regulation 12(3)(b) and on the information disclosed by the originator, sponsor and securitisation special purpose entity to the European Securities and Markets Authority concerning compliance with the requirements referred to in regulation 12(3)(a), without solely or mechanistically relying on that notification or information.

Due-diligence requirements for occupational pension schemes: ongoing requirements

32C.—(1) Where the trustees or managers of an occupational pension scheme hold a securitisation position in relation to which they are not the originator, sponsor or original lender, the trustees or managers must at least establish appropriate written procedures that are proportionate to the risk profile of the securitisation position and, where relevant, to their trading and non-trading book, in order to monitor on an ongoing basis—

- (a) compliance with regulation 32B in relation to matters arising while the securitisation position is held, and
- (b) the performance of the securitisation position and of the underlying exposures.

(2) The written procedures referred to in paragraph (1) must, where relevant to the securitisation and the underlying exposures, include—

- (a) monitoring of the exposure type,
- (b) the percentage of loans more than 30, 60 and 90 days past due,
- (c) default rates,
- (d) prepayment rates,
- (e) loans in foreclosure,
- (f) recovery rates,
- (g) repurchases,
- (h) loan modifications,
- (i) payment holidays,

- (j) collateral type and occupancy, and
- (k) frequency distribution of credit scores or other measures of credit worthiness across underlying exposures, industry and geographical diversification, frequency distribution of loan to value ratios with band widths that facilitate adequate sensitivity analysis.

(3) Where the underlying exposures are themselves securitisation positions, in a case where this is not prohibited in relation to the originator, sponsor or original lender by applicable FCA or PRA rules, the trustees or managers must also monitor the exposures underlying those positions.

(4) The trustees or managers of an occupational pension scheme who are not the originator, sponsor or original lender holding a securitisation position must at least—

- (a) in the case of a securitisation other than a fully-supported ABCP programme, regularly perform stress tests on the cash flows and collateral values supporting the underlying exposures or, in the absence of sufficient data on cash flows and collateral values, stress tests on loss assumptions, having regard to the nature, scale and complexity of the risk of the securitisation position;
- (b) in the case of a fully-supported ABCP programme, regularly perform stress tests on the solvency and liquidity of the sponsor;
- (c) ensure internal reporting to the trustees or managers so that they are aware of the material risks arising from the securitisation position and so that those risks are adequately managed;
- (d) be able to demonstrate to the Pensions Regulator, upon request, that they have a comprehensive and thorough understanding of the securitisation position and its underlying exposures and that they have implemented written policies and procedures for the risk management of the securitisation position and for maintaining records of the verifications and due diligence in accordance with regulation 32B and of any other relevant information; and
- (e) in the case of exposures to a fully-supported ABCP programme, be able to demonstrate to the Pensions Regulator, upon request, that they have a comprehensive and thorough understanding of the credit quality of the sponsor and of the terms of the liquidity facility provided.

Due-diligence requirements for occupational pension schemes: delegation of investment management decisions

32D.—(1) Paragraph (2) applies where—

- (a) the trustees or managers of an occupational pension scheme—
 - (i) have given a relevant institutional investor (“the managing party”) authority to make investment management decisions that might expose the trustees or managers to a securitisation, and
 - (ii) instruct the managing party to fulfil any of their obligations under regulations 32B and 32C in respect of any exposure to a securitisation arising from those decisions, and
- (b) the managing party fails to fulfil an obligation to which those instructions relate.

(2) The trustees or managers of the occupational pension scheme are not to be regarded as responsible for the failure to comply with the obligation in question.

(3) In this regulation “relevant institutional investor” means an institutional investor which is an authorised person.”.

(8) In regulation 35 (interpretation of Part 8), in the definition of “relevant requirement”, after paragraph (b) insert—

“(ba) by regulation 8A (restriction on establishment of an SSPE),”.

(9) After regulation 36 insert—

“Monitoring and enforcement by Pensions Regulator

36A—(1) The Pensions Regulator must maintain arrangements designed to enable it to determine whether trustees or managers of occupational pension schemes are complying with the requirements of regulations 8A(2), 32B and 32C.

(2) The Pensions Regulator must also maintain arrangements for enforcing compliance by trustees or managers of occupational pension schemes with those requirements.”.

(10) After regulation 52 insert—

“Occupational pension schemes: savings relating to pre-commencement securitisations

52A—(1) Regulations 32B to 32D (due diligence requirements for occupational pension schemes) do not apply in relation to pre-commencement securitisations.

(2) The revocation of the EU Securitisation Regulation 2017 by section 1(1) of, and Schedule 1 to, the Financial Services and Markets Act 2023 does not affect—

- (a) the continued application, in relation to the obligations of trustees or managers of occupational pension schemes in connection with securitisation positions of pre-commencement securitisations other than pre-2019 securitisations, of Article 5 of the EU Securitisation Regulation 2017 (due-diligence requirements for institutional investors), as that Article had effect immediately before the main commencement day;
- (b) the continued application, in relation to the holding by occupational pension schemes of securitisation positions of pre-2019 securitisations, of paragraph 5 of Article 43 of the EU Securitisation Regulation 2017 (transitional provisions), as that paragraph had effect immediately before the main commencement day.

(3) In its application by virtue of paragraph (2)(a), Article 5 of the EU Securitisation Regulation 2017 is to be read as if—

- (a) references to any provision of Articles 6 to 9 of the EU Securitisation Regulation 2017 were references to that provision so far as applied in relation to pre-commencement securitisations by relevant rules, and
- (b) in paragraph 5, the reference to “another institutional investor” did not include an AIFM unless the AIFM falls within paragraph (e) of the definition of “institutional investor” in regulation 3 of these Regulations.

(4) In paragraph (3)(a) “relevant rules” means—

- (a) in the case of a PRA-authorized person, rules made by the PRA under section 137G of FSMA 2000;
- (b) in any other case, designated activity rules made by the FCA by virtue of regulation 5.

(5) In regulation 36A (monitoring and enforcement by Pensions Regulator), the reference to the requirements of regulations 32B and 32C includes a reference to the requirements of Article 5 of the EU Securitisation Regulation 2017, so far as remaining in force by virtue of paragraph (2).

(6) In this regulation—

“AIFM” has the meaning given in regulation 4 of the Alternative Investment Fund Managers Regulations 2013(a);

“pre-2019 securitisations” has the same meaning as in regulation 52;

“pre-commencement securitisations” means—

- (a) securitisations the securities of which were issued before the main commencement day, or
- (b) securitisations in relation to which the following conditions are met—
 - (i) the securitisations do not involve the issue of securities,
 - (ii) the initial securitisation positions of the securitisations were created before the main commencement day, and
 - (iii) no new securitisation positions of the securitisations have been created on or after that day.”.

(11) Before Schedule 1 insert the Schedule A1 set out in Schedule 1 to these Regulations.

(12) In Schedule 3 (transitional provisions), in paragraph 2 (STS securitisations on list maintained by FCA under EU Securitisation Regulation 2017), after sub-paragraph (4) insert—

“(5) In relation to a securitisation that is included on the list referred to in regulation 10(2) as a result of sub-paragraph (1)—

- (a) the reference in regulation 32B(5)(c) to any applicable designated activity rules relating to the notification mentioned in regulation 10(1) is to be read as a reference to Article 27 of the EU Securitisation Regulation 2017(b), and
- (b) the references in regulation 32B(8) and paragraph 7 of Schedule A1 to the STS notification is to be read as a reference to the notification to the FCA under Article 27(1) of the EU Securitisation Regulation 2017.”.

Amendments to other enactments

3. Schedule 2 contains amendments to other enactments in connection with—

- (a) the revocation by section 1(1) of, and Schedule 1 to, the Financial Services and Markets Act 2023 of the EU Securitisation Regulation 2017, as defined in regulation 3(1) of the Securitisation Regulations 2024;
- (b) the provisions of the Securitisation Regulations 2024.

[date]

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Two of the Lords Commissioners of His Majesty's Treasury

(a) S.I. 2013/1773. Regulation 4 was amended by S.I. 2019/328.
(b) EUR 2017/2402. Article 27 was amended by S.I. 2019/660.

SCHEDULES

SCHEDULE 1

Regulation 2(11)

New Schedule A1 to Securitisation Regulations 2024

“SCHEDULE A1

Regulation 32B(4)

Supplementary provision about due diligence requirements for the trustees or managers of an occupational pension scheme

<i>Information</i>	<i>Frequency with which, or occasion on which, information is to be made available</i>
<p>1. In the case of a securitisation which is neither an ABCP programme nor an ABCP transaction, details of the underlying exposures.</p>	At least quarterly.
<p>2. In the case of a securitisation which is an ABCP programme or an ABCP transaction, information on the underlying receivables or credit claims.</p>	At least monthly.
<p>3. Reports for investors providing periodic updates on—</p> <ul style="list-style-type: none"> (a) the credit quality and performance of the underlying exposures; (b) any relevant financial or other triggers contained in the transaction documentation, including information on events which trigger changes to the priority of payments or the substitution of any counterparty to the transaction; (c) data on the cash flows generated by the underlying exposures and by the liabilities of the securitisation; (d) the calculation and modality of retention of a material net economic interest in the transaction by the originator, sponsor or original lender. 	<p>At least quarterly in the case of a securitisation which is neither an ABCP programme nor an ABCP transaction.</p> <p>At least monthly in the case of a securitisation which is an ABCP programme or an ABCP transaction.</p>

<i>Information</i>	<i>Frequency with which, or occasion on which, information is to be made available</i>
<p>4. All information on the legal documentation needed to understand the transaction, including detail of the legal provisions governing—</p> <ul style="list-style-type: none"> (a) the structure of the transaction, (b) any credit enhancement or liquidity support features, (c) the cash flows and loss waterfalls, (d) investors’ voting rights, and (e) any triggers or other events that could result in a material impact on the performance of the securitisation position. 	<p>In the case of primary market investments—</p> <ul style="list-style-type: none"> (a) before pricing or a commitment to invest, in draft or initial form, (b) no later than 15 days after closing of the transaction, in final form, and (c) an updated version as soon as practicable following any material change. <p>In the case of secondary market investments—</p> <ul style="list-style-type: none"> (a) before a commitment to invest, in final form, and (b) an updated version as soon as practicable following any material change.
<p>5. Information describing any changes or events materially affecting the transaction, including breaches of obligations under the transaction documents</p>	<p>As soon as practicable following that material change or event.</p>
<p>6. Any approved prospectus or other offering or marketing document prepared with the co-operation of the originator or sponsor.</p>	<p>In the case of primary market investments—</p> <ul style="list-style-type: none"> (a) before pricing or a commitment to invest, in draft or initial form, and (b) no later than 15 days after closing of the transaction, in final form <p>In the case of secondary market investments, before a commitment to invest, in final form.</p>
<p>7. If there is an STS notification, or a notification falling within regulation 12(3)(b), in respect of the transaction, that notification.</p>	<p>In the case of primary market investments—</p> <ul style="list-style-type: none"> (a) before pricing or a commitment to invest, in draft or initial form, (b) no later than 15 days after closing of the transaction, in final form, and (c) an updated version as soon as practicable following any material change.

<i>Information</i>	<i>Frequency with which, or occasion on which, information is to be made available</i>
	<p>In the case of secondary market investments—</p> <p>(a) before a commitment to invest, in final form, and</p> <p>(b) an updated version as soon as practicable following any material change.”.</p>

SCHEDULE 2

Regulation 3

Amendments to other enactments

PART 1

Amendment to primary legislation

Financial Services and Markets Act 2000

1. In the Financial Services and Markets Act 2000(a), in section 204A (meaning of “relevant requirement” and “appropriate regulator” for purposes of Part 14)(b), in subsection (3), after paragraph (f), insert—

“(fa) a requirement imposed by regulation 8A(2) of the Securitisation Regulations 2024 where the institutional investor concerned is a PRA-authorised person;”.

PART 2

Amendments to secondary legislation

Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999

2. In the Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999(c), in the Schedule, in the entry relating to the Financial Conduct Authority, in the second column—

(a) for paragraph (o) substitute—

“(o) the conduct of persons regulated under the Securitisation Regulations 2024 or under rules made by the Financial Conduct Authority relating to securitisation;”.

(b) omit paragraph (v).

(a) 2000 c. 8.

(b) Section 204A was inserted by paragraph 10 of Schedule 9 to the Financial Services Act 2012 (c. 21). Subsection (6)(aa) was inserted by section 11(10) of the Civil Liability Act 2018 (c. 29). Subsection (6)(g) is inserted by S.I. 2024/102.

(c) S.R. 1999 No. 401. Paragraph (o) of the entry relating to the Financial Conduct Authority was substituted by S.R. 2022 No. 290.

Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

3.—(1) The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(a) is amended as follows.

(2) In article 3 (interpretation)(b), in paragraph (1)—

(a) omit the definition of “EU Securitisation Regulation 2017”;

(b) in the definition of “securitisation repository”, for the words from “FCA” to “2017” substitute “the FCA under regulation 17 of the Securitisation Regulations 2024”.

(3) In article 35AB (securitisation repositories)(c), for “EU Securitisation Regulation 2017” substitute “Securitisation Regulations 2024”.

Payment to Treasury of Penalties (Enforcement Costs) Order 2013

4. In the Payment to Treasury of Penalties (Enforcement Costs) Order 2013(d), in article 2 (enforcement powers), omit paragraph (1)(o).

Financial Services and Markets Act 2000 (Qualifying Provisions) Order 2013

5.—(1) The Financial Services and Markets Act 2000 (Qualifying Provisions) Order 2013(e) is amended as follows.

(2) In article 1 (citation, commencement and interpretation)(f), in paragraph (2), omit the definition of “EU Securitisation Regulation 2017”.

(3) In article 2 (qualifying provisions: general)(g), omit paragraphs (2)(n) and (6)(f).

(4) In article 3 (qualifying provisions: disciplinary measures)(h), omit paragraphs (2)(q) and (3)(o).

(5) In article 5 (qualifying provisions: injunctions and restitution)(i), omit paragraphs (2)(q) and (5)(p).

(6) In article 6 (qualifying provisions: fees)(j), omit paragraphs (2)(s) and (4)(g).

Financial Services Act 2012 (Relevant Functions in relation to Complaints Scheme) Order 2014

6.—(1) The Financial Services Act 2012 (Relevant Functions in relation to Complaints Scheme) Order 2014(k) is amended as follows.

(2) In article 2 (relevant functions of the FCA)(l), in paragraph (h), for “Securitisation Regulations 2018” substitute “Securitisation Regulations 2024”.

(3) In article 3 (relevant functions of the PRA)(m) for “Securitisation Regulations 2018” substitute “Securitisation Regulations 2024”.

(a) S.I. 2001/544.

(b) In article 3(1), the definition of “EU Securitisation Regulation 2017” was inserted by S.I. 2018/1288 and amended by S.I. 2020/1385 and the definition of “securitisation repository” was inserted by S.I. 2018/1288 and amended by S.I. 2019/660.

(c) Article 35AB was inserted by S.I. 2018/1288.

(d) S.I. 2013/418: article 2(1)(o) was inserted by S.I. 2018/1288.

(e) S.I. 2013/419. The title of the instrument was amended by S.I. 2019/632.

(f) In article 1(2), the definition of “EU Securitisation Regulation 2017” was inserted by S.I. 2018/1288.

(g) Articles 2(2)(n) and 2(6)(f) were inserted by S.I. 2018/1288.

(h) Articles 3(2)(q) and 3(3)(o) were inserted by S.I. 2018/1288.

(i) Articles 5(2)(q) and 5(5)(p) were inserted by S.I. 2018/1288.

(j) Article 6(2)(s) was inserted by S.I. 2019/1043 and article 6(4)(g) was inserted by S.I. 2018/1288.

(k) S.I. 2014/1195.

(l) Article 2(h) was inserted by S.I. 2018/1288.

(m) Article 3 was inserted by S.I. 2017/701 and amended by S.I. 2018/1288.

Public Interest Disclosure (Prescribed Persons) Order 2014

7.—(1) In the Public Interest Disclosure (Prescribed Persons) Order 2014(a), the Schedule is amended as follows.

(2) In the entry relating to the Financial Conduct Authority(b), in the second column—

(a) for paragraph (o) substitute—

“(o) the conduct of persons regulated under the Securitisation Regulations 2024 or under rules made by the Financial Conduct Authority relating to securitisation;”;

(b) omit paragraph (v).

(3) In the entry relating to the Prudential Regulation Authority(c), in the second column, for paragraph (c) substitute —

“(c) the conduct of persons regulated under the Securitisation Regulations 2024.”.

Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018

8. In the Financial Regulators’ Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018(d), in the Schedule—

(a) in Part 1 (EU Regulations for which the FCA is the appropriate regulator), omit paragraphs 69F to 69L(e), including the heading immediately before paragraph 69F;

(b) in Part 4 (EU Regulations for which both the FCA and the PRA are appropriate regulators), omit paragraphs 174ZA and 174ZB(f), including the heading immediately before paragraph 174ZA.

Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019

9. In the Solvency 2 and Insurance (Amendment, etc.) (EU Exit) Regulations 2019(g), in Schedule 1 (matters in respect of which the Treasury may make regulations), in paragraph 21, for “the requirements provided for in Articles 5 or 6 of Regulation (EU) 2017/2402” substitute “any requirements imposed by rules made by the Financial Conduct Authority or the Prudential Regulation Authority in relation to due diligence or risk retention in relation to a securitisation, as defined in regulation 3(1) of the Securitisation Regulations 2024.”.

Securitisation Regulations 2024

10.—(1) The Securitisation Regulations 2024(h) are amended as follows.

(2) In Schedule 1 (amendment or application with modifications of provisions of FSMA 2000), in paragraph 12 (notices)—

(a) in sub-paragraph (1), after “under regulations” insert “7,”;

(b) in sub-paragraph (4)(a), after “regulation” insert “7,”;

(a) S.I. 2014/2418. In the entry relating to the Financial Conduct Authority, paragraph (o) was inserted by S.I. 2018/1288.

(b) Paragraph (o) of the entry was inserted by S.I. 2018/1288 and paragraph (v) by S.I. 2022/1064.

(c) Paragraph (c) of the entry was inserted by S.I. 2018/1288.

(d) S.I. 2018/1115.

(e) Paragraph 69F was inserted by S.I. 2019/1390, paragraph 69G by S.I. 2020/628 and paragraphs 69H to 69L by S.I. 2020/1385.

(f) Paragraphs 174ZA and 174ZB were inserted by S.I. 2020/1385.

(g) S.I. 2019/407.

(h) S.I. 2024/102.

(c) in sub-paragraph (6), after “regulation” insert “7,”,

(3) In Schedule 2 (consequential amendments), omit paragraph 1 (which contains a prospective amendment that is superseded by paragraph 12(2)(b) of this Schedule).

PART 3

Amendments to assimilated direct legislation

EMIR

11. Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories^(a) is amended as follows.

12.—(1) Article 4 (clearing obligation) is amended as follows.

(2) In paragraph 5—

(a) for “within the meaning of Regulation (EU) 2017/2402 of the European Parliament and of the Council” substitute “as defined in regulation 3(1) of the Securitisation Regulations 2024”;

(b) in point (a), for the words from “that meet” to the end substitute “of one or more of the following kinds—

(i) an STS securitisation as defined in regulation 9 of the Securitisation Regulations 2024,

(ii) an overseas STS securitisation as defined in regulation 12(2) of those Regulations;

(iii) a qualifying EU securitisation as defined in regulation 12(3) of those Regulations.”.

(3) Omit paragraph 5A^(b).

13. In Article 11 (risk-mitigation techniques for OTC derivative contracts not cleared by a CCP), in paragraph 15A^(c)—

(a) in point (a)—

(i) for “Article 2(2) of the Securitisation Regulation” substitute “regulation 3(1) of the Securitisation Regulations 2024”;

(ii) for “Article 2(1) of that Regulation” substitute “regulation 3(1) of those Regulations”;

(b) in point (b), for “the requirements set out in Article 18 and in Articles 19 to 22 or 23 to 26 of the Securitisation Regulation” substitute “is—

(i) an STS securitisation as defined in regulation 9 of the Securitisation Regulations 2024,

(ii) an overseas STS securitisation as defined in regulation 12(2) of those Regulations, or

(iii) a qualifying EU securitisation as defined in regulation 12(3) of those Regulations,”;

(c) omit the words from “In the first subparagraph” to the end.

(a) EUR 2012/648.

(b) Paragraph 5A was inserted by S.I. 2019/660.

(c) Paragraph 15A was inserted by S.I. 2019/660.

Commission Delegated Regulation (EU) No 231/2013

14. Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision^(a) is amended as follows.

15. In Article 50 (definitions for Section 5)^(b)—

- (a) in point (a) (definition of “securitisation”), for “within the meaning of Article 2(1) of Regulation 2017/2402” substitute “as defined in regulation 3(1) of the Securitisation Regulations 2024”;
- (b) in point (b) (definition of “securitisation position”) for “within the meaning of Article 2(19) of Regulation 2017/2402” substitute “as so defined”;
- (c) in point (c) (definition of “sponsor”) for “within the meaning of Article 2(5) of Regulation 2017/2402” substitute “as so defined”;
- (d) in point (d) (definition of “tranche”) for “within the meaning of Article 2(6) of Regulation 2017/2402” substitute “as so defined”;
- (e) omit point (e) (definition of “Regulation 2017/2402”).

16. In Article 51 (requirements for retained interest)^(c), for paragraph 2 substitute—

“2. Paragraph 1 shall not apply—

- (a) where the securitised exposures are claims or contingent claims on or fully, unconditionally and irrevocably guaranteed by an institution in relation to which securitisation rules provide an exemption from risk retention requirements that would otherwise be imposed by the rules, or
- (b) to transactions which are based on an index and in relation to which securitisation rules provide an exemption from risk retention requirements that would otherwise be imposed by the rules,

and for this purpose “securitisation rules” means rules made by the FCA by virtue of regulation 5 of the Securitisation Regulations 2024 or rules made by the Prudential Regulation Authority under section 137G of the Financial Services and Markets Act 2000 which relate to securitisation.”.

17. In Article 56 (interpretation)^(d), for “Regulation 2017/2402” substitute “rules made by the FCA under section 137A of FSMA in accordance with regulation 33 of the Securitisation Regulations 2024 (due-diligence requirements of institutional investors)”.

Capital Requirements Regulation

18. Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012^(e) is amended as follows.

19. In Article 4 (definitions), in paragraph 1—

- (a) in point (13) (definition of “originator”), for “point (3) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;

(a) EUR 2013/231.

(b) Amended by S.I. 2019/328.

(c) Article 51 was amended by S.I. 2019/328.

(d) Article 56 was inserted by S.I. 2019/328.

(e) EUR 2013/575.

- (b) in point (14) (definition of “sponsor”), for “point (5) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (c) in point (14a) (definition of “original lender”)(a), for “point (20) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (d) in point (61) (definition of “securitisation”), for “point (1) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (e) in point (62) (definition of “securitisation position”), for “point (19) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (f) in point (63) (definition of “resecuritisation”), for the words from “means” to the end substitute “has the same meaning as in rules made by the PRA under section 137G of FSMA in relation to securitisation”;
- (g) in point (66) (definition of “securitisation special purpose entity” or “SSPE”) for “point (2) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (h) in point (67) (definition of “tranche”) for “point (6) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (i) in point (129) (definition of “servicer”) for the words from “means” to the end substitute “has the same meaning as in rules made by the PRA under section 137G of FSMA in relation to securitisation”.

20. In Article 6 (general principles), in paragraph 1, for the words from “Part Three” to “all securitisations)” substitute “and Part Three of this Regulation and in chapter 2 of the securitisation part of the PRA Rulebook, as that chapter has effect from time to time.”.

21. In Article 14 (application of requirements of Article 5 of Regulation (EU) 2017/2402 on a consolidated basis)—

- (a) in the title, for “requirements of Article 5 of Regulation (EU) 2017/2402)” substitute “due-diligence rules”;
- (b) in paragraph 1, for “Article 5 of Regulation (EU) 2017/2402” substitute “due-diligence rules”;
- (c) in paragraph 2, for “Article 5 of Regulation (EU) 2017/2402” substitute “due-diligence rules”;
- (d) after paragraph 2 insert—

“3. “Due-diligence rules” means rules made by the PRA under section 137G of FSMA in accordance with regulation 33 of the Securitisation Regulations 2024 (rules relating to due-diligence requirements of institutional investors).”.

22. In Article 242 (definitions for Chapter 5)—

- (a) in point (3) (definition of “liquidity facility”) for “in point (14) of Article 2 of Regulation (EU) 2017/2402” substitute “in regulation 32A of the Securitisation Regulations 2024”;
- (b) in point (10) (definition of “simple, transparent and standardised securitisation” or “STS securitisation”)(b)—
 - (i) for paragraph (a) substitute—

(a) Inserted by S.I. 2019/660.

(b) Point (10) was amended by paragraph 38 of Schedule 2 to the Financial Services and Markets Act 2023 (c. 29) and is amended by S.I. 2024/102.

- “(a) an STS securitisation as defined in regulation 9 of the Securitisation Regulations 2024.”;
- (ii) at the end of paragraph (b) insert “, or
- (c) a qualifying EU securitisation as defined in regulation 12(3) of the Securitisation Regulations 2024.”.
- (c) in point (11) (definition of “asset-backed commercial paper programme” or “ABCP programme”) for “point (7) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (d) in point (12) (definition of “asset-backed commercial paper transaction” or “ABCP transaction”) for “point (8) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (e) in point (13) (definition of “traditional securitisation”), for “in point (9) of Article 2 of Regulation (EU) 2017/2402” substitute “for the purposes of rules made by the PRA under section 137G of FSMA in relation to securitisation”;
- (f) in point (14) (definition of “synthetic securitisation”), for “in point (10) of Article 2 of Regulation (EU) 2017/2402” substitute “for the purposes of rules made by the PRA under section 137G of FSMA in relation to securitisation”;
- (g) in point (15) (definition of “revolving exposure”), for “in point (15) of Article 2 of Regulation (EU) 2017/2402” substitute “for the purposes of rules made by the PRA under section 137G of FSMA in relation to securitisation”;
- (h) in point (16) (definition of “early amortisation provision”), for the words from “means an” to the end substitute “means a contractual clause in a securitisation of revolving exposures or a revolving securitisation, as defined for the purposes of rules made by the PRA under section 137G of FSMA in relation to securitisation, which requires, on the occurrence of defined events, investors’ securitisation positions to be redeemed before the originally stated maturity of those positions”;
- (i) in point (17) (definition of “first loss tranche”), for “in point (18) of Article 2 of Regulation (EU) 2017/2402” substitute “for the purposes of rules made by the PRA under section 137G of FSMA in relation to securitisation”.

23. In Article 244 (traditional securitisation), in paragraph 4(c), for “Article 20(1) of Regulation (EU) 2017/2402” substitute “paragraph 2.2.2 of the FCA Securitisation Sourcebook, as it has effect from time to time”.

24. In Article 270 (senior positions in SME securitisations)—

- (a) in point (a), for the words from “Chapter 4” to the end substitute “rules made by the FCA by virtue of regulation 5 of the Securitisation Regulations 2024 which make provision corresponding to that previously made by Articles 19, 20(7) to (14) and 21 to 28 of Regulation (EU) 2017/2402, as it had effect immediately before its revocation by the Financial Services and Markets Act 2023”;
- (b) in point (e), in paragraph (ii), for “point (12) of Article 2 of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;

25. In Article 270a (additional risk weight)—

- (a) in paragraph 1—
 - (i) for “Chapter 2 of Regulation (EU) 2017/2402” substitute “PRA securitisation rules”;
 - (ii) for “in Article 6(5) of Regulation (EU) 2017/2402” substitute “in PRA securitisation rules from risk retention requirements imposed by those rules”;

- (iii) for the words from “a securitisation” to the end substitute “the securitisation if that exemption did not apply.”;
- (b) after paragraph 1 insert—
 - “1A In paragraph 1, “PRA securitisation rules” means rules made by the PRA under section 137G of FSMA which relate to securitisation.”.

Solvency 2 Delegated Regulation

26. Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)(a) is amended as follows.

27. In Article 1 (definitions)—

- (a) in point (18a) (definition of “securitisation”), for “means a transaction or scheme as defined in Article 2(1) of Regulation (EU) 2017/2402” substitute “has the meaning given in regulation 3(1) of the Securitisation Regulations 2024”;
- (b) in point (18b) (definition of “STS securitisation”)(b)—
 - (i) for paragraph (a) substitute—
 - “(a) an STS securitisation as defined in regulation 9 of the Securitisation Regulations 2024.”;
 - (ii) at the end of paragraph (a), omit “or”;
 - (iii) after paragraph (b) insert “, or
 - (c) a qualifying EU securitisation as defined in regulation 12(3) of the Securitisation Regulations 2024”;
- (c) in point (19) (definition of “securitisation position”), for “Article 2(19) of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (d) in point (20) (definition of “re-securitisation position”) for “within the meaning of Article 2(4) of Regulation (EU) 2017/2402” substitute “as defined for the purposes of PRA rules under section 137G of the Financial Services and Markets Act 2000 relating to securitisation”;
- (e) in point (21) (definition of “originator”), for “Article 2(3) of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (f) in point (22) (definition of “sponsor”), for “Article 2(5) of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”;
- (g) in point (23) (definition of “tranche”), for “Article 2(6) of Regulation (EU) 2017/2402” substitute “regulation 3(1) of the Securitisation Regulations 2024”.

28.—(1) Article 257 (requirements for investments in securitisation that no longer comply with the risk-retention and qualitative requirements)(c) is amended as follows.

(2) In paragraph 1—

- (a) for “set out in Article 6 of Regulation (EU) 2017/2402” substitute “imposed in relation to risk retention by securitisation rules”;

(a) EUR 2015/35.

(b) Point (18b) was amended by paragraph 39 of Schedule 2 to the Financial Services and Markets Act 2023 and is amended by S.I. 2024/102.

(c) Article 257 was amended by S.I. 2019/1361.

- (b) for “set out in Article 5(1), (2) and (3) of that Regulation” substitute “imposed by PRA rules in relation to due diligence before the holding of a securitisation position”.
- (3) After paragraph 1 insert—
 - “1A. In paragraph 1 “securitisation rules” means—
 - (a) in relation to an originator, sponsor or original lender who is a PRA-authorized person, PRA rules relating to securitisation;
 - (b) in relation to any other originator, sponsor or original lender, rules made by the FCA by virtue of regulation 5 of the Securitisation Regulations 2024.”
- (4) In paragraph 2, for “in Article 5(1), (2) and (3) of Regulation (EU) 2017/2402” substitute “imposed by PRA rules in relation to due diligence before the holding of a securitisation position”.
- (5) In paragraph 4, for “set out in Article 5 of Regulation (EU) 2017/2402” substitute “mentioned in paragraph 2”.
- (6) In paragraph 5, for “set out in Article 5(4) of Regulation (EU) 2017/2402” substitute “imposed by PRA rules in relation to due diligence during the holding of a securitisation position”.
- (7) After paragraph 5 insert—
 - “6. In this Article “PRA rules” means rules made by the PRA under section 137G of the Financial Services and Markets Act 2000.”.

Money Market Funds Regulation

29. Regulation (EU) No 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money markets funds(a) is amended as follows.

30. In Article 2 (definitions)(b), in point (7) (definition of “securitisation”), for “Article 4(1)(61) of Regulation (EU) No 575/2013” substitute “regulation 3(1) of the Securitisation Regulations 2024”.

31. In Article 11 (eligible securitisations and ABCPs)(c), in paragraph 1—

- (a) in the first subparagraph, in point (c), for the words from “, as determined”, where first occurring, to the end substitute “, as defined in regulation 3(1) of the Securitisation Regulations 2024, or an ABCP transaction, as so defined;”;
- (b) for the second subparagraph substitute—
 - “In the first subparagraph, in point (c), the reference to a simple, transparent and standardised (STS) securitisation includes a reference to a qualifying EU securitisation as defined in regulation 12(3) of the Securitisation Regulations 2024.”;
- (c) omit the third subparagraph.

(a) EUR 2017/1131.

(b) Article 2 was amended by S.I. 2019/394.

(c) Article 11 was amended by S.I. 2019/394 and 2019/710. Paragraph (1)(d) was inserted by paragraph 40 of Schedule 2 to the Financial Services and Markets Act 2023 and is substituted by S.I. 2024/102.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Securitisation Regulations 2024 (S.I. 2024/102) and make amendments of other legislation in connection with those Regulations.

Regulation 2(2) inserts in the Securitisation Regulations 2024 an express reference to 1st November 2024 as the main commencement day.

Regulation 2(5) inserts in the Securitisation Regulations 2024 a new regulation 8A which restates with modifications Article 4 of Regulation (EU) 2017/2402 of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 (“the EU Securitisation Regulation 2017”). Regulations 2(4), (8) and (10) make amendments related to the new regulation 8A.

Regulation 2(6) inserts in regulation 13 of the Securitisation Regulations 2024 (which relates to overseas STS securitisations) a provision which restates paragraph 7 of Article 28A of the EU Securitisation Regulation 2017 (as inserted by Schedule 2 to the Financial Services and Markets Act 2023), so far as it relates to due-diligence assessments by occupational pension schemes.

Regulation 2(7) and (11) insert in the Securitisation Regulations 2024 new regulations 32A to 32D and Schedule A1 which together restate with modifications Article 5 of the EU Securitisation Regulation 2017 so far as it relates to investment in securitisations by occupational pension schemes.

Regulation 2(9) inserts in the Securitisation Regulations 2024 a new regulation 36A which imposes supervision and enforcement duties on the Pensions Regulator in relation to investment in securitisations by occupational pension schemes. This restates the existing duty of the Pensions Regulator under Article 29(1)(d) of the EU Securitisation Regulation 2017.

Regulation 2(10) inserts in the Securitisation Regulations 2024 a provision preserving in relation to existing securitisations the existing law about due diligence by occupational pension schemes.

Schedule 2 contains other amendments of legislation. The amendments are connected with the Securitisation Regulations 2024 or the revocation of the EU Securitisation Regulation 2017 by the Financial Services and Markets Act 2023. Paragraph 10(2) of Schedule 2 corrects a defect in paragraph 12 of Schedule 1 to the Securitisation Regulations 2024.

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