

EBA/RTS/2018/02

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# EBA Final Draft Regulatory Technical Standards

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On the homogeneity of the underlying exposures in securitisation under Articles 20(14) and 24(21) of Regulation (EU) No 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation

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## Executive Summary

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1. These draft regulatory technical standards (RTS), developed in accordance with Article 20(14) and 24(21) of the Regulation (EU) No 2017/2402 (the ‘Securitisation Regulation’), further specify which underlying exposures are deemed homogeneous, which is one of the requirements with respect to simplicity, standardisation and transparency (‘STS’) of a securitisation transaction. The application of the homogeneity requirement - together with other STS requirements – is a prerequisite for a more risk sensitive regulatory treatment of the securitisation, as established in the EU securitisation framework comprised of the Regulation (EU) No 2017/2402<sup>1</sup> and of the Regulation (EU) No 2017/2401<sup>2</sup>.
2. The overarching objective of the homogeneity requirement is, in accordance with the Securitisation Regulation, to enable the investor to assess the underlying risks of the pool of the underlying exposures on the basis of common methodologies and parameters. Building on this objective, the draft RTS establish a set of four conditions for the underlying exposures to be considered homogeneous: (i) they have been underwritten according to similar underwriting standards; (ii) they are serviced according to similar servicing procedures; (iii) they fall within the same asset category; (iv) and, for a majority of asset categories, they need to be homogeneous with reference to at least one homogeneity factor.
3. The draft RTS specify a list of asset categories as well as lists of the homogeneity factors available for the majority of the asset categories. The asset categories reflect the most common types of underlying exposures securitised in the market practice, and include the following: residential mortgages; commercial mortgages; credit facilities to individuals for personal, family and household consumption purposes; credit facilities to enterprises and corporates including SMEs; auto loans and leases; credit card receivables; and trade receivables.
4. Given the wide-ranging scope of such asset categories, it is required that the underlying exposures falling within one asset category should be homogeneous with reference to at least one of the homogeneity factors, which are designed to enable the investor to assess the underlying risks of the pool of the underlying exposures on the basis of common methodologies and parameters. These homogeneity factors include the type of obligor; the ranking of security rights on a property; the type of immovable property; and jurisdiction of the property/obligor. This is with the exception of the asset category of trade receivables, and the asset category of credit facilities to individuals for personal, family and household consumption purposes, which are considered sufficiently homogeneous and where application of homogeneity factors would lead to excessive and undesirable concentrations in the pool.

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<sup>1</sup> Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardized securitisation: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2402&from=EN>

<sup>2</sup> Regulation (EU) 2017/2401 amending Regulation (EU) 575/2013 on prudential requirements for credit institutions and investment firms: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2401&from=EN>

5. The draft RTS establish the same conditions for the homogeneity for both non-ABCP and ABCP securitisation.

## Background and rationale

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6. A new EU securitisation framework comprised of the Regulation (EU) No 2017/2402<sup>3</sup> and of the Regulation (EU) No 2017/2401<sup>4</sup> ('amended CRR') came into force in January 2018 which aims at building and reviving a sound and safe securitisation market in the EU. The Securitisation Regulation among other things establishes a set of requirements for identifying simple, transparent and standardised securitisation, while the amended CRR transposes the revised BCBS securitisation framework into EU Regulation and sets out a framework for a more risk-sensitive regulatory treatment of exposures of institutions to securitisations complying with such criteria. To reflect the particularities of short-term securitisations in the context of ABCP programmes, two sets of requirements are developed in the Securitisation Regulation for term (i.e. non-ABCP) securitisations and ABCP securitisations, respectively. While the requirements are largely similar, in the case of the ABCP securitisations they are adapted to reflect the different transaction level, programme level and sponsor characteristics of these types of securitisation.
7. As part of the requirement related to the simplicity of non-ABCP securitisations, the Securitisation Regulation defines the criterion on the homogeneity of the securitised exposures (in Art. 20(8)), according to which *"the securitisation shall be backed by a pool of underlying exposures that are homogeneous in terms of asset type, taking into account the specific characteristics relating to the cash flows of the asset type including their contractual, credit-risk and prepayment characteristics. A pool of underlying exposures shall comprise only one asset type."*
8. A similar requirement is introduced for ABCP securitisations (in Art. 24(15)), as part of the requirements applicable at the ABCP transaction level, according to which *"ABCP transactions shall be backed by a pool of underlying exposures that are homogeneous in terms of asset type, taking into account the characteristics relating to the cash flows of different asset types including their contractual, credit-risk and prepayment characteristics. A pool of underlying exposures shall only comprise one asset type."*
9. The Securitisation Regulation mandates the EBA to develop two sets of draft RTS, one applicable to non-ABCP securitisations, the other one to ABCP securitisations, to specify further which underlying exposures are deemed to be homogeneous. Concretely, Art. 20(14) applicable to non-ABCP securitisation sets out that *"the EBA, in close cooperation with ESMA and EIOPA, shall develop the RTS further specifying which underlying exposures referred to in paragraph 8 are deemed to be homogeneous."* Art. 24(21) applicable to ABCP securitisation establishes a corresponding mandate for ABCP securitisations. Both sets of RTS shall be submitted to the Commission by six months from the date of entry into force of the Securitisation Regulation.

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<sup>3</sup> Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardized securitisation: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2402&from=EN>

<sup>4</sup> Regulation (EU) 2017/2401 amending Regulation (EU) 575/2013 on prudential requirements for credit institutions and investment firms: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2401&from=EN>

10. Recital 27 of the Securitisation Regulation provides additional guidance on the homogeneity of underlying exposures and specifies that *“to ensure that investors perform robust due diligence and to facilitate the assessment of underlying risks, it is important that securitisation transactions are backed by pools of exposures that are homogenous in asset type, such as pools of residential loans, or pools of corporate loans, business property loans, leases and credit facilities to undertakings of the same category, or pools of auto loans and leases, or pools of credit facilities to individuals for personal, family or household consumption purposes.”*
11. In addition, the Recital 43 of the Securitisation Regulation specifies that *“in order to ... further clarify the homogeneity criteria and the exposures to be deemed homogeneous under the requirements on simplicity, while ensuring that the securitisation of SME loans is not negatively affected, the Commission should be empowered to adopt regulatory technical standards developed by the EBA with regard to ... the specification of homogeneity criteria and of which underlying exposures are deemed to be homogeneous.”*
12. The aforementioned RTS mandates assigned to the EBA are separate from those for developing guidelines and recommendations in close cooperation with ESMA and EIOPA on the harmonised interpretation of the criteria on simplicity, transparency and standardisation for non-ABCP securitisations (under Art.19(2) of the Securitisation Regulation), and on transaction and programme level criteria for ABCP securitisations (under Art. 23(3) of the Securitisation Regulation), by 18 October 2018.

## Rationale

### Scope of application

13. To fulfil the RTS mandates, and taking into account the base definition of the homogeneity of underlying exposures as provided in Articles 20(8) and 24(15) of the Securitisation Regulation, the EBA has developed a set of four conditions which need to be met for the pool of underlying exposures to be deemed homogeneous:
- a. Underwriting condition: The underlying exposures in the pool need to be underwritten based on similar underwriting standards which apply similar approaches to the assessment of credit risk associated with the underlying exposures;
  - b. Servicing condition: The underlying exposures in the pool need to be serviced according to similar servicing procedures;
  - c. Asset category condition: The pool of the underlying exposures may only contain exposures of the same asset category, and may not mix exposures belonging to different asset categories;
  - d. Homogeneity factor condition: For a majority of asset categories, the underlying exposures need to reflect at least one homogeneity factor from among those available for the asset category.

14. The application of these conditions should result in the pool of underlying exposures to have similar risk profiles and cash flow characteristics, which should allow the investor to assess the underlying risks (in particular credit risks) on the basis of common methodologies and parameters. The investor would thus not need to analyse and assess materially different risk profiles and cash flow characteristics when carrying out the risk analysis and due diligence. The homogeneity is therefore defined from the investor's perspective, given its underlying objective is to facilitate the investor's assessment of the pool of exposures and investor's performance of due diligence, in line with the Recital 27 of the Securitisation Regulation.
15. The application of the homogeneity requirement should not prevent the originator from structuring a diversified portfolio, nor should it lead to excessive concentration in the portfolios. Diversification, as an instrument for preventing concentration risk, should be balanced against the need for a sufficient degree of homogeneity.
16. It is understood that the determination of the homogeneity of a pool of exposures based on the conditions for the homogeneity specified in the draft RTS would be subject to disclosure requirements (such as the STS notification or other disclosures under the new securitisation framework), so as to facilitate the assessment of the homogeneity by the investors and the competent authorities. In such disclosure, the rationale for selection of the homogeneity factor and exclusion of other homogeneity factors, should be appropriately documented so as to facilitate the assessment of the homogeneity by third parties including investors, competent authorities and third party STS certifiers.
17. The draft RTS developed by the EBA address two directly interlinked mandates assigned to the EBA, in order to define the homogeneity of underlying exposures for both non-ABCP and ABCP securitisation. The conditions for the homogeneity specified in the draft RTS are the same for both the non-ABCP and the ABCP securitisation.

## Underwriting

18. The similarity of underwriting standards is considered a crucial condition for the homogeneity of the pool, as the use of similar underwriting results in a pool of underlying exposures with similar risk profiles and cash flow characteristics, and hence should enable the investor to assess the pool of exposures on the basis of common methodologies and parameters. This requirement is without prejudice to Art. 20(1) which sets out that the underlying exposures be originated via a high standard of underwriting practices<sup>5</sup>.
19. It is not the intention of this criterion to ensure that only the exposures underwritten based on uniform standards, applying the same parameters and methods to underwriting, could be deemed homogeneous. This is neither required for the purpose of homogeneity, nor feasible and consistent with the nature of securitisation, given the large variety of underwriting standards applied to different forms of underlying exposures, different asset categories and by different types of

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<sup>5</sup> Art. 20(10) of the Securitisation Regulation requires that the underlying exposures shall be originated in the ordinary course of the originator's or original lender's business pursuant to underwriting standards that are no less stringent than those that the originator or original lender applied at the time of origination to similar exposures not being securitised.

originating entities. What is however crucial from the perspective of the homogeneity of the securitised pool is that the underwriting standards need to apply similar approaches to the assessment of credit risk linked with the underlying exposures.

### Servicing

20. The similarity of servicing is considered another crucial condition for the homogeneity of the pool. Servicing of the securitised exposures, which includes monitoring, collection and administration of cash receivables from the underlying exposures on the asset side of the SSPE has a substantial impact on the cash flow expected to be received from the underlying exposures and is therefore one of the core aspects of investors' assessments and due diligence analysis.

21. Irrespective of whether the servicing is administered by the originator/originators or a third party/parties, it should be executed by means of similar procedures, systems and governance, i.e. it should allow the investor to use the same methodologies for the cash flow analysis of the securitised exposures, and prevent that the investor needs to analyse materially different servicing arrangements when undertaking cash flow analysis. This should facilitate the cash flows projections and allow for statistically reliable assumptions by investors about payment and default characteristics.

### Asset categories

22. Another crucial condition for the homogeneity of the pool is that all the underlying exposures in the pool need to belong to the same asset category. On the one hand the draft RTS do not establish an exhaustive list of asset categories. This is in order to avoid unnecessarily limiting the securitisation market practices and also to avoid providing reverse incentives to originators and original lenders with regard to diversification in the pool. Further, providing an exhaustive list of asset categories, could prove futile in light of financial innovation, hence the need for 'future-proofing' the rules. On the other hand, with the view to providing some clarity and certainty to the market to the extent possible, Article 2 specifies a list of types of underlying exposures that would always be deemed to constitute one same asset category.

23. In this regard, it should be noted that different categorisations of assets are applied in the regulatory and market practice. The asset categorisation in the draft RTS reflects the most common broad categories of underlying exposures that are used in the securitisation practice.

24. The draft RTS do not employ the categorisation of assets that is used in the credit risk regulatory framework for institutions, which sets out different types of exposure classes for the purpose of calculation of capital requirements against the credit risk under the Standardised Approach and Internal Ratings Based approach, such as, for example, retail exposures, exposures to corporates, exposures to institutions, exposures secured by mortgages on immovable property, and others.

25. It is noted that the assessment of homogeneity of the underlying securitised exposures based on the attachment to an asset category is also relevant in the EU monetary framework. For asset-



backed securities to be eligible as collateral in the Eurosystem refinancing operations, assets backing the securitisation must be homogeneous i.e. it must be possible to report them according to one of the existing loan level templates developed for different asset types.<sup>6</sup>

26. Similarly, the homogeneity of the exposures in the pool in a securitisation, based on their adherence to an asset category, is also one of the requirements applied in the context of the Solvency II and LCR Delegated Acts. While the purposes of these requirements applicable to the asset-backed securities are different – in case of the Solvency II it is the eligibility to apply a specific capital treatment, and in case of LCR it is the eligibility to qualify as Level 2B securitisations in the liquidity buffer – both frameworks require that the asset-backed securities are backed by a pool of homogeneous underlying exposures, falling under one of specified asset categories.<sup>7</sup>

27. Lastly, the disclosure framework for structured finance instruments developed in accordance with Art. 8b of the Regulation on Credit Rating Agencies, soon to be replaced by the draft RTS and ITS on disclosure requirements as developed by ESMA under the new EU securitisation framework, is also composed of different templates based on different asset categories.<sup>8</sup>

28. While all the frameworks mentioned in the above three paragraphs indicate the importance of the differentiation of the securitised exposures based on asset category, and notwithstanding the fact that the asset categorisation is broadly consistent with the one applied in the draft RTS, they should generally be distinguished from the criteria for determination of homogeneity for the purpose of STS specified in this draft RTS, given differing purpose, objectives and players addressed by these different frameworks.

29. The list of asset categories provided in the Article 2 of the draft RTS includes the following:

- a. Residential loans secured with one or several mortgages on residential immovable property (this should also include residential loans fully guaranteed by an eligible protection provider referred to in Article 201 of the CRR qualifying for the credit quality step 2 or above as set out in Chapter 2 of Part Three Title II of the CRR);
- b. Commercial loans secured with one or several mortgages on commercial immovable property (this should include loans secured with a mortgage or mortgages for the acquisition and

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<sup>6</sup> According to Art. 73 of the General Documentation applicable to the implementation of the monetary policy framework (Guideline 2014/60/ECB), the asset categories for which the templates have been developed include: residential mortgages, commercial real estate mortgages, loans to SMEs, auto loans, consumer finance loans, leasing receivables, and credit card receivables. The Eurosystem may consider an asset backed security not to be homogeneous upon assessment of the data submitted by the counterparty.

<sup>7</sup> The asset categories specified in the Art. 13 of the LCR Delegated Act (Commission Delegated Regulation 2015/61), and in Art. 177 of the Solvency II Delegated Act (Commission Delegated Regulation 2015/35) include: residential loans, fully guaranteed residential loans, commercial loans, leases and credit facilities, auto loans and leases, and loans and credit facilities to individuals. Further requirements and specifications apply for each asset category.

<sup>8</sup> According to Art. 4 of the disclosure framework for structured finance instruments (Commission Delegated Regulation 2015/3), the asset categories for which the templates have been developed include: residential mortgages, commercial mortgages, loans to SMEs, auto loans and leases, consumer loans, credit card loans, and leases to individuals and/or businesses. The new securitisation disclosure templates as developed by ESMA include templates for the following types of underlying exposures: residential real estate, commercial real estate, corporate, automobile, consumer, credit card, leasing, and other.

development of commercial real estate such as office buildings, retail space, hospitals, storage facilities, hotels, industrial properties and other types of commercial real estate);

- c. Credit facilities to individuals for personal, family and household consumption purposes, including loans and leases and other types of credit facilities;
- d. Credit facilities to micro-, small-, medium-sized and other types of enterprises and corporates, including loans and leases and other types of credit facilities (this should include corporate and business property loans and leases);
- e. Auto loans and leases (this should include loans and leases for financing of different types of vehicles);
- f. Credit card receivables;
- g. Trade receivables (this should include receivables generated by the sale of goods and services).

30. This requirement should not preclude that one underlying exposure could be considered to fall under more than one asset category. For example, an auto loan to an individual may fall under both the 'auto loans and leases' category, as well as under the 'credit facilities to individuals for personal, family and household consumption purposes' category. However, it is crucial that the underlying exposures in a particular pool of exposures all fall within one asset category.

31. The RTS provide high level definitions for the listed asset categories. The assignment of an exposure to an asset category should be done based on the internal classification consistently applied by the originator/sponsor in their underwriting, originating and securitisation practice, as applicable under the national legal framework, and in accordance with the definitions provided in the draft RTS.

32. It has been considered unadvisable to provide detailed definitions of the asset categories, since it is understood that those will also be influenced by the national legal framework. It is outside of the mandate to harmonise definitions of these terms through these RTS (such as, harmonise national differences in definitions of residential and commercial real estate, or SME).

33. It should be noted that Article 270 of the amended CRR allows for a more risk sensitive treatment of exposures to senior positions in synthetic SME securitisation, subject to specific conditions, including that the securitisation is backed by a pool of exposures to undertakings provided that at least 70% of those in terms of portfolio balance qualify as SMEs within the meaning of Article 501 of the CRR. With respect to the interactions of the condition specified in these draft RTS that all exposures in the pool need to belong to one asset category on the one hand, and the Article 270 of the amended CRR on the other hand, it is understood that there is no inconsistency for the following reasons: (i) Article 270 of the amended CRR applies to (the senior tranche of) a specific category of synthetic securitisations which are currently not otherwise eligible for the STS label; and (ii) point (a) of the Article 270 states that the securitisation should meet the STS requirements 'as applicable'. In this context, the phrase 'as applicable' should be considered to exclude both those criteria that are unique to true-sale securitisations; and also any criterion potentially conflicting with a provision included in the Article 270 (such as the homogeneity condition specified in the Article 1(c) of these

draft RTS); and (iii) Article 270 allows for 30% of exposures to undertakings of non-SME, which is in line with the definition of the asset category “Credit facilities to micro-, small-, medium-sized and other types of enterprises and corporates”, which also allows for exposures to non-SME enterprises and corporates. This should be without prejudice to possible future development of STS framework for synthetics including the homogeneity requirement applied as part of such framework.

### Homogeneity factors

34. Given the broad scope of the asset categories, belonging to one such asset category does not necessarily render the underlying exposures sufficiently homogeneous, in case of a majority of asset categories. In such cases, an additional condition should therefore be applied, in the form of homogeneity factors, the application of which would result in further differentiation of exposures within the respective asset category.

35. The homogeneity factors specified in the draft RTS have been designed to address the crucial potential determinants for achievement of the homogeneity of the underlying exposures from the perspective of their cash flow, credit risk and contractual characteristics, consistently with the definition of the homogeneity as specified in Art. 20(8) and Art. 24(15) of the Securitisation Regulation.

36. The draft RTS focus on specifying a limited list of homogeneity factors, which are considered to have a crucial impact on the homogeneity of the securitised pool, in accordance with the underlying objective of the homogeneity.

### Type of obligor

37. Type of obligor is considered one of the crucial factors affecting the homogeneity of the pool of exposures, taking into account significant differences in default rates and credit risk characteristics of different types of obligors, which significantly impacts on cash flow, credit risk and contractual characteristics of the pool.

38. The draft RTS require that when this homogeneity factor is applied, the pool may only contain exposures the obligors of which can all be assigned to one out of the following types that have been historically considered to have differing credit risk characteristics: (i) individuals<sup>9</sup>; (ii) micro-, small and medium-sized enterprises; (iii) other types of enterprises and corporates; (iv) public sector entities, and (v) financial institutions.

39. According to the draft RTS, this factor should be considered for the following asset categories: credit facilities to enterprises and corporates, auto loans and leases, and credit card receivables. This factor is less relevant for other asset categories, given it is already inherently reflected, either directly or indirectly, in their structure and/or underwriting (residential mortgages only contain exposures to individuals, commercial mortgages only contain exposures to enterprises and

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<sup>9</sup> The term ‘individuals’ is used throughout the draft RTS, as also referred to in the Recital 27 of the Securitisation Regulation. This is to ensure its cross-sectoral application (taking into account that the term ‘natural person’ is only used in some sectoral legislations such as CRR).

corporates, credit facilities to individuals only contain exposures to individuals, and trade receivables only contain exposures to enterprises and corporates).

### Ranking of security rights on a property

40. Ranking of security rights of the creditor on a collateral is a crucial factor impacting the homogeneity of the pool, given the differences in ranking have a significant impact on cash flow, credit risk and contractual characteristics of the pool of exposures. Where the creditor has a first ranking lien on a collateral, the analysis of the underlying risks of the exposures is simplified by the fact that the security is not exposed to subordination. On the other hand, the availability of only lower ranking liens on a collateral significantly complicate the analysis of credit and cash flow risks for the investor.

41. The draft RTS require that when this homogeneity factor is applied, the pool may only contain exposures of one of the following two types: (i) loans secured by first ranking security rights; (ii) loans secured by lower ranking security rights and each higher ranking security rights, on a given property; or (iii) loans secured by lower ranking security rights on a given property (where loans secured by prior ranking security rights on a given property are not included in the same securitisation).

42. Consistently with this requirement, a securitisation where loans secured by lower ranking collateral can only be included in the securitised pool if all loans secured by prior ranking security rights on the same property are also included in the same securitisation, should not be regarded as heterogeneous. This is because while these loans constitute two technically and legally separate assets (the loans with respectively first and second ranking charges to the same collateral), from a risk perspective they are considered as a single asset, as functionally all these single loans are subject to a the first ranking security. This is also recognised in the amended CRR which allows the institutions to apply preferential risk weights to such securitisations, under Art. 243(2)(c). Also, consistently with this requirement, a pool of second lien loans could be considered homogeneous, despite the substantially higher underlying risks than in the case of first lien loans.

43. The homogeneity factor of ranking of security rights is particularly relevant for the asset categories of residential mortgages and commercial mortgages, where ranking of the security on the immovable property has a potential to significantly influence the assessment of the underlying risks by the investor. The ranking of security rights is considered significantly less relevant for other asset categories, which are either only composed of uncollateralised exposures and the seniority of collateral is therefore irrelevant (such as credit card receivables, as well as credit facilities to individuals<sup>10</sup>), or have different collateral arrangements and in which case other factors are considered more important from the homogeneity perspective. For auto loans and leases, the ranking of security is not considered to be an appropriate homogeneity factor given substantial differences across jurisdictions with respect to the security arrangements relating to the collateral.

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<sup>10</sup> It is understood that this asset category would in most cases contain uncollateralised exposures, and would contain exposures which do not fall under any of the following: residential mortgages, auto loans and leases, credit card receivables.

### Type of immovable property

44. The type of property that secures the exposures has a significant impact on the cash flow characteristics and credit risks associated with the exposures, with income producing properties having higher level of risks than non-income producing properties.
45. According to the draft RTS, this factor should be considered for the asset categories of residential mortgages and commercial mortgages. When this homogeneity factor is applied for residential mortgages, the distinction should be made between the following types of exposures: (i) exposures collateralised by income producing properties (i.e. exposures the repayment of which is materially dependent on the cash flows such as rent/sale generated by property), or (ii) exposures collateralised by non-income producing properties (i.e. exposures the repayment of which is not materially dependent on cash flows such as rent/sale generated by property). For commercial mortgages, distinction should be made between different types of immovable property given the differences in their credit and cash flow risk profiles.

### Jurisdiction

46. Jurisdiction is an essential factor which has a crucial bearing on the homogeneity of a pool. Each jurisdiction reflects different macro-economic environments, legal systems and regulatory frameworks which significantly affects the risk profiles and cash flow characteristics of the exposures, including their repayment and prepayment characteristics, defaults, recoveries, collateral and property valuations and other characteristics.
47. When this homogeneity factor is applied, the pool should only contain exposures belonging to one jurisdiction. For exposures secured by immovable property, this should be the jurisdiction where the immovable property is located. For other exposures, this should be the jurisdiction of the residency of the obligor.

### Application of the homogeneity factors

48. In order to provide more clarity and facilitate the assessment of the homogeneity, separate lists of homogeneity factors have been established for a majority of asset categories. Such lists only include a limited number of homogeneity factors from those discussed in the previous paragraphs which are considered to *potentially* have the most significant bearing or impact on the homogeneity of the pool of exposures of that asset category, and henceforth enable the investor to assess the underlying risks of the pool on the basis of common methodologies and parameters. In each case, such lists include as a minimum two factors, so as to allow some flexibility (i.e. reliance on the assessment) for originators/sponsors when structuring the pool.
49. For a pool of underlying exposures to be considered homogeneous, for most asset categories the selection of the underlying exposures needs to reflect *at least one* of those homogeneity factors. It is therefore not required that all the homogeneity factors listed for that asset category, are applied. For the list of homogeneity factors available for each asset category, where applicable, see Figure 1 below.

50. For two asset categories, the draft RTS do not require to apply any of the four homogeneity factors. This is the case for the asset category of the trade receivables, and the asset category of the credit facilities to individuals for personal, family or household consumption purposes.
51. The asset category of credit facilities to individuals for personal, family or household consumption purposes only contains exposures to individuals, and, in most cases, only uncollateralised exposures that do not fall under other asset categories (residential mortgages, auto loans and leases, credit card receivables) and that are underwritten based on similar underwriting standards reflective of similar purposes of the credit facilities. In case of trade receivables, these are exposures to corporates and SMEs that are in a substantial majority of cases securitised in ABCP securitisation. Heterogeneity with regard to the jurisdiction is a common practice with regard to such receivables and is therefore being already considered when setting the required credit enhancement levels and other required risk mitigation measures by the sponsor of the transaction. Also, it is understood that the application of homogeneity factors would lead to excessive and undesirable concentrations in the pool.
52. As mentioned above, the list of asset categories provided is meant to be non-exhaustive. As a result, it is possible that underlying exposures in a pool form a single asset category even where such category is not explicitly mentioned in Article 2. In that case, such underlying exposures should also be considered homogeneous, where they are considered to constitute one asset category and they also meet all the other homogeneity conditions specified in this Regulation. However, asset categories not included in the list should only be used, where an application of none of the asset categories included in the list is possible as the underlying exposures cannot be all uniformly assigned to any of the asset categories listed in the Article 2. Also, the alternative asset categories should only be used when, after taking into account at least one homogeneity factor, the pool of underlying exposures has similar risk profiles and cash flow characteristics, which should allow the investor to assess the underlying risks on the basis of common methodologies and parameters.
53. The determination of the homogeneity of the pool of exposures based on the conditions specified in the draft RTS, and in particular the determination which homogeneity factor should be applied, should be the result of a flexible analysis by the originator/sponsor reflective of specific characteristics of that particular transaction: it should therefore always be a result of a case-by-case assessment by the originator or sponsor, that takes into account the type of securitisation (i.e. non-ABCP or ABCP securitisation) as well as the specific characteristics of the particular pool of underlying exposures. For example, for two pools of exposures of the same asset category and of the same type of securitisation, different homogeneity factors may be applied, given that the specific characteristics of those pools of exposures may differ.
54. It is necessary to ensure there is a sufficient degree of reliance on the originators'/sponsors' own assessments of the homogeneity of the particular transaction, with a focus on the facilitation of the investors' and supervisors' analysis of the pool of exposures. For this reason it is crucial that the originator/sponsor documents why the applied homogeneity factor (or homogeneity factors) achieve the required homogeneity, and also why other homogeneity factors available for that asset category are not deemed necessary to ensure the objective. Originators and sponsors may then also use the information contained in such internal documentation as a basis for fulfilling their

disclosure requirements in accordance with the Securitisation Regulation (as part of STS notification or other disclosure requirements).

Figure 1: Mapping of homogeneity factors available for each asset category

Homogeneity factor/Asset category	Type of obligor	Ranking of security on collateral	Type of immovable property	Jurisdiction of property/obligor
Residential loans	X	✓	✓	✓
Commercial loans secured with mortgages	X	✓	✓	✓
Credit facilities to individuals for personal, family or household consumption purposes	X	X	X	X
Credit facilities to enterprises (incl. SMEs) and corporates	✓	X	X	✓
Auto loans and leases	✓	X	X	✓
Credit card receivables	✓	X	X	✓
Trade receivables	X	X	X	X
Underlying exposures that all do not fall under the asset categories listed	✓	✓	✓	✓



**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of XXX**

**[...]**

**supplementing Regulation (..) No 2017/2402 of the European Parliament  
and of the Council with regard to regulatory technical standards for the  
homogeneity of the underlying exposures in securitisation**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 2017/2402 of the European Parliament and of the Council 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<sup>11</sup>, and in particular the third subparagraph of Article 20(14) and the third subparagraph of Article 24(21) thereof ,

Whereas:

- (1) The requirement on the homogeneity of underlying exposures is one of the requirements for identifying simple, transparent and standardised (STS) securitisations, the compliance with which is a precondition for a more risk-sensitive regulatory treatment of exposures to such securitisations, as introduced in the new EU securitisation framework consisting of Regulation (EU) No 2017/2402 and Regulation (EU) No 575/2013 as revised by Regulation (EU) No 2017/2401.
- (2) The requirement on the homogeneity of the underlying exposures should be specified in a way that does not interfere with other conditions for the qualification of a securitisation as STS or with other general securitisation requirements. It should be specified in a way that avoids imposing unnecessary limitations on the market. Similarly, the requirement of homogeneity should not provide incentives that would prevent the originator from structuring a diversified portfolio, nor should it lead to excessive concentration in the portfolios.
- (3) According to Recital 27 of the Regulation (EU) No 2017/2402, the overarching objective of the homogeneity requirement should be to ensure a robust due diligence by investors and to facilitate their assessment of the underlying risks. In order to achieve this objective the

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<sup>11</sup> OJ L 347, 28.12.2017, p. 35.

underlying exposures in the pool should share similar risk profiles and cash flow characteristics, so as to enable the investor to assess the pool of underlying exposures on the basis of common methodologies and parameters. This Regulation therefore establishes a specific set of conditions to ensure compliance with this overarching objective of the homogeneity requirement. It is not a primary purpose of the homogeneity requirement to address the loan-by-loan credit risk of the underlying exposures in the pool, which is the objective of other requirements in the new EU securitisation framework.

- (4) The underwriting of the underlying exposures in the pool according to similar standards should constitute one of these conditions establishing the homogeneity of the pool. It should be noted that even where the STS requirements of Article 20(10) of the Regulation (EU) No 2017/2402 for non-ABCP securitisation or the similar requirements of Article 24(18) of that Regulation for ABCP securitisation are met, so that underlying exposures are originated via a high standard of underwriting practices on behalf of the originator or original lender, it is still necessary to ensure the similarity of the underwriting standards in order to confirm the homogeneity of the pool of underlying exposures. This is because, on the one hand, the use of similar underwriting standards should result in a pool of underlying exposures with similar risk profiles and cash flow characteristics, and hence should enable the investor to assess the pool of exposures on the basis of common methodologies and parameters. On the other hand, the use of underwriting standards which are not similar may result in exposures with materially different risk profiles and characteristics even if such underwriting standards are all of a high quality.
- (5) The requirement on the similarity of the underwriting standards should not be understood as a requirement for the underwriting standards to be uniform or identical, or standards to be applying exactly the same parameters (such as identical values of loan to value ratios). Rather, similar underwriting standards should be understood as underwriting standards that are designed to measure similar types of credit risk and apply similar approaches to the assessment of credit risk associated with the underlying exposures. As a result, exposures such as prime and subprime exposures should not be considered to have been underwritten according to similar underwriting standards. On the other hand, the origination of exposures separately (such as in the case of mortgages originated at a different time or by a different original lender whose exposures have been acquired) should not necessarily be assumed to be underwritten according to different underwriting standards.
- (6) The servicing of the underlying exposures in the pool according to similar servicing procedures should constitute another condition establishing the homogeneity of the pool. This is because the servicing of the securitised exposures, which includes monitoring, collection and administration of cash receivables from the underlying exposures on the asset side of the SSPE, has a substantial impact on the cash flows expected to be received from the underlying exposures and is therefore one of the core aspects of an investor's assessments and due diligence analysis. Nevertheless, such requirement should not be understood as a requirement for uniform servicing procedures, but rather as requirement for servicing procedures are still sufficiently similar so as to enable the investor to assess the cash flows on the basis of common methodologies and parameters. Irrespective of whether the servicing is administered by the originator, originators a third party or third parties, administering the servicing of the pool of underlying exposures by means of similar procedures, systems and governance is a necessary condition for recognising the pool of underlying exposures as homogeneous, because it allows the investor to use common methodologies and parameters for the cash flow analysis of the securitised exposures, and prevents a situation whereby the investor needs to analyse materially different servicing

arrangements when undertaking cash flow analysis. Servicing through similar servicing procedures facilitates cash flow projections and allows for statistically reliable assumptions by investors about payment and default characteristics.

- (7) Another condition establishing the homogeneity of the underlying exposures in the pool should be that the pool of underlying exposures should only contain exposures of one asset category. It is necessary to provide clarity with respect to which of the most common types of securitised exposures constitute one asset category for the purpose of the homogeneity requirement. Therefore, a list of asset categories is provided which lays down types of underlying exposures that would always be deemed to constitute one asset category. The assignment of a particular exposure to an asset category should be done based on an established internal classification and be consistently applied by the originator or sponsor in their underwriting, originating and securitisation practice. It is possible that one exposure would allow for an assignment to more than one asset category. Notwithstanding, all underlying exposures in a particular securitisation should belong to the same asset category.
- (8) It should be noted that according to Recital 29 of the Regulation (EU) No 2017/2402 commercial mortgage-backed securities (CMBS) should not be considered to be STS securitisations due to the strong reliance of the repayment of the securitisation positions in the CMBS on the sale of assets securing the underlying exposures observed during the financial crisis. This issue is addressed by the STS requirements in accordance with Article 20(13) of Regulation (EU) No 2017/2402 for non-ABCP securitisation and Article 24(11) of that Regulation for ABCP securitisation and the use of loans secured with commercial mortgages as underlying exposures of securitisations should therefore not preclude such securitisations from compliance with the homogeneity requirement.
- (9) In order to avoid unnecessarily limiting the existing securitisation market practices and financial innovation, the conditions for homogeneity should not be linked to a finite list of asset categories for which underlying exposures would be deemed to belong to the same asset category. The list of asset categories provided in this Regulation is therefore meant to be non-exhaustive. As a result, it is possible that underlying exposures in a pool form a single asset category even where such asset category is not explicitly mentioned in Article 2 of this Regulation. In that case, such underlying exposures should also be considered homogeneous, where they are considered to constitute one asset category by the originator or sponsor and they also meet all the other homogeneity conditions specified in this Regulation.
- (10) Given that the scope of the asset categories specified in this Regulation is quite wide-ranging, belonging to one such asset category does not necessarily render the underlying exposures sufficiently homogeneous to enable the investor to assess the underlying risks of the pool of the underlying exposures on the basis of common methodologies and parameters. Therefore, with regard to some asset categories, it is necessary to also require the application of homogeneity factors.
- (11) In order to provide more clarity and facilitate the assessment of homogeneity, while at the same time allowing some flexibility for the originator or sponsor in structuring the portfolio, separate lists of homogeneity factors should be established for the asset categories. Such lists of homogeneity factors should be adapted to the specificities of the asset category and only include a limited number of homogeneity factors which may *potentially* facilitate the investor's assessment of the pool on the basis of common methodologies and parameters, and may thus *potentially* determine homogeneity for that specific asset category.

- (12) With regard to a *particular* pool of underlying exposures, it should not be required that the underlying exposures in the pool reflect all of the homogeneity factors assigned for that asset category. However, the exposures should be homogeneous with reference to *at least one* homogeneity factor. The selection of the homogeneity factor should be a case-by-case determination by the originator or sponsor, that should take into account the type of securitisation (i.e. non-ABCP or ABCP securitisation), specific characteristics of that particular pool of underlying exposures, and whether investors can assess the underlying risks of the resulting pool on the basis of common methodologies and parameters. The rationale for selection of the homogeneity factor and the exclusion of other homogeneity factors can facilitate the assessment of the homogeneity for third parties including investors, competent authorities and third party STS certifiers. As a result, the appropriate documentation of such rationale forms part of the explanation ‘in detail’ of how each of the conditions of this Regulation is met, that the originator and sponsor are required to provide in their notification to ESMA in accordance with Annex I of Regulation xx/xx [*ESMA draft RTS and ITS under art. 27(6) and 27(7)*].
- (13) Where the underlying exposures change their characteristics with respect to the homogeneity conditions, including the homogeneity factors, due to reasons outside of the control of the originator or the sponsor, and not due to error on the part of the originator, this should not be deemed to impact the homogeneity of the pool, as long as the exposures were otherwise compliant with the requirements of this Regulation at the time of origination of the securitisation and such change occurred after the origination of the securitisation.
- (14) The application of the homogeneity factors should not be required for the asset category of trade receivables, and for the asset category of credit facilities to individuals for personal, family or household consumption purposes. This is because these asset categories are already considered sufficiently homogeneous and the application of additional requirements would lead to excessive concentrations in the securitised portfolios.
- (15) Given that, with regard to ABCP securitisations, the requirement on homogeneity is relevant only for the transaction level, by virtue of Article 24(15) of the Regulation (EU) No 2017/2402, and given that the criteria on the homogeneity are also relevant for ABCP securitisations, the same approach for determining the homogeneity of underlying exposures should be applied to non-ABCP securitisations and to ABCP securitisations. Individual homogeneity factors may however be relevant only for certain asset categories of non-ABCP securitisation or ABCP securitisation or may be particularly relevant for either non-ABCP securitisation or ABCP securitisation.
- (16) The provisions in this Regulation are closely linked, since they deal with homogeneity for both non-ABCP and ABCP securitisation. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, it is desirable to include both regulatory technical standards on homogeneity required by the Regulation (EU) No 2017/2402 in a single Regulation. This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.
- (17) The European Banking Authority has worked in close cooperation with the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) before submitting the draft technical standards on which this Regulation is based. It has also conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs

and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010<sup>12</sup>,

HAS ADOPTED THIS REGULATION:

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<sup>12</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

## *Article 1*

### *Homogeneity of the underlying exposures in non-ABCP and ABCP STS securitisation*

The underlying exposures in both a non-ABCP STS securitisation referred to in Article 20(8) of Regulation (EU) No 2017/2402 and an ABCP STS transaction referred to in Article 24(15) of that Regulation shall be deemed to be homogeneous where all of the following conditions apply:

- (a) the underlying exposures in the pool have been underwritten according to similar underwriting standards which apply similar approaches to the assessment of credit risk associated with the underlying exposures;
- (b) the underlying exposures in the pool are serviced according to similar servicing procedures with respect to monitoring, collection and administration of cash receivables from the underlying exposures on the asset side of the SSPE;
- (c) the underlying exposures in the pool all fall within the same asset category;
- (d) the underlying exposures are homogeneous with reference to at least one homogeneity factor from among those available for the respective asset category in accordance with Article 3, with the exception of the asset categories referred to in points (c) and (g) of Article 2.

## *Article 2*

### *Asset categories*

The types of underlying exposures in the pool considered to form one asset category for the purposes of point (c) of Article 1 shall include but shall not be limited to, any of the following:

- (a) residential loans secured with one or several mortgages on residential immovable property, or residential loans fully guaranteed by an eligible protection provider among those referred to in Article 201(1) of Regulation (EU) No 575/2013 qualifying for the credit quality step 2 or above as set out in Part Three, Title II, Chapter 2 of that Regulation;
- (b) commercial loans secured with one or several mortgages on commercial immovable property or other commercial premises;
- (c) credit facilities provided to individuals for personal, family or household consumption purposes;
- (d) credit facilities provided to micro-, small-, medium-sized and other types of enterprises and corporates, including loans and leases;
- (e) auto loans and leases;
- (f) credit card receivables;
- (g) trade receivables.

### *Article 3*

#### *Homogeneity factors*

1. The homogeneity factor or factors, referred to in Article 1(d), shall be selected by taking into account the type of securitisation and the specific characteristics of the particular pool of underlying exposures.

2. For the purposes of Article 1(d), the homogeneity factors available for the asset category referred to in point (a) of Article 2 shall be the following:

- a. ranking of security rights, whereby the pool shall consist of one of the following types of underlying exposures only:
  - (i) loans secured by first ranking security rights on a given property;
  - (ii) loans secured by lower and all prior ranking rights on a given property;
  - (iii) loans secured by lower ranking security rights on a given property;
- b. type of immovable property, whereby the pool shall consist of one of the following types of immovable properties only:
  - (i) income-producing properties;
  - (ii) non-income producing properties;
- c. jurisdiction, whereby the pool shall consist of exposures secured by properties located in one jurisdiction only.

3. For the purposes of Article 1(d), the homogeneity factors available for the asset category referred to in point (b) of Article 2 shall be the following:

- (a) ranking of security rights, whereby the pool shall consist of one of the following types of underlying exposures only:
  - (i) loans secured by first ranking security rights on a given property;
  - (ii) loans secured by lower and all prior ranking rights on a given property;
  - (iii) loans secured by lower ranking security rights on a given property;
- (b) type of immovable property, whereby the pool shall consist of one of the following types of commercial immovable properties only:
  - (i) office buildings;
  - (ii) retail space;
  - (iii) hospitals;
  - (iv) storage facilities;
  - (v) hotels;
  - (vi) industrial properties;
  - (vii) other specific type of commercial immovable properties;
- (c) jurisdiction, whereby the pool shall consist of underlying exposures secured by properties located in one jurisdiction only.

4. For the purposes of Article 1(d), the homogeneity factors available for the asset category referred to in point (d) of Article 2 shall be the following:

- (a) type of obligor, whereby the pool shall consist of one of the following types of obligors only:

- (i) micro-, small- and medium-sized enterprises;
- (ii) other types of enterprises and corporates;
- (b) jurisdiction whereby the pool shall consist of one of the following types of exposures only:
  - (i) exposures secured by immovable property located in one jurisdiction;
  - (ii) exposures relating to obligors with residence in one jurisdiction.

5. For the purposes of Article 1(d), the homogeneity factors available for the asset category referred to in point (e) of Article 2 shall be the following:

- (a) type of obligor, whereby the pool shall consist of underlying exposures with one of the following types of obligors only:
  - (i) individuals;
  - (ii) micro-, small- and medium-sized enterprises;
  - (iii) other types of enterprises and corporates;
  - (iv) public sector entities;
  - (v) financial institutions;
- (b) jurisdiction, whereby the pool shall consist of underlying exposures relating to obligors with residence in one jurisdiction only.

6. For the purposes of Article 1(d), the homogeneity factors available for the asset category referred to in point (f) of Article 2 shall be the following:

- (a) type of obligor whereby the pool shall consist of underlying exposures with one of the following types of obligors only:
  - (i) individuals;
  - (ii) micro-, small- and medium-sized enterprises;
  - (iii) other types of enterprises and corporates;
  - (iv) public sector entities;
  - (v) financial institutions;
- (b) jurisdiction, whereby the pool shall consist of underlying exposures to obligors with residence in one jurisdiction only.

7. For the purposes of Article 1(d), the homogeneity factors available for underlying exposures which do not fall under any of the asset categories referred to in Article 2 shall be any of the following:

- (a) type of obligor;
- (b) ranking of security rights;
- (c) type of immovable property;
- (d) jurisdiction.



*Article 4*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

*The President*

*[For the Commission  
On behalf of the President*

*[Position]*

# Accompanying documents

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## Draft cost-benefit analysis / impact assessment

### A. Problem identification

The new EU securitisation framework aims to revive a sound securitisation market in the EU, by establishing a concept of ‘qualifying’ securitisations which comply with the criteria related to simplicity, transparency and standardisation (STS), and by recognising such STS securitisation within the regulatory capital framework through a more risk sensitive capital treatment for institutions and, at a later stage, also for other types of investors. The requirement on the homogeneity of underlying exposures, the definition of which is subject of these RTS, is one of the criteria related to the simplicity of such non-ABCP STS securitisation, and one of the criteria related to the transaction level of ABCP STS securitisation.

### B. Policy objectives

The STS requirements, including the homogeneity requirement, aim to capture the major risks and drivers of risk of a securitisation that are not related to the credit risk of the underlying exposures.

By defining the concept of qualifying securitisation and related capital treatment for institutions, the new EU securitisation framework aims to foster resilience and integration of the EU financial system. As one of the building blocks of the Capital Markets Union project, it also aims to contribute to the Commission’s priority objective to diversify the funding sources, unlock capital in the EU, and connect financing with supporting the real economy in the EU.

The requirements on simplicity for non-ABCP securitisation as well as the similar transaction-level requirements for ABCP securitisation altogether aim to ensure that the securitisation process is simple and straightforward and does not add excessive additional risk and complexity on top of the credit risk of the underlying exposures.

The main objective of the requirement on the homogeneity is to facilitate the assessment of underlying risks for investors and hence facilitate the investor’s due diligence. This should prevent structuring securitisations where the pool of exposures is composed of overly heterogeneous exposures in terms of risk profiles and cash flow characteristics, making the modelling assumptions for the investors overly complex.

Structuring homogeneous pools of securitised exposures should improve the ability of investors to analyse the underlying risks based on common methodologies and parameters as well as to predict their performance. This should enable the investors to model risk with confidence as risks of



securitisation can be more consistently and predictably understood, and make due diligence more straightforward as uncertainty and model risk are lower. In the end, this should contribute to the re-establishment of investors' confidence in the securitisation instrument (potentially also contributing to a broadening of the investors' base for securitisation), and provide originators with incentives to behave responsibly.

#### D. Options considered

The EBA has considered two policy options on how to address the mandate to further define the homogeneity of underlying exposures. Both options envisage that the homogeneity would be assessed based on similar underwriting, similar servicing and adherence to one asset category, however the difference between the two options is with respect to the homogeneity factors.

#### E. Cost-Benefit Analysis

##### Option 1

Under the Option 1, the homogeneity would be assessed against a limited set of homogeneity factors that aim to capture the crucial determinants for achievement of homogeneity from the perspective of their cash flow, credit risk and contractual characteristics. This would include the following homogeneity factors: (i) type of obligor, (ii) ranking of security rights on collateral, (iii) type of immovable property, and (iv) jurisdiction of the residency of the obligor/property.

The Option 1 would enable to achieve the necessary level of homogeneity in the securitised pool, consistent with the underlying objective to enable a straightforward assessment of the underlying pool by the investor, as specified in the Recital 27 of the Securitisation Regulation. At the same time, the Option 1 would reflect the principles for assessment of homogeneity, and categorisation of asset types, as applied in the securitisation origination practice and as widely accepted by the investors.

It also reflects that it is not the purpose of the homogeneity requirement to address the loan-by-loan credit risk of the underlying exposures in the pool, nor to achieve a minimum credit quality of the underlying exposures, which is the objective of other requirements in the new EU securitisation framework.

The Option 1 also aims to reflect the most important comments received from the stakeholders during the public consultation, and in particular the concerns raised by a substantial majority of stakeholders with respect to the homogeneity factors. By focusing on key homogeneity factors, it provides necessary clarity and certainty of the homogeneity requirements, and prevents unintended severe negative implications on the market and undesirable divergence of practices in structuring homogeneous pools.



Option 1 should not lead to a substantial increase in costs for the originator. It should produce several benefits for the investors, as it would facilitate the modelling of the pool and decrease the costs of implementing due diligence and credit analysis.

Overall, the Option 1 allows to strike the right balance between, on the one hand, introducing prudential rules fully respecting the legal mandate for defining homogeneity and on the other hand, introducing overly strict rules that would cause serious unintended disruptions to the market and potentially unintended negative implications on the success of the STS securitisation project.

## Option 2

Under the Option 2, a number of homogeneity factors would need to be assessed, including the following: collateral provided, type of credit facility, object of financing, type of repayment/amortisation, industrial sector of the seller, and governing law.

The Option 2 would imply that originators would need to consider a number of detailed criteria, directly or less directly linked to the main policy objective, when structuring the securitisation. Application of a large number of criteria would potentially make the assessment and generation of the homogeneous pools extremely complex, leading to high operational costs and legal risks for the originators.

Following a detailed assessment of securitisation practices, it is considered that these homogeneity factors either have less relevant impact or no impact on achievement of the homogeneity of the pool from an investor's perspective, and from the perspective of cash flow, credit risk, prepayment and contractual characteristics. Also, it is understood that the introduction of these homogeneity factors would introduce severe complexities to the overall framework, given substantial differences in application of these factors across different types of securitised exposures, originator entities, national regulatory frameworks and jurisdictions. It is understood that it would introduce significant unintended disruptions to the securitisation market. It would significantly increase the risk of challenge whether the pool is homogeneous or not, by third parties including by supervisors and investors. It would also lead to production of excessively concentrated pools and hence possibly increase the riskiness of issuances, and would not allow to recognise the existing well-established securitisations as homogeneous. Also for some specific types of exposures and originating entities, this could lead to impossibility to generate a pool of exposures that would be fully compliant with detailed homogeneity requirements, and the proposal would thus penalise smaller market players.

## Conclusion

Consequently, Option 1 is the preferred option as it would enable to achieve the homogeneity of the exposures in the pool consistently with the principal policy objectives.



## Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted for 3 months and ended on 15 March 2018. 20 responses were received, of which 14 were published on the EBA website.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

In many cases several industry bodies made similar comments or the same body repeated its comments in the response to different questions. In such cases, the comments, and EBA analysis are included in the section of this paper where EBA considers them most appropriate.

Changes to the draft RTS have been incorporated as a result of the responses received during the public consultation.

### Summary of key issues

Overall, the respondents agreed in general with the principles underlying the draft RTS. In particular, the respondents supported the main focus of the draft RTS which is to simplify and facilitate the assessment of the underlying risks with respect to the securitised exposures by investors, and to provide a set of objective and clear rules that do not negatively impact on the current market practices and well established securitisations.

There was a strong support by a majority of respondents for the determination of the homogeneity of underlying exposures based on similarity of their underwriting standards, uniformity of procedures applied to their servicing, and based on their adherence to one asset category.

With respect to the underwriting, a number of respondents sought to clarify further that the requirement only envisages the underwriting standards to be similar, and not identical.

With respect to the servicing, a number of respondents sought more flexibility in the requirement and proposed to only require servicing of the exposures in the pool to be similar, rather than uniform, so as to allow small variations provided the servicing procedures are still sufficiently similar as to enable the investor to assess the cash flows on the basis of common methodology.

With respect to the asset category, a majority of respondents considers the asset categories developed in the draft RTS as appropriately reflecting the market practice. There was a strong support for provision of a non-exhaustive list of categories, as well as for the concept of broadly drawn asset categories with high-level definitions. There was a strong support for one asset



category to include credit facilities to both SMEs and corporates, and caution was raised against their division to two separate asset categories.

A substantial number of respondents have raised concerns with the homogeneity factor requirement. In particular concerns were raised with respect to the detailed list of homogeneity factors and with respect to the perceived lack of clear guidance on how the homogeneity factor requirement should apply in practice and how their relevance should be determined for a specific securitisation. It was noted that it is not sufficiently clear that at least one factor should be applied, and it is not required that all homogeneity factors should be automatically applied. Concerns were also raised that having to choose from a large amount of homogeneity factors would increase the risk of challenge whether the pool is homogeneous or not, by third parties including by supervisors and investors. Overall, it was noted that the current proposal would have severe negative consequences on the market, would produce excessively concentrated pools, would not allow to recognise the existing well-established securitisations as homogeneous, and would penalise smaller entities that would face difficulties with generating critical portfolio mass. Further clarity was therefore sought on the application of this requirement, in view of the proposed approach to provide sufficient clarity and certainty and to prevent excessively concentrated pools in case of a strict interpretation of the requirement.

A majority of respondents consider that the same set of criteria should be applied to non-ABCP and ABCP securitisations and that differentiation between ABCP and non-ABCP securitisations is not warranted and necessary, although some respondents have called for a more flexible approach in the determination of homogeneity for ABCP securitisation, and proposed that the homogeneity factors should not apply to ABCP transactions.

The Option 2 that was proposed in the draft RTS and that envisaged that the homogeneity factors are taken into account in the underwriting rather than applied as a separate requirement, did not receive sufficient support, due to higher opacity and subjectivity of the proposal and due to the shift from the focus on investor to the focus on originator.

#### EBA's response

In the final draft RTS, the consulted approach has been maintained which is based on the overarching objective of simplifying the assessment of the underlying risks by the investor and which sets out four conditions for the pool of exposures to be considered homogeneous (with respect to underwriting, servicing, asset category and homogeneity factors).

With respect to the underwriting, it has been clarified further that only the similarity (and not uniformity) of the underwriting standards is required that should be based on similar approaches to the assessment of the credit risk associated with the underlying exposures. Some flexibility has been introduced with respect to the requirement on servicing, by replacing the requirement on 'uniform' servicing with 'similar' servicing. Small variations should be permitted provided the servicing procedures are sufficiently similar so as to enable the investor to assess the cash flows on the basis of common methodologies. The requirement with respect to the asset categories



(including the list of the asset categories and definitions provided) has remained largely unchanged (only subject to minor technical amendments).

While the concept of the homogeneity factors has been maintained, several changes have been introduced, to make the requirement operational, consistent with the homogeneity objective, and to provide more clarity on its application: (i) the former 'risk factor' has been renamed to 'homogeneity factor' to avoid misconceptions that the homogeneity is about assessment of the credit risk of the individual exposures in the pool; (ii) it has been clarified that at least one homogeneity factor, and not all, need to be taken into account; (iii) the number of the homogeneity factors has been reduced; (iv) the disclosure aspect has been enhanced by requiring that the originator/sponsor documents why the applied homogeneity factor achieves the required homogeneity, and also why other homogeneity factors available for that asset category are not necessary to ensure the objective. Given the simplification of the requirement on the homogeneity factors, the introduction of materiality thresholds has not been considered necessary.



## Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<b>Responses to questions in Consultation Paper EBA/CP/2017/21</b>			
<b>Question 1.</b>	<b>Do you agree with the focus of the RTS, general approach and underlying assumptions on which the RTS are based? Does the proposed approach provide sufficient clarity and certainty on the interpretation and application of the criterion of homogeneity?</b>		
	<p>Overall, the respondents agreed in general with the principles underlying the draft RTS. In particular, the respondents supported the main focus of the draft RTS which is to simplify and facilitate the assessment of the underlying risks with respect to the securitised exposures by investors, and the need to avoid unnecessary limitations of the market and ensure that the homogeneity requirement does not provide incentives that would prevent the originator from structuring diversified portfolio or lead to excessive concentrations.</p> <p>In addition, a number of respondents highlighted the importance of the provision of a clear set of objective rules that do not negatively impact on the current market practices and well established securitisations.</p> <p>There was a general support for the determination of the homogeneity based on the criteria of underwriting, servicing and asset category. A substantial number of respondents raised concerns with the concept of the homogeneity factors, and in particular with the lack of clear guidance with respect to the application of the requirement on the homogeneity factors, and determination of</p>	<p>The final proposal seeks to ensure a right balance between introducing sufficiently prudential and sound rules on the one hand, and introducing overly strict rules that would lead to excessively concentrated pools and would have unintended negative consequences on the securitisation market on the other hand.</p> <p>The approach in the draft RTS has been maintained which is based on the general objective of the homogeneity criterion to simplify the assessment by the investor and which sets out four homogeneity conditions (with respect to underwriting, servicing, asset category and homogeneity factors).</p> <p>The wording on the condition related to the homogeneity factors has been amended to provide more clarity and certainty on its interpretation and application (see also response to Question 8).</p>	<p>Amendments to the Article 1(d), clarifications in Recital 10-14</p>





Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>relevance of the homogeneity factors for a particular portfolio. Further clarity was therefore sought on the functioning of the concept of the homogeneity factors, in view of the proposed approach to provide sufficient clarity and certainty and to prevent excessively concentrated pools and other unintended consequences.</p>		
<b>Question 2.</b>	<p><b>Do you agree with the assessment of the homogeneity of underlying exposures based on criteria specified under (a) to (d)? Should other criteria be added or should any of the criteria be disregarded?</b></p>		
<p>Similar risk profiles and cash flow characteristics</p>	<p>There was a general support for the overarching objective of the homogeneity requirement which is to ensure similar risk profiles and cash flow characteristics, enabling the investor to assess the underlying risks on the basis of common methodologies and parameters.</p> <p>No additional criteria, in addition to those specified in Article 1(a) to (d) have been suggested.</p> <p>A few respondents suggested to delete the reference to “cash flow characteristics” in the overarching objective. It was noted that meeting this requirement would be problematic, as in many cases securitisation combines exposures with different cash flow characteristics (such as amortising and non-amortising exposures), despite this not having an impact on the homogeneity of the pool.</p> <p>One respondent suggested to provide a definition of the “risk profile”, by reference to PD and LGD.</p>	<p>According to Recital 27 of the Securitisation Regulation, the overarching objective of the homogeneity requirement should be to ensure a robust due diligence by investors and to facilitate their assessment of the underlying risks. It is understood that in order to achieve this objective the underlying exposures in the pool should share similar risk profiles and cash flow characteristics, so as to enable the investor to assess the pool of underlying exposures on the basis of common methodologies and parameters. Ensuring similarity of cash flow characteristics is also a key objective of the homogeneity requirement, as specified in the Level 1 (Art. 20(8) of the Securitisation Regulation) which requests that the homogeneity is defined in terms of asset type, taking into account the specific characteristics relating to the cash flows of the asset type. The wording of the 1<sup>st</sup> subparagraph of Article 1 has been amended to ensure that when the four conditions of the homogeneity as specified in the draft RTS are complied with, the general objective of the homogeneity requirement should be considered to be met.</p>	<p>Clarification in Article 1(1<sup>st</sup> subparagraph) and Recital 4</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>It is not considered appropriate to provide a definition of the risk profile by referring to PD and LGD, given these are parameters used in the credit risk framework for different purposes and are applicable to credit institutions only. The intention of the homogeneity requirement is not to create a portfolio with underlying exposures of the same level of credit risk. Instead, the intention is that investors can assess the credit risk of the pool of the underlying exposures using common methodologies and parameters.</p>	
Underwriting	<p>There was a general support for the assessment of the homogeneity based on the consideration of underwriting.</p> <p>A number of respondents proposed to clarify further that the requirement only envisages the underwriting standards, methods and criteria to be similar and consistent, and not identical.</p> <p>It was proposed to clarify that similar underwriting standards should rather be interpreted as underwriting standards that are designed to measure similar types of risks.</p>	<p>It is not the intention of the requirement to ensure the uniformity of the underwriting standards, methods and criteria. Rather, the objective is that underwriting standards apply similar approaches to the assessment of the credit risk. The wording of the final proposal has been clarified in this respect.</p>	Amendment to Article 1(a), clarification in the Recitals 4 and 5
Servicing	<p>There was a general support for the assessment of the homogeneity based on the consideration of servicing.</p> <p>A number of respondents sought more flexibility in the requirement and relaxation of the requirement on 'uniformity' of the servicing. It was highlighted that small variations should be permitted.</p>	<p>Taking into account the comments raised by a number of respondents, the wording of the RTS has been amended and 'uniformity' of the servicing has been replaced with the requirement on 'similarity'. This should enable small variations in the servicing, as long as the investor are able to assess the cash flows on the basis of common methodology.</p> <p>The Recital 6 already mentions that the servicing should be assessed irrespective of whether it is conducted by</p>	Amendment to Article 1(b), clarification in the Recital 6



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>Another respondent noted that multiple servicers should be allowed when they are servicing assets according to the same or similar servicing standards. Two respondents proposed to amend the wording ‘administration and allocation of cash receivables’, to reflect the fact that any cash allocated to the liabilities side of the securitisation structure is outside of the scope of the homogeneity requirement and is addressed in other STS criteria that impose various requirements with respect to the liabilities side of administration and allocation of cash, the structuring of the waterfalls and disclosure of both that waterfall and the cash flow model. It was proposed to either delete the reference to “administration and allocation of cash receivables” or to specify that requirements related to the administration of cash receivables should refer to the asset side only.</p>	<p>the originator, a third party or third parties. Therefore no additional clarification is needed with regard to the multiple servicers.</p> <p>The comment with respect to the ‘administration and allocation of cash receivables’ has been taken on board and the final proposal specifies that the requirement on the similarity of servicing procedures related to the administration of cash receivables refers to the asset side of the SSPE only and not to the liabilities side of the SSPE.</p>	
Asset category	See responses to question 6.		
<b>Question 3.</b>	<b>Are there any impediments or practical implications of the criteria as defined? Are there any important and severe unintended consequences of the application of the criteria?</b>		
	<p>There was a general support by respondents for the homogeneity conditions defined under letters (a) to (c) in Article 1.</p> <p>However, a number of respondents highlighted that a strict interpretation and application of the requirement on the homogeneity factors specified under letter (d) of Article 1 could have important</p>	<p>All the possible unintended consequences of the homogeneity factor requirement have been duly noted. Several adjustments have been made in the final proposal to enhance the clarity of the wording with respect to the intended application of this requirement, and to avoid severe unintended consequences on the market.</p>	<p>Amendments to Article 1(d) and clarification in the Recitals 10-14</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>negative consequences on the market, would produce excessively concentrated pools and hence possibly increase the riskiness of issuances, and would not allow to recognise existing well-established securitisations as homogeneous. Also, concerns were raised that having to choose from a large amount of homogeneity factors would significantly increase the risk of challenge whether the pool is homogeneous or not, by third parties including by supervisors and investors.</p> <p>Among other possible negative implications, the following have been noted: (i) difficulties with reaching critical mass and generating pools of a marketable size, which would penalise smaller players such as SME; (ii) structuration of pools that are not reflective of the business models of the originators; (iii) challenges in drafting the key risk sections in the prospectus, including the homogeneity factors; (iv) increased transaction costs and decreased economic efficiency of the transactions; (v) possible overly careful interpretation of the framework and application of all the homogeneity factors, which could discourage originators from engaging in the transactions.</p>	<p>For the summary of the clarifications made in the final proposal, see responses to the Question 8.</p> <p>It is noted that no specific severe unintended consequences have been outlined with respect to the application of the criteria in Article 1 (a) to (c).</p>	
<b>Question 4.</b>	<b>Do you agree that when considering the relevance of the homogeneity factors, the asset category, type of securitisation (non-ABCP or ABCP), and specific characteristics of the pool of exposures, should be taken into account? Should other elements be considered as important determinants of the relevance of the individual homogeneity factors?</b>		
	A majority of respondents agreed that when assessing the homogeneity factors, the asset	There was an implicit support for the approach that the assessment of homogeneity factors should be a case-	Amendments to Article 3(1)



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>category and specific characteristics of the pool of exposures, should be taken into account in the assessment. No other elements have been highlighted that should be taken into account. With respect to the type of securitisation (non-ABCP versus ABCP), different views have been presented. A few respondents believe that there should be a clear differentiation between ABCP and non-ABCP in the assessment of relevance of the homogeneity factors, given different structural elements of both types of securitisation. On the other hand, a slightly higher number of respondents believe that the type of securitisation should not be considered when assessing the relevance of the homogeneity factors, arguing that such homogeneity factors can be found in any portfolio regardless of whether it is non-ABCP or ABCP structure.</p>	<p>by-case assessment and should therefore necessarily reflect the specificities of that particular transaction, the type of transaction and asset category. No changes have been made to this general principle. However, in the spirit of simplifying the language of the draft RTS without impacting on this general principle, the reference to asset category has been deleted from the Article 3(1), given that the asset category is necessarily reflected in the assessment of each specific transaction, through Article 1(c) as well as through the lists of homogeneity factors that are adapted for each asset category.</p>	
<b>Question 5.</b>	<b>Do you agree that the same set of criteria should be applied to non-ABCP and ABCP securitisation? Or do you instead consider that additional differentiation should be made between criteria applicable to non-ABCP and ABCP securitisation, and if so, which criteria?</b>		
	<p>A majority of respondents considers that the same set of criteria should be applied to non-ABCP and ABCP securitisations and that differentiation between ABCP and non-ABCP securitisations is not warranted and necessary (arguing that the focus should be on the characteristics of the exposures and not on the type of transaction and structure of the refinancing of pool which do not have an impact on its homogeneity).</p>	<p>No differentiation has been made between the treatment of non-ABCP and ABCP securitisation, and the same set of criteria should be applied to both types of securitisation. As the sponsor also benefits from preferential treatment for STS ABCP securitisation (e.g. at transaction level) the homogeneity requirement is still relevant in order to ensure transactions have reduced complexity. Also, the Level 1 text does not support an interpretation that accepts a different</p>	<p>Amendments to Article 3</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>Some respondents have called for a more flexible approach in the determination of homogeneity for ABCP securitisation, and proposed that the homogeneity factors should not apply to ABCP transactions, i.e. only the requirements with respect to underwriting, servicing and asset category should be applied to ABCP transactions. The respondents argued that since the complexity of the investor's due diligence resides in assessment of the sponsor, the heterogeneity of the underlying assets pool contained in the ABCP transaction is of less relevance. Also, as the homogeneity requirement only applies at transaction level, investors in an ABCP programme always deal with a heterogeneous asset base. In addition, it was argued that ABCP transactions and programmes are managed by the sponsor being a sophisticated institution who has detailed information and control over assets and provides liquidity support, and ensuring homogeneity at transaction level is therefore less relevant from the investor perspective in the ABCP context.</p>	<p>interpretation of homogeneity for traditional securitisations and ABCP transactions. However, the Article 3(1) clearly states that the type of securitisation (non-ABCP versus ABCP) should be taken into account, when determining which homogeneity factor should be applied to that particular transaction. Also, for the asset category of trade receivables (which are almost exclusively securitised through ABCP securitisation), it is proposed that no homogeneity factors should be applied, taking into account the specificities of this asset category and taking into account that application of additional homogeneity factors would lead to excessive and undesirable concentrations in the pool.</p>	
<b>Question 6.</b>	<p><b>Do you agree with providing a list of asset categories in the RTS? Do you agree with the asset categories listed? Should other asset categories be included or some categories be merged? For example, should separate asset categories of project finance, object finance, commodities finance, leasing receivables, dealer floor plan finance, corporate trade receivables, retail trade receivables, credit facilities to SMEs and credit facilities to corporates, be included? Please substantiate your reasoning.</b></p>		
General comments	A strong majority of respondents agree with the determination of the homogeneity based on asset category. The respondents particularly support the	Given the support by the substantial majority of respondents, the requirement with respect to the asset categories (including the list of the asset categories and	Amendments to Article 2



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>following: (i) the asset categories that are considered to appropriately reflect the market practice; (ii) provision of the non-exhaustive list of categories as “safe harbour”; and (iii) concept of broadly drawn asset categories, which strikes a right balance in combination with application of the homogeneity factors.</p> <p>Some respondents proposed to provide a clearer language that the list of asset categories is non-exhaustive, in the legislative text of Article 2.</p> <p>A number of respondents proposed to disregard the homogeneity factor requirement and only determine the homogeneity based on the asset category, which would also be consistent with the approach to homogeneity in the ECB collateral framework.</p>	<p>definitions provided) has not been subject to major changes.</p> <p>The text of the Article 2 has been amended to clarify that the list of the asset categories is non-exhaustive. The proposal to delete the concept of the homogeneity factors has not been taken on board, given this would be inconsistent with the definition of the homogeneity provided in the Securitisation Regulation which requests that the homogeneity assessment should consider specific characteristics related to the cash flows of the asset types including their contractual, credit-risk and prepayment characteristics.</p> <p>The list of asset categories is broadly consistent with the asset categories designed for ECB collateral framework purposes. However, collateral eligibility criteria driven by a monetary policy counterparty’s needs in liquidity should generally be distinguished from the criteria for determination of homogeneity for the purpose of STS, given differing purpose, objectives and players addressed by these different frameworks.</p>	
Individual asset categories	<p>Some respondents found the list too restrictive or proposed to allow constitution of mixed pools of assets when the underlying assets show a similar risk profile, for example through adoption of materiality thresholds at the level of the asset category to allow for a certain degree of diversification in terms of asset category.</p> <p>A number of respondents raised caution against possible division of asset category of credit facilities</p>	<p>Given the support from the substantial majority of respondents with respect to the asset categories, no major changes have been done. Only minor clarification has been introduced to the definition of the asset category of credit facilities to SME and corporates (to clarify that this category includes all types of corporates and enterprises), and to credit facilities to individuals (to specify their personal, family or household consumption purpose).</p>	Amendments to Art. 2(c) and 2(d), clarification provided in Recital 7



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>to SME and to corporates, and strongly supported including micro, small, medium sized enterprise and corporate exposures in one single asset category. It was highlighted that differentiation would considerably restrict the available portfolios for SMEs and smaller financial intermediaries.</p> <p>Also, reference in this context has been made to Article 270 of the amended CRR, which allows, for capital purposes, that a securitisation is backed by a pool of exposures to undertakings while 70% of those exposures qualify as SMEs (within the meaning of Article 501 of CRR).</p> <p>One respondent noted that it is a common practice for banks to issue securitisations that are backed by a mixed pool of assets including for example both loans to individuals and loans to SMEs i.e. auto loan securitisations. It is understood that these securitisations would be disqualified under the current proposal since the underlying assets belong to two different asset categories.</p> <p>One respondent proposed to set out in the Recital for the sake of clarity that an asset may belong to two or more asset categories.</p>	<p>With respect to the comment related to auto loan securitisation provided to individuals and to SMEs, it should be clarified that auto loans and leases are considered as one asset category and therefore as long as the pool complies with other homogeneity conditions, it should not be disqualified under the draft RTS.</p> <p>A Recital has been amended to clarify that one exposure may belong to one or more asset categories. However, with respect to a specific pool, all exposures in that pool need to belong to one asset category only. With respect to the interactions with the Article 270 of the amended CRR, it is understood that there is no inconsistency for the following reasons: (i) Article 270 of the amended CRR applies to (the senior tranche of) a specific category of synthetic securitisations which are currently not otherwise eligible for the STS label; and (ii) point (a) of the Article 270 states that the securitisation should meet the STS requirements ‘as applicable’. In this context, the phrase ‘as applicable’ should be considered to exclude both those criteria that are unique to true-sale securitisations; and also any criterion potentially conflicting with a provision included in the Article 270 (such as the homogeneity condition specified in the Article 1(c) of these draft RTS); and (iii) Article 270 allows for 30% of exposures to undertakings of non-SME, which is in line with the definition of the asset category “Credit facilities to micro-, small-, medium-sized and other types of</p>	





Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>enterprises and corporates”, which also allows for exposures to non-SME enterprises and corporates. This should be without prejudice to a possible future development of STS framework for synthetics including the homogeneity requirement applied as part of such framework.</p>	
CMBS	<p>A few respondents propose to delete this asset category or clarify its inclusion in the RTS in light of the Recital 29 of the Securitisation Regulation according to which the CMBS should not be considered STS securitisation.</p> <p>One respondent argued that CMBS typically present idiosyncratic risks that deviate from the initial aim of the STS regulation.</p>	<p>Commercial loans secured with one or several mortgages on commercial immovable property, including offices and other commercial premises should constitute one asset category. It is noted that according to the Recital 29 of the Securitisation Regulation the commercial mortgage-backed securities (CMBS) should not be considered to be STS securitisations due to the strong reliance of the repayment of the securitisation positions in the CMBS on the sale of asset securing the underlying assets. This should however not suggest that the securitisations with commercial mortgages as underlying exposures should be automatically excluded from compliance with the homogeneity requirement. Clarification has been provided in this respect in the Recital 8.</p>	Clarification provided in Recital 8
Auto loans and leases	<p>Two respondents suggested to amend the reference to security over vehicle in the original paragraph 23 of the background and rationale section of the draft RTS. It was noted that the description of auto loans and leases as being "secured by automobile vehicles" does not reflect the general industry understanding of what constitutes an auto loan/lease securitisation,</p>	<p>Taking into account the legislative and contractual specificities of security arrangements in case of auto loans and leases, clarification has been provided with respect to the auto loans and leases asset category, which refers to the financing of different vehicles, rather than to the security over the vehicle.</p>	Amendment to paragraph 29(e) of the background and rationale section



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>as security is generally only taken over payment streams related to the vehicles rather than the vehicles themselves. In addition, it was noted that auto loan securitisations can include loans financing different types of vehicles such as motorcycles, light trucks and vans (all being granted by the seller under common procedures).</p>		
<p>Inclusion of new asset categories</p>	<p>A limited number of respondents proposed to introduce a new asset category of dealer floorplan finance. It was argued that although the underlying transactions might technically be corporate loans, the way in which such loans are originated and serviced is very different to the way normal corporate loans would be originated and serviced. It was understood that it would not be possible (based on the homogeneity factors) to mix such financing arrangements with a normal corporate loan and it was therefore considered appropriate for them to have a separate category.</p>	<p>Dealer floorplan financing is a very specific asset category and such securitisation is only structured on a very limited basis in the EU, it is therefore not considered necessary and appropriate to introduce it as a separate asset category. Although dealer floorplan finance arrangements may not be appropriately mixed with ‘standard’ corporate loans this does not prohibit the use of the category ‘corporate loans’ or ‘auto loans and leases’. Also, the current list of asset categories already includes the option of an ‘other’ category, in which assets can be placed that do not fit in any of the other categories. Therefore the final proposal does not include a new asset category of dealer floorplan finance.</p>	<p>No change</p>
<p><b>Question 7.</b></p>	<p><b>Do you agree with the definitions of the asset categories provided? For example, do you consider that the asset category of credit facilities to SMEs and corporates should be further specified and for the SMEs should refer to the definition provided in the Commission Recommendation 2003/361/EC, or should other reference be used (for example to Art. 501 of the CRR)? Please substantiate your reasoning.</b></p>		
	<p>There was a strong support for the approach taken in the RTS where only high level definitions are provided for the asset categories.</p>	<p>Given the support from the substantial majority of respondents with respect to the definition of the asset categories, no substantial changes have been introduced.</p>	<p>Minor amendment in Article 2(d), clarification in Recital 7</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>Concerns were raised with respect to the proposal to provide definition of SMEs, in particular a definition provided by the European Commission Recommendation 2003/361/EC. It was argued that such definition was designed for different policy purposes than debt risk analysis and use in securitisation, and has therefore not been considered suitable for determination of homogeneity and for STS purposes.</p> <p>One respondent noted issues that have been encountered with practical implementation of the definition in the Recommendation, in particular with the requirement on staff headcount. It was noted that this has caused issues for originators who would typically have available SME statistics for turnover and balance sheet but not for personnel headcount. For that reason, the respondent would, if needed, favour the use of the SME definition as per Art 501 of the CRR that stipulates that only the annual turnover criterion should be taken into consideration.</p> <p>With respect to the definition of the corporates, one respondent cautioned against provision of definition of corporate asset category (in light of minimum standardisation across EU and as this could exclude many types of ABS based on SME), while another respondent proposed to clarify that the asset category is broad enough to include loans to all enterprises and corporates.</p>	<p>Also, no definition of SMEs has been introduced with respect to the asset category of credit facilities to SMEs and corporates. Minor amendment have been introduced to clarify that the asset category includes credit facilities to all enterprises and corporates. The assignment of a particular exposure to an asset category should be based on an internal classification of the originator or sponsor. Clarification has been provided in this regard in a Recital.</p>	



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<b>Question 8. Do you agree with the approach to determination of the homogeneity based on the homogeneity factors, and the distinction between the concept of homogeneity factors to be considered for each asset category, and relevant homogeneity factors to be applied for a particular pool of underlying exposures, as proposed? Are there any impediments or practical implications of the homogeneity factors as defined? Are there any important and severe unintended consequences of the application of the homogeneity factors?</b>			
Concept of homogeneity factors	<p>A number of comments have been received on the homogeneity factors.</p> <p>While some respondents have proposed to disapply the homogeneity factors for the purpose of homogeneity (and alternatively, make them subject to disclosure or “comply or explain” principle), other called for more clarifications how this newly introduced approach should be applied in practice. A number of proposals have been presented on how to enhance the clarity of the homogeneity factor requirement, including the following:</p> <ul style="list-style-type: none"> <li>- It should be made clear that at least one, and not all, of the proposed homogeneity factors must be considered, and it is not required that all homogeneity factors listed in the draft RTS are automatically applied;</li> <li>- It was highlighted as important that the criteria and in particular the homogeneity factors can be applied and analysed flexibly and in a manner appropriate to the particular transaction;</li> <li>- There should be a sufficient degree of reliance on the originators’/sponsors’ own assessments of their portfolio in the assessment of the homogeneity factors, with</li> </ul>	<p>The proposal to delete the concept of the homogeneity factors has not been taken on board, given this would be inconsistent and in contradiction with the definition of the homogeneity and the EBA mandate provided in the Securitisation Regulation which does not refer to the asset type only, but also requires to take into account specific characteristics related to the cash flows of the asset types including their contractual, credit-risk and prepayment characteristics, suggesting definition of homogeneity beyond the asset category.</p> <p>However, the text has been amended to introduce more clarity with respect to the application of the homogeneity factor requirement and in order to alleviate the concerns from the industry, in particular through the following proposals: (i) the concept of ‘risk factor’ has been renamed to ‘homogeneity factor’ to avoid misconceptions that the homogeneity is primarily focused on assessment of the credit risk of the individual exposures in the pool; (ii) it has been made clear that the draft RTS require to apply at least one homogeneity factor, and not necessarily all of them; (iii) the overall number of the homogeneity factors has been reduced to only include the most important factors that are considered to have a potential significant effect on homogeneity from the investor</p>	Adjustments to Article 1(d) and Article 3, clarifications provided in Recitals 10-147



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>a focus on the ability for the investor to analyse the pool sensibly;</p> <ul style="list-style-type: none"> <li>- It was highlighted that the determination of relevance of homogeneity factors should be a discretionary determination, which should not be subject to a reassessment by the competent authority. Competent authorities should focus their ex post assessment of bank's application of the criteria on the reasons why banks consider a pool of assets as homogeneous;</li> <li>- The list of homogeneity factors should be limited/simplified, and it should be made clear that the list is exhaustive.</li> </ul> <p>Several respondents highlighted that investors have effective instruments and processes in place to analyse and assess securitisations, and also rely on high data transparency including with respect to the homogeneity factors, as part of due diligence. A few respondents suggested to introduce the concept of sub-portfolios. According to this approach, homogeneity would be only applied at sub-pool levels (i.e. the requirement on underwriting, servicing and homogeneity factors would be applied at subpool level), as long as the overarching principle of the simple assessment of the securitised subpools is not endangered, and they belong to one asset category.</p>	<p>perspective; (iv) similarly, the lists of homogeneity factors for each asset category have been simplified to only include the most important ones from the homogeneity perspective. In addition, it has been clarified that the appropriate documentation of rationale for selection of the homogeneity factor and exclusion of other homogeneity factors should be part of the explanation on the compliance with the homogeneity requirement in the ESRMA RTS/ITS on the STS notification.</p> <p>The alternative proposal to assess the homogeneity at subpool level has not been taken on board, given it is considered inconsistent with the Level 1 definition of homogeneity.</p>	



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Jurisdiction	<p>There was a general agreement that the jurisdiction should be included among the list of homogeneity factors, and was generally considered as one of the most important and crucial factors of homogeneity. In addition, a few specific comments have been received.</p> <p>One responded noted that the “jurisdiction of property / obligor” could be difficult to apply (in particular as the obligor may move). It was proposed that the homogeneity factor is substituted by the criterion of “nationality”, or the applicability of the homogeneity factor should be limited to the moment of origination.</p> <p>One respondent proposed to adjust the wording to better capture the concept of location and to replace the jurisdiction by “jurisdiction or set of jurisdictions”, allowing similar legal systems to be considered homogeneous (for example, Scotland and England and Wales are two separate jurisdictions but should be considered similar when determining homogeneity for almost all asset types).</p> <p>One respondent did not agree that the homogeneity factor of jurisdiction is generally more relevant for the credit facilities addressed to individuals due to consumer protection legislation. Such reasoning seems not to recognise that in particular consumer credit legislation throughout Europe is primarily based on EU legislation while there are differences in borrower protection standards for legal entities.</p>	<p>The homogeneity factor of jurisdiction has been kept as it is considered an essential factor which has a crucial bearing on the homogeneity of a pool.</p> <p>It has been clarified that when this homogeneity factor is applied, the pool may only contain exposures belonging to one jurisdiction. For exposures secured by immovable property, this should be the jurisdiction where the immovable property is located. For other exposures, this should be the jurisdiction of the residency of the obligor.</p> <p>It has also been clarified where the underlying exposures change their characteristics with respect to the homogeneity conditions, including the homogeneity factors, due to reasons outside of the control of the originator or the sponsor, and not due to error on the part of the originator, this should not be deemed to impact the homogeneity of the pool, as long as the exposures were otherwise compliant at origination of the securitisation and such change occurred after the origination of the securitisation.</p> <p>Also, as originators must consider at least one homogeneity factor, it is possible for the originator to take into account other factor(s) and justify not taking into account the jurisdiction homogeneity factor for an asset pool in the cases described on the grounds that it is not needed for investors to apply common methodologies and parameters to the underlying exposures.</p>	Clarifications in Article 3, and Recital 13



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Type of obligor	One respondent noted it is unclear whether an asset class must consist of one debtor category only to be homogeneous. If so, such distinction appeared to be artificial as the cash flow characteristics of individuals generally do not differ from those of legal entities.	<p>The intended objective of the requirement to reflect one homogeneity factor is that the pool should only include exposures of one type of obligor (i.e. either exposures to individuals, SME, non-SME corporate, financial institution or public entity).</p> <p>The type of obligor is considered to be an important homogeneity factor given the existence of significant differences in default rates and credit risk characteristics of different types of obligors.</p> <p>Furthermore in terms of contractual, credit and pre-payment characteristics cash flows of individuals and legal entities can differ significantly. For example on a contractual basis there are differences between consumer credit protection for individuals and borrower protection standards for legal entities. Recital 27 of the Securitisation Regulation also clearly distinguishes between credit facilities to individuals and credit facilities to legal entities.</p>	Clarification in the background and rationale
Type of credit facility	A number of respondents raised concerns with the homogeneity factor of type of credit facility. It was in particular noted as problematic for auto loans and leases, taking into account prevailing securitisation market practice to mix auto loans and leases, and taking into account that in auto finance portfolios of these contract types have similar cash flow characteristics.	Along with the general objective to simplify the concept of the homogeneity factors and to only keep the crucial ones from the homogeneity perspective, this factor has been deleted.	Amendments to Art. 3
Object of financing	Some respondents proposed to remove the “object of financing”. It was considered that this factor does not reflect the risk profile of the underlying portfolio	Along with the general objective to simplify the concept of the homogeneity factors and to only keep the crucial	Amendments to Art. 3



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>and is therefore not relevant from a homogeneity perspective, and would lead to high concentrations in the pool. For instance, two auto loans (prime and subprime, for example) can be very different while an auto loan and a consumer loan can present practically identical risk characteristics.</p>	<p>ones from the homogeneity perspective, this factor has been deleted.</p>	
<p>Type of repayment and amortisation</p>	<p>A number of respondents raised concerns with the homogeneity factor of type of repayment and amortisation. It was noted that mixing these different structures is permissible for STS transactions pursuant to Article 20(8) 2<sup>nd</sup> subparagraph of the Securitisation Regulation, and it was proposed to remove this homogeneity factor in order to avoid potential inconsistencies within the framework.</p> <p>It was noted that any distinction between fully amortising exposures and exposures with balloon or bullet amortisation would preclude auto ABS from being STS eligible, arguing it is common for auto ABS to have exposures with linear amortisation mixed with balloon structures as such differences do not have a substantial impact on the overall pool given the granularity of these pools. This homogeneity factor was noted as problematic also for other asset categories, in particular credit facilities to SMEs and corporates which also mix different types of amortisation profiles.</p>	<p>Along with the general objective to simplify the concept of the homogeneity factors and to only keep the crucial ones from the homogeneity perspective, this factor has been deleted.</p>	<p>Amendments to Art. 3</p>





Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Industrial sector of the seller	Two respondents proposed to clarify the homogeneity factor “industrial sector of the seller” (homogeneity factor h), and whether the term seller refers to the originator.	Along with the general objective to simplify the concept of the homogeneity factors and to only keep the crucial ones from the homogeneity perspective, this factor has been deleted.	Amendments to Art. 3
<b>Question 9.</b>	<b>Do you agree with the distribution of the homogeneity factors that need to be considered for each asset category, as proposed? What other homogeneity factors should be included for consideration for which asset category?</b>		
	<p>There were no strong comments on the proposed distribution of the homogeneity factors per each asset category, beyond the general comments on the homogeneity factors as summarised in previous sections. It was also noted that further refinement or weighting of the homogeneity factors may risk complicating the classification of homogeneity. No additional homogeneity factors have been proposed to be included.</p> <p>Some respondents disagreed with the proposed set of homogeneity factors for the asset category of “credit facilities provided to micro-, small- and medium-sized enterprises and corporates, including loans and leases”. In particular it was noted that a certain variation in type of credit facility, type of repayment, jurisdiction and governing law is not detrimental to the creation of a homogeneous pool and therefore homogeneity based on the homogeneity factors for this asset category should be less strict.</p>	<p>The requirement on the homogeneity factors has been simplified, including by reducing the number of homogeneity factors available for asset categories.</p> <p>The list of homogeneity factors for the asset category of SME and corporates has been amended to include the following: type of obligor, jurisdiction.</p>	Amendments to Art. 3(2)
<b>Question 10.</b>	<b>Do you agree with the definition of the homogeneity factor related to the governing law, which refers to the governing law for the contractual arrangements with respect to the origination and transfer to SSPE of the underlying exposures, and with respect to the realisation and enforcement of the credit claims? Do you consider the homogeneity factor of the governing law should be further</b>		



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<b>specified, or further limited (e.g. to the realisation and enforcement of the financial collateral arrangements securing the repayment of the credit claims)?</b>			
	<p>According to a majority of respondents, governing law is not a relevant homogeneity factor and its importance for the assessment of homogeneity is limited.</p> <p>A number of respondents argued that the governing law does not provide additional value as a homogeneity factor above jurisdiction, whether this is with respect to the origination of exposures, transfer to SSPE, or realization and enforcement of credit claims. Jurisdiction of the obligor/immovable property has been considered as a substantially more meaningful element in determining homogeneity. In addition, as for the transfer of exposures to the SSPE, it was noted that this is already covered by another STS criterion.</p> <p>It was also noted that differentiation based on the governing law could unduly restrict the pools, as the governing law may vary within jurisdictions which have historically been viewed by the market as homogeneous.</p> <p>It was proposed to delete the governing law from the list of homogeneity factors. Alternatively, it was proposed that the governing law should be limited to ensuring that the obligation to transfer all assets to the SSPE arises under the same governing law.</p>	<p>The comments have been taken on board and the homogeneity factor of governing law has been deleted from the list of homogeneity factors.</p> <p>Jurisdiction has been kept as homogeneity factor, taking into account its substantial bearing on homogeneity.</p>	Amendments to Art. 3



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<b>Question 11.</b>	<b>Do you consider prepayment characteristics as a relevant homogeneity factor for determining the homogeneity? If yes, based on which concrete aspect of the prepayment characteristics of the underlying exposures should the distinction be made, and for which asset categories this homogeneity factor should be considered and should be most relevant?</b>		
	<p>A substantial majority of the respondents do not consider prepayment characteristics as a relevant homogeneity factor for determining the homogeneity.</p> <p>The following arguments have been provided: (i) the prepayment characteristics are difficult to predict and can be very volatile; (ii) they depend highly on current market conditions and the general economic environment as well as other factors that will influence the general characteristics of the pool (such as interest rate and the obligor's ability and willingness to refinance their obligations); (iii) they are not reflective of credit risk (they create reinvestment risk rather than credit risk). One respondent argued that they may differ per jurisdiction and therefore are indirectly covered by the homogeneity factor of jurisdiction.</p>	<p>Given the support by the substantial majority of respondents, the homogeneity factor of prepayment characteristics has not been introduced.</p>	<p>No change</p>
<b>Question 12.</b>	<b>Do you consider seniority on the liquidation of the property or collateral a relevant homogeneity factor for determining the homogeneity? If yes, do you consider the distinction between the credit claims with higher ranking liens on the property or collateral, and credit claims with no higher ranking liens on a different property or different collateral, as appropriate for the purpose of determination of homogeneity?</b>		
	<p>A number of respondents consider seniority on the liquidation of the property or collateral a relevant homogeneity factor for determining the homogeneity that should have a strong bearing on the conclusion of homogeneity.</p>	<p>The comments have been taken on board. It has been acknowledged that the seniority on the liquidation of the property or collateral is considered to be an important homogeneity factor.</p>	<p>Amendments to Art. 3</p>


**Comments      Summary of responses received**
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It was noted that the appropriate distinction should be done between loans secured by first-ranking liens on a given asset on the one hand and loans secured by lower ranking liens on that asset on the other hand (except where all higher ranking liens are included in the same portfolio). It was argued that where the creditor has a first-ranking lien he does not need to analyse the other security to determine the extent of its subordination, which would be a significant complicating factor that changes the analysis of credit and cash flows for investors. It was also noted that a transaction where second ranking collateral can only be in the securitised pool if it is second ranking to another loan with first ranking security in the same securitised pool, should not be considered heterogeneous. From a risk analysis perspective, it was noted that these technically separate assets are treated as a single economic asset and economically have functionally first ranking security (even if they are legally separate). Several respondents argued that seniority is not an important homogeneity factor. It was noted that while risk of second lien pools is substantially higher, they could equally qualify as homogeneous pools. It was also noted that differentiation based on seniority would be in contradiction with Article 243 (2) (c) of the amended CRR which stipulates that “the loans secured by lower ranking security rights on a

The original rationale has been kept which differentiates between exposures with lower ranking security rights on a given asset, and higher ranking security rights on a different asset. To enhance clarity, it has been clarified in the background and rationale that exposures with lower ranking rights and exposures with all higher ranking rights on the same asset, when included in the same securitisation, are not considered heterogeneous. Therefore, it is understood that there is no contradiction with the Article 243(2) of the CRR. The seniority has been kept as homogeneity factor for the following asset categories: residential mortgages, commercial mortgages.



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	<p>given asset shall only be included in the securitisation where all loans secured by prior raking security rights are also included in the securitisation”.</p>		
<b>Question 13.</b>	<b>Do you agree with the approach to determining the homogeneity for the underlying exposures that all do not fall under any of the asset categories specified in the Article 3?</b>		
	<p>The respondents agree with the approach to determination of homogeneity that do not fall under any of the specified asset categories. As one cannot determine ex ante what the characteristics of assets other than assets belonging to the listed classes will be, it was seen as reasonable that each homogeneity factor should be considered.</p> <p>One respondent did not agree and argued that opening up the possibility for different types of securitisations being labelled homogeneous, would contradict the STS approach and could be misused.</p>	<p>Taking into account the support by a majority of respondents, no changes have been introduced in relation to the determination of the homogeneity for exposures not falling under any of the asset categories.</p>	<p>No change</p>
<b>Question 14.</b>	<b>Do you believe that materiality thresholds should be introduced with respect to the homogeneity factors i.e. that it should be possible to consider as homogeneous also those pools which, while fully compliant with requirements under Article 1 (a), (b) and (c), are composed to a significant percentage (e.g. min 95% of the nominal value of the underlying exposures at origination), by underlying exposures which share the relevant homogeneity factors (e.g. by 95% of general residential mortgages with properties located in one jurisdiction and 5% of income producing residential mortgages located in that and other jurisdictions)? Please provide the reasoning for possible introduction of such materiality thresholds.</b>		
	<p>Many respondents argued for introduction of materiality thresholds with respect to the homogeneity factors (some suggesting a minimum of 5% as appropriate), providing in particular the following arguments: (i) materiality thresholds would not materially impact the assessment of the pool by</p>	<p>The homogeneity factor requirement has been revised and simplified in the final proposal, including by reducing the number of homogeneity factors for each asset category (maintaining key factors only). It has also been clarified that not all the factors necessarily need to be reflected, but at least one. These changes should</p>	<p>Amendments to the homogeneity factor requirement</p>



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	<p>the investor, however they could significantly lower the administrative efforts and facilitate day to day practical application of the homogeneity requirement on the originator side; (ii) they would increase the stability/certainty of retaining the STS label once obtained; (iii) they would allow to generate more granular portfolios; (iv) they could help removing some of the subjectivity and “grey areas” on the originator’s side with respect to determining the homogeneity.</p> <p>Some respondents argued that materiality thresholds may be relevant only for some homogeneity factors, or for granular pools only.</p>	<p>increase the operability of the homogeneity framework, which should reduce the relevance of a possible introduction of materiality thresholds.</p> <p>Introduction of materiality thresholds was therefore not deemed necessary. Given that originators/sponsors would need to verify anyway whether the 95% of the portfolio meets the homogeneity requirement, it is not clear why this would reduce the administrative efforts on the originator/sponsor side. Also, a 5% difference in the size of the portfolio was not deemed to provide a material impact on portfolio granularity. Also, the possibility of incompliance of individual exposures is not an issue for homogeneity requirement only, but is a common issue for all STS criteria. In this context, the Securitisation Regulation allows for the grace period of three months to rectify an erroneous use of the STS designation.</p> <p>The EBA sees a justification for some lenience where the characteristics of an underlying exposure change after issuance for reasons outside an originators control (item (ii)) e.g. a loan changing from buy-to-let to owner-occupied, as long as this change is not due to error on the part of the originator, and the exposures were otherwise compliant at origination. It has therefore been clarified in the Recital that where exposures change their characteristics due to reasons outside of the control of the originator, and not due to error on the part of the originator, this should not be deemed to impact the homogeneity of the pool.</p>	



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<b>Question 15.</b>	<b>Alternatively, do you see merit in introducing synergies with IRB modelling, enabling the IRB banks to rely on risk management factors validated for modelling purposes, when assessing the similarity of the underwriting standards, or assessing relevant homogeneity factors? Please provide the reasoning and examples for possible introduction of such synergies.</b>		
	<p>The majority of respondents does not see merit in introducing synergies with IRB modelling, with two respondents strongly opposing introducing such synergies and arguing that IRB modelling and securitisation structuring should remain independent of each other, arguing the following: (i) the homogeneity criterion is designed to assist capital market investors, most of which will be non-banks. IRB modelling is designed for a different purpose and for a different actor with tools unlikely to be available to any non-bank investor or less sophisticated investor; (ii) introduction of synergies would increase complexity and opacity of implementing regulatory requirements as IRB models are agreed on a bank-by-bank basis with the banks' supervisors and are not well-known or well-understood outside the relevant bank.</p> <p>Only a few respondents saw a merit, arguing that it is more appropriate to use an existing and tested model than introducing a new model for risk.</p>	<p>Taking into account the support of a majority of respondents, and the fact that definition of homogeneity shall be applied on a cross-sectoral basis, no synergies have been introduced with IRB modelling.</p>	<p>No change</p>
<b>Question 16.</b>	<b>Which option from the two (the existing proposal as described in this consultation paper, and the alternative option as described in this box) is considered more appropriate and provides more clarity and certainty on the determination of homogeneity? Please substantiate your reasoning.</b>		
	<p>While a small majority supported the Option 1, a slight minority supported the Option 2. Some respondents did not prefer either option (due to the</p>	<p>Taking into account that no strong support was received for the Option 2, Option 1 has been kept in the final proposal, with amendments to further improve the</p>	<p>Option 1 to be kept, Option 2 not to be introduced</p>



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	<p>perceived lack of clarity with respect to the application of the homogeneity factors).</p> <p>The main advantages of the Option 1 that were highlighted by the respondents are that it provides objective categories, is clearer and provides more certainty on the determination of the homogeneity than the Option 2.</p> <p>The main advantages of the Option 2 that were mentioned were the apparent lower complexity of the proposal and higher flexibility for the originator. On the other hand, a number of disadvantages of the Option 2 were noted, including the increased opacity of the approach (in particular the requirement that the homogeneity factors need to be taken into account at the stage of underwriting), less objectivity (allowing identical transactions being treated differently based on actions of the originator rather than being treated consistently based on the objective nature of the pool), and different approach which shifts the focus away from the investor to the originator, which is inconsistent with the overarching objective of the homogeneity requirement. It was also noted that the approach would cause compliance difficulties for legacy assets originated prior to the homogeneity framework.</p>	<p>quality and clarity of the drafting with respect to the homogeneity factors.</p>	
<p><b>Question 17.</b></p>	<p><b>Please provide an assessment of the impact of the two proposed options, on your existing securitisation practices and if possible, provide examples of impact on existing transactions.</b></p>		
<p><b>Question 19.</b></p>	<p><b>What are the advantages, disadvantages and unintended consequences of this alternative option, in particular compared to the existing proposal?</b></p>		





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<b>Question 20.</b>	<b>Are there any impediments or practical implications of this alternative option as defined? Are there any important and severe unintended consequences of the application of this option?</b>		
	<p>With respect to the Option 1, most of the information provided was information on the impact under the strict interpretation of the homogeneity factor requirement. It was noted that at the originator level, in case of a strict interpretation of the requirement, Option 1 would lead to very concentrated pools and could have a substantial impact on the market as many existing transactions would not meet the requirements. The types of transactions that were explicitly mentioned were pools of auto loans and leases, pools of SME and corporates exposures, which normally are heterogeneous with reference to a number of homogeneity factors, or legacy portfolios combining different types of portfolios.</p> <p>It was noted that at the investor level, there would be minor or no impact and no difference in existing (due diligence) procedures.</p> <p>No detailed information has been received on the possible impact of the Option 2.</p>	<p>The information on the consequences and practical implications under a strict interpretation of Option 1 have been duly noted, as well as the fact that they assess the impact under a strict interpretation of the homogeneity factor requirement (where all the factors would need to be reflected). The concerns have been addressed through simplification of the homogeneity factor requirement, and clarification on its application (see responses to previous questions for further information on how the concerns with respect to the homogeneity factors have been addressed).</p>	<p>Amendments to the homogeneity factor requirement</p>
<b>Question 18.</b>	<p><b>Alternatively, do you believe that a hybrid option, combining the existing proposal and the alternative proposal, would be most appropriate? The hybrid option could envisage that all the homogeneity factors would need to be taken into account in the underwriting, and for those homogeneity factors that are not taken into account in the underwriting, (i) either adequate justification would need to be provided that it is not required for the purpose of the homogeneity, (ii) or if the justification cannot be provided, the homogeneity factor would still need to be taken into account when determining the exposures in the pool (on the top of the requirements related to underwriting, servicing, and asset category). Or, should other hybrid option be envisaged? Please substantiate your reasoning.</b></p>		



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	<p>The hybrid option did not meet with sufficient support.</p> <p>The key concern that has been raised was the need to balance legal certainty (Option 1) and flexibility (Option 2). More clarity and detailed elaboration on this hybrid approach was sought (such as on how the homogeneity factors would be taken into account and reflected in the underwriting, what is the exact determination of the “adequate justification”).</p> <p>A number of disadvantages have been noted such as: (i) it would further complicate the determination of the homogeneity; (ii) the process would be cumbersome for the originators and would not provide clarity to investors; (iii) the approach would lead to legal uncertainties.</p> <p>Some advantages have been noted, in particular the comply or explain element was supported. It was also noted that this approach could potentially offer a solution for concerns regarding the different level of relevance/weighting of different homogeneity factors.</p>	<p>Taking into account that no major support was received for the hybrid option, Option 1 has been kept in the final proposal, with amendments to further improve the quality and clarity of the drafting with respect to the homogeneity factors.</p>	<p>No change</p>