

EBA/CP/2022/09

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28 July 2022

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## Consultation Paper

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Draft Regulatory Technical Standards on the homogeneity of the underlying exposures in STS securitisation under Articles 20(14), 24(21) and 26b(13) of Regulation (EU) 2017/2402, as amended by Regulation (EU) 2021/557

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# 1. Responding to this consultation

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The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

## Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 28 October 2022. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

## Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

## Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

## 2. Executive Summary

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The Capital Markets Recovery Package<sup>1</sup> amended the Securitisation Regulation<sup>2</sup> to also include Simple, Transparent and Standardised (STS) requirements for on-balance-sheet securitisations, thereby extending the STS framework to synthetic securitisations. As part of this change, EBA is mandated to develop, in close cooperation with the European Securities and Market Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) draft regulatory technical standards (RTS) further specifying which underlying exposures are deemed to be homogeneous as part of the simplicity requirements. A similar mandate was also part of the original STS framework for ABCP and non-ABCP securitisation and the corresponding Delegated Regulation<sup>3</sup> was published in the Official Journal in May 2019.

This consultation paper builds on the original work, as the conditions determining the homogeneity of the underlying exposures are naturally closely linked and in order to ensure a level playing field for ABCP, non-ABCP and on-balance-sheet securitisations. At the same time, given that the STS requirements for on-balance-sheet securitisations did not exist at the time when developing the original RTS on the homogeneity of the assets for STS securitisations, this consultation paper amends the original RTS, which also entails that the original STS requirements for ABCP and non-ABCP are revised.

These draft RTS concretely specify a number of amendments to the original RTS on homogeneity. While extending the scope to on-balance-sheet securitisations, these draft RTS establish the same conditions for the homogeneity of the assets for all types of securitisations (ABCP, non-ABCP and on-balance-sheet securitisations). They carry over the provisions on homogeneity set out in the previous RTS under the Securitisation Regulation, with some modifications. Considering the relevance of corporate and SME loans in the context of synthetic securitisations, adjustments have been made to one of the homogeneity factors, the type of obligor, to reflect the current market practices and the credit risk assessment approaches applied to those asset types. Moreover, to ensure consistency, similar changes are made to the respective homogeneity factor for all relevant asset types. Furthermore, these draft RTS specify further to which asset type credit facilities to enterprises, where similar underwriting standards are applied as for individuals, should be assigned. In general, the proposed amendments consider the specificities of on-balance-sheet securitisations and aim at enabling both the originators and the investors to assess the underlying

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<sup>1</sup> Regulation (EU) 2021/557 amending Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardized 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: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0557&from=EN>

<sup>2</sup> Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardized securitisation: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02017R2402-20210409&from=EN>

<sup>3</sup> Delegated Regulation (EU) 2019/1851 supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on the homogeneity of the underlying exposures in securitisation: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1851&from=EN>

risks of the pool of the underlying exposures on the basis of common methodologies and parameters in line with the overarching objective of the homogeneity requirement.

## Next steps

The proposed draft regulatory technical standards are subject to a three months public consultation, from 28 July 2022 to 28 October 2022. The draft regulatory technical standards will subsequently be submitted to the Commission for endorsement following which they will be subject to scrutiny by the European Parliament and the Council before being published in the Official Journal of the European Union.

### 3. Background and rationale

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1. The Capital Markets Recovery Package which also amended the Securitisation Regulation and the Capital Requirements Regulation aimed at facilitating the use of securitisation to support Europe's economic recovery from the COVID-19 crisis. More specifically, among other measures, a new framework for simple, transparent and standardised on-balance-sheet securitisations was established that would benefit from a prudential treatment reflecting the actual riskiness of these instruments. Under the Capital Markets Recovery Package, the EBA has been mandated to develop RTS specifying which underlying exposures are deemed to be homogeneous as per the requirements relating to simplicity for STS on-balance-sheet securitisations. This RTS mandate is similar to the RTS mandates underlying the Delegated Regulation (EU) 2019/1851 on homogeneity which was developed for traditional securitisation and has been published in the Official Journal in May 2019.
2. The mandate in Article 26b (13) of the Securitisation Regulation as amended by Regulation (EU) 2021/557 specifies that *"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."* According to this and in line with the existing RTS on homogeneity for traditional securitisations, the focus of these draft RTS is on the asset type taking into account the specificities of synthetic securitisations.
3. One of the main objectives in the development of the STS framework for on-balance-sheet securitisations was to achieve a high degree of consistency between the two STS frameworks (traditional and synthetic). This would ensure that no incentives are provided to originators to use different securitisation techniques across asset types to fulfil the STS criteria. Given that the conditions determining the homogeneity of the underlying exposures are closely linked and relevant for ABCP, non-ABCP and on-balance-sheet securitisations, uniform provisions should apply to all these types of securitisations. To ensure consistency and to facilitate a comprehensive assessment of the homogeneity of the assets, it provides greater clarity to include the RTS on homogeneity for ABCP, non-ABCP and on-balance-sheet securitisations in one single Regulation.
4. When the existing RTS on the homogeneity of ABCP and non-ABCP were developed, the STS framework for on-balance-sheet securitisations was not in place. Consequently, during the development of these RTS, it was deemed appropriate to assess whether the current framework is suitable for the asset types that are most relevant for synthetic securitisations. Based on this and considering the underwriting standards and thus the different methodologies that the originators apply internally for the credit risk assessment of the underlying exposures, an

adjustment of the homogeneity factors and more specifically the ‘type of obligor’ related to the corporate/SME underlying exposures was deemed necessary.

5. From the originators credit risk assessment perspective, exposures to large corporates are usually treated separately from the rest of corporate exposures, which in turn are subject to similar credit granting criteria as SMEs. Additionally, there is also the case of enterprises<sup>4</sup> where the originator applies the same approach for assessing the credit risk as for exposures to individuals. In this respect, the changes to the ‘type of obligor’ better reflect the current market practices and specifically aim to enable both the originators and investors to assess the underlying risks of the pool of underlying exposures on the basis of common methodologies and parameters. Such an approach would allow the investors to perform a robust due diligence, which is one of the main objectives of the homogeneity requirement.
6. To ensure a consistent and harmonised application of the requirements, considering that the term ‘large corporate’ varies greatly across jurisdictions, it was decided to use the ‘large corporate’ definition pursuant to Article 142(1) point (5a) of the Commission’s CRR III proposal<sup>5</sup>.
7. After assessing the definition for corporate and SME exposures and after introducing amendments to the ‘type of obligor’, it was deemed necessary to also review the other asset types where the ‘type of obligor’ is also one of the homogeneity factors. To ensure consistency, it was therefore necessary to make similar adjustments to the existing corresponding asset types used in the original RTS on homogeneity.
8. Considering the proposed adjustments to the type of obligor, it is proposed to specify further in these draft RTS to which asset type the credit facilities provided to enterprises, where the originator applies the same credit risk approach as for individuals, should be assigned. For this, a targeted amendment has been proposed to the asset types included in the existing RTS.
9. Another consideration is that the proposed amendments will apply to all the types of securitisations (ABCP, non-ABCP and on-balance-sheet securitisations). Hence, any changes would have an impact also on existing ABCP and non-ABCP STS securitisation. For this, it is appropriate to consider the inclusion of grandfathering provisions for all ABCP and non-ABCP STS securitisations which are deemed homogeneous as part of the STS designation in accordance with the Commission Delegated Regulation (EU) 2019/1851, provided that they comply at all times with the requirements set out in the previous RTS. Accordingly, transitional provisions will be included for the STS on-balance-sheet securitisations which were deemed homogeneous as part of the STS designation before the entry into force of the amending RTS, to allow sufficient time to adapt to the new requirements.

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<sup>4</sup> In the Capital Requirements Regulation these would, for instance, correspond to retail SME exposures.

<sup>5</sup> The definition can be found at the following link: [Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation \(EU\) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor](#)

## 4. Draft regulatory technical standards

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**COMMISSION DELEGATED REGULATION (EU) .../...**

of **XXX**

**amending Commission Delegated Regulation (EU) 2019/1851  
supplementing Regulation (EU) 2017/2402 as amended by Regulation  
(EU) 2021/557 of the European Parliament and of the Council with  
regard to regulatory technical standards on the homogeneity of the  
underlying exposures in securitisation**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a 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 as amended by Regulation (EU) 2021/557<sup>6</sup>, and in particular Article 20(14) third subparagraph, Article 24(21) third subparagraph, and Article 26b(13) third subparagraph thereof,

Whereas:

- (1) As part of the Capital Markets Recovery Package, Regulation (EU) 2021/557 has introduced a new STS framework for on-balance-sheet securitisations. These securitisations involve transferring the credit risk of a set of exposures, typically large corporate loans or loans to small and medium-sized enterprises (SMEs), by means of

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<sup>6</sup> Regulation (EU) 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 (OJ L 347, 28.12.2017, p.35).



a credit protection agreement. One of the overarching principles in the development of the STS framework for on-balance-sheet securitisations was to achieve a high degree of consistency with the STS framework for ABCP and non-ABCP securitisations in order not to create regulatory incentives to originators which would cause them to prefer synthetic securitisations over traditional securitisations. Accordingly, uniform provisions for determining the homogeneity of the underlying exposures should apply to ABCP, non-ABCP, and on-balance-sheet securitisations. To ensure consistency between those provisions, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, it is appropriate to include the regulatory technical standards on homogeneity for non-ABCP, ABCP and on-balance-sheet securitisations in accordance with Articles 20(14), 24(21) and 26b(13) of Regulation (EU) 2017/2402 in a single Regulation.

- (2) One of the prerequisites for a pool of underlying exposures to be deemed homogeneous is to consist of a single asset type. This ensures that the underlying exposures share similar characteristics and the underlying risks are assessed on the basis of common methodologies and parameters. Given that for certain exposures to enterprises the underwriting standards for exposures to individuals rather than those for SME exposures are applied by originators it is necessary to specify further to which asset type exposures to those enterprises should be assigned.
- (3) In light of the relevance of the corporate and SME asset classes in the context of synthetic securitisations, targeted amendments should be made to one of the homogeneity factors in order to better reflect the current market practices and the credit risk assessment approaches applied to such asset classes. In this regard, underlying exposures towards large corporates are usually subject to underwriting standards that differ from those applied to underlying exposures towards other corporates and SMEs. The existing homogeneity factor related to micro-, small- and medium-sized enterprises and other types of enterprises and corporates should therefore be amended to reflect such market practice. To that effect, a separate type of obligor for exposures to large corporates should be introduced and exposures to other types of enterprises and other corporates should be reallocated to the existing type of obligor for exposures to micro-, small- and medium-sized enterprises.
- (4) Due to similar approaches used by originators for assessing the credit risk of certain exposures to enterprises as for exposures to individuals, exposures to those enterprises should be reallocated to the respective type of obligor referring to exposures to individuals.
- (5) In order to ensure a consistent assessment of the homogeneity of underlying exposures across asset types such amendments should be applied to the respective homogeneity factor of all relevant asset types.
- (6) To ensure a smooth transition to the new requirements, transitional provisions should be introduced for the outstanding ABCP, non-ABCP and on-balance-sheet securitisations that have been notified as STS before the date of entry into force of this amending Regulation.
- (7) Delegated Regulation (EU) 2019/1851 should therefore be amended accordingly.
- (8) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.

- (9) 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 advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council [7],

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendments to Delegated Regulation (EU) 2019/1851**

Delegated Regulation (EU) 2019/1851 is amended as follows:

- (1) in Article 1, paragraph 1, the introductory phrase in the first subparagraph is replaced by the following:

‘For the purposes of Articles 20(8), 24(15) and 26b(8) of Regulation (EU) 2017/2402, underlying exposures shall be deemed to be homogeneous where all of the following conditions are met:’;

- (2) in Article 1, paragraph 1 (a) point (iii) is replaced by the following:

‘credit facilities provided to individuals for personal, family or household consumption purposes, and credit facilities provided to enterprises where the originator applies the same credit risk assessment approach as for individuals not covered under points (i), (ii) and (iv) to (viii);’

- (3) in Article 2, paragraph 3 (a) points (i) and (ii) are replaced by the following:

‘(i) enterprises and corporates except for large corporates as referred to in point (ii);  
(ii) large corporates [as defined in point 5(a) of paragraph 1 of Article 142 of the Regulation (EU) No 575/2013 - text in the Commission’s CRR III proposal not yet adopted]. (For consistency the definition should be aligned with the definition in the Commission’s CRR III proposal which is expected to be adopted in Q1/Q2 2023);’;

- (4) in Article 2, paragraph 4 (a) points (i), (ii) and (iii) are replaced by the following:

‘(i) individuals and enterprises where the originator applies the same approach for assessing the credit risk associated with exposures to enterprises as for exposures to individuals;

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<sup>7</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).

- (ii) enterprises not covered by point (i) and corporates except for large corporates as referred to in point (iii);
- (iii) large corporates [as defined in point 5(a) of paragraph 1 of Article 142 of the Regulation (EU) No 575/2013 - text in the Commission’s CRR III proposal not yet adopted]. (For consistency the definition should be aligned with the definition in the Commission’s CRR III proposal expected to be adopted in Q1/Q2 2023);’;
- (5) in Article 2, paragraph 5 (a) points (i), (ii) and (iii) are replaced by the following:
- ‘(i) individuals and enterprises where the originator applies the same approach for assessing the credit risk associated with exposures to enterprises as for exposures to individuals;
- (ii) enterprises not covered by point (i) and corporates except for large corporates as referred to in point (iii);
- (iii) large corporates [as defined in point 5(a) of paragraph 1 of Article 142 of the Regulation (EU) No 575/2013 - text in the Commission’s CRR III proposal not yet adopted]. (For consistency the definition should be aligned with the definition in the Commission’s CRR III proposal expected to be adopted in Q1/Q2 2023);’;

#### **Explanatory box for consultation purpose – Article 1**

When developing these draft RTS, to ensure a consistent and harmonised application of the requirements, it was decided to use the ‘large corporate’ definition pursuant to Article 142(1) point (5a) of the Commission’s CRR III proposal\*. Therefore, for the purposes of these draft RTS “‘large corporate’ means any corporate undertaking having consolidated annual sales of more than EUR 500 million or belonging to a group where the total annual sales for the consolidated group is more than EUR 500 million”.

\*Note: The CRR III proposal can be found [here](#).

#### **Questions for consultation**

**Q1:** Do you agree with the proposed amendment to the asset category in Article 1 with respect to the addition of “credit facilities provided to enterprises where the originator applies the same credit risk assessment approach as for individuals not covered under points (i), (ii) and (iv) to (viii)”? Please elaborate on the practical relevance.

**Q2:** Do you agree with the proposed amendment in Article 1 to the “type of obligor” for credit facilities, including loans and leases, provided to any type of enterprise or corporation?

**Q3:** Do you agree with the proposed amendment in Article 1 to the “type of obligor” for auto loans and leases?

**Q4:** Do you agree with the proposed amendment in Article 1 to the “type of obligor” for credit card receivables?

## *Article 2*

### **Transitional provisions and application date for on-balance-sheet STS securitisation**

- (1) In respect of STS ABCP and STS non-ABCP securitisations which were notified to ESMA in accordance with Article 27(1) of Regulation (EU) 2017/2402 before the date of entry into force of this Regulation and which met the requirements of the Commission Delegated Regulation (EU) 2019/1851 as applicable at that date, originators, sponsors and SSPEs may continue to apply those requirements until the maturity date of the respective transaction.
- (2) In respect of STS on-balance-sheet securitisations which were notified to ESMA in accordance with Article 27(1) of Regulation (EU) 2017/2402 before the entry into force of this Regulation, this Regulation shall apply as of DD.MM.YYYY {precise date to be inserted, one year after the entry into force}.

#### **Explanatory box for consultation purpose – Article 2**

In view of the proposed amendments, the EBA is considering the inclusion of grandfathering provisions for those outstanding ABCP and non-ABCP STS securitisations which are deemed homogeneous as part of the STS designation in accordance with the Delegated Commission Regulation (EU) 2019/1851 [the original RTS on homogeneity]. This would require that they comply at all times with the requirements set out in that Regulation as applicable before the date of entry into force of the amending Regulation. At this stage, it is however not fully clear, whether the changes to the original RTS require a grandfathering clause. EBA is therefore seeking feedback on whether there is a need for including these provisions in the draft RTS, as these will only be included, if feedback indicates a need for such arrangements.

**Q5:** Do you see the need for the grandfathering provisions in Article 2 for the outstanding STS ABCP and STS non-ABCP securitisations? If yes, please elaborate.

Accordingly, for the outstanding STS on-balance-sheet securitisations notified to ESMA prior to the entry into force of this Regulation, the EBA is considering a deferred application date to ensure a smooth transition to the new requirements.

**Q6:** Do you agree with the deferred application date in Article 2 for the outstanding STS on-balance-sheet securitisations?

## *Article 3*

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

**Questions for consultation**

**Q7:** Are there any aspects that should be considered with regard to the homogeneity of the STS on-balance-sheet securitisations which are not specified in these RTS?

**Q8:** Are there any impediments or practical implications of the criteria as defined in these draft RTS for STS traditional securitisations?

**Q9:** Are there any important and severe unintended consequences of the application of the homogeneity criteria as specified in these RTS?

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*

## 5. Accompanying documents

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### 5.1 Draft cost-benefit analysis

#### A. Problem identification

The Securitisation Regulation, as amended by the Capital Markets Recovery Package, aims to further strengthen the development of a sound and robust securitisation market by establishing a Simple, Transparent and Standardised (STS) framework for on-balance-sheet securitisations. This framework was developed in addition to the existing STS framework for ABCP and non-ABCP securitisations. Securitisations which comply with a set of criteria related to simplicity, transparency and standardisation and are thus designated as STS, benefit from a more risk sensitive capital treatment. One of the criteria relating to simplicity of the STS securitisations for both traditional and on-balance-sheet securitisations is the requirement of homogeneity of the securitised exposures. In order to ensure a level playing field, it is deemed appropriate to have a set of uniform rules for the assessment of homogeneity of the underlying exposures that apply to all types of securitisations (ABCP, non-ABCP and on-balance-sheet). These RTS are amending the existing RTS for ABCP and non-ABCP securitisations to account also for on-balance-sheet securitisations.

#### B. Policy objectives

The main objective of these RTS is to enable the originators and the investors to conduct an appropriate assessment of the underlying risks in the pool of securitised exposures on the basis of common parameters and methodologies. This would enable the investors to model the risk prudently and facilitate the due diligence required under the Securitisation Regulation. Finally, this would restore the investors' confidence in the securitisation market while incentivising the originators to structure more resilient securitisations.

One of the main considerations in the development of these RTS was the existing Delegated Commission Regulation (EU) 2019/1851 which defines the homogeneity of the assets for ABCP and non-ABCP securitisations. In the absence of a dedicated STS framework for synthetic securitisations when developing the RTS on the homogeneity of the assets for traditional securitisations, these securitisations were not considered. To ensure a level playing field and mitigate the risk of originators adopting a certain securitisation technique for achieving STS for selected asset types, it was prudent to establish a uniform set of rules for the assessment of homogeneity of the underlying exposures for all types of securitisations (ABCP, non-ABCP and on-balance-sheet).

Taking into account the above and considering also the specificities of the synthetic securitisations, EBA decided to take as a starting point the existing RTS and evaluate whether the existing framework was fit for purpose or whether an adjustment was necessary.

### C. Baseline scenario

The EBA has been mandated to deliver RTS on homogeneity for STS on-balance-sheet securitisations. The STS framework for on-balance-sheet securitisations has entered into force in April 2021. Since then, on-balance-sheet securitisations have been designated as STS even though the RTS on homogeneity have not been in place yet. Given that the RTS on homogeneity for traditional securitisations are already in force and the legal mandate is very similar, EBA understands that the market has been using these RTS as a guide for the assessment of the homogeneity of the underlying exposures of these transactions. However, there may be still a number of securitisations which do not follow the homogeneity requirements for traditional securitisations. This creates an uneven playing field for STS on-balance-sheet transactions in the EU which will be addressed with these draft RTS.

### D. Options considered

Several options were considered in the development of these RTS. One of the options considered was to extend the scope of the existing RTS on homogeneity of the underlying exposures for ABCP and non-ABCP STS securitisations to on-balance-sheet securitisations with certain amendments (option 1). The other option was to develop a new separate RTS for STS on-balance-sheet securitisations (option 2).

### E. Cost-Benefit Analysis

#### Option 1

It is considered that the option 1 would take into consideration the specificities of the synthetic securitisations while maintaining a high level of consistency between the two STS frameworks. Under option 1, EBA looked at the existing RTS on homogeneity and whether these could be applied to synthetic securitisations. The STS framework for on-balance-sheet securitisations was not in place at the time the RTS on homogeneity for traditional STS were developed, so these securitisations were not taken into account. Therefore, EBA deemed that it is prudent to focus on the most relevant asset types in synthetic securitisations and evaluate whether revisions were necessary.

The amendments proposed in these RTS focus on the predominant asset types for synthetic securitisations which are mainly corporate underlying exposures, including loans to large corporates and SMEs and consider the differences in the underwriting standards applicable to the different types of exposures, reflecting the current market practices and the originators' internal credit risk assessment approaches. These amendments aim at enabling both the originators and

the investors to properly assess the underlying risks in securitisations and to perform a robust due diligence in a seamless manner.

If no adjustments were made to the existing RTS for traditional securitisations, it is understood that for specific types of exposures which are typical for synthetic securitisations, this may have posed difficulties in generating a pool of exposures that would be fully compliant with the homogeneity requirements.

Option 1 should not lead to a substantial increase of costs for originators. There are minor amendments and in general these reflect the originators' current market practices and take into consideration the application of the originators' internal methods to assess the underlying risks in the pool of securitised exposures. On the contrary, this would possibly lower the implementation cost for originators engaging in different securitisation types. In general, it should produce several benefits for both the originators and the investors as there will be one single point of reference for assessing the homogeneity for all types of securitisations. Finally, this would further enable the investors to model the risks in a straightforward manner and will facilitate also the due diligence allowing the entrance of new investors in the EU securitisation market.

#### Option 2

Option 2 would imply that for a similar requirement, EBA would develop a separate set of draft RTS that would be applicable only to STS on-balance-sheet securitisations. The homogeneity requirement as laid out in Articles 20(8), 24(15) and 26b(8) is the same for ABCP, non-ABCP and on-balance-sheet securitisations. Under option 2, a separate set of RTS on homogeneity would be developed and apply only to STS on-balance-sheet securitisations.

Because synthetic and traditional securitisations slightly differ with regard to the underlying exposures, given that synthetic securitisations were not taken into consideration in the RTS for traditional securitisations, a new RTS would be tailored to on-balance-sheet securitisations. Option 2 then would result in two separate RTS for traditional and on-balance-sheet STS securitisations with similar but not exactly the same requirements. This could potentially create incentives for originators adopting a certain securitisation technique in order to achieve STS for selected asset types, thus creating an uneven playing field.

Option 2 could potentially increase the implementation costs for both the originators and investors as they would have to refer to two different RTS for the assessment of homogeneity for STS securitisations. This would make the homogeneity assessment more complex for all the relevant securitisation parties, such as e.g., originators, investors, third-party STS certifiers and the authorities. Finally, it would make the investors due diligence more complex and may result in unintended consequences of decreasing the investor base in the EU securitisation market.



## F. Preferred option

Having assessed both options, option 1 is the preferred option as it would allow to maintain a high degree of consistency between the two STS frameworks while taking into consideration the specificities of the on-balance-sheet securitisations. Having a set of uniform rules applicable to all types of securitisations will have several benefits for the relevant securitisation parties and the authorities. It would allow originators and investors to appropriately assess the credit risk of the underlying pool of securitised exposures based on common methodologies and parameters. Moreover, it would facilitate the homogeneity assessment for third parties, including investors, national competent authorities and third-party STS certifiers. Finally, it would enable the investors to perform the required due diligence under the Securitisation Regulation which is one of the main objectives of the homogeneity requirement. The option 1 is generally in line with the main policy objectives.

## 5.2 Overview of questions for consultation

Q1: Do you agree with the proposed amendment to the asset category in Article 1 with respect to the addition of “credit facilities provided to enterprises, where the originator applies the same credit risk assessment approach as for individuals not covered under points (i), (ii) and (iv) to (viii)”? Please elaborate on the practical relevance.

Q2: Do you agree with the proposed amendment in Article 1 to the “type of obligor” for credit facilities, including loans and leases, provided to any type of enterprise or corporation?

Q3: Do you agree with the proposed amendment in Article 1 to the “type of obligor” for auto loans and leases?

Q4: Do you agree with the proposed amendment in Article 1 to the “type of obligor” for credit card receivables?

Q5: Do you see the need for the grandfathering provisions in Article 2 for the outstanding STS ABCP and STS non-ABCP securitisations? If yes, please elaborate.

Q6: Do you agree with the deferred application date in Article 2 for the outstanding STS on-balance-sheet securitisations?

Q7: Are there any aspects that should be considered with regard to the homogeneity of the STS on-balance-sheet securitisations which are not specified in these RTS?

Q8: Are there any impediments or practical implications of the criteria as defined in these draft RTS for STS traditional securitisations?

Q9: Are there any important and severe unintended consequences of the application of the homogeneity criteria as specified in these RTS?