Box 7.1

SECURITISATIONS: RECENT REGULATORY AMENDMENTS AND EUROPEAN BANKING AUTHORITY WORK UNDERWAY

The European securitisation framework is set out in Regulation (EU) 2017/2402 ("Securitisation Regulation") and Regulation (EU) 2017/2401 amending Regulation (EU) 575/2013 on prudential requirements for credit institutions and investment firms, as well as their implementing rules. In March 2021, as part of the European Union's post-COVID-19 strategy, a number of amendments were made to this framework through Regulations (EU) 2021/557 and (EU) 2021/558 of the European Parliament and of the Council.

The new developments introduced take as a starting point two European Banking Authority (EBA) reports, and their main objective is to strengthen credit institutions' capacity to provide financing to the real economy, while ensuring that institutions act prudently. The main amendments relate to the following areas:

— The extension to balance-sheet synthetic securitisations of the Simple, Transparent and Standardised (STS) framework, which already exists for traditional securitisations. Essentially, as long as a synthetic securitisation meets certain criteria, the originator may benefit from preferential prudential treatment in the retained senior tranche.

— The adoption of a series of measures aimed at removing the regulatory obstacles identified in NPL securitisations.

Since its entry into force, by an urgent procedure, at the beginning of April 2021, the EBA has focused its efforts on addressing the many mandates arising from this regulatory amendment. Thus, the mandates to the EBA contained in Regulations (EU) 2021/557 and (EU) 2021/558 are as follows:

— Regulatory Technical Standards (RTS) specifying and, where relevant, calibrating performance-related triggers for STS synthetic securitisations.

— Regulatory Technical Standards (RTS) on risk retention.

— Report on the creation of a specific sustainable securitisation framework.

All of this work is still in the development phase, the most advanced being the work on risk retention. In June 2021, the EBA published for consultation the Draft RTS specifying the requirements for originators, sponsors, original lenders and servicers in securitisations relating to risk retention. This proposal builds on a previous RTS sent by the EBA to the European Commission in July 2018, incorporating a number of new provisions. These new provisions include most notably the specification of the modalities of retaining risk in traditional securitisations of non-performing exposures and the establishment of certain experience requirements for managers retaining risk in such securitisations.

The RTS on synthetic excess spread and the RTS specifying and calibrating performance-related triggers are essential to ensure the proper functioning of the STS framework for synthetic transactions. The EBA is working on both consultation papers, which are most likely to be published during the course of 2022.

Lastly, the EBA is also preparing a report – which may also be published in 2022 – that establishes a specific framework for sustainable securitisations allowing the integration of sustainability-related disclosure requirements into these transactions.

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1 In its report on the STS framework for synthetic securitisation of 6 May 2020, the EBA recommended the introduction of a specific framework for balance-sheet STS securitisations. The EBA Opinion on the regulatory treatment of NPE securitisations published in October 2019, as well as the internationally agreed Basel standards, recommended introducing a specific treatment for the securitisation of non-performing exposures, since it established that the current prudential securitisation framework set out in the CRR resulted in disproportionate capital requirements for this type of exposures, as they do not take into account their specific risk factors.

2 The risk retention requirement is regulated by Article 6 of the Securitisation Regulation, which establishes that the originator, sponsor or original lender of a securitisation must retain on an ongoing basis a material net economic interest in the securitisation of not less than 5%. This requirement seeks to align the interests of the selling parties participating in a securitisation with those of the investors.