

New EU Regulatory Technical Standards on Reporting of Sustainability Impacts of Securitisations Come Into Force

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Implementation:

The **Regulatory Technical Standards** (RTS) supplementing Regulation (EU) 2017/2402 (EU Securitisation Regulation) on Principal Adverse Impacts (PAI) of simple, transparent and standardised (STS) securitisations the underlying exposures of which are residential loans or auto loans/leases came into force on 8 July 2024.

The RTS set out content, methodologies and presentation of information on the PAI of assets financed by the underlying exposures for: (a) traditional non-ABCP STS securitisations; and (b) on-balance sheet STS securitisations.

Application:

The RTS are 'voluntary', but only insofar as qualifying securitisations must comply either with the RTS or with the provisions set out in Articles 22(4) and 26d(4) of the EU Securitisation Regulation. Originators of STS securitisations with underlying home loan and auto assets will therefore either need to follow the existing requirements of the EU Securitisation Regulation, or the new RTS.

All in-scope originators are covered, including SMEs, new market entrants, financial institutions and large public-interest undertakings.

Why this is happening:

The Sustainable Finance Disclosure Regulation (SFDR) does not apply directly to securitisations, as they are not included within the SFDR definition of a relevant "financial product" (but of course, SFDR does indirectly apply through its entity level disclosure requirements for PAIs to be provided in relation to all investment decisions, including those that relate to securitisations). The EU has determined that, as with SFDR, investors in these particular classes of securitisations should have available consistent information in order to help them complete due diligence for their own ESG purposes. Note that, as with SFDR, the intention is that the RTS does not create either a labelling regime or a methodology of creating 'sustainable securitisations'.

How does the RTS standardise information?:

Those originators electing to follow the RTS will be required to publish a statement on the PAIs on sustainability factors inherent in the assets financed by the underlying exposures of their transaction *via* templates appended to the RTS at Tables 1, 2 and 3 of the Annex. These templates track their equivalents set out in SFDR.

Points to note include:

1. the information must be made available as required under Article 7(1)(a) of EU SECR, i.e. quarterly;
2. while Recital (4) to the RTS allows that originators may use reasonable assumptions and data obtained from obligors or external experts, they should give a detailed explanation of how they used their best efforts to obtain the information;
3. Recital (5) requires that when a securitisation repository is required for the prospectus, these RTS disclosures should similarly be lodged with a securitisation repository. In any event, the information must always be in a searchable electronic format;
4. Table 1 includes a summary of the PAIs on sustainability factors that cannot exceed two sides of A4;

5. Table 2 requires disclosures of additional climate and other environment-related indicators. For residential loans, these should be selected from Annex 1 of Delegated Regulation (EU) 2022/1288 which supplements SFDR Level 1. For auto loans and leases, the indicators to select from focus on emissions. Originators are only obligated to provide the available information on “*one or more*” additional climate and other environment-related indicator as set out in Table 2;
6. Table 3 requires available information on “*one or more additional indicators for social and employee matters, respect for human rights, and anti-corruption and anti-bribery matters*”;
7. if the originator has provided at least one previous statement on PAIs on sustainability factors under this RTS, they must provide a historical comparison going back up to the last four previous periods;
8. factual errors should be corrected without undue delay.