

Newsalert

Finance and Regulated Entities Department

Covid-19: European Banking Authority statement on securitisations

On April 22, 2020 the European Banking Authority (EBA) has published a statement on the application in relation to securitisation transactions of the Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis of April 2, 2020 (the “**Guidelines on Covid 19**”).

The statement covers in particular the following topics: (i) the applicability of the Guidelines on Covid 19 to securitised exposures, and (ii) the impacts of moratoria applied in the light of the Covid-19 pandemic on the implicit support framework.

I. Applicability of Guidelines on Covid 19 to securitised exposures

The EBA clarified that banks acting as originator in a securitisation transaction shall apply the Guidelines on Covid 19:

- in traditional securitisations, to any exposures which remain on the originator institution’s balance sheet or which do not benefit from a significant risk transfer (SRT);
- in synthetic securitisations, any exposures which remain on the originator institution’s balance sheet, regardless of the recognition of an SRT.

In addition to the above, granting by the originator of a payment moratorium applied in light of Covid-19 pandemic in relation to securitised exposures:

- does not automatically trigger an event of default under the securitisation transaction, unless otherwise provided for in the securitisation documents;
- as provided for in the Guidelines on Covid 19, does not lead to the automatic classification of the exposures as non-performing or forborne, and therefore does not affect *per se* the calculation of Kirb / KSA of the portfolio for the purposes of calculating the risk-weighted assets of the securitisation positions.

II. Impacts of moratoria applied in the light of the Covid-19 pandemic on the implicit support framework

Article 250 of Regulation (EU) 575/2013 (the CRR) precludes the originator of a securitisation from providing support, directly or indirectly, to the securitisation beyond its contractual obligations with a view to reducing the potential or actual losses to investors where the originator has recognised an SRT.

Against this background, the EBA has clarified that the following initiatives taken by the originator in connection with the granting of a payment moratorium in the light of the Covid-19 pandemic should not be considered automatically prohibited under Article 250 CRR:

- a. suspending, postponing, reducing payments due under securitised exposures or granting a new loan to the obligors of such exposures;
- b. where permitted under the securitisation documents, replacing securitised exposures which are subject to a general payment moratorium with exposures of a similar risk profile not subject to any such moratorium;
- c. where permitted under the securitisation documents, restructuring or amending the contractual documentation governing the securitised exposures as appropriate or necessary to implement or comply with the general payment moratorium;
- d. not making a claim during the moratorium period in a synthetic securitisation in connection with securitised exposures subject to a general payment moratorium;
- e. providing up-front liquidity or other form of financial support to the securitisation on a temporary basis and to address any shortfall in the securitisation that may occur as a result of a general payment moratorium, provided that the repayment of the liquidity facility or applicable financial support is given the highest seniority in the securitisation's priority of payments.

Where securitised exposures are subject to any of the actions above, institutions shall notify these circumstances to the competent authority in accordance with the implicit support framework.

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