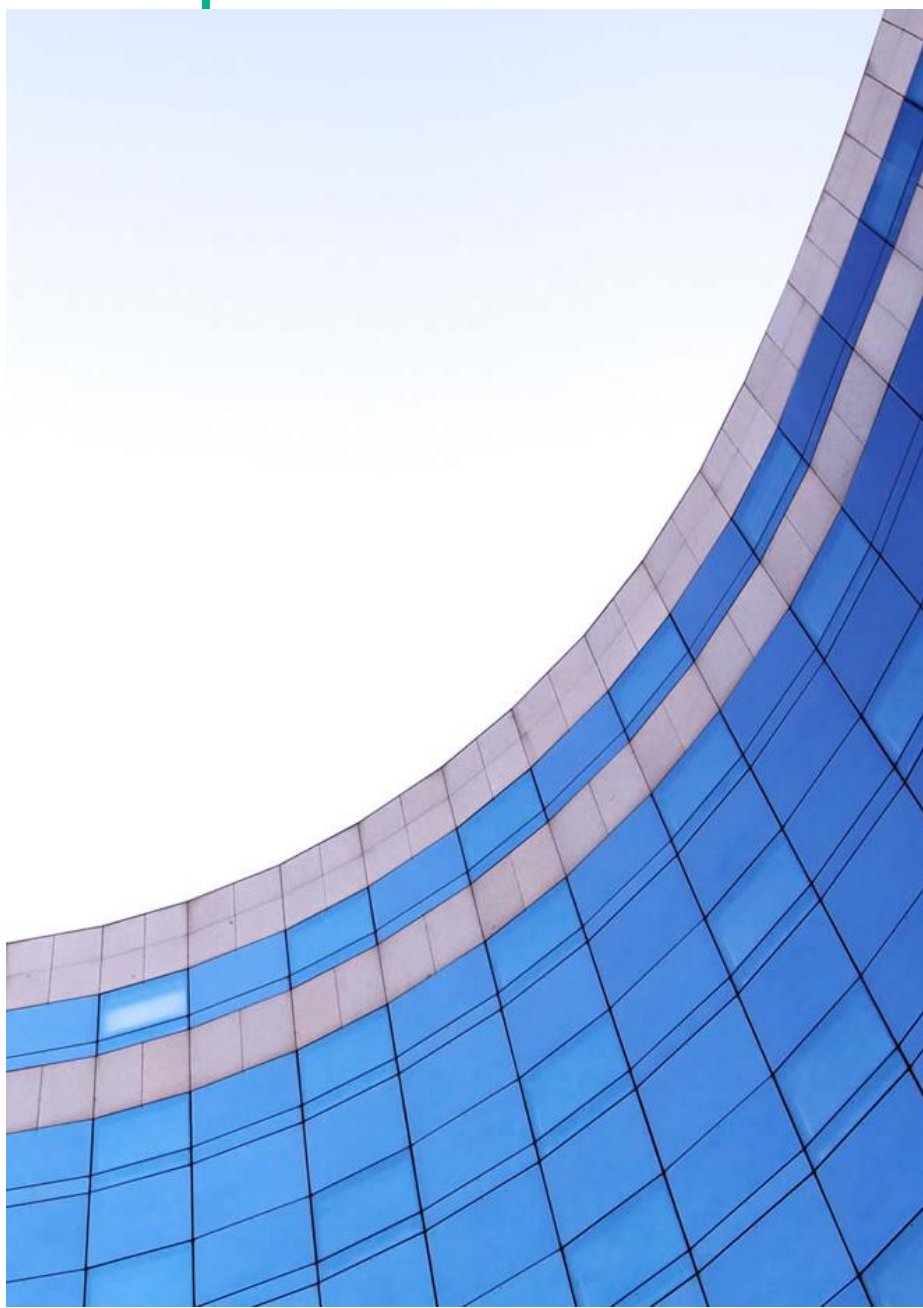


# **BANKING & FINANCE**

NEW RULES FOR NON-PERFORMING  
EXPOSURES SECURITISATIONS AND  
SYNTHETIC SECURITISATIONS

VdA EXPERTISE



**April 2021**

**Regulation (EU) 2021/557 and Regulation (EU) 2021/558, both of 31 March 2021, approved relevant amendments to the Securitisation Regulation and to the Capital Requirements Regulation, respectively, which entail material adjustments to the securitisation framework and are intended to support the economic recovery in response to COVID-19 crisis.**

## **AMENDMENTS TO REGULATION (EU) No. 2017/2402 (“Securitisation Regulation”)**

### NPE Securitisations

Following the concerns raised by the European Banking Authority in its opinion on the Regulatory Treatment of Non-Performing Exposure Securitisations, published on 23 October 2019, and the risks associated with the increasing number of non-performing exposures due to COVID-19 crisis, the European Parliament approved a set of anticipated amendments to the Securitisation Regulation, which aim to correct some unintended consequences of the original legislation and will facilitate the implementation of NPE securitisations through the following amendments to the existing framework:

- NPE Securitisation definition: Introduction of a definition of NPE securitisation as a securitisation backed by a pool of non-performing exposures the nominal value of which makes up not less than 90 % of the entire pool's nominal value at the time of origination and at any later time where assets are added to or removed from the underlying pool due to replenishment, restructuring or any other relevant reason;
- Risk Retention by the Servicer: Possibility for the servicer to fulfill the risk retention requirement in NPE Securitisations. This amendment is based on the conclusion that the servicer of the assets has a greater interest in the debt workout for the assets and in value recovery than the originator or the original lender, therefore better aligning investors' interests with those of the risk retainer;
- Risk Retention Amount: Calculation of the amount of the risk retention by reference to the net value at which the underlying NPEs have been transferred, instead of by reference to the nominal

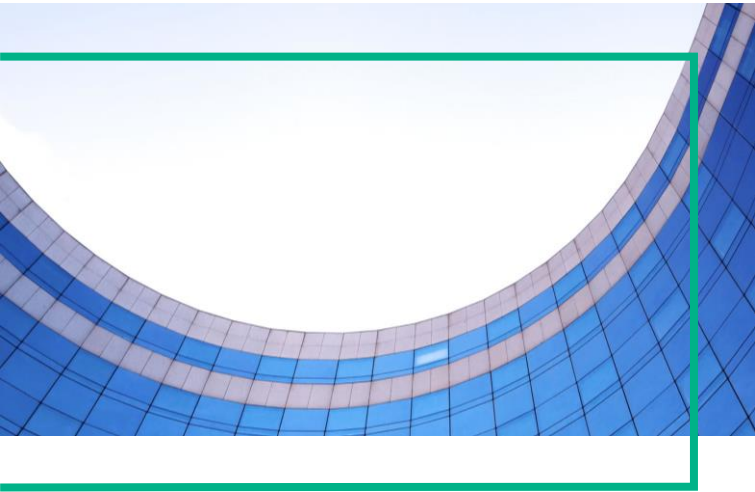
value of the underlying NPEs portfolio. This amendment takes into consideration that the actual risk of loss for investors does, therefore, not represent the nominal value of the portfolio, but the discounted value, namely, net of the non-refundable purchase price discount at which the underlying assets are transferred; and

- Credit-granting standards: Where the originator is an entity that purchases a third party's non performing exposures on its own account and then securitises them, such originator shall apply sound standards in the selection and pricing of the exposures, instead of being obliged to meet credit-granting standards applicable at the time of securitisation. When the assets are other than NPEs or the NPEs are originated by the originator itself, this amendment is not applicable.

### STS Synthetic Securitisations

Prior to these Securitisation Regulation amendments, only certain traditional securitisations were able to benefit from the simple, transparent and standardized regime (“STS”). The new rules introduced in the Securitisation Regulation allow certain synthetic on-balance sheet securitisations to have access to the STS label.

To achieve the STS status a synthetic securitisation will need comply with around 145 to 160 criteria (depending on the type of transaction). Among these are requirements on simplicity, standardisation and transparency similar to those for traditional (non-ABCP) securitisation, in an attempt to ensure as much consistency across the “STS” label as possible. In addition, the criteria includes requirements which are specific for synthetic securitisation.



### STS Synthetic Securitisations

The amendments also introduce a legal definition of “synthetic excess spread” as the amount that, according to the documentation of a synthetic securitisation, is contractually designated by the originator to absorb losses of the securitised exposures that might occur before the maturity date of the transaction.

### Amendments to Regulation (EU) No. 575/2013 (“CRR”)

The European Parliament also approved consequential amendments to the CRR to accommodate the risk weight of securitisation positions in line with the new securitisation rules. In this regard:

- In what concerns NPE securitisations, the senior tranche would be subject to a flat risk weight of 100%, provided that the exposures in the pool backing the securitisation have been transferred with a non-refundable purchase price discount of at least 50% on the nominal amount of the NPEs; and
- With regard to Synthetic Securitisations, the benefit of the STS risk weights is extended to include senior positions in Synthetic Securitisations complying with the relevant STS criteria.

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