

EBA/RTS/2022/08

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EBA Final draft regulatory technical standards

specifying the performance-related triggers pursuant to Article 26c(5) of Regulation (EU) 2017/2402 as amended by Regulation (EU) 2021/557

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1. Executive Summary

Regulation (EU) 2017/2402 (the Securitisation Regulation) as amended by Regulation (EU) 2021/557, which was published in the Official Journal of the European Union on the 6th of April 2021, sets out that STS on-balance-sheet securitisations should feature a sequential amortisation system to be eligible for the STS label.

However, by way of derogation, an STS on-balance-sheet securitisation with a non-sequential amortisation system could be eligible for the STS label provided that the transaction includes performance-related triggers to switch from a non-sequential to a sequential amortisation system. Pursuant to Article 26c(5) of the amended Securitisation Regulation, the EBA has to develop regulatory technical standards i) to specify the minimum performance-related triggers for STS synthetic securitisation transactions; and (ii) “where relevant”, to calibrate them.

Main features of the RTS

These draft RTS further specify the two mandatory triggers under point (a) Article 26c(5), set out the additional mandatory backward-looking trigger under point (b) and the mandatory forward-looking trigger under point (c).

With regard to the calibration of these triggers, it should be noted that the mandate in Article 26c(5) is qualified by “where relevant”. This entails that EBA in its RTS may decide not to set the specific level of a given trigger, if it considers inappropriate to do so taking into account all the relevant circumstances.

These draft RTS consequently set out that the level of the triggers should be determined by the parties to the securitisation, as they are transaction-specific, and depend on the assessment made by the parties of the riskiness of the underlying exposures at inception. However, it seems prudent to establish criteria to be fulfilled by the parties to the securitisation in order to set the level of the triggers under points (a) to (c). Those trigger values shall ensure for all STS on-balance-sheet securitisations featuring a non-sequential amortisation that under no circumstances the tranches providing credit protection have already been amortised to an extent that they cannot cope with significant losses occurring at the end of the transaction.

Next steps

These final draft RTS will be submitted to the Commission for adoption. Following the submission, the RTS will be subject to scrutiny by the European Parliament and the Council before being published in the Official Journal of the European Union.

2. Background and rationale

1. The draft regulatory technical standards (draft RTS) have been developed in accordance with Article 26c(5) of Regulation (EU) 2017/2402 (the Securitisation Regulation¹) as amended by the Regulation (EU) 2021/557 of 31 March 2021² (as part of the Capital Markets Recovery Package (CMRP)), which requests the EBA to develop regulatory technical standards i) to specify the minimum performance-related triggers for simple, transparent and standardised on-balance-sheet securitisations; and (ii) “where relevant”, to calibrate them.
2. The CMRP amends the Securitisation Regulation in several aspects, including creating a specific framework for simple, transparent and standardised (STS) on-balance-sheet securitisation to ensure that the Union securitisation framework provides for an additional tool to foster economic recovery in the aftermath of the COVID-19 crisis.
3. With the purpose of standardisation, the amended Securitisation Regulation sets out that sequential amortisation shall be applied to all tranches of STS on-balance-sheet securitisations. However, as a derogation, as Recital 17 of Regulation (EU) 2021/557 states, *‘STS on-balance-sheet securitisation might feature non-sequential amortisation in order to avoid disproportionate costs for protecting the underlying exposures and the evolution of the portfolio. Certain performance-related triggers should determine the application of sequential amortisation in order to ensure that tranches providing credit protection have not already been amortised when significant losses occur at the end of the transaction, thereby ensuring that significant risk transfer is not undermined’*.
4. Article 26c(5) of the amended Securitisation Regulation sets out the minimum performance-related triggers that transactions which feature non-sequential priority of payments shall include and mandates the EBA to develop draft regulatory technical standards on the specification, and where relevant, on the calibration of the performance-related triggers.
5. Point (a) of Article 26c(5) provides for two mandatory backward-looking triggers and gives transaction parties the option of choosing between the two of them to structure the amortisation profile of the securitisation. These triggers are either an “increase in the cumulative amount of defaulted exposures” or “the increase in the cumulative losses”. In both cases, they should not be “greater than a given percentage of the outstanding amount of the underlying exposures below a pre-determined threshold”. Therefore, as the triggers are already set out in Securitisation Regulation, the mandatory backward-looking triggers in point (a) need not be created ‘ex novo’ by the RTS. However, the RTS may “specify” these triggers in further detail in as much the EBA deems necessary or appropriate to meet its mandate.

¹ 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

² Regulation (EU) 2021/557 of the European Parliament and of the Council of 31 March 2021 amending Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis

6. Points (b) and (c) of Article 26c(5), however, refer generically to “one additional backward-looking trigger” and “one forward-looking trigger” and, accordingly, these triggers need to be created ‘ex novo’ and defined in detail by the RTS as additional triggers.
7. With regard to the calibration of these triggers, it should be noted that the mandate in Article 26c(5) is qualified by “*where relevant*”, and thus EBA may decide not to set the level of a given trigger, if it considers inappropriate to do so taking into account all the relevant circumstances.
8. After analyzing the responses received during the consultation period, several relevant changes have been introduced in the RTS draft:
 - Firstly, in relation to the additional backward-looking trigger under point (b) of Article 26c(5), the calibration suggested in the consultation paper is no longer there, in view of the comments received regarding the inadvisability of setting a certain trigger level that applies to all transactions, since it might not be appropriate in certain cases.
 - Secondly, as a consequence of removing the calibration on the backward-looking trigger, these draft RTS specify criteria that the parties to the securitization must take into account instead, when setting the minimum trigger levels, both for the forward-looking and the backward-looking performance-related triggers.
 - Thirdly, these final draft RTS take on board the suggestions received on the importance of concentration risk, and the criticism about the inconsistencies between the PD and the credit risk bucket ratio in the forward-looking performance-related trigger.
 - Finally, in view of the responses received, which indicated that switching back to non-sequential amortisation is not current market practice and taking into account that this matter is not explicitly mentioned in the mandate, the article on that switch-back has been dropped. The EBA may however consider the issue further in the coming EBA guidelines on STS criteria for on-balance-sheet securitisations.
9. Accordingly, the EBA deems appropriate that these draft RTS further specify the triggers under point (a), set out the triggers under points (b) and (c), and set out criteria to be fulfilled by the parties to the securitisation in order to set the level of the triggers under points (a) to (c). The trigger under (a) is denoted a backward-looking trigger, the trigger under point (b) is referred to as ‘additional backward-looking trigger’ while the trigger under point (c) is referred to as ‘forward-looking trigger’.
10. The level of the triggers shall be determined by the parties to the securitisation, as the triggers under points (a) and (b) are transaction-specific and depend on the assessment made by the parties of the riskiness of the underlying exposures at inception. In the case of the trigger under point (c) also the relevant threshold would very much depend on the granularity and the starting point of the risk distribution at inception, i.e. the same percentage of migration to higher credit risk buckets of a portfolio with very low risk at inception in comparison with that of a portfolio with medium or high risk at inception would not have the same effect on the trigger.

11. Therefore, it seems prudent and appropriate to establish criteria to be fulfilled by the parties to the securitisation in order to set the level of the triggers under points (a) to (c). This would ensure for all STS on-balance-sheet securitisations featuring a non-sequential amortisation that under no circumstances the tranches providing credit protection have already been amortised to an extent that they cannot cope with significant losses occurring at the end of the transaction. For this purpose, in the case of the backward-looking triggers under points (a) and (b), the parties to the securitisation shall test the effectiveness of the trigger in a back-loaded loss distribution scenario taking into account the losses expected over the entire maturity of the transaction at inception.
12. Regarding the triggers, it is appropriate to also specify the point in time to which the outstanding amount refers to. In this regard, there is the need to specify that the outstanding amount is the outstanding amount at the closing date of the transaction. This way the “increase in the cumulative amount of defaulted exposures” or “the increase in the cumulative losses” shall refer to that point in time. Specific rules are provided for transactions featuring replenishment or ramp-up periods.
13. Regarding point (b) on an additional backward-looking trigger, the trigger targets the detachment point of the ‘most senior protected tranche (MSPT)’ and sets out that the amortisation will switch to sequential at any point in time when that detachment point is lower than a percentage of the detachment point at inception. As the detachment point of the MSPT reflects the credit enhancement received by the more senior tranches retained by the originator, this trigger ensures that this credit enhancement is still sufficient to cover the case where significant losses may occur at the end of the transaction, thus fulfilling the objective of the mandate. The trigger is neutral regarding the structure of the transaction, as it covers all possible combinations of mezzanine and first loss tranches (protected or retained). It focuses on the combined credit enhancement provided to the senior tranche retained and to possible, although not common, upper mezzanine tranches retained by the originator.
14. Regarding point (c), the forward-looking trigger, these final draft RTS establish a trigger that targets both the risk of concentration and the unfavorable evolution of the risk profile of the securitised exposures. In the case of non-granular pools, where the concentration risk is expected to be higher, the trigger compares the outstanding amount of the most senior protected tranche and subordinated tranches to it with that of a certain number of the largest securitised exposures at any time. When the outstanding amount of a certain minimum number of exposures exceeds the outstanding amount of the most senior protected tranche and subordinated tranches to it, the trigger will be activated and the amortisation will switch to sequential from that moment on. In the case of granular portfolios, the trigger on the risk profile makes a comparison between the risk profile of the securitised exposures at origination and the corresponding one at any point in time afterwards. When the risk profile of the underlying exposures worsens above a certain level, the trigger will be activated and the amortisation will switch to sequential from that moment on. The measure of the risk profile should depend on the characteristics of the underlying exposures.
15. The forward-looking trigger on the risk profile of the securitised exposures considers the increase in the proportion of the outstanding amount of underlying exposures assigned to higher ‘credit risk buckets’ and the outstanding amount of the underlying portfolio (higher credit risk bucket ratio) compared to the corresponding proportion at the time of origination greater than a given

percentage. These RTS define 'credit risk bucket' and determine how this definition applies when the underlying exposures correspond to any of the possibilities of the IRB Approach of the CRR, and the originator is an institution under the CRR, and when the differentiation in terms of credit risk of exposures has been made in accordance with the applicable accounting framework instead. The RTS also set out the way of calculation of the increase in the proportion of the outstanding amount of underlying exposures assigned to higher 'credit risk buckets' in the case of mixed pools comprising underlying exposures under different risk allocation methodologies.

3. Draft regulatory technical standards/

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

of XXX

on supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council with regard to regulatory technical standards on the specification and calibration of the performance-related triggers pursuant to Article 26c(5)

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 Council³, and in particular of Article 26c (5) sixth subparagraph thereof,

Whereas:

- (1) The occurrence of the minimum performance-related triggers as referred to in Article 26c (5) third subparagraph of Regulation (EU) 2017/2402 should lead to the amortisation of the securitisation tranches reverting to a sequential payment in order of seniority, irrespective of whether other triggers apply.
- (2) For the purposes of applying the backward-looking triggers set out in Article 26c(5) third subparagraph, point (a) of Regulation (EU) 2017/2402, it is necessary to clarify that the outstanding amount of the underlying portfolio referred to therein should be determined at the closing date of the transaction and, hence, either the increase in the cumulative amount of defaulted exposures or the increase in the cumulative losses should be measured from that time. However, specific rules should apply to those cases where the transaction features a replenishment period, or a period where the securitised portfolio is built up, after the closing date.
- (3) The additional backward-looking trigger referred to in Article 26c(5) third subparagraph, point (b) of Regulation (EU) 2017/2402 should take into account the credit enhancement provided by the most senior protected tranche to more senior tranches retained by the originator throughout the life of the transaction. Accordingly, such backward-looking trigger should occur where the detachment point of the most senior protected tranche decreases below a certain percentage of the initial detachment

³ 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 648/2, (OJ L 347, 28.12.2017, p. 35).

point, thus preventing that the tranches providing credit protection have already amortised when significant losses occur at the end of the transaction.

- (4) The forward-looking trigger referred to in Article 26c(5) third subparagraph, point (c) of Regulation (EU) 2017/2402 should occur where the performance of the pool of underlying exposures is reduced by an increase in the concentration risk in the securitisation over time or by a deterioration of the average credit quality of that pool of underlying exposures over time.
- (5) Concentration risk can be more prevalent in pools of underlying exposures which have a low granularity. Hence, the forward-looking trigger related to concentration risk should apply where the granularity of the pool of underlying exposures measured by the effective number of exposures in the pool is below a given threshold. In order to determine such threshold, a comparison should be made between the sum of the outstanding amounts of the most senior protected tranche and of the tranches subordinated to that tranche and the outstanding amount of a number of the largest securitised exposures towards individual obligors.
- (6) Securitisations that do not feature a low granularity should be subject to the forward-looking trigger related to the average credit quality of the underlying portfolio. For the purposes of setting this trigger, the credit quality of the underlying portfolio should be measured since origination in terms of the migration of exposures towards higher credit risk buckets of the underlying portfolio. Where originators have received permission from their competent authority to apply the IRB Approach in accordance with Part Three, Title II, Chapter 3 of Regulation (EU) No 575/2013⁴ to the underlying exposures of the transaction, the assignment of exposures to credit risk buckets should be based on the assignment of exposures to rating grades or pools as applied within the respective rating systems used under the IRB Approach. Where originators do not apply the IRB Approach to the underlying exposures, the assignment of exposures to credit risk buckets should instead be based on the differentiation in terms of credit risk of exposures as recorded by the originator in its financial statements in accordance with the applicable accounting framework.
- (7) Since it is not possible to provide for a one-size-fits-all calibration that would be applicable to all transactions, it is appropriate to set criteria for setting the levels of triggers as referred to in Article 26c(5) third subparagraph points (a) to (c) in a prudent manner for the parties to the securitisation to agree with. These criteria should ensure that there is no significant risk that tranches providing credit protection amortise to an extent that they cannot cope with significant losses occurring at the end of the transaction. For this purpose, the parties to the securitisation should test the effectiveness of the backward-looking triggers in a back-loaded loss distribution scenario taking into account the losses expected over the entire maturity of the transaction at inception.
- (8) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.

⁴ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

- (9) The European Banking Authority has 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 opinion 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,⁵

HAS ADOPTED THIS REGULATION:

Article 1
Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'Most senior protected tranche' in a securitisation means the least subordinated tranche in terms of distribution of losses that benefits from eligible credit protection.
- (2) 'Credit risk bucket' means a segment of the underlying portfolio to which the exposures from the underlying portfolio are assigned that entails a certain degree of credit risk as measured on the basis of credit risk-related criteria clearly set out in the transaction documentation and where a certain segment entails a credit risk greater than or less than another segment.

Article 2

Backward-looking triggers under Article 26c(5), third subparagraph, point (a) of Regulation (EU) 2017/2402

1. For the purposes of the backward-looking triggers set out in Article 26c (5) third subparagraph, point (a) of Regulation (EU) 2017/2402, the outstanding amount of the underlying portfolio shall be the outstanding amount at the closing date of the transaction, and the increase in the cumulative amount of defaulted exposures or the increase in the cumulative losses shall be calculated from that moment.
2. Where the securitisation features a replenishment period, the outstanding amount shall be the lower of the outstanding amount at the closing date of the transaction and the outstanding amount at the end of the replenishment period, and the increase in the cumulative amount of defaulted exposures or the increase in the cumulative losses shall be calculated from the closing date of the transaction.
3. Where the securitisation features a pre-defined period during which the portfolio of securitised exposures is built up, which is starting with the closing date of the transaction and the credit protection agreement is applicable since the closing date of the transaction, the outstanding amount shall be: (i) the maximum outstanding amount of the securitised exposures allowed in the credit protection agreement at the end of that period, during the period in which the portfolio of securitised exposures is built up; and (ii) the outstanding amount at the end of that period from that moment on. In both

⁵ 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).

cases, the increase in the cumulative amount of defaulted exposures or the increase in the cumulative losses shall be calculated from the closing date of the transaction.

Article 3

Additional backward-looking trigger under Article 26c(5) third subparagraph, point (b) of Regulation (EU) 2017/2402

The additional backward-looking trigger referred to in Article 26c (5) third subparagraph, point (b) of Regulation (EU) 2017/2402 shall occur where at any point in time after the closing date of the transaction the detachment point, as defined in the second subparagraph of Article 256 (2) of Regulation (EU) No 575/2013, of the most senior protected tranche decreases below a certain percentage of that detachment point determined at the closing date of the transaction.

Article 4

Forward-looking trigger under Article 26c(5) third subparagraph, point (c) of Regulation (EU) 2017/2402

1. Where the effective number of exposures (N) in the pool, as defined in Article 259 (4) of Regulation (EU) No 575/2013 is below 100 at the closing date of the transaction, the forward-looking trigger shall occur where the number of the largest securitised exposures towards individual obligors, the total outstanding amount of which exceeds the sum of the outstanding amount of the most senior protected tranche and of the outstanding amount of other tranches subordinated to it, falls below a given number.

In all other cases, the forward-looking trigger shall occur where the ratio between the outstanding amount of underlying exposures assigned to higher credit risk buckets and the outstanding amount of the underlying portfolio (higher credit risk bucket ratio) exceeds the corresponding proportion at the closing date of the transactions by a given percentage.
2. For the purposes of determining the number of the largest securitised exposures referred to in paragraph 1, multiple exposures to the same obligor shall be consolidated and treated as a single exposure and the consolidated exposures to individual obligors shall be sorted, in descending order, by the outstanding amount of the consolidated exposures to single obligors. The outstanding amount of the largest securitised exposures towards individual obligors shall then be determined by adding up the outstanding amounts of the consolidated exposures to individual obligors in descending order, starting with the largest consolidated exposure to an individual obligor, up to the point where adding the outstanding amount of the next consolidated exposure to an individual obligor first results in the total outstanding amount of the largest securitised exposures towards individual obligors being higher than the sum of the outstanding amount of the most senior protected tranche and of the outstanding amount of other tranches subordinated to it.
3. For the purposes of determining the increase in the higher credit risk bucket ratio referred to in paragraph 1 the differentiation between individual credit risk buckets shall be based on the following:

- (a) where the originator applies the IRB Approach in accordance with Part Three, Title II, Chapter 3 of Regulation (EU) No 575/2013 using own PD estimates to determine the own funds requirements for credit risk for underlying exposures other than retail exposures, the rating grades as referred to in point (b) of Article 170(1) of that Regulation;
- (b) where the originator applies the IRB Approach in accordance with Part Three, Title II, Chapter 3 of Regulation (EU) No 575/2013 to determine the own funds requirements for credit risk for underlying exposures using the methods set out in Article 153(5) of that Regulation for specialised lending exposures, the rating grades as referred to in Article 170(2) of that Regulation;
- (c) where the originator applies the IRB Approach in accordance with Part Three, Title II, Chapter 3 of Regulation (EU) No 575/2013 to determine the own funds requirements for credit risk for underlying exposures treated as retail exposures, the rating grades that are used for the assignment of PD estimates to exposures or the pools, as applicable, as referred to in point (b) of Article 170(3) of that Regulation;
- (d) in all other cases, the differentiation of the credit risk of exposures shall be determined as recorded by the originator in its financial statements in accordance with the applicable accounting framework.

Where more than one criterion referred to in points (a) to (d) of the first subparagraph apply to different parts of the underlying portfolio of a securitisation, the outstanding amount of underlying exposures assigned to higher credit risk buckets shall be determined as the sum of the total outstanding amount of underlying exposures assigned to higher credit risk buckets in accordance with each of the applied criteria.

4. For the purposes of determining the outstanding amount of underlying exposures assigned to higher credit risk buckets as set out in paragraph 3 all exposures in default within the meaning of Article 178(1) of Regulation (EU) No 575/2013, all exposures to a credit-impaired debtor and all other exposures entailing higher credit risk shall be assigned to the higher credit risk buckets. Exposures that have caused a credit event under the credit protection agreement and an interim or a final credit protection payment that has reduced the amount of the protected tranche shall be excluded from that assignment.

Article 5

Criteria for setting the level of the triggers under Article 26c(5) third subparagraph points (a) to (c) of Regulation (EU) 2017/2402

The minimum performance related triggers to be included in transactions referred to in Article 26c(5) third subparagraph points (a) to (c) shall be set at a level which ensures that the following criteria are met:

- (a) The triggers are activated before the tranches providing credit protection have been amortised to an extent that they cannot cope with significant losses occurring in the last part of the maturity of the transaction.

- (b) In relation to backward-looking triggers the effectiveness of the triggers has been tested in a back-loaded loss distribution scenario taking into account the losses expected over the entire maturity of the transaction at the closing date of the transaction.
- (c) Where the originator applies Part Three, Title II, Chapter 5 of Regulation (EU) No 575/2013 to determine the own funds requirements for its exposure to the securitisation, both the calculation of the lifetime expected losses and the assumptions to be made under a back-loaded loss distribution scenario shall be consistent with those used for purposes of the significant and commensurate risk transfer assessment under Article 245 of that Regulation.

Article 6

Transitional provisions concerning outstanding STS on-balance-sheet securitisations featuring non-sequential priority of payments

In respect of STS on-balance-sheet securitisations, which include triggers related to the performance of the underlying exposures in accordance with the third subparagraph of Article 26c (5) of Regulation (EU) 2017/2402 and which were notified to ESMA in accordance with Article 27(1) of that Regulation before the entry into force of this Regulation, originators may continue to use the ‘STS’ designation without meeting the requirements of Articles 1 to 6 of this Regulation until 31.12.2024.

Article 7

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

The President

4. Accompanying documents

4.1 Draft cost-benefit analysis / impact assessment

1. Article 26c(5) of Regulation (EU) 2017/2402 (the Securitisation Regulation), as amended by the Regulation (EU) 2021/557 of 31 March 2021 (the Regulation amending the Securitisation Regulation), establishes, as part of the requirements relating to standardisation, that STS on-balance-sheet securitisations should feature a sequential amortisation system of the tranches. However, by way of derogation, a non-sequential amortisation system could be permitted provided that the transaction includes a minimum set of performance-related triggers to switch from a non-sequential to a sequential amortisation system.
2. This minimum set of performance-related triggers should include: two mandatory backward-looking triggers, specified in point (a) of Article 26c(5) of the amended Securitisation Regulation, giving the transaction parties the option of choosing between the two of them, and one additional backward-looking trigger and a forward-looking trigger that are not specified in the Article.
3. Pursuant to subparagraph 4 of Article 26c(5) of the amended Securitisation Regulation, the EBA has to develop regulatory technical standards (i) to specify the minimum triggers for STS synthetic securitisation transactions; and (ii) “where relevant”, to calibrate them.
4. As per Article 10(1) of the EBA Regulation (Regulation (EU) No 1093/2010 of the European Parliament and of the Council), any RTS developed by the EBA shall be accompanied by an Impact Assessment (IA) annexe that analyses ‘the potential related costs and benefits’ before submission to the Commission. Such an annexe shall provide the reader with an overview of the findings as regards the identification of the problem, the options identified to remove the problem and their potential impacts.
5. For the purposes of the IA section, the EBA prepared the IA with a cost-benefit analysis of the policy options included in the regulatory technical standards. Given the nature of the study, the IA is high level and qualitative in nature and includes some quantitative analysis when possible.

A. Problem identification

6. The Regulation amending the Securitisation Regulation is part of a wider package (the CMRP) to support the recovery from the severe economic shock caused by the COVID-19 pandemic by introducing targeted amendments to existing pieces of financial legislation, with the aim that institutions employ their capital where it is most needed while ensuring that institutions act prudently, thus fostering economic recovery in the aftermath of the COVID-19 crisis.

7. With that purpose, the Regulation amending the Securitisation Regulation sets out criteria for simple, transparent and standardised (STS) on-balance-sheet securitisations, the senior tranche of which receives preferential capital treatment under the CRR as part of the CMRP. STS on-balance-sheet securitisations are synthetic securitisations meeting those criteria, which justify that preferential treatment along with some additional criteria specified in the CRR. The object of the credit risk transfer should be exposures originated or purchased by a Union-regulated originator within its core lending business activity and held on its balance sheet, thus excluding arbitrage securitisations from the scope of the STS label.
8. By achieving significant risk transfer, credit institutions can free up capital that can be used to increase lending, which can help support the economic recovery. Due to the preferential treatment of the senior tranche of STS on-balance sheet securitisations, this effect would be higher in the case of synthetic securitisations qualifying as STS.
9. As in the case of traditional STS securitisations, the criteria for STS on-balance-sheet securitisations establish a more risk-sensitive prudential framework, which relies on qualitative criteria that ensure simplicity, transparency and standardisation.
10. Among the criteria relating to standardisation, there is the requirement of sequential amortisation and a limited derogation under specific conditions.

B. Policy objectives

11. The objective of the RTS is (i) to specify the minimum performance-related triggers for simple, transparent and standardised on-balance-sheet securitisations; and (ii) “where relevant”, to calibrate them.
12. The EBA interprets the mandate in the sense that:
 - i. Regarding the backward-looking triggers under point (a) of Article 26c(5) of the amended Securitisation Regulation, the RTS may “specify” these triggers in further detail in as much the EBA deems necessary or appropriate to meet its mandate.
 - ii. Regarding the triggers under points (b) and (c), as Article 26c(5) of the amended Securitisation Regulation refers generically to them as “one additional backward-looking trigger” and “one forward-looking trigger”, these triggers need to be created ‘ex novo’ and defined in detail by the RTS as additional triggers.
 - iii. With regard to the calibration of these triggers, it should be noted that the mandate in Article 26c(5) of the amended Securitisation Regulation is qualified by “*where relevant*”, which should be understood as giving the EBA the option to decide not to set the level of a given trigger, if it considers inappropriate to do so taking into account all the relevant circumstances.
13. The RTS include only one trigger under point (b), which targets that the credit enhancement received from the senior tranche does not fall below a certain threshold. Two possible triggers

were considered the most meaningful and were subject to a public consultation. The final draft RTS include the preferred option.

14. The RTS include only one trigger under point (c), which targets the concentration risk of non-granular portfolios overtime and, in the case of granular portfolios, the comparison between the risk profile of the securitised exposures at origination and the corresponding one at any point in time afterwards. When the number of the largest exposures in the pool decreases below a certain level or the risk profile of the underlying exposures deteriorates above a certain level the trigger will be activated
15. The EBA considers that limiting the options within the minimum performance-related triggers is prudent and appropriate for standardisation. The Level 1 requirements already provide an option for the trigger under point (a). Therefore, providing a set of optional triggers for the additional backward-looking trigger under point (b) and for the forward-looking trigger under point (c) would be detrimental to the purpose of standardisation. On the contrary, providing only one trigger under points (b) and (c), which is meaningful and applicable to any type of transaction, would help the standardisation of the STS product. This is without prejudice to the right of the parties to include other performance-related triggers, on top of the minimum ones set out in the Level 1 and in these RTS, if they consider it necessary.
16. The level of the triggers under points (a) to (c) shall be determined by the parties to the securitisation, as the triggers under points (a) and (b) are transaction-specific and depend on the assessment made by the parties of the riskiness of the underlying exposures at the closing date; and, in the case of the trigger under point (c), also the relevant threshold would very much depend on the granularity and concentration of the securitised exposures and on the starting point of the risk distribution at the closing date (i.e. the same percentage of migration to higher credit risk buckets of a portfolio with very low risk at inception in comparison with that of a portfolio with medium or high risk at inception would not have the same effect in terms of the activation of the trigger).

C. Cost-benefit analysis

17. Taking into account the foregoing, the proposed technical standards are expected to provide enough benefits for the parties to the securitisations and supervisors that more than offset the additional costs connected with their implementation.
18. The specification of a requirement linked to the standardisation in the STS label provides clarity both to the parties to the securitisations and to supervisors, which is an important element for the issuance of new deals.
19. From the perspective of the parties to the securitisation, as the triggers specified in the RTS ensure that the transaction will revert to sequential amortisation when the performance of the underlying exposures makes it necessary, those triggers will help reduce the costs of the protection purchased until that moment, making the transaction more efficient. And, on the other hand, those triggers will ensure that the tranches providing protection are thick enough

when the performance of the underlying portfolio deteriorates, absorbing the losses and the risks they are meant to.

20. From the perspective of supervisors, these triggers will help ensure that the transfer of risk is significant throughout the life of the transaction under different scenarios, and that the capital relief achieved by the originator is commensurate, as some of the minimum triggers can be included in the model used for the SRT assessment.

4.2 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted two months and ended on 28 February 2022. The EBA received 6 responses (1 confidential and 5 non-confidential) and a public hearing was held on 26 January 2022. The Banking Stakeholders Group ('BSG') issued no opinion. All public responses are published on the EBA's website.

This report presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them, if deemed necessary.

In certain cases, several industry bodies made similar comments, or the same body repeated its comments in response to different questions. In such cases, the comments and the EBA analysis are included in the section of this paper where the EBA considers them most appropriate.

Changes to the draft RTS have been incorporated as a result of the responses received during the public consultation.

Summary of key issues

The industry respondents requested further clarification, re-wording adjustments and/or relaxation of the requirements, in particular relating to:

- 1) Confusion regarding the coexistence with the triggers recommended in the SRT Report. Some respondents suggested an alignment between the SRT and the RTS triggers. One respondent noted that it is not appropriate to have two sets of overlapping but different requirements that apply for synthetic STS securitisations as apply for synthetic SRT securitisations;
- 2) Some respondents do not understand that the RTS, in accordance with the mandate, deal with the minimum triggers only. One respondent considers that the rules should permit originators to apply all types of cumulative loss or default triggers (as long as they add additional value to the trigger chosen under Article 26c (5) third subparagraph, point (a)), including other variants of such triggers. Another respondent suggested an explicit acknowledgement in the RTS that the originator is not prevented from including additional performance-related triggers beyond whatever is prescribed in the RTS;

- 3) Grandfathering. Some respondents recommended including a grandfathering provision for those transaction featuring performance-related triggers, in accordance with Article 26c (5) third subparagraph, issued before the entry into force of the RTS;
- 4) Article 2 (Backward-looking trigger under Article 26c (5) third subparagraph, point (a)). All respondents generally agree with the specification made in Article 2. However, some respondents asked for clarification on the reference to the 'time of origination', which is also used in the two other triggers, and may cause confusion with the time of origination of the underlying exposures. One respondent suggested using the date the credit protection starts instead. Clarification was also required on the 'outstanding amount' to which the trigger refers to when the transaction features a replenishment or a ramp-up period.
- 5) Article 3 (Additional backward-looking trigger under Article 26c (5) third subparagraph, point (b)):
- a) Most of the respondents prefer the proposed trigger rather than the alternative option put forward in Article 3. One respondent highlights that the way the alternative trigger is formulated, once some losses have been incurred, the likelihood of the trigger level being reached increases on an exponential basis purely as a result of scheduled amortisation of the portfolio. The "alternative option" is not fit for purpose and will lead to undesirable outcomes by incentivising banks to pursue mezzanine transactions involving less risk transfer. Another respondent comments that for transactions with a first loss tranche protected, the alternative trigger may be breached even in a base case scenario due to the way the trigger is formulated thus increasing the cost of the transaction for the originator.
 - b) Doubts were expressed on the calculation of the detachment point of the most senior protected tranche in a synthetic transaction, which are out of the scope of the RTS.
 - c) Some respondents do not deem appropriate to specify a level for the trigger. One respondent comments that, given the variety in the types of portfolios of synthetic securitisations, for a high quality non-granular portfolio a trigger should be set at a lower level, while for lower quality highly granular portfolios it should be set at a higher level. Another respondent observes that, given the differences between underlying pools, the calibration of triggers should be discussed during the SRT approval process. The enhancement levels are not standardised, in its view.
 - d) Level of the proposed trigger. One respondent mentions that it is difficult to assess what level would be most appropriate. Another proposes to apply the 75% level to transactions with a first loss tranche protected only. However, for a transaction with a mezzanine tranche protected the losses transferred may not increase but depending on the other features of the structure this could result in a material increase in the cost of protection. On the contrary, another respondent states that the switch to sequential reduces the tail risk and thus improves return in a headwind and/or stress scenario. This benefit is reflected in the required coupon, therefore, a change in the level would not have a large impact.
- 6) Article 4 (forward -looking trigger under Article 26c (5) third subparagraph, point (c)):

- a) On the exposure-weighted average PD. One respondent asks for clarification on the reference to "exposure-weighted", which should be interpreted as requiring weighting by the protected amount in the securitisation. It is quite common for synthetic securitisations to reference only a part of a larger exposure, and it would therefore not be appropriate to use the overall exposure amount for this calculation. Another respondent suggests using the exposure-weighted average lifetime EL instead. This would provide a better and more complete forward-looking estimate of risk than PD, as it also takes into account LGD and remaining tenor of the transaction.
- b) The PD and the higher credit risk bucket ratio work differently. One respondent highlights that, in the case of the PD Approach, by being based on the weighted average PD of all securitised exposures, a deterioration in the PD of some exposures may be offset in this regard by an improvement in the PD of other exposures. In contrast, the Risk Bucket Approach looks only to the proportion of the portfolio, which is allocated to the higher credit risk buckets, and ignores the relative performance of individual exposures allocated to the lower credit risk buckets.
- c) Changes in the approach. One respondent reflects on what is to happen if the PD Approach applies initially but the originator subsequently ceases to estimate a regulatory PD for all exposures in the portfolio as it has been the case in some previous transactions in the market.
- d) Defaulted exposures should be excluded for the purpose of the forward-looking test on the basis that the default has already occurred. A couple of respondents note that including the 100% PD for defaulted exposures in the calculation would also skew the overall calculation and would require the trigger to be set at a much higher level to avoid being hit solely as a result of an expected level of defaults, thereby reducing the sensitivity of the trigger to unexpected deterioration in the overall portfolio.
- e) Additional forward-looking trigger based on granularity. Two respondents recommend using a trigger based on granularity:
 - i. when a portfolio amortises, the number of distinct obligors reduces as obligors fully repay facilities (e.g. prepayments or bullet loans). This will increase the relevant exposure to all other obligors. As granularity decreases obligor concentrations can become larger than the absolute size of the first loss (and mezzanine) tranche(s).
 - ii. granularity triggers make a lot of sense for more concentrated pools, such as pools of large corporate loans with a revolving period. Transactions with a majority of or even 100% large corporate loans are part of the synthetic transactions' universe
- f) Switch back to non-sequential.
 - i. Switch back to non-sequential is not common for synthetic securitisations. Most respondents pointed out that it is not common for synthetic securitisations to allow a switch back to non-sequential amortisation. One respondent noted that from its

experience the switch from pro rata to sequential amortisation in synthetic transactions is called 'subordination event' or 'sequential amortisation start date' and is not reversible.

- ii. Nevertheless, some respondents consider it reasonable in certain cases: one respondent notes that it is difficult to model but reasonable in certain cases (e.g. Covid 19 crisis); another considers it reasonable in certain cases as forward-looking PDs can change when an IRB bank recalibrates internal rating systems, or certain sectors therein, without the underlying assets migrating; and another one that it is beneficial not to increase the cost of protection. It should not be mandatory for all the transactions but an option that could be agreed between the parties.
- iii. Extension to backward-looking triggers. Contradictory views were expressed by the respondents:
 - Some say that backward-looking triggers usually cannot get cured (cum. def. or losses), while at the same time others consider that some backward-looking triggers can switch back. The latter explain that this is perhaps even more appropriate for the backward-looking triggers than the forward-looking trigger as a backward-looking trigger will only cure once the circumstances giving rise to the trigger have been fully taken into account by the tranches, such that a "reset" of the amortisation mechanics going forward can proceed with certainty. In contrast, the forward-looking triggers always involve a degree of uncertainty and a reduction in the trigger metrics below the relevant threshold is obviously not a guarantee that the future performance of the remaining exposures could not cause the trigger level to be exceeded again in the future.
 - One respondent notes that it is difficult to model but reasonable in certain cases (e.g. Covid 19 crisis), while another respondent is of the view that the switch from sequential back to non-sequential does not make the transaction more complex as each trigger is tested prior to each amortisation date. As an example, one or more sequential period(s) may suffice to cure a trigger breach, by deleveraging the tranching. Another possible way to cure a breach would be via a downward revision of credit losses following the completion of the originator workout process.

A detailed presentation of the comments received and of the EBA response is included in the table set out below.

Summary of responses to the consultation and the EBA's analysis

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|--|---|-----------------------------------|
| Responses to questions in Consultation Paper EBA/CP/2021/45 | | | |
| Q1. Do you agree with the specification made in Article 2? | | | |
| | All respondents generally agree with the specification made in Article 2 | | |
| Clarification of the 'time of origination' and wording suggestion | Some respondents requested to clarify in the RTS that the 'time of origination' refers to the origination of the securitisation / closing date or the effective date of risk transfer to avoid confusion with the time of origination of the underlying exposures. One of the respondents suggested the wording <i>initial portfolio at issuance or the effective date, i.e. the date the credit protection starts</i> . | Time of origination refers to the closing date of the transaction. The text has been amended accordingly. | Article 2 (and Article 3) amended |
| Clarification of the 'cumulative amount' | One respondent also suggested to provide clarification in the text that both percentage and absolute amount in the currency of the transaction would be acceptable. | Absolute amount is already covered by the reference to "cumulative amount " while " percentage " is already captured in the "losses". The nominal amount denominated in the currency of the transaction will be set out in the guarantee contract and trigger mechanics will be laid out under contractual clauses, in line with the currency of the transaction. | No change |
| Ramp-up period | One respondent suggested that the rules should also consider the possibility of transactions where the underlying portfolio is ramped-up over a period of time after the initial closing date of the | Implemented through the reference to replenishment period and pre-defined period during | Article 2 Amended |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|---|---|--|-----------------------------|
| | transaction. In such a case, the respondent proposed that the trigger should be measured by reference to the lesser of the maximum securitised portfolio amount on the closing date and the gross amount of the securitised exposures included in the portfolio (ie, prior to taking any repayments or disposals into account) as at the end of the ramp-up period. | which the portfolio of securitised exposures is built up. | |
| Replenishment | Similar point was raised by another respondent stating that at inception the portfolio may not be filled to the maximum size allowed and may be afterwards corrected through replenishment. | Clarification added for the specific case of replenishment feature | Amended |
| Q2. Do you agree with the aim of Article 3 with regard to ensuring that the credit enhancement of the senior tranche does not fall below a certain threshold because of the non-sequential amortisation? | | | |
| Reversible trigger | Some respondents requested the trigger to be reversible | Current mandate is limited to the specification of the mandatory triggers while reversion is not current market practice. A Q&A or the guidelines on the STS criteria for STS on-balance-sheet securitisation, which the SGS&CB will start developing soon, will deal with the matter. | No change |
| Misalignment with triggers in EBA SRT report | Some respondents raised the issue that this trigger is not listed in the triggers set out in EBA's report on SRT. | The additional backward-looking trigger envisages to complement the mandatory backward-looking trigger, showing the resilience of the protected | No change |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|---------------------------|---|--|-----------------------------|
| | <p>One of the respondents proposed that the 3 backward-looking triggers in the SRT report in addition to the compulsory trigger 26c (5) (a) should be an eligible trigger.</p> <p>Another respondent proposed to align with the SRT trigger.</p> <p>Another respondent noted that this trigger doesn't reflect the types of triggers commonly used in synthetic securitisations. However, if this trigger were to apply instead of the requirement to include one of the additional backward-looking triggers set out in Recommendation 2 to the SRT Report (ie, that SRT can be achieved without one of those additional triggers), the respondent would broadly agree with the principle underpinning this trigger.</p> | <p>tranche to losses. Notwithstanding some inherent inconsistencies with the EBA Report on SRT, the additional backward-looking trigger would provide better room to investors and supervisors to critically review ex-ante the resilience of the transaction.</p> | |
| Wording suggestions | <p>A respondent noted that the current wording of Article 3 needs to make it clear that it does not refer to a percentage decrease of the detachment point at origination but to the nominal amount of the detachment point at origination, decreased by pro-rata amortisation. The same respondent proposed also to use the wording "Issue date" or "effective date" instead of "origination" to remove any ambiguity as to the point in time at which the number is fixed.</p> | <p>Clear reference added to the "nominal amount at the closing date of the securitisation" and increase in defaults and losses from that moment.</p> | Amended |
| Request for clarification | <p>A respondent requested in Article 3 to clarify in the preferred trigger whether this threshold is net of deductions like losses (interim and final) or just the available credit enhancement whether it has already been used or not. This is important for the</p> | <p>Clear reference added to the "nominal amount at the closure of the securitisation" and increase in defaults and losses from that moment. Other clarifications can be provided through Q&As.</p> | Amended |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--------------------------------|--|---|-----------------------------|
| | <p>understanding of this trigger. If it ignores deductions by losses it ends up being a static trigger since it causes a switch to sequential amortisation as soon as a certain threshold has been reached. Including deductions for losses is much more effective in achieving the aims of the regulations whilst maintaining a sensible commercial balance. Looking at the CRR and the calculation of detachment point, it is assumed that the outstanding balance takes into account any booked losses but clarification in the RTS would be helpful.</p> | | |
| No “one size fits all” trigger | <p>A respondent having analysed the mechanics of both triggers (preferred and alternative) noted that there can be no “one size fits all” approach and that these triggers are only suitable for some types of transactions and certain protected tranches, thus adding value in certain cases. The same respondent noted that trigger 1 is only suitable for investors into a mezzanine tranche. The alternative option trigger may be suitable for junior tranches since they are hit by expected losses. The same respondent noted that both triggers would add value. The first trigger is much easier for originators and investors to predict for a pool with an expected WAL/amortisation schedule so that it has an element of a timing trigger. The alternative option is a sensitive trigger which clearly complements the cumulative loss or default amount triggers and may work for junior tranches (although the percentages would need to be a lot higher), does work for junior mezzanine tranches but does not work for “more senior mezzanine tranches”.</p> | <p>We welcome the critical analysis, however no concrete proposals are set out to ensure a harmonised approach.</p> | No change |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|---|---|-----------------------------|
| Article 256 (1)-(2) of CRR | <p>A respondent has requested clarification on how the reference to "the outstanding balance of the pool of underlying exposures" in Article 256(1)-(2) of the CRR should be interpreted in the context of a synthetic securitisation.</p> <p>In a synthetic securitisation, the tranches would usually be written down by initial loss amounts (as, indeed, is impliedly required by Article 26e(2) of the Securitisation Regulation) shortly after the occurrence of a credit event, without there necessarily being a corresponding reduction in the outstanding balance of the defaulted exposure. This therefore creates a mismatch where the sum of the outstanding balance of the tranches may be less than the actual outstanding balance of the securitised portfolio. This means that (i) the attachment point of the first loss tranche would become greater than zero, and (ii) the detachment point of the protected tranche would be artificially higher. In order to avoid this anomaly causing issues for the application of the proposed trigger, it may be helpful to clarify that for the purpose of the calculation in Article 256(2) of the CRR and calculating the outstanding balance of the pool of underlying exposures, the outstanding balance of a defaulted exposure should be deemed to be equal to the protected amount minus the initial credit protection amount</p> | <p>Goes beyond the current mandate from the Securitisation Regulation, to be clarified via Q&A on Article 256 of the CRR if needed.</p> | No change |
| <p>Q3. Do you agree with the trigger set out in the Article or would you prefer the</p> | | | |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|---|--|---|-----------------------------|
| <p>alternative option in order to meet the aim of this additional backward-looking trigger? Please justify your answer, providing, if possible, evidence of the outcome of both triggers based upon your past experience.</p> | <p>Most respondents prefer the trigger set out in the Article 3 compared to the alternative option.</p> | <p>Trigger set out in Article 3 has been kept, and alternative option deleted.</p> | No change |
| <p>'Alternative option' not fit for purpose</p> | <p>A respondent provided the following concerns for the 'alternative option'. First, the trigger is not in the list of triggers in the SRT report. Secondly, the way this trigger is formulated, once some losses have been incurred, the likelihood of the trigger level being reached increases on an exponential basis purely as a result of scheduled amortisation of the portfolio. Thirdly, because the trigger does not distinguish between EL and UL, or indeed between those potential losses which were taken into account when structuring the transaction and those which were not, the occurrence of any losses allocated to the protected tranche will eventually lead to the trigger being hit as the portfolio amortises, even if those losses are entirely consistent with base case modelling. Given that modelling is an important part of the SRT assessment process, it is not appropriate for the triggers to be structured in a way which does not take that into account. Fourthly, the respondent agrees with the EBA's observation in Paragraph 13</p> | <p>In general, 3 tranche transactions imply a thicker mezzanine and a thinner first loss position which is usually kept by the originator. Since the first loss position is usually very thin, in general the EBA does not foresee a major impact of 3 tranche transactions compared to 2 tranche transactions on the trigger mechanic (i.e. when and how the trigger might be activated).</p> <p>Trigger set out in Article 3 has been kept, and alternative option deleted.</p> | No change |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|--|--|-----------------------------|
| | <p>of the Consultation Paper that the effect of the alternative option will vary depending on the transaction structure. Therefore, the respondent considers that the "alternative option" is not fit for purpose and will lead to undesirable outcomes by incentivising banks to pursue mezzanine transactions involving less risk transfer.</p> | | |
| <p>Alternative option breached in base case scenario for FLP</p> | <p>A respondent provided numerical examples based on real-life transactions applying both the preferred (1) and alternative (2) trigger. According to its estimations the losses transferred in a stressed back loaded scenario applying 1 would be equal to or higher than when applying 2. Additionally, for transactions with a first loss tranche protected, the trigger 2 may be breached even in base case scenario due to the way the trigger is formulated thus increasing the cost of the transaction for the originator.</p> | <p>Trigger set out in Article 3 has been kept, and alternative option deleted.</p> | <p>No change</p> |
| <p>Allowance of both triggers</p> | <p>Two respondents proposed to allow both types of triggers without making the choice dependent on the seniority of the protected tranche.</p> | <p>Idem</p> | <p>No change</p> |
| | <p>A respondent agrees with the preferred trigger and with EBA's rationale set out in paragraphs 12 and 13. The trigger level should not be dependent on whether or not there is a retained first loss tranche, as that has no bearing on the risk that the senior tranche is hit. While acknowledging that the risk of the senior tranche being hit is arguably more a significant risk transfer consideration than an STS consideration, it is beneficial to have the logic for</p> | <p>Idem</p> | <p>No change</p> |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|--|---|-----------------------------|
| | these aligned to avoid adding unnecessary complexity through a plethora of triggers. | | |
| Q4. Which level of the trigger would you consider more appropriate and why? | | | |
| No fixed trigger level | Some respondents do not deem appropriate to specify a level for the trigger (see responses below) | In view of the comments received below, regarding the inadvisability of setting a certain trigger level that applies to all transactions, since it might not be appropriate in certain cases, no fixed trigger level is proposed in the final draft. However, as a consequence, the RTS specifies criteria that the parties to the securitisation must take into account when setting the trigger levels, both for the forward-looking and the backward-looking performance-related triggers. | Amended |
| Transaction-specific trigger level (part of the SRT assessment process) | According to one respondent, given the variety in the types of portfolios of synthetic securitisations, for a high quality non-granular portfolio a trigger should be set at a lower level, while for lower quality highly granular portfolios it should be set at a higher level. The level of the trigger depends on the portfolio, the transaction structure and how it is expected to perform in the various scenarios which the originator is required to model as part of the SRT assessment process according to section 3.3 of the SRT report. Based on this, the respondent strongly recommends not to set the trigger on a "one size fits all" basis for all synthetic STS securitisations. This approach would undermine the purpose of the | See comment above. | Amended |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|--|--------------------|-----------------------------|
| | <p>trigger and create significant inefficiencies in the SRT framework. It would also increase the risk of transactions being structured to fit the mandatory trigger level rather than providing a framework to encourage prudent transactions.</p> <p>Similarly, another respondent (having analysed the two triggers) concluded that the calibration of the trigger (a) cannot be made to work in a standardized way and (b) if it was imposed, would be circumvented by the tranching. The triggers are part of the SRT modelling which the relevant regulators need to approve. Given the differences between underlying pools the calibration of triggers should be discussed during the SRT approval process. This applies to both the preferred and alternative option.</p> | | |
| Tighter level (75%) for first loss tranche protected | <p>One respondent applied the 75% level for trigger 1 to different transactions (based on numerical examples provided in the pdf response). The outcome of the analysis shows that for a transaction with a first loss tranche protected there are potential additional losses transferred but this level would not increase the cost of the protection. However, for a transaction with a mezzanine tranche protected the losses transferred may not increase but depending on the other features of the structure this could result in a material increase in the cost of protection. Therefore, it is proposed to apply the 75% of trigger 1 only to transactions with a first loss tranche protected.</p> | See comment above. | Amended |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|----------------------------------|--|--------------------|-----------------------------|
| Trigger level at 50% | A respondent noted that it is difficult to assess what level would be the most appropriate. The respondent noted that 50% seems acceptable. | See comment above. | Amended |
| Trigger calibration not possible | A respondent noted that a “calibration” of such a trigger is not possible for the following reasons and therefore not recommended. In particular, the enhancement levels are not in any way standardised, depending on the approach (standardised or IRB) and the formula used or whether rating agencies are involved and there are great differences depending on the behaviour of the asset class, its granularity and the economics for the originator. Regarding the proposed trigger based on a threshold of credit enhancement, the EBA’s aim of achieving standardisation by setting a percentage by which the credit enhancement may decrease can easily be circumvented by the originator/investor setting the level of the detachment point of the protected tranche accordingly. Enhancement levels until the senior detachment point can be freely set, as long as SRT is achieved. There are no fixed rules for setting the detachment point, the senior detachment point can reach into the “AAA” area, or only “BB” area, as the case may be, depending on (a) whether a junior (first loss) tranche has been sold as well etc.. Also, banks look at their own “economic capital” management and may decide to apply a higher or lower detachment point, depending on their own ability to absorb asset migration risk and therefore the risk weights increasing on the retained tranches. | See comment above. | Amended |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|---|--|--------------|-----------------------------|
| <p>Q5. Do you agree with the specification of the forward-looking trigger in Article 4? In your view, will the possibility of switching back to non-sequential, as set out in paragraph 6, be detrimental for the simplicity of the specific transaction and the objective of standardisation of STS on-balance-sheet securitisations?</p> | <p>A similar analysis applies for the “alternative option trigger”. A calibration of the percentage of losses compared to the tranche thickness is not possible, since the thickness of such a tranche can be very different, depending on the tranching selected by the parties. A mezz tranche can be very thin from the beginning, but unlikely to have a loss, a more junior mezz. tranche can be thicker; a junior tranche with no subordination is very different again, since it can detach at BB level, BBB or even AAA level. Although all transactions need to achieve SRT, a quantitative analysis of the tranchings would show a lot of differences, since it depends on (a) the mathematical distribution of expected and unexpected losses, (b) the lumpiness of a given portfolio and the way the SRT is achieved (through sale of mezz or Junior tranches or both) and (c) how much buffer the banks add to a detachment point (that reaches 10% risk weight) to take into account migration risk.</p> | | |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|---|--|---|--|
| Alignment of the wording with forward-looking trigger (i) in the EBA SRT Report | <p>Two respondents suggested to align the wording with the forward-looking trigger (i) referred to in the EBA SRT Report.</p> <p>One respondent pointed out that this trigger is similar to the forward-looking trigger (i) from Recommendation 2 of the SRT Report. However, whereas the SRT Report expressly refers to the "weighted average 1-year PD of the underlying portfolio", the Draft RTS refers simply to the "exposure weighted average PD of the underlying portfolio". It is not clear if this is intended to be different.</p> | <p>Within the consultation, the EBA received a comment flagging an inconsistency between the first leg (based on the exposure-weighted average PD of the underlying portfolio) and the second leg (based on credit risk buckets) of the forward-looking trigger. In order to remove that inconsistency the first leg of the trigger is no longer considered in the final draft RTS but instead a granularity-based forward-looking trigger is introduced for securitisations where the granularity of the pool of underlying exposures is low at inception (see below). As the trigger based on the exposure-weighted average PD of the underlying portfolio is not being considered in the final draft RTS and Recommendation 2 of the EBA SRT Report does not include a trigger based on credit risk buckets, the question of an alignment of the triggers referred to in the SRT Report and in the final draft RTS does no longer arise.</p> | No change |
| Use of lifetime EL instead of PD | <p>A respondent suggested to use the exposure-weighted lifetime EL instead of the 1-year PD. This would provide a better and more complete forward-looking estimate of risk than PD, as it also takes into account LGD and remaining tenor of the transaction. The trigger would then be similar to forward-looking trigger (ii) in Recommendation 2 of the EBA SRT report.</p> | <p>The final draft RTS do no longer include the forward-looking trigger based on the exposure-weighted average PD of the underlying portfolio for the reasons provided under the comment regarding the "proposal for a simplified and flexible trigger" below. Against this background, there is no need to further assess the appropriateness of applying the exposure-weighted lifetime EL instead of the weighted average PD within the forward-looking trigger.</p> | No change |
| Proposed trigger to be based on portfolio granularity | <p>Two respondents pointed out that a forward-looking trigger based on granularity could be considered.</p> | <p>After assessing the proposal to introduce a granularity-based forward-looking trigger, the EBA agrees that particularly for pools of underlying</p> | Article 4(1) and (3) of the final draft RTS are amended in |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
|--|--|--|--|
| | <p>One of the respondents noted that portfolio granularity seems both more objective and more important to investors.</p> <p>Another respondent noted that a forward-looking trigger based on granularity could be considered. When a portfolio amortises, the number of distinct obligors reduces as obligors fully repay facilities (e.g. prepayments or bullet loans). This will increase the relevant exposure to all other obligors. As granularity decreases single obligor concentrations can become larger than the absolute size of the first loss (and mezzanine) tranche(s). To make sure the bank has ample protection from losses, a minimum granularity level could be set. This level could be for example the H-score, defined as the square of the size of the total reference portfolio divided by the sum of the squares of the notional per obligor. When the H-score falls below a defined minimum, the amortisation should switch to sequential. One benefit of the granularity trigger is that the probability of the switch is relatively low. Theoretically, granularity can increase again, in case the largest obligor in the reference portfolio reduces in size, but in practice this rarely happens.</p> | <p>exposures with a low granularity at inception such a trigger addressing the concentration risk appears as a more relevant measure than a trigger addressing the credit risk of individual underlying exposures. For this reason, the final draft RTS includes a granularity-based trigger which has to be applied instead of the trigger based on credit risk buckets, where the effective number of exposures (N) as defined in Article 259(4) of the CRR is below 100 at inception.</p> | <p>order to replace the trigger based on the exposure-weighted average PD of the underlying portfolio by a granularity-based trigger which has to be applied as forward-looking trigger to pools of exposures with a low granularity at inception.</p> |
| <p>Request for clarification for retail vs. non-retail</p> | <p>A respondent requested clarification on how the trigger (PD or Risk Bucket approach) is intended to apply for cases where the originator does estimate a PD for all exposures in the portfolio, but they fall into different categories (e.g. retail vs. non-retail). The respondent seeks clarification given that the</p> | <p>The final draft RTS do no longer include the forward-looking trigger based on the exposure-weighted average PD of the underlying portfolio for the reasons provided under the comment regarding the "proposal for a simplified and flexible trigger" below. Regarding the application of the trigger based on credit risk buckets Article 4(4) of the final draft RTS stipulates that "where more than one criterion referred to in</p> | <p>No change</p> |

| Comments | Summary of responses received | EBA analysis | Amendments to the proposals |
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| | trigger works very differently depending on which approach is followed. | points (a) to (d) of the first subparagraph apply to different parts of the underlying portfolio of a securitisation, the outstanding amount of underlying exposures assigned to higher credit risk buckets shall be determined as the sum of the total outstanding amount of underlying exposures assigned to higher credit risk buckets in accordance with each of the applied criteria.” Accordingly, where, as an example, the pool of underlying exposures contains retail and non-retail exposures and this does not cause any issues in terms of the homogeneity requirements in accordance with Article 26b(8) of Regulation (EU) 2017/2402, in a first step the retail and non-retail exposures are separately assigned to credit risk buckets. In a second step, the outstanding amounts of underlying retail and non-retail exposures assigned to higher credit risk buckets are then summed up and the resulting sum is being divided through the outstanding amount of the underlying portfolio in order to determine the higher credit risk bucket ratio. | |
| Proposal for a simplified and flexible trigger | A respondent noted that the two forms of the trigger work quite differently in practice. In the case of the PD Approach, by being based on the weighted average PD of all securitised exposures, whether or not the trigger is hit depends on the performance of the portfolio as a whole, and a deterioration in the PD of some exposures may be offset in this regard by an improvement in the PD of other exposures. In contrast, the Risk Bucket Approach looks only to the proportion of the portfolio, which is allocated to the higher credit risk buckets, and thus applies a binary test which ignores the relative performance of | After reconsidering the issue, the EBA agrees with the observed inconsistency in terms of the functioning of the forward-looking trigger based on the exposure-weighted average PD of the underlying portfolio and the forward-looking trigger based on credit risk buckets. For this reason, the final draft RTS only include the forward-looking trigger based on credit risk buckets and a new granularity-based forward-looking trigger. The latter trigger applies to all securitisations where the granularity of the pool of underlying exposures is low, whereas the former trigger applies to all other securitisations irrespective | Article 4(1) and (3) of the final draft RTS are amended accordingly. |

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| | <p>individual exposures allocated to the lower credit risk buckets. In summary, the respondent suggested to consider whether the trigger could be simplified and made more flexible so as to require a forward-looking trigger based on either an increase in the exposure-weighted credit risk metric or an increase in proportion of exposures categorised in a higher credit risk bucket above a predefined threshold where such metric or buckets are based on the relevant regulatory or accounting framework, or internal risk-based metrics by the originator.</p> | <p>of whether the originator estimates a PD for all exposures of the underlying portfolio of a securitisation in accordance with the requirements of Part Three, Title II, Chapter 3 of Regulation (EU) No 575/2013 or not.</p> | |
| Request for clarification for defaulted exposures | <p>Two respondents pointed out that defaulted exposures should be excluded for the purpose of the forward-looking test on the basis that the default has already occurred.</p> <p>Furthermore, defaulted exposures are already taken into account in the backward-looking triggers.</p> <p>Including the 100% PD for defaulted exposures in the calculation would also skew the overall calculation and would require the trigger to be set at a much higher level to avoid being hit solely as a result of an expected level of defaults, thereby reducing the sensitivity of the trigger to unexpected deterioration in the overall portfolio.</p> | <p>As the final draft RTS do not include the forward-looking trigger based on the exposure-weighted average PD, the high weighting of defaulted exposures in the determination of the exposure-weighted average PD is no longer an issue. Moreover, the EBA does not agree that defaulted exposures should generally be excluded from the calculation of the higher credit risk bucket ratio. Instead, only exposures in respect of which a credit event has occurred under the credit protection agreement and in respect of which a corresponding credit protection payment has already reduced the amount of the protected tranche shall be excluded from the calculation of the higher credit risk bucket ratio.</p> | <p>A sentence in Article 4(4) of the final draft RTS clarifies under which circumstances exposures, in respect of which a credit event has occurred, shall no longer be considered in the calculation of the higher credit risk bucket ratio.</p> |
| Request for clarification for "exposure-weighted" | <p>A respondent requested EBA to clarify that the reference to "exposure-weighted" should be interpreted as requiring weighting by the protected amount in the securitisation. It is quite common for synthetic securitisations to reference only a part of a larger exposure, and it would therefore not be</p> | <p>As the final draft RTS do not include the forward-looking trigger based on the exposure-weighted average PD, the interpretation of the words "exposure-weighted" is no longer an issue.</p> | No change |

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| Request for clarification for change in PD approach | <p data-bbox="524 320 1081 373">appropriate to use the overall exposure amount for this calculation</p> <p data-bbox="524 580 1081 767">A respondent requested EBA to clarify what is to happen if the PD Approach applies initially but the originator subsequently ceases to estimate a regulatory PD for all exposures in the portfolio as has been the case in some previous transactions in the market.</p> | <p data-bbox="1111 416 1686 935">The final draft RTS do not include the forward-looking trigger based on the exposure-weighted average PD. Instead, where the new granularity-based trigger does not have to be applied, the credit risk bucket approach applies irrespective of whether the originator estimates a PD for all exposures of the underlying portfolio of a securitisation in accordance with the requirements of Part Three, Title II, Chapter 3 of Regulation (EU) No 575/2013 or not. In this regard, at each calculation date of the higher credit risk bucket ratio, the assignment of individual underlying exposures to a credit risk bucket should be based on the criterion out of the criteria referred to in points (a) to (d) of the first subparagraph of Article 4(4) of the final draft RTS that is corresponding to the current characteristics of the underlying exposure.</p> | No change |
| Request for clarification | <p data-bbox="524 1091 1081 1214">A respondent requested clarification on what is meant in Art. 4 (5) by exposures "entailing higher credit risk" that is not already covered by the methodology in Art. 4 (4).</p> | <p data-bbox="1111 975 1686 1326">Art. 4(4) of the draft RTS clarifies that the exposures assigned to higher credit risk buckets shall also include, but shall not be limited to, all exposures in default within the meaning of Article 178(1) of Regulation (EU) No 575/2013 and all exposures to a credit-impaired debtor. To this effect, paragraph 4 of Article 4 of the final draft RTS further specifies which exposures shall be assigned to the higher credit risk buckets within the process of assigning exposures to credit risk buckets in accordance with paragraph 3 of that Article.</p> | No change |

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| Clarify the 'time of origination' | Two respondents requested to clarify the 'time of origination' in Articles 4(1) and 4(2). Similar comment was provided in Q1. | The EBA agrees that the term 'time of origination' is ambiguous as it may be interpreted as referring to the time of origination of the individual underlying exposures or as the time of origination of the securitisation. In the final draft RTS, the term "time of origination" has therefore been replaced by the established term "closing date of the transaction", which is also being used in Regulation (EU) 2021/557. | Replacement of reference to the "time of origination" by reference to the "closing date of the transaction" throughout the final draft RTS |
| Timing proposal | One respondent noted that a waiting period of two quarters (e.g. further waiting period than the first quarter for the trigger to switch back) seems appropriate. | After reassessing the issue of the permanence of the activation of a trigger in the light of the RTS mandate pursuant to the fourth subparagraph of Article 26c(5) of Regulation (EU) 2017/2402 the EBA deems it more appropriate to further clarify this issue in the STS guidelines for on-balance-sheet securitisations in accordance with Article 26a(2) of that Regulation. Accordingly, the former clarifications on the issue in Recital 8 and Article 4(6) of the consulted draft RTS have been deleted in the final draft RTS. | Deletion of Recital 8 and Article 4(6) of the consulted draft RTS |
| Switch back to non-sequential difficult to model | A respondent highlighted that the possibility of switching back to non-sequential creates complicated path dependencies which are difficult to model. However, there are scenarios in which switching back is reasonable and beneficial. For example, during the COVID-19 crisis the banks had to downgrade their exposures increasing the PD/EL. Hence, the trigger would be hit. When the situation stabilised, the banks had to re-evaluate their downgrades, thus allowing a switch back to non-sequential seems reasonable. Furthermore, the STS criteria require the initial LGD to be the higher among the modelled LGD and the provision of the | See EBA analysis on the comment regarding the "timing proposal" above | See amendments to the proposals regarding the "timing proposal" above |

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| | <p>bank, creating a conservative initial loss amount for cases with higher expected recoveries than reflected in the modelled downturn LGD. Using the higher modelled LGD for the initial loss could trigger the switch to sequential amortisation at a relatively early stage. If subsequently the final loss is less than the initial loss a switch back to non-sequential amortisation could be justified. It is preferred to change the STS criterion to refer to the more appropriate of the expected recoveries and modelled LGD rather than the higher of the two, but it is understood that this is not within EBA's mandate to change.</p> | | |
| <p>Curable trigger does not add complexity</p> | <p>A respondent noted that it does not add complexity to allow the forward-looking trigger to be cured. On the contrary, the switch is a wise measure since forward-looking PD's can change when an IRB bank recalibrates internal rating systems, or certain sectors therein, without the underlying assets migrating.</p> | <p>See EBA analysis on the comment regarding the "timing proposal" above</p> | <p>See amendments to the proposals regarding the "timing proposal" above</p> |
| <p>Optional switch back to non-sequential</p> | <p>A respondent pointed out that the switching back to non-sequential would require additional quarterly checks by the protection payer on the trigger values. However, these checks are not perceived very sophisticated, and the originator would have to monitor the respective ratios in any case. In addition, if the quality of the portfolio improves and there are no other backward -looking triggers breached, a sequential protection will increase significantly the cost of the transaction without any additional benefits (e.g. additional losses, higher</p> | <p>See EBA analysis on the comment regarding the "timing proposal" above</p> | <p>See amendments to the proposals regarding the "timing proposal" above</p> |

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| | capital relief). It is proposed that applying the switch back to non-sequential should not be mandatory for all the transactions but an option that could be agreed between the parties. | | |
| Proposal to delete the requirement to reverse | A respondent proposed to delete the requirement to reverse since a 4 quarter delay seems to be very conservative and makes the option to reverse unnecessary. | See EBA analysis on the comment regarding the “timing proposal” above | See amendments to the proposals regarding the “timing proposal” above |
| Q6. According to market practice, is it common that performance-related triggers can change several times the amortisation system of the tranches throughout the life of a synthetic securitisation? If so in your view, please provide concrete examples of triggers, distinguishing between backward-looking and forward-looking triggers. | Some respondents pointed out that it is not common for synthetic securitisations to allow a switch back to non-sequential amortisation. | In view of the responses received that showed that switching back to non-sequential amortisation is not current market practice, and taking into account that this matter is not explicitly mentioned in the mandate, the EBA has reassessed the issue of the permanence of the activation of a trigger in the light of the RTS mandate pursuant to the fourth subparagraph of Article 26c(5) of Regulation (EU) 2017/2402 and the Article and the recital on that | Deletion of Recital 8 and Article 4(6) of the consulted draft RTS |

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| Distinction between backward and forward-looking triggers | A respondent pointed out that the backward-looking triggers usually cannot get cured (cum. def. or losses), while forward-looking triggers like WAPD or high risk rating buckets, the breach could be cured if the quality of the underlying portfolio improves. | switch-back have been dropped, albeit the matter might be considered in the coming EBA guidelines on STS criteria for on-balance-sheet securitisations. See EBA analysis above | See above |
| Examples of curable and non-curable triggers | A respondent pointed out that some performance-related triggers (cum.def., losses, probability of default or expected losses, detachment point) could be cured. Examples of triggers which cannot be cured include triggers based on the cumulative final losses or cumulative gross defaults measured as a percentage of the initial portfolio amount. The same respondent added that it would be appropriate to permit a switch back to non-sequential amortisation if the backward-looking triggers are cured (where that is possible given the nature of the trigger). Indeed, this is perhaps even more appropriate for the backward-looking triggers than for the forward-looking trigger as a backward-looking trigger will only cure once the circumstances giving rise to the trigger have been fully taken into account by the tranches, such that a "reset" of the amortisation mechanics going forward can proceed with certainty. In contrast, the forward-looking triggers always involve a degree of uncertainty and a reduction in the trigger metrics below the relevant threshold is obviously not a | See EBA analysis above | See above |

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| Timing proposal | guarantee that the future performance of the remaining exposures could not cause the trigger level to be exceeded again in the future. | See EBA analysis above | See above |
| Possible ways to cure a breach | A respondent pointed out that the switch from sequential back to non-sequential does not make the transaction more complex as each trigger is tested prior to each amortisation date. As an example, one or more sequential period(s) may suffice to cure a trigger breach, by deleveraging the tranching. Another possible way to cure a breach would be via a downward revision of credit losses following the completion of the originator workout process. | See EBA analysis above | See above |
| Curable triggers - preferred vs. alternative option | A respondent noted that from its experience the switch from pro rata to sequential amortisation in synthetic transactions is called 'subordination event' or 'sequential amortisation start date' and is not reversible. It considers that as other asset classes enter the world of synthetics this feature may become more relevant since curable triggers are commonly seen in true sale securitisations of shorter term assets like consumer or trade receivables. The preferred trigger is not curable because it is a fixed threshold. The 'alternative option trigger' is curable if the initial losses end up being less than expected. This seems a possibility since there could be an example of a large default | See EBA analysis above | See above |

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| <p>Q7. Do you agree that the information that the originator shall provide under Articles 7 and 26d of the Securitisation Regulation includes the information needed by the investor providing protection to understand and verify the functioning of the performance-related triggers in an STS on-balance-sheet securitisation?</p> | <p>hitting a thin tranche (and tipping the alternative option trigger) which could in the end turn out to have a high recovery rate.</p> <p>In the respondent's view if curable triggers are permitted at least one or two of the three triggers should have a value at which the amortisation would change permanently.</p> | Useful information requested, which is not used for the purposes of the RTS | No change |
| <p>Current disclosures (Art. 7 and 26d) are sufficient</p> | <p>All respondents agree that the information required by investors is provided by the current disclosures under Article 7 and 26d of the Securitisation Regulation.</p> | Useful information requested, which is not used for the purposes of the RTS | No change |
| <p>Guidelines for trigger disclosures</p> | <p>A respondent pointed out that the market would benefit from a more extensive set of guidelines on trigger disclosures.</p> | Useful information requested, which is not used for the purposes of the RTS | No change |
| <p>Q8. Since as a first step before specifying the triggers above, the EBA reassessed the triggers</p> | | | |

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| <p>included in recommendation 2 on Amortization Structure of the EBA 2020 Report on significant risk transfer in securitisation (see Section 5.2), and some elements from them were taken on board in the draft RTS, stakeholders are also invited to comment on the suitability of other triggers included in that recommendation for the purpose of these draft RTS.</p> | | | |
| Clarification request | <p>A respondent pointed out that the list of backward and forward-looking triggers in Recommendation 2 of the EBA SRT report are different from the triggers set out in the draft RTS particularly the additional backward-looking trigger. Further clarification is requested on EBA's expectations in this regard with respect to the SRT assessment process.</p> | <p>Recommendation 2 of the SRT report enumerated a set of triggers that could be considered in the SRT assessment. As such, it is just a recommendation that has not been implemented in a Delegated Act yet. On the contrary, the current mandate under the Securitisation Regulation, which is more recent, makes the EBA to further develop performance-related triggers and specify them at the level of detail that a regulation requires.</p> | No change |
| Alignment of SRT and STS triggers | <p>Some respondents suggested an alignment between the SRT and the RTS triggers.</p> <p>One of the respondents pointed out that it is understood that all the triggers listed in the EBA's report on SRT were eligible. As a consequence, it is expected that they will be all eligible in the final draft RTS for the purpose of the Article 26 c) 5, b) backward looking and c) forward-looking.</p> | See EBA analysis above | No change |

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| | <p>Another respondent noted that it is not appropriate to have two sets of overlapping but different requirements that apply for synthetic STS securitisations as apply for synthetic SRT securitisations, particularly given that virtually all synthetic STS securitisations are also SRT securitisations. It would be more appropriate for the RTS to provide a menu of backward and forward-looking triggers from which the originator can select the most appropriate triggers for a given transaction, a selection which will form part of the SRT assessment process.</p> <p>Another respondent proposed to see the choice between triggers as provided for SRT to also be available in the RTS, so the most relevant trigger for a specific transaction structure can be used.</p> <p>A respondent requested that the triggers listed in the SRT should be also part of the STS requirements. Clearly, the backward-looking trigger in the SRT needs to be aligned to this proposal (based on the outstanding amount at inception).</p> | | |
| <p>To add:</p> <ul style="list-style-type: none"> SRT trigger (i) to the backward-looking trigger and granularity-based triggers to the forward-looking triggers | <p>A respondent requested to add the cumulative losses as a percentage of the lifetime expected losses trigger (SRT report) to the set of backward-looking triggers. Similarly, for forward-looking triggers a granularity-based trigger should be added. Both triggers however are most appropriate for the purpose of SRT assessment as and when relevant, since the STS criteria require one forward and one backward-looking trigger.</p> | <p>EBA agrees on the fact that concentration risk can be more prevalent in pools of underlying exposures which have a low granularity. Hence, EBA see merits in including as part of the forward-looking trigger a leg devoted to the future performance of non-granular pools due to concentration risk. Therefore, the forward-looking trigger should apply where the granularity of the pool of underlying exposures measured by the effective number of exposures in the pool is below a given threshold</p> | <p>Article 4 amended accordingly</p> |

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| | <p>Similarly, another respondent requested to add the granularity-based triggers to the forward-looking triggers. Granularity triggers make a lot of sense for more concentrated pools, such as pools of large corporate loans with a revolving period. Transactions with a majority of or even 100% large corporate loans are part of the synthetic transactions' universe</p> | | |
| <p>Additional backward-looking trigger should allow to apply all types of cum. loss or default triggers</p> | <p>A respondent believes the rules should permit originators for the purpose of 5(b) to apply all types of cumulative loss or default triggers (as long as they add additional value to the trigger chosen under (a)), including other variants of such triggers, e.g. measuring losses or defaults occurring within a certain rolling backward-looking time period. The calibration of these backward-looking triggers should be left to the SRT modelling of the originator and junior or mezz. investor, since no standardisation is possible for these types of triggers for the reasons given above, and, to the contrary, any fixed threshold could be circumvented by adjusting the tranching accordingly.</p> | <p>The RTS further specifies the minimum performance-related trigger. Additional triggers can be agreed on by the parties of the securitisation as set out in Article 26(c)(5) CRR.</p> | No change |
| <p>Q9. Do you have any other comments on these draft RTS?</p> | | | |
| <p>Alignment with the SRT triggers</p> | <p>A respondent suggested that the RTS should list all acceptable backward and forward-looking triggers aligning with the SRT triggers and provide</p> | <p>See EBA analysis on the same issue in question 8 above</p> | No change |

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| | <p>explanations on how the triggers can be implemented. The list of additional backward-looking triggers ought to include triggers suitable for originators seeking to achieve SRT with (a) junior investors, (b) investors to several tranches or parts of tranches and (c) investors in large corporate asset transactions.</p> | | |
| Grandfathering | <p>Some respondents requested to include a grandfathering provision to the RTS for existing STS transactions. The RTS should only apply to transactions executed after the RTS entered into force and synthetic securitisations which closed prior to that date can still achieve STS status if they meet the requirements of Article 26c(5) on the basis of a plain reading of those requirements in the absence of the RTS. Such grandfathering should apply for the remaining life of those existing transactions.</p> | <p>Although the EBA agrees with the proposal, from a legal perspective, a grandfathering provision is not possible in a Level 2 regulation. However, transitional provisions concerning outstanding STS on-balance-sheet securitisations featuring non-sequential priority of payments and performance-related triggers notified to ESMA prior to the entry into force of the RTS is appropriate.</p> | <p>New Article 6 included in the final draft RTS</p> |
| Clarification that additional performance-related triggers beyond the RTS are allowed (for SRT purposes) | <p>A respondent suggested an explicit acknowledgement in the RTS that the originator is not prevented from including additional performance-related triggers beyond whatever is prescribed in the RTS. While this may be impliedly the case given the reference to "at a minimum" in Article 26c(5), given the importance of being able to include such triggers to satisfy the SRT assessment process, it is appropriate to clarify that doing so does not fail to meet the "standardisation" requirements of the STS framework.</p> | <p>The Level 1 text is clear on this respect and there is no need of further clarifications</p> | <p>No change</p> |

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| Clarification on trigger assessment (Art. 3) | A respondent requested further clarification on the testing of the trigger. For the purpose of the comments provided in the response based on the real-life transactions, trigger 1 was tested after allocation of period losses and before estimating the amortisation for each tranche. Trigger 2 was tested based on the ratio at the end of the previous period (Q-1). | The trigger under Article 3 uses the detachment point of the MSPT. This clarification applies to the calculation of that detachment point and has more general implications that could be addressed via a Q&A on the corresponding article of the CRR where the calculation of the detachment point is set out. | No changes |
| Clarification on SES inclusion in estimation of detachment (Art. 3) | A respondent requested clarification on the additional-backward trigger (Art.3). More specifically, whether the SES should be accounted for when estimating the detachment point of the most senior protected tranche and how (e.g. 1Y available excess spread) | See comment above. Article 256(6) CRR already deals with the matter | No change |
| Clarification on percentage vs. absolute amount in estimation of detachment (Art. 3) | A respondent requested clarification on the additional-backward trigger (Art.3) and that the detachment point of the most senior protected tranche is estimated in relative terms (percentage) and not in amount (EUR). | See comment above | No change |