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NOTE

From:	Presidency/General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms *- Presidency compromise*

Delegations will find below the first Presidency compromise on the abovementioned proposal.

With respect to the original Commission proposal, the new text is marked in **underlined bold** and deletions are indicated in ~~strikethrough~~.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

HAVE ADOPTED THIS REGULATION:

[1] OJ C68, 6.3.2012, p. 39.

[placeholder]

(9) The definition of STS securitisations for regulatory capital purposes under Regulation (EU) No 575/2013 should be limited to securitisations where the ownership of the underlying exposures is transferred to the Special Purpose Entity ("traditional securitisations"). However, institutions retaining senior positions in synthetic securitisations backed by an underlying pool of loans to small and medium-size enterprises ("SMEs") should be allowed to apply to these positions the lower capital requirements available for STS securitisations where such transactions are regarded as of high quality in accordance with certain strict criteria. In particular, where such subset of synthetic securitisations benefits from the guarantee or counterguarantee by the central government or central bank of a Member State **or an undertaking or entity, including but not limited to credit institutions, set up by a Member State, central or regional government, which grants promotional loans on a non-competitive, not for profit basis in order to promote public policy objectives**, the preferential regulatory capital treatment that would be available to them under Regulation (EU) No 575/2013 is -without prejudice to compliance with the State Aid rules.

[placeholder]

Article 1
Amendment of Regulation (EU) No 575/2013

Regulation (EU) No 575/2013 is amended as follows:

(1) Article 4(1) is amended as follows:

(a) Points (13) and (14) are replaced by the following:

'(13) 'originator' means originator as defined in Article 2(3) of [Securitisation Regulation];

(14) 'sponsor' means sponsor as defined in Article 2(5) of [Securitisation Regulation];

(b) Points (61) and (63) are replaced by the following:

(61) 'securitisation' means securitisation as defined in Article 2(1) of [Securitisation Regulation];

(63) 're-securitisation' means re-securitisation as defined in Article 2(4) of [Securitisation Regulation];

(c) Points (66) and (67) are replaced by the following:

(66) 'securitisation special purpose entity' or 'SSPE' means securitisation special purpose entity or SSPE as defined in Article 2(2) of [Securitisation Regulation];

(67) 'tranche' means tranche as defined in Article 2(6) of [Securitisation Regulation];'

(2) In Article 36(1)(k), point (ii) is replaced by the following:

'(ii) securitisation positions, in accordance with Article 244(1)(b), Article 245(1)(b) and Article 253;'

(3) Article 109 is replaced by the following:

'Article 109

Treatment of securitisation positions

Institutions shall calculate the risk-weighted exposure amount for a position they hold in a securitisation in accordance with Chapter 5.'

<u>**(3a) In Article 134, paragraph 6 is replaced by the following:**</u>

<u>**(6) Where an institution provides credit protection for a number of exposures under terms that the nth default among the exposures shall trigger payment and that this credit event shall terminate the contract, the risk weights of the exposures included in the basket will be aggregated, excluding n-1 exposures, up to a maximum of 1 250 % and multiplied by the nominal amount of the protection provided by the credit derivative to obtain the risk weighted asset amount. The n-1 exposures to be excluded from the aggregation shall be determined on the basis that they shall include those exposures each of which produces a lower risk-weighted exposure amount than the risk-weighted exposure amount of any of the exposures included in the aggregation.**</u>

(4) In Article 153, paragraph 7 is replaced by the following:

(7) 'For purchased corporate receivables, refundable purchase discounts, collateral or partial guarantees that provide first loss **credit** protection for default losses, dilution losses, or both, may be treated as a first loss **credit protection** ~~tranche~~ **by the purchaser of the receivables in accordance with** ~~under~~ Chapter 5. **The seller of the receivables shall treat the refundable purchase discount as an exposure to a first loss tranche in accordance with Subsections 2 and 3 of Section 3 of Chapter 5. The provider of collateral or partial guarantees that provide first loss credit protection for default losses, dilution losses or both shall treat those as an exposure to a first loss tranche in accordance with Chapter 5.**'

(5) In Article 154, paragraph 6 is replaced by the following:

(6) 'For purchased ~~corporate~~ **retail** receivables, refundable purchase discounts, collateral or partial guarantees that provide first loss **credit** protection for default losses, dilution losses, or both, may be treated as a first loss **credit protection** ~~tranche~~ **by the purchaser of the receivables in accordance with** ~~under~~ Chapter 5. **The provider of collateral or partial guarantees that provide first loss credit protection for default losses, dilution losses or both shall treat those as an exposure to a first loss tranche in accordance with Subsections 2 and 3 of Section 3 of Chapter 5.**'

(6) In Article 197(1), point (h) is replaced by the following:

(h) 'securitisation positions that are not re-securitisation positions and which are subject to a 100% risk-weight or lower in accordance with Article 261 to Article 264;'

(7) Chapter 5 of Title II, Part Three is replaced by the following:

'CHAPTER 5

SECTION 1
DEFINITIONS AND CRITERIA FOR STS SECURITISATIONS

Article 242
Definitions

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

(1) 'clean-up call option' means a contractual option that entitles the originator to call the securitisation positions before all of the securitised exposures have been repaid, either by repurchasing the underlying exposures remaining in the pool in the case of traditional securitisations or by terminating the credit protection in the case of synthetic securitisations, in both cases when the amount of outstanding underlying exposures falls to or below certain pre-specified level;

(2) 'credit-enhancing interest-only strip' means an on-balance sheet asset that represents a valuation of cash flows related to future margin income and is a subordinated tranche in the securitisation;

(3) 'liquidity facility' means **a liquidity facility as defined in Article 2, point 14 of [Securitisation Regulation]**~~the securitisation position arising from a contractual agreement to provide funding to ensure timeliness of cash flows to investors~~;

(4) 'unrated position' means a securitisation position which does not have an eligible credit assessment by an ECAI as referred to in Section 4;

(5) 'rated position' means a securitisation position which has an eligible credit assessment by an ECAI as referred to in Section 4;

(6) 'senior securitisation 'position' means a position backed or secured by a first claim on the whole of the underlying exposures, disregarding for these purposes amounts due under interest rate or currency derivative contracts, fees or other similar payments;

(7) 'IRB pool' means a pool of underlying exposures~~ of a type~~ in relation to which the institution has permission to use the IRB Approach and is able to calculate risk weighted exposure amounts in accordance with Chapter 3 for all of these exposures;

(8) ~~'standardised Approach (SA) pool' means a pool of underlying exposures in relation to which the institution:~~

~~(a) does not have permission to use the IRB Approach to calculate risk weighted exposure amounts in accordance with Chapter 3;~~

~~(b) is unable to determine~~ $\cancel{K_{IRB}}$~~;~~

~~(c) is otherwise precluded from using the IRB Approach by its competent authority;~~

(9) 'mixed pool' means a pool of underlying exposures ~~of a type~~ in relation to which the institution has permission to use the IRB Approach and is able to calculate risk weighted exposure amounts in accordance with Chapter 3 for some, but not all, exposures;

(10) ~~'credit enhancement' means any arrangement which provides support for a securitisation position and serves to increase the likelihood that any such securitisation position will be repaid;~~

(11) 'overcollateralisation' means any form of credit enhancement by virtue of which underlying exposures are posted in value which is higher than the value of the securitisation positions';

(12) 'STS securitisation' means a securitisation **as defined in Article 6**~~meeting the requirements set out in Chapter 3~~ of [Securitisation regulation]~~ and the requirements set out in Article 243~~;

(13) 'asset-backed commercial paper (ABCP) programme' **or 'ABCP programme'** means asset backed commercial paper (ABCP) programme as defined in Article 2**, point** (7) of [Securitisation Regulation];

(14) 'traditional securitisation' means traditional securitisation as defined in Article 2**, point** (9) of [Securitisation Regulation];

(15) 'synthetic securitisation' means synthetic securitisation as defined in Article 2**, point** (10) of [Securitisation Regulation];'

(16) 'revolving exposure' means revolving exposure as defined in Article 2**, point** (15) of [Securitisation Regulation];'

(17) 'early amortisation provision' means early amortisation provision as defined in Article 2**, point** (17) of [Securitisation Regulation];

(18) 'first loss tranche' means first loss tranche as defined in Article 2**, point** (18) of [Securitisation Regulation];

(19) 'servicer' means servicer as defined in Article **142, paragraph 1**~~2~~**, point (8**~~13~~)~~ of [Securitisation Regulation]~~;

(20) 'securitisation position' means an exposure to a securitisation as defined in Article 2, point (19) of [Securitisation Regulation];

(21) 're-securitisation-position' means an exposure to a re-securitisation;

(22) 'asset-backed commercial paper (ABCP) transaction' or 'ABCP transaction' means asset-backed commercial paper (ABCP) transaction or ABCP transaction as defined in Article 2, point (8) of [Securitisation Regulation]

(23) ‘promotional bank’ means any undertaking or entity set up by a Member State, central or regional government, which grants promotional loans on a non-competitive, not for profit basis in order to promote that government's public policy objectives, provided that that government has an obligation to protect the economic basis of the undertaking or entity and maintain its viability throughout its lifetime, or that at least 90 % of its original funding or the promotional loan it grants is directly or indirectly guaranteed by the Member State's central or regional government.

With regard to point (6), two or more securitisation positions with different maturities shall qualify as senior securitisation positions where they are backed or secured by a first claim on the whole of the underlying exposures, disregarding for these purposes amounts due under interest rate or currency derivative contracts, fees or other similar payments, and share allocation of losses on a pro-rata basis.

Article 243

Criteria for STS Securitisations

(1) Positions in an ABCP programme ~~shall~~ qualify**ing** as positions in an STS securitisation **shall meet the following additional requirements in order to be eligible for the treatment set out in** ~~for the purposes of~~ Articles 260, 262 and 264 ~~where the following requirements are met~~:

(a) for all transactions within the ABCP programme the underlying exposures**,** at **the time they were added to the ABCP programme, would** ~~origination~~ meet the conditions for being assigned, under the Standardised Approach and taking into account any eligible credit risk mitigation, a risk weight equal to or smaller than 75% on an individual exposure basis where the exposure is a retail exposure or 100% for any other exposures;

(aa) By derogation to point (a), where the institution has been granted permission to use the Internal assessment approach in accordance with Article 265, the risk-weight that institution would assign to a liquidity facility that completely covers the ABCP issued under the programme is equal to or smaller than 100%;

(b) the aggregate exposure value of all exposures to a single obligor at ABCP **transaction** ~~programme~~ level does not exceed 1% of the aggregate exposure value of all exposures within the ABCP **transaction** ~~programme~~ at the time the exposures were added to the ABCP **transaction** ~~programme~~. For the purposes of this calculation, loans or leases to a group of connected clients as referred to in Article 4(1) point (39) shall be considered as exposures to a single obligor.

In the case of trade receivables, ~~point (b)~~**the first subparagraph** shall not apply where the credit risk of those trade receivables is fully covered by eligible credit protection in accordance with Chapter 4, provided that in that case the protection provider is an institution, an insurance undertaking or a reinsurance undertaking. For the purposes of this subparagraph, only the portion of the trade receivables remaining after taking into account the effect of any purchase price discount shall be used to determine whether they are fully covered.

(2) Positions in a securitisation other than an ABCP programme ~~shall~~ qualify**ing** as positions in an STS securitisation **shall meet the following additional requirements in order to be eligible for the treatment set out in** ~~for the purposes of~~ Articles 260, 262 and 264 ~~where the following requirements are met~~:

(a) the underlying exposures are originated in accordance with sound and prudent credit granting criteria **having regard to the criteria set forth in** ~~as required under~~ Article 79 of Directive 2013/36/EU;

(b) at the time of inclusion in the securitisation, the aggregate exposure value of all exposures to a single obligor in the pool does not exceed 1% of the exposure values of the aggregate outstanding exposure values of the pool of underlying exposures. For the purposes of this calculation, loans or leases to a group of connected clients, as referred to in point (39) of Article 4(1), shall be considered as exposures to a single obligor;

(c) at the time of their inclusion in the securitisation, the underlying exposures **would** meet the conditions for being assigned, under the Standardised Approach and taking into account any eligible credit risk mitigation, a risk weight equal to or smaller than:

(i) 40% on an exposure value-weighted average basis for the portfolio where the exposures are loans secured by residential mortgages or fully guaranteed residential loans, as referred to in paragraph 1(e) of Article 129;

(ii) 50% on an individual exposure basis where the exposure is a loan secured by a commercial mortgage;

(iii) 75% on an individual exposure basis where the exposure is a retail exposure;

(iv) for any other exposures, 100% on an individual exposure basis;

(d) where points (c)(i) and (ii) apply, the loans secured by lower ranking security rights on a given asset shall only be included in the securitisation where all loans secured by prior ranking security rights on that asset are also included in the securitisation;

(e) where point (c)(i) applies, no loan in the pool of underlying exposures shall have a loan-to-value ratio higher than 100% **at the time of inclusion in the securitisation**, measured in accordance with paragraph 1(d)(i) of Article 129 and paragraph 1 of Article 229.

SECTION 2
RECOGNITION OF SIGNIFICANT RISK TRANSFER

Article 244
Traditional securitisation

(1) The originator institution of a traditional securitisation may exclude **the** underlying exposures from ~~the~~ **its** calculation of risk-weighted exposure amounts and**, as relevant,** expected loss amounts if either of the following conditions is fulfilled:

(a) significant credit risk associated with the underlying exposures has been transferred to third parties;

(b) the originator institution applies a 1,250 % risk weight to all securitisation positions it holds in the securitisation or deducts these securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1)(k).

(2) Significant credit risk shall be considered as transferred in either of the following cases:

(a) the risk-weighted exposure amounts of the mezzanine securitisation positions held by the originator institution in the securitisation do not exceed 50 % of the risk-weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;

(b) the originator institution does not hold more than 20 % of the exposure value of the first loss tranche in the securitisation, provided that ~~the following conditions are met:~~

~~(i)~~ the originator can demonstrate that the exposure value of the first loss tranche exceeds a reasoned estimate of the expected loss on the underlying exposures by a substantial margin**.**~~;~~

~~(ii) there are no mezzanine positions in the securitisation.~~

Where the possible reduction in risk-weighted exposure amounts, which the originator institution would achieve by the securitisation under points (a) or (b), is not justified by a commensurate transfer of credit risk to third parties, competent authorities may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties.

For the purposes of this paragraph, a position in a securitisation shall be considered a mezzanine securitisation position where it meets the following requirements:

(a) it is subject to a risk weight lower than 1,250% in accordance with this Section or~~, in the absence of a position with that risk weight,~~ it is more senior than the first loss tranche; and

(b) it **is subject to a risk weight higher than 25% under the SEC-IRBA, the SEC-ERBA and the SEC-SA and** is subordinated to the senior securitisation position.

(3) By derogation from paragraph 2, competent authorities may allow originator institutions to recognise significant credit risk transfer in relation to a securitisation where the originator institution demonstrates in each case that the reduction in own funds requirements which the originator achieves by the securitisation is justified by a commensurate transfer of credit risk to third parties. Permission may only be granted where the institution meets **both of** the following conditions:

(a) the institution has adequate internal risk management policies and methodologies to assess the transfer of credit risk;

(b) the institution has also recognised the transfer of credit risk to third parties in each case for the purposes of the institution's internal risk management and its internal capital allocation.

(4) In addition to the requirements set out in paragraphs 1 to 3,the following conditions shall be met:

(a) the transaction documentation reflects the economic substance of the securitisation;

(b) the securitisation positions do not constitute payment obligations of the originator institution;

(c) the underlying exposures are placed beyond the reach of the originator institution and its creditors in a manner that meets the requirement set out in Article ~~6(2)(a)~~**8(1)** of [Securitisation Regulation];

(d) the originator institution does not retain control over the underlying exposures. It shall be considered that control is retained over the underlying exposures where the originator has the right to repurchase from the transferee the previously transferred exposures in order to realise their benefits or if it is otherwise required to re-assume transferred risk. The originator institution's retention of servicing rights or obligations in respect of the underlying exposures shall not of itself constitute control of the exposures;

(e) the securitisation documentation does not contain terms or conditions that:

(i) require the originator institution to alter the underlying exposures to improve the average quality of the pool;

(ii) increase the yield payable to holders of positions or otherwise enhance the positions in the securitisation in response to a deterioration in the credit quality of the underlying exposures;

(f) where applicable the transaction documentation makes it clear that the originator or the sponsor may only purchase or repurchase securitisation positions or repurchase, restructure or substitute the underlying exposures beyond their contractual obligations where such arrangements are executed in accordance with prevailing market conditions and the parties to them act in their own interest as free and independent parties (arm's length);

(g) where there is a clean-up call option, that option shall also meet the following conditions:

(i) it can be exercised at the discretion of the originator institution;

(ii) it may only be exercised when 10 % or less of the original value of the underlying exposures remains unamortised;

(iii) it is not structured to avoid allocating losses to credit enhancement positions or other positions held by investors and is not otherwise structured to provide credit enhancement;

(h) the originator institution has received an opinion from a qualified legal counsel confirming that the securitisation complies with the conditions set out in point~~s~~ (**c**~~b~~) ~~to (g)~~ of this paragraph.

(5) The competent authorities shall inform EBA of those cases where they have decided that the possible reduction in risk-weighted exposure amounts was not justified by a commensurate transfer of credit risk to third parties in accordance with paragraph 2, and the cases where institutions have chosen to apply the provisions in paragraph 3.

(6) EBA shall monitor the range of supervisory practices in relation to the recognition of significant risk transfer in traditional securitisations in accordance with this Article and report its findings to the Commission by 31 December 2017. The Commission, where appropriate after having taken into account the Report from EBA, may adopt a Delegated Act to specify further the following items:

(a) the conditions for the transfer of significant credit risk to third parties in accordance with paragraphs 2, 3 and 4;

(b) the interpretation of "commensurate transfer of credit risk to third parties" for the purposes of the competent authorities' assessment provided for in the penultimate subparagraph of paragraph 2 and paragraph 3;

(c) the requirements for the competent authorities' assessment of securitisation transactions in relation to which the originator seeks recognition of significant credit risk transfer to third parties in accordance with paragraphs 2 or 3.

Article 245

Synthetic securitisation

(1) The originator institution of a synthetic securitisation may calculate risk-weighted exposure amounts, and, where relevant, expected loss amounts **with respect to the underlying**~~, for the securitised~~ exposures in accordance with Article**s** 251 **and 252**, where either of the following conditions is met:

(a) significant credit risk has been transferred to third parties either through funded or unfunded credit protection;

(b) the originator institution applies a 1,250 % risk weight to all securitisation positions that it retains in the securitisation or deducts these securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1)(k).

(2) Significant credit risk shall be considered as transferred in either of the following cases:

(a) the risk-weighted exposure amounts of the mezzanine securitisation positions held by the originator institution in the securitisation do not exceed 50 % of the risk-weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;

(b) the originator institution does not hold more than 20 % of the exposure value of the first loss tranche in the securitisation, provided that ~~the following conditions are met:~~

~~(i)~~ the originator can demonstrate that the exposure value of the first loss tranche exceeds a reasoned estimate of the expected loss on the underlying exposures by a substantial margin~~;~~**.**

~~(ii) there are no mezzanine positions in the securitisation.~~

Where the possible reduction in risk-weighted exposure amounts, which the originator institution would achieve by the securitisation, is not justified by a commensurate transfer of credit risk to third parties, competent authorities may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties.

For the purposes of this paragraph, a position in a securitisation shall be considered a mezzanine securitisation position where it meets the requirements laid down in the last subparagraph of Article 244(2)**.**

(3) By derogation from paragraph 2, competent authorities may allow originator institutions to recognise significant credit transfer in relation to a securitisation where the originator institution demonstrates in each case that the reduction in own funds requirements which the originator achieves by the securitisation is justified by a commensurate transfer of credit risk to third parties. Permission may only be granted where the institution meets the following conditions:

(a) the institution has adequate internal risk-management policies and methodologies to assess the transfer of risk;

(b) the institution has also recognised the transfer of credit risk to third parties in each case for the purposes of the institution's internal risk management and its internal capital allocation.

(4) In addition to the requirements set out in paragraphs 1 to 3, the following conditions shall be met:

(a) the transaction documentation reflects the economic substance of the securitisation;

(b) the credit protection by virtue of which credit risk is transferred complies with Article 249;

(c) the securitisation documentation does not contain terms or conditions that:

(i) impose significant materiality thresholds below which credit protection is deemed not to be triggered if a credit event occurs;

(ii) allow for the termination of the protection due to deterioration of the credit quality of the underlying exposures;

(iii) require the originator institution to alter the composition of the underlying exposures to improve the average quality of the pool;

(iv) increase the institution's cost of credit protection or the yield payable to holders of positions in the securitisation in response to a deterioration in the credit quality of the underlying pool;

(d) the credit protection is enforceable in all relevant jurisdictions;

(e) where applicable, the transaction documentation makes it clear that the originator or the sponsor may only purchase or repurchase securitisation positions or repurchase, restructure or substitute the underlying exposures beyond their contractual obligations where such transactions are executed in accordance with prevailing market conditions and the parties to them act in their own interest as free and independent parties (arm's length);

(f) where there is a clean-up call option, that option meets all the following conditions:

(i) it can be exercised at the discretion of the originator institution;

(ii) it may only be exercised when 10 % or less of the original value of the underlying exposures remains unamortised;

(iii) it is not structured to avoid allocating losses to credit enhancement positions or other positions held by investors in the securitisation and is not otherwise structured to provide credit enhancement;

(g) the originator institution has received an opinion from a qualified legal counsel confirming that the securitisation complies with the conditions set out in point~~s~~ (**<u>d</u>**~~b~~) ~~to (f)~~ of this paragraph;

(5) The competent authorities shall inform EBA of the cases where they have decided that the possible reduction in risk-weighted exposure amounts was not justified by a commensurate transfer of credit risk to third parties in accordance with paragraph 2, and the cases where institutions have chosen to apply the provisions in paragraph ~~4~~**<u>3</u>**.

(6) EBA shall monitor the range of supervisory practices in relation to the recognition of significant risk transfer in synthetic securitisations in accordance with this Article and report its findings to the Commission by 31 December 2017. The Commission, where appropriate after having taken into account the Report from EBA, may adopt a Delegated Act to specify further the following items:

(a) the conditions for the transfer of significant credit risk to third parties in accordance with paragraphs 2, 3 and 4;

(b) the interpretation of "commensurate transfer of credit risk to third parties" for the purposes of the competent authorities' assessment provided for in the penultimate subparagraph of paragraph 2 and paragraph 3;

(c) the requirements for the competent authorities' assessment of securitisation transactions in relation to which the originator seeks recognition of significant credit risk transfer to third parties in accordance with paragraphs 2 or 3.

Article 246

Operational requirements for Early Amortisation provisions

Where the securitisation includes revolving exposures and early amortisation or similar provisions, significant credit risk shall only be considered transferred by the originator institution where the requirements laid down in Articles 244 and 245 are met and the early amortisation provision, once triggered, does not:

(a) subordinate the institution's senior or pari passu claim on the underlying exposures to the other investors' claims;

(b) subordinate further the institution’s claim on the underlying exposures relative to other parties' claims;

(c) otherwise increase the institution’s exposure to losses associated with the underlying revolving exposures.

SECTION 3
CALCULATION OF THE RISK-WEIGHTED EXPOSURE AMOUNTS

SUB-SECTION 1
GENERAL PROVISIONS

Article 247

Calculation of risk-weighted exposure amounts

(1) Where an originator institution has transferred significant credit risk associated with the underlying exposures of the securitisation in accordance with Section 2 **and where criteria laid down in Article 5a of the [Regulation STS] are fulfilled**, that institution may:

(a) in the case of a traditional securitisation, exclude the underlying exposures from its calculation of risk-weighted exposure amounts, and, as relevant, expected loss amounts~~,~~;

(b) in the case of a synthetic securitisation, calculate risk-weighted exposure amounts, and, where relevant, expected loss amounts, with respect to the underlying exposures in accordance with Articles 251 and 252.

(2) Where the originator institution has decided to apply paragraph 1, it shall calculate the risk-weighted exposure amounts as set out in this Chapter for the positions that it may hold in the securitisation.

Where the originator institution has not transferred significant credit risk or has decided not to apply paragraph 1, it **does not need to calculate risk-weighted exposure amounts for any positions it may have in the securitisation in question but** shall continue including the underlying exposures in its calculation of risk-weighted exposure amounts as if they had not been securitised.

(3) Where there is an exposure to positions in different tranches in a securitisation, the exposure to each tranche shall be considered a separate securitisation position. The providers of credit protection to securitisation positions shall be considered as holding positions in the securitisation. Securitisation positions shall include exposures to a securitisation arising from interest rate or currency derivative contracts that the institution has entered into with the transaction.

(4) Unless a securitisation position is deducted from Common Equity Tier 1 items pursuant to Article 36(1)(k), the risk-weighted exposure amount shall be included in the institution's total of risk-weighted exposure amounts for the purposes of Article 92(3).

(5) The risk-weighted exposure amount of a securitisation position shall be calculated by multiplying the exposure value of the position, calculated as set out in Article 248, by the relevant total risk weight.

(6) The total risk weight shall be determined as the sum of the risk weight set out in this Chapter and any additional risk weight in accordance with Article 270*a*.

Article 248

Exposure value

(1) The exposure value of **a** securitisation position~~s~~ shall be calculated as follows:

(a) the exposure value of an on-balance sheet securitisation position shall be its accounting value remaining after the relevant **specific** credit risk adjustments on the securitisation position have been applied in accordance with Article 110;

(b) the exposure value of an off-balance sheet securitisation position shall be its nominal value less any applicable credit risk adjustments in accordance with Article 110, multiplied by the relevant conversion factor as set out in this **paragraph** ~~Chapter~~. The conversion factor shall be 100 %, unless ~~otherwise specified~~ **in the case of cash advance facilities. To determine the exposure value of cash advance facilities, a conversion factor of 0 % may be applied to the nominal amount of a liquidity facility that is unconditionally cancellable provided that repayment of draws on the facility are senior to any other claims on the cash flows arising from the underlying exposures, the conditions set out in paragraph 1a are met and the institution has demonstrated to the satisfaction of the competent authority that it is applying an appropriately conservative method for measuring the amount of the undrawn portion**;

(c) the exposure value for the counterparty credit risk of a securitisation position that results from a derivative instrument listed in Annex II, shall be determined in accordance with Chapter 6~~.~~**;**

(d) An originator institution may deduct from the exposure value of a securitisation position which is assigned 1,250% risk weight in accordance with subsection 3 or deducted from Common Equity Tier 1 in accordance with Article 36, paragraph 1, point (k) the amount of the specific credit adjustments on the underlying exposures in accordance with Article 110, and any non-refundable purchase price discounts connected with such underlying exposures to the extent they have reduced own funds.

(1a) The following conditions shall be met in order to benefit from the 0% conversion factor in line with paragraph 1, point (b), last sentence:

(a) the liquidity facility documentation shall clearly identify and limit the circumstances under which the facility may be drawn;

(b) it shall not be possible for the facility to be drawn so as to provide credit support by covering losses already incurred at the time of draw and in particular not so as to provide liquidity in respect of exposures in default at the time of draw or so as to acquire assets at more than fair value;

(c) the facility shall not be used to provide permanent or regular funding for the securitisation;

(d) repayment of draws on the facility shall not be subordinated to the claims of investors other than to claims arising in respect of interest rate or currency derivative contracts, fees or other such payments, nor be subject to waiver or deferral;

(e) it shall not be possible for the facility to be drawn after all applicable credit enhancements from which the liquidity facility would benefit are exhausted;

(f) the facility shall include a provision that results in an automatic reduction in the amount that can be drawn by the amount of exposures that are in default, where 'default' has the meaning given to it under Chapter 3, or where the pool of securitised exposures consists of rated instruments, that terminates the facility if the average quality of the pool falls below investment grade.

(2) Where an institution has two or more overlapping positions in a securitisation, it shall include only one of the positions in its calculation of risk-weighted exposure amounts.

Where the positions are partially overlapping, the institution may split the position into two parts and recognise the overlap in relation to one part only in accordance with the first subparagraph~~.~~. Alternatively, the institution may treat the positions as if they were fully overlapping by expanding for capital calculation purposes the position that produces the higher risk-weighted exposure amounts.

The institution may also recognise an overlap between the specific risk own funds requirements for positions in the trading book and the own funds requirements for securitisation positions in the non-trading book, provided that the institution is able to calculate and compare the own funds requirements for the relevant positions.

For the purposes of this paragraph, two positions shall be deemed overlapping where they are mutually offsetting in such a manner that the institution is able to preclude the losses arising from one position by performing the obligations required under the other position.

(3) Where Article 270*c* applies to positions in ABCP, the institution may use the risk-weight assigned to a liquidity facility in order to calculate the risk-weighted exposure amount for the ABCP, provided that the liquidity facility covers 100 % of the ABCP issued by the programme and the liquidity facility ranks pari passu with the ABCP in a manner that they form an overlapping position. The institution shall notify the competent authorities where it has applied the provisions laid down in this paragraph. For the purposes of determining the 100% coverage set out in this paragraph, the institution may take into account other liquidity facilities in the ABCP programme, provided that they form an overlapping position with the ABCP.

Article 249

Recognition of credit risk mitigation for securitisation positions

(1) An institution may recognise funded or unfunded credit protection with respect to a securitisation position where the requirements for credit risk mitigation laid down in this Chapter and in Chapter 4 are met.

(2) Eligible funded credit protection shall be limited to financial collateral which is eligible for the calculation of risk-weighted exposure amounts under Chapter 2 as laid down under Chapter 4 and recognition of credit risk mitigation shall be subject to compliance with the relevant requirements as laid down under Chapter 4.

Eligible unfunded credit protection and unfunded credit protection providers shall be limited to those which are eligible in accordance with Chapter 4 and recognition of credit risk mitigation shall be subject to compliance with the relevant requirements as laid down under Chapter 4.

(3) By way of derogation from paragraph 2, the eligible providers of unfunded credit protection listed in points (a) to (h) of Article 201(1) shall have been assigned a credit assessment by a recognised ECAI which is credit quality step 2 or above at the time the credit protection was first recognised and credit quality step 3 or above thereafter. The requirement set out in this subparagraph shall not apply to qualifying central counterparties.

Institutions which are allowed to apply the IRB Approach to a direct exposure to the protection provider may assess eligibility in accordance with the first sub-paragraph based on the equivalence of the PD for the protection provider to the PD associated with the credit quality steps referred to in Article 136.

(4) By way of derogation from paragraph 2, SSPEs shall be eligible protection providers where all of the following conditions are met:

(a) the SSPE owns assets that qualify as eligible financial collateral in accordance with Chapter 4;

(b) the assets referred to in (a) are not subject to claims or contingent claims ranking ahead or pari passu with the claim or contingent claim of the institution receiving unfunded credit protection; and

(c) all the requirements for the recognition of financial collateral in Chapter 4 are met.

(5) For the purposes of ~~this~~ paragraph **4**, the amount of the protection adjusted for any currency and maturity mismatches in accordance with Chapter 4 (GA) shall be limited to the volatility adjusted market value of those assets and the risk weight of exposures to the protection provider as specified under the Standardised Approach (g) shall be determined as the weighted-average risk weight that would apply to those assets as financial collateral under the Standardised Approach.

(6) Where a securitisation position benefits from full credit protection **or a partial credit protection on a pro-rata basis**, the following requirements shall apply:

(a) the institution providing credit protection shall calculate risk-weighted exposure amounts for the securitisation position benefiting from credit protection in accordance with Subsection 3 as if it held that position directly;

(b) the institution buying **credit** protection shall calculate risk-weighted exposure amounts in accordance with Chapter 4.

(7) In **all cases not covered by paragraph 6**~~the event of partial protection~~, the following requirements shall apply:

(a) the institution providing credit protection shall treat the portion of the position benefiting from credit protection as a securitisation position and shall calculate risk-weighted exposure amounts as if it held that position directly in accordance with Subsection 3, subject to paragraphs 8 ~~and 9~~**to 10**;

(b) the institution buying credit protection shall calculate risk-weighted exposure amounts for the protected position referred to in (a) in accordance with Chapter 4. The institution shall treat the portion of the securitisation position not benefiting from credit protection as a separate securitisation position and shall calculate risk-weighted exposure amounts in accordance with Subsection 3, subject to paragraphs 8 ~~and 9~~**to 10**.

(8) Institutions using the Securitisation Internal Ratings Based Approach (SEC-IRBA) or the Securitisation Standardised Approach (SEC-SA) under Subsection 3 shall determine the attachment point (A) and detachment point (D) separately for each of the positions derived in accordance with paragraph 7 as if these had been issued as separate securitisation positions at the time of origination of the transaction. The value of K_{IRB} or K_{SA}, respectively, shall be calculated taking into account the original pool of exposures underlying the securitisation.

(9) Institutions using the Securitisation External Ratings Based Approach (SEC-ERBA) under Subsection 3 **for the original securitisation position** shall calculate risk-weighted exposure amounts for the positions derived in accordance with paragraph 7 as follows:

(a) where the derived position has the higher seniority, it shall be assigned the risk-weight of the original securitisation position;

(b) where the derived position has the lower seniority, it may be assigned an inferred rating in accordance with Article 261(7). **Thickness input T shall in this case be computed on the basis of the derived position only.** Where a rating may not be inferred, the institution shall apply the higher of the risk-weight resulting from either:

(i) applying the SEC-SA in accordance with paragraph 8 and Subsection 3; or

(ii) the risk-weight of the original securitisation position under the SEC-ERBA.

(10) The derived position with the lower seniority must be treated as a non-senior securitisation position even if the original securitisation position prior to protection qualifies as senior.

Article 250
Implicit support

(1) An originator institution which has transferred significant credit risk associated with the underlying exposures of the securitisation in accordance with Section 2 and a sponsor institution shall not provide support to the securitisation beyond its contractual obligations with a view to reducing potential or actual losses to investors.

(2) A transaction shall not be considered as support for the purposes of paragraph 1 where the transaction has been duly taken into account in the assessment of significant risk transfer and both parties have executed the transaction acting in their own interest as free and independent parties (arm's length). For these purposes, the institution shall undertake a full credit review of the transaction and, at a minimum, take into account all of the following items:

(a) the repurchase price;

(b) the institution's capital and liquidity position before and after repurchase;

(c) the performance of the underlying exposures;

(d) the performance of the securitisation positions;

(e) the impact of support on the losses expected to be incurred by the originator relative to investors.

(3) The originator institution and the sponsor institution shall notify the competent authority of any transaction entered into in relation to the securitisation in accordance with paragraph 2.

(4) EBA shall, in accordance with Article 16 of Regulation (EU) No 1093/2010, issue guidelines on what constitutes "arm's length" for the purposes of this Article and when a transaction is not structured to provide support.

(5) If an originator institution or a sponsor institution fails to comply with paragraph 1 in respect of a securitisation, the institution shall include all of the underlying exposures of that securitisation in its calculation of risk-weighted exposure amounts as if they had not been securitised and disclose:

(a) that it has provided support to the securitisation in breach of paragraph 1; and

(b) the impact of the support provided in terms of own funds requirements.

Article 251

Originator institutions' calculation of risk-weighted exposure amounts securitised in a synthetic securitisation

(1) For the purpose of calculating risk-weighted exposure amounts for the underlying exposures, the originator institution of a synthetic securitisation shall use the calculation methodologies set out in this Section where applicable instead of those set out in Chapter 2. For institutions calculating risk-weighted exposure amounts and**, where relevant,** expected loss amounts **with respect to the underlying exposures** under Chapter 3, the expected loss amount in respect of such exposures shall be zero.

(2) The requirements set out in the first paragraph shall apply to the entire pool of exposures backing the securitisation. Subject to Article 252, the originator institution shall calculate risk-weighted exposure amounts with respect to all tranches in the securitisation in accordance with the provisions of this Section, including the positions in relation to which the institution is able to recognise credit risk mitigation in accordance with Article 249. The risk-weight to be applied to positions which benefit from credit risk mitigation may be amended in accordance with Chapter 4.

Article 252

Treatment of maturity mismatches in synthetic securitisations

For the purposes of calculating risk-weighted exposure amounts in accordance with Article 251, any maturity mismatch between the credit protection by which the transfer of risk is achieved and the underlying exposures shall be calculated as follows:

(a) the maturity of the underlying exposures shall be taken to be the longest maturity of any of those exposures subject to a maximum of five years. The maturity of the credit protection shall be determined in accordance with Chapter 4;

(b) an originator institution shall ignore any maturity mismatch in calculating risk-weighted exposure amounts for securitisation positions subject to a risk weight of 1,250 % in accordance with this Section. For all other positions, the maturity mismatch treatment set out in Chapter 4 shall be applied in accordance with the following formula:

$$RW^{*} = ((RW_{SP} \cdot ((t - t^{*})/(T - t^{*}))) + (RW_{Ass} \cdot ((T - t)/(T - t^{*}))))$$

where:

RW*	=	risk-weighted exposure amounts for the purposes of Article 92(3)(a);
RW_{Ass}	=	risk-weighted exposure amounts for the underlying exposures if they had not been securitised, calculated on a pro-rata basis;
RW_{SP}	=	risk-weighted exposure amounts calculated under Article 251 if there was no maturity mismatch;
T	=	maturity of the underlying exposures expressed in years;
t	=	maturity of credit protection~~,~~ expressed in years;
t*	=	0,25.

Article 253

Reduction in risk-weighted exposure amounts

(1) Where a securitisation position is assigned a 1,250% risk weight under this Section, institutions may deduct the exposure value of such position from Common Equity Tier 1 capital in accordance with Article 36(1)(k) as an alternative to including the position in their calculation of risk-weighted exposure amounts. For these purposes, the calculation of the exposure value may reflect eligible funded protection in accordance with Article 249.

(2) Where an institution makes use of the alternative set out in paragraph 1, it may subtract the amount deducted in accordance with Article 36(1)(k) from the amount specified in Article 268 as maximum capital requirement that would be calculated in respect of the underlying exposures as if they had not been securitised.

SUBSECTION 2
HIERARCHY OF METHODS AND COMMON PARAMETERS

Article 254
Hierarchy of methods

(1) Institutions shall use one of the methods set out in Subsection 3 to calculate risk-weighted exposure amounts in relation to all the positions they hold in a securitisation.

(2) The methods set out in Subsection 3 shall be applied in accordance with the following hierarchy:

(a) an institution shall use the **Securitisation** Internal Ratings-Based Approach (SEC-IRBA) where the conditions set out in Article 258 are met;

(b) where the SEC-IRBA may not be used, institutions shall use the Securitisation External Ratings-Based Approach (SEC-ERBA) for rated positions or positions in respect of which an inferred rating may be used in accordance with Articles 261 and 262;

(c) where the SEC-ERBA may not be used, institutions shall use the Securitisation Standardised Approach (SEC-SA) in accordance with Articles 263 and 264.

(3) By derogation from paragraph 2**, point** (b), institutions may use the SEC-SA instead of the SEC-ERBA in relation to all the positions they hold in a securitisation **only** where the risk-weighted exposure amounts resulting from the application of the SEC-ERBA is not commensurate to the credit risk embedded in the exposures underlying the securitisation. **For the purpose of this paragraph, "not commensurate" shall mean that the application of the SEC-ERBA leads to exceeding the risk-weighted exposure amounts that would result from the application of the SEC-SA by more than [25] %.**

Where the institution has decided to apply the SEC-SA in accordance with this paragraph, it shall ~~promptly~~ **without undue delay** notify the competent authority. **Upon receipt of the notification** ~~Where an institution has applied the SEC-SA in accordance with this paragraph~~, the competent authority may require the institution to apply ~~a different method~~ **the SEC-ERBA, in which case it shall notify its decision to the institution within 3 months of the receipt of the notification**.

Where the authority designated under Article 458 has determined in accordance with paragraph 2 of that Article changes in the intensity of macroprudential or systemic risk in the financial system with the potential to have serious negative consequences to the financial system and the real economy, it may at any time require institutions having decided to apply SEC-SA in accordance with this paragraph to apply SEC-ERBA.

The institution shall regularly review whether the condition laid down in this paragraph is still met, and shall notify its assessment to its competent authority. Upon receipt of the notification, the competent authority may review its assessment.

(4) Without prejudice to paragraph 2, institutions may use the Internal Assessment Approach (IAA) to calculate risk-weighted exposure amounts in relation to an unrated position in an ABCP programme in accordance with Article 266, provided that the conditions set out in Article 265 are met. **If an institution has received a permission in accordance with Article 265(2) and a specific position in an ABCP programme falls within the scope of application covered by such permission, the institution shall apply the IAA to calculate the risk-weighted exposure amount of that position.**

(5) For a position in a re-securitisation, institutions shall apply the SEC-SA in accordance with Article 263, with the modifications set out in Article 269.

(6) In all other cases, a risk weight of 1,250 % shall be assigned to securitisation positions.

(7) The competent authorities shall inform EBA of any notifications received and decisions made in accordance with paragraph 3. EBA shall monitor the range of practices in connection with paragraph 3**, report annually to the Commission on its findings** and issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010.

(8) The Commission shall be empowered to adopt delegated acts in order to review the excess percentage of the SEC-ERBA as compared to SEC-SA in terms of risk-weighted exposure amounts, as specified in paragraph 3, at least every two years after the entry into application of this Regulation. The delegated acts adopted in accordance with this paragraph shall take into account the reports referred to in paragraph 7. The revised excess percentage introduced by the delegated acts adopted in accordance with this paragraph shall not be higher than [35] % and shall not be lower than [15] %.

Article 255
Determination of K_{IRB} and KSA

(1) Where an institution applies the SEC-IRBA under Subsection 3, the institution shall calculate K_{IRB} in accordance with paragraphs 2 to 5.

(2) Institutions shall determine K_{IRB} by multiplying the risk-weighted exposure amounts that would be calculated under Chapter 3 in respect of the underlying exposures as if they had not been securitised by **<u>8%</u>** ~~the applicable capital ratio in accordance with Chapter 1~~ divided by the **<u>exposure</u>** value of the underlying exposures. K_{IRB} shall be expressed in decimal form between zero and one.

(3) For K_{IRB} calculation purposes, the risk-weighted exposure amounts that would be calculated under Chapter 3 in respect of the underlying exposures shall include:

(a) the amount of expected losses associated with all the underlying exposures of the securitisation including defaulted underlying exposures that are still part of the pool in accordance with Chapter 3; and

(b) the amount of unexpected losses associated with ~~the~~ all the underlying exposures including defaulted underlying exposures in the pool in accordance with Chapter 3**<u>.</u>**~~;~~

(4) Institutions may calculate K_{IRB} in relation to the underlying exposures of the securitisation in accordance with the provisions set out in Chapter 3 for the calculation of capital requirements for purchased receivables. For these purposes, retail exposures shall be treated as purchased retail receivables and non-retail exposures as purchased corporate receivables.

(5) Institutions shall calculate K_{IRB} separately for dilution risk in relation to the underlying exposures of a securitisation where dilution risk is material to such exposures.

Where losses from dilution and credit risks are treated in an aggregate manner in the securitisation, institutions shall combine the respective K_{IRB} for dilution and credit risk into a single K_{IRB} for the purposes of Subsection 3. The presence of a single reserve fund or overcollateralisation available to cover losses from either credit or dilution risk may be regarded as an indication that these risks are treated in an aggregate manner.

Where dilution and credit risk are not treated in an aggregate manner in the securitisation, institutions shall modify the treatment set out in the previous paragraph to combine the respective K_{IRB} for dilution and credit risk in a prudent manner.

(6) Where an institution applies the SEC-SA under Subsection 3, the institution shall calculate K_{SA} by multiplying the risk-weighted exposure amounts that would be calculated under Chapter 2 in respect of the underlying exposures as if they had not been securitised by 8% divided by the value of the underlying exposures. K_{SA} shall be expressed in decimal form between zero and one.

For the purposes of this paragraph, institutions shall calculate the exposure value of the underlying exposures without netting any specific credit adjustments and additional value adjustments in accordance with Articles 34 and 110 and other own funds reductions.

(7) For the purposes of paragraphs 1 to 6, where a securitisation structure involves the use of an SSPE, all the SSPE's exposures related to the securitisation shall be treated as underlying exposures. Without prejudice to the preceding, the institution may exclude the S**S**PE's exposures from the pool of underlying exposures for K_{IRB} or K_{SA} calculation purposes if the risk from the S**S**PE's exposures is immaterial or if it does not affect the institution's securitisation position.

In the case of funded synthetic securitisations, any material proceeds from the issuance of credit-linked notes or other funded obligations of the S**S**PE that serve as collateral for the repayment of the securitisation positions shall be included in the calculation of K_{IRB} or K_{SA} if the credit risk of the collateral is subject to the tranched loss allocation.

(8) For the purposes of the third subparagraph of paragraph 5, EBA shall issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 on the appropriate methods to combine K_{IRB} for dilution and credit risk where these risks are not treated in an aggregate manner in a securitisation.

(9) EBA shall develop draft regulatory standards to specify in greater detail the conditions to allow institutions to calculate K_{IRB} for the underlying pools of securitisation in accordance with paragraph 4, in particular with regard to:

(a) internal credit policy and models for calculating K_{IRB} for securitisations;

(b) use of different risk factors on the underlying pool to estimate PD and LGD; and

(c) due diligence requirements to monitor the actions and policies of receivables sellers.

EBA shall submit those draft regulatory standards to the Commission by [one year] after entry into force of this Regulation.

Power is delegated to the Commission to adopt the regulatory technical standards referred to this paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 256

Determination of attachment point (A) and detachment point (D)

(1) For the purposes of Subsection 3, institutions shall set the attachment point (A) at the threshold at which losses within the pool of underlying exposures would start to be allocated to the relevant securitisation position.

The attachment point (A) shall be expressed as a decimal value between zero and one and shall be equal to ~~the greater of zero and~~ the ratio of**:**

(a) the outstanding balance of the pool of underlying exposures in the securitisation minus the outstanding balance of all tranches that rank senior or pari passu to the tranche containing the relevant securitisation position**,** to

(b) the outstanding balance of all the underlying exposures in the securitisation.

(2) For the purposes of Subsection 3, institutions shall set the detachment point (D) at the threshold at which losses within the pool of underlying exposures would result in a complete loss of principal for the tranche containing the relevant securitisation position.

The detachment point (D) shall be expressed as a decimal value between zero and one and shall be equal to ~~the greater of zero and~~ the ratio of**:**

(a) the outstanding balance of the pool of underlying exposures in the securitisation minus the outstanding balance of all tranches that rank senior to the tranche containing the relevant securitisation position**,** to

(b) the outstanding balance of all the underlying exposures in the securitisation.

(3) For the purposes of paragraphs 1 and 2, institutions shall treat overcollateralisation and funded reserve accounts as tranches and the assets comprising such reserve accounts as underlying exposures.

(4) For the purposes of paragraphs 1 and 2, institutions shall disregard unfunded reserve accounts and assets that do not provide credit enhancement, such as those that only provide liquidity support, currency or interest rate swaps and cash collateral accounts related to those positions in the securitisation. For funded reserve accounts and assets providing credit enhancement, the institution shall only treat as securitisation positions the part**s** of those accounts or assets that are loss-absorbing.

(5) Where two or more positions of the same transaction have different maturities but share pro rata loss allocation, the calculation of A and D should be based on the aggregated balance of those positions and the resulting A and D will be the same.

Article 257
Determination of tranche maturity (M_T)

(1) For the purposes of Subsection 3 and subject to paragraph 3, institutions may measure the maturity of a tranche (M_T) as either:

(a) the **exposure-**weighted–average maturity of the contractual payments due under the tranche in accordance with the following formula:

$$M_T = \sum_t t \cdot CF_t \Big/ \sum_t CF_t,$$

where CF_t denotes all contractual payments (principal, interests and fees) payable by the borrower during period t; or

(b) the final legal maturity of the tranche in accordance with the following formula:

$$M_T = 1 + (M_L - 1) * 80\%,$$

where M_L is the final legal maturity of the tranche.

(2) ~~By derogation from paragraph 1, i~~**I**nstitutions **may**~~shall~~ only use the final legal maturity of the tranche to determine its maturity (M_T) in accordance with point (b) of paragraph 1 where the contractual payments due under the tranche are conditional or dependent upon the actual performance of the underlying exposures.

(3) For the purposes of paragraphs 1 and 2, the determination of a tranche maturity (M_T) shall be subject in all cases to a floor of one year and a cap of five years.

(4) Where an institution may become exposed to potential losses from the underlying exposures by virtue of contract, the institution shall determine the maturity of the securitisation position by taking into account the longest maturity of such underlying exposures. For revolving exposures, the longest contractually possible remaining maturity of the exposure that might be added during the revolving period shall apply.

SUBSECTION 3
METHODS TO CALCULATE RISK-WEIGHTED EXPOSURE AMOUNTS

Article 258
Conditions for the use of the Internal Ratings-Based Approach (SEC-IRBA)

(1) Institutions shall use the SEC-IRBA to calculate risk-weighted exposure amounts in relation to a securitisation position where the following conditions are met:

(a) the position is backed by an IRB pool or a mixed pool, provided that, in the latter case, the institution is able to calculate K_{IRB} in accordance with Section 3 on at a minimum of 95% of the underlying risk-weighted exposure amount;

(b) there is sufficient information ~~publicly~~ available in relation to the underlying exposures of the securitisation for the institution to be able to calculate K_{IRB}; and

(c) the institution has not been precluded from using the SEC-IRBA in relation to a specified securitisation position in accordance with paragraph 2.

(2) Competent authorities may on a case-by-case basis preclude the use of the SEC-IRBA where securitisations have highly complex or risky features. For these purposes, the following may be regarded as highly complex or risky features:

(a) credit enhancement that can be eroded for reasons other than portfolio losses ~~resulting from non-payment of principal or interest~~;

(b) pools of underlying exposures with **a** high degree of internal correlation as a result of concentrated exposures to single sectors or geographical areas

(c) transactions w**h**ere the repayment of the securitisation positions **is** ~~are~~ highly dependent on risk drivers not reflected in K_{IRB}; or

(d) highly complex loss allocations between tranches.

Article 259

Calculation of risk-weighted exposure amounts under the SEC-IRBA

(1) Under the SEC-IRBA, the risk-‑weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position calculated in accordance with Article 248 by the applicable risk weight determined as follows, in all cases subject to a floor of 15%:

$RW = 1{,}250\%$ when $D \leq K_{IRB}$

$RW = 12.5 \cdot K_{SSFA(KIRB)}$ when $A \geq K_{IRB}$

$$RW = \left[\left(\frac{K_{IRB} - A}{D - A}\right) \cdot 12.5\right] + \left[\left(\frac{D - K_{IRB}}{D - A}\right) \cdot 12.5 \cdot K_{SSFA(K_{IRB})}\right]$$ when $A < K_{IRB} < D$

where:

K_{IRB} is the capital charge of the pool of underlying exposures as defined in Article 255

D is the detachment point as determined in accordance with Article 256

A is the attachment point as determined in accordance with Article 256

$$K_{SSFA(K_{IRB})} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a(u - l)}$$

where:

$a = –(1 / (p * K_{IRB}))$

$u = D – K_{IRB}$

$l = \max (A - K_{IRB}; 0)$

$e^{[x]}$ = exponential function

where:

$p = \max [0.3; (A + B*(1/N) + C* K_{IRB} + D*LGD + E*M_T)]$

where:

N is the effective number of exposures in the pool of underlying exposures, calculated in accordance **with** paragraph 4

LGD is the exposure-weighted average loss-given-default of the pool of underlying exposures, calculated in accordance with paragraph 5

M_T is the maturity of the tranche as determined in accordance with Article 257

the parameters A, B, C, D, and E shall be determined according to the following look-up table:

		A	*B*	*C*	*D*	*E*
Non-retail~~Wholesale~~	Senior, granular (N ≥ 25)	0	3.56	–1.85	0.55	0.07
	Senior, non-granular (N < 25)	0.11	2.61	–2.91	0.68	0.07
	Non-senior, granular (N ≥ 25)	0.16	2.87	–1.03	0.21	0.07
	Non-senior, non-granular (N < 25)	0.22	2.35	–2.46	0.48	0.07
Retail	Senior	0	0	–7.48	0.71	0.24
	Non-senior	0	0	–5.78	0.55	0.27

(2) If the underlying IRB pool comprises both retail and non-retail exposures, the pool shall be divided into one retail and one non-retail subpool and, for each subpool, a separate p-parameter (and the corresponding input parameters N, K_{IRB} and LGD) shall be estimated. Subsequently, a weighted average p-parameter for the transaction shall be calculated on the basis of the p-parameters of each subpool and the nominal size of the exposures in each subpool.

(3) Where an institution applies the SEC-IRBA to a mixed pool, the calculation of the p-parameter shall be based on the underlying exposures subject to the IRB Approach only. The underlying exposures subject to the Standardised Approach shall be ignored for these purposes.

(4) The effective number of exposures (N) shall be calculated as follows:

$$N = \frac{(\sum_i EAD_i)^2}{\sum_i EAD_i^2}$$

where EAD_i represents the exposure-at-default associated with the i^{th} instrument in the pool.

Multiple exposures to the same obligor shall be consolidated and treated as a single exposure.

(5) The exposure-weighted average LGD shall be calculated as follows:

$$LGD = \frac{\sum_i LGD_i \cdot EAD_i}{\sum_i EAD_i}$$

where LGDi represents the average LGD associated with all exposures to the i^{th} obligor.

Where credit and dilution risks for purchased receivables are managed in an aggregate manner in a securitisation, the LGD input shall be construed as a weighted average of the LGD for credit risk and 100% LGD for dilution risk. The ~~risk~~ weights shall be the stand-alone IRB capital charges for credit risk and dilution risk, respectively. For these purposes, the presence of a single reserve fund or ~~[~~overcollateralisation~~]~~ available to cover losses from either credit or default risk may be regarded as an indication that these risks are managed in an aggregate manner.

(6) Where the **exposure-weighted** share of the largest underlying exposure in the pool (C1) is no more than 3%, institutions may use the following simplified method to calculate N and the exposure-weighted average LGDs**. This shall be measured as a value between zero and one**:

$$N = \left(C_1 \cdot C_m + \left(\frac{C_m - C_1}{m - 1}\right) \cdot \max\{1 - m \cdot C_1, 0\}\right)^{-1}$$

LGD = 0.50

where

C_m denotes the **exposure-weighted** share of ~~the pool corresponding to~~ the sum of the largest m exposures ~~(e.g. a 15% share corresponds to a value of 0.15)~~**. This shall be measured as a value between zero and one**; and

m is set by the institution.

If only C_1 is available and this amount is no more than 0.03, then the institution may set LGD as 0.50 and N as $1/C_1$.

(7) Where the position is backed by a mixed pool **that meets the conditions of** ~~and the institution is able to calculate K_{IRB} on at least 95% of the underlying exposure amounts in accordance with~~ Article 258(1)(a), the institution shall calculate the capital charge for the underlying pool of exposures as:

$$d \cdot K_{IRB} + (1-d) \cdot K_{SA},$$

where

d is the **share** ~~percentage~~ of the exposure amount of underlying exposures for which the bank can calculate K_{IRB} over the exposure amount of all underlying exposures**. d shall be measured as a value between zero and one**; and

K_{IRB} and K_{SA} are as defined in Article 255.

(8) Where an institution has a securitisation position in the form of **a market risk hedge, such as an interest rate or currency** ~~a~~ derivative **transaction**, the institution may attribute to th**is**~~e~~ derivative **transaction** an inferred risk weight equivalent to the risk weight of the reference position calculated in accordance with this Article.

For the purposes of the first Subparagraph, the reference position shall be the position that is *pari passu* in all respects to the derivative or, in the absence of such *pari passu* position, the position that is immediately subordinate to the derivative.

Article 260

Treatment of STS securitisations under the SEC-IRBA

Under the SEC-IRBA, the risk weight for **a** position in an STS securitisation shall be calculated in accordance with Article 259, subject to the following modifications:

risk weight floor for senior securitisation positions = 10%

$$p = \max [0.3; 0.5 \cdot (A + B \cdot (1/N) + C \cdot K_{IRB} + D*LGD + E \cdot M_T)]$$

Article 261

Calculation of risk-weighted exposure amounts under the External Ratings-Based Approach (SEC-ERBA)

(1) Under the SEC-ERBA, the risk weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position as calculated in accordance with Article 248 by the applicable risk weight in accordance with this Article.

(2) For exposures with short-term credit assessments or when a rating based on a short-term credit assessment may be inferred in accordance with paragraph 7, the following risk weights shall apply:

Table 1

Credit Quality Step	1	2	3	*All other ratings*
Risk weight	15%	50%	100%	1,250%

(3) For exposures with long-term credit assessments or when a rating based on a long-term credit assessment may be inferred in accordance with paragraph 7, the risk weights set out in Table 2 shall apply, adjusted as applicable for tranche maturity (~~Mt~~$\underline{\mathbf{M_T}}$) in accordance with Article 257 and paragraph 4 and for tranche thickness for non-senior tranches in accordance with paragraph 5:

Table 2

Credit Quality Step	Senior tranche		Non-senior (thin) tranche	
	Tranche maturity (M_T)		*Tranche maturity (M_T)*	
	1 year	*5 years*	*1 year*	*5 years*
1	15%	20%	15%	70%
2	15%	30%	15%	90%
3	25%	40%	30%	120%
4	30%	45%	40%	140%
5	40%	50%	60%	160%
6	50%	65%	80%	180%
7	60%	70%	120%	210%
8	75%	90%	170%	260%
9	90%	105%	220%	310%
10	120%	140%	330%	420%
11	140%	160%	470%	580%
12	160%	180%	620%	760%
13	200%	225%	750%	860%
14	250%	280%	900%	950%
15	310%	340%	1050%	1050%
16	380%	420%	1130%	1130%
17	460%	505%	1,250%	1,250%
All other	1,250%	1,250%	1,250%	1,250%

(4) In order to determine the risk weight for tranches with a maturity between 1 and 5 years, institutions shall use linear interpolation between the risk weights applicable for one and five years maturity respectively in accordance with ~~table~~ **Table** 2.

(5) In order to **account for** ~~determine the~~ tranche thickness, institutions shall calculate the risk weight for non-senior tranches as follows:

RW = [RW after adjusting for maturity according to paragraph 4] · [1 – min(T; 50%)]

where

T = tranche thickness measured as D – A

where

D is the detachment point as determined in accordance with Article 256

A is the attachment point as determined in accordance with Article 256

(6) The risk weights for non-senior tranches resulting from paragraphs 3 to 5 shall be subject to a floor of 15%. In addition, the resulting risk weights shall be no lower than the risk weight corresponding to a hypothetical senior tranche of the same securitisation with the same credit assessment and maturity.

(7) For the purposes of using inferred ratings, institutions shall attribute to an unrated position an inferred rating equivalent to the credit assessment of a rated reference position which meets all of the following conditions:

(a) the reference position ranks pari passu in all respects to the unrated securitisation position or, in the absence of a pari passu ranking position, the reference position is immediately subordinate to the unrated position;

(b) the reference position does not benefit from any third-party guarantees or other credit enhancements that are not available to the unrated position;

(c) the maturity of the reference position shall be equal to or longer than that of the unrated position in question;

(d) on an ongoing basis, any inferred rating shall be updated to reflect any changes in the credit assessment of the reference position.

(8) Where an institution has a securitisation position in the form of a market risk hedge, such as an interest rate or currency derivative transaction, the institution may attribute to this derivative transaction an inferred risk weight equivalent to the risk weight of the reference position calculated in accordance with this Article.

For the purposes of the first subparagraph, the reference position shall be the position that is *pari passu* in all respects to the derivative or, in the absence of such *pari passu* position, the position that is immediately subordinate to the derivative transaction.

Article 262

Treatment of STS securitisations under SEC-ERBA

(1) Under the SEC-ERBA, the risk weight for a position in an STS securitisation shall be calculated in accordance with Article 261, subject to the modifications laid down in this Article.

(2) For exposures with short-term credit assessments or when a rating based on a short-term credit assessment may be inferred in accordance with Article 261(7), the following risk weights shall apply:

Table 3

Credit Quality Step	1	2	3	All other ratings
Risk weight	10%	35%	70%	1,250%

(3) For exposures with long-term credit assessments or when a rating based on a long-term credit assessment may be inferred in accordance with Article 261(7), risk weights shall be determined in accordance with Table 4, adjusted for tranche maturity (M_T) in accordance with Article 257 and Article 261(4) and for tranche thickness for non-senior tranches in accordance with Article 261(5):

Table 4

Credit Quality Step	Senior tranche		Non-senior (thin) tranche	
	Tranche maturity (M_T)		*Tranche maturity (M_T)*	
	1 year	*5 years*	*1 year*	*5 years*
1	10%	15%	15%	50%
2	10%	20%	15%	55%
3	15%	25%	20%	75%
4	20%	30%	25%	90%
5	25%	35%	40%	105%
6	35%	45%	55%	120%
7	40%	45%	80%	140%
8	55%	65%	120%	185%
9	65%	75%	155%	220%
10	85%	100%	235%	300%
11	105%	120%	355%	440%
12	120%	135%	470%	580%
13	150%	170%	570%	650%
14	210%	235%	755%	800%
15	260%	285%	880%	880%
16	320%	355%	950%	950%
17	395%	430%	1,250%	1,250%
All other	1,250%	1,250%	1,250%	1,250%

Article 263
Calculation of risk-weighted exposure amounts under the Standardised Approach (SEC-SA)

(1) Under the SEC-SA, the risk weighted exposure amount for a position in a securitisation shall be calculated by multiplying the exposure value of the position as calculated in accordance with Article 248 by the applicable risk weight determined as follows, in all cases subject to a floor of 15%:

$RW = 1{,}250\%$ when $D \leq K_A$

$RW = 12.5 \cdot K_{SSFA(KA)}$ when $A \geq K_A$

$$RW = \left[\left(\frac{K_A - A}{D - A}\right) \cdot 12.5\right] + \left[\left(\frac{D - K_A}{D - A}\right) \cdot 12.5 \cdot K_{SSFA(K_A)}\right]$$ when $A < K_A < D$

where:

D is the detachment point as determined in accordance with Article 256

A is the attachment point as determined in accordance with Article 256

K_A is a parameter calculated in accordance with paragraph 2

$$K_{SSFA(K_A)} = \frac{e^{a \cdot u} - e^{a \cdot l}}{a(u - l)}$$

where:

<u>**$e^{[x]}$ = exponential function**</u>

$a = -(1 / (p * K_A))$

$u = D - K_A$

$l = \max (A - K_A; 0)$

p = 1 for a securitisation exposure that is not a re-securitisation exposure

(2) For the purposes of paragraph 1, K_A shall be calculated as follows:

$$K_A = (1 - W) \cdot K_{SA} + W \cdot 0.5$$

where:

K_{SA} is the capital charge of the underlying pool as defined in Article 255

W <u>**is the**</u>= ratio of the sum of<u>**:**</u>

<u>**(a)**</u> the nominal amount of underlying exposures in default<u>**,**</u> to

<u>**(b)**</u> the nominal amount of all underlying exposures. For these purposes, an exposure in default shall mean an underlying exposure which is either: (i) 90 days or more past due; (ii) subject to bankruptcy or insolvency proceedings; (iii) subject to foreclosure or similar proceeding; or (iv) in default in accordance with the securitisation documentation.

Where an institution does not know the delinquency status for 5% or less of underlying exposures in the pool, the institution may use the SEC-SA subject to the following adjustment in the calculation K_A:

$$K_A = \left(\frac{EAD_{\text{Subpool 1 where W known}}}{\text{EAD Total}} \times K_A^{\text{Subpool 1 where w known}} \right) + \frac{EAD_{\text{Subpool 2 where W unknown}}}{\text{EAD Total}}$$

Where the institution does not know the delinquency status for more than 5% of underlying exposures in the pool, the position in the securitisation must be risk weighted at 1,250%.

(3) Where an institution has a securitisation position in the form **<u>of a market risk hedge, such as an interest rate or currency derivative transaction</u>** ~~of a derivative~~, the institution may attribute to th**<u>is</u>**~~e~~ derivative**<u> transaction</u>** an inferred risk weight equivalent to the risk weight of the reference position calculated in accordance with this Article.

For the purposes of this paragraph, the reference position shall be the position that is *pari passu* in all respects to the derivative or, in the absence of such *pari passu* position, the position that is immediately subordinate to the derivative**<u> transaction</u>**.

Article 264
Treatment of STS securitisations under SEC-SA

Under the SEC-SA the risk weight for a position in an STS securitisation shall be calculated in accordance with Article 263, subject to the following modifications

risk weight floor for senior securitisation positions = 10%

p = 0,5

Article 265
Scope and operational requirements for the Internal Assessment Approach (IAA)

(1) Institutions may calculate the risk-weighted exposure amounts for unrated positions in ABCP programmes under the IAA in accordance with Article 266 where they have been granted permission by their competent authorities in accordance with paragraph 2.**<u> If an institution has received a permission in accordance with Article 265(2) and a specific position in an ABCP programme falls within the scope of application covered by such permission, the institution shall apply the IAA to calculate the risk-weighted exposure amount of that position.</u>**

(2) The competent authorities **<u>shall </u>**~~may~~ grant institutions permission to use the IAA within a clearly defined scope of application where all of the following conditions are met:

(a) all positions in the commercial paper issued from the ABCP programme are rated positions;

(b) the internal assessment of the credit quality of the position reflects the publicly available assessment methodology of one or more ECAIs for the rating of securitisation positions or underlying exposures of the same type;

(ba) the commercial paper issued from the ABCP programme is predominantly issued to third-party investors;

(c) the institution's internal assessment process is at least as conservative as the publicly available assessments of those ECAIs which have provided an external rating for the commercial paper issued from the ABCP programme, in particular with regard to stress factors and other relevant quantitative elements;

(d) the institution's internal assessment methodology takes into account all relevant publicly available rating methodologies of the ECAIs that rate the commercial paper of the ABCP programme and includes rating grades corresponding to the credit assessments of ECAIs. The institution shall document in its internal records an explanatory statement describing how the requirements set out in this point have been met and shall update such statement on a regular basis;

(e) the institution uses the internal assessment methodology for internal risk management purposes, including in its decision making, management information and internal capital allocation processes;

(f) internal or external auditors, an ECAI, or the institution's internal credit review or risk management function perform regular reviews of the internal assessment process and the quality of the internal assessments of the credit quality of the institution's exposures to an ABCP programme;

(g) the institution tracks the performance of its internal ratings over time to evaluate the performance of its internal assessment methodology and makes adjustments, as necessary, to that methodology when the performance of the exposures routinely diverges from that indicated by the internal ratings;

(h) the ABCP programme includes underwriting and liability management standards in the form of guidelines to the programme administrator on, at least:

(i) the asset eligibility criteria, subject to point (i);

(ii) the types and monetary value of the exposures arising from the provision of liquidity facilities and credit enhancements;

(iii) the loss distribution between the securitisation positions in the ABCP programme;

(iv) the legal and economic isolation of the transferred assets from the entity selling the assets;

(i) the asset eligibility criteria in the ABCP programme provide for, at least:

(i) exclusion of the purchase of assets that are significantly past due or defaulted;

(ii) limitation of excessive concentration to individual obligor or geographic area;

(iii) limitation of the tenor of the assets to be purchased;

(j) an analysis of the asset seller's credit risk and business profile is performed including, at least, an assessment of the seller's:

(i) past and expected future financial performance;

(ii) current market position and expected future competitiveness;

(iii) leverage, cash flow, interest coverage and debt rating;

(iv) underwriting standards, servicing capabilities, and collection processes;

(k) the ABCP programme has collection policies and processes that take into account the operational capability and credit quality of the servicer and comprises features that mitigate performance-related risks of the seller and the servicer. For the purposes of this point, performance-related risks may be mitigated through triggers based on the seller or servicer's current credit quality to prevent commingling of funds in the event of the seller's or servicer's default;

(l) the aggregated estimate of loss on an asset pool that may be purchased under the ABCP programme takes into account all sources of potential risk, such as credit and dilution risk;

(m) where the seller-provided credit enhancement is sized based only on credit-related losses and dilution risk is material for the particular asset pool, the ABCP programme comprises a separate reserve for dilution risk;

(n) the size of the required enhancement level in the ABCP programme is calculated taking into account several years of historical information, including losses, delinquencies, dilutions, and the turnover rate of the receivables;

(o) the ABCP programme comprises structural features in the purchase of exposures in order to mitigate potential credit deterioration of the underlying portfolio. Such features may include wind-down triggers specific to a pool of exposures;

(p) the institution evaluates the characteristics of the underlying asset pool, such as its weighted-average credit score, and identifies any concentrations to an individual obligor or geographical region and the granularity of the asset pool.

(3) Where the institution's internal audit, credit review, or risk management functions perform the review provided for in point (f) of paragraph 2, those functions shall be independent from the institution's internal functions dealing with ABCP programme business and customer relations.

(4) Institutions which have received permission to use the IAA shall not revert to the use of other methods for positions that fall within scope of application of the IAA unless all of the following conditions are met:

(a) the institution has demonstrated to the satisfaction of the competent authority that the institution has good cause to do so;

(b) the institution has received the prior permission of the competent authority.

Article 266
Calculation of risk-weighted exposure amounts under the IAA

(1) Under the IAA the institution shall assign the unrated position in the ABCP to one of the rating grades laid down in point (d) of Article 265(2) on the basis of its internal assessment. The position shall be attributed a derived rating which shall be the same as the credit assessments corresponding to that rating grade as laid down in point (d) of Article 265(2).

(2) The rating derived in accordance with paragraph 1 shall be at least at the level of investment grade or better at the time it was first assigned and shall be regarded as an eligible credit assessment by an ECAI for the purposes of calculating risk-weighted exposure amounts in accordance with Article 261 or Article 262, as applicable.

SUB-SECTION 4
CAPS FOR SECURITISATION POSITIONS

Article 267

Maximum risk weight for senior securitisation positions: 'Look-through' approach

(1) An institution which has knowledge at all times of the composition of the underlying exposures may assign the senior securitisation position a maximum risk weight equal to the **exposure-**weighted-average risk weight that would be applicable to the underlying exposures if the underlying exposures had not been securitised.

(2) In the case of pools of underlying exposures where the institution uses exclusively the Standardised Approach or the IRB Approach, the maximum risk weight **of the senior securitisation position** shall be equal to the exposure-weighted**-** average risk weight that would apply to the underlying exposures under Chapter 2 or 3, respectively, as if they had not been securitised.

In the case of mixed pools the maximum risk weight shall be calculated as follows:

(a) where the institution applies the SEC-IRBA, the Standardised Approach portion and the IRB portion of the underlying pool shall each be assigned the corresponding Standardised Approach risk weight and IRB risk weight respectively;

(b) where the institution applies the SEC-SA or the SEC-ERBA, the maximum risk weight for senior securitisation positions shall be equal to the Standardised Approach weighted-average risk weight of the underlying exposures.

(3) For the purposes of this Article, the risk weight that would be applicable under the IRB Approach in accordance with Chapter 3 shall include the ratio of**:**

(a) -expected losses**,** to

(b) the exposure **value**~~at default~~ of the underlying exposures multiplied by 12.5.

(4) Where the maximum risk weight calculated in accordance with paragraph 1 results in a lower risk weight than the floor risk weights set out in Articles 259 to 264, as applicable, the former shall be used instead.

Article 268
Maximum capital requirements

(1) An originator institution, a sponsor institution or other institution using the SEC-IRBA or an originator institution or sponsor institution using the SEC-ERBA or the SEC-SA may apply a maximum capital requirement for the securitisation position it holds equal to the capital requirements that would be calculated under Chapter 2 or 3 in respect of the underlying exposures had they not been securitised. For the purposes of this Article, the IRB capital requirement shall include the amount of the expected losses associated with those exposures calculated under Chapter 3 and that of unexpected losses multiplied by a factor of 1.06.

(2) In the case of mixed pools, the maximum capital requirement shall be determined by calculating the exposure-weighted average of the capital requirements of the IRB and Standardised Approach portions of the underlying exposures in accordance with paragraph 1.

(3) The maximum capital requirement shall be the result of multiplying the amount calculated in accordance with paragraphs 1 or 2 by the **largest proportion of interest that the institution holds in the relevant tranche (V)**~~P factor~~**, expressed as a percentage and** calculated as follows:

(a) for an institution that has one or more securitisation positions in a single tranche, ~~the P factor~~**V** shall be equal to the ratio of the nominal amount of the securitisation positions that the institution holds in that given tranche to the nominal amount of the tranche;

(b) for an institution that has securitisation positions in different tranches, ~~the P factor~~**V** shall be equal to the maximum proportion of interest across tranches. For these purposes, the proportion of interest for each of the different tranches shall be calculated as set out in point (a).

(4) When calculating the maximum capital requirement for a securitisation position in accordance with this Article, the entire amount of any gain on sale and credit-enhancing interest-only strips arising from the securitisation transaction shall be deducted from Common Equity Tier 1 items in accordance with Article 36(1)(k).

SUB-SECTION 5
MISCELLANEOUS PROVISIONS

Article 269
Re-securitisations

(1) For a position in a re-securitisation, institutions shall apply the SEC-SA in accordance with Article 263, with the following changes:

(a) W = 0 for any exposure to a securitisation tranche within the underlying pool **o**~~p~~f exposures;

(b) p = 1.5;

(c) the resulting risk weight shall be subject to a floor risk weight of 100%.

(2) K_{SA} for the underlying securitisation exposures shall be calculated in accordance with Subsection 2.

(3) The maximum capital requirements set out in Sub-Section 4 shall not be applied to re-securitisation positions.

(4) Where the pool of underlying exposures consists in a mix of securitisation tranches and other types of assets, the K_A parameter shall be determined as the nominal exposure weighted-average of the K_A calculated individually for each subset of exposures.

Article 270
Senior positions in SME securitisations

An originator institution may calculate the risk-weighted exposure amounts in respect of a securitisation position in accordance with Articles 260, 262 or 264, as applicable, where the following conditions are met:

(a) the securitisation meets the requirements **for STS securitisations** set out **in Section 1 of Chapter 3** ~~in Article 6(2)~~ of the [Securitisation Regulation], other than **Article 8(1)** ~~point (a) of that paragraph~~;

(b) the position qualifies as the senior securitisation position;

(c) the securitisation is backed by a pool of exposures to undertakings, provided that at least 80% of those in terms of portfolio balance qualify as SMEs as defined in Art 501 at the time of issuance of the securitisation **or in the case of revolving securitisations at the time an exposure is added to the securitisation**;

(d) the credit risk associated with the positions not retained by the originator institution is transferred through a guarantee or a counter-guarantee meeting the requirements for unfunded credit protection set out in Chapter 4 for the Standardised Approach to credit risk;

(e) the guarantor or counter-guarantor, as applicable, is the central government or the central bank of a Member State, a multilateral development bank**,** ~~or~~ an international organisation **or a promotional bank**, provided that the exposures to the guarantor or counter-guarantor qualify for a 0% risk weight under Chapter ~~Two~~ **2** of Part Three.

Article 270a
Additional risk weight

(1) Where an institution does not meet the requirements in Chapter 2 of the [Securitisation Regulation] in any material respect by reason of the negligence or omission of the institution, the competent authorities shall impose a proportionate additional risk weight of no less than 250 % of the risk weight (capped at 1,250 %) which shall apply to the relevant securitisation positions in the manner specified in Article 247(6) or Article 337(3) respectively. The additional risk weight shall progressively increase with each subsequent infringement of the due diligence provisions. The competent authorities shall take into account the exemptions for certain securitisations provided in Article 4(4) of the [Securitisation Regulation] by reducing the risk weight it would otherwise impose under this Article in respect of a securitisation to which Article 4(4) of the [Securitisation Regulation] applies.

(2) EBA ~~shall~~ **may** develop draft implementing technical standards to facilitate the convergence of supervisory practices with regard to the implementation of paragraph 1 of the present Article, including the measures to be taken in the case of breach of the due diligence and risk management obligations. ~~EBA shall submit those draft implementing technical standards to the Commission by 1 January 2014.~~

(3) Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

SECTION 4
EXTERNAL CREDIT ASSESSMENTS

Article 270b
Use of Credit Assessments by ECAIs

Institutions may use only credit assessments to determine the risk weight of a securitisation position in accordance with this Chapter where the credit assessment has been issued or has been endorsed by an ECAI in accordance with Regulation (EC) No 1060/2009.

Article 270c
Requirements to be met by the credit assessments of ECAIs

For the purposes of calculating risk-weighted exposure amounts in accordance with Section 3, institutions shall only use a credit assessment of an ECAI where the following conditions are met:

(a) there is no mismatch between the types of payments reflected in the credit assessment and the types of payments to which the institution is entitled under the contract giving rise to the securitisation position in question;

(b) the ECAI publishes the credit assessments and information on loss and cash-flow analysis, sensitivity of ratings to changes in the underlying ratings assumptions, including the performance of underlying exposures, and on the procedures, methodologies, assumptions, and key elements underpinning the credit assessments in accordance with Regulation (EC) No 1060/2009. For the purposes of this point, information shall be considered as publicly available where it is published in accessible format. Information that is made available only to a limited number of entities shall not be considered as publicly available;

(c) the credit assessments are included in the ECAI's transition matrix;

(d) the credit assessments are not based or partly based on unfunded support provided by the institution itself. Where a position is based or partly based on unfunded support, the institution shall consider that position as if it were unrated for the purposes of calculating risk-weighted exposure amounts for this position in accordance with Section 3;

(e) the ECAI has committed to publishing explanations on how the performance of underlying exposures affects the credit assessment.

Article 270d

Use of credit assessments

(1) An institution may nominate one or more ECAIs the credit assessments of which shall be used in the calculation of its risk-weighted exposure amounts under this Chapter (a 'nominated ECAI').

(2) An institution shall use the credit assessments of its securitisation positions in a consistent and non-selective manner and, for these purposes, shall comply with the following requirements:

(a) an institution shall not use an ECAI's credit assessments for its positions in some tranches and another ECAI's credit assessments for its positions in other tranches within the same securitisation that may or may not be rated by the first ECAI;

(b) where a position has two credit assessments by nominated ECAIs, the institution shall use the less favourable credit assessment;

(c) where a position has three or more credit assessments by nominated ECAIs, the two most favourable credit assessments shall be used. Where the two most favourable assessments are different, the less favourable of the two shall be used;

(d) an institution shall not actively solicit the withdrawal of less favourable ratings.

(3) Where the exposures underlying a securitisation benefit from full or partial eligible credit protection in accordance with Chapter 4, and the effect of such protection has been reflected in the credit assessment of a securitisation position by a nominated ECAI, the institution shall use the risk weight associated with that credit assessment. Where the credit protection referred to in this paragraph is not eligible under Chapter 4, the credit assessment shall not be recognised and the securitisation position shall be treated as unrated.

(4) Where a securitisation position benefits from eligible credit protection in accordance with Chapter 4 and the effect of such protection has been reflected in its credit assessment by a nominated ECAI, the institution shall treat the securitisation position as if it were unrated and calculate the risk weighted exposure amounts in accordance with Chapter 4.

Article 270e
Securitisation Mapping

EBA ~~shall~~ **may** develop draft implementing technical standards to map in an objective and consistent manner the credit quality steps set out in this Chapter relative to the relevant credit assessments of all ECAIs. For the purposes of this Article, EBA shall in particular:

(a) differentiate between the relative degrees of risk expressed by each assessment;

(b) consider quantitative factors, such as default or loss rates and the historical performance of credit assessments of each ECAI across different asset classes;

(c) consider qualitative factors such as the range of transactions assessed by the ECAI, its methodology and the meaning of its credit assessments in particular whether such assessments take into account expected loss or first Euro loss, and timely payment of interests or ultimate payment of interests;

(d) seek to ensure that securitisation positions to which the same risk weight is applied on the basis of the credit assessments of ECAIs are subject to equivalent degrees of credit risk.

~~EBA shall submit those draft implementing technical standards to the Commission by 1 July 2014.~~

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010'.

~~(5)~~**(8)** Article 337 is replaced by the following:

'Article 337

Own funds requirement for securitisation instruments

(1) For instruments in the trading book that are securitisation positions, the institution shall weight the net positions as calculated in accordance with Article 327(1) with 8 % of the risk weight the institution would apply to the position in its non-trading book according to Chapter 5 of Title II, Part Three, Section 3.

(2) When determining risk weights for the purposes of paragraph 1, estimates of PD and LGD may be determined based on estimates that are derived from an IRC approach of an institution that has been granted permission to use an internal model for specific risk of debt instruments. The latter alternative may be used only subject to permission by the competent authorities, which shall be granted if those estimates meet the quantitative requirements for the IRB Approach set out in Title II, Chapter 3.

In accordance with Article 16 of Regulation (EU) No 1093/2010, EBA shall issue guidelines on the use of estimates of PD and LGD as inputs when those estimates are based on an IRC approach.

(3) For securitisation positions that are subject to an additional risk weight in accordance with Article 247(6), 8 % of the total risk weight shall be applied.

(4) The institution shall sum its weighted positions resulting from the application of paragraphs 1, 2 and 3 regardless of whether they are long or short, in order to calculate its own funds requirement against specific risk, except for securitisation positions subject to Article 338(4).

(5) Where an originator institution of a traditional securitisation does not meet the conditions for significant risk transfer set out in Article 244, the originator institution shall include the exposures underlying the securitisation in its calculation of own funds requirement as if those exposures had not been securitised.

Where an originator institution of a synthetic securitisation does not meet the conditions for significant risk transfer set out in Article 245, the originator institution shall include the exposures underlying the securitisation in its calculation of own funds requirements as if those exposures had not been securitised and shall ignore the effect of the synthetic securitisation for credit protection purposes.'

(9) Part Five is deleted.

(10) ~~In Article 456(1), the following point (k) is added:~~

~~(k) amendment of the provisions concerning the calculation of the risk-weighted exposure amounts of securitisation positions as set out in Articles 247 to 270a to take account of developments or amendments to international standards on securitisations.~~

(11) In Article 457, point (c) is replaced by the following:

~~(a)~~**(c)** 'the own funds requirements for securitisation laid down in Articles 242 to 270a'.

(12) The following Article 519**a**~~bis~~ is inserted:

'Article 519a

Report

By no later than 3 years from [insert date of entry into force of this Regulation], the Commission shall report to the European Parliament and Council on the application of the provisions in Chapter 5 of Title II, Part Three in the light of developments in securitisation markets. In particular, the report shall assess the impact of the hierarchy of methods set out in Article 254 on issuance and investment activity by institutions in securitisation markets in the Union and the effects on the financial stability of the Union and Member States. **The report shall also take into account regulatory developments in international fora.**

Article 2
Transitional provisions concerning outstanding securitisation positions

In respect of securitisation positions outstanding as of [the date set out in Article 3(2)/fixed date], institutions may continue to apply the provisions in Chapter 5 of Title II, Part Three and Article 337 of Regulation (EU) No 575/2013 until 31 December 2019 in the version applicable on [day before the date set out in Article 3(2)], provided that the institution:

(a) notifies its intention to apply this Article to the competent authority by no later than [fixed date];

(b) applies this Article to all the outstanding securitisation positions that the institution holds on [the date set out in Article 3(2)/fixed date].

Article 3
Entry into force and date of application

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

(2) This Regulation shall apply from [the date of entry into force].

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President