

FCA and PRA Publish Final Securitisation Rules: Key Points

Firms will need to update their internal procedures and ensure they are ready to comply with the new requirements ahead of 1 November 2024.

HM Treasury (HMT), the Financial Conduct Authority (FCA), and the Prudential Regulation Authority (PRA) have fired the starting gun for the race to 1 November 2024, when the new UK securitisation framework will commence. HMT, the FCA, and the PRA decided to implement the new rules on 1 November 2024 in response to requests from market participants for a six-month period to give them time to prepare.

In addition, transitional provisions applicable to securitisation transactions issued before the November implementation date will largely preserve their treatment under the UK Securitisation Regulation (UKSR) framework.¹ The implementation is subject to HMT repealing the UKSR and related technical standards.

Financial Conduct Authority

On 30 April 2024, the FCA published Policy Statement PS24/4: Rules Relating to Securitisation — see [here](#) and [here](#). The policy statement:

- summarises the FCA's responses to feedback received on draft rule proposals set out in CP23/17, which was published in August 2023 — see [here](#);
- includes at Annex 2 a table of correspondence between provisions of the UKSR and the Securitisation Sourcebook (SECN) in the FCA Handbook;
- sets out the final FCA rules (set out in the Securitisation (Smarter Regulatory Framework and Consequential Amendments) Instrument 2024), which will form the substance of the SECN in the FCA Handbook and apply to firms within the scope of supervision of the FCA; and
- includes the final FCA securitisation reporting templates, which are in the same form as those existing to date.

Prudential Regulation Authority

Also on 30 April 2024, the PRA published Policy Statement PS7/24 on its final rules to replace firm-facing requirements in the UKSR for which it has supervisory responsibility — see [here](#).

The PRA policy statement:

- summarises the PRA's responses to feedback received on draft rule proposals set out in CP15/23, which was published in July 2023 — see [here](#);
- sets out at Appendix 1 changes to the PRA Rulebook, including a new Securitisation Part and consequential amendments to the Liquidity Coverage Ratio (CRR) Part and the Non-Performing Exposures Securitisation (CRR) Part — see [here](#);
- includes at Appendix 2 an updated PRA supervisory statement SS10/18 — Securitisation: General requirements and capital framework — see [here](#); and
- includes the final PRA securitisation reporting templates.

Notable Changes From the 2023 Draft Rules

The final rules remain broadly in line with the draft rules proposed in 2023, with some targeted changes, including:

- clarifying the meaning of “before pricing” in the due diligence and transparency requirements;
- adjusting the due diligence requirements for secondary market investors in relation to what disclosures are made by sell-side parties;
- clarifying that UK institutional investors may delegate their due diligence activities to investors that fall outside the definition of “institutional investor” (such as non-FCA/PRA authorised/supervised AIFMs as mentioned above), so long as they remain responsible for ensuring compliance with the due diligence requirements;
- addressing the interaction between transparency requirements and requirements relating to confidentiality and processing of personal data related to underlying assets;
- clarifying the prohibition on hedging of the material net interest required to be retained under the risk retention requirements; and
- clarifying that there is no need for risk retention in relation to securitisations of own liabilities.

Securitisation Regulations 2024

The FCA's and PRA's policy statements should be read alongside the Securitisation Regulations 2024 (see [here](#)), which are due to be further amended by the draft Securitisation (Amendment) Regulation 2024 (the draft Amending SI). The draft Amending SI, which was laid in Parliament on 22 April 2024 (see [here](#)), proposes to:

- insert in the Securitisation Regulations 2024 jurisdictional requirements relating to the establishment of securitisation special purpose entities;

- insert due diligence requirements for occupational pension schemes; and
- amend the commencement date to 1 November 2024.

Impact

HMT, the FCA, and the PRA intended that, at this stage, the transfer of the UKSR framework into the FCA and PRA rulebooks be largely policy-neutral in substance, and as a result the change does not present a significant departure for most market participants. As mentioned in our previous [Client Alert](#), the risk retention rules track closely to the EU position, albeit with some important differences related to the sole purpose provisions for originators and for non-performing loan (NPL) transactions. We think buy-side participants located in the UK should in particular review their internal procedures for investing in securitisation positions in light of the changes to the due diligence requirements.

Looking Ahead

Market participants should keep a close eye on future changes to the transparency reporting regime, which remain in flux. The FCA and the PRA plan to consult on further changes to the securitisation framework in Q4 2024 and early 2025, although timings are subject to change. In this second consultation, the regulators plan to revisit the definition of public and private securitisations and the associated reporting regime, amongst other areas. Any potential changes would aim to make the reporting regime more proportionate, whilst at the same time adding additional ESG reporting requirements.

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Endnotes

¹ One exception to the transitional provisions relates to the transfer of responsibility of due diligence compliance to alternative investment fund managers (AIFMs) who are not PRA-authorized or FCA-supervised. Such non-UK authorised AIFMs will fall outside the definition of "institutional investor", even for deals outstanding before the implementation date.