

Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Text with EEA relevance)

[^{X1}PART THREE

CAPITAL REQUIREMENTS

TITLE II

CAPITAL REQUIREMENTS FOR CREDIT RISK

[^{F1}CHAPTER 5

Securitisation

[^{X1}[^{F1}Section 2

Recognition of significant risk transfer

Article 244

Traditional securitisation

1 The originator institution of a traditional securitisation may exclude underlying exposures from its calculation of risk-weighted exposure amounts and, where 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 point (k) of Article 36(1).

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 both of 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 securitisation positions.

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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, [^{F2}the competent authority] may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties.

3 By way of derogation from paragraph 2, [^{F3}the competent authority] 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, 2 and 3, all of 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 20(1) of Regulation (EU) 2017/2402;
- 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; or
 - (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 all of 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;

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- (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;
 - 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 (c) of this paragraph.
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- F5 6

Textual Amendments

- F2** Words in Art. 244(2) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **41(a)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 244(3) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **41(b)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Art. 244(5) omitted (31.12.2020) by virtue of [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **43** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Art. 244(6) omitted (31.12.2020) by virtue of [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **43** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

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 exposures in accordance with Articles 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 point (k) of Article 36(1).
- 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 both of the following conditions are met:

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- (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 securitisation positions.

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, [^{F6}the competent authority] may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties.

3 By way of derogation from paragraph 2, [^{F7}the competent authority] 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 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, 2 and 3, all of 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; or
 - (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 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);
- f where there is a clean-up call option, that option meets all the following conditions:
 - (i) it may be exercised at the discretion of the originator institution;

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- (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 (d) of this paragraph;

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Textual Amendments

- F6** Words in Art. 245(2) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **41(c)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 245(3) substituted (31.12.2020) by [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **41(d)** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Art. 245(5) omitted (31.12.2020) by virtue of [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **44** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 245(6) omitted (31.12.2020) by virtue of [The Securitisation \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/660\)](#), regs. 1(2), **44** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)

Article 246

Operational requirements for early amortisation provisions

Where the securitisation includes revolving exposures and early amortisation provisions 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; or
- (c) otherwise increase the institution's exposure to losses associated with the underlying revolving exposures.]]

Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EU\) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation \(EU\) No 648/2012 \(OJ L 176, 27.6.2013, p. 1\)](#).

Changes to legislation: Regulation (EU) No 575/2013 of the European Parliament and of the Council, Section 2 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation \(EU\) No 575/2013 on prudential requirements for credit institutions and investment firms.](#)

Changes to legislation:

Regulation (EU) No 575/2013 of the European Parliament and of the Council, Section 2 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole legislation item and associated provisions

- Pt. 3 Title 1 Ch. 1 SECTION 2 A 95 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Pt. 3 Title 1 Ch. 1 SECTION 2 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Pt. 3 Title 1 Ch. 1 SECTION 2 A 98 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Pt. 3 Title 1 Ch. 1 SECTION 2 A 96 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Pt. 3 Title 1 Ch. 1 SECTION 2 A 97 repeal by [EUR 2019/2033](#) Regulation (This amendment by the EU not applied to legislation.gov.uk because it is brought into force after IP completion day.)
- Art. 4.1(7) words omitted by [S.I. 2018/1401 reg. 64\(7\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(7) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(i))
- Art. 4.1(7) words substituted by [S.I. 2018/1401 reg. 64\(7\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(7) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(i))
- Art. 4.1(7) words substituted by [S.I. 2018/1401 reg. 64\(7\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(7) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(i))
- Art. 4.1(13) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(a\)](#)
- Art. 4.1(14) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(b\)](#)
- Art. 4.1(14a) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(c\)](#)
- Art. 4.1(26) words inserted by [S.I. 2018/1401 reg. 64\(20\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(20) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(ii))
- Art. 4.1(26) words substituted by [S.I. 2018/1401 reg. 64\(20\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(20) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(ii))
- Art. 4.1(28) words substituted by [S.I. 2018/1401 reg. 64\(23\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(23) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(iii))
- Art. 4.1(28) words substituted by [S.I. 2018/1401 reg. 64\(23\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(23) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(iii))
- Art. 4.1(28) words substituted by [S.I. 2018/1401 reg. 64\(23\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(23) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(iii))
- Art. 4.1(61) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(d\)](#)
- Art. 4.1(62) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(e\)](#)
- Art. 4.1(63) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(f\)](#)
- Art. 4.1(66) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(g\)](#)
- Art. 4.1(67) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(h\)](#)

- Art. 4.1(128) word substituted by [S.I. 2018/1401 reg. 64\(51\)](#) (This amendment not applied to legislation.gov.uk. Reg. 64(51) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(c)(iv))
- Art. 4.1(129) words substituted by [S.I. 2024/705 Sch. 2 para. 19\(i\)](#)
- Art. 11(6)(a) words substituted by [S.I. 2021/1078 reg. 4\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Amending provision substituted by S.I. 2021/1376)
- Art. 18(8)(a) words substituted by [S.I. 2020/1385 reg. 74\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Art. 18(8) substituted (31.12.2020) by S.I. 2019/264, regs. 1, 5(3).)
- Art. 31(1)(b) words substituted by [S.I. 2018/1401 reg. 86\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 86(a) omitted immediately before IP completion day by virtue of S.I. 2020/1470, reg. 1(4), Sch. 2 para. 17)
- Art. 31(1)(b) words substituted in earlier amending provision S.I. 2018/1401, reg. 86(a) by [S.I. 2020/1301 reg. 3Sch. para. 11\(g\)](#) (This amendment not applied to legislation.gov.uk. Reg. 86(a) omitted immediately before IP completion day by virtue of S.I. 2020/1470, reg. 1(4), Sch. 2 para. 17)
- Art. 31(1)(c) words inserted by [S.I. 2018/1401 reg. 86\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 86(b) omitted immediately before IP completion day by virtue of S.I. 2020/1470, reg. 1(4), Sch. 2 para. 17)
- Art. 78(1)(b) words substituted by [S.I. 2018/1401 reg. 94\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 94(2) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(h))
- Art. 78(1)(b) words substituted by [S.I. 2018/1401 reg. 94\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 94(2) omitted (6.9.2019) by virtue of S.I. 2019/1232, regs. 1(2), 3(3)(h))
- Art. 124(4)(b) word substituted by [S.I. 2018/1401 reg. 225\(1\)\(2\)reg. 225\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. The words to be substituted in Art. 124(4) are not present following the substitution of Art 124 by Corrigendum to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).)
- Art. 242(10)(c) and word inserted by [S.I. 2024/705 Sch. 2 para. 22\(b\)\(ii\)](#)
- Art. 244(4)(c) words substituted by [S.I. 2024/705 Sch. 2 para. 23](#)
- art. 270a(1A) inserted by [S.I. 2024/705 Sch. 2 para. 25\(b\)](#)
- Art. 325(3)(a) word omitted by [S.I. 2018/1401 reg. 157](#) (This amendment not applied to legislation.gov.uk. The words to be omitted are not present in Art. 325(3)(a))
- Art. 450(1)(d) words substituted by [2021 c. 22 Sch. 1 para. 41](#) (This amendment not applied to legislation.gov.uk. Pt. 8 omitted (1.1.2022) by virtue of S.I. 2021/1078, regs. 1(1), 10 (as substituted by S.I. 2021/1376, regs. 1(2), 32(4)))
- Art. 456(1)(h)(i) omitted by [S.I. 2021/1078 reg. 11\(2\)\(a\)\(iv\)](#) (This amendment not applied to legislation.gov.uk. Amending provision substituted by S.I. 2021/1376)
- Art. 459(b) omitted by [S.I. 2021/1078 reg. 11\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Amending provision substituted by S.I. 2021/1376)
- Art. 459(c) words substituted by [S.I. 2021/1078 reg. 11\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Amending provision substituted by S.I. 2021/1376)