
STATUTORY INSTRUMENTS

2019 No. 660

The Securitisation (Amendment) (EU Exit) Regulations 2019

PART 4

Amendment of the EMIR Regulation

Article 2 (definitions)

36. In Article 2 of the EMIR Regulation, in point (30) (definition of “covered bond”) for “Regulation (EU) No 575/2013” substitute “the Capital Requirements Regulation”(1).

Article 4 (clearing obligation)

37. In Article 4 of the EMIR Regulation—

(a) after paragraph 5 insert—

“**5A.** In paragraph 5—

- (a) the reference to a securitisation includes a reference to a securitisation notified as STS in accordance with Article 27 of the Securitisation Regulation before exit day, or before the expiry of a period of two years beginning with exit day, where the person responsible for the notification (the originator and sponsor or, in the case of an ABCP programme, the sponsor) is established in an EEA State; and
- (b) in relation to any securitisation so notified a reference to a numbered Article of the Securitisation Regulation is a reference to the Article so numbered of that Regulation as it had or has effect in relation to an EEA State at any time on and after the date of the notification and before the end of the period referred to in point (a).

In the first subparagraph ‘the Securitisation Regulation’ means Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation.

In paragraph 6 the reference to paragraph 5 is a reference to paragraph 5 without the modification made by this paragraph.”; and

(b) in paragraph 6(2)—

- (i) in the first subparagraph for “ESA’s shall develop draft regulatory” substitute “FCA may make”;
- (ii) omit the second and third subparagraphs.

(1) Point (30) was inserted by the Securitisation Regulation, Article 42(1).

(2) Paragraph 6 was inserted by the Securitisation Regulation, Article 42(2).

Article 11 (risk-mitigation techniques for OTC derivative contracts not cleared by a CCP)

38. In Article 11 of the EMIR Regulation, after paragraph 15(3) insert—

“**15A.** For the purposes of making technical standards under paragraph 15 the level and type of collateral required with respect to an OTC derivative contract which—

(a) is concluded by a covered bond entity in connection with a covered bond(4) or by a securitisation special purpose entity (within the meaning given in Article 2(2) of the Securitisation Regulation) in connection with a securitisation (within the meaning of Article 2(1) of that Regulation), and

(b) meets the conditions of Article 4(5) of this Regulation and the requirements set out in Article 18 and in Articles 19 to 22 or 23 to 26 of the Securitisation Regulation,

are to be determined taking into account any impediments faced in exchanging collateral with respect to existing collateral arrangements under the covered bond or the securitisation.

In the first subparagraph ‘the Securitisation Regulation’ means Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation.”.

(3) Paragraph 15 was substituted by [S.I. 2019/335](#) *the Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019*.

(4) The definitions of “covered bond” and “covered bond entity” are inserted by the Securitisation Regulation, Article 42.