



PRESIDENCY FLASH NOTE

On 12 April 2017, the fifth political trilogue on the Regulation on simple, transparent and standardised securitisation (STS) and the Regulation amending the Capital Requirements Regulation (CRR) took place in the European Parliament (EP).

CRR specific issues

Securitisation Mapping - EBA mandate (CRR Article 270e): lines 593 and 598

All the trilogue participants shared the understanding that EBA has delivered these ITS already and that existing CRR text should therefore not be amended, i.e. "shall" remains.

Mandate to Commission to update the securitisation provisions in the light of international developments (CRR Article 456 (1) point (k)): line 618 and 619

The EP agreed to the Council text on lines 618 and 619.

Report (Article 519a): lines 625-629

Commission stated it could live with both Council and EP amendments, with the exception of the two year-deadline, arguing that it would be too short for a meaningful report. The participants agreed to revert to a three year-deadline, to combining EP and Council amendments in line 625, and to streamline the EP's wording in lines 627-629.

STS specific issues

Validation of technical work

Technical work on STS was agreed with the exception for a number of lines where either the EP or the Council wanted to discuss further in the technical group (see Annex).

ESG criteria in STS disclosure requirements (STS Article 10(3a) EP): STS line 443

EP insisted on the principle of including ESG criteria in the STS disclosure requirements but showed some openness as to the way of doing so. Council and Commission pointed at practical difficulties and mentioned the ongoing horizontal work of the high-level expert group on sustainable finance. They argued that any ESG disclosure requirements that would be introduced at this point in time should be targeted and rely on available data. The Commission was asked to provide a non-paper on this basis, which should also include a review clause for possibly enhancing ESG disclosure requirements later taking into account the work of the expert group.

Transitional provisions for legacy transactions (STS Art 28): STS lines 749-751

No political differences were identified and the technical group was mandated to work on this.



Risk retention (STS Article 4) and Macro-prudential oversight of the securitisation market (STS Article 16a EP and CRR Article 270f EP)

Council and Commission presented their arguments against the EP's proposals for setting the risk retention rate. Presidency indicated that based on preliminary views, there seems to be support in the Council for the way forward proposed by the Commission in its non-paper. Presidency underlined that any additional powers for ESRB and EBA should be within their existing mandates. While recognising the importance for the EP of introducing fines for adverse selection, it also insisted that they should be well framed. EP, in response, reinstated the importance of a sound prudential framework at EU-level, including micro-prudential supervision (EP line 566 and further), and thought the ESRB and EBA roles were not made clear enough in the Commission non-paper. EP also mentioned that it did not agree to the introduction of the "intent of wrongdoing" as a factor in imposing fines for adverse selection. Commission proposed to further consider the macro- and micro-prudential supervisory dimension, clarifying the different actors' tasks and responsibilities, and to revise its non-paper accordingly, while maintaining the level of 5% and excluding the possibility of changing the level via a delegated act. Disagreement, including within the EP, persists on whether the risk retention method would merit a change in the retention rate. In this sense, the Presidency re-iterated that Council is quite firm on this point and the evidence that was provided was deemed to not satisfy any deviation from the present widely accepted risk-retention framework in line with global standards.

Supervision (STS Articles 15 and 16)

Commission presented its non-paper. Presidency made clear that while the compromise proposed departs a lot from the general approach, it did see that provisions had been streamlined, and promised that it would take this back to the Council with a view to settling this issue in the context of a broader package. It also made suggestion for some clarifications, in particular on the peer review clause. EP, in turn, underlined the importance of a proactive role for ESMA, which is already provided for in some other parts of the text. In response to questions, Commission clarified that it thought neither EP nor Council text in line 557 should be taken over. Furthermore, it will revise its non-paper based on the comments made.

Sanctions (STS Articles 17)

The participants agreed in principle to each other's text in lines 588-595 and the technical group was mandated to work on these lines. There was no agreement on lines 606 and 607, where EP insisted on having fines of three times the amount of the benefit derived and on the introduction of minimum fines because this would strengthen the STS label. Both Commission and Council argued against these proposals, for reasons of proportionality and consistency with other legislative acts. No conclusion was reached.

Transparency requirements (STS Article 5 and related STS Articles 5a to 5q and 22a to 22e EP)

Commission presented its non-paper and highlighted that political guidance was needed on the question what would happen if no private operator were available. Presidency made clear that it

Securitisation

5th Political Trilogue on 12 April 2017

FROM: Presidency

would not be easy to convince the Council of the introduction of a new transparency regime, but said that nevertheless the non-paper could serve as a basis for discussion. It also emphasised that some details needed more reflection and refinement. EP was sceptical on the exclusion of private transactions and thought these should be better defined to avoid loopholes. Commission promised to work on the definition and the introduction of safeguards to prevent cases of fraud.

Other issues

Technical work on the issues that have not been listed as political is ongoing; in addition, the technical group will start working on the follow-up of the political trilogue as per above. Delegations be kept up-to-date on the outcome of the work.

Further trilogues

The next trilogue has been scheduled for 16 May, with a possible fall-back trilogue meeting on 15 June. The EP showed willingness to agree on the files, before the end of the Maltese Presidency, while reiterating that the issue of the hierarchy of methods remained a red line for them.

The Presidency will hold a Working Party meeting on 25 April to prepare for the next trilogue.

Date: 27 March 2017 - overview table for 5th trilogue on 12 April 2017

NB: Only STS lines are for validation at this trilogue.

<u>Status</u>	<u>Line numbers in STS tables</u>	<u>Line numbers in CRR table</u>
Lines for validation	407-410, 412-413, 424, 432-434, 441-442, 445, 447, 468, 470, 471, 474, 476, 479-480, 481-483, 486-487, 489, 491, 495 to 497, 499, 500, 502-514, 517, 520-524	
<i>Lines remaining open due to EP comments</i>	440, 444	60, 63, 65, 67, 70, 82
<i>Lines remaining open due to MS comments</i>	112-113	56a, 62-66, 67-69, 70, 77, 85, 86, 110-112, 114, 121, 122, 159, 163, 211
<i>Lines remaining open due to outstanding technical work or to (connection to) political issues</i>	65, 73, 80, 83, 123-124, 130 386, 394, 411, 414, 426, 436, 443-444, 485, 488, 498, 519	24 26 57 59 to 61 84 120 171 278-283 304, 305, 306 310, 311 355 365 381
<i>Lines already validated on 7 March 2017</i>	50 to 53 55 to 60 62 to 64 67 to 72 75 to 79 105 to 109 117 to 119 122 125 and 126 378 to 385 387 to 390 395	9 10a 21 to 22a 33 36 41 to 46 48 to 56 58 76 80 92 98

	396 398-400 404	103 108 116 138 143 to 146 150 153 to 156 165 169 and 170 196 224
<i>Lines already validated on 28 March 2017</i>		69 82 89-91 125 173-180 197-202, 209 203 204 206 212 265 275, 276 286-288 290-298 314-316 343 366 378