

Bank of England PRA

Appendix 7: The PRA's approach to waivers and permissions under the Securitisation (CRR) Part of the PRA Rulebook

Draft statement of policy

October 2024



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1: Introduction

1.1 This statement of policy (SoP) sets out the Prudential Regulation Authority's (PRA) approach to granting permissions for PRA authorised persons not to apply rules set out in the Securitisation (CRR) Part of the PRA Rulebook, or to apply them with modifications, under s138BA of the Financial Services and Markets Act 2000 (FSMA).

1.2 This SoP applies to all firms to which the Securitisation (CRR) Part of the PRA Rulebook applies.

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2: General matters

2.1 In determining whether or not to grant a regulatory permission, the PRA would be exercising its powers under s138BA of FSMA. This allows the PRA to disapply, or modify the application of, PRA rules upon the application or with the consent of a firm. The PRA may give such permission subject to conditions. It also has power to revoke or vary a permission which has been issued.

2.2 The exercise of the PRA's permission power is discretionary. In exercising its discretion, the PRA will consider whether any conditions set out in relation to each of the permissions in PRA rules are satisfied, as well as the additional conditions relating to certain permissions which are set out in this SoP.

2.3 As set out in the SoP – 'The Prudential Regulation Authority's approach to rule permissions and waivers'¹, if a firm applies for a rule permission under s138BA where the PRA has not set out specific criteria, the PRA generally expects to consider, and place significant weight upon, the statutory criteria that apply to the PRA's power under s138A, ie whether:

- compliance by a firm with the unmodified rules would be unduly burdensome or would not achieve the purpose for which the rules were made; and
- the direction would not adversely affect the advancement of any of the PRA's objectives.²

¹ <https://www.bankofengland.co.uk/prudential-regulation/publication/2024/july/pr-a-approach-to-rule-permissions-and-waivers-statement-of-policy>.

² These criteria should be interpreted in the same way as the criteria in s138A, including reading the reference to the PRA's objectives in accordance with s2F of FSMA.

3: PRA's approach to permissions under Securitisation (CRR) Part

Right to withdraw

3.1 A firm which has applied for a waiver or permission may withdraw that application by notifying the PRA in writing at any time before it reaches a decision on the application.

Factors considered in the PRA's decision

3.2 This SoP aims to increase transparency by indicating that the PRA would usually envisage using s138BA of FSMA to grant permissions only in circumstances where the relevant conditions under each of the listed Articles in the Appendices are met. This SoP also sets out areas of review and/or information to be submitted by firms.

Ongoing expectation to notify the PRA of any material changes

3.3 Unless otherwise stated, the conditions set out in PRA rules and in this SoP should be thought of as continuing conditions which firms need to satisfy on an ongoing basis. After the PRA has granted a permission, it expects that the firm promptly notifies it if it does not, or expects that it soon will not, continue to meet any of those conditions for as long as the permission remains effective.

3.4 The PRA further expects that firms promptly notify it of any material change in circumstances, including anticipated changes in circumstances that might affect the PRA's continuing assessment of this permission. This includes changes to the information provided by firms as part of the application relevant to the factors set out in this SoP that the PRA will consider when assessing permission applications.

3.5 These expectations are an elaboration of firms' obligations to inform the PRA of relevant information under the PRA's Fundamental Rules.

3.6 The PRA may decide not to revoke or modify a permission that it has granted when it receives the notifications set out in paragraphs 3.3 to 3.5 above.

Appendices

1 ARTICLE 244 (TRADITIONAL SECURITISATION) AND ARTICLE 245 (SYNTHETIC SECURITISATION) OF THE SECURITISATION (CRR) PART

2 ARTICLE 265 (SCOPE AND OPERATIONAL REQUIREMENTS FOR THE INTERNAL ASSESSMENT APPROACH) OF THE SECURITISATION (CRR) PART

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Appendix 1

Articles 244 (Traditional Securitisation) and Article 245 (Synthetic Securitisation) of the Securitisation (CRR) Part

1. The PRA expects to allow an originator institution under Article 244(3)(a) or 245(3)(a) of the Securitisation (CRR) Part of the PRA Rulebook (as an alternative to the originator institution relying on Article 244(2) or Article 245(2) of the Securitisation (CRR) Part of the PRA Rulebook) to recognise significant credit risk transfer (SRT) in relation to a securitisation only if the following conditions are met:

(a) 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;

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

(c) 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.

Scope of permission

2. The scope of such permission may be defined to cover a number of transactions or an individual transaction.

3. Where a firm applies for a multiple transaction permission, the PRA expects the scope to be defined according to a range of characteristics, including the type of asset class and the structural features of the transaction. The characteristics that the PRA expects a firm to consider when defining the scope of a permission application include:

(a) asset class (eg residential or commercial mortgages, credit card receivables, leasing, loans to corporates or small and medium-sized enterprises, consumer loans, trade receivables, securitisations, Private Finance Initiative, insurance, covered bonds, other assets);

(b) further asset class distinction (eg geography and asset quality); and

(c) structural features (eg distinguishing between securitisation and re-securitisation, traditional and synthetic securitisation and non-revolving structures and revolving structures).

4. It is likely to be more straightforward for the PRA to assess applications for relatively narrowly scoped permissions than those covering a wide range of assets and/or with complex structural features.

PRA areas of review and information to be submitted by firms

5. In order to assess a firm's ability to use its own policies and methodologies for assessing SRT, the PRA's permission application reviews will focus on the following factors:

- (a) the firm's understanding of the risk of potential transactions within the scope of the permission, including potential underlying assets, securitisation structures and other relevant factors that affect the economic substance of risk transfer;
- (b) the firm's governance around SRT assessment (including sign-off procedures) and systems and controls relating to risk-transfer assessment and determination of SRT;
- (c) SRT calculation policies and methodologies, including models used;
- (d) the firm's historical experience with relevant securitisation origination; and
- (e) the use of third-party risk assessments (eg External Credit Assessment Institutions (ECAI) ratings) and the relationship with internal assessments.

6. The information the PRA expects a firm to provide in a multiple transaction permission application includes the following:

- (a) details of the firm's governance processes for SRT, including details of any relevant committees and the seniority and expertise of key persons involved in sign-off;
- (b) a copy of the firm's SRT policy, including details of the SRT calculation policies, methodologies and any models used to assess risk transfer (this should set out how the firm ensures it only takes capital relief in proportion to the amount of risk transferred on any given transaction);
- (c) a statement of how all relevant risks are incorporated in the SRT calculations and how the full economic substance of transactions is taken into consideration;
- (d) details of the firm's systems and controls regarding risk transfer in securitisations;
- (e) a copy of the firm's capital allocation strategy;
- (f) details of any securitised assets that have come back on the firm's balance sheet and the reason why; and
- (g) details of reliance on ECAs in determining SRT.

7. The information the PRA expects to receive in an individual transaction permission includes the items set out in paragraph 3.8 points (aa) and (d) to (pp) of SS9/13 **'Securitisation: Significant Risk Transfer'**, and paragraph 6 points (a) to (c) above. For this purpose, firms should read the wording 'SRT has been achieved' in paragraph 3.8 point (aa) of SS9/13 as if it read 'the reduction in capital requirements achieved would be justified by a commensurate transfer of risk to third parties'.

Limits attached to multiple transaction permissions

8. Materiality: The PRA will apply two materiality limits to the proportion of risk-weighted assets (RWA) reduction that can be taken under any permission covering multiple transactions:

(a) transaction level limit — any transaction that would in principle be within the scope of the permission, but that resulted in an RWA reduction exceeding 1% of the firm's credit risk related RWAs, as at the date of the firm's most recent regulatory return, will fall outside the scope of a multiple transaction permission and will require a separate permission or require notification (if the transaction would satisfy Article 244(2) or Article 245(2) of the Securitisation (CRR) Part of the PRA Rulebook); and

(b) aggregate limit — once the aggregate RWA reduction on all SRT transactions executed within the scope of a permission exceeds 5% of the firm's credit risk-related RWAs as at the date of the firm's most recent regulatory return, no additional transactions may be executed within scope of the permission. In such circumstances, a firm should take one of the following actions:

- (i) apply to renew the multiple transaction permission;
- (ii) apply for a new permission covering the specific transactions exceeding the RWA limit; or
- (iii) notify the PRA of the transaction, following the SRT notification procedure in Article 245A of the Securitisation (CRR) Part of the PRA Rulebook and related supervisory expectations in SS9/13³ (if the transactions would satisfy Article 244(2) or Article 245(2) of the Securitisation (CRR) Part of the PRA Rulebook).

Individual transaction permissions – timing considerations and limits

9. Permissions relating to individual transactions need not be granted prior to the execution of a transaction. The PRA does not intend to specify the timeframe in which a firm should submit an individual transaction permission application, but firms should note that capital relief from a specific transaction will not be available until a firm has obtained permission

³ Supervisory statement (SS) 9/13 – Securitisation – Significant Risk Transfer, available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2013/securitisation-ss>.

covering the SRT assessment and capital treatment (unless the transaction is being notified under Article 245A of the Securitisation (CRR) Part as satisfying Article 244(2) or 245(2) of the Securitisation (CRR) Part of the PRA Rulebook, or falls within scope of a multiple transaction permission).

10. The PRA may grant an individual permission for the full duration of a transaction, or may impose a shorter time limit on the permission. Where a firm seeks to take capital relief on a transaction beyond the expiry date of the relevant permission, the permission will require renewal prior to expiry.

Changes of circumstances

11. Any reduction in credit risk transfer subsequent to the permission being granted will require the firm to make a commensurate reduction in the extent of RWA reduction that is recognised. If a firm does not effect a commensurate reduction in the RWA relief in such circumstances, the PRA may revoke the relevant permission.

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Appendix 2

Article 265 (Scope and Operational Requirements for the Internal Assessment Approach) of the Securitisation (CRR) Part

1. The PRA expects to grant permission to apply the Internal Assessment Approach 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 asset-backed commercial paper (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 ECAs for the rating of securitisation positions backed by underlying exposures of the type securitised;
- (c) the commercial paper issued from the ABCP programme is predominantly issued to third-party investors;
- (d) the institution's internal assessment process is at least as conservative as the publicly available assessments of those ECAs 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;
- (e) the institution's internal assessment methodology takes into account all relevant publicly available rating methodologies of the ECAs that rate the commercial paper of the ABCP programme and includes rating grades corresponding to the credit assessments of ECAs. 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;
- (f) the institution uses the internal assessment methodology for internal risk management purposes, including in its decision-making, management information and internal capital allocation processes;
- (g) 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 or ABCP transaction;
- (h) 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;

(i) 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 (j)
- (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 or ABCP transaction;
- (iv) the legal and economic isolation of the transferred assets from the entity selling the assets;

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

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

(l) 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;

(m) 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;

(n) 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;

(o) 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;

(p) 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;

(q) 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 geographic area and the granularity of the asset pool.

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

2. The PRA expects to give an institution that has received permission to apply the Internal Assessment Approach permission to revert to the use of other methods for positions that fall within scope of application of the Internal Assessment Approach only if the institution has demonstrated to the PRA's satisfaction that the institution has good cause to do so.