

New UK Securitisation Framework | Regulators Publish Final Rules

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The following is a brief update on significant changes to the United Kingdom's securitisation framework following publication of the final revised securitisation rules by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA).

IN DEPTH

On 30 April 2024, the FCA and the PRA published their respective policy statements (PS24/4 [1] by the FCA and PS7/24[2] by the PRA) in response to feedback received on their proposed draft rules on securitisations, which were presented in 2023 (CP23/17[3] and CP15/23[4]).

The new UK securitisation framework seeks to repeal and replace retained EU law in the UK, as part of the wider post-Brexit programme. Market participants will now need to read the FCA and PRA rules together with the Securitisation Regulations 2024[5] (as amended[6]), as these will comprise the new UK securitisation framework. Although the framework is new, the rules share many similarities with those of the EU Securitisation Regulation (2017/2402/EU) as currently adopted in the UK.

Changes will take effect from **1 November 2024**, giving participants a six-month implementation period.

Key changes

The publication of PS24/4 by the FCA and PS7/24 by the PRA indicate the regulators' broad acknowledgment and endorsement of feedback received in relation to CP23/17 and CP15/23. Some of the key changes to be introduced are the following:

- **Clarification regarding geographic scope:** the new rules apply to UK-established entities.
- **Clarification regarding 'pricing' and timing of disclosure/due diligence obligations:** the regulators addressed issues which were raised with respect to the timing of disclosure and due diligence obligations prior to '*pricing*'. This has not always worked on private deals, for example. The new framework has therefore adjusted the disclosure and due diligence requirements so that they now need to occur before pricing or a "*commitment to invest*", providing for a broader timeframe.
- **Transitional provisions:** the regulators have agreed on transitional provisions which will largely maintain the current rules for securitisations which close before the implementation date of 1 November 2024.
- **Delegation of due diligence requirements:** the regulators have clarified the circumstances in which institutional investors can delegate their due diligence responsibilities; a key point being that a UK institutional investor that delegates their due diligence responsibilities remains responsible for any failure of the delegated entity, unless the delegated entity is a UK institutional investor regulated by the FCA or PRA.
- **Risk retention of an entity's own debt:** the regulators have clarified that the risk retention requirements are complied with in the context of a securitisation of an entity's own debt.
- **Clarification of hedging prohibitions:** the new rules permit hedging, prior to a securitisation, for purposes of risk management, provided that such hedging does create a difference (for the retainer's benefit) between the exposures retained by it and the exposures transferred to investors.
- **FCA and PRA rules:** although participants will need to be familiar with both the FCA and the PRA rules, the FCA has worked with the PRA to align their drafting more closely to the PRA Rulebook – both in terms of the language and ordering of the rules.

What's next and how should market participants prepare for implementation in November 2024?

For now, participants should focus on preparation for implementation; however, further refinement can be expected and the FCA and the PRA plan to consult on further changes to the securitisation framework as early as Q4 2024.

Participants and their advisors should conduct a review of policies, procedures and processes to ensure compliance with the new framework. It is important that parties start preparations early, not least because the new regime will apply to all securitisations going forwards, but also because participants will need to become familiar with the PRA rules and the FCA rules.

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ENDNOTES

[1] The FCA's policy statement can be read in full [here](#).

[2] The PRA's policy statement can be read in full [here](#).

[3] The FCA consultation can be read in full [here](#).

[4] The PRA consultation can be read in full [here](#).

[5] The Securitisation Regulations 2024 can be read in full [here](#).

[6] A draft amendment to the Securitisation Regulations 2024 has already been published, the Securitisation (Amendment) Regulations 2024. The draft Securitisation (Amendment) Regulations 2024 can be read in full [here](#).

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