Commission Delegated Regulation (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2018/1221

of 1 June 2018

amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)[(1)], and in particular Article 111(1)(c) and Article 135(2) thereof,

Whereas:

(1) A well-functioning securitisation market provides additional funding sources to capital markets, thus improving the funding capacity of the real economy and contributing to completing the Capital Markets Union. In addition, a well-functioning securitisation market provides alternative investment opportunities to insurance and reinsurance undertakings, which need to diversify their portfolios in a low yield environment. As institutional investors, insurance and reinsurance undertakings should therefore be fully integrated into the Union's securitisation market.

(2) To ensure a sound recovery of the Union's securitisation market, a new regulatory framework for securitisation was laid down, based on lessons learned during the financial crisis. Regulation (EU) 2017/2402 of the European Parliament and of the Council[(2)] lays down the substantive elements of an overarching securitisation framework, with criteria to identify simple, transparent and standardised ('STS') securitisations and a system of supervision to monitor the correct application of those criteria by originators, sponsors, issuers and institutional investors. Furthermore, that Regulation provides for a set of common requirements in relation to risk retention, due diligence and disclosure for all financial services sectors. In addition, Regulation (EU) 2017/2401 of the European Parliament and of the Council[(3)] amends, with effect from 1 January 2019, Regulation (EU) No 575/2013 of the European Parliament and of the Council[(4)] to provide for revised prudential requirements for credit institutions and investment firms originating, sponsoring or investing in securitisations, in particular revised capital requirements for investments in STS securitisation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1221. (See end of Document for details)*

(3) To the extent that the revised legislative framework for securitisation overlaps with the scope of provisions laid down in Commission Delegated Regulation (EU) 2015/35[(5)], it is necessary, in order to avoid double regulation and for reasons of clarity and consistency, to adapt the prudential framework applicable to insurance and reinsurance undertakings.

(4) Regulation (EU) 2017/2402 sets out definitions of several concepts related to securitisation. As that Regulation applies to insurance and reinsurance undertakings falling within the scope of Directive 2009/138/EC it is appropriate, for the purposes of defining concepts that are also defined in Regulation (EU) 2017/2402, to refer in Delegated Regulation (EU) 2015/35 to the relevant definitions laid down in Regulation (EU) 2017/2402. For the same reasons, insofar as requirements related to risk retention and due diligence are set out in Regulation (EU) 2017/2402 for all institutional investors, such requirements should be deleted from Delegated Regulation (EU) 2015/35.

(5) Regulation (EU) 2017/2402 sets qualifying criteria for STS securitisations in order to provide a harmonised definition of a higher quality securitisation product for Union capital markets. The 'type 1 securitisation' asset category in Delegated Regulation (EU) 2015/35 was created to achieve a similar objective for insurance and reinsurance undertakings, with comparable qualifying criteria. To ensure consistency and a level playing field on the securitisation market, the general provisions on the 'type 1 securitisation' asset category should be deleted from Delegated Regulation (EU) 2015/35 and reference should instead be made to the relevant provisions on STS securitisation laid down in Regulation (EU) 2017/2402. In order to avoid those amendments leading to adverse effects, transitional measures should be provided for with respect to existing assets falling within the 'type 1 securitisation' category.

(6) The calibration of the Solvency Capital Requirement pursuant to Directive 2009/138/EU is risk-based and is intended to provide the right incentives across the different forms of securitisation investments. In order to achieve that objective, the level of the calibration and the risk sensitivity across tranches should be commensurate with the features of STS securitisation, and consistent with the prudential requirements developed for credit institutions and investment firms. Therefore, the existing provisions of Delegated Regulation (EU) 2015/35 on calibration for 'type 1 securitisation' should be replaced by a more risk-sensitive calibration for STS securitisation covering all possible tranches that also meet additional requirements in order to minimise risks.

(7) The entry into application of the revised framework should not adversely affect the existing investments in securitisation, in particular for those institutional investors which have maintained some investments despite the financial crisis. Therefore, transitional measures should be laid down.

(8) In light of the application dates of Regulation (EU) 2017/2402 and Regulation (EU) 2017/2401 as well as the transitional provisions contained in those pieces of legislation, it is important to ensure that this Regulation becomes applicable on the same date, on 1 January 2019.

(9) Delegated Regulation (EU) 2015/35 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2015/35

Delegated Regulation (EU) 2015/35 is amended as follows:

(1) Article 1 is amended as follows:

(a) the following points 18a and 18b are inserted:

18a. "securitisation" means a transaction or scheme as defined in Article 2(1) of Regulation (EU) 2017/2402[(6)];

18b. "STS securitisation" means a securitisation designated "simple, transparent and standardised" or "STS" in accordance with the requirements set out in Article 18 of Regulation (EU) 2017/2402;;

(b) point 19 is replaced by the following:

19. "securitisation position" means a securitisation position within the meaning of Article 2(19) of Regulation (EU) 2017/2402;;

(c) the following point 19a is inserted:

19a. "senior securitisation position" means a senior securitisation position within the meaning of Article 242(6) of Regulation (EU) No 575/2013[(7)];;

(d) points 20 to 23 are replaced by the following:

20. "re-securitisation position" means an exposure to a re-securitisation within the meaning of Article 2(4) of Regulation (EU) 2017/2402;

21. "originator" means an originator within the meaning of Article 2(3) of Regulation (EU) 2017/2402;

22. "sponsor" means a sponsor within the meaning of Article 2(5) of Regulation (EU) 2017/2402;

23. "tranche" means tranche within the meaning of Article 2(6) of Regulation (EU) 2017/2402;;

(2) in Article 4, paragraph 6 is replaced by the following:

6. For the purposes of paragraph 5, the larger or more complex exposures of an undertaking shall include securitisation positions as referred to in Article 178(8) and (9) and re-securitisation positions.;

(3) Article 177 is deleted;

(4) Article 178 is replaced by the following:

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/1221. (See end of Document for details)*

Article 178

Spread risk on securitisation positions: calculation of the capital requirement

1 The capital requirement $SCR_{securitisation}$ for spread risk on securitisation positions shall be equal to the loss in the basic own funds that would result from an instantaneous relative decrease of $stress_i$ in the value of each securitisation position *i*.

2 The risk factor $stress_i$ shall depend on the modified duration denominated in years (dur_i). dur_i shall not be lower than 1 year.

3 Senior STS securitisation positions which fulfil the requirements set out in Article 243 of Regulation (EU) No 575/2013 and for which a credit assessment by a nominated ECAI is available shall be assigned a risk factor $stress_i$ depending on the credit quality step and the modified duration of the securitisation position *i*, as set out in the following table:

Credit quality step		**0**		**1**		**2**		**3**		**4**		**5 and 6**	
Duration (dur_i)	**$stress_i$**	**a_i**	**b_i**	**a_i**	**b_i**	**a_i**	**b_i**	**a_i**	**b_i**	**a_i**	**b_i**	**a_i**	**b_i**
up to 5	$b_i \cdot dur_i$	—	1,0 %	—	1,2 %	—	1,6 %	—	2,8 %	—	5,6 %	—	9,4 %
More than 5 and up to 10	$a_i + b_i \cdot (dur_i - 5)$	5,0 %	0,6 %	6,0 %	0,7 %	8,0 %	0,8 %	14,0 %	1,7 %	28,0 %	3,1 %	47,0 %	5,3 %
More than 10 and up to 15	$a_i + b_i \cdot (dur_i - 10)$	8,0 %	0,6 %	9,5 %	0,5 %	12,0 %	0,6 %	22,5 %	1,1 %	43,5 %	2,2 %	73,5 %	0,6 %
More than 15 and up to 20	$a_i + b_i \cdot (dur_i - 15)$	11,0 %	0,6 %	12,0 %	0,5 %	15,0 %	0,6 %	28,0 %	1,1 %	54,5 %	0,6 %	76,5 %	0,6 %
More than 20	$\min[a_i + b_i \cdot (dur_i - 20);1]$	14,0 %	0,6 %	14,5 %	0,5 %	18,0 %	0,6 %	33,5 %	0,6 %	57,5 %	0,6 %	79,5 %	0,6 %

4 Non-senior STS securitisation positions which fulfil the requirements set out in Article 243 of Regulation (EU) No 575/2013 and for which a credit assessment by a nominated ECAI is available shall be assigned a risk factor $stress_i$ depending on the

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credit quality step and the modified duration of the securitisation position *i*, as set out in the following table:

Credit quality step		**0**		**1**		**2**		**3**		**4**		**5 and 6**	
Duration (*dur*$_i$)	***stress*$_i$**	**a$_i$**	**b$_i$**	**a$_i$**	**b$_i$**	**a$_i$**	**b$_i$**	**a$_i$**	**b$_i$**	**a$_i$**	**b$_i$**	**a$_i$**	**b$_i$**
up to 5	$\min[b_i \cdot dur_i;1]$	—	2,8 %	—	3,4 %	—	4,6 %	—	7,9 %	—	15,8 %	—	26,7 %
More than 5 and up to 10	$\min[a_i + b_i \cdot (dur_i - 5);1]$	14,0 %	1,6 %	17,0 %	1,9 %	23,0 %	2,3 %	39,5 %	4,7 %	79,0 %	8,8 %	100,0 %	0,0 %
More than 10 and up to 15	$a_i + b_i \cdot (dur_i - 10)$	22,0 %	1,6 %	26,5 %	1,5 %	34,5 %	1,6 %	63,0 %	3,2 %	100,0 %	0,0 %	100,0 %	0,0 %
More than 15 and up to 20	$a_i + b_i \cdot (dur_i - 15)$	30,0 %	1,6 %	34,0 %	1,5 %	42,5 %	1,6 %	79,0 %	3,2 %	100,0 %	0,0 %	100,0 %	0,0 %
More than 20	$\min[a_i + b_i \cdot (dur_i - 20);1]$	38,0 %	1,6 %	41,5 %	1,5 %	50,5 %	1,6 %	95,0 %	1,6 %	100,0 %	0,0 %	100,0 %	0,0 %

5 Senior STS securitisation positions which fulfil the criteria set out in Article 243 of Regulation (EU) No 575/2013 and for which no credit assessment by a nominated ECAI is available shall be assigned a risk factor $stress_i$ depending on the modified duration of the securitisation position *i*, as set out in the following table:

Duration (*dur*$_i$)	***stress*$_i$**	**a$_i$**	**b$_i$**
up to 5	$b_i \cdot dur_i$	—	4,6 %
More than 5 and up to 10	$a_i + b_i \cdot (dur_i - 5)$	23 %	2,5 %
More than 10 and up to 15	$a_i + b_i \cdot (dur_i - 10)$	35,5 %	1,8 %
More than 15 and up to 20	$a_i + b_i \cdot (dur_i - 15)$	44,5 %	0,5 %