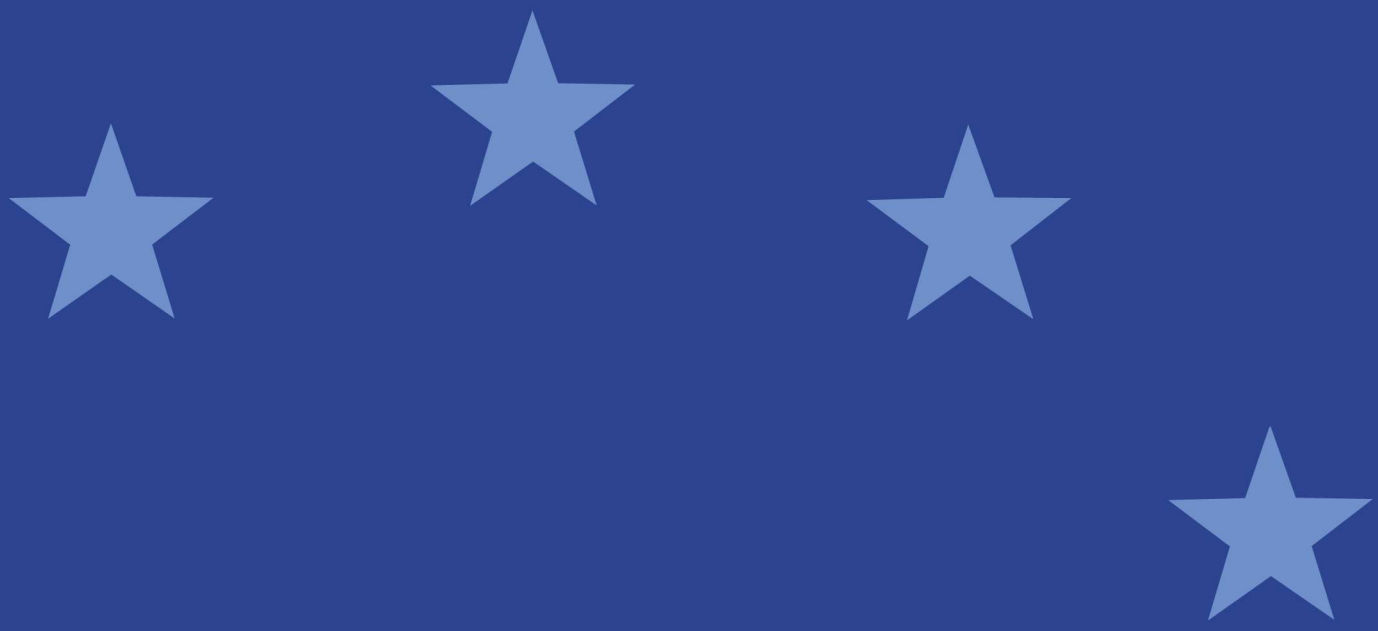
esma European Securities and Markets Authority

Final Report

Draft RTS on authorisation of firms providing STS verification services



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Abbreviations and acronyms

ABCP	Asset-Backed Commercial Paper
ABS	Asset-backed security
CBA	Cost-benefit analysis
EEA	European Economic Area
ESMA	European Securities and Markets Authority
ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, as amended.
EU	European Union
ITS	Implementing Technical Standards
LEI	Legal Entity Identifier
MiFiD II	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU
RTS	Regulatory Technical Standards
Securitisation Regulation	Regulation 2017/2402 of the European Parliament and of the Council laying down common rules on securitisation and creating a European framework for simple, transparent, and standardized securitisation and amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, and Regulations (EC) No 1060/2009 and (EU) No 648/2012
SSPE	Securitisation Special Purpose Entity
STS	Simple, Transparent and Standardised
URL	Uniform Resource Locator

1 Executive Summary

Reasons for publication

The European Securities and Markets Authority (ESMA) issued on 19 December 2017 a Consultation Paper (CP) on 'Draft technical standards on third-party firms providing STS verification services under the Securitisation Regulation' in order to fulfil certain requirements of the Securitisation Regulation. According to Article 28(4) of the Securitisation Regulation, ESMA is mandated to develop draft regulatory technical standards (RTS) covering the information to be provided by a third party firm seeking to be authorised by a competent authority, in order for that firm to be able to provide services relating to verifying a securitisation's compliance with 'Simple, Transparent, and Standardised' (STS) criteria. ESMA has to submit these draft standards to the Commission by 6 months from the date of entry into force of the Securitisation Regulation.

Contents

This Final Report provides an overview of the feedback to the CP received from stakeholders during the open public consultation and public hearing as well as the ESMA response to it. ESMA welcomes the predominant support on its approach outlined in the CP and the proposed requirements. Following the public consultation, ESMA further developed and clarified a small number of requirements of the draft RTS.

Section 2 of the Final Report includes the background for the RTS and a high-level overview of the comments received as well as ESMA's response to them.

Section 3 details the comments received on individual questions and ESMA's response to them. Where relevant, ESMA highlights the changes made to the draft RTS.

This final report is accompanied by Annexes that include the list of respondents, the cost-benefit analysis as well as the final draft RTS to be submitted to the European Commission.

Next Steps

These draft RTS are submitted to the European Commission for endorsement.

2 Background

1. Regulation (EU) 2017/2402 of the European Parliament and of the Council laying down common rules on securitisation and creating a European framework for simple, transparent, and standardized securitisation and amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU, and Regulations (EC) No 1060/2009 and (EU) No 648/2012 ('the Securitisation Regulation') was published in the Official Journal of the European Union on 28 December 2017.
2. As set out in the Securitisation Regulation, ESMA is obliged to submit, within six and twelve months after the entry into force of the Regulation, delegated acts to the European Commission ('the Commission') for adoption.
3. According to Article 28(4) of the Securitisation Regulation, ESMA is mandated to develop draft regulatory technical standards (RTS) covering the information to be provided by a third party firm seeking to be authorised by a competent authority, in order for that firm to be able to provide services relating to verifying a securitisation's compliance with STS criteria. The legal mandate is reproduced in Annex I.

Consultation Process

4. Article 10 of the ESMA Regulation[1] requires ESMA, where appropriate, to conduct open public consultations on draft technical standards, analyse the potential related costs and benefits, and request the opinion of the Securities Markets Stakeholders Group (SMSG).

5. ESMA's Consultation Paper (CP) on 'Draft technical standards on third-party firms providing STS verification services under the Securitisation Regulation'[2] was published on 19 December 2017 and the consultation period closed on 19 March 2018. ESMA received 7 responses from representatives of the banking and securitisation industry as well as prospective applicants. A detailed list of the respondents is provided in Annex II of this Report. The answers received on the CP are available on ESMA's website unless respondents requested their answers to remain confidential.

6. In addition, on 19 February 2018, ESMA together with the European Banking Authority (EBA) held a joint public hearing on the proposed delegated acts related to the new Securitisation Regulation. The public hearing included discussion on the proposed application requirements for the third-party seeking authorisation to provide STS assessment services.

7. While ESMA requested the opinion of the SMSG to the CP, the SMSG at its meeting on 8 February 2018 decided not to provide its formal opinion to this CP.

[1] Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)
[2] Consultation Paper, Draft technical standards on third-party firms providing STS verification services under the Securitisation Regulation, ESMA, Paris, 19 December 2017, ESMA33-128-108, https://www.esma.europa.eu/sites/default/files/library/esma33-128-108_consultation_paper_third-party_firm_sts_verification_application_0.pdf

8. The draft RTS has been developed on the basis of the requirements of the Securitisation Regulation, and was adjusted, where relevant, following the feedback received in the consultation process. The adjusted draft RTS is included in Annex IV of this Report.

Overall messages

9. Overall, the feedback received indicates positive response, supporting the proposed requirements related to the information to be provided for the authorisation of the third-party providing STS assessment services, as articulated in the CP. Almost all respondents supported the scope of the information to be provided for authorisation, while all respondents supported the ESMA approach related to outsourcing.

10. In particular, some respondents expressed their explicit support to the ESMA's premise that the starting point for the information to be required for the registration as a third-party certification agent is based on other similar regulatory regimes (such as those for the credit rating agencies or auditing firms). These respondents also supported the focus on regulatory issues that can stem from potential conflict of interest inherent in a party being paid by the entity whose work it verifies. This is especially critical as the work output is also used by others (similarly to credit rating agencies and audit firms).

11. On the other hand, one respondent considered that the level of information might be too onerous for a third-party certification agent given its limited role in the process and questioned whether the level of detail that needs to be supplied to the competent authority covering a wide range of areas would not discourage potential entrants to the market.

12. Furthermore, some respondents highlighted the need to explicitly consider that the majority of the prospective applicants are likely to be newly established companies. In particular, some of these respondents were concerned that a few requirements of the RTS would require information that cannot be available by the applicants at the time of the application.

13. One participant to the hearing questioned whether the requested information on geographical scope of activities would be a basis for assessing an application and how the competent authority would handle changes to the scope of product offerings at a date subsequent to when authorisation was provided.

14. Finally, a few respondents also provided technical clarifications and suggestions to the proposed RTS which are further discussed in Section 3 of this Report.

ESMA response

15. ESMA understands that some of the proposed requirements might be more difficult to fulfil for some of the applicants, notably in the case of newly established entities. However, the information required by the draft RTS is, in ESMA's view, necessary to comprehensively identify the applicant and to enable the competent authority to assess whether the specific criteria for granting authorisation for the third-party certification agent applicant as stipulated in Article 28 of the Securitisation Regulation are met. In particular, ESMA reiterates that sufficient information is necessary to be provided on the controls and

safeguards that aim to ensure independence of the STS assessment process and verification result that is free from interference and potential for the conflict of interest that might be inherent in the nature of the work of the third-party certification agent.

16. In light of these considerations, ESMA concluded that the majority of the proposed requirements are proportionate for all applicants and decided to retain its initial approach outlined in the CP. However, ESMA decided to clarify that the requirements apply to the newly established companies only to the extent such information exists, leading to the clarification or removal of certain requirements.

17. ESMA also decided to enhance the link between the individual requirements of Article 28(1) of the Securitisation Regulation. This has led to restructuring of some of the proposed draft RTS articles and different locations of the individual requirements between the CP and the Final Report, thus reducing possible overlap between them. Furthermore, ESMA considered the distinction between STS assessment and STS verification. While these two concepts are very close, ESMA considers that the verification can be considered as the outcome of the assessment process. Consequently, for the purposes of clarity and consistency, ESMA decided to refer in the RTS to 'STS assessment services'.

18. Finally, ESMA highlights that the mandate given to ESMA to develop this RTS is limited to the information to be provided by the third-party applicant in its application for authorisation, and therefore could not deal with the verification of the authorisation criteria in Article 28 of the Securitisation Regulation or verification of changes to the authorisation criteria by the competent authorities subsequent to granting the authorisation.

3 Feedback received on the CP and ESMA's response

19. Among the responses, ESMA received 2 letters from representatives of the banking industry that did not answer the detailed questions of the CP. These responses agreed with the proposals and the ESMA approach outlined in the CP.

20. The following sub-sections provide a summary of the responses for each question raised, by identifying the main comments from the respondents and ESMA's view on those responses, together with changes to the draft RTS, where appropriate.

Question 1: Do you agree with the proposed general information to be required from applicants to provide third-party STS verification services? Are there any other items that should be considered?

Number of respondents	Other financial services providers/prospective applicants	Securitisation industry representation body
5	3	2

21. The majority of respondents agreed with the proposed requirements related to general information. One respondent considered that the proposed information requirements might be too onerous (both in the level of detail and areas to be covered) and this might discourage entrants to the market. Furthermore, two respondents provided specific comments.

22. One respondent disagreed with the statements in paragraphs 11 and 12 of the CP suggesting that the complexities and differences between securitisation transactions in different jurisdictions and/or different underlying exposures should lead the prospective third party certification agent to provide information as to which Member States it wishes to operate in and which underlying exposures it wishes to certify. In the view of this respondent while the verification of the STS status of securitisations will require a deep knowledge of securitisation structures and documents, unlike rating processes it might not require a deep knowledge of the asset being securitised and the jurisdictional rules governing that asset. Consequently, this respondent asserted that the likely competency of an STS third party certification agent might not differ by jurisdiction and underlying exposure.

23. Using the same argument, this respondent believed that despite the difference in the articulation of the STS criteria between ABCP and non-ABCP transactions, there is no material difference in the work that needs to be performed by a third party certification agent or the skill set that it needs to bring.

24. Finally, another respondent suggested that the annual financial statements required by the applicant should cover an extended period set by the RTS (e.g. 5 years) rather than only referring to the most recent annual financial statements. In the view of this respondent, this would give a better overview of the applicant, and, it could show, for instance, how and why certain criteria have been changed through time and it could also help to confirm any other required information.

ESMA response

25. ESMA highlights that the areas to be covered by the information to be provided to the competent authority by the third-party applicant are determined by the authorisation requirements enumerated in Article 28(1) of the Securitisation Regulation. However, ESMA considered that similar general information are the minimum common basis normally required from all applicants that wish to undertake specialised activities subject to authorisation in the financial sector.

26. With regards to the level of details to be provided, ESMA assessed whether all the general information is necessary to enable the competent authorities to assess whether the authorisation criteria in Article 28(1) of the Securitisation Regulation are met. Following such assessment, ESMA considers that the proposed requirements are proportionate, and necessary for competent authorities to assess the authorisation criteria as stipulated by the Securitisation Regulation.

27. With regards to differences between securitisations containing different underlying exposures, leading the prospective third party certification agent to provide different information disaggregated by underlying exposure, ESMA accepts that the disaggregation between individual underlying exposures might be too granular for the purposes of the application. While the procedures and processes of the third party applicant might not be different for many of the STS criteria, assessment of some of them require a specific level of expertise. Consequently, ESMA decided to remove the explicit information on the different underlying exposures for which the third party applicant intends to provide STS assessment services but retained this information requirement in the section requiring information on the relevant expertise of the members of the management body.

28. On the other hand, ESMA continues to consider that explicit information on whether the applicant plans to provide STS assessment services for longer-term (i.e. non-ABCP) securitisation transactions and/or short term (i.e. ABCP) securitisations (required under Article 2(1)(j), Article 3(4)(e) and Article 6(1)(a) of the draft RTS) is useful for the competent authority. The Securitisation Regulation distinguishes between STS criteria for non-ABCP securitisation and those for ABCP securitisation that focus on the distinction between transaction, sponsor and programme level criteria. In addition, the ABCP criteria include some additional criteria that are not found in the STS criteria for non-ABCP securitisation. This approach is consistent with the approach adopted in the Draft RTS on STS Notification[3] and in the two EBA draft Guidelines on the STS criteria.[4,5] Consequently, ESMA decided to retain the disaggregation requirements by different types (ABCP/non-ABCP) of securitisations in the draft RTS.

29. Furthermore, ESMA notes that the third party applicant, once authorised by the competent authority in its Member State will benefit from the freedom to provide services across the European Union. While the Securitisation Regulation does not explicitly identify the competent authority which the applicant should ask for authorisation to provide the STS assessment services, ESMA considers, that for the clarity and avoidance of 'authorisation shopping', the respective competent authority should be the competent authority in the Member State in which the applicant is established. In this context, ESMA considers that the information on the Member States where the applicant intends to provide its services is important for the competent authority to assess the scope of the proposed activities and adequacy of the expertise and operational safeguards. Consequently, ESMA decided to retain the proposed requirement to provide information on jurisdictions in which the applicant plans to provide its STS verification services. ESMA also considers that the effort to provide such information would not be disproportionate as this information should be readily available.

30. ESMA considers that the requirement to provide the most recent financial statements strikes the right balance between the information required to assess the application and

[3] Consultation Paper, Draft technical standards on content and format of the STS notification under the Securitisation Regulation, ESMA33-128-33, 19 December 2017
[4] Consultation Paper, Draft Guidelines on the STS criteria for non-ABCP securitisation, EBA/CP/2018/05, 20 April 2018
[5] Consultation Paper, Draft Guidelines on the STS criteria for ABCP securitisation, EBA/CP/2018/04, 20 April 2018

the relevance of historical information. ESMA also highlights that a number of respondents highlighted that most of the applicants are likely to be newly established entities. Consequently, ESMA decided not to change the provisions requiring only the most recent annual financial statement to be provided.

Question 2: Do you agree with the proposed information required from applicants on their pricing policies? Are there any other items that should be considered to determine that fees are non-discriminatory and cost-based, and not differentiated depending on the results of the applicant's STS assessment?

Number of respondents	Other financial services providers/prospective applicants	Securitisation industry representation body
5	3	2

31. All respondents agreed with the proposed information required from applicants on their pricing policies. However, two respondents requested additional clarification on (i) definition of non-discriminatory and cost-based fees; on (ii) how costs, including initial costs/profit margins should be addressed and on (iii) permissible fee structures.

32. In the view of one of these respondents, the pricing model should be based on a fixed fee that covers the imputed standard expenditure involved in the verification of a transaction. However, as in complex structures, the work involved in the verification cannot be estimated until the STS assessment is underway and thus involve varying levels of effort, the pricing model should provide scope for cases in which the objectively reported actual effort of verification exceeds the calculated standard effort of the third-party certification agent. This respondent suggested further clarification of treatment of specific additional costs (such as travel and overnight expenses).

33. In addition, this respondent suggested that a differentiation of the pricing model based on the result of the verification should be ruled out on the basis of the third party's general terms and conditions.

ESMA response

34. While ESMA would welcome additional clarity on the definition of non-discriminatory and cost-based fees, ESMA considers that detailed clarification of the definitions of cost-based fees, profit margins, fee structures or their composition would be outside of its legal mandate for this draft RTS. ESMA notes that its mandate is limited to the information to be provided by the third-party applicant in its application for authorisation, and cannot include clarification on the authorisation criteria in Article 28(1) of the Securitisation Regulation.

35. ESMA highlights that the objective of providing information on the price and fee structure is to provide information on fees in a transparent and understandable manner and enable the competent authority to assess whether the design of the price structure could enable differentiation of fees on the basis of the result of the verification. ESMA is of the view that

the requirements of the draft RTS are sufficient in this respect, taking into account the requirements of the Securitisation Regulation. Taking into account the text of the Securitisation Regulation, ESMA does not consider it to be proportionate to design the appropriate price structure for the prospective certification agents. Consequently, ESMA decided to retain its approach from the CP. However, ESMA agrees that the pricing policies should be clear on the treatment of additional incidental expenses such as travel and overnight expenses. Therefore, a requirement to provide the policy regarding these additional costs was included in the draft RTS.

Question 3: Do you agree with the proposed information required to assess the independence of a firm seeking authorisation to provide STS verification services? Are there other items that should be considered for this assessment?

Number of respondents	Other financial services providers/prospective applicants	Securitisation industry representation body
5	3	2

36. All respondents agreed with the proposed information required to assess the independence of a firm. However, two respondents highlighted that for a newly established entity some historical information (such as information on other activities and concentration of revenue) will not be available.

37. One respondent highlighted that the obligation to maintain independence should be an integral part of the work contracts with the managing director of the third-party company, other board members and all employees.

38. Finally, this respondent asserts with regards to the dependence on individual customers, that the boundaries should not be drawn too tightly as such approach would prevent specialisation of the third-party certification agents. In their view, the specialisation of a third party on certain transactions (such as e.g. transactions with auto loans and auto leasing as underlying) would automatically restrict the circle of customers. Such specialisation, however, in the view of the respondent would benefit the quality of the verification to be performed. The respondent therefore holds the view that the independence should be reflected primarily in the company's governance.

ESMA response

39. Responding to the feedback received, ESMA decided to clarify the draft RTS that historical information on concentration of revenue are required over a three-year period or over a shorter period since the incorporation of the applicant.

40. While ESMA agrees that the obligation to maintain independence of all members of the management body and all employees should be legally enforceable, it would seem disproportionate to mandate the document where such obligation should be included. ESMA notes that the draft RTS require the third-party verification agent applicant to submit

to the competent authority policies and procedure ensuring independence of all the members of the management body and of all employees.

41. With regards to the dependence on individual customers, ESMA notes that the draft RTS proposed in the CP required the applicant to provide information on the concentration of revenue from a single undertaking or a group of economically connected undertakings, representing more than 5% of total revenue over the three-year period (or a shorter period since incorporation). ESMA notes that the objective of requiring such information was to enable the competent authority to assess the level of policies and procedures related to the management of the potential conflicts of interests and applicable operational safeguards.

42. As ESMA considered that this information together with information on governance arrangements of the applicant would be necessary for the competent authorities to assess independence of the applicant, it decided to retain the rationale of the proposed requirements. However, based on the feedback received, taking into account the principle of proportionality, ESMA increased the threshold for identification concentration of revenue from a single undertaking or a group of economically connected undertakings from 5% to 10%. ESMA also clarified the requirements for identification of concentration of revenue from a single undertaking or a group of economically connected undertakings based on historical financial information and based on projections.

Question 4: Do you agree with the proposed information required to assess the applicant's management body, as well as the independent directors? Are there other items that should be considered for this assessment?

Number of respondents	Other financial services providers/prospective applicants	Securitisation industry representation body
5	3	2

43. All respondents agreed with the proposed information required to assess the applicant's management body and independent directors. One respondent suggested that the draft RTS clarifies that the criteria presented should apply uniformly to all members of both the management board and the supervisory board, if a two-tier management system is used.

ESMA response

44. ESMA notes that the definition of the management body in the context of an investment firm, market operator or data reporting services provider is included in point 36 of Article 4(1) of MiFiD II and the definition of the independent members of the management body in the context of the management company and the depositary is included in

Article 24(2) of the UCITS Delegated Regulation.[6] ESMA considers that this definition of the management body that the draft RTS relies upon caters for different corporate and management structures. ESMA agrees that the proposed requirements related to the independent directors apply, in case of a two-tier management system, to both management and supervisory boards. However, in order to improve clarity of the legal text, ESMA included the respective definitions in the legal text and adapted their wording for the purposes of the third party providing STS assessment services.

Question 5: Do you agree with the proposed information required to assess the presence of existing or potential conflicts of interest? Are there other items that should be considered for this assessment?

Number of respondents	Other financial services providers/prospective applicants	Securitisation industry representation body
5	3	2

45. All respondents agreed with the proposed information required to assess the presence of existing or potential conflicts of interest. One respondent highlighted that the shareholders should have no power to intervene in the third party company's verification process and results.

ESMA response

46. ESMA highlights that any actual or potential conflicts of interest involving shareholders should be included in an up-to-date inventory of actual and potential conflicts required by the draft RTS. Furthermore, ESMA notes that the draft RTS requires the applicant to provide summary of the policies and procedures with regards to the internal controls over the independence and operational safeguards of the STS assessment process. ESMA considers these requirements sufficient to provide the competent authorities information to assess whether appropriate safeguards exist to ensure the integrity of the STS assessment process and its results.

Question 6: Do you agree with the proposed information required to assess the third party firm's operational safeguards and internal processes for assessing STS compliance? Are there other items that should be required in the application?

Number of respondents	Other financial services providers/prospective applicants	Securitisation industry representation body
5	3	2

[6] Commission Delegated Regulation (EU) 2016/438 of 17 December 2015 supplementing Directive 2009/65/EC of the European Parliament and of the Council with regard to obligations of depositaries (OJ L 78, 24.3.2016, p. 11–30)

47. All respondents agreed with the proposed information required to assess firm's operational safeguards and internal processes for assessing STS compliance.

48. One respondent noted that paragraph 37 of the CP refers to a "summary of methodologies to be used for [the] STS verification" differentiated by underlying exposure. This respondent asserted that the work of a third party certification agent is like that of an auditor, verifying the originator/sponsors' existing documentation and certification and thus concluded that there is no "methodology" to be used. This respondent expressed its concerns that the reference to methodologies aims to introduce a regulatory regime similar to that of credit rating agencies. Consequently, this respondent suggested to replace "methodologies" with "processes and procedures" and removing the suggestion that different securitisation types be treated differently.

ESMA response

49. ESMA notes that the reference to the methodology is not limited to the regulatory regime of the credit rating agencies. ESMA agrees that the work of the third-party certification agent might be in some respect similar to the work of an external auditor. In this respect ESMA highlights that external audit has also to follow its methodology (see e.g. requirements of Articles 11(2)(g) and 26(7) of the Audit Regulation[7] that require the statutory auditor to "describe the *methodology* used" in its report to the audit committee and require the competent authority to "periodically review the *methodologies* used by statutory auditors and audit firms to carry out statutory audits"). Consequently, ESMA disagrees that there should be no *methodology* related to the performance of the third-party verification services. However, in order to avoid ambiguity in the terms used, responding to the comments raised, ESMA adjusted the wording of the draft RTS to refer to the "STS assessment methodology" and explained its scope in the recital of the draft RTS. For disaggregation of information by different type of securitisation see ESMA response to Question 1.

[7] Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities (OJ L 158, 27.5.2014, p. 77–112)

4 Annexes

4.1 Annex I Legislative mandate to develop technical standards

Article 28(4) of the Securitisation Regulation:

ESMA shall develop draft regulatory technical standards specifying the information to be provided to the competent authorities in the application for the authorisation of a third party in accordance with paragraph 1.

ESMA shall submit those draft regulatory technical standards to the Commission by six months after entry into force of this Regulation.

The Commission is empowered to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

4.2 Annex II List of respondents to the CP

	Banking industry representative bodies
1.	Austrian Federal Economic Chamber, Division Bank and Insurance
2.	European Savings and Retail Banking Group (ESBG)
	Financial services providers/Potential applicants
3.	Arfima Financial Solutions
4.	Prime Collateralised Securities (PCS)
5.	True Sale International GmbH
	Securitisation industry representative bodies
6.	Dutch Securitisation Association
7.	Irish Debt Securities Association (IDSA)

4.3 Annex III Cost-benefit analysis

4.3.1 Introduction

50. As discussed in section 2.1, the Securitisation Regulation tasks ESMA with developing RTS on the information to be provided by a third-party firm seeking to be authorised with a competent authority, in order for that firm to be able to provide services relating to verifying a securitisation's compliance with the STS criteria. As part of its mandate to conduct an analysis of the costs and benefits of this proposed RTS, ESMA has published a preliminary cost-benefits analysis in the CP. Summary of the views from market participants received in the consultation process is included in section 4.3.4.

51. ESMA is of the view that the proposed draft RTS are purely technical and do not imply strategic decisions or major policy choices. Indeed, ESMA considers that its options are limited to its specific narrow mandate for drafting these particular RTSs, and the need to ensure compliance with the objectives set out in Securitisation Regulation. Consequently, the assessment is limited only to the extent of information that is necessary to enable the competent authorities to evaluate whether the applicant fulfils the requirements under the Article 28(1) of the Securitisation Regulation. The main policy decisions taken under the Regulation have already been assessed and published by the European Commission in its own impact assessment work[8].

52. ESMA furthermore recalls that it has a mandate to conduct a cost-benefit analysis (CBA) on Level 2 requirements (i.e. these draft RTSs), and not Level 1 (i.e. the Securitisation Regulation). However, ESMA understands that, as with many other CBAs of RTSs in other areas under ESMA's remit, it is sometimes difficult, including for CBA survey respondents, to clearly distinguish between the costs imposed by Level 2 compared to Level 1 rules.

53. The following section reflects the key issues carrying, in ESMA's view, different options for implementation. ESMA also included a specific question related on the options for information related to the outsourcing of activities of the applicant.

4.3.2 Scope of information to be submitted to the respective competent authorities

54. The draft RTS require a substantial amount of information to be provided to the respective competent authorities. Generally speaking, from ESMA's perspective this reflects an orientation to obtain, ex ante, information on many aspects of the applicant's business necessary to evaluate the application and compliance of the applicant with the requirements of Article 28(1) of the Securitisation Regulation. ESMA has analysed 3 different options which could achieve the objective set out in the Securitisation Regulation with respect to authorisation of third parties.

[8] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015SC0185&from=EN

Objective	*Obtaining sufficient information to assess the application to be authorised as a third party verifying a securitisation's compliance with the STS criteria*
Option 1	Specify limited information requirements in the draft RTS, providing a wide margin of flexibility to the competent authorities to define the information requirements by the applicants ("minimum harmonisation option")
Option 2	Specify comprehensive information requirements in the draft RTS, which, while harmonising most of the requirements, retains a small degree of flexibility for the competent authorities to request information necessary to assess the application ("flexible harmonisation option")
Option 3	Specify harmonised comprehensive information requirements in the draft RTS, including a harmonised template. Setting out such an exhaustive list of information requirements would not permit any deviation by any competent authority when assessing the application. ("maximum harmonisation option")
Preferred option	**Option 2: Flexible harmonisation option** Despite the slightly higher up-front effort required from applicants as compared with the minimum harmonisation option, ESMA is of the view that it is preferable to request a relatively comprehensive set of information at the outset in the present RTS. ESMA prefers this proposed approach in order to minimize the risk of time-consuming (and costly) exchanges for supplementary information between competent authorities and the applicant. This approach also strikes the balance between ensuring a level playing field for new entrants/applicants and overburdening them with a fixed application form. In ESMA's view such approach also provides the right balance between the clarity for already-authorised third-parties seeking to understand the requirements expected of them and the fact that the supervision of the applicant remains at the national level.

Option 1	*Specify limited information requirements in the draft RTS* ("minimum harmonisation option")
Benefits	• Potentially lower up-front cost for applicants, depending on the assessment of the criteria in Level 1 by NCAs • Full flexibility of the competent authorities to request information from applicants
Costs	• Higher potential costs for competent authorities and applicants due to additional efforts required when requesting supplementary information to be provided. • Risk of uneven playing field developing, as this option makes it more challenging for competent authorities to ensure consistency in their review of applications over time and for ESMA to ensure supervisory convergence and a consistent application of the requirements.

Option 2	*Specify requirement for a set of information in the draft RTS subject to possible adjustments ("flexible harmonisation option")*

Benefits	• Lower potential costs for competent authorities and applicants arising from the expected need for fewer repeated exchanges between competent authorities and the applicant, specifying supplementary information to be provided. • This option offers relatively lower flexibility for competent authorities, but still provides them with a certain discretion to supplement the minimum list set out in the RTS to address any specific circumstances of the applicant, thus providing better understanding of the compliance with requirements that were harmonised.
Costs	• Potentially higher up-front cost for applicants to prepare the minimum information that were defined in the RTS relative to Option 1.

Option 3	*Specify comprehensive harmonised information requirements in the draft RTS to be provided in a template ("maximum harmonisation option")*
Benefits	• This option ensures a common understanding and in-depth knowledge of the information requirements by all the stakeholders. • This approach would ensure maximum harmonisation across the EU.
Costs	• Depending on the type of applicant and its activities, the list might be too cumbersome if no flexibility is provided, resulting in unnecessary information and excessive costs for the applicant (i.e. this option might not be proportional for the nature of activities of the third-party verifying the STS criteria). • Higher up-front costs for the applicants to use the harmonised template, potential higher up-front cost for the competent authorities to collect information that is not used in the assessment process.

4.3.3 Assessment of the extent of outsourcing of activities

55. The draft RTS requires the applicant to provide information in relation to outsourcing contracts when the applicant establishes such contracts in relation to the STS verification activity. The following options have been considered when drafting the relevant section of the proposed RTS.

Objective	*Obtaining necessary information as regards the applicant's operational safeguards and internal processes*
Option 1	Do not explicitly include information on outsourcing arrangements.
Option 2	Explicitly include information on outsourcing arrangements.
Preferred option	**Option 2:** Third parties applying to provide STS verification services may find it cost effective to outsource a number of functions, including performing a detailed examination of the underlying transaction. In this context, ESMA considers that this information is pertinent to assessing the operational safeguards of the applicant to provide the STS verification services as well

	as evaluate potential conflicts of interest.

Option 1	*Do not include information on outsourcing arrangements*
Benefits	• Lower initial amount of information must be gathered and communicated by applicants, potentially leading to additional interest in applying.
Costs	• Less clarity on operational safeguards and conflicts of interest. • Possibly greater ex-post efforts required from applicants if respective competent authority seeks to obtain further information on a specific application.

Option 2	*Include information on outsourcing arrangements*
Benefits	• Greater clarity on operational safeguards and the potential conflicts of interest. • Possibly lower ex-post effort required from applicants if the responsible competent authority seeks to obtain further information on a specific application (leading also to higher overall application assessment costs for the competent authority). • Clearer set of requirements, thus facilitating applicants' initial efforts for preparing application materials.
Costs	• Possibly greater up-front costs for applicants to prepare the necessary application materials.

4.3.4 Results of the public consultation

56. The three respondents (all of them prospective applicants or other financial services providers) to the CP questions on the CBA agreed with ESMA's preliminary analysis on the main costs and benefits of (i) the information to be submitted to the respective competent authorities and, specifically (ii) the information on the extent of outsourcing of the activities of the applicant applying for providing the STS verification services as well as ESMA's proposed approach.

57. All respondents suggested that at this stage it is very difficult to assess these costs. One respondent provided their view on the costs involved in commissioning verification of the STS criteria and ongoing costs of operations incurred by the third party in the STS assessment process. However, when providing this overview this respondent did not

provide any quantitative estimate of the costs associated with providing the information required by the draft RTS to the respective competent authority.

ESMA response

58. ESMA notes that the assessment of the costs involved in commissioning verification of the STS criteria and ongoing costs of operations incurred by the third party in the STS assessment process are outside of scope of this cost-benefit analysis as they focus on cost and benefits of the requirements of Level 1.

59. In light of the stakeholder's responses to the preliminary cost-benefit analysis, ESMA did not make any significant changes to the preliminary cost-benefit analysis presented in the CP.

4.4 Annex IV Draft RTS

[Draft] Regulatory Technical Standards on information to be provided in the application for the authorisation of a third party verifying STS compliance

Draft

COMMISSION DELEGATED REGULATION (EU) …/..

supplementing Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 with regard to regulatory technical standards specifying information to be provided to a competent authority in an application for authorisation of a third party assessing STS compliance

of […]

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012[9], and in particular Article 28(4) thereof,

Whereas:

1. This Regulation specifies the information that should be provided to the competent authority in an application for authorisation by a third party intending to assess the compliance of securitisations with the STS criteria laid down in Articles 19 to 22 and Articles 23 to 26 of Regulation (EU) 2017/2402. This specification of the information required promotes a common and consistent process throughout the Union. The respective competent authority is the authority in the Member State in which the applicant is established.
2. The information to be provided by the applicant in an application for authorisation as a third party should be sufficient to enable the competent authority to evaluate whether and to what extent the applicant meets the conditions of Article 28(1) of the Regulation (EU) 2017/2402.
3. Once authorised, the applicant will be able to provide STS assessment services across the European Union. Accordingly, the application for registration shall comprehensively identify the applicant, any group to which it belongs as well as the scope of its existing

[9] OJ L 347, 28.12.2017, p. 35–80

activities. With regards to the STS assessment services to be provided, the application shall include the envisaged scope of the services to be provided as well as their geographical scope.

4. It will facilitate the effective use of a competent authority's authorisation resources if the application for registration includes a table clearly identifying each submitted document and its relevance to the conditions that must be met for authorisation to the granted.

5. The content of the application should be adequate to enable the competent authority to assess whether the fees charged by the third party are non-discriminatory and are sufficient and appropriate to cover its costs in providing the STS assessment services. In order to enable the competent authority to assess whether the fees meet the conditions in the Regulation (EU) 2017/2402, this Regulation requires the applicant to provide comprehensive information on pricing policies, pricing criteria, fee structures and fee schedules.

6. An applicant for authorisation as a third party providing STS assessment services should provide information on the structure of its internal controls in order to enable the competent authority to assess whether they ensure the integrity and independence of the STS assessment process. This Regulation also requires comprehensive information on the composition of the management body and on the qualifications and repute of each of its members in order to assess whether these are adequate for the task of the third party. This information is also necessary to enable the competent authority to assess the quality of the operational safeguards over the STS assessment process which needs to be sufficient to ensure that its results cannot be unduly influenced.

7. Securitisation instruments are complex, evolving products that require specialised knowledge. For the competent authority to be able to assess whether the applicant has sufficient operational safeguards and internal processes to enable it to assess STS compliance, it is important for the applicant to provide information on its procedures relating to the required qualification of its employees. The applicant should also provide information that demonstrates its STS assessment methodology is sensitive to the type of securitisation (i.e. specifying separately procedures and safeguards for ABCP transactions/programmes and/or non-ABCP securitisations).

8. The use of outsourcing arrangements and a reliance on the use of external experts could raise concerns about the robustness of the operational safeguards and internal processes. Consequently, specific information shall be provided as part of the application on the nature and scope of any such outsourcing arrangements or use of external experts as well as the third party's governance over those arrangements.

9. This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission.

10. ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established by Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council.

HAS ADOPTED THIS REGULATION:

Article 1

General provisions

1. For the purposes of this Regulation, the following definitions shall apply:

   (a) 'management body' of a third party means the body or bodies of a third party, which are appointed in accordance with national law, which are empowered to set the entity's strategy, objectives and overall direction, and which oversee and monitor management decision-making and include persons who effectively direct the business of the entity;

   (b) 'independent directors' mean those directors that are neither directors, members of the management body nor employees of any of the other undertakings within the group and are free of any business, family or other relationship with the third party and any other undertaking within the group that gives rise to a conflict of interest such as to impair their judgment.

2. An applicant shall give a unique reference number to each document it submits. The applicant shall complete and submit the table set out in Annex 1 as part of its application.

3. Where an applicant considers that a requirement of this Regulation is not applicable to it, it shall provide an explanation why the respective requirement does not apply.

4. The application shall be accompanied by a letter signed by a responsible member of the applicant's management body stating that,

   (a) the submitted information is accurate and complete to the best of their knowledge and belief, as of the date of the submission of the application; and

   (b) the applicant is neither a regulated entity as defined in point 4 of Article 2 of Directive 2002/87/EC[10] nor a credit rating agency as defined in point (b) of Article 3(1) of Regulation (EC) No 1060/2009.[11]

Article 2

Identification of the applicant

1. The application for authorisation as a third party providing STS assessment services shall

[10] Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1).

[11] Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009, p. 1).

contain the following information, to the extent relevant:

(a) the corporate name of the applicant and its legal form;

(b) the applicant's Legal Entity Identifier (LEI) or, if not available, another identifier required in accordance with the applicable national law;

(c) the applicant's legal address as well as the addresses of any other offices within the Union;

(d) the Uniform Resource Locator (URL) of the applicant's website;

(e) an excerpt from a relevant commercial or court register, or other forms of certified evidence, of the place of incorporation and scope of business activity of the applicant, valid at the application date;

(f) the articles of incorporation or where relevant, other statutory documentation stating that the applicant is to conduct STS assessment services;

(g) a complete set of the most recent annual financial statements of the applicant, including individual and consolidated financial statements, where available; and where the financial statements of the applicant are subject to statutory audit within the meaning given by Article 2(1) of Directive 2006/43/EC[12], the audit report on these financial statements;

(h) the name, title, address, e-mail address and the telephone number(s) of the contact person for the purposes of the application;

(i) the list of Member States in which the applicant intends to provide STS assessment services;

(j) the list of types of securitisation for which the applicant intends to offer STS assessment services (i.e. distinguishing between non ABCP securitisations and ABCP securitisations/programmes);

(k) a description of any services, other than the third party STS assessment services, that the applicant provides or intends to provide, whether or not these are subject to authorisation or regulation; and

(l) a list of parties to whom the applicant currently provides advisory, audit or equivalent services.

[12] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p.87).

2. Documentation attached to the application shall contain:

   (a) a list containing the name and business address of each person or entity who holds 10% or more of the applicant's capital or of its voting rights or whose holding makes it possible to exercise otherwise a significant influence over the applicant, together with:

      i. the percentage of the capital and voting rights held, together with, where applicable, a description of the arrangements allowing the person or entity to exercise a significant influence over the applicant's management; and

      ii. the nature of the business activities of the entities referred to in point (a);

   (b) a list containing the name and business address of any undertakings in which a person referred to in point (a) holds 20% or more of the capital or voting rights, together with the description of their business activities.

3. Where the applicant has a parent undertaking, the application shall indicate whether the immediate parent undertaking, and/or ultimate parent undertaking, is authorised or registered or subject to supervision, and when this is the case, state any associated reference number and the name of the responsible supervisory authority.

4. Where the applicant has subsidiaries or branches, the application shall identify their names and business addresses and shall describe the areas of business activities of each subsidiary or branch.

5. The application shall include a chart showing the ownership links between the applicant, its parent undertaking and ultimate parent undertaking, subsidiaries, affiliates as well as any other entities associated or connected in a network as defined in point 7 of Article 2 of Directive 2006/43/EC[13]. The undertakings shown in the chart shall be identified by their full name, LEI (or, if not available, another identifier required in accordance with the applicable national law), legal form and business address.

Article 3

Composition of the management body and the organisational structure

1. The application shall include the applicant's internal governance policies and the terms of procedure which govern its management bodies, independent directors and, where

[13] Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p.87)

established, committees or substructures of its management bodies.

2. The application shall describe the composition of the management body, identifying its members, and, if applicable, the composition of committees or other substructures set-up within the management body. Independent directors shall be identified separately. For each member of the management body, including independent directors, the application shall describe the position held within the management body, the responsibilities allocated to that position and the time needed to fulfil them.
3. The application shall contain an organisational chart detailing the organisational structure of the applicant that clearly identifies both significant roles and the member or members of the management body responsible for each significant role. In case the applicant provides or intends to provide other services than the STS assessment services, the organisational chart shall also detail the identity and responsibility of the members of the management body in respect of those services.
4. The application shall contain the following information in respect of each member of the management body:
   (a) a copy of their curriculum vitae that includes
      i. an overview of the members post-secondary education;
      ii. the member's complete employment history with relevant dates, positions held and a description of the positions occupied; and
      iii. any professional qualification held by the member, together with the date of acquisition and, if applicable, the status of any membership in a relevant professional body;
   (b) details of any criminal convictions, in particular in the form of an official criminal record certificate;
   (c) a declaration signed by the respective member, that states whether he/she:
      i. has been subject to an adverse decision in any proceedings of a disciplinary nature brought by a regulatory authority, government body, or agency;
      ii. has been subject to an adverse judicial finding in civil proceedings before a court, including for impropriety or fraud in the management of a business;
      iii. has been part of the management body (board or senior management) of an undertaking whose registration or authorisation was withdrawn by a regulatory authority, government body, or agency;
      iv. has been refused the right to carry on activities which require registration or

authorisation by a regulatory authority, government body, or agency;

v. has been part of the management body of an undertaking that went into insolvency or liquidation while they were part of its management body or within a year of them ceasing to be so;

vi. has been part of the management body of an undertaking which was subject to an adverse decision or penalty by a regulatory authority, government body, or agency;

vii. has been disqualified from acting as a director, disqualified from acting in any managerial capacity, dismissed from employment or other appointment in an undertaking as a consequence of misconduct or malpractice;

viii. has been otherwise fined, suspended, disqualified, or been subject to any other sanction, including in relation to fraud or embezzlement by a regulatory authority, government body, agency, or professional body; and

ix. is subject to any current investigation, or pending judicial, administrative, disciplinary or other proceedings, including relation to fraud or embezzlement by a regulatory authority, government body, agency, or professional body.

(d) a signed declaration of any potential conflict of interest that the member of the management body may have in performing their duties and how these conflicts are managed. This declaration should include an inventory of any positions held in other undertakings, including as independent directors; and

(e) unless included in point (a), a description of the member's knowledge of and experience in the tasks relevant for the applicant's provision of STS assessment services, and in particular, knowledge of and experience in different types of securitisation or securitisations of different underlying exposures.

5. The application shall contain the following additional information in respect of each independent director:

(a) details of the director's independence within the management body;

(b) information on any past or present business, employment or other relationships that creates or might create a potential conflict of interest; and

(c) information on any business, family or other relationship, with the third-party applicant, its controlling shareholder or the management of either, that creates or might create a potential conflict of interest.

Article 4

Corporate governance

1. Where the applicant adheres to a recognised corporate governance code of conduct, in respect of the nomination and the role of the independent directors and the management of conflicts of interest, the application shall identify the code and provide an explanation of any situations where the applicant deviates from the code in those respects.

Article 5

Independence and avoidance of conflicts of interest

1. The application shall contain detailed information relating to the applicant's internal control systems with regards to the management of conflicts of interest, including a description of the applicant's compliance function and its risk assessment arrangements in that respect.
2. The application shall contain information regarding the policies and procedures with respect to the identification, management, elimination, mitigation and disclosure without delay of existing or potential conflicts of interest and threats to the independence of the STS assessment.
3. The application shall contain a description of any other measures and controls put in place to ensure the proper and timely identification, management and disclosure of conflicts of interest.
4. The application shall contain an up-to-date inventory of any potential or existing conflicts of interest identified by the applicant in accordance with Article 28(1)(f) of Regulation (EU) 2017/2402. Such inventory shall include:
   (a) any actual or potential conflicts of interest involving third parties, shareholders, owners or members of the applicant, members of the management body, managers, employees of the applicant or any other natural person whose services are placed at the disposal or under the control of the applicant; and
   (b) any actual or potential conflicts of interest arising from existing or envisaged business relationships of the applicant, including any existing or envisaged outsourcing arrangements or from the applicant's other activities.
5. The application shall provide policies or procedures that aim to ensure that the applicant will under no circumstances provide any form of advisory, audit or equivalent services to the originator, sponsor, or the SSPE involved in the securitisation whose STS compliance

the applicant assesses.

6. The application shall state:

   (a) the revenue from other non-STS assessment related services provided by the applicant, disaggregated to the revenue from non securitisation-related services and the revenue from securitisation-related services, over each of the three annual reporting periods preceding the date of the submission of its application, or if not available since its incorporation;

   (b) the projected proportion of revenue from providing STS assessment services compared with the total projected revenue for the forthcoming three years' reference period.

7. The application shall include, where applicable, the following information on the concentration of revenue from a single undertaking or a group of undertakings:

   (a) Information identifying any undertaking or any group of economically connected undertakings that provided more than 10% of the applicant's total revenue, over each of the three annual reporting periods preceding the date of the submission of its application, or if not available since its incorporation;

   (b) A statement whether according to the applicant's budgets or projections, an undertaking or a group of economically connected undertakings is projected to provide at least 10% of the applicant's projected revenue from providing STS assessment services over each of the next three years.

8. Where applicable, the application shall contain an assessment of how a concentration of revenue from a single undertaking or a group of economically connected undertakings identified in paragraph 7 of this Article is compatible with its policies and procedures with respect to threats to the independence of the STS assessment referred to in paragraph 2 of this Article.

Article 6

Fee structure

1. The application shall contain information on the pricing policies for providing the STS assessment services. The applicant shall ensure that the application includes the following:

   (a) pricing criteria and a fee structure or a fee schedule for the STS assessment services for each type of securitisation for which such services are offered (i.e. distinguishing between non ABCP securitisations and ABCP securitisations and programmes),

including any internal guidelines or procedures governing how the pricing criteria are used in order to determine or set individual fees;

(b) details of the methods used to record the separate cost that the applicant may incur when providing STS assessment services, including the treatment of additional incidental expenses related to providing STS assessment services (such as transport and accommodation) and where the applicant intends to outsource parts of its STS assessment, a description as to how outsourcing is to be taken into account in the pricing criteria;

(c) a detailed description of any procedures in place for changing the fees charged or for otherwise departing from the fee schedule, including under any frequent use programme;

(d) a detailed description of any procedures or internal controls in place to ensure and monitor compliance with the pricing policies, including any procedures or internal controls related to the monitoring of the development of individual fees over time and across different customers;

(e) a detailed description of any processes for reviewing and updating both the costing system and pricing policies; and

(f) a detailed description of any procedures and internal controls for maintaining records of information relating to fee schedules, individual fees applied, or changes to the applicant's pricing policies.

2. The application shall provide information related to:

(a) whether the fees are set in advance of the STS assessment;

(b) whether prepaid fees are non-refundable; and

(c) any operational safeguards aimed at ensuring that contractual agreements with an originator, sponsor or SSPE to provide STS assessment services do not include a contractual termination clause or provide for breach of the contract or non-performance of the contract where the result of the assessment of the securitisation is that it does not comply with the STS criteria.

Article 7

Operational safeguards and internal processes to assess STS compliance

1. The application shall include a detailed summary of any policies, procedures and manuals regarding the controls and operational safeguards to ensure the independence of the

applicant's assessment of STS compliance and the integrity of its assessment;

2. The application shall contain any information that in the applicant's view demonstrates the applicant has the proper operational safeguards and internal processes that enable it to assess STS compliance. In particular, the application shall include the following information:

   (a) the number of the applicant's employees , calculated on a full-time equivalent basis, disaggregated to types of positions within the applicant company;

   (b) policies and procedures with regards to:

      i. the independence of individual staff members;

      ii. the ending of employment contracts including any measures to ensure the independence and integrity of the STS assessment process associated with the end of the employment (such as e.g. policies and procedures related to negotiating future employment contracts for staff directly involved in the STS assessment);

      iii. the experience and qualification requirements for each position type, for which staff to be involved in STS assessment activities is employed by the applicant;

      iv. the training and development of employees directly involved in the provision of STS assessment services; and

      v. the performance evaluation and compensation of staff directly involved in STS assessment services;

   (c) a description of the measures put in place by the applicant to mitigate the risk of over-reliance on any individual employees for providing STS assessment services;

   (d) where the applicant plans to rely in any STS assessment on outsourcing or the work of an external expert:

      i. any policies and procedures with regards to the outsourcing of activities and the engagement of external experts,

      ii. a description of any outsourcing arrangements entered into or envisaged by the applicant, accompanied by a copy of the contracts governing outsourcing arrangements;

      iii. a description of the services to be provided, including the scope of those services and the conditions under which those services should be rendered; and

      iv. an explanation of how the applicant intends to identify, manage and monitor any risks posed by outsourcing and a description of the safeguards put in place by the

applicant to ensure independence of the STS assessment process;

(e) a description of any measures:

i. to be used in the event of a breach of any of the policies or procedures referred to in points 2(b) and 2(d)(i) of this Article; and

ii. for reporting to the competent authority of any material breach of these policies or procedures or any other fact, event or circumstance which might reasonably be likely to amount to a breach of the conditions of any authorisation; and

(f) a description of any process used to ensure that the relevant persons are aware of the policies and procedures referred to in paragraphs 2(b) and 2(d)(i) of this Article and a description of any process of monitoring, reviewing and updating of these policies and procedures.

3. The application shall contain, for each securitisation type for which the applicant intends to provide STS assessment services,

(a) a description of the STS assessment methodology to be used, including any procedures and methodology for the quality assurance of the assessment; and

(b) a template of the STS verification report to be provided to the originator, sponsor or the SSPE.

Article 8

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1st of January 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, […].

For the Commission

The President

Annex 1:

DOCUMENT REFERENCES			
(Article 1(2))			
Article of this Regulation	Unique reference number of document	Title of the document	Chapter or section or page of the document where the information is provided or reason why the information is not provided