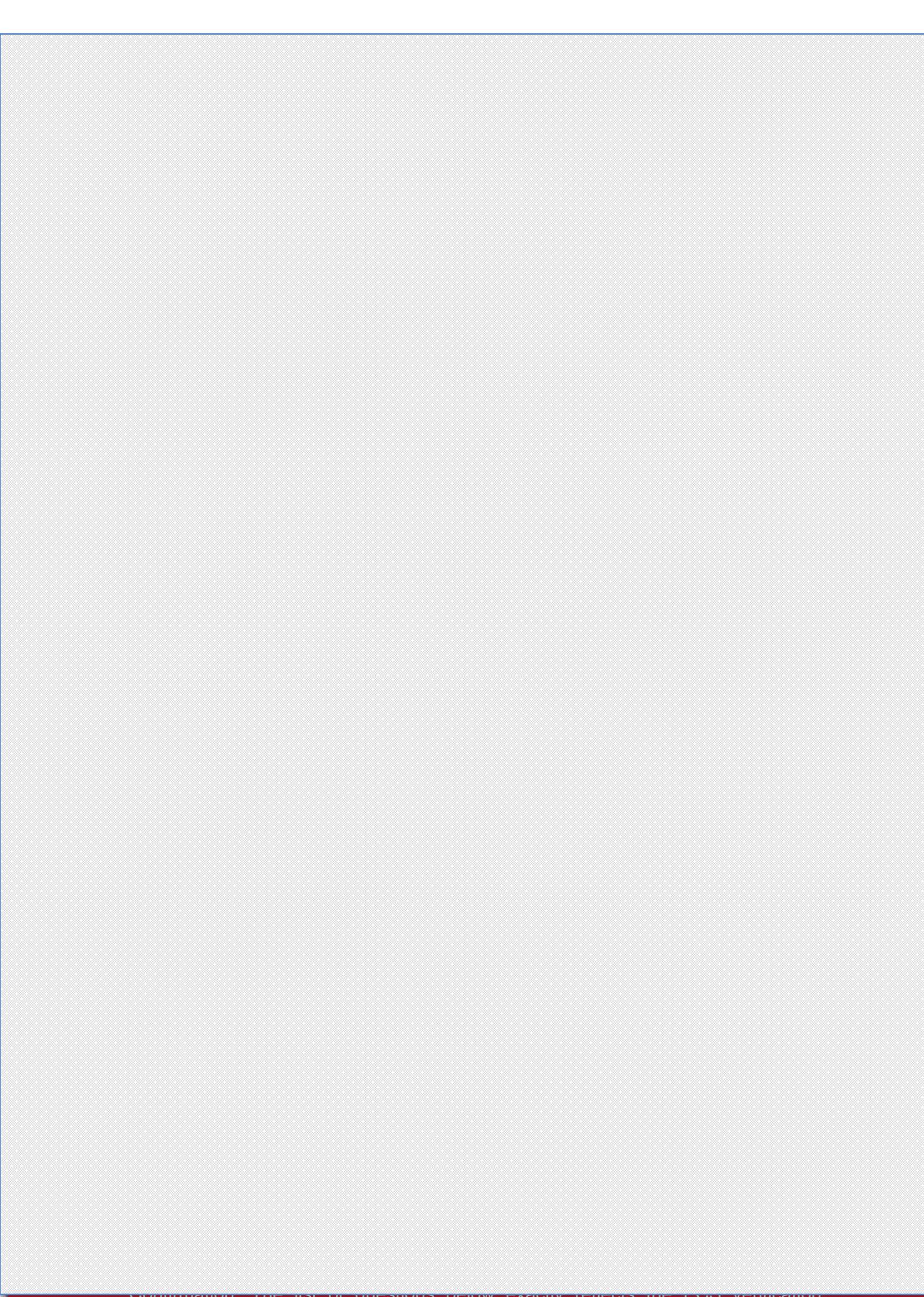




Evidentiary Standards Manual (Term)



Preamble

This document sets out how, as a practical matter, PCS will seek to determine that each STS criterion is met.

As mentioned in the manual, PCS recognises that securitisations are not identical and that certain asset classes, jurisdictions or originators' practices may produce idiosyncrasies. However, originators must accept that this manual cannot be a "discussion document" or a "starting point" for a negotiation regarding how individual criteria will be evidenced. One of the values provided by a PCS STS Verification is that it is a standard for investors, regulators and other stakeholders in the securitisation market. For something to be a standard it must, to the greatest extent possible, be provided on the same basis. This includes the fact that the standard of evidence which leads to the confirmation of an STS Verification must be the same from transaction to transaction.

Therefore, although PCS is open to recognising genuine legal, regulatory or practical impediments to providing the evidence required in this manual and working constructively with originators and their agents to find, where necessary, alternative evidence of equal value, such a departure from the standards set out in this manual must be exceptional and result solely from objective and serious obstacles.

The standards of evidence set out in this manual proceed from PCS' own extensive experience with the PCS Labels since 2012 as well as from the guidance set out by the European Banking Authority.

For a full understanding of the meaning of an STS Verification, we strongly encourage the reading of our Disclaimer section on the PCS Website.



General Considerations

1. All the STS criteria questions need to be positively answered for PCS to be able to issue an STS Verification. This is an absolute requirement.
2. PCS bases its interpretation of the STS regulation on (a) the text of the STS Regulation, (b) the guidelines and recommendations issued by the EBA from time to time pursuant to Article 19.2 of the STS Regulation and (c) any publication or information provided by a national competent authority. (Currently, the interpretations set out here are based on the consultation document of the EBA regarding guidelines and recommendations and will be updated when these are finally published). This document must be read in conjunction with those EBA guidelines and recommendations. Where EBA guidelines are available, analysts must always follow this guidance unless national competent authority guidelines supersede the EBA guidelines, in which case the national competent authority guidelines should be used.
3. There is no unique pre-defined way to verify the STS status of a securitisation in terms of how the facts underpinning such STS status are presented in word or data form. The STS Regulation itself is silent on how a third-party verification agent is to assess the STS status of a transaction and what evidence is required to be produced. This guidance sets out how PCS expects to confirm the STS status of securitisations. In certain exceptional cases, the requisite fact may not be able to be demonstrated by the means set out in this guidance. The STS Verification Manual sets out the internal steps that must be followed before an analyst can accept alternative sources of evidence. Such departures should only be the result of a genuine impediment (eg legal requirements or contractually binding confidentiality agreements) to the production of the evidence.
4. PCS' institutional preference is that as much as possible goes into the prospectus as this enhances transparency for investors. This should be communicated to originators.
5. The basic document to be used as the anchor of the analytical review is always the prospectus.



6. PCS though sees a number of possible forms of evidence in addition to the prospectus:

First, some criteria that can be confirmed by the fact that the originator/servicer is a regulated entity.

Second, some criteria that can be confirmed by an examination of the underlying transaction documents.

Third, some criteria that can be confirmed by an examination of the general investor materials including the article 7 materials such as loan by loan data, investor reports, models, summary data, historic performance data, etc.

Fourth some criteria that can be confirmed by an examination of relevant sections of the legal opinion and the AUP.

Finally, there may criteria that require confirmation through additional due diligence requirements e.g. examination of the servicing procedures and policies.

Those points relevant to the different review for private placements are also pointed out below.

7. When the analyst is unclear about the interpretation of any piece of evidence, the analyst may always request clarification from the originator or the originator's legal counsel. Whenever this approach is a material part of the analyst's conclusion that a criterion is met, the analyst must either receive written confirmation of the clarification from the originator or their legal counsel or keep a contemporaneous note of the conversation for the file.
8. Grandfathered transactions will have, to a significant extent, finalised documentation and asset-based materials.
9. Analyst confirmation of a particular point may range from simple page reference to much more explanatory comments, as and where appropriate. (For example, point 10 is confirmed by a simple, page (and clause) reference, points 1 and 34 are much more analytical in nature and will require a more detailed analytical explanation by the analyst).



10. The analyst will be required to assess each point on its own merits in accordance with the question and originator/documentation /evidence provided.

Analysts must never rely solely on statements made by the Originator in the Originator Confirmation and must do their own due diligence. This is a core analytical requirement of PCS. The analyst, should, however, use the Origination Confirmation as a guidance to assist in the review.

11. Analysts must reach a strong degree of personal confidence about a particular point before they confirm it.
12. Any confirmation of a particular point must be fully supported by evidence and that evidence must be confirmed in accordance with PCS' operating procedures manual and stored in PCS' transaction storage system. This entails the storage of the fully completed checklists, signed off by primary analyst and second analyst, all written email communications and all transaction documents and due diligence materials including draft and final versions.
13. Where analysts are unsure about certain STS criteria interpretations, EBA or national competent authority guidelines or are unsure about certain Originator Confirmation points or responses in the PCS STS checklist (perhaps due to the nature or type of evidence provided), PCS operating procedures provide a mechanism for internal PCS review of the matter. There must always be an internal double check on every PCS checklist point as provided in the PCS staff operating procedures manual. Points where analysts cannot agree are subject to dispute resolution in accordance with the PCS staff operating procedures manual.
14. A number of STS criteria deal with future behaviour. In other words, they cannot be either met or failed at the outset of the transaction. But if, at a later stage, one is not met, then the originator will need to inform ESMA and the STS status of the securitisation will be lost.

PCS assumes that regulators and investors will wish to see a covenant from the originator that they will comply with the requirement of such STS



criteria. We note, however, that a third-party verification agent is neither required, nor allowed, nor empowered to require such covenants. Even absent such covenant, PCS cannot lawfully determine that the transaction is not STS today.

Therefore, unless the EBA or national competent authorities interpret the STS criteria otherwise, all future behaviour criteria will be deemed to have been met notwithstanding the absence of covenants.

STS Criteria

The points below are by PCS STS checklist point:

- 1. The title to the underlying exposures shall be acquired by the SSPE by means of a true sale or assignment or transfer with the same legal effect in a manner that is enforceable against the seller or any other third party.**

“True sale” is not a legal concept but a rating agency creation. The determination of “true sale” is primarily a matter for the legal opinion.

[A] Analysts must review a legal opinion provided by a reputable law firm with experience in the capital markets. The opinion must contain a clear statement that the assets have be transferred in a manner which cannot be reversed by an insolvency officer or a court in the event of the seller’s insolvency. This statement may be subject to customary assumptions and/or qualifications about:

- the absence of fraud;
- the quantum of the purchase price;
- corporate and individual powers and authorities;
- the absence of unseen documents or agreements, including charges or other encumbrances;
- the seller’s solvency at the time of the transfer.
- the traditional insolvency set-aside rules of general application concerning transactions at an undervalue, fraudulent conveyance, lex Paulina and preferences

(In addition, certain additional and jurisdiction specific assumptions and qualifications may be allowed after internal PCS review as



it is not possible to anticipate all customary qualifications in 28 jurisdictions *ex ante*).

[B] Analysts must also, as secondary checks:

- (i) look at the statements in the Prospectus verifying the absence of any statement in the Risk Factor section calling into doubt the “true sale” of the securitised assets; and
- (ii) the “pre-sale” report from a recognised credit rating agency (if used) so as to identify any issues with “true sale” perceived by the CRA and set out therein.

[C] Analysts should finally check that there is a statement in the prospectus that the assets have been sold.

2. The transfer of the title to the SSPE shall not be subject to severe clawback provisions in the event of the seller's insolvency.

Any of the following shall constitute severe clawback provisions:

- (a) provisions which allow the liquidator of the seller to invalidate the sale of the underlying exposures solely on the basis that it was concluded within a certain period before the declaration of the seller's insolvency
 - (b) provisions where the SSPE can only prevent the invalidation referred to in point (a) if it can prove that it was not aware of the insolvency of the seller at the time of sale.
- Clawback provisions in national insolvency laws that allow the liquidator or a court to invalidate the sale of underlying exposures in case of fraudulent transfers, unfair prejudice to creditors or of transfers intended to improperly favour particular creditors over others, shall not constitute severe clawback provisions.

Article 20.2 elaborating on the meaning of “severe clawback provisions” clearly indicate that this concept is a matter of general insolvency law of the originator’s jurisdiction and not a deal specific criterion.

[A] The first step of PCS’ analysis is therefore to determine the originator’s jurisdiction for the purposes of insolvency law.



This would be its centre of main interest or “COMI”.

The relevant information should be found in the prospectus or term sheet.

In most cases, the COMI of the originator should be self-evident. In cases where the analyst determines that it is not self-evident, PCS should engage in a discussion with the legal advisers to the originator to see if (i) either the matter is moot if all the possible COMI's are on the approved list or (ii) the matter can be resolved to a high degree of confidence.

[B] The second step would be to determine whether the relevant COMI contains severe claw back provisions in its insolvency legislation.

PCS will establish an agreed COMI list indicating which jurisdictions are acceptable COMI's. This list will be compiled following discussions in each country with an established and reputable law firm on the topic.

3. Where the seller is not the original lender, the true sale or assignment or transfer with the same legal effect of the underlying exposures to the seller, whether that true sale or assignment or transfer with the same legal effect is direct or through one or more intermediate steps, shall meet the requirements set out in paragraphs 1 to 3.

The prospectus or term sheet should indicate whether the seller is the original lender.

If it is not, analysts should see a statement from the originator that it is in possession of acceptable legal opinions or advice from a reputable law firm in respect of the topic. The name of the law firm and the date of the opinion should be set out.

If the legal opinions or advice is capable of being passed on to PCS it should be and the analysts will review it on the same basis as the main opinion. If the law firm does not authorise the release of the opinion, the law firm should send a letter to PCS confirming that they have issued an opinion and that the opinion dealt with the issue of the sale.

NOTE: it is not necessary for the opinion to have been issued at the time of the anterior sale. The seller may provide an opinion written at a later date and based on sight by the law firm of the original sale documents.

4. Where the transfer of the underlying exposures is performed by means of an assignment and perfected at a later stage than at the



closing of the transaction, the triggers to effect such perfection shall, at least include the following events:

(a) severe deterioration in the seller credit quality standing; (b) insolvency of the seller; and (c) unremedied breaches of contractual obligations by the seller, including the seller's default.

Analysts must review two steps:

[A] To determine whether the transfer of the assets is by means of an unperfected assignment; and

[B] If it is, whether the transaction contains the requisite triggers.

This information should be found in the prospectus or term sheet. The legal opinion should be reviewed for acceptability by the analyst.

- 5. The seller shall provide representations and warranties that, to the best of its knowledge, the underlying exposures included in the securitisation are not encumbered or otherwise in a condition that can be foreseen to adversely affect the enforceability of the true sale or assignment or transfer with the same legal effect.**

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

- 6. The underlying exposures transferred from, or assigned by, the seller to the SSPE shall meet pre-determined, clear and documented eligibility criteria.**

We understand that a description of the assets securitised is a de facto "eligibility" test since it provides the information to investors that an "eligibility criteria" seeks to provide.

This information should be located in the prospectus for a public transaction or, for a private placement, the term sheet or underlying documentation.

The analyst shall read the relevant description to determine whether it meets the requirement of certainty.

- 7. Which do not allow for active portfolio management of those exposures on a discretionary basis.**



The analysis should follow the EBA guidelines in a manner for the wording as well as the spirit. It should be noted that the EBA examples are non-exhaustive examples. The information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

PCS analysts should request that specific language in the prospectus or term sheet be added as an explainer of how the point is met. This language should detail exhaustively the circumstances in which assets may be transferred to or removed from the securitised pool together with a statement that no other rights to add or remove assets exist.

8. Exposures transferred to the SSPE after the closing of the transaction shall meet the eligibility criteria applied to the initial underlying exposures.

This criterion is relevant for revolving transactions and also where additional loans or part loans are added to the securitised pool for whatever reason.

This criterion is a future event criterion. See point 14. of the General Considerations.

9. The securitisation shall be backed by a pool of underlying exposures that are homogeneous in terms of asset type, taking into account the specific characteristics relating to the cash flows of the asset type including their contractual, credit risk and prepayment characteristics. A pool of underlying exposures shall only comprise one asset type.

Analysts should follow the EBA RTS on homogeneity. (In the absence of an agreed final draft of the RTS, this provision will need to be amended based on the best information available to PCS).

The information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. PCS analysts should request that specific language in the prospectus or term sheet be added as an explainer of how the point is met.

The analyst will read the explanation to determine whether it is consistent with the RTS.

The analyst will then read the description of the assets in the prospectus (or term sheet) to determine whether it is consistent with the explanation referred to immediately above.



10. The underlying exposures shall contain obligations that are contractually binding and enforceable,

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

11. With full recourse to debtors and, where applicable, guarantors.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

12. The underlying exposures shall have defined periodic payment streams, the instalments of which may differ in their amounts,

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

13. Relating to rental, principal, or interest payments, or to any other right to receive income from assets supporting such payments. The underlying exposures may also generate proceeds from the sale of any financed or leased assets.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

14. The underlying exposures shall not include transferable securities, as defined in Article 4(1), point 44 of Directive 2014/65/EU of the European Parliament and of the Council other than corporate bonds, provided that they are not listed on a trading venue.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

15. The underlying exposures shall not include any securitisation position.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

(Analysts should strongly encourage use of the explicit STS language in the prospectus or term sheet.)

16. The underlying exposures shall be originated in the ordinary course of the originator's or original lender's business

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets and their origination in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.



(Analysts should strongly encourage use of the explicit STS language in the prospectus or term sheet.)

17. Pursuant to underwriting standards that are no less stringent than those that the originator or original lender applied at the time of origination to similar exposures that are not securitised.

At a technical level this might be a difficult criterion to demonstrate as it is not clear how one compares any single asset to a pool of unsecuritised assets and how to define the unsecuritised pool against which the securitised assets are compared. The EBA April guidelines do provide some help here and analysts must be aware of this.

However, this is a “no-cherry” picking criterion. Therefore, PCS understands that if the originator selects the securitised pool from a larger pool by a random selection method, this meets the requirements of the criterion. A statement on this issue should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must be specific here or if not, the words should have the same meaning - Analysts should encourage use of the explicit STS language.

18. The underwriting standards pursuant to which the underlying exposures are originated and any material changes from prior underwriting standards shall be fully disclosed to potential investors without undue delay.

PCS understands that this criterion is a requirement that (a) certain past changes and (b) any changes in underwriting criteria affecting substitutions or additional purchases should be notified to investors without delay.

For (a) this information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

The analyst should look for either (i) wording setting out all the material changes together with an additional statement that there are no undisclosed material changes or (ii) wording confirming that there have been no material changes. These statements should refer back to the period to be specified in the EBA guidelines and recommendations. (Currently, five years based on the EBA consultation).



This is, however, a future behaviour criterion. See paragraph 14 of General Considerations.

19. In the case of securitisations where the underlying exposures are residential loans, the pool of loans shall not include any loan that was marketed and underwritten on the premise that the loan applicant or, where applicable intermediaries, were made aware that the information provided might not be verified by the lender.

A statement on this issue should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets and their origination in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

(Analysts should strongly encourage use of the explicit STS language in the prospectus or term sheet.)

20. The assessment of the borrower's creditworthiness shall meet the requirements set out in paragraphs 1 to 4, point (a) of paragraph 5, and paragraph 6 of Article 18 of Directive 2014/17/EU or of Article 8 of Directive 2008/48/EC or, where applicable, equivalent requirements in third countries.

PCS understands that the words “from the moment these Directives were enacted into national law” will be implied in the criterion.

A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

Analysts should strongly encourage use of the explicit STS language in the prospectus or term sheet.



21. The originator or original lender shall have expertise in originating exposures of a similar nature to those securitised.

A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. Additional information may be found in the Originator Certification. Analysts will follow up any statements with a conversation with the originator or relevant transaction party to review the statements made in the relevant documents.

NOTE: (In line with the EBA's consultation) This criterion shall be deemed to be met if the originator is a financial institution subject to prudential regulation within the European Union.

Where the institution is not well known to the analyst, the analyst will check the official list of prudentially regulated institutions in the relevant jurisdiction.

22. The underlying exposures, at the time of selection, that are transferred to the SSPE without undue delay

Absent any regulatory clarification, PCS interprets any period of three and a half months or less between pool cut date and closing will meet the requirements of the criterion. This is in line with market standards.

A statement setting out the relevant period (or the pool cut-off date) should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

23. And shall not include, at the time of selection, exposures in default within the meaning of Article 178(1) of Regulation (EU) No 575/2013

A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

(Analysts should strongly encourage use of the explicit STS language in the prospectus or term sheet.)



24. Or exposures to a credit-impaired debtor or guarantor, who, to the best knowledge of the originator or original lender:

Questions 24-27 are particularly complex questions for which analysts must take great care.

(PCS expects some clarification to be provided by the EBA at which point, this paragraph may be amended).

A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets and their origination in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

(Analysts should strongly encourage use of the explicit STS language in the prospectus or term sheet.)

25. (a) has been declared insolvent or had a court grant his creditors a final non-appealable right of enforcement or material damages as a result of a missed payment within three years prior to the date of origination.

A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

26. Or has undergone a debt-restructuring process with regard to his non-performing exposures within three years prior to the date of transfer or assignment of the underlying exposures to the SSPE, except if:

A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

27. (b). (i) a restructured underlying exposure has not presented new arrears since the date of the restructuring which must have taken place at least one year prior to the date of transfer or assignment of the underlying exposures to the SSPE; and



A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

- 28. (ii) the information provided by the originator, sponsor and SSPE in accordance with points (a) and (e)(i) of the first subparagraph of Article 7(1) explicitly sets out the proportion of restructured underlying exposures, the time and details of the restructuring as well as their performance since the date of the restructuring;**

A statement on this criterion should (a) be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation and (b) the information should be provided in the investor information materials.

- 29. (b) was, at the time of origination, where applicable, on a public credit registry of persons with adverse credit history or, where there is no such public credit registry, another credit registry that is available to the originator or original lender;**

The information on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

- 30. (c) has a credit assessment or a credit score indicating that the risk of contractually agreed payments not be made is significantly higher than for comparable exposures held by the originator which are not securitised**

Information on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

(Analysts should strongly encourage use of the explicit STS language in the prospectus or term sheet.)



- 31. The debtors shall at the time of transfer of the exposures, have made at least one payment, except in the case of revolving securitisations backed by exposures payable in a single instalment or having a maturity of less than one year, including without limitation monthly payments on revolving credits.**

The information on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

- 32. The repayment of the holders of the securitisation positions shall not have been structured to depend predominantly on the sale of assets securing the underlying exposures.**

A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation or it should be absolutely clear from the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation that the EBA guidelines are met.

The analyst shall also read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion. Particular attention shall be paid to transactions containing residual values and the analyst should examine the data provided in relation to residual values to determine its overall quantum. (PCS awaits additional information from the EBA on the allowable quantum of residual value).

- 33. The originator, sponsor or original lender shall satisfy the risk retention requirement in accordance with Article 6.**

A statement on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

- 34. The interest rate and**

[A] First, the analyst shall verify the absence of any statement in the “Risk Factors” section of the prospectus regarding inadequate hedging this being a prima facie indication that the swaps provide



“appropriate mitigation”.

- [B] Second, the analyst must look for a statement in the prospectus or other originator or arranger statements/term sheet that the mitigation measures have been designed to meet reasonable hedging scenario (or words to that effect).
- [C] Third, the analyst must read the “pre-sale” report from a recognised credit rating agency (if used) so as to identify any issues with hedging.
- [D] Fourth, the analyst must read the Originator Confirmation to determine how the originator believes it has met this criterion and satisfy itself that this explanation is reasonable and consistent with the STS criterion.
- [E] Cashflow models may be reviewed if the analyst determines that he or she cannot reach a high degree of confidence based on [A] to [D].
- [F] Analysts may also ask for further guidance from the originator/arranger on the matter as to how mitigation is achieved and with what degree of confidence whenever it feels this to be necessary.

It must also be noted that swaps, caps or other derivatives are helpful but hedging mitigants may come from other sources e.g. assets, cashflows and other mechanisms.

35. Currency risks arising from the securitisation shall be appropriately mitigated

The analyst shall review the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation to see if currency hedging is relevant or not.

If currency hedging is relevant, the analyst shall proceed as with point 32.

36. Any measures taken to that effect shall be disclosed.

The analyst shall review the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation to determine disclosure.

The analyst shall also review the prospectus for a public transaction or for a private placement, the term sheet or the Originator Certification for an explicit statement that there is no undisclosed hedging.



37. Except for the purpose of hedging currency risk or interest rate risk, the SSPE shall not enter into derivative contracts and

An analysis of this criterion should be based on the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. Analysts should also review the Originator Confirmation.

38. Shall ensure that the pool of underlying exposures does not include derivatives.

An analysis of this criterion should be based on the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation. Analysts should also review the Originator Confirmation.

The analyst shall read the description of the assets in the prospectus or term sheet to determine that they contain no information inconsistent with the criterion.

39. Those derivatives shall be underwritten and documented according to common standards in international finance.

The information on this criterion should be located in the prospectus for a public transaction or for a private placement, the term sheet or a review of the underlying documentation should be made.

PCS shall compile a list of common standards in international finance and the analyst shall confirm that the standard used in the transaction is on the list.

If the derivatives are documented on a standard (ie not bespoke) that is not on the list, the analyst shall raise the issue with the Head of Analytics who may engage in a discussion with the originator, its legal advisors and other law firms in the jurisdiction to determine whether it is appropriate to add a new standard to the list.

40. Any referenced interest payments under the securitisation assets and liabilities shall be based on generally used market interest rates, or generally used sectoral rates reflective of the cost of funds and shall not reference complex formulae or derivatives.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.



41. Where an enforcement or an acceleration notice has been delivered:

(a) no amount of cash shall be trapped in the SSPE beyond what is necessary to ensure the operational functioning of the SSPE or the orderly repayment of investors in accordance with the contractual terms of the securitisation, unless exceptional circumstances require that amount is trapped in order to be used, in the best interests of investors, for expenses in order to avoid the deterioration in the credit quality of the underlying exposures;

PCS believes that delivery of an “enforcement or acceleration notice” in the criterion covers all types of similar events however called (e.g. “trigger events”).

PCS believes that proxy measures of “value” such as entries in a principal deficiency ledger will meet the requirements of this criterion.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

42. Principal receipts from the underlying exposures shall be passed to investors via sequential amortisation of the securitisation positions, as determined by the seniority of the securitisation position;

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

43. Repayment of the securitisation positions shall not be reversed with regard to their seniority; and

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

44. No provisions shall require automatic liquidation of the underlying exposures at market value.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

Analysts may also refer to the Originator Certification.

45. Transactions which feature non-sequential priority of payments shall include triggers relating to the performance of the underlying



exposures resulting in the priority of payments reverting to sequential payments in order of seniority. Such performance-related triggers shall include at least the deterioration in the credit quality of the underlying exposures below a pre-determined threshold.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

- 46. The transaction documentation shall include appropriate early amortisation provisions or triggers for termination of the revolving period where the securitisation is a revolving securitisation, including at least the following:**

The information should be found in the transaction documents and for a public transaction, the prospectus.

- 47. (a) a deterioration in the credit quality of the underlying exposures to or below a pre-determined threshold;**

The information should be found in the transaction documents and for a public transaction, the prospectus.

- 48. (b) the occurrence of an insolvency-related event with regard to the originator or the servicer;**

The information should be found in the transaction documents and for a public transaction, the prospectus.

- 49. (c) the value of the underlying exposures held by the SSPE falls below a pre-determined threshold (early amortisation event);**

The information should be found in the transaction documents and for a public transaction, the prospectus.

- 50. (d) failure to generate sufficient new underlying exposures that meet the pre-determined credit quality (trigger for termination of the revolving period).**

The information should be found in the transaction documents and for a public transaction, the prospectus.



- 51. The transaction documentation shall clearly specify: (a) the contractual obligations, duties and responsibilities of the servicer and the trustee, if any, and other ancillary service providers;**

The information should be found in the transaction documents and for a public transaction, the prospectus.

- 52. (b) the processes and responsibilities necessary to ensure that a default by or an insolvency of the servicer does not result in a termination of servicing, such as a contractual provision which enables the replacement of the servicer in such cases; and**

The information should be found in the transaction documents and for a public transaction, the prospectus.

- 53. (c) provisions that ensure the replacement of derivative counterparties, liquidity providers and the account bank in the case of their default, insolvency, and other specified events, where applicable.**

The information should be found in the transaction documents and for a public transaction, the prospectus.

- 54. The servicer shall have expertise in servicing exposures of a similar nature to those securitised**

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

Analysts will follow up any written statements with a conversation with the servicer or relevant transaction party to review the statements made in the relevant documents.

NOTE: (In line with the EBA's consultation) This criterion shall be deemed to be met if the servicer is a financial institution subject to prudential regulation within the European Union and originating and servicing similar assets under this prudential authorisation.

Where the institution is not well known to the analyst, the analyst will check the official list of prudentially regulated institutions in the relevant jurisdiction.



55. And shall have well documented and adequate policies, procedures and risk management controls relating to the servicing of exposures.

This information should be located in the prospectus for a public transaction or for a private placement, the term sheet or underlying documentation.

The EBA guidelines (or additional national competent authority guidelines) must be strictly followed on this matter with full and relevant statements made. Analysts will follow up any statements with at a minimum, a conversation with the servicer or relevant transaction party to review the statements made in the documents.

56. The transaction documentation shall set out in clear and consistent terms definitions

The information should be found in the transaction documents.

57. Remedies and actions relating to delinquency and default of debtors, debt restructuring, debt forgiveness, forbearance, payment holidays, losses, charge offs, recoveries and other asset performance remedies.

The information should be found in the transaction documents.

The analyst shall check the documents for each itemised in the criterion.

58. The transaction documentation shall clearly specify the priorities of payment,

The information should be found in the transaction documents.

59. Events which trigger changes in such priorities of payment.

The information should be found in the transaction documents. Such events include Events of default as well as other transaction triggers.

60. As well as the obligation to report such events.

The information should be found in the transaction documents.



- 61. Any change in the priorities of payments which will materially adversely affect the repayment of the securitisation position shall be reported to investors without undue delay.**

The information should be found in the transaction documents. The obligation includes regular investor reporting e.g. investor reports and also formal notices under terms and conditions of the notes.

The analyst shall first check to see if there are ANY changes to the priorities of payments.

If there are such changes, the analyst will review the Originator Certification and engage in a discussion with the originator to determine why such change will not materially adversely affect the repayment of the securitisation.

- 62. The transaction documentation shall include clear provisions that facilitate the timely resolution of conflicts between different classes of investors, voting rights shall be clearly defined and allocated to bondholders**

The information should be found in the transaction documents.

- 63. And the responsibilities of the trustee and other entities with fiduciary duties to investors shall be clearly identified.**

The information should be found in the transaction documents.

- 64. The originator and the sponsor shall make available data on static and dynamic historical default and loss performance, such as delinquency and default data, for substantially similar exposures to those being securitised,**

The evidence should be found in the prospectus for a public transaction or in the investor materials relating to such transaction. The originator should also confirm to PCS that any investor materials have been made available to investors and/or potential investors.

- 65. And the sources of those data and the basis for claiming similarity, to potential investors before pricing.**

The evidence should be found in the prospectus for a public transaction



or in the investor materials relating to such transaction.

66. Those data shall cover a period no shorter than five years.

The evidence should be found in the prospectus for a public transaction or in the investor materials relating to such transaction.

67. A sample of the underlying exposures shall be subject to external verification prior to issuance of the securities resulting from the securitisation by an appropriate and independent party,

Relevant information should be found in the prospectus for a public transaction, the term sheet for a private transaction and the AUP.

The analyst must review the AUP to determine conformity with the relevant guidelines for content and accuracy (confidence level). If there are concerns with the AUP, the analyst must discuss the AUP with the audit firm as well as the originator/arranger. The analyst may review the particulars of how an AUP has been carried out in accordance with accepted market procedures.

68. Including verification that the data disclosed in respect of the underlying exposures is accurate.

Relevant information should be found in the prospectus for a public transaction, the term sheet for a private transaction and the AUP.

The analysts must review the AUP to determine conformity with the relevant guidelines for content and accuracy (confidence level). If there are any concerns.

With the AUP, the analyst must discuss the AUP with the audit firm as well as the originator/arranger. A concern would be any issue or matter that may appear not strictly to meet the relevant guidelines. The Analyst may review the particulars of how an AUP has been carried out in accordance with accepted market procedures.

69. The originator or the sponsor shall, before the pricing of the securitisation, make available to potential investors a liability cash flow model which precisely represents the contractual relationship between the underlying exposures and the payments flowing between the originator, sponsor, investors, other third parties and

the SSPE

- [A] The relevant information can be found in the prospectus, for a public transaction, and term sheet (for a private transaction) being a summary of what has been provided and also a top-level review of the model.
- [B] PCS will not conduct a line-by-line review of the model.
- [C] The originator must, either in the prospectus, term sheet, Originator Certificate or in a written communication with PCS set out how and by whom the model was designed. The analyst determine that the model has been designed by competent persons in line with good market practice. Should the analyst feel it necessary, the analyst may initiate a conversation with the originator or the model designers to verify the competence of the modelling activity.
- [D] The model must also be provided to the analyst.
- [E] The Originator must provide written confirmation that the model has been made available.

70. And shall, after pricing, make that model available to investors on an ongoing basis and to potential investors upon request.

The relevant undertaking to do so can usually be found in the prospectus, for a public transaction, and term sheet (for a private transaction).

This is, however, a future behaviour criterion. See paragraph 14 of General Considerations

71. In case of a securitisation where the underlying exposures are residential loans or car loans or leases, the originator and sponsor shall publish the available information related to the environmental performance of the assets financed by such residential loans or car loans or leases, as part of the information disclosed pursuant to point (a) of the first subparagraph of Article 7(1).

Information on this criterion should be located in either (a) the prospectus for a public transaction or for a private placement, the term sheet or (b) investor materials.

72. The originator and the sponsor shall be responsible for compliance with Article 7 of this Regulation

The information should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. The information availability may be confirmed by either a blanket statement or individual Article 7 requirements being confirmed item-by-item.

73. The information required by the first subparagraph of Article 7(1) shall be made and available to potential investors before pricing upon request.

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. Analysts should receive a copy of this information for their records and check indicated availability against the actual received.

74. The information required by points (b) to (d) of the first subparagraph of Article 7(1) shall be made available before pricing at least in draft or initial form.

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. Analysts should receive a copy of this information for their records and check indicated availability against the actual received.

75. The final documentation shall be made available to investors at the latest 15 days after closing of the transaction.

The information regarding availability is usually found in the prospectus, for a public transaction, and term sheet, for a private transaction.

This is, however, a future behaviour criterion. See paragraph 14 of General Considerations.

76. The originator, sponsor and SSPE of a securitisation shall, in accordance with paragraph 2 of this Article, make at least the following information available to holders of a securitisation position, to the competent authorities referred to in Article 29 and, upon request, to potential investors: (a) information on the underlying exposures on a quarterly basis,

The information regarding availability is usually found in the prospectus, for a public transaction, and term sheet, for a private transaction.

This is, however, a future behaviour criterion. See paragraph 14 of General Considerations.

- 77. All underlying documentation that is essential for the understanding of the transaction, including but not limited to, where applicable, the following documents: (i) the final offering document or the prospectus together with the closing transaction documents, excluding legal opinions;**

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. Analysts should receive a copy of this information for their records and check indicated availability against the actual received.

- 78. For traditional securitisation the asset sale agreement, assignment, novation or transfer agreement and any relevant declaration of trust;**

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. Analysts should receive a copy of this information for their records and check indicated availability against the actual received.

- 79. The derivatives and guarantees agreements as well as any relevant documents on collateralisation arrangements where the exposures being securitised remain exposures of the originator;**

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. Analysts should receive a copy of this information for their records and check indicated availability against the actual received.

- 80. The servicing, back-up servicing, administration and cash management agreements;**

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. Analysts should receive a copy of this information for their records and check indicated availability against the actual received.

- 81. The trust deed, security deed, agency agreement, account bank agreement, guaranteed investment contract, incorporated terms or master trust framework or master definitions agreement or such legal documentation with equivalent legal value;**

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

Analysts should receive a copy of this information for their records and check indicated availability against the actual received.

82. Any relevant inter-creditor agreements, derivatives documentation, subordinated loan agreements, start-up loan agreements and liquidity facility agreements;

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. Analysts should receive a copy of this information for their records and check indicated availability against the actual received.

83. That underlying documentation shall include a detailed description of the priority of payments of the securitisation;

The information should be found in the underlying documentation together with a check against the prospectus, for a public transaction, and term sheet, for a private transaction.

84. Where a prospectus has not been drawn up in compliance with Directive 2003/71/EC of the European Parliament and of the Council, a transaction summary or overview of the main features of the securitisation, including, where applicable: (i) details regarding the structure of the deal, including the structure diagrams containing an overview of the transaction, the cash flows and the ownership structure;

The information should be found in the transaction summary or term sheet.

85. (ii) details regarding the exposure characteristics, cash flows, loss waterfall, credit enhancement and liquidity support features;

The information should be found in the transaction summary or term sheet.

86. (iii) details regarding the voting rights of the holders of a securitisation position and their relationship to other secured creditors;

The information should be found in the transaction summary or term sheet.

- 87. (iv) a list of all triggers and events referred to in the documents provided in accordance with point (b) that could have a material impact on the performance of the securitisation position;**

The information should be found in the transaction summary or term sheet.

- 88. In the case of STS securitisations, the STS notification referred to in Article 27;**

This information must be provided to the analyst in draft and final form (clean and black-lined versions).

- 89. Quarterly investor reports, or, in the case of ABCP, monthly investor reports, containing the following:**

The information regarding a commitment to availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

This is, however, a future behaviour criterion. See paragraph 14 of General Considerations.

- 90. (i) all materially relevant data on the credit quality and performance of underlying exposures;**

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. The analyst should receive a template or actual copy to check indication against availability.

See 87.

- 91. Information on events which trigger changes in the priority of payments or the replacement of any counterparties,**

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. The analyst should receive a template or actual copy to check indication against availability.

See 87.

- 92. And, in the case of a securitisation which is not an ABCP transaction, data on the cash flows generated by the underlying exposures and by the liabilities of the Securitisation;**

The information regarding availability should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

See 87.

- 93. (iii) information about the risk retained, including information on which of the modalities provided for in Article 6(3) has been applied, in accordance with Article 6.**

The information should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

- 94. (f) any inside information relating to the securitisation that the originator, sponsor or SSPE is obliged to make public in accordance with Article 17 of Regulation (EU) No 596/2014 of the European Parliament and of the Council on insider dealing and market manipulation;**

The information, where relevant, should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. The Originator Confirmation should also provide guidance. PCS understands that compliance with this criterion is already a requirement of the law – i.e. the Market Abuse Directive.

- 95. (g) where point (f) does not apply, any significant event such as:**

(i) a material breach of the obligations laid down in the documents provided in accordance with point (b), including any remedy, waiver or consent subsequently provided in relation to such a breach;

The information should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

- 96. (ii) a change in the structural features that can materially impact the performance of the securitisation;**

The information should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

- 97. (iii) a change in the risk characteristics of the securitisation or of the underlying exposures that can materially impact the performance of the securitisation;**

The information should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

- 98. (iv) in the case of STS securitisations, where the securitisation ceases to meet the STS requirements or where competent authorities have taken remedial or administrative actions;**

The information should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

- 99. (v) any material amendment to transaction documents.**

The information should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.

- 100. The information described in points (a) and (e) of the first subparagraph shall be made available simultaneously each quarter at the latest one month after the due date for the payment of interest**

The information relating to the commitment to do this should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. The analyst should verify it is there.

This is, however, a future behaviour criterion. See paragraph 14 of General Considerations.

- 101. Without prejudice to Regulation (EU) No 596/2014, the information described in points (f) and (g) of the first subparagraph shall be made available without delay**

The information relating to the commitment to do this should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. The analyst should verify it is there.

This is, however, a future behaviour criterion. See paragraph 14 of General Considerations.

- 102. The entity designated in accordance with the first subparagraph shall make the information for a securitisation transaction available by means of a securitisation repository.**

Or

The obligations referred to in the second and fourth subparagraphs shall not apply to securitisations where no prospectus has to be drawn up in compliance with Directive 2003/71/EC.

Or

Where no securitisation repository is registered in accordance with Article 10, the entity designated to fulfil the requirements set out in paragraph 1 of this Article shall make the information available by means of a website that:

- (a) includes a well-functioning data quality control system; (
- (b) is subject to appropriate governance standards and to maintenance and operation of an adequate organisational structure that ensures the continuity and orderly functioning of the website;
- (c) is subject to appropriate systems, controls and procedures that identify all relevant sources of operational risk;
- (d) includes systems that ensure the protection and integrity of the information received and the prompt recording of the information; and
- (e) makes it possible to keep record of the information for at least five years after the maturity date of the securitisation.

The information relating to the commitment to do this should be found in the prospectus, for a public transaction, and term sheet, for a private transaction. The analyst should verify it is there.

This is, however, a future behaviour criterion. See paragraph 14 of General Considerations.

103. The entity responsible for reporting the information, and the securitisation repository where the information is made available shall be indicated in the documentation regarding the securitisation.

The information should be found in the prospectus, for a public transaction, and term sheet, for a private transaction.