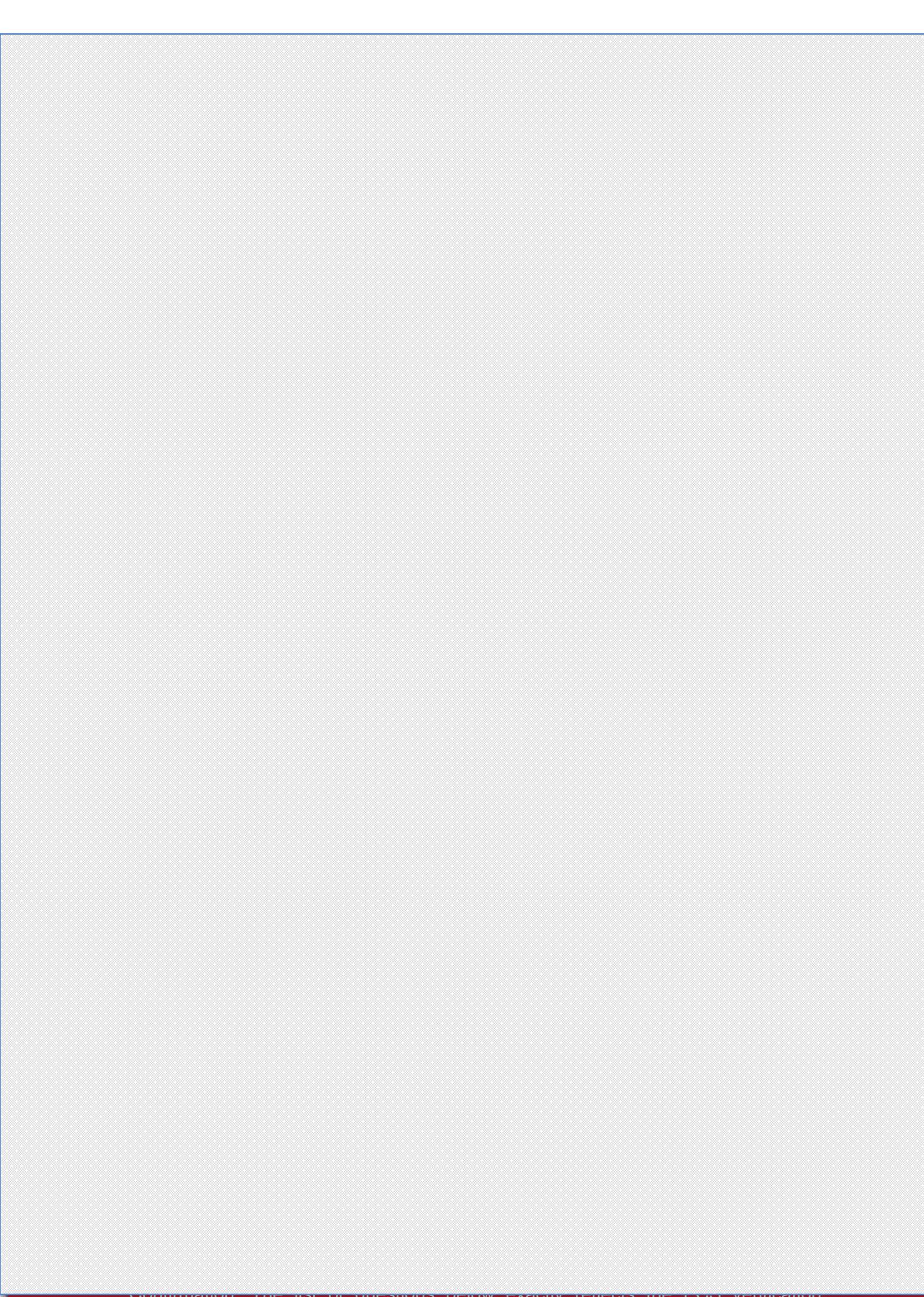




Evidentiary Standards Manual (ABCSP)



Preamble

This is a guidance sheet for the assistance of analysts in reviewing an Sponsor Confirmation. The list of questions below exactly reflects the PCS confirmation checklist.

For these purposes, the Sponsor Confirmation is the document completed by or on behalf of the sponsor setting out where the transaction's compliance with the STS criteria may be found, in accordance with PCS' procedures for STS Verifications together with any comments by the sponsor.



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 December 2018 final guidelines 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 ABCP transactions or programmes. 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 (e.g. legal requirements or contractually binding confidentiality agreements) to the production of the evidence.
4. The basic document to be used as the anchor of the analytical review is always the transaction documentation. Transaction documentation includes individual transaction documents as well as programme wide documents, in each case as appropriate (unless specifically stated as otherwise e.g. programme memorandum).



5. PCS sees a number of possible forms of evidence in addition to the transaction documents:

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

Second, some criteria that can be confirmed by an examination of the deal sheet.

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.

6. When the analyst is unclear about the interpretation of any piece of evidence, the analyst may always request clarification from the sponsor, arranger or the sponsor'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 sponsor, arranger or their legal counsel or keep a contemporaneous note of the conversation for the file.
7. Grandfathered transactions will have, to a significant extent, finalised documentation and asset-based materials.
8. Analyst confirmation of a particular point may range from simple page reference to much more explanatory comments, as and where appropriate.



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

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

10. Analysts must be reach a strong degree of personal confidence about a particular point before they confirm it.
11. 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.
12. Where analysts are unsure about certain STS criteria interpretations, EBA or national competent authority guidelines or are unsure about certain Sponsor 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.
13. 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 sponsor 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 sponsor 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 been 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 a secondary checklook at the statements in the deal sheet verifying the absence of any statement calling into doubt the “true sale” of the securitised assets.**
- 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 24.2 elaborating on the meaning of “severe clawback provisions” clearly indicate that this concept is a matter of general insolvency law of the Sponsor’s jurisdiction and not a deal specific criterion.

- [A] The first step of PCS’ analysis is therefore to determine the sponsor’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 sale agreement or deal sheet.

In most cases, the COMI of the sponsor 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 sponsor 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.

The legal opinion should be reviewed for acceptability by the analyst. The final EBA final ABCP guidelines also indicate circumstances where a legal opinion review may not be necessary and this is to be assessed on an individual case-by-case basis by the analyst.

- 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 deal sheet and sponsor confirmation should indicate whether the seller is the original lender. If it is not, analysts should see a statement from the sponsor or the seller 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 sponsor or the seller may provide an opinion written at a later date and based on sight by the law firm of the original sale documents.

Co-funding and structural related aspects should be reviewed by analysts.

- 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 transaction documentation or deal 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet). The language must contain the exact same words or words with clearly the same meaning as those set out in the STS Regulation.

The legal opinion should be reviewed for acceptability by the analyst.

- 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet).

The analyst shall read the relevant wording to determine whether it meets the requirement of certainty set out above.

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

The analysis should follow the EBA guidelines in an exact manner for the wording as well as the spirit. The EBA guidelines are non-exhaustive



examples. The information should be located in the transaction documentation (with a back-up review, if appropriate, of the deal sheet).

PCS analysts should request that specific language be available as an explainer of how the point is met and 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. The EBA final ABCP guidance provides helpful advice.

This criterion is a future event criterion. See point 13 of the General Considerations.

The information should be located in the transaction documentation (with a back-up review, if appropriate, of the deal sheet). Analysts should look at whether there is any possibility to transfer new assets to the securitised pool for whatever reason.

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

This information should be located in the transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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 deal sheet to determine that they contain no information inconsistent with the criterion. Analysts must carefully follow the EBA final ABCP guidance on this point.

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

10. 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 the transaction documentation (with a back-up review, if appropriate, of the deal sheet).

11. 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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 deal sheet to determine that they contain no information inconsistent with the criterion.

Analysts should encourage use of the explicit STS language in the transaction documents or deal sheet.

Analysts must read and understand the wording of the relevant legislation, where relevant. It is important to note whether the Sponsor is a relevant regulated entity for purposes of the analysis of this point.

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

Questions 12-16 are particularly complex questions for which analysts must take great care.

A statement on this criterion should be located in the transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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 deal sheet to determine that they contain no information inconsistent with the criterion.

Analysts should encourage use of the explicit STS language in the transaction documents or deal sheet.

- 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet).

- 13. 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet).

- 14. (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 transaction documentation (with a back-up review, if appropriate, of the deal sheet).

- 15. (ii) the information provided by the sponsor, 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet) and (b) the information should be provided in the investor information materials.

- 16. (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 sponsor or original lender;**

The information on this criterion should be located in the transaction documentation (with a back-up review, if appropriate, of the deal sheet).

Analysts should note that point 33 (b) of the EBA final ABCP guidelines is not fully clear and will need further clarification and/or interpretation.

- 17. (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 sponsor which are not securitised**

Information on this criterion should be located in the transaction documentation (with a back-up review, if appropriate, of the deal sheet).



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 deal sheet to determine that they contain no information inconsistent with the criterion.

Analysts should encourage use of the explicit STS language or firm guidance in the prospectus or deal sheet. The analyst should also review the documentation with a view to the situations where the EBA final ABCP guidance indicates the points are deemed to be met.

- 18. 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet).

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

- 19. 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet) or it should be absolutely clear from the transaction documentation (with a back-up review, if appropriate, of the deal sheet) that the EBA guidelines are met.

The analyst shall also read the description of the assets in the deal 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.

Further clarification and/or interpretation is required in respect of the precise calculation method at the point of substitution for point 39 (c) of the EBA final ABCP guidelines.

20. The interest rate and

- [A] First, the analyst must look for an explanatory statement in the deal sheet or other sponsor or arranger statements/deal sheet as to why the hedging mitigation measures are appropriate through the transaction life.**
- [B] Second, the analyst must read the Sponsor Confirmation to determine how the sponsor believes it has met this criterion and satisfy itself that this explanation is reasonable and consistent with the STS criterion.**
- [C] 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].**
- [D] Analysts may also ask for further guidance from the sponsor/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.

Analysts must look at the following:

1. A statement in the Sponsor STS certification or other Sponsor or arranger statements/deal sheet as relevant that the mitigation measures have been designed to meet reasonable hedging scenario (or words to that effect);
2. The deal sheet to check that no statements refer to the risks of “unhedged positions”;
3. The rating agency review, if any, from a recognised credit rating agency (if used) so as to identify any issues with hedging.

Analysts must follow EBA guidelines, if any, on this matter and satisfy themselves that the STS regulations are met. Deal sheet or Sponsor Certificate statements can be necessarily conclusive on this matter. Analysts may assume that A1+/A1 rated programmes or in the case of a transaction within a programme, AAA to BBB are acceptable on this matter. Cashflow models may be reviewed if this assists the analysis. 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. Analysts may also ask, where appropriate, for further guidance from the Sponsor/arranger on the matter as to how mitigation is achieved and with what degree of confidence. The analysis should be made initially as for risk mitigation thereafter – this implies the analysis may need to be refreshed on an on-going basis.

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

The analyst shall review the transaction documentation (with a back-up review, if appropriate, of the deal sheet) to see if currency hedging is relevant or not.

If currency hedging is relevant, the analyst shall proceed as with point 20.

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

The analyst shall review the transaction documentation (with a back-up review, if appropriate, of the deal sheet) to determine disclosure.

23. 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet). Analysts should also review the Sponsor confirmation.

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

An analysis of this criterion should be based on the transaction documentation (with a back-up review, if appropriate, of the deal sheet). Analysts should also review the Sponsor confirmation.

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

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

The information on this criterion should be located in the deal sheet or a review of the transaction 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 (i.e. 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 sponsor, its legal advisors and other law firms in the jurisdiction to determine whether it is appropriate to add a new standard to the list.

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

The information should be found in the transaction documents

27. 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 item in the criterion.

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

The information should be found in the transaction documents.

29. 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.

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

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 Sponsor Certification and engage in a discussion with the sponsor to determine why such change will not materially adversely affect the repayment of the securitisation.



- 31. 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.

- 32. The sponsor 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 data materials relating to such transaction. The Sponsor should also confirm that any investor materials have been made available to investors and/or potential investors.

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

The evidence should be found in the investor materials relating to such transaction.

- 34. Those data shall cover a period no shorter than five years.**

The evidence should be found the investor materials relating to such transaction.

- 35. ABCP transactions 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 deal sheet, investor materials or transaction documentation. PCS analysts should request that specific language in the deal 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 deal sheet to determine whether it is consistent with the explanation referred to immediately above.

- 36. The pool of underlying exposures shall have a remaining weighted average life of not more than one year, and none of the underlying exposures shall have a residual maturity of more than three years.**

By way of derogation from the second subparagraph, pools of auto loans, auto leases and equipment lease transactions shall have a remaining weighted average life of not more than three and a half years, and none of the underlying exposures shall have a residual maturity of more than six years.

An initial analysis of the pool and an annual review should be undertaken by the seller or the sponsor or an independent firm with good reputation and expertise in such analytics. The evidence should be provided in written and data form.

- 37. The underlying exposures shall not include loans secured by residential or commercial mortgages or fully guaranteed residential loans, as referred to in point (e) of the first subparagraph of Article 129(1) of Regulation (EU) No 575/2013.**

The information on this criterion should be located in the deal sheet or a review of the transaction documentation should be made.

- 38. The underlying exposures shall contain obligations that are contractually binding and enforceable,**

This information should be located in the transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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 deal sheet to determine that they contain no information inconsistent with the criterion.

- 39. With full recourse to debtors and, where applicable, guarantors.**

This information should be located in the transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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 deal sheet to determine that they contain no information inconsistent with the criterion.

40. 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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 deal sheet to determine that they contain no information inconsistent with the criterion.

41. 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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 deal sheet to determine that they contain no information inconsistent with the criterion.

42. 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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 deal sheet to determine that they contain no information inconsistent with the criterion.

43. 43. 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 deal sheet, asset data, investor information or transaction documentation.

44. Following the seller's default or an acceleration event: (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;

The EBA final guidance provides a significant element of helpful advice which should be read and understood by analysts. 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 deal sheet or underlying documentation.

- 45. (b) 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet).

- 46. (c) no provisions shall require automatic liquidation of the underlying exposures at market value.**

This information should be located in the deal sheet or transaction documentation.

Analysts may also refer to the Sponsor Certification.

- 47. The underlying exposures shall be originated in the ordinary course of the sponsor’s or original lender's business**

This information should be located in the deal sheet or transaction 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 deal sheet to determine that they contain no information inconsistent with the criterion.



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

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

This is a “no-cherry” picking criterion. Therefore, PCS understands that if the seller or sponsor (depending on the transaction mechanism for selecting assets) 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet). 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.

- 49. The underwriting standards pursuant to which the underlying exposures are originated and any material changes from prior underwriting standards shall be fully disclosed to the sponsor and other parties directly exposed to the ABCP transaction without undue delay.**

PCS understands that this criterion is a requirement that any relevant material changes in underwriting standards affecting substitutions or additional purchases should be notified to sponsor or other parties directly exposed to the ABCP transaction without delay.

This is, however, a future behaviour criterion. See paragraph 13 of General Considerations.

- 50. The sponsor 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 transaction documentation (with a back-up review, if appropriate, of the deal sheet). Alternatively, information may be found in the Sponsor certification. Analysts should follow specifically EBA guidelines on this matter. Analysts will follow up any statements with, at a minimum, a conversation with the Sponsor or relevant transaction party to review the statements made in the relevant documents.

- 51. Where an ABCP transaction is a revolving securitisation, the transaction documentation shall include triggers for termination of the revolving period, including at least the following:**

The information should be found in the transaction documents.

- 52. (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.

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

The information should be found in the transaction documents.

- 54. 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.

- 55. (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.

- 56. (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.

- 57. (d) how the sponsor meets the requirements of Article 25(3).**

The information should be found in the Programme Memorandum or Sponsor provided evidence. See also point 62 below.

- 58. The sponsor of the ABCP programme shall be a credit institution supervised under Directive 2013/36/EU.**

The sponsor should warrant this information in the transaction documents. In addition, the analyst shall investigate this by checking publicly available lists of authorised banks.

- 59. The sponsor of an ABCP programme shall be a liquidity facility provider.**

The information should be found in the Programme memorandum

- 60. And shall support all securitisation positions on an ABCP programme level by covering all liquidity and credit risks and any material dilution risks of the securitised exposures as well as any other transaction- and programme-level costs if necessary to guarantee to the investor the full payment of any amount under the ABCP with such support.**

The information should be found in the Programme memorandum and /or transaction documents

- 61. The sponsor shall disclose a description of the support provided at transaction level to the investors including a description of the liquidity facilities provided.**

The information should be found in the Programme memorandum

- 62. Before being able to sponsor an STS ABCP programme, the credit institution shall demonstrate to its competent authority that its role under paragraph 2 does not endanger its solvency and liquidity, even in an extreme stress situation in the market.**

The sponsor will provide a representation in the transaction document that its prudential regulator has been made fully aware of the existence of the relevant ABCP programme, including the size of the liquidity facility, and has not raised any objections nor has it requested the sponsor to decrease or eliminate its exposure under the liquidity facility

- 63. The sponsor shall perform its own due diligence**

The information should be found in the Programme Memorandum and/or transaction documents.

- 64. And shall verify compliance with the requirements set out in Article 5(1) and (3) of this Regulation, as applicable.**

The information should be found in the Programme Memorandum and/or transaction documents.

- 65. It shall also verify that the seller has in place servicing capabilities and collection processes that meet the requirements specified in points (h) to (p) of Article 265(2) of Regulation (EU) No 575/2013 or equivalent requirements in third countries.**

The information should be found in the Programme Memorandum

- 66. The seller, at the level of a transaction, or the sponsor, at the level of the ABCP programme, shall satisfy the risk-retention requirement**

referred to in Article 6.

This information should be located in the programme memorandum, transaction documentation (with a back-up review, if appropriate, of the deal sheet), all as relevant.

67. The sponsor shall be responsible for compliance with Article 7 at ABCP programme level

The information should be found in the Programme Memorandum. The information availability may be confirmed by either a blanket statement or individual Article 7 requirements being confirmed item-by-item.

68. 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 programme documentation. Analysts should receive a copy of this information at inception of the STS verification for their records and check indicated availability against the actual received.

69. The information required by points (b) to (e) of the first subparagraph of Article 7(1), at least in draft or initial form.

The information regarding availability should be found in the programme documentation. Analysts should receive a copy of this information at inception of the STS verification for their records and check indicated availability against the actual received.

70. In the event that the sponsor does not renew the funding commitment of the liquidity facility before its expiry, the liquidity facility shall be drawn down and the maturing securities shall be repaid.

The information should be found in the terms of the liquidity facility.

71. All ABCP transactions within an ABCP programme shall fulfil the requirements of Article 24(1) to (8) and (12) to (20).

The programme memorandum shall contain a statement by the sponsor to that effect and a confirmation that a certification has been made to ESMA in respect of each transaction.

The sponsor shall also provide PCS with a list of all transactions within the conduit and a confirmation that each is STS and has been certified as such to ESMA.

- 72. A maximum of 5 % of the aggregate amount of the exposures underlying the ABCP transactions and which are funded by the ABCP programme may temporarily be non-compliant with the requirements of Article 24(9), (10) and (11) without affecting the STS status of the ABCP programme.**

A statement setting out the proportion of non-compliant exposures should be produced to PCS at the time of the final STS Verification.

Thereafter, this is a future behaviour criterion. See paragraph 13 of General Considerations.

- 73. The remaining weighted average life of the underlying exposures of an ABCP programme shall not be more than two years.**

The programme memorandum should provide details of the testing which may be carried out by the sponsor.

- 74. The ABCP programme shall be fully supported by a sponsor in accordance with Article 25(2).**

The information should be found in the Programme Memorandum and the terms of the liquidity facility.

- 75. The ABCP programme shall not contain any resecuritisation**

The information should be found in the Programme Memorandum.

- 76. And the credit enhancement shall not establish a second layer of tranching at the programme level.**

The information should be found in the Programme Memorandum.

- 77. The securities issued by an ABCP programme shall not include call options, extension clauses or other clauses that have an effect on their final maturity, where such options or clauses may be exercised at the discretion of the seller, sponsor or SSPE.**

The information should be found in the Programme Memorandum

- 78. The interest-rate**

The information should be found in the Programme Memorandum

- 79. And currency risks arising at ABCP programme level shall be appropriately mitigated**



The information should be found in the Programme Memorandum

80. And any measures taken to that effect shall be disclosed.

The information should be found in the Programme Memorandum. The analyst shall take into account the same elements, in so far as are relevant, as are set out in point 20 above.

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

The information should be found in the Programme Memorandum

82. And shall ensure that the pool of underlying exposures does not include derivatives.

The information should be found in the Programme Memorandum.

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

The information should be found in the Programme Memorandum.

84. The documentation relating to the ABCP programme shall clearly specify:

- a) the responsibilities of the trustee and other entities with fiduciary duties, if any, to investors;

The information should be found in the Programme Memorandum and the transaction documents.

85. (b) the contractual obligations, duties and responsibilities of the sponsor, who shall have expertise in credit underwriting, the trustee, if any, and other ancillary service providers;

The information should be found in the Programme Memorandum and/or transaction documents. As with term transactions, prudentially regulated institutions are deemed to have expertise in credit underwriting (we note that since it is a requirement that all sponsors must be prudentially regulated institutions, this criterion should always be met).

- 86. (c) the processes and responsibilities necessary to ensure that a default or insolvency of the servicer does not result in a termination of servicing;**

The information should be found in the Programme Memorandum and the transaction documents.

- 87. (d) the provisions for replacement of derivative counterparties, and the account bank at ABCP programme level upon their default, insolvency and other specified events, where the liquidity facility does not cover such events;**

The information should be found in the Programme Memorandum and the transaction documents.

- 88. (e) that, upon specified events, default or insolvency of the sponsor, remedial steps shall be provided for to achieve, as appropriate, collateralisation of the funding commitment or replacement of the liquidity facility provider; and**

The information should be found in the Programme Memorandum and/o transaction documents.

- 89. (f) that the liquidity facility shall be drawn down and the maturing securities shall be repaid in the event that the sponsor does not renew the funding commitment of the liquidity facility before its expiry.**

The information should be found in the Programme Memorandum and the terms of the liquidity facility

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

This information should be located in the programme memorandum or Sponsor Certificate. The EBA final ABCP 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 Sponsor or relevant transaction party to review the statements made in the relevant documents.

The analyst may undertake due diligence including calls or visits to the servicer to check the information, if required. The results should form part of the written analyst work.

91. 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 programme memorandum, third party review or Sponsor Certificate. The EBA guidelines (or additional National Competent Authority guidelines) must be strictly followed on this matter with full and relevant statements made. The analyst may undertake due diligence including calls or visits to the sponsor to check the information, if required. The results should form part of the written analyst work.

92. The originators, 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 should be found in the programme memorandum. This is, however, a future behaviour criterion. See paragraph 13 of General Considerations.

93. All transaction 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 programme memorandum together with the closing transaction documents, excluding legal opinions;

The information regarding availability should be found in the programme memorandum.

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

94. 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 programme memorandum.

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

95. The derivatives and guarantees agreements as well as any relevant documents on collateralisation arrangements where the exposures being securitised remain exposures of the sponsor;

The information regarding availability should be found in the programme memorandum.

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

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

The information regarding availability should be found in the programme memorandum.

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

97. 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 programme memorandum.

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

98. 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 programme memorandum.

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

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

The information regarding availability should be found in the programme memorandum.

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

100. Where a programme memorandum 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:

The information should be found in the transaction summary or deal sheet

101. (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 deal sheet

102. (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 deal sheet

103. (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 deal sheet

104. (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 deal sheet

105. 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).

106. Quarterly investor reports, or, in the case of ABCP, monthly investor reports, containing the following:

The information regarding availability should be found in the programme memorandum. Analysts should review a copy of the investor report and maintain a copy for their records. This is, however, a future behaviour criterion. See paragraph 13 of General Considerations.

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

The information regarding availability should be found in the programme memorandum. Analysts should review a copy of the investor report and maintain a copy for their records.

108. 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 programme memorandum. The analyst should receive a template or actual copy to check indication against availability.

109. 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 should be found in the investor reports

110. (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 programme memorandum.

111. (f) any inside information relating to the securitisation that the sponsor, 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 programme memorandum or investor report. The Sponsor 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.

111. (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 programme memorandum.

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

The information should be found in the programme memorandum.

- 113. (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 programme memorandum.

- 114. (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, where relevant should be found in the programme memorandum.

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

The information, where relevant should be found in the programme memorandum.

- 116. 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 or, in the case of ABCP transactions, at the latest one month after the end of the period the report covers.**

In the case of ABCP, the information described in points (a), (c)(ii) and (e)(i) of the first subparagraph shall be made available in aggregate form to holders of securitisation positions and, upon request, to potential investors. Loan-level data shall be made available to the sponsor and, upon request, to competent authorities.

The information, where relevant should be found in the programme memorandum.

- 117. 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**

This is a future behaviour criterion. See paragraph 13 of General Considerations.

- 118. 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 programme memorandum 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, where relevant should be found in the programme memorandum or other ABCP investor information.

119. 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, where relevant should be found in the programme memorandum or other ABCP investor information.