

Chapter 2

Commission Delegated Regulation (EU) 2020/1226

Preamble

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 and in particular Article 27(6) thereof,

01/01/2021

Whereas:

(1) Regulation (EU) 2017/2402 requires originators and sponsors to submit certain information to the European Securities Markets Authority (ESMA) where they consider that a securitisation meets the requirements regarding simple, transparent and standardised criteria (STS) set out in Articles 19 to 22 and Articles 23 to 26 of that Regulation. The information to be provided varies according to the different types of securitisations notified.

(2) In order to allow competent authorities to perform their duties and allow investors and potential investors to perform their due diligence, sufficiently detailed information, relevant to the STS notification, is necessary to determine whether the STS criteria is satisfied. Specifically, the rationale for selecting a homogeneity factor and for excluding others should be included in the notification to inform the assessment of the homogeneity criterion. For certain STS criteria, simple confirmation of compliance is sufficient while other criteria require further information. It is therefore necessary to distinguish requirements for which a simple confirmation is sufficient from those for which a concise explanation or a detailed explanation is necessary.

(3) Securitisations where no prospectus must be drawn up in accordance with Regulation (EU) 2017/1129 of the European Parliament and of the Council (private securitisations) allow parties to enter into securitisation transactions without disclosing sensitive commercial information. It is therefore appropriate to restrict the information to be published of the STS notifications of such securitisations to non-sensitive commercial information.

(4) To facilitate access to information relevant to the STS requirements, originators and sponsors should be allowed to refer to the relevant prospectus drawn up for that securit-

isation in accordance with Regulation (EU) 2017/1129, other relevant underlying documentation as referred to in Article 7(1)(b) of Regulation (EU) 2017/2402 or any other document with information relevant to the STS notification.

(5) This Regulation is based on the draft regulatory technical standards submitted by ESMA to the Commission.

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

HAS ADOPTED THIS REGULATION: