

Bank of England PRA

Permissions for resecuritisations under section 138BA of the Financial Services and Markets Act 2000

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Statement of policy

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1. Introduction

1.1 This statement of policy (SoP) sets out the Prudential Regulation Authority's (PRA) approach to considering applications from, and granting permissions to, PRA-authorized persons to include securitisation positions as underlying exposures in a securitisation using its powers under section 138BA of the Financial Services and Markets Act 2000 (FSMA).

1.2 If the PRA were to grant such a permission under section 138BA of FSMA, the PRA would exercise its powers to disapply or modify Article 8(1) of Chapter 2 of the Securitisation Part of the PRA Rulebook that prohibits such resecuritisations.¹

1.3 This SoP is relevant to all PRA-authorized persons to whom the Securitisation Part of the PRA Rulebook applies.

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¹ Under Article 8(2) of the Securitisation Regulation, the PRA could grant permission to an entity under its supervision to include securitisation positions as underlying exposures in a securitisation where the PRA deemed the use of a resecuritisation to be for legitimate purposes as set out in paragraph 3 of this Article. However, the Securitisation Regulations revoke Article 8(2) and (3).

2. The procedure for considering permissions for resecuritisations under section 138BA of FSMA

Interaction between the PRA and firms before an application

2.1 The PRA expects firms to engage with it as early as possible regarding applications for permission to include securitisation positions as underlying exposures in a securitisation.

Application contents

2.2 A PRA-authorized firm should submit a written application to the PRA for permission to include securitisation positions as underlying exposures in a securitisation. The application should be made in accordance with any relevant procedural requirements in regulations made under section 138BA of FSMA.

2.3 The application should include an overview of the proposed resecuritisation and identify the originator, original lender, sponsor, and/or SSPE where applicable. It should explain, with supporting evidence, the rationale for the permission, including whether the resecuritisation is for any of the following purposes:

- a. the facilitation of the winding-up of a PRA-authorized or FCA-authorized person;
- b. ensuring the viability as a going concern of a PRA-authorized or FCA-authorized person in order to avoid its winding-up; or
- c. where the underlying exposures are non-performing, the preservation of the interests of investors.

Assessment of the application

2.4 The PRA will confirm receipt of the firm's application.

2.5 The PRA may request additional information necessary for carrying out its assessment. Any such request will specify the additional information required and will include the reasons for the request.

2.6 The PRA shall determine the application in accordance with any relevant procedural requirements in regulations made under section 138BA of FSMA.

Right to withdraw the application by the firm

2.7 A firm which has submitted an application to include securitisation positions as underlying exposures in a securitisation may withdraw that application by notifying the PRA in writing at any time before it reaches a decision on the application.

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3. Factors considered in the PRA's decision on the application

3.1 Without limiting the PRA's discretion, the PRA expects to grant permission to include securitisation positions as underlying exposures in a securitisation only if it considers the use of a resecuritisation to be for any of the following purposes:

- a. the facilitation of the winding-up of a PRA-authorized or FCA-authorized person;
- b. ensuring the viability as a going concern of a PRA-authorized or FCA-authorized person in order to avoid its winding-up; or
- c. where the underlying exposures are non-performing, the preservation of the interests of investors.

3.2 In considering whether to grant a permission, the PRA will consider the potential impact on its objectives.

3.3 The PRA would expect to consult the Bank of England as resolution authority before granting permission to include securitisation positions as underlying exposures in a securitisation.

3.4 The PRA may also consult the FCA, including for example where a proposed resecuritisation involves an originator, original lender, sponsor, or SSPE that is FCA-authorized.