

## EU APPROVES CAPITAL MARKETS RECOVERY PACKAGE

On 25 March 2021 the European Parliament approved amendments to the [Securitisation Regulation](#) and the [Capital Requirements Regulation](#) as part of the Capital Markets Recovery Package (CMRP), also commonly known as the Commission's "COVID quick fix" package. Following this approval, the package is expected to be published in the Official Journal around mid-April and enter into force three days thereafter.

The CMRP had two main purposes originally: (1) to facilitate the securitisation of non-performing exposures (NPEs); and (2) to introduce a framework of simple, transparent and standardised (STS) securitisation for synthetic transactions, which have hitherto been largely excluded from the regulatory benefits of STS.

Those two elements remain in the package. Amendments will now be made to the risk retention, due diligence and capital rules to facilitate the securitisation of NPEs. Equally, amendments will be made to introduce special STS criteria for synthetic securitisations, with corresponding favourable capital treatment for bank originators retaining exposures to senior tranches.

That said, recent attention on the securitisation CMRP was focussed on an anti-tax avoidance provision inserted by the European Parliament that threatened (inadvertently, it is widely thought) to render it illegal for EU entities to invest in or otherwise deal with securitisation special purpose entities (SSPEs) established in countries on the EU tax compliance "black list" and "grey list" (being Annexes I, and II, respectively of the [EU list of non-cooperative jurisdictions for tax purposes](#)). This caused a great deal of consternation because the grey list included countries such as Australia, Morocco and Turkey (Morocco no longer appears on either list).

In the event, a compromise was reached according to which only the black list is banned, but investments in SSPEs established in grey list countries will be permitted. However, investing in SSPEs established in countries grey-listed for operating "harmful tax regimes" (currently, Australia, Jordan and Jamaica) will have to be notified to the competent authorities of the Member State in which the investor is resident for tax purposes. The notification requirement applies only to investments in securities issued by SSPEs established after the CMRP amendments come into force.

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