

**Submission Date**

29/03/2022

# ESMA\_QA\_484

Status: Answer Published

## **Additional Information**

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### **Level 1 Regulation**

Securitisation Regulation (EU) 2017/2402

### **Topic**

STS Securitisations

### **Additional Legal Reference**

Article 21(7)(c) of the Securitisation Regulation ("SECR")

## **Subject Matter**

Replacement of liquidity provider

## **Question**

According to article 21(7)(c) SECR, the transaction documentation shall clearly specify provisions that ensure the replacement of, amongst others, liquidity providers in the case of

their default, insolvency, and other specified events, where applicable. We are currently assessing several securitisations where there is a Reserves Funding Provider or Subordinated Loan Provider that fulfills a role as a liquidity provider. The role of these parties is to make available the relevant reserve advances, including a liquidity reserve advance to provide the issuer with additional liquidity in order to make interest payments on the notes.

For these transactions, it is being argued that there is no back-up party in place because additional reserves will be funded when the rating of the Reserves Funding Provider or Subordinated Loan Provider respectively is downgraded. The funding of these reserves will occur before a potential default of the Reserves Funding Provider or Subordinated Loan Provider and therefore it is argued that a back-up party would not be necessary.

Question:

According to Art.21(7)(c) SECR, should there always be a provision in the transaction documentation that ensures the replacement of a liquidity provider, or any other party that functions in a certain way as a liquidity provider (but named differently), if present?