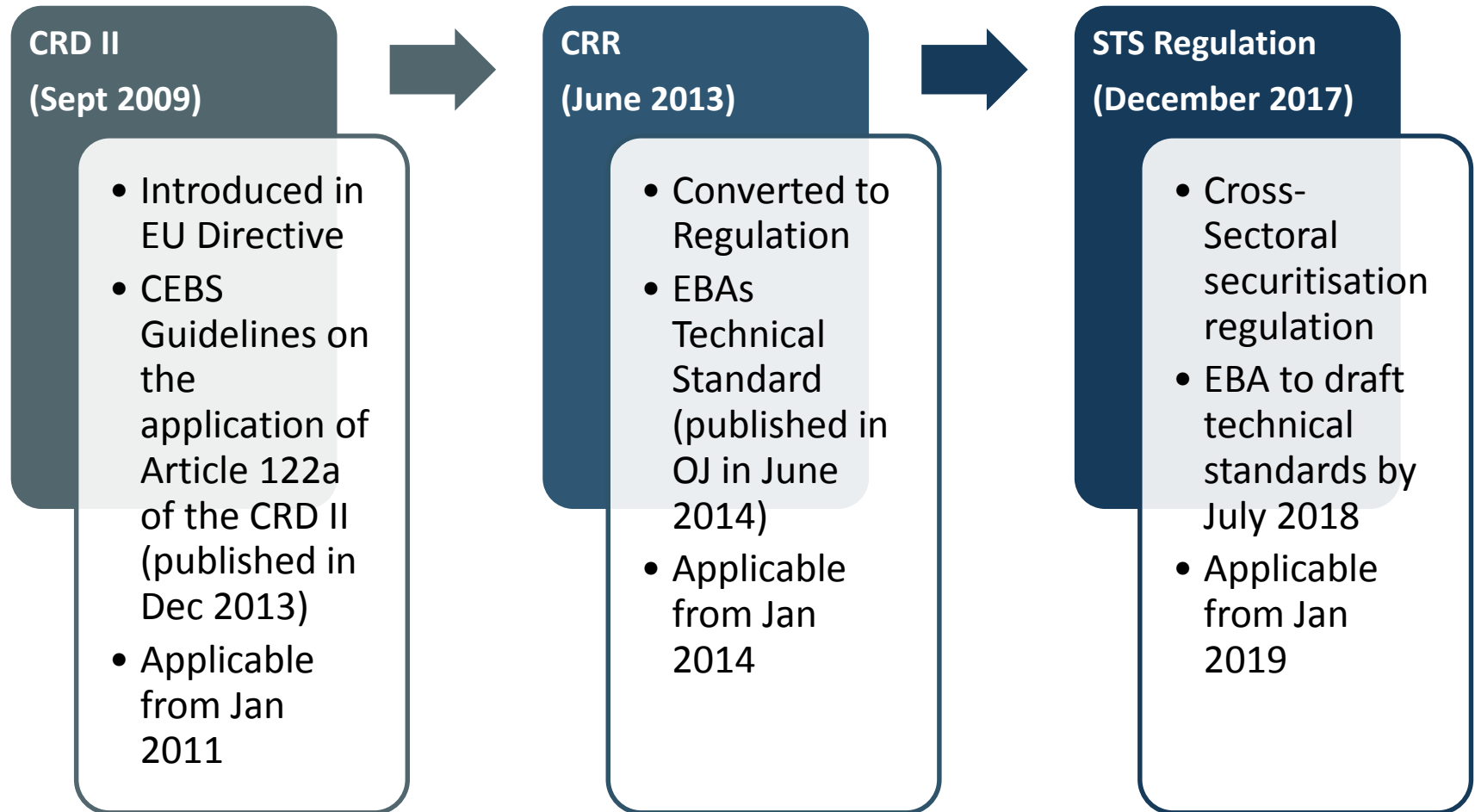


CP on draft RTS on Risk Retention

Public Hearing, EBA Premises, 19 February 2018

Risk Retention in the EU



EBA mandate on risk retention

CRR Article 410(2)

EBA shall develop draft regulatory technical standards to specify in greater detail:

- the requirements in Articles 405 and 406 applying to institutions becoming exposed to the risk of a securitisation;*
- the retention requirement, including the qualifying criteria for retaining a material net economic interest as referred to in Article 405 and the level of retention;*
- the due diligence requirements in Article 406 for institutions becoming exposed to a securitisation position; and*
- the requirements in Articles 408 (Criteria for credit granting) and 409 (Disclosure to investors) applying to sponsor and originator institutions*

STS Article 6(7)

EBA, in close cooperation with ESMA and EIOPA, shall develop draft regulatory technical standards to specify in greater detail the risk retention requirement, in particular with regards to:

- the modalities of retaining risk pursuant to paragraph 3, including the fulfilment through a synthetic or contingent form of retention;*
- the measurement of the level of retention referred to in paragraph 1;*
- the prohibition of hedging or selling the retained interest;*
- the conditions for retention on a consolidated basis in accordance with paragraph 4;*
- the conditions for exempting transactions based on a clear, transparent and accessible index referred to in paragraph 6.*

- Scope of jurisdictional application of direct retention obligation
- Number of provisions from the existing Delegated Regulation are not included in the new RTS
- More flexibility in mandate on technical aspects of risk retention modalities
- Grandfathering of existing Delegated Regulation

Outline and parameters on the RTS

Existing RTS

Min 5% level
Eligible Retainers
Holding Options
Exemptions
Etc.

Clarifications
Amendments
Deletions

Additions

Sole purpose test
Asset Transferred to
SPPE
Change in retainer

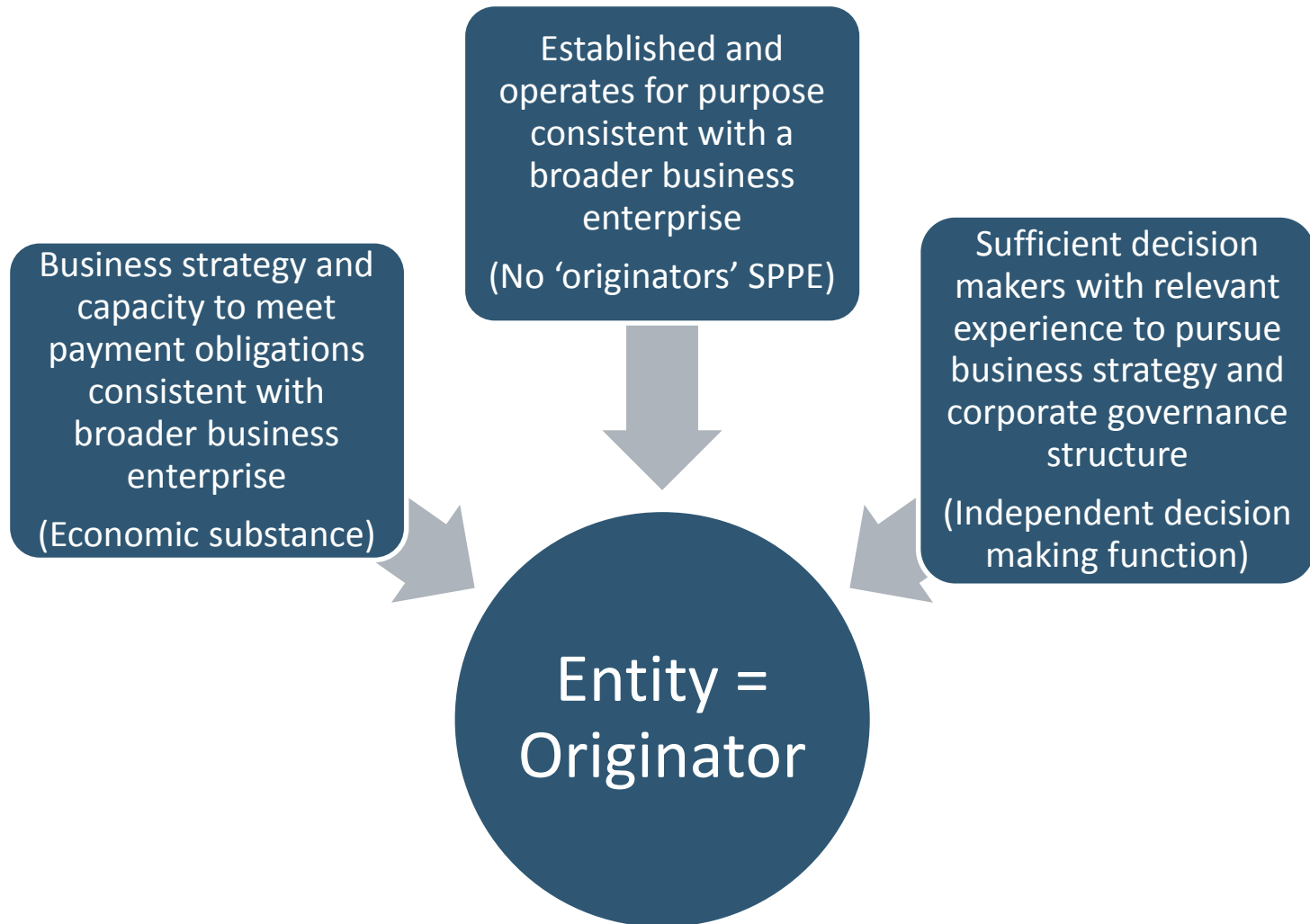
Clarifications and amendments

- Macro-hedging prior to securitisation (Recital 8)
- Hedging or selling of retained interest (Article 12(2))
- Initial disclosure of retained interest (Article 15)
- Measurement of retained interest in case of multiple originators or original lenders (Article 3)

Deletions

- Due diligence requirements
- Policies for credit granting
- Disclosure requirements of materially relevant data

Sole Purpose Test



Assets transferred to the SSPE

Route 1

- **Assets share similar characteristics and credit risk profile as assets which remain on balance sheet of originators**
- Assets can be considered comparable if, on the basis of indications, such as past performance or applicable models the performance would not be significantly different

Route 2

- **Assets ex-ante have a higher than average credit risk profile compared to assets which remain on balance sheet of originators**
- Clearly communicated in writing to the competent authorities, investors and potential investors

Change of retainer



Unable to continue to act as retainer

Due to transfer of a direct or indirect holding in the retainer

Due to legal reasons beyond its control and beyond control of its shareholders



New retainer

Must satisfy all relevant conditions for constituting the retainer

Questions for consultation

Question 1: Do you have any general comments on the draft technical standards?

Question 2: Considering the mandate granted to ESMA in Article [7(3)] of the STS Regulation, do you believe that these technical standards should include disclosure-related provisions relevant to risk retention and, if so, do you agree with the scope of the obligations set out in the draft technical standards?

Question 3: Do you believe that the provisions in Article 11 of the draft technical standards (relating to the measurement of retention for the undrawn amounts in exposures in the form of credit facilities) are needed?

Question 4: Do you consider the provisions of Article 12(3) of the draft technical standards to be useful and how would you see such a transaction working in practice, including following a default by the retainer under the secured funding arrangements?

Question 5: Do you believe that the provisions of Article 16 of the draft technical standards relations to assets transferred to the SSPE are adequate?

Question 6: Do you consider that the provisions of Article 17 of the draft technical standards relating to a change of retainer are adequate?

Question 7: Should the draft technical standards contain any additional guidance on the operation of Article 14 of Regulation (EU) No 575/2013?

Question 8: Do you consider that wording similar to that which is set out in Article 5(1)(a) of Commission Delegated Regulation (EU) No 625/2014 relating to revolving securitisations should be maintained in these technical standards?

Question 9: Do you consider that guidance is required on what constitutes a significantly lower performance for the purposes of Article [6(2)] of the STS Regulation and, if so, what would you propose?

Questions?



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