

MEASURES AND INSTRUMENTS FOR CREDIT SECURITISATION

Law 157 of 30 August 2021

UNOFFICIAL TEXT

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REPUBLIC OF SAN MARINO

MEASURES AND INSTRUMENTS FOR CREDIT SECURITISATION

CHAPTER I INTRODUCTORY PROVISIONS ON SECURITISATION

Art.1 (Scope of application)

1. This Law shall apply to securitisation transactions carried out through the transfer of securitised assets, when the following requirements are met:

- a) The transferee is a person meeting the requirements set out in Article 4;
- b) The payments made:
 - (i) By transferred debtor(s), or by third parties on their behalf, in cases of financial securitisation;
 - (ii) By the purchasers or users of the assets and rights transferred, in cases of material and/or mixed securitisation,

are exclusively intended for the fulfilment of the rights included in the securities issued (ABS), by the same person or by another person, to finance the purchase of the securitised assets, as well as for the payment of the costs of the securitisation transaction.

Art.2 (Definitions)

1. For the purposes of this Law, the following terms shall have the meanings specified herein:
- a) ABS: asset backed securities issued by the Special Purpose Vehicle or the System Vehicle to finance the purchase, from the originator, of the securitised assets, the proceeds of which are used to pay coupons, repay the principal and cover the costs of the securitisation transaction;
 - b) Senior ABS, Mezzanine ABS and Junior ABS: tranches of financial instruments (ABSs) issued in the context of securitisation transactions by the Special Purpose Vehicle or the System Vehicle and characterised by a decreasing level of protection in terms of right to repayment;
 - c) Arranger: a person entrusted with the arrangement of securitisation transactions;
 - d) Securitised assets: monetary claims, both existing and future, which can be identified en bloc if they are a plurality of claims or real estate or registered movable assets and rights in rem or personal rights related to such assets;
 - e) Banking assets: performing loans, NPLs, securities or, more generally, assets that will be securitised following their transfer to the System Vehicle in accordance with Chapter III below;
 - f) CBSM: the Central Bank of the Republic of San Marino;
 - g) Business plan: the operational prospectus of securitisation, which contains the estimates of costs for the management and recovery of assets, the strategies for the valuation of assets and the estimate of the expected cash flows that will have to be compatible with the repayment of the Senior and Mezzanine ABS tranches referred to in Article 16 hereunder;
 - h) Financial securitisation: a securitisation transaction involving only monetary claims;
 - i) Material securitisation: a securitisation transaction exclusively involving real estate or registered movable assets;
 - l) Mixed securitisation: a securitisation transaction involving monetary claims or real estate or registered movable assets;

- m) Professional customers: persons qualifying as such pursuant to and for the purposes of Article 1, letter f) of Regulation no. 2006-03 on collective investment services (update XI) of the Central Bank of the Republic of San Marino and subsequent amendments;
- n) Institutional customers: persons already included among professional customers, provided that they can be qualified as States, central banks, international and supranational institutions, as well as persons authorised to carry out the reserved activity referred to in letters A) and B) of Annex 1 to the LISF;
- o) NPLs: loans that are included, in accordance with the supervisory provisions in force, in one of the following categories:
 - bad loans;
 - problem loans;
 - restructured loans;
 - past due and overdue loans;
 - unsecured loans to countries at risk;
- p) LISF: Law no. 165 of 17 November 2005 and subsequent amendments;
- q) Securitisation transactions: transfers to the Special Purpose Vehicle of securitised assets, or transfers to the System Vehicle of banking assets, and, in general, of other assets capable of producing cash flows. The Special Purpose Vehicle and the System Vehicle, which are entities with separate legal personality from the transferor, shall normally raise the financial resources necessary to purchase the transferred assets by issuing negotiable securities that can be placed on the securities markets. These securities shall be repaid, for the principal portion, and remunerated, for the interest portion, through the cash flows generated by the assets transferred;
- r) Originator: a person that transfers the securitised assets or banking assets;
- s) Servicer: a person mandated by the transferee to collect, pay and recover credits or to manage and disinvest securitised assets;
- t) Special Purpose Vehicle or SPV: an entity that is the transferee of securitised assets;
- u) IGRC: the Servicer, established, regulated and entrusted with the management of banking assets including the recovery of NPLs transferred by the originators to the System Vehicle, pursuant to Delegated Decree no. 126 of 27 July 2020 and subsequent amendments, as supplemented by Article 15 hereunder;
- v) System Vehicle: the Special Purpose Vehicle, which is the transferee of banking assets, established and regulated pursuant to Delegated Decree no. 126 of 27 July 2020 and subsequent amendments;
- z) State: Eccellentissima Camera (State) of the Republic of San Marino;
- aa) Net book value: the book value of securitised banking assets recorded in the latest approved annual or semi-annual financial statement, whichever is the later, net of depreciations and value adjustments;
- bb) Real economic value: the prudent valuation of cash flows generated by the assets transferred over a period of time consistent with the duration of Senior ABSs issued by the System Vehicle, net of the costs for their management and recovery, discounted at a rate that includes a risk premium lower than that expected by private investors in the event of spot sale of such assets on the market.

CHAPTER II

PROVISIONS ON SECURITISATION IN GENERAL

Art.3 (Transaction plan)

1. The ABSs referred to in Article 2 shall be financial instruments within the meaning and for the purposes of the LISF.
2. The issue of ABSs shall be subject to the prior approval of the transaction plan by the originator's governing body, subject to Article 8 hereunder.
3. The transaction plan shall be presented to investors by the issuer through an arranger. The transaction plan may be presented directly by the issuer only in the case in which the issue of ABSs is reserved to institutional customers.
4. The transaction plan shall indicate at least the following:

- a) The transferor, the transferee and the characteristics of the transaction, with respect to both the securitised assets and the securities issued to finance the transaction;
 - b) The persons to be entrusted with the issue and placement of securities;
 - c) The persons to be entrusted with the collection of the credits transferred and with the cash and payment services or the management of the tangible assets transferred;
 - d) The conditions under which, for the benefit of the security holders, the transferee is allowed to transfer the assets purchased;
 - e) The conditions under which the transferee may reinvest in other financial assets the funds deriving from the management of the securitised assets, which are not immediately used to fulfil the rights deriving from the securities;
 - f) Any ancillary financial transactions, including any derivative contracts, carried out for the successful completion of the securitisation transaction;
 - g) The minimum essential content of the ABSs to be issued;
 - h) The costs of the transaction and the conditions under which the transferee may deduct them from the sums derived from the securitised assets, as well as an indication of the profits expected from the transaction and the relevant recipient.
5. ABSs shall be offered exclusively to professional customers and may also be subscribed by a single investor.

Art.4 (Transferee)

- 1. The exclusive purpose of the Special Purpose Vehicle is to carry out one or more securitisation transactions.
- 2. Special Purpose Vehicles:
 - a) Shall be established as companies with share capital in accordance with Law no. 47 of 23 February 2006 and subsequent amendments;
 - b) Due to the limitation of their purpose and the special asset separation regime they benefit from, shall be neither authorised nor supervised by CBSM;
 - c) In relation to the obligation, for the exercise of the activities referred to in Article 3, paragraph 4, letter c), to use servicers that are already obliged parties for anti-money laundering purposes, shall not fall within the persons referred to in Article 17 of Law no. 92 of 17 June 2008 and subsequent amendments.
- 3. Without prejudice to letter b) of paragraph 2 of this Article, Special Purpose Vehicles:
 - a) Shall succeed the originators for all purposes, including sanctions, in the periodic reporting requirements of banks and financial companies referred to in Article 50 of the LISF;
 - b) Shall be subject to further reporting and statistical requirements or listing requirements, if any, established by CBSM in a specific regulation;
 - c) Shall be required to verify compliance by the originator with Article 52 of the LISF, where applicable.

Art.5 (Internal and external asset separation)

- 1. From the date of publication of the transfer, as referred to in Article 7 hereunder, or from the certain date of payment, even in part, of the consideration for the transfer, on the securitised assets and on the sums paid by the transferred debtors, actions shall be permitted only to protect the rights included in the ABSs, which were issued to finance the purchase of such credits and to pay the costs of the securitisation transaction. In any case, the transferred debtors shall not set off credits purchased by the securitisation company against credits of such debtors vis-à-vis the originator, which arose after that date.
- 2. The assets purchased by the Special Purpose Vehicle shall constitute, to all intents and purposes, separate assets from the assets of the transferor, the assets of the transferee and the assets relating to other transactions carried out by the Special Purpose Vehicle. For each individual securitisation transaction, the Special Purpose Vehicle shall have a single, albeit composite, portfolio containing all assets transferred pursuant to Article 7.
- 3. The amounts paid by the transferred debtors shall be used by the Special Purpose Vehicle exclusively for the payment of claims held by the persons referred to in letters m) and n) of Article 2, by the counterparties to derivative contracts for risk hedging purposes, as well as for the payment of other costs of the securitisation

transactions. In the event that proceedings referred to in Part II, Title II of the LISF, as well as bankruptcy or resolution proceedings are initiated against the custodian bank, the sums credited to such accounts and those paid in the course of such proceedings shall not be subject to suspension of payments and shall be immediately and fully returned to the Special Purpose Vehicle without the necessity of filing an application for inclusion in the statement of liabilities or for claim, and outside the plans for distribution or restitution of sums.

4. Actions by the creditors of such persons shall not be admitted on the current accounts credited with the amounts collected on behalf of the Special Purpose Vehicle, when such current accounts are opened by persons that provide, in the context of securitisation transactions, also on behalf of the servicers, the services indicated in Article 3, paragraph 4, letter c), except for the excess of the amounts collected over those due to the Special Purpose Vehicle. In the event that the proceedings or procedures referred to in the preceding paragraph are initiated against these persons, the sums credited to such accounts and those paid in the course of such proceedings or procedures, for an amount equal to the sums collected and due to the Special Purpose Vehicle, shall be immediately and fully returned to the Special Purpose Vehicle without the necessity of filing an application for inclusion in the statement of liabilities or for claim, and outside the plans for distribution or restitution of sums.

Art.6

(Competence of servicers and mandated servicers)

1. Depending on the subject matter of the securitisation transaction, servicers shall meet appropriate requirements in terms of professional skills and good repute of corporate officers and specific expertise in the field of:

- a) Management of cash flows related to securitised assets (payment service providers under the LISF);
- b) Management of the transferred credits (banks or financial companies within the meaning of the LISF or companies specialised in debt collection);
- c) Management of real estate or registered movable assets and related rights (real estate companies or other companies specialised in this field).

2. The servicers used by the Special Purpose Vehicle:

- a) Shall be companies incorporated under San Marino law;
- b) Shall deposit on SPV accounts opened with San Marino banks the financial resources relating to securitisation transactions, which constitute separated assets subject, mutatis mutandis, to the provisions of Article 73-bis of the LISF;
- c) In relation to the activity carried out in accordance with paragraph 1 above, shall fall, even if they are not authorised parties, within those supervised by CBSM, which regulates them with a specific Regulation;
- d) If they are banks or financial companies, shall be required, in place of the Special Purpose Vehicle, to comply with the requirements of Article 4, paragraph 3.

3. Unless otherwise provided for, the servicers referred to in Article 3, paragraph 4, letter c) may in turn mandate other servicers, including foreign servicers, to collect, pay and recover debts or to manage and disinvest the securitised assets, provided that they are covered by the definition in Article 3, paragraph 4, letter c).

4. The sums collected by mandate pursuant to the preceding paragraph, if deposited on accounts opened with foreign banks, shall be transferred within 15 days to the dedicated accounts opened by the SPV referred to in paragraph 2 above with San Marino banks.

Art. 7

(Procedures and effectiveness of the transfer)

1. For the transfers of securitised assets, carried out in the context of a securitisation transaction, including by originators that are not authorised parties under the LISF:

- a) Liens and collaterals of any kind, by whomsoever granted or otherwise existing in favour of the transferor, as well as entries in public registers of the purchase deeds of leased assets included in the transfer, shall retain their validity and ranking in favour of the transferee without the need for any formality or annotation;

- b) With respect to transferred debtors, the transfer shall be effective from the time of its publication in the Official Bulletin by the Special Purpose Vehicle, it being understood that the servicer shall notify the transfer to the individual party concerned at the earliest opportunity;
 - c) The deeds pertaining to the movement of the transferred assets and rights referred to in the preceding paragraphs shall indicate the publication details.
2. Pursuant to the preceding paragraph, the transfer shall also become enforceable:
- a) Against the transferor's other successors in title, whose ownership title has not been rendered effective vis-à-vis third parties at an earlier date;
 - b) Against the transferor's creditors who have not attached the claim or the tangible assets before the publication of the transfer.
3. Article 3 of Law no. 17 of 15 November 1917 and subsequent amendments shall not apply to acts extinguishing obligations against the SPV.
4. In the event that the originator or the SPV is subject to insolvency proceedings, the Article referred to in paragraph 3 above shall apply, but the time-limit of one year referred to therein shall be reduced to three months.
5. No provisions requiring formalities other than or in addition to those referred to in this Law shall apply to transfers made in the context of securitisation transactions. Notice shall be given by publication in the Official Bulletin of the entrustment or transfer, to persons other than the originator, of the functions referred to in Article 3, paragraph 4, letter c), or also in the event of their replacement.

Art.8

(Securities issued against purchased assets)

- 1. The sums required by the SPV to purchase the securitised assets shall be raised through the issue by the SPV of securities (ABSs).
- 2. For the purposes of Article 5, paragraph 2 of the LISF, SPVs issuing ABSs shall be treated in the same way as joint stock companies issuing bonds, with the exception of paragraphs 3 and 4 of Article 31 of Law no. 47 of 23 February 2006 and subsequent amendments.
- 3. The issue of ABSs by SPVs for the purchase of assets of authorised parties shall be subject to prior approval of the transaction plan by CBSM's Supervision Committee, in accordance with the special provisions issued in lieu of Articles 31 and 32 of Law no. 47 of 23 February 2006 and subsequent amendments concerning issuance procedures, the respective powers of corporate bodies, and the minimum content and formal requirements of the securities.
- 4. In accordance with the preceding paragraph, CBSM may:
 - a) Suspend, as a precautionary measure, for a period not exceeding ninety days, the securitisation transaction in case of well-founded suspicion of a violation of the provisions or rules referred to in this Chapter;
 - b) Prohibit placement in the event of a proven violation of the provisions or rules referred to in this Chapter.
- 5. ABSs may be Senior, Mezzanine and Junior depending on the different level of credit risk and return.
- 6. Senior ABSs shall be assets eligible to cover the technical provisions of insurance companies.

Art.9

(Tax and accounting provisions)

- 1. For income tax purposes, the Asset Backed Securities referred to in Article 8 above shall be treated in the same manner as ordinary bonds.
- 2. Impairments on ABSs held in the portfolio and on the assets, other than those transferred, backing the securitisation transactions, as well as provisions made in respect of collaterals issued to the transferee, may be recorded directly as capital reserves, if they relate to securitisation contracts entered into within two years from the date of entry into force of this Law. In such cases, the relevant recording in the profit and loss account shall be made on a straight-line basis in the financial year in which the impairment or provision is recorded and in the following four years if the ABS redemption date is later.
Information on securitisation transactions, any impairments and provisions not yet recorded in the profit and loss account shall be provided in the notes to the financial statement.
- 3. In the cases referred to in paragraph 2, the impairments referred to therein shall be included in the determination of the corporate income in the financial years in which they are recorded in the profit and loss account.

CHAPTER III

PROVISIONS ON THE SECURITISATION OF BANKING ASSETS

Art.10

(Securitisation of banking assets)

1. The provisions of this Chapter shall apply only to the securitisation transactions carried out through the System Vehicle by the parties authorized to carry out the activity referred to in letters A) and B) of Annex 1 to the LISF and credit funds under San Marino law set up to manage the banking NPLs.
2. The general provisions set forth in Chapters I and II of this Law shall also apply to the securitisation transactions referred to in paragraph 1 above, where not derogated from or in conflict with those set forth therein. Conversely, the special provisions set forth in this Chapter III shall not apply to the securitisation transactions referred to in Chapter II of this Law.

Art.11

(System Vehicle)

1. In the context of the securitisation transactions referred to in this Chapter III, the System Vehicle shall be the transferee of the Banking Assets referred to in Article 14 below.
2. The System Vehicle:
 - a) Shall not be an authorised party and shall not be supervised by CBSM;
 - b) In relation to the obligation to rely on IGRC, which is already an obliged party for anti-money laundering purposes, for the exercise of the activities referred to in Article 13 below, shall not be included among the parties referred to in Article 17 of Law no. 92 of 17 June 2008 and subsequent amendments.
3. Without prejudice to the provisions of Article 13 below, the System Vehicle shall be allowed to rely on its own organisational structure, also consisting of employees of the originators on secondment in accordance with the procedures set out in Article 19 of Law no. 131 of 29 September 2005 and subsequent amendments.
4. The banking assets transferred to the System Vehicle, even if transferred by more than one originator, shall be considered as a whole, also pursuant to and for the purposes of Article 5. The System Vehicle shall be responsible for ensuring that the transferred banking assets can be traced back to the respective originators, solely for the purposes of Articles 19 and 20.

Art.12

(System arranger)

1. In the context of the securitisation transactions referred to in this Chapter III, the appointment of the arranger is mandatory.
2. In relation to the participation of more than one originator in the securitisation transaction, the arranger established as a company:
 - a) Shall be a person of high standing, experienced in credit valuation;
 - b) Shall be the same for all originators;
 - c) Shall be appointed by the Congress of State from a list of names jointly drawn up by the originators participating in the securitisation transaction, it being understood that, in the event that the originators do not agree, the arranger shall be appointed by the Congress of State, having heard the Permanent Parliamentary Commission for Finance, Budget and Planning; Handicraft, Industry, Trade; Tourism, Services, Transport and Telecommunications, Labour and Cooperation. In the latter case, the arranger shall be independent from the originators, and this requirement shall be deemed to be met if the arranger or its corporate officers have had no business and/or professional relation in the last five years with the originators, their parent companies and/or subsidiaries.
3. The arranger shall:
 - a) Value the securitised assets by establishing their real economic value, if an independent third party, appointed by the originators, with the requirements set out in paragraph 2 above, has not been identified;

b) Prepare the business plan.

4. The arranger's costs shall pertain to securitisation transactions and shall be borne directly by the System Vehicle, which shall divide such costs among the originators in accordance with the criteria set out in the transaction plan pursuant to Article 3.

Art.13 (IGRC)

1. IGRC shall be the servicer appointed by the System Vehicle to collect, pay and recover credits or to manage and disinvest the banking assets transferred by the originators and subsequently securitised.

2. IGRC shall be required, in place of the System Vehicle, to fulfil the tasks set out in Article 3 paragraph 4.

3. The activity of servicer exercised by IGRC shall be subject to supervision by CBSM, in line with the provisions of Article 5 of Delegated Decree no. 126 of 27 July 2020.

Art.14 (Transfer of banking assets)

1. The originators referred to in Article 10 paragraph 1 may transfer to the System Vehicle the following banking assets:

- a) NPLs, collaterals or guarantees backing them;
- b) Performing loans;
- c) Non instrumental assets, real estate or registered movable assets, already acquired for credit recovery or for merger operations;
- d) Securities.

2. Banking assets shall be transferred:

- a) Pursuant to and for the purposes of Article 52 of the LISF and its implementing supervisory provisions, even if not en bloc;
- b) At a transfer price not exceeding the related net book value;
- c) By issuing the collaterals referred to in Article 21 below;
- d) With the deconsolidation of the assets transferred pursuant to and within the limits of Article 17;
- e) By including therein the capacity to sue and to be sued in disputes involving the originator, in application of the special rules set forth in Article 6, paragraph 1 of Law no. 102 of 14 June 2019;
- f) In accordance with the transaction plan, as approved by the CBSM Supervisory Committee.

3. In the event of a transfer of banking assets arising from credit facilities, including current accounts, the completion of enforceability procedures provided for in this Article shall produce the effects set forth therein also with respect to all future claims arising out of such contracts, provided that the contracts are entered into before the date of completion of such procedures.

4. In the event of a transfer of banking assets deriving from credit facilities in any form, including current accounts, the right to make the transferred credit payable shall be exercised by the System Vehicle in accordance with the provisions of the relevant contract or, failing that, with not less than fifteen days' notice.

5. Paragraphs 3 and 4 shall not apply to those NPLs already classified as bad loans at the time of the transfer of banking assets.

Art.15 (IGRC ownership structure)

1. In accordance with the provisions of Article 5 of Delegated Decree No. 126 of 27 July 2020, the participation in the share capital of IGRC by San Marino banks or by other institutional investors shall take place through a dedicated share capital increase.

2. When approving the decision on the share capital, pursuant to and for the purposes of the preceding paragraph, any subsequent decision to amend the Articles of Association of IGRC shall be passed in accordance with the rules of the Articles of Association in force, and therefore no amendment of this Law as well as Delegated Decree no. 126 of 27 July 2020 shall be required.

Art.16

(Banking asset-backed securities)

1. The ABSs issued by the System Vehicle to finance the purchase of the banking assets and the payment of securitisation transaction costs shall be divided into tranches characterised by three different degrees of credit risk and return:

- a) Senior ABSs, which are characterised by the highest level of protection of the right to repayment, by virtue of the special collaterals set out in Articles 19 and 21;
- b) Mezzanine ABSs, which are subordinated to the senior tranche for an amount not exceeding any positive difference between the real economic value of the assets sold and the Senior tranche;
- c) Junior ABSs, characterised by the lowest level of protection of the right to repayment for an amount equal to the difference, if any, between the higher net book value at the time of the transfer and the lower real economic value of the assets transferred as estimated by the arranger pursuant to Article 12.

2. Holders of senior ABSs shall receive coupon payments and principal repayments on a regular basis at the stated maturity, irrespective of the trend of the cash flows generated by the banking assets.

3. Instead, mezzanine and junior ABSs shall be repaid at maturity and in any event within limits compatible with the subordination set out in Article 20.

Art.17

(Price payment)

1. The price payable for the transfer of banking assets shall be paid to the originators by the System Vehicle:

- a) Partly in cash, using the sums received from senior ABSs and mezzanine ABS subscribers, net of the costs incurred by the System Vehicle; while
- b) For the remaining part of the price not absorbed by the market, but in any event of a value of at least 5% (five per cent) of the total price, by allocating the ABSs to the originator of junior ABSs and, where applicable, mezzanine ABSs issued by the System Vehicle in accordance with Article 16.

2. The portion of the price paid in cash by the System Vehicle to the originators shall also include the amount provided as escrow in accordance with Article 19 below.

3. With respect to certain banking assets to be transferred to the System Vehicles, the real economic value of which is lower than the respective net book value referred to in Article 2, letter aa), the originators concerned may replace such banking assets with other banking assets having the same value.

Art.18

(Derecognition)

1. Originator banks shall remove the banking assets represented by senior and mezzanine ABSs from their balance sheets with the exception of junior ABS, determined in accordance with Article 16, paragraph 1.

2. The treatment in capital adequacy requirements of ABSs held in the originator banks' proprietary portfolio shall be established by CBSM Supervisory Committee, pursuant to Article 30 and Article 45 of the LISF.

Art.19

(Escrow account)

1. Each originator shall pay an amount equal to 15% (fifteen percent) of the portion of the price received in cash by the System Vehicle, pursuant to the provisions of Article 17 paragraph 1, letter a), into a special account opened for this purpose by the originator with CBSM. The account may be shared and co-owned by all the originators, in proportional shares to be calculated in relation to the amount of the respective payments made. The amount shall be paid at the same time as the payment by the System Vehicle.

2. By virtue of this Law, such amounts shall be paid by the originators to CBSM for the purpose of creating a single irregular pledge in favour of the System Vehicle, as a collateral for both the timely payment of the senior ABSs and the repayment of the management costs incurred by the System Vehicle in the securitisation transaction. The pledge shall also be deemed to cover the balance of the dedicated current account opened pursuant to paragraph 1 above.

3. On a periodic basis, at least every two months, the System Vehicle shall verify whether, on the basis of the proceeds already received - and taking account those expected on the basis of the business plan - by the management of the securitised banking assets, it is able to proceed with the regular payment of its management costs and senior ABSs. If the proceeds from the management of the transferred and securitised banking assets are not sufficient to fulfil the payment obligations, the System Vehicles may enforce, on one or more occasions and without notice, the pledge of money created by each originator. Within the month following the relevant two-month period, the System Vehicle shall inform the individual originators.

4. As soon as the pledge of money is enforced, the System Vehicle shall notify the originators in accordance with the provisions of paragraph 3 above and the following paragraph.

5. The escrow shall be unavailable to the originator until the maturity date of the ABSs issued and may only be used by the Special Purpose Vehicle to pay the costs of managing the securitisation transaction, the obligations of coupon payment and the repayment of securities to the Senior ABS subscribers in the event that the management and recovery activities of the securitised assets have not produced the expected cash flows or within the estimated time frame, except as follows. After repaying an amount exceeding 50% (fifty per cent) of the total Senior ABSs issued by the System Vehicle and of the costs provided for the management of the transaction, the originators may request from the System Vehicle a proportional reduction (and, therefore, release with consequent repayment) of the sums pledged.

6. The irregular pledge on the sums deposited in the account referred to in paragraph 1, for the amount referred to therein, shall cease when the holders of the senior ABSs have been reimbursed in full, and the management costs of the System Vehicle have been paid. The sums deposited therein, which have not been absorbed by any losses on the securitised banking assets, shall become again available to the originator.

Art.20 (Credit tranching)

1. Any losses on the securitised banking assets, if performing not as expected, and after using the provisions referred to in Article 19 above, shall be absorbed by Junior ABSs, aimed to protect the Senior ABSs and Mezzanine ABSs.

2. Junior ABSs used for the absorption of losses as referred to in paragraph 1 shall be those allocated to the individual originator that transferred the securitised assets, which have performed above their real economic value but below their net book value, in accordance with Article 16.

3. If Junior ABSs allocated to the originators are not sufficient to absorb the losses referred to in paragraph 1, the excess shall be absorbed by Mezzanine ABSs.

4. Junior ABSs shall be repaid by the System Vehicle within the limits of the remaining liquidity after the transaction costs have been fully covered and the subscribers to Senior ABSs have been satisfied.

5. The repayment of Junior ABSs shall, in any case, only occur after full repayment of all ABSs, first Senior and then Mezzanine ABSs.

Art.21 (Collaterals)

1. The punctual payment of coupons and the full repayment at maturity only of Senior ABSs issued by the System Vehicle may be guaranteed:

- a) By insurance coverage guaranteed by leading insurance companies; or
- b) By the State, following a Congress of State decision, which establishes collateral issue at economic market conditions, having heard the opinion of the Permanent Parliamentary Commission for Finance, Budget and Planning; Handicraft, Industry, Trade; Tourism, Services, Transport and Telecommunications, Labour and Cooperation. The State's collateral shall be issued in favour of the System Vehicle - and therefore not directly in favour of the holders of Senior ABSs - and shall be intended to provide the sums necessary to make the contractually agreed payments of interest and principal to the holders of Senior ABSs throughout their duration.

2. As a result of the provisions of paragraph 1, if the System Vehicle, after having used, in the following order:

- a) Cash flows from banking assets;
- b) The escrow reserve established in accordance with Article 19,

is unable to meet, in whole or in part, its monetary obligations vis-à-vis the professional customers holding the Senior ABSs, it shall enforce, in the interest of the latter, the collateral referred to in paragraph 1, letters a) or b), by submitting, in the latter case, to the Ministry of Finance and Budget a specific reasoned request.

3. As a result of the enforcement request referred to in paragraph 2 above, the State, on the basis of an emergency decision adopted by the Credit and Savings Committee, shall pay to the System Vehicle the sum necessary to enable it to meet the claims of the Senior ABS holders in a timely manner.

Art.22

(Periodic information notices to the Permanent Parliamentary Commission for Finance, Budget and Planning; Handicraft, Industry, Trade; Tourism, Services, Transport and Telecommunications, Labour and Cooperation)

1. In securitisation transactions in which the State has issued a collateral, in order to provide adequate information, every six months the System Vehicle shall transmit to the members of the Permanent Parliamentary Commission for Finance, Budget and Planning; Handicraft, Industry, Trade; Tourism, Services, Transport and Telecommunications, Labour and Cooperation a report as of the corresponding date on the performance of cash flows.

Art.23

(Simplification and tax relief measures)

1. For income tax purposes, ABSs shall be treated in the same manner as ordinary bonds.
2. Due to the public interest purpose pursued, and considering the mechanism to achieve a balanced budget and the asset separation regime in which it exclusively operates, the System Vehicle shall be completely exempt from any form of direct or indirect taxation, without prejudice to the taxes applicable to originators, servicers and ABS subscribers.
3. The special tax treatment set forth in Article 20 of Law no. 102 of 14 June 2019 shall apply to the legal acts and/or transactions carried out in the context of the securitisation transactions referred to in this Chapter, as well as to those necessary to execute them.

Art.24

(Entry into force)

1. This Law shall enter into force on the fifth day following that of its legal publication.