

EU securitisation vehicles to be in scope of ATAD 1 interest limitation rules

News - 15/03/2022

A new bill of law has been filed before the Luxembourg Parliament, with a view to amend the scope of existing interest limitation rules with regard to securitisation vehicles.

Currently, EU securitisation vehicles (securitisation special purpose entities or **SSPEs**) as defined in Article 2(2) of the Securitisation Regulation [\[1\]](#) benefit from the exemption from the interest limitation rules; meaning that they do not need to cap their net borrowing expenses to either 30% of their EBITDA or EUR3,000,000 (whichever is higher).

Upon the adoption of the proposed amendment, which is foreseen to apply to financial years commencing after 1 January 2023, above entities would no longer figure as part of the list of "financial undertakings" to which the benefit applies (and which was established in article 168bis of the Luxembourg income tax law by transposing articles 2 and 4 of ATAD 1 [\[2\]](#) into Luxembourg law).

This development comes a result of a reasoned opinion, addressed to Luxembourg by the EU Commission, in which it stated that it considers the list of financial undertakings within the meaning of ATAD 1 as a static one, which therefore cannot be extended to regulated entities other than those already featured therein.

[\[1\]](#) Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation

[\[2\]](#) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Meet the Author



[Bertrand Gérardin](#)

Partner

[Luxembourg Legal Services](#)

E: bertrand.geradin@ogier.com

T: [+352 2712 2029](tel:+35227122029)

Key Contacts



Aurélie Clementz

Partner

Luxembourg Legal Services

E: aurelie.clementz@ogier.com

T: [+352 691 432 024](tel:+352691432024)



Hadrien Brémon

Counsel

Luxembourg Legal Services

E: hadrien.bremon@ogier.com

T: [+352 27 12 20 71](tel:+35227122071)

Related Services

Corporate

Tax

Fund Finance

Investment Funds

Legal

Related Sectors

