

SEC Rule 192

Prohibiting Conflicts of Interest in Certain Securitizations

Regulation Overview

SEC Rule 192 implements Section 27B to the Securities Act, which was added by Section 621 of the Dodd-Frank Act.

The rule is intended to prevent the sale of asset-backed securities (ABS) that are tainted by material conflicts of interest. It prohibits securitization participants, for a specified period of time, from engaging in certain transactions that bet against the performance of the ABS which could incentivize the securitization participant to structure the ABS in a way that is unfavorable to ABS investors. The rule refers to such transactions as “conflicted transactions.”

Regulatory Timeline



Compliance Date: Securitization participants must comply with SEC Rule 192 for any ABS that has its first closing of sale on or after June 9, 2025.

Rule Requirements: Participants/ Products Affected and Prohibition Period

The rule prohibits an underwriter, placement agent, initial purchaser, or sponsor of an ABS (including a synthetic ABS), or affiliates or subsidiaries of any such entity, from engaging in any transaction (“conflicted transaction”) that would result in material conflicts of interest:

Persons Subject to the Rule

A “securitization participant” includes any underwriter, placement agent, initial purchaser, sponsor, or affiliate or subsidiary of any such entity of an ABS, including a synthetic ABS.

Asset-Backed Securities Subject to the Rule

The prohibition applies to any asset-backed securities as defined in Section 3(a)(79) of the Exchange Act of 1934 (“Exchange Act”) and also includes synthetic ABS and hybrid cash & synthetic ABS. It will not apply to an asset-backed security where the offer and sale is in compliance with Regulation S and it is not issued by a U.S. person.

The Exchange Act defines asset-backed security as a fixed-income or other security collateralized by any type of self-liquidating financial asset (including a loan, a lease, a mortgage, or a secured or unsecured receivable) that allows the holder of the security to receive payments that depend primarily on cash flow from the asset, including (i) a collateralized mortgage obligation, (ii) a collateralized debt obligation, (iii) a collateralized bond obligation, (iv) a collateralized debt obligation of asset-backed securities, (v) a collateralized debt obligation of collateralized debt obligations; and (vi) a security that the Commission, by rule, determines to be an asset-backed security for purposes of this section; and

Prohibition Period

The rule prohibits a securitization participant from entering into a “conflicted transaction” for a period beginning on the date on which such person has reached an agreement to become a securitization participant with respect to an ABS and ending one year after the date of the first closing of the ABS’s sale.

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Rule Requirements: Prohibited Transactions

Under Rule 192, “conflicted transactions” are subject to a materiality assessment that a reasonable investor would consider to be important to the investor’s investment decision, and include:

- ① A short sale of the relevant ABS,
- ② The purchase of a credit default swap or other credit derivative that entitles the securitization participant to receive payments upon the occurrence of specified credit events in respect of the ABS, or
- ③ A transaction that is substantially the economic equivalent of the aforementioned transactions, other than any transaction that only hedges general interest rate or currency exchange risk.

Transactions unrelated to the idiosyncratic credit performance of the ABS are not “conflicted transactions” as defined by the rule, and so are not prohibited. Such transactions include (i) reinsurance agreements, (ii) hedges of general market risk such as interest rate and foreign exchange risks, and (iii) routine securitization activities such as transferring of the assets into a securitization vehicle.

Rule Requirements: Exceptions

SEC Rule 192 provides exceptions to the prohibition for (i) risk-mitigating hedging activities, (ii) liquidity commitments, and (iii) bona fide market-making activities, subject to satisfaction of the specified conditions, that would otherwise be prohibited by the rule.

The rule specifies certain conditions that must be satisfied for a securitization participant to rely on the risk-mitigating hedging activities and bona fide market-making activities exceptions. The conditions include:

For both risk-mitigating hedging and bona fide market-making activities exceptions:

- ① The securitization participant establish, and implement, maintain, and enforce, an internal compliance program reasonably designed to ensure the securitization participant’s compliance with the conditions of the relevant exception, including reasonably designed written policies and procedures;

For risk-mitigating hedging activities:

- ② At inception of the hedging activity and at the time of any hedging adjustments the hedge is designed to mitigate one or more specific, identifiable risks arising from the ABS;
- ③ The risk-mitigating hedging activity is required to be subject to ongoing recalibration by the securitization participant.

For bona fide market-making activities:

- ② The securitization participant routinely stands ready to purchase and sell one or more types of the financial instruments;
- ③ The securitization participant’s market-making related activities are designed not to exceed, the reasonably expected near term demands of clients, customers, or counterparties;
- ④ The compensation arrangements for the market making activity are designed not to reward or incentivize conflicted transaction;
- ⑤ The securitization participant is licensed or registered, if required, to engage in the relevant market-making activity.

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