

Regulation AB is a comprehensive set of new rules and amendments that address the registration, disclosure and reporting requirements for asset-backed securities (ABS) under the Securities Act of 1933 and the Securities Exchange Act of 1934. Because the ABS market is a relatively new and fast growing component of the U.S. capital markets, regulators and industry professionals alike sought to bring about transparency and clarity regarding registration, disclosure, and reporting requirements for asset backed securities.

Thus, the main focus of Regulation AB consists of twenty-four rules, commonly known as "items", which are numbered items 1100 through 1123. These twenty-four items comprehensively address the four primary regulatory areas affecting asset-backed securities: Securities Act Registration, disclosure, communications during the offering process, and ongoing reporting under the exchange act. In rolling out Regulation AB, the Securities and Exchange Commission (SEC) sought to update and create a higher degree of clarity regarding securities act registration requirements for Asset Backed Securities along with expanding the various types of securities that may be offered. Additionally, a consolidation of existing conditions regarding exchange act reporting and streamlining existing positions for written communication in a registered ABS offering was also sought. Lastly, the remediation of no-action, disjointed servicing standards, such as the USAP, was to be augmented, and ultimately replaced, by a more comprehensive, stringent, and thorough servicing standard.

The SEC's definition for asset-backed securities is the same basic definition that has existed since 1992, with the addition of a modification with respect to leases. The SEC is also requiring that all registered offerings of asset-backed securities be registered on either Form S-1 or Form S-3. The definition thus consists of the following:

"a security that is primarily serviced by the cash flows of a discrete pool of receivables or other financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distributions of proceeds to the security holders; provided that in the case of financial assets that are leases, those assets may convert to cash partially by the cashed proceeds from the disposition of the physical property underlying such leases." ⁽¹⁾

The SEC adopted a principles based definition for ABS which allows broad flexibility as to what asset types fall under the regulatory mandates for Regulation AB. To date, the most common affected asset types will typically be residential mortgages, home equity, commercial mortgages, credit card receivables, automobile loans, automobile and equipment leases, along with student loans. This is without question an extraordinary far-reaching scope and will certainly be felt for years to come in regards to Regulation AB compliance.

⁽¹⁾ Securities and Exchange Commission 17 CFR Parts 210, 228, et al. Asset Backed Securities: Final Rule



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