

SUMMARY OF THE PROPOSED ASSET BACKED SECURITIZATION REGULATIONS, 2022



SECURITIES
AND EXCHANGE
COMMISSION
OF PAKISTAN



Companies (Asset Backed Securitization) Rules, 1999 provides the mechanism for securitization transaction.

A. WHAT IS SECURITIZATION?

Securitization" means a process whereby a Special Purpose Vehicle (SPV) raises funds through issuance of debt securities including Sukuk and uses such funds by making payment to the Originator and through such process acquires the title, property or right in specified assets of the originator.

B. RATIONALE FOR REVIEWING ASSET BACKED SECURITIZATION FRAMEWORK

PROBLEM

1. Only 07 SPVs registered since promulgation of The Companies (Asset Backed Securitization) Rules, 1999 (ABS Rules) on December 14, 1999. Highlighting that applicable framework is not conducive.
2. Committee on "Capital Market Instruments for housing and construction finance" identified certain limitation in the ABS Rules w.r.t issuance of mortgage backed securities (MBS) and covered bonds (CB). Therefore, in order to enable issuance of MBS and CBs especially for the promotion of housing and construction finance, amendments were proposed in ABS Rules.

SOLUTION

1. Amendments in ABS Rules, 1999 were notified on April 14, 2022 and can be accessed through the following link <https://www.secp.gov.pk/document/amendments-to-the-companies-asset-backed-securitization-rules-1999/?wpdmdl=44436&refresh=6281d3e6044021652675558>.
2. Operational and procedural requirements specified through Regulations are open for public comments. Summary included in this paper

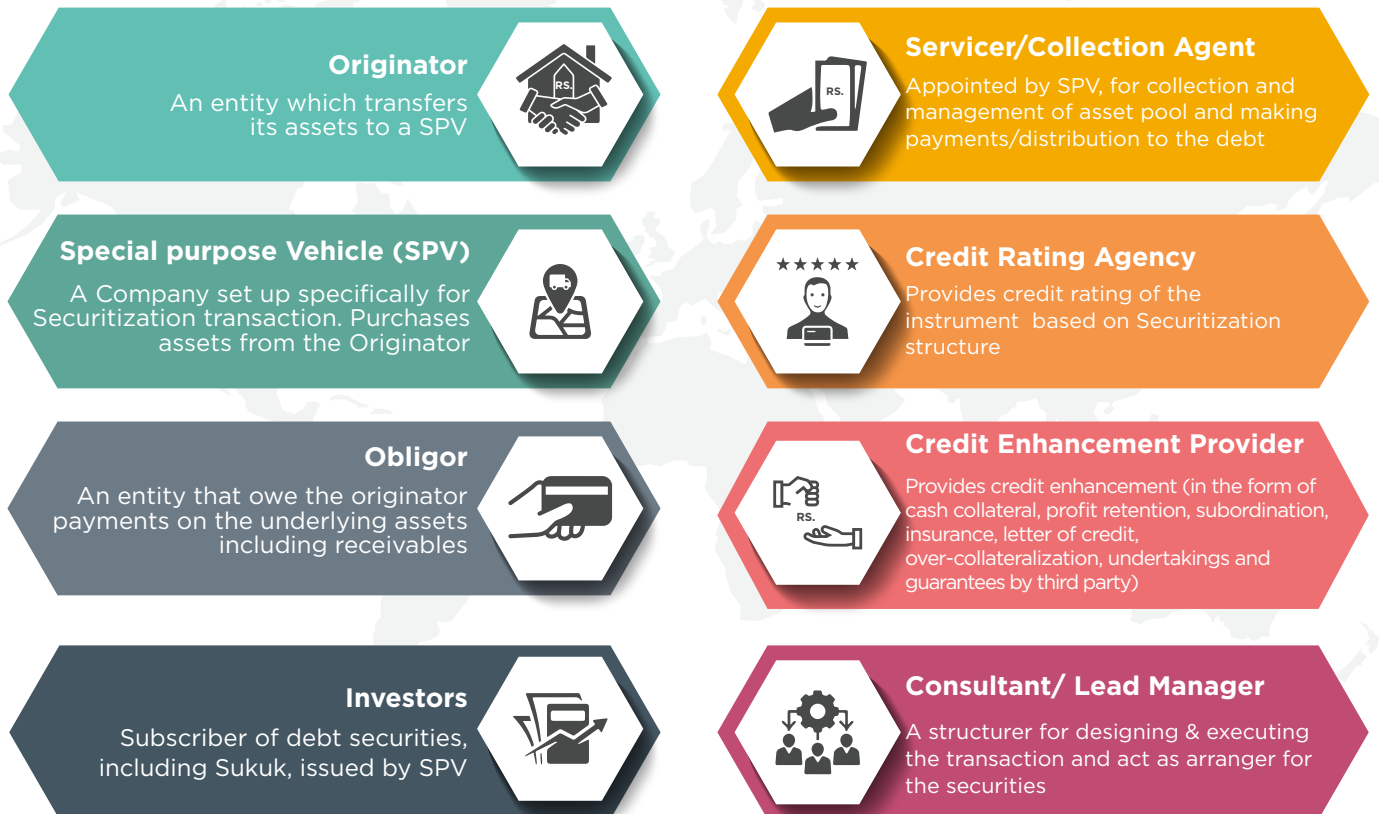
C. AREAS COVERED IN THE PROPOSED REGULATIONS:

- **Defining the terms used in Securitization transaction:**
 - Definition of various terms used in securitization transaction are being added as per international practice such as “credit enhancement”, “obligor”, “true sale”.
- **Paid-up Capital Requirement for SPV:**
 - The Paid-up capital requirements for SPV is being enhanced from the previous limit of Rs. 100,000/- (as per ABS Rules, 1999) to one million rupees. The paid-up capital requirements also exist in other jurisdictions as well such as India, Malaysia, Turkey and Singapore.
- **Fit & Proper criteria:**
 - The Fit & Proper criteria, previously briefly covered under ABS Rules, 1999 is further reinforced for the promoters / sponsors, directors, chief executive, officer or employee of SPV.
- **Condition of operation and obligations of an SPV:**
 - The conditions of operations, being procedural requirement are shifted from ABS Rules, 1999 to the regulations. However, the condition which limits SPV to apply any part of its assets to real estate is being omitted to facilitate the issuance of MBS.
- **Requirements for assets that may be securitized:**
 - The asset requirements have been added as per practices prevailing in other jurisdictions. It includes all those assets which generate cash flows and where originator has valid and enforceable interests.
- **SPV and Originator relationship:**
 - The originators are now allowed to establish 100% owned SPV. As per SBP’s criteria for banks, banks are allowed to establish SPV as its subsidiary. The assets are required to be transferred on true sale basis as per the practices followed in other jurisdiction so as to ensure that SPV be remote from the risk of bankruptcy, insolvency and winding up of the originator.
- **Credit enhancement and Servicer:**
 - Credit enhancement is being added as per international practice. Credit enhancement in Securitization transaction refers to an arrangement to decrease the likelihood of default on debt securities by the underlying borrowers. Credit enhancement can be in the form of cash collateral, profit retention, subordination, insurance, letter of credit, over-collateralization, undertakings and guarantees by third party including financial institution.
 - The role of servicer is being added in the regulations as per international practice. “Servicer” means an entity appointed by the special purpose vehicle for the collection or management of the asset pool and for making allocations or distributions to holders of the securitized instrument in accordance with the regulations.

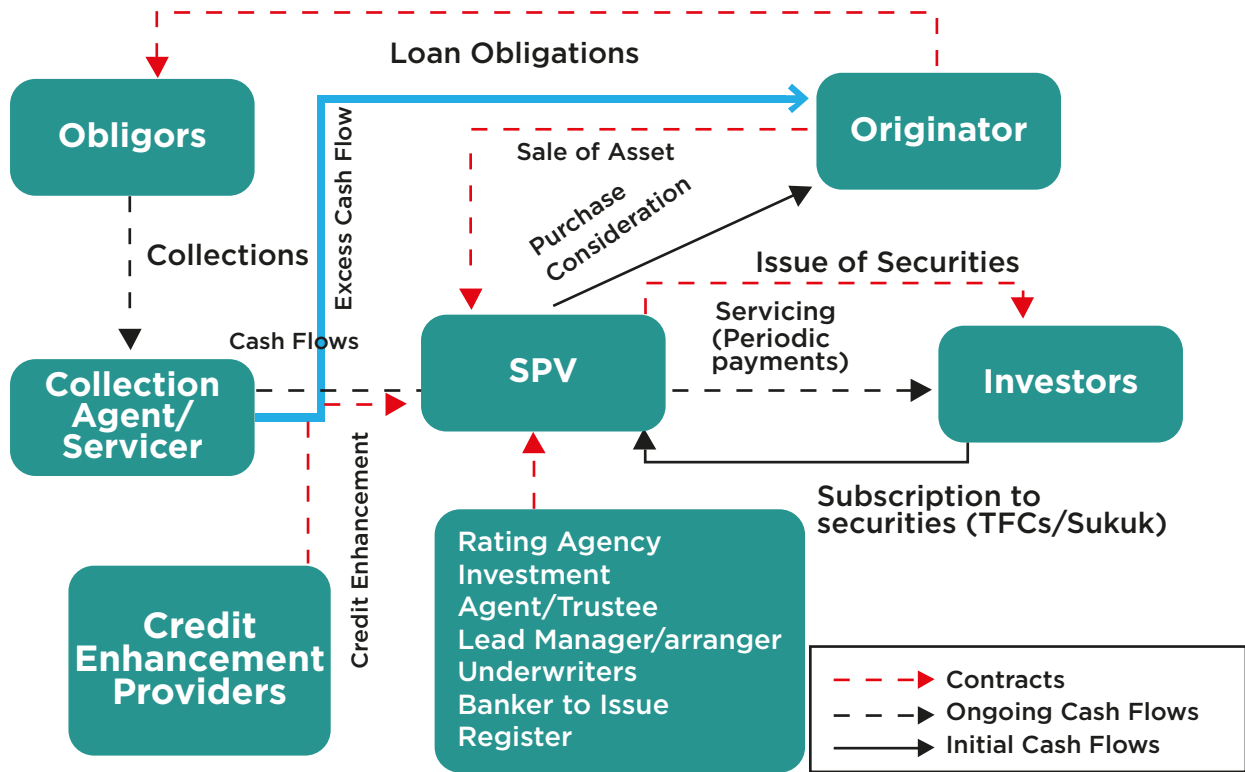
D. ASSET BACKED SECURITIZATION REGULATIONS, 2022:

- Complete set of proposed “Asset Backed Securitization Regulations, 2022” are published and open for public comments.
- The Regulations can be accessed through the following link:
<https://www.secp.gov.pk/document/notification-draft-asset-backed-securitization-regulations-2022/?wpdmdl=44849&refresh=62b29df60ff6b1655873014>
- Comments/input/queries can be emailed at the following address:
absrulesfeedback@secp.gov.pk

E. PARTIES/INTERMEDIARIES TO SECURITIZATION PROCESS:

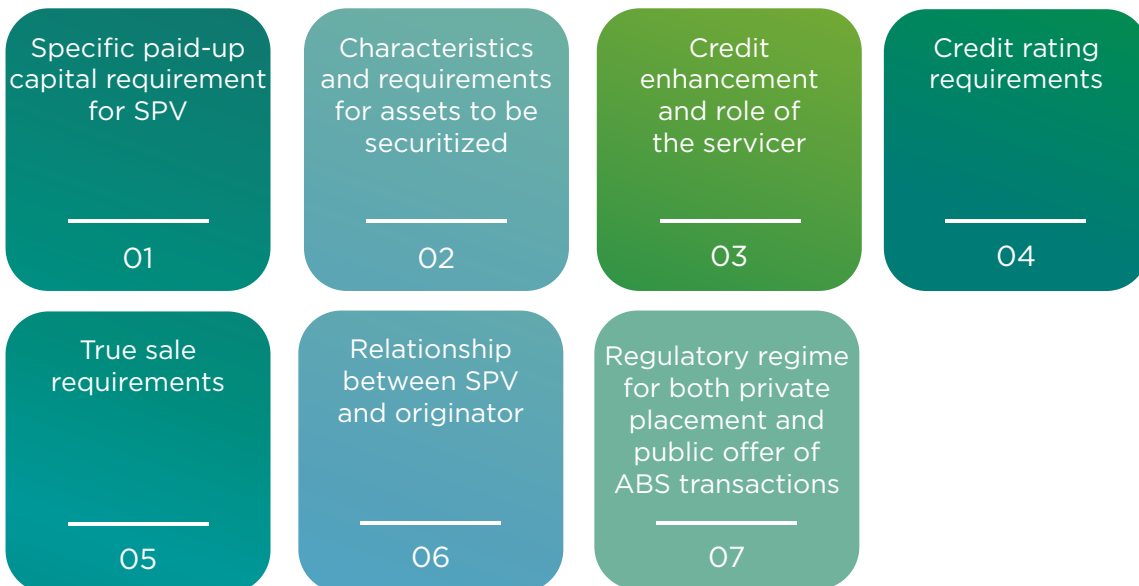


F. FLOW OF THE SECURITIZATION TRANSACTION:



G. GLOBAL ANALYSIS:

ABS related laws of five jurisdictions (India, US, Malaysia, Singapore and Turkey) were analysed for the purpose of developing a comprehensive regulatory framework in line with the global practices. In this regard, following areas are commonly covered in the respective regulations of different jurisdictions:





Securities and Exchange Commission of Pakistan

WWW.SECP.GOV.PK