

112.01 Form Eligibility for Public Utility Securitizations

Question: What is the appropriate Securities Act form to register an offering of securities that are backed by securitization property which includes the right to assess and collect certain special charges on customers' public utility bills ("public utility securitizations")? What are the appropriate forms for periodic and current reporting under the Exchange Act for public utility securitizations?

Answer: Public utility securitizations that are structured as stand-alone trusts meet the definition of "asset-backed security" ("ABS") in Item 1101(c) of Regulation AB ~~and~~ ("Regulation AB ABS") (see, e.g., *Asset-Backed Securities*, Release No. 33-9117 (Apr. 7, 2010) (75 FR 23328, 23360 [May 3, 2010]) and *Asset-Backed Securities Disclosures and Registration*, Release No. 33-9638 (Sept. 4, 2014) (79 FR 57184, 57196 [Sept. 24, 2014]) (excluding "stranded cost ABS" [i.e., public utility securitizations] from the requirement to provide asset-level data). Therefore, these securitizations must be registered on Form SF-1.

Other public utility securitizations are structured as so-called "series trusts" where multiple series of unrelated securities are issued by a single issuing entity. Such series trust securitization issuances, as well as issuances by the stand-alone trusts referred to above, meet the broader definition of "asset-backed security" in Exchange Act Section 3(a)(79) ("Exchange Act ABS")-~~The~~ (see, e.g., 17 CFR 246.19(b)(8) and *Credit Risk Retention*, Release No. 34-73407 (Oct. 21, 2014) (79 FR 77602, 87672 [Dec. 24, 2014]) (exempting from the credit risk retention requirements "any securitization transaction where the asset-back securities issued in the transaction are secured by the intangible property right to collect charges for the recovery of specified costs" [i.e., public utility securitizations]). Consistent with this Commission precedent, the staff has advised issuers in public utility securitizations that are structured as series trusts to register offers and sales of securities on Form SF-1.

Similarly, the appropriate forms for periodic reporting for issuers of both Regulation AB ABS and registered Exchange Act ABS, including public utility securitizations that are structured as series trusts, are Form 10-K for annual reports (following General Instruction J of such form), Form 8-K for current reports (following General Instruction G of such form), and Form 10-D for distribution reports, filed in compliance with the applicable provisions of Regulation AB.

Lastly, since public utility securitizations structured as series trusts are Exchange Act ABS, such series trust issuers should refrain from making statements in their filings that they are not asset-backed issuers or that their securities are not asset-backed securities, as such statements would not be accurate. [~~Jul. 31~~ May 16, 20242025]