

# Chapter



## Article 12 Prohibition of hedging or selling the retained interest

(1) The obligation in the third subparagraph of Article 405(1) of Regulation (EU) No 575/2013 not to subject the retained net economic interest to any credit risk mitigation, short positions, other hedge or sale shall be applied having regard to the purpose of the retention requirement and taking account of the economic substance of the transaction. Hedges of the net economic interest shall not be considered to be a hedge for the purposes of the third subparagraph of Article 405(1) of Regulation (EU) No 575/2013 and may accordingly be permitted only where they do not hedge the retainer against the credit risk of either the retained securitisation positions or the retained exposures.

(2) The retainer may use any retained exposures or securitisation positions as collateral for secured funding purposes, as long as such use does not transfer the credit risk of these retained exposures or securitisation positions to a third party.