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**Recast ECB regulation on monthly balance sheet statistics (BISTA)**

**Notes and examples on reporting securitisation transactions and other loan sales/purchases in BISTA from the December 2009 reporting date**

**Final version**

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## 1 Distinctions and definitions used in the document

### 1.1 Definitions to apply in the new monthly balance sheet statistics (BISTA)

#### ➤ Financial vehicle corporation<sup>1</sup>

A financial vehicle corporation (FVC) meets the following definition.

A financial vehicle corporation means an undertaking which is constituted pursuant to national or Community law under one of the following:

- i) contract law as a common fund managed by management companies;
- ii) trust law;
- iii) company law as a public or private limited company;
- iv) any other similar mechanism;

and whose principal activity meets both of the following criteria:

- a) it intends to carry out, or carries out, one or more securitisation transactions and is insulated from the risk of bankruptcy or any other default of the originator;
- b) it issues, or intends to issue, securities, securitisation fund units, other debt instruments and/or financial derivatives and/or legally or economically owns, or may own, assets underlying the issue of securities, securitisation fund units, other debt instruments and/or financial derivatives that are offered for sale to the public or sold on the basis of private placements.

FVCs domiciled outside the European Union should be coded correspondingly.

Neither of the following is included in the definition of FVC:

- MFIs within the meaning of the Bundesbank's guidelines on banking statistics and customer classification
- Investment funds within the meaning of the Bundesbank's guidelines on banking statistics and customer classification

#### ➤ "Securitisation" is a transaction which involves

- a) "traditional securitisation" within the meaning of section 226 (2) in conjunction with section 226 (1) of the Solvency Regulation (*Solvabilitätsverordnung*), whereby the risk default positions transferred from the reporting bank to the securitised portfolio are legally transferred to an FVC,

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<sup>1</sup> To see how the definition is implemented in the guidelines for banking statistics and customer classification, see Bundesbank Circular No 18/2009 of 10 June 2009 [http://www.bundesbank.de/download/presse/rundschreiben/2009/20090609\\_rs\\_18.pdf](http://www.bundesbank.de/download/presse/rundschreiben/2009/20090609_rs_18.pdf) [German only].

or

b) securitisation within the meaning of Bundesbank Notice No 8002/2009<sup>2</sup>, which includes the sale of the loans to be securitised to an FVC<sup>3</sup>.

Securitisation means a transaction or scheme whereby an asset<sup>4</sup> or pool of assets<sup>4</sup> is transferred to an entity that is separate from the originator and is created for or serves the purpose of the securitisation and/or the credit risk of an asset<sup>4</sup> or pool of assets<sup>4</sup>, or part thereof, is transferred to the investors in the securities, securitisation fund units, other debt instruments and/or financial derivatives issued by an entity that is separate from the originator and is created for or serves the purpose of the securitisation, and

- a) in the case of transfer of credit risk, the transfer is achieved by
    - the economic transfer of the assets<sup>4</sup> being securitised to an entity separate from the originator created for or serving the purpose of the securitisation. This is accomplished by the transfer of ownership of the securitised assets<sup>4</sup> from the originator or through sub-participation;
- or
- the use of credit derivatives, guarantees or any similar mechanism;

and

- b) where such securities, securitisation fund units, debt instruments and/or financial derivatives are issued, they do not represent the originator's payment obligations.
- **"Servicer"** means an MFI which manages the loans underlying a securitisation on a day-to-day basis in terms of the collection of principal and interest from the obligors, which is then forwarded to investors in the securitisation scheme
- **"Loan sale"** (or "loan disposal") means the economic transfer of a loan or pool of loans by the reporting agent to a non-MFI transferee, achieved either by transfer of ownership or by sub-participation.

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<sup>2</sup>

[http://www.bundesbank.de/download/aufgaben/mitteilungen/meldebestimmungen/09\\_8002.mitteilung.pdf](http://www.bundesbank.de/download/aufgaben/mitteilungen/meldebestimmungen/09_8002.mitteilung.pdf)

<sup>3</sup> For the purposes of the balance sheet statistics (BISTA), "synthetic securitisation" should not be reported in annexes O2, P1 and S1.

<sup>4</sup> In the sense of "financial assets", "fixed assets" or "assets/pool of assets"

- "**Loan purchase**" (or "loan acquisition") means the economic transfer of a loan or pool of loans from a non-MFI transferor to the reporting agent, achieved either by transfer of ownership or by sub-participation.

## 1.2 Further definitions

- Definition of BISTA main template items (in part, new); to be reported monthly:
  - ◆ **HV12 179**  
 "Claims underlying "traditional off-balance securitisations" where the reporting institution is the originator and "servicer".  
 ➔ The sum-total of all annex S1 reports (FVC for FVC), for which code (1) is selected in item "905".
  - ◆ **HV12 182**  
 "Receivables underlying "traditional on-balance<sup>5</sup> securitisations" where the reporting institution is the originator."  
 ➔ The sum-total of all annex P1 reports (FVC for FVC), regardless of the code selected in item "905".
  - ◆ **HV12 181**  
 "Receivables underlying "traditional securitisations" where the reporting institution is, however, not the originator, but solely performs the servicing."  
 ➔ The sum-total of all annex S1 reports (FVC for FVC), for which code (2) is selected in item "905".
- The term "**loan portfolio**" hereinafter denotes the variants "(single) loan" and "loan pool/loan portfolio"
- The term "**off-balance true sale**" hereinafter denotes "traditional" securitisation ("true sale") which leads to the removal of the loan portfolio from the balance sheet of the selling bank (MFI) (originator).
- The term "**on-balance true sale**" hereinafter denotes "traditional" securitisation ("true sale") which does not lead to the removal of the loan portfolio from the balance sheet of the selling bank (MFI) (originator); according to the ruling of the Institute of External Auditors on accounting rule "IDW RS HFA 8" or a comparable rule.
- The term **FVC** is hereinafter denotes "financial vehicle corporation"
- BISTA portfolio item "claims on non-banks (non-MFIs) – loans and advances, **HV11 071**"

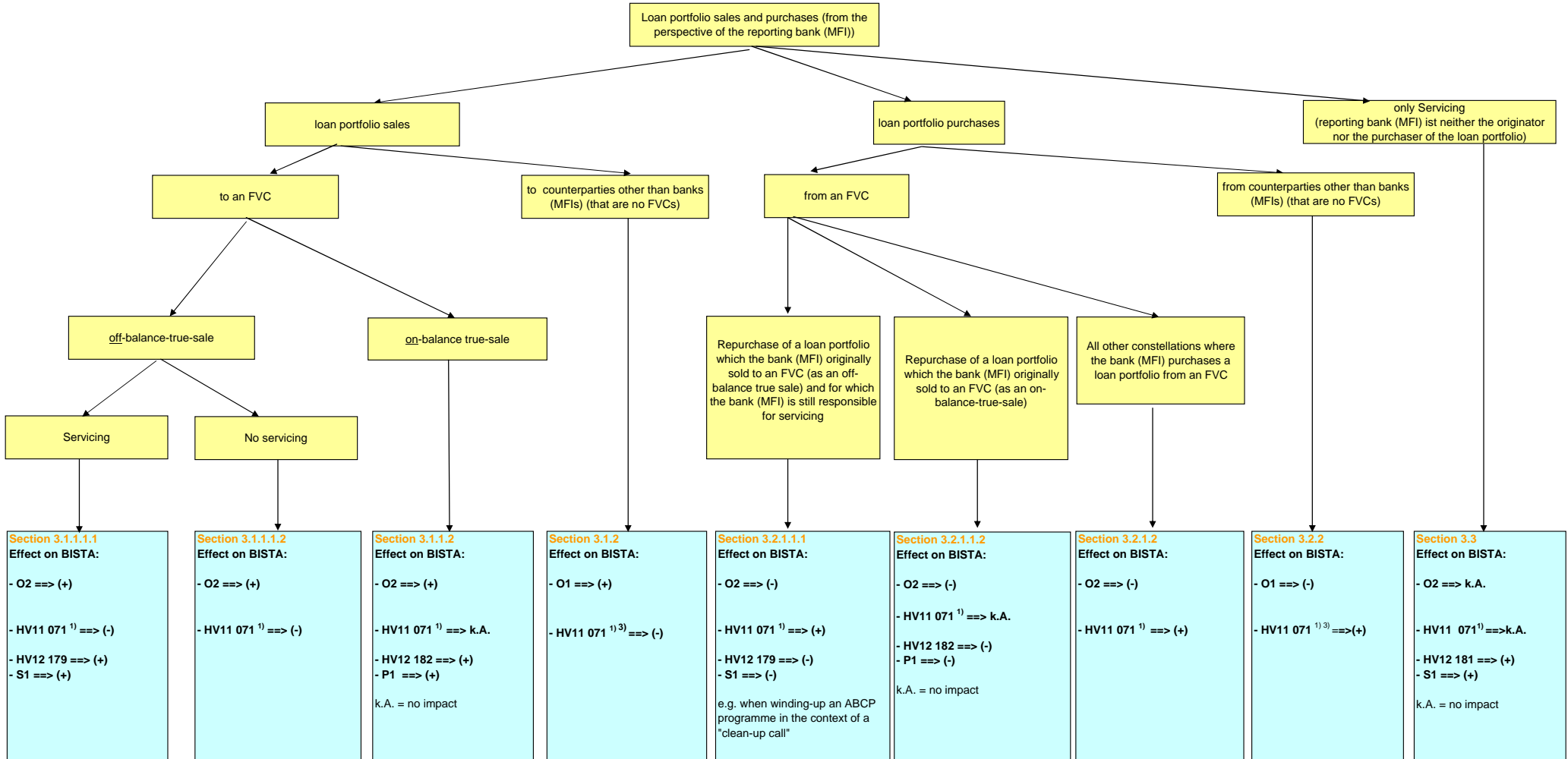
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<sup>5</sup> According to the ruling of the Institute of External Auditors on accounting rule "IDW RS HFA 8" or a comparable rule.

The following examples refer only to changes in BISTA portfolio item HV11 071. In principle, item HV11 072 or items A1 123 05 and A1 123 07 (including HV11 060) could also be affected.

- **Conventions for annexes O1 and O2**  
**loan sales (+); loan purchases (-)**

**Classification of the accounting principles in the main templates <sup>1) 2)</sup> and in the annexes O1, O2, P1 and S1 of the recasted monthly balance sheet statistics**



1) in each case inclusive of all concerned BISTA-Annexes (Annexes B); Regarding further possible impact on HV11 072, A1 135 05 and A1 123 07 (respectively HV11 060) see also the explanatory notes on securitisation and other loan sales / purchases  
 2) Convention: Loan sales (+); Loan purchases (-)  
 3) Only the reporting of code-number "1" in position 905 leads to an effect in the stocks.

### **3 Standard examples**

#### **3.1 Loan sales of reporting bank (MFI) to non-MFIs**

- The bank (MFI) sells a loan portfolio to an FVC or an "other non-MFI" (eg a bank with no MFI status<sup>6</sup> or some other non-MFI).

##### **3.1.1 Loan sales to FVCs (off-balance and on-balance true-sale securitisations)**

The bank (MFI) sells a loan portfolio to an FVC.

###### **3.1.1.1 Off-balance true sale**

The bank (MFI) sells a loan portfolio as a true sale to an FVC; from an accounting perspective, the loan portfolio is derecognised (ie removed from the balance sheet).

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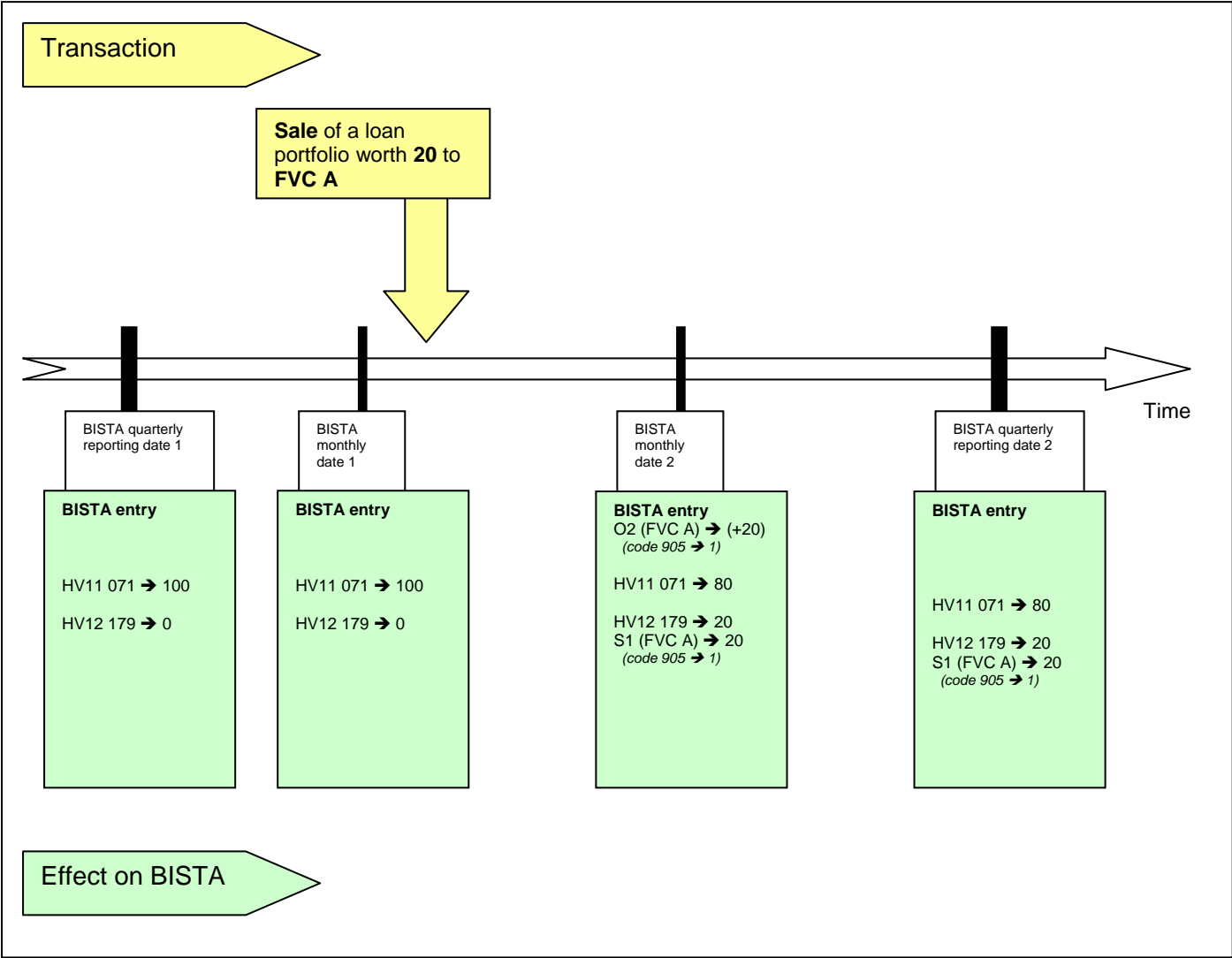
<sup>6</sup> For example (a) BaFin has only authorised the institution to perform credit business pursuant to section 1 (1) sentence 2 number 2 of the Banking Act or (b) a bank is domiciled outside the euro area.



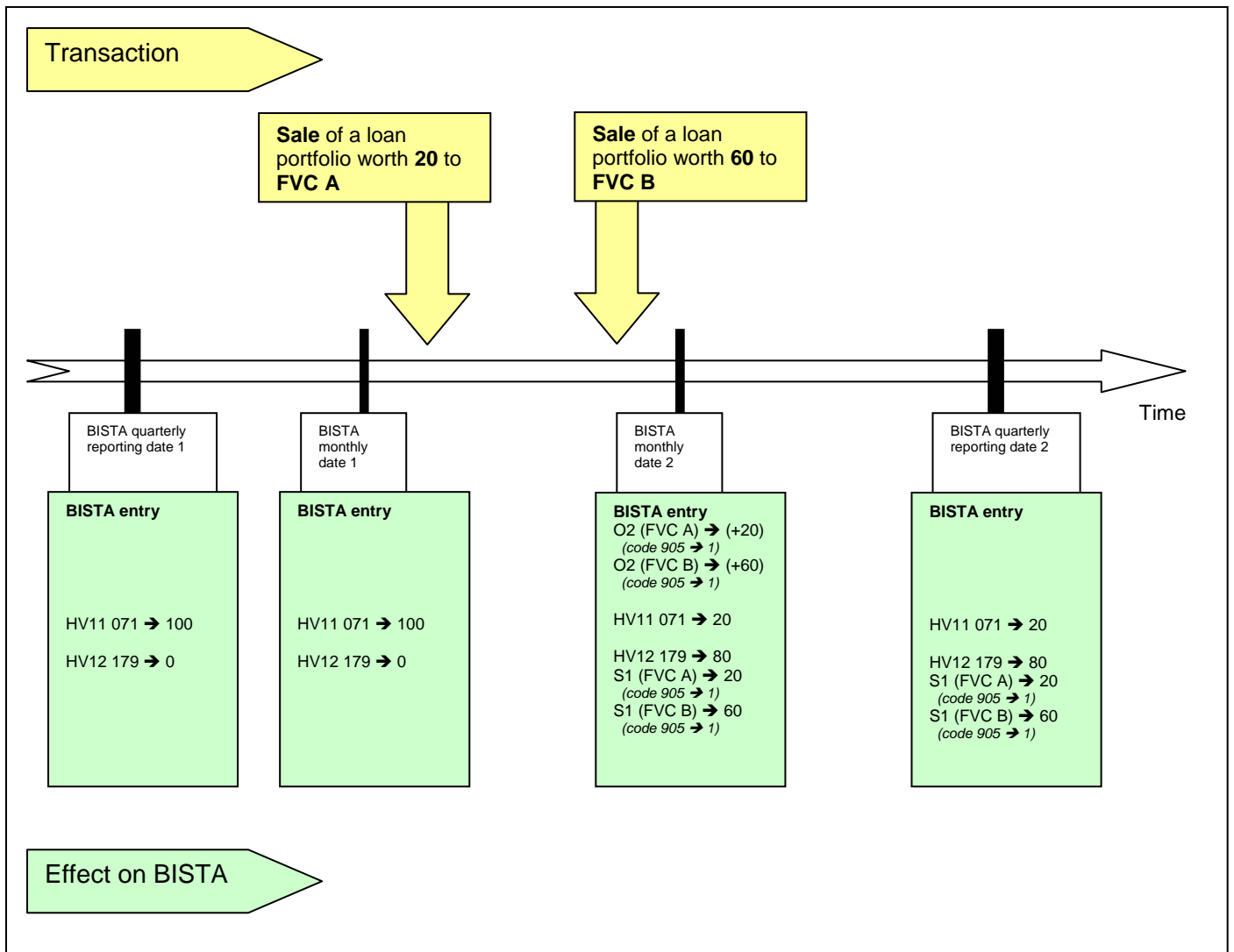
**3.1.1.1.1 Off-balance true sales where the originator is also the servicer**

The bank (MFI) sells a loan portfolio as a true sale to an FVC; from an accounting perspective, the loan portfolio is derecognised. The bank (MFI) continues to be responsible for servicing, however.

Example A to section 3.1.1.1.1



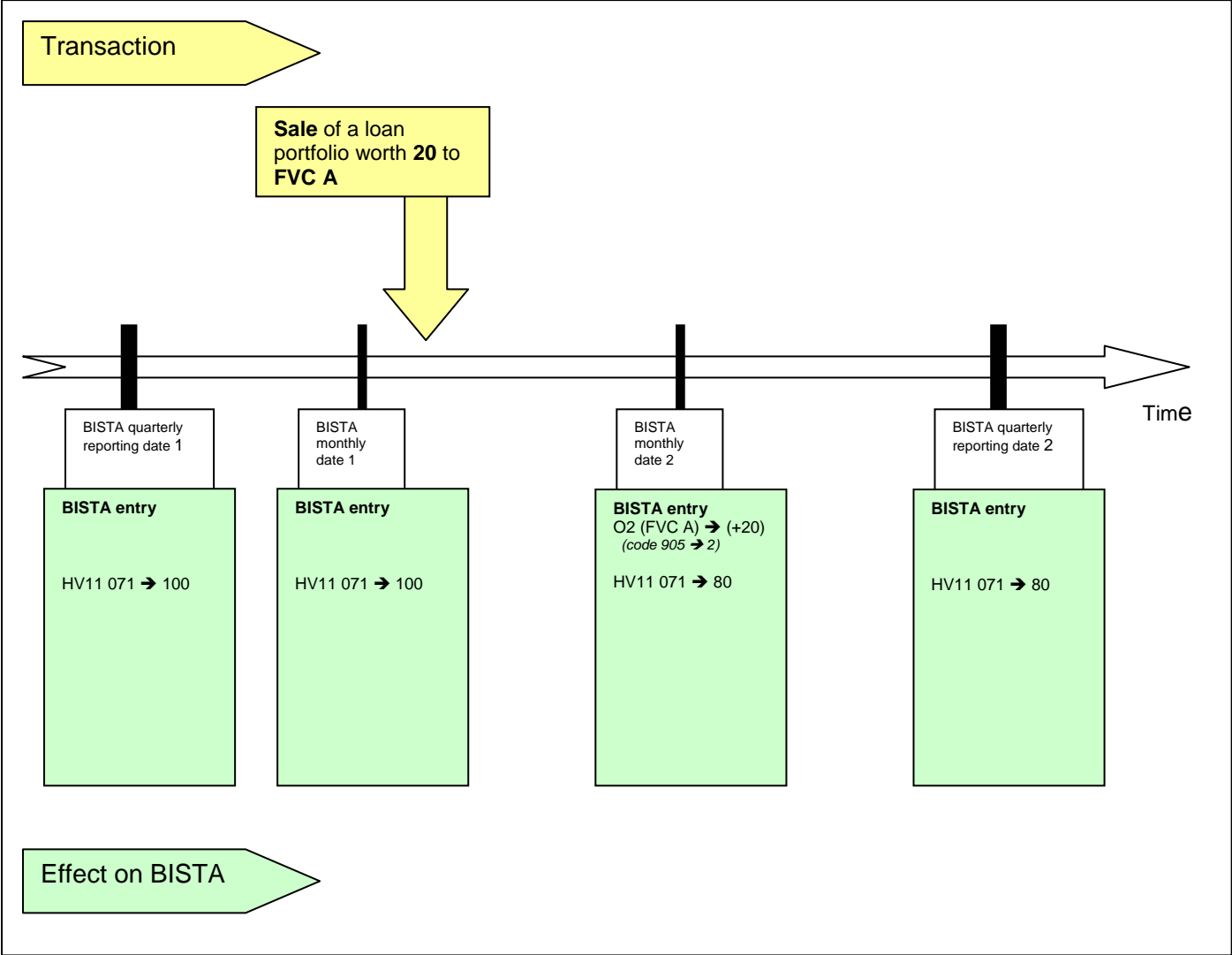
Example B to section 3.1.1.1.1



**3.1.1.1.2 Off-balance true sales where the originator is not the servicer**

The bank (MFI) sells a loan portfolio as a true sale to an FVC; from an accounting perspective, the loan portfolio is derecognised. The bank (MFI) is not responsible for servicing, however.

Example to section 3.1.1.1.2

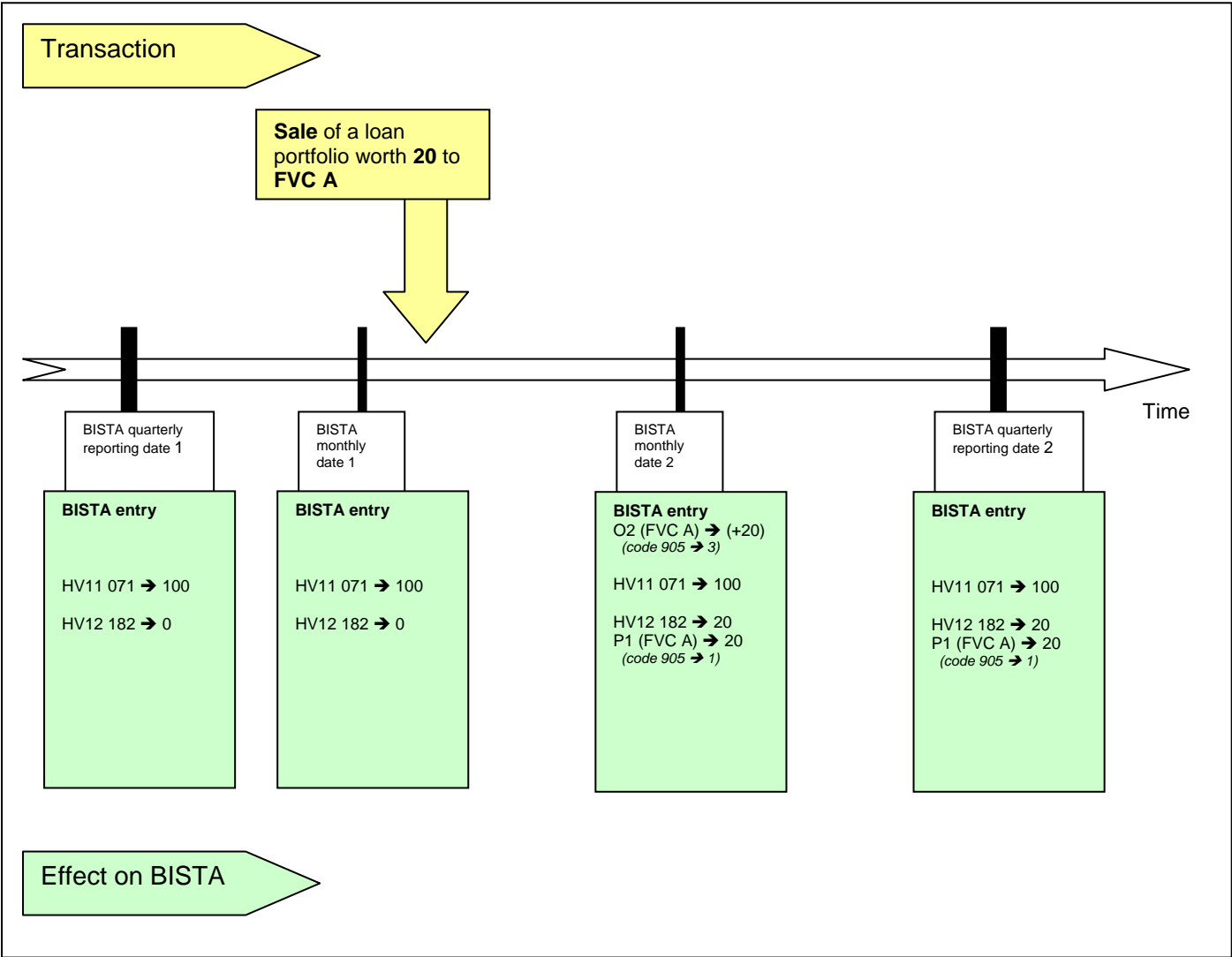


**3.1.1.2 On-balance true sale**

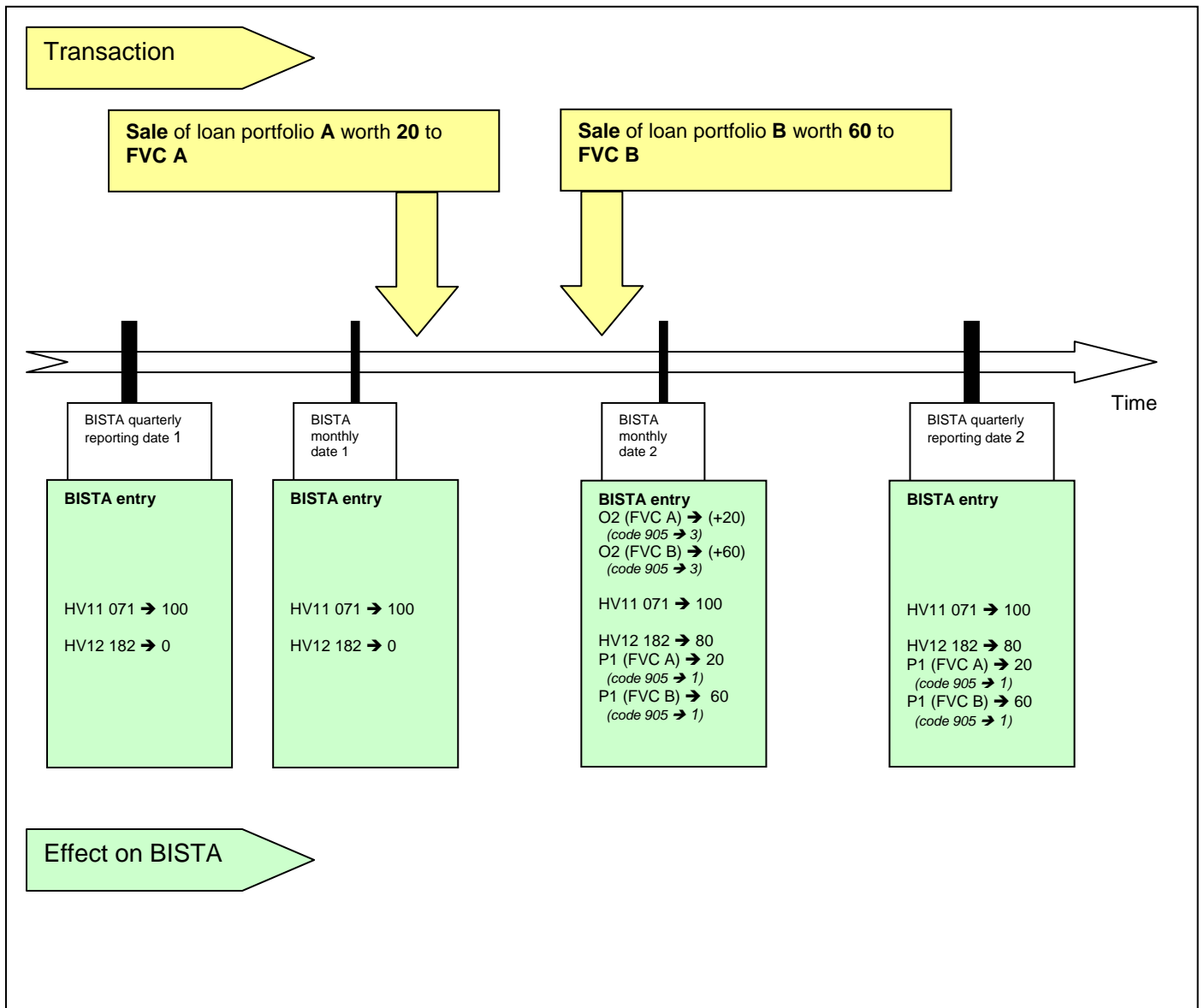
The bank (MFI) sells a loan portfolio as a true sale to an FVC; from an accounting perspective, the loan portfolio is not derecognised pursuant to the IDW ruling on accounting rule IDW RS HFA 8 or a comparable rule.

**3.1.1.2.1 On-balance true sale; the bank is the servicer**

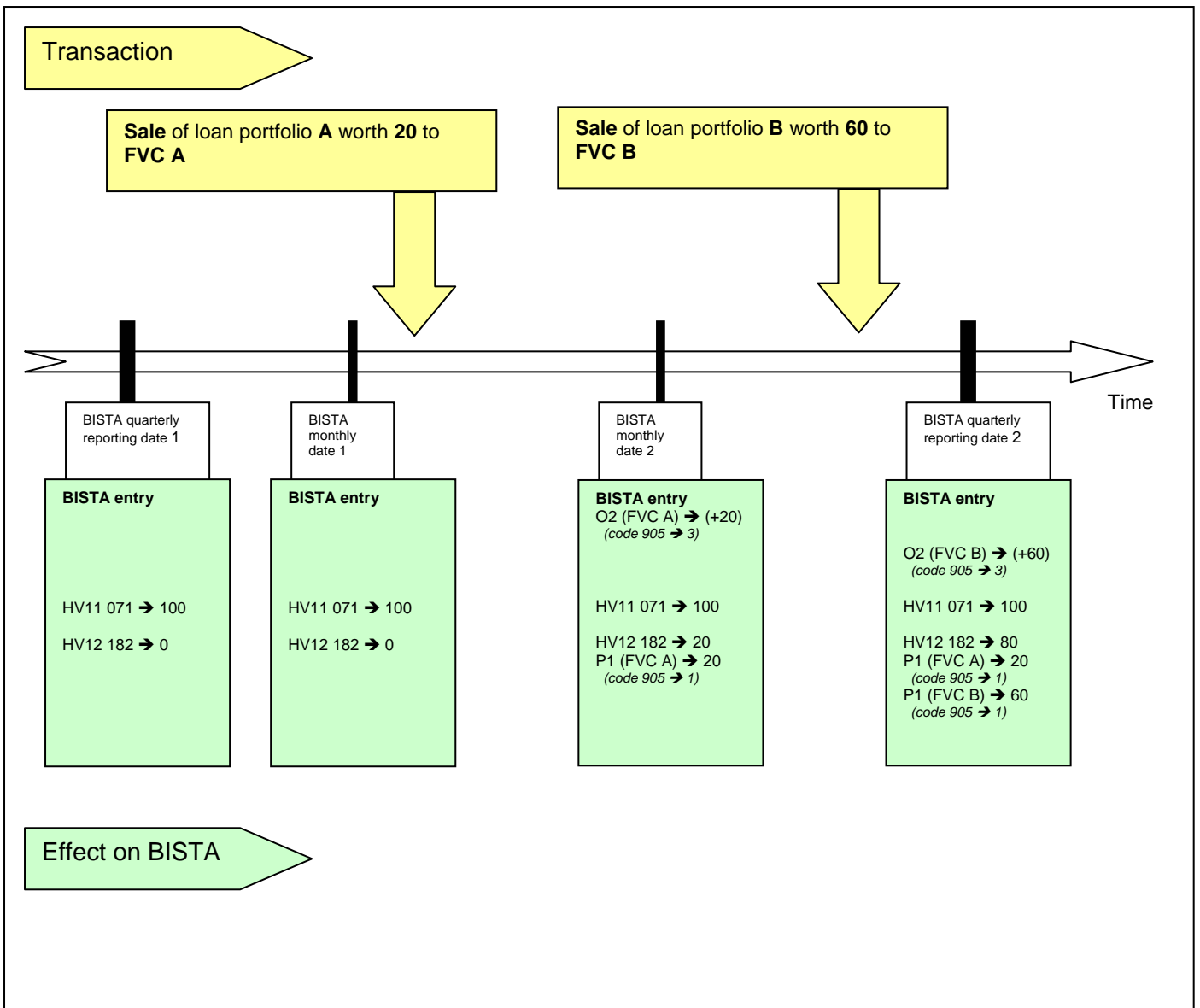
Example A to section 3.1.1.2.1



Example B to section 3.1.1.2.1

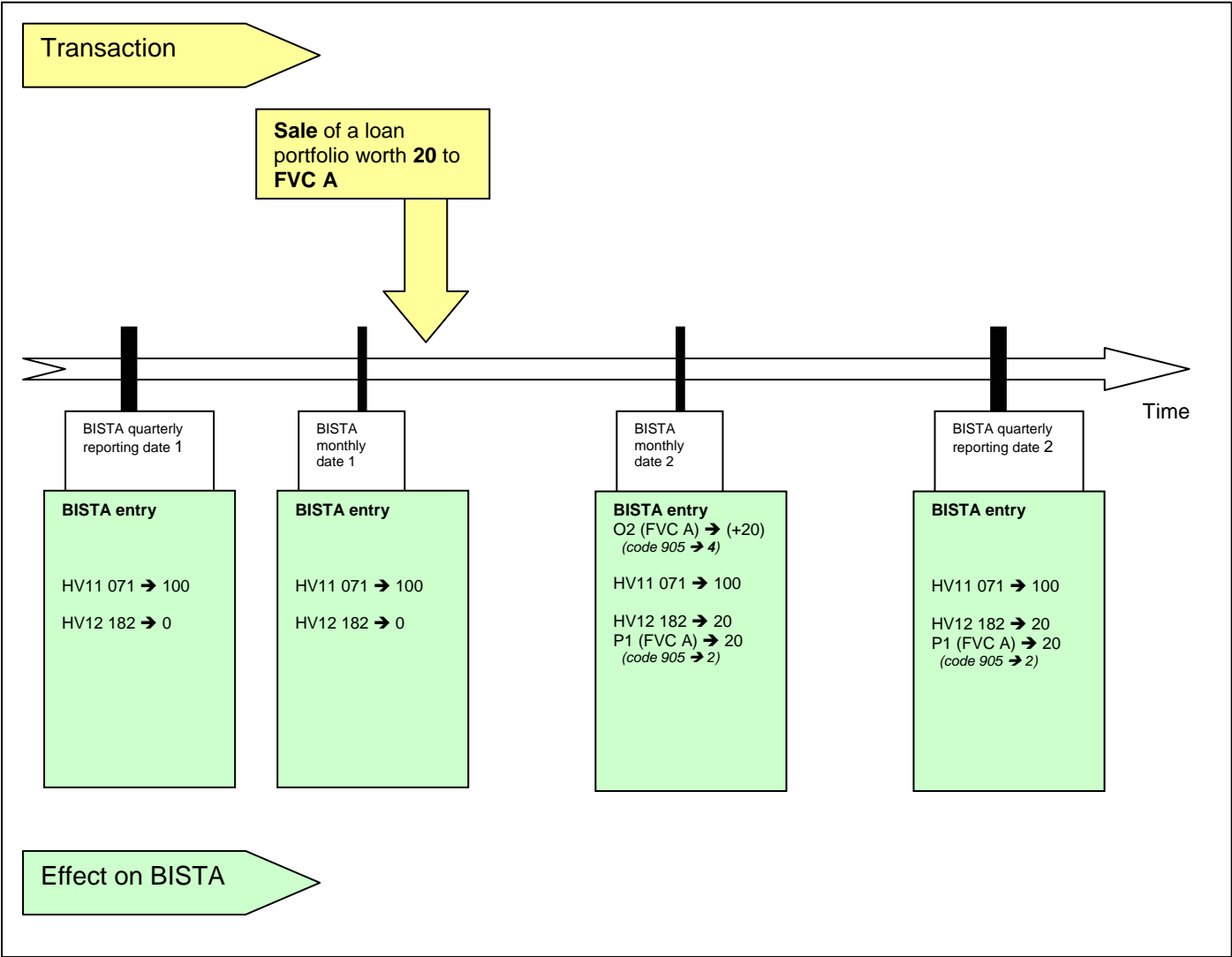


Example C to section 3.1.1.2.1

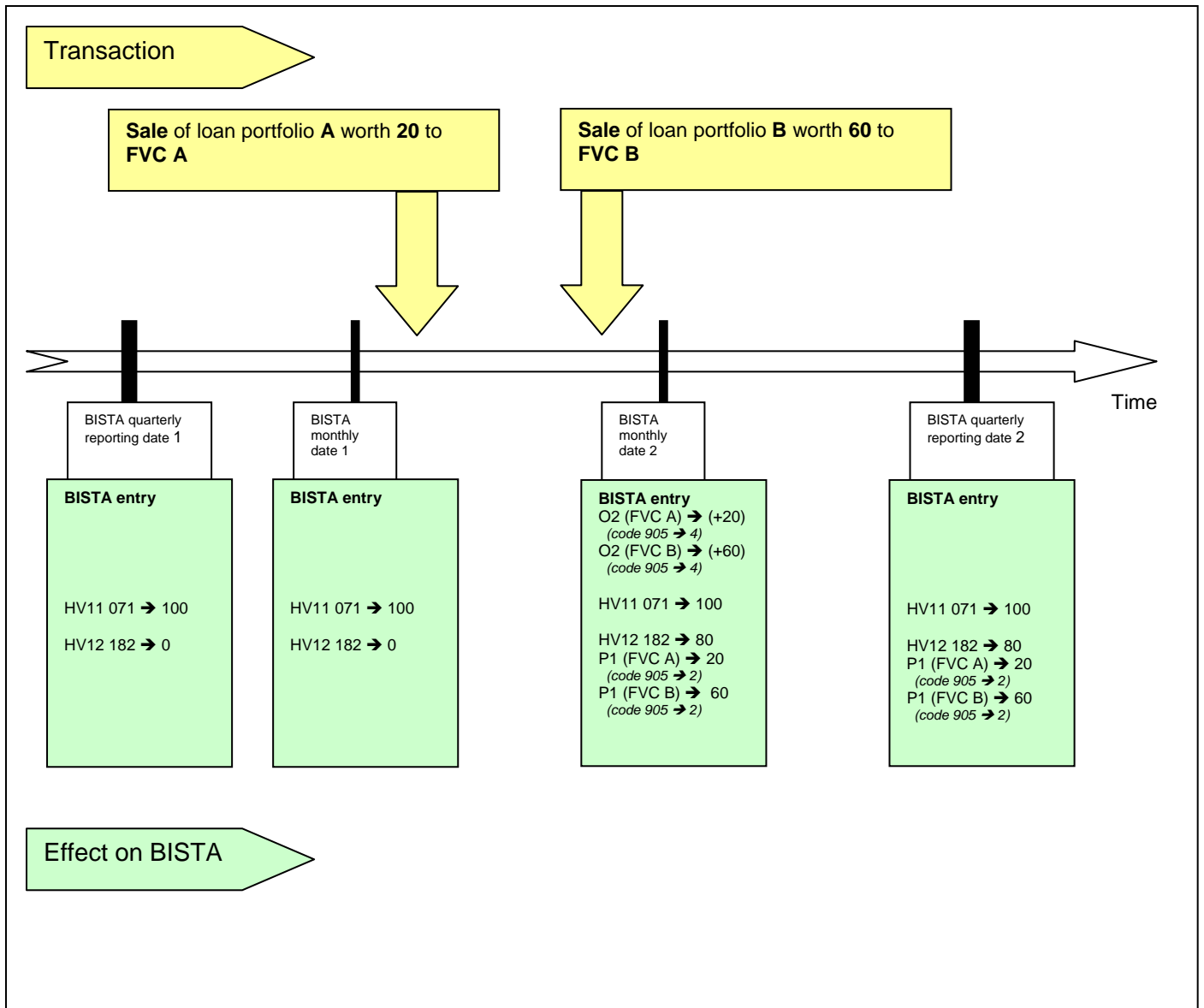


**3.1.1.2.2 On-balance true sale; the bank is not the servicer**

Example A to section 3.1.1.2.2

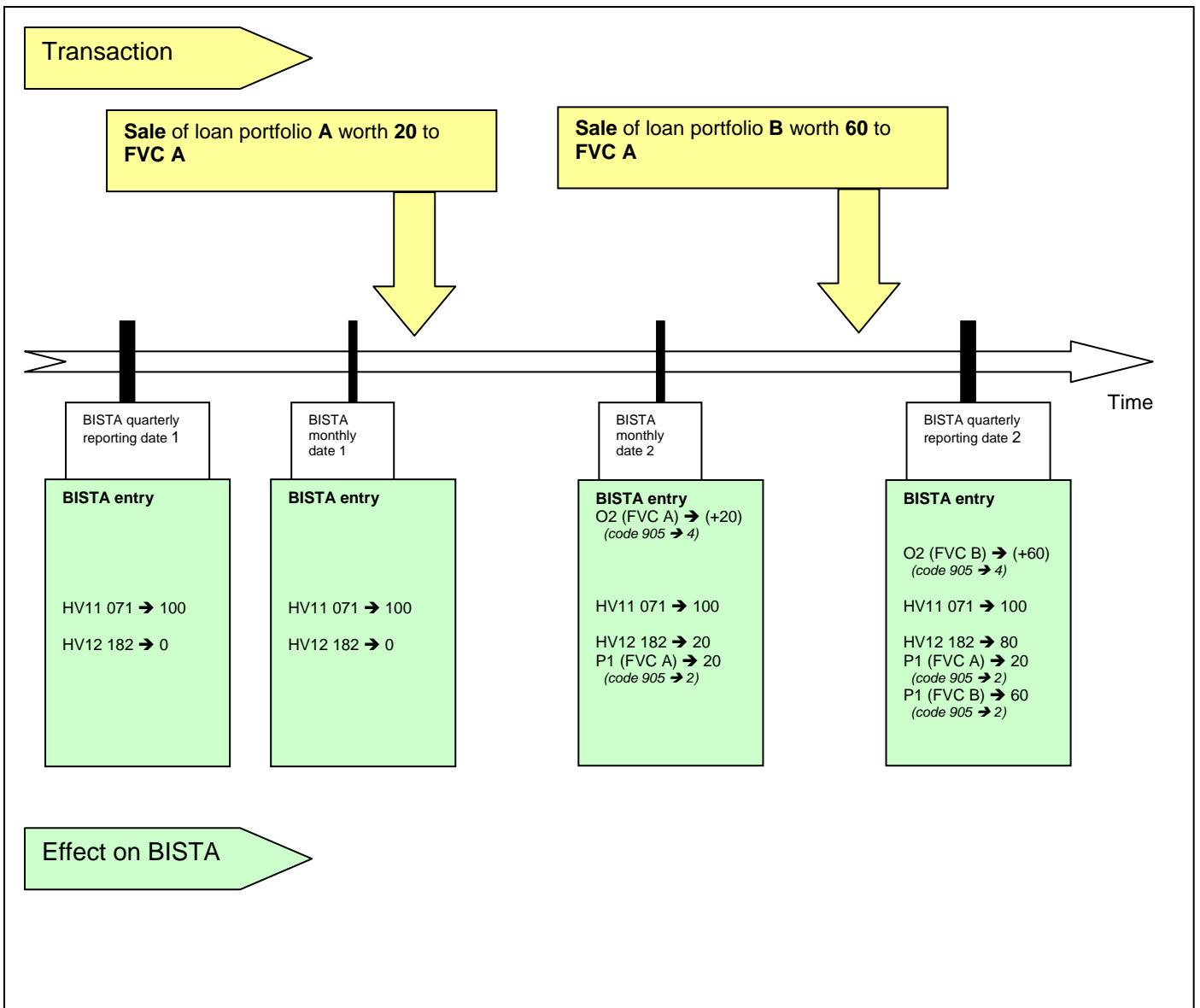


Example B to section 3.1.1.2.2





Example C to section 3.1.1.2.2



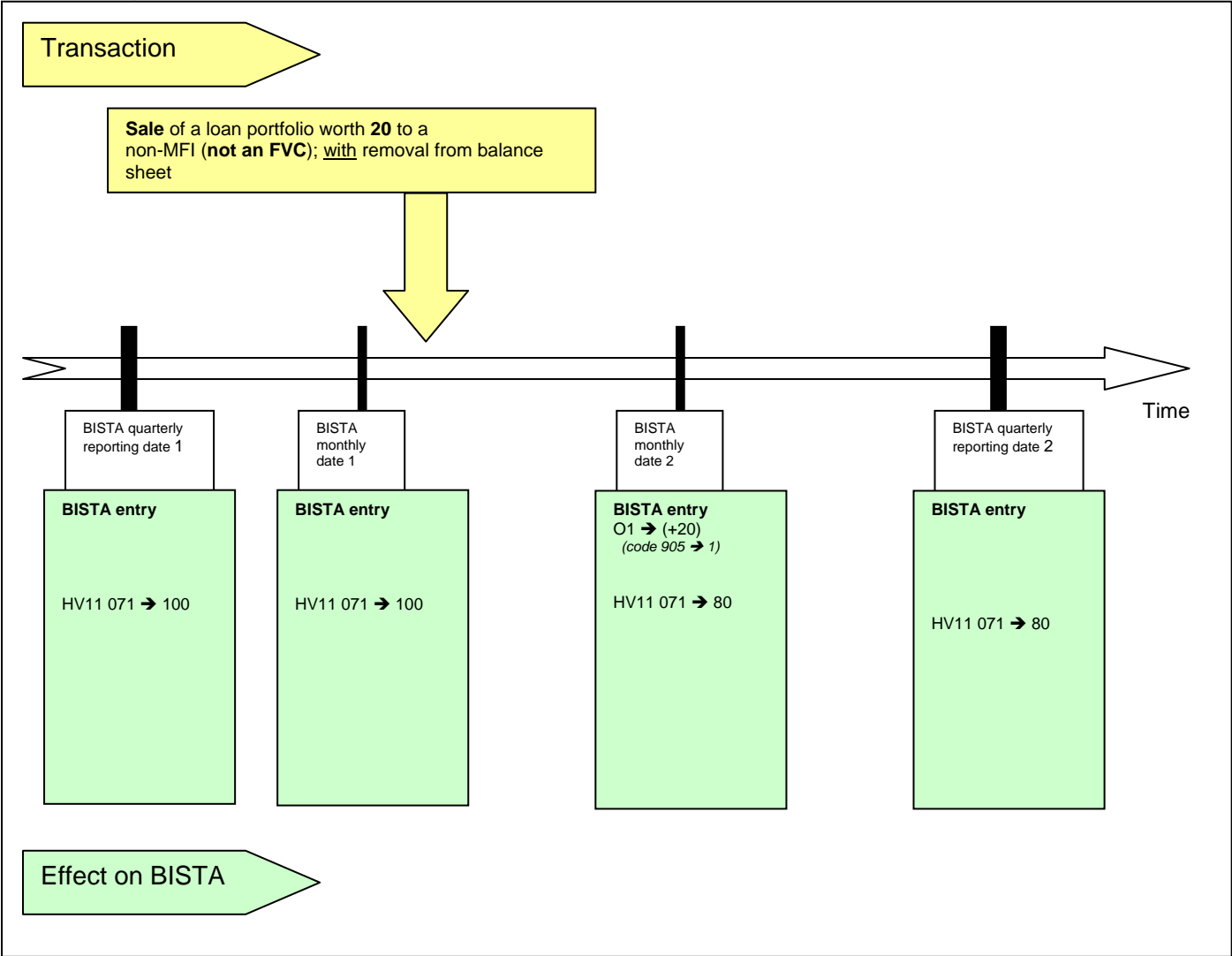
**3.1.2 Loan portfolio sales to other non-MFIs which are not FVCs**

The bank (MFI) sells a loan portfolio to an "other non-MFI" (eg a bank with no MFI status<sup>7</sup> or some other non-MFI).

**3.1.2.1 With an impact on the balance sheet**

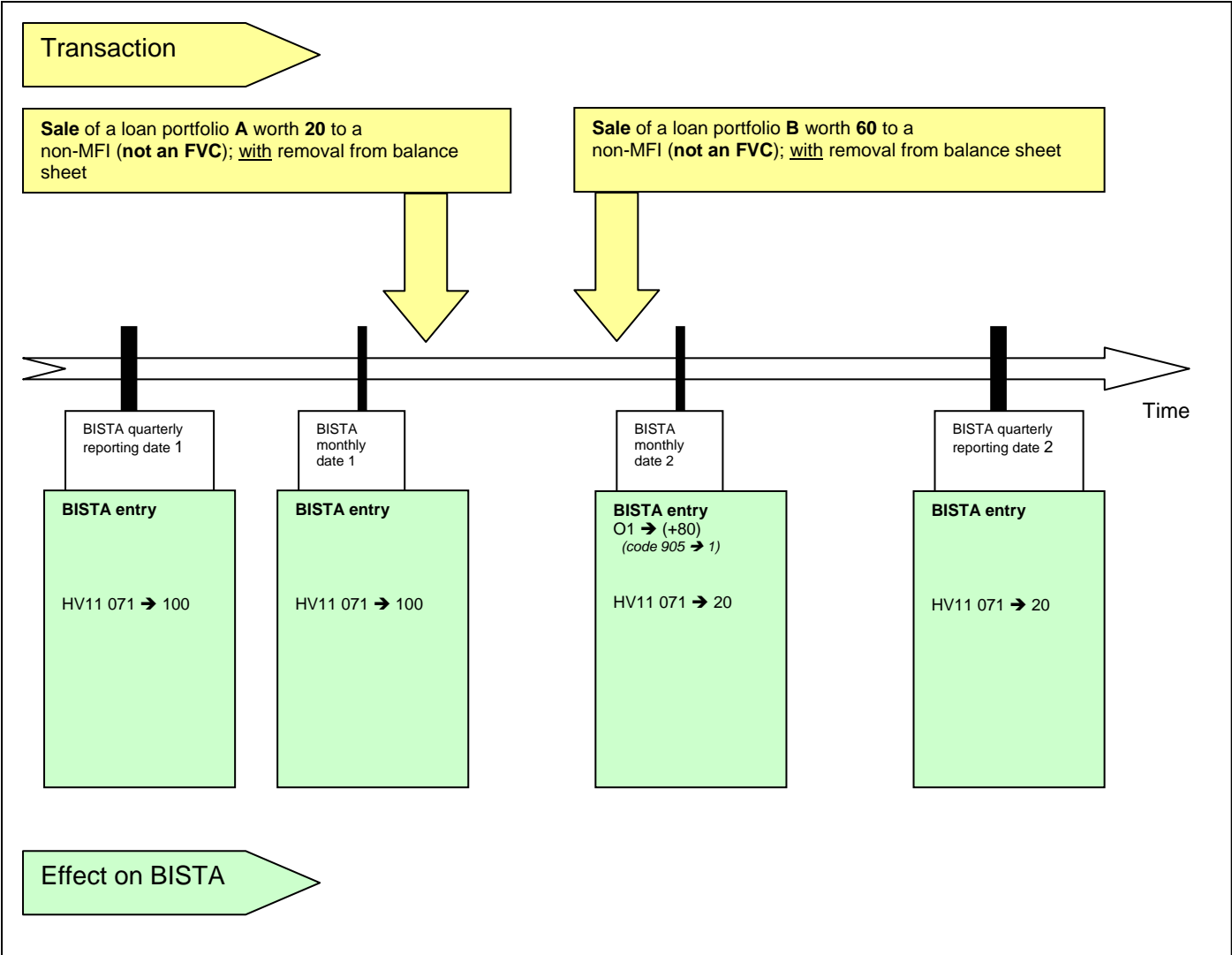
The bank (MFI) sells a loan portfolio to an "other non-MFI" (eg a bank with no MFI status<sup>7</sup> or some other non-MFI). The loan portfolio sold is derecognised.

Example A to section 3.1.2.1

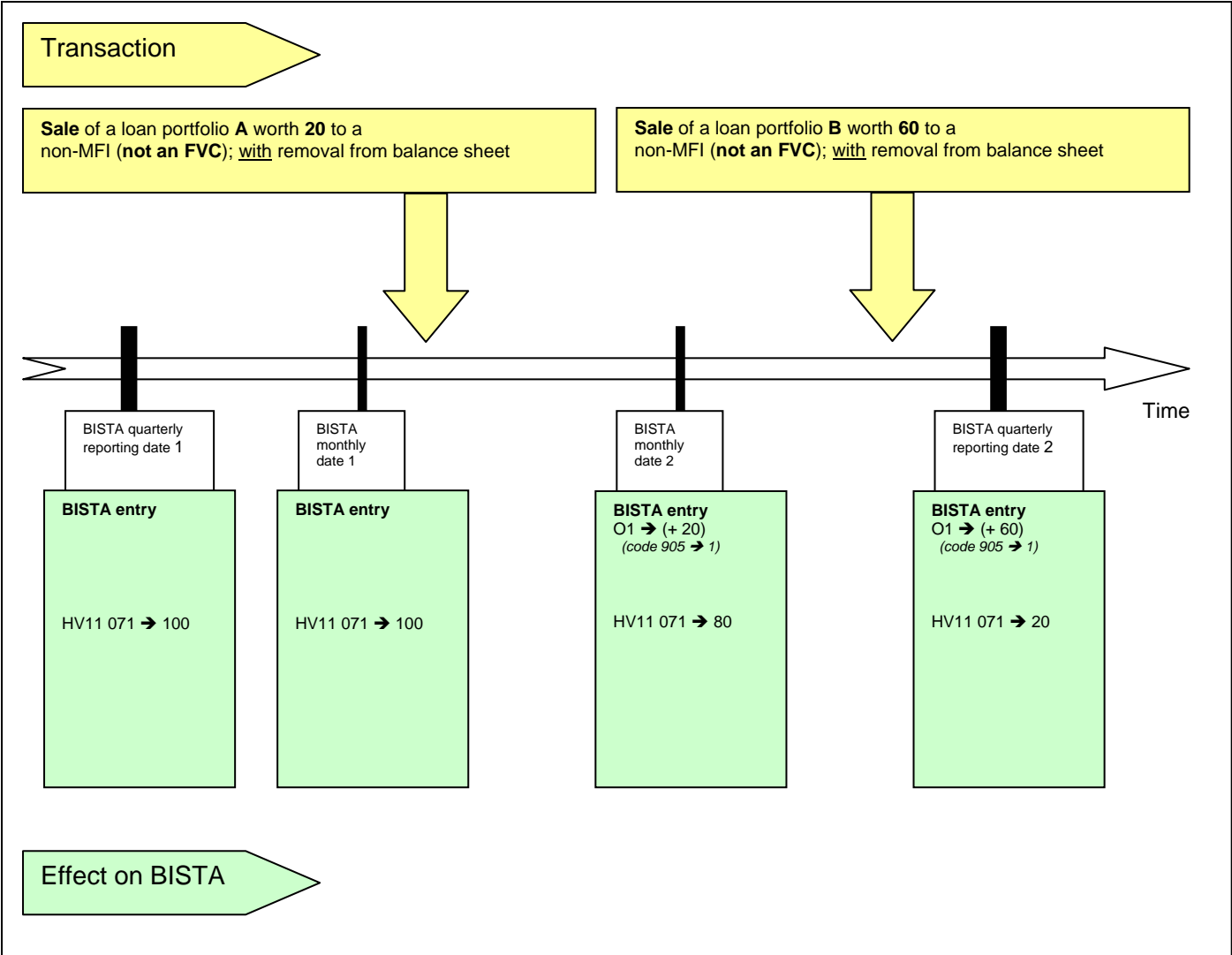


<sup>7</sup> For example (a) BaFin has only authorised the institution to perform credit business pursuant to section 1 (1) sentence 2 number 2 of the Banking Act or (b) a bank is domiciled outside the euro area.

Example B to section 3.1.2.1



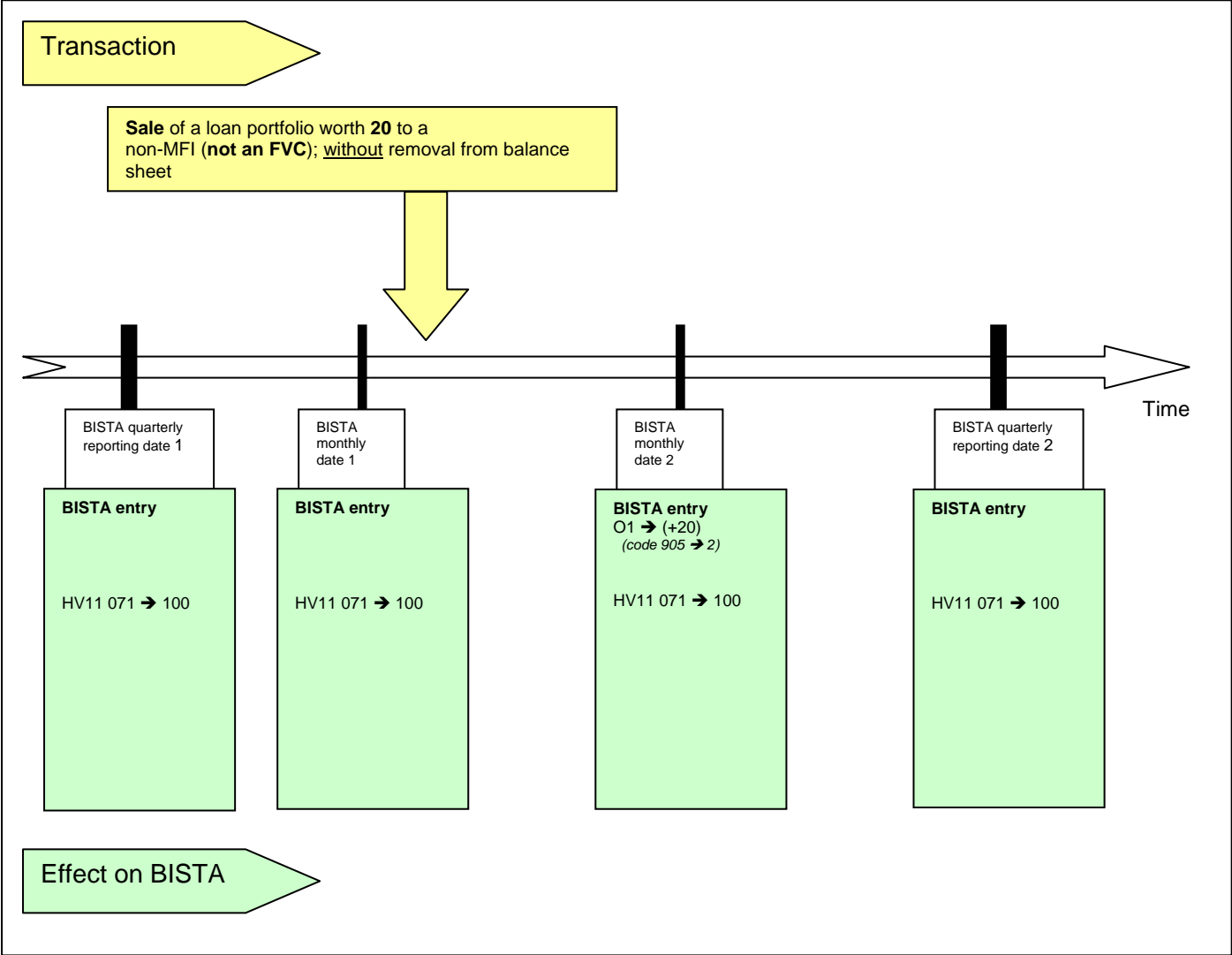
Example C to section 3.1.2.1



**3.1.2.2 Without any impact on the balance sheet**

The bank (MFI) sells a loan portfolio worth 20 to an "other non-MFI" (eg a bank with no MFI status<sup>8</sup> or some other non-MFI). The loan portfolio sold is not derecognised; eg pursuant to the ruling of the Institute of External Auditors on accounting rule "IDW RS HFA 8"<sup>9</sup> or a comparable rule.

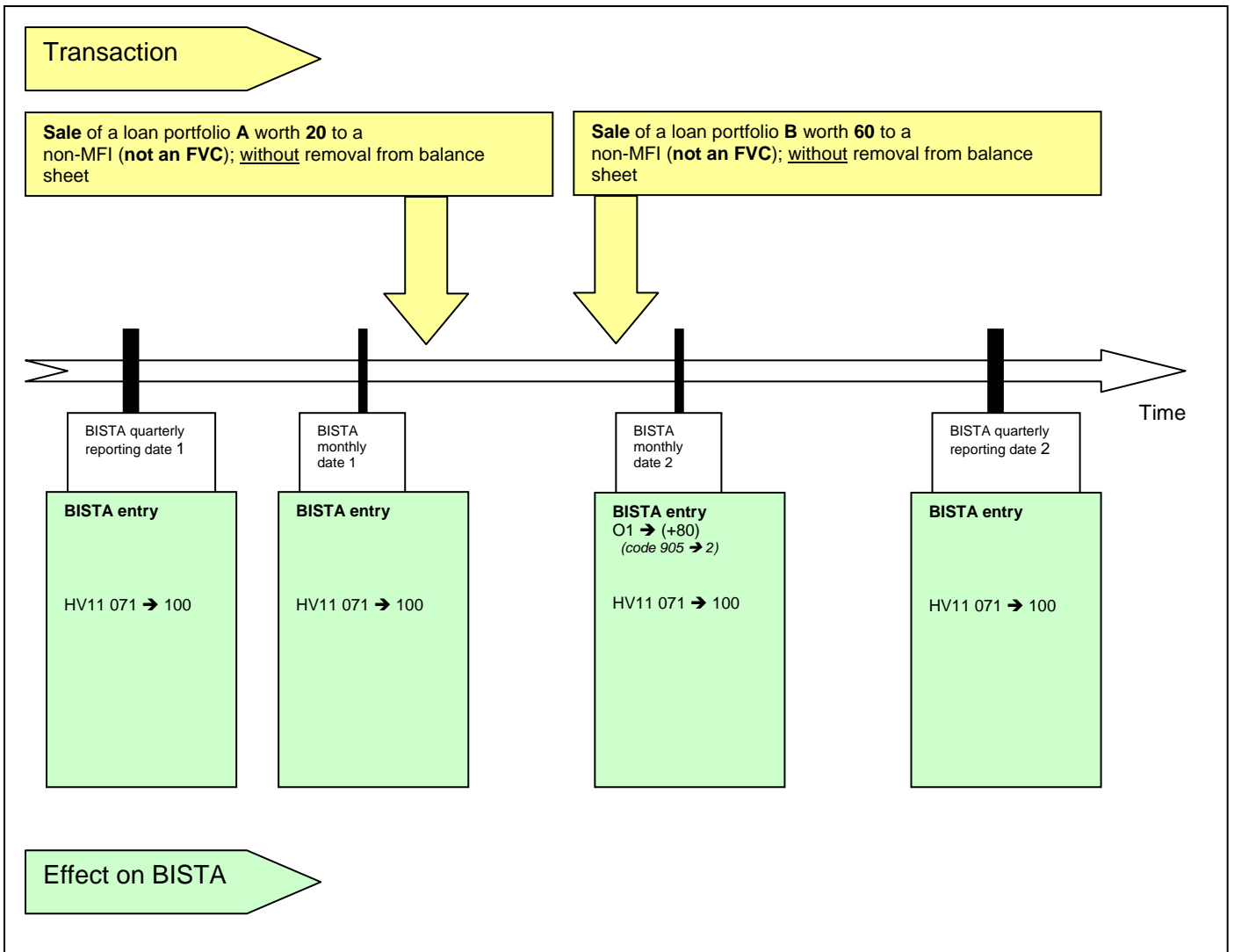
Example A to section 3.1.2.2



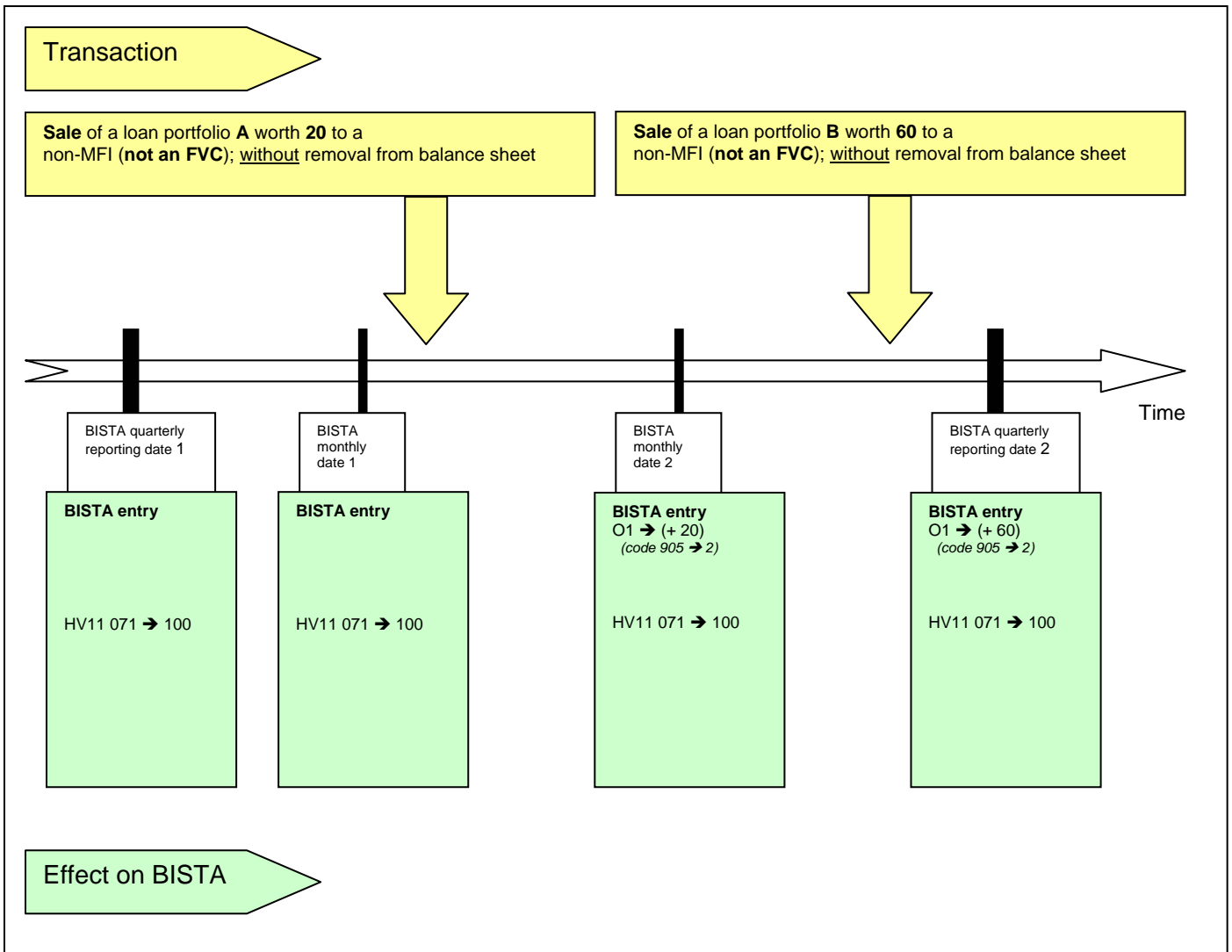
<sup>8</sup> For example (a) BaFin has only authorised the institution to perform credit business pursuant to section 1 (1) sentence 2 number 2 of the Banking Act or (b) a bank is domiciled outside the euro area.

<sup>9</sup> The circular issued by the Institute of External Auditors (IDW RS HFA 8 of 1 October 2002; amendment of 9 December 2003) clarifies that even when accounting according to the German Commercial Code is applied, (non-securitised) credit receivables sold may still have to be shown on the balance sheet of the originating institution.

Example B to section 3.1.2.2



Example C to section 3.1.2.2



### 3.2 Loan portfolio purchases of reporting bank (MFI) from non-MFIs

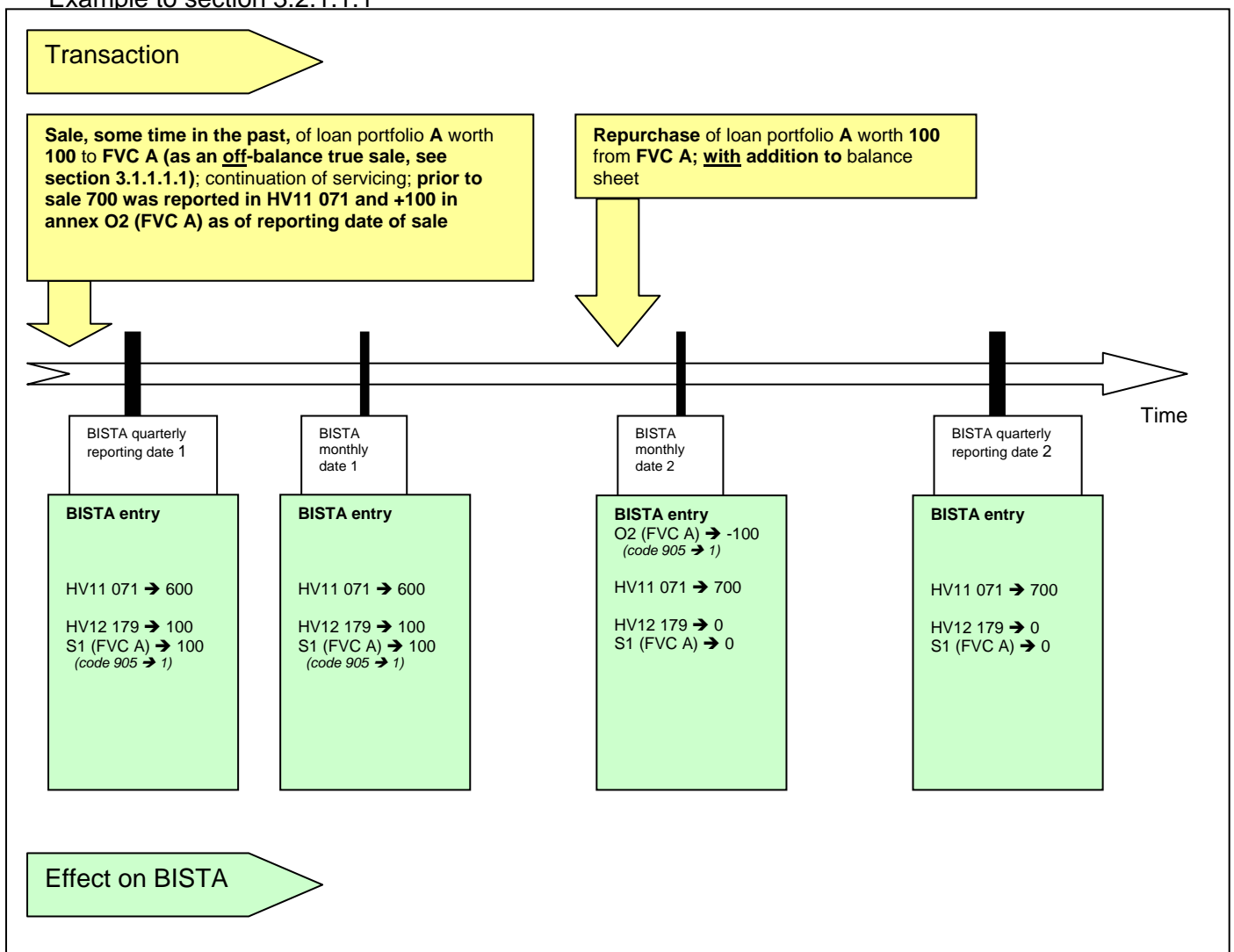
The bank (MFI) purchases a loan portfolio from a non-MFI (eg a bank with no MFI status<sup>10</sup>, an FVC or some other non-MFI).

#### 3.2.1 Loan portfolio purchases from FVCs

##### 3.2.1.1 Repurchase of a loan portfolio which the bank (MFI) originally sold to an FVC (traditional securitisation)

##### 3.2.1.1.1 Repurchase of a loan portfolio which the bank (MFI) originally sold to an FVC (as an off-balance true sale) and for which the bank (MFI) is still responsible for servicing

Example to section 3.2.1.1.1



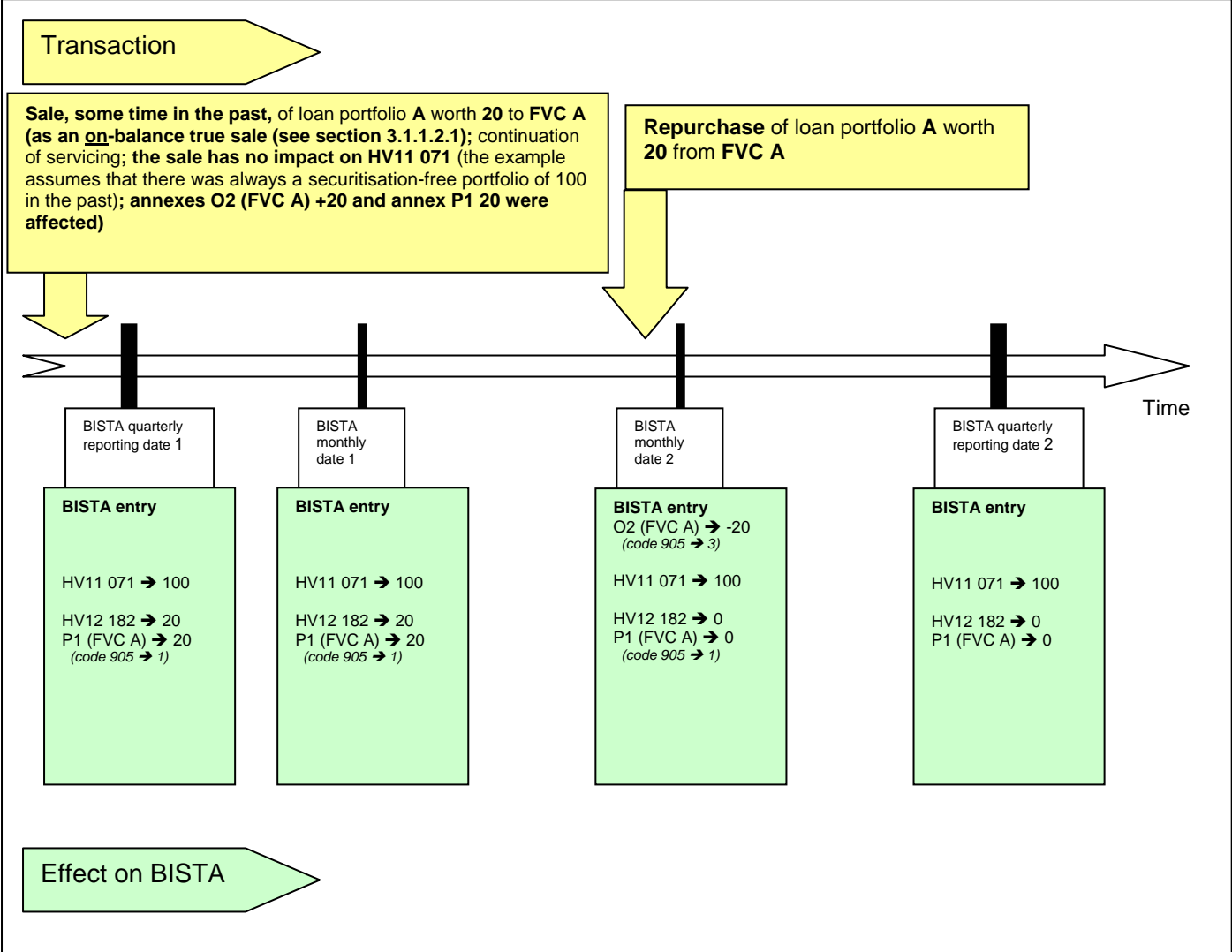
Note: Repurchase is also conceivable as part of a “clean-up call” in which the originator has the right to end the transaction after the asset pool has shrunk to a fraction of its original volume.

<sup>10</sup> For example (a) BaFin has only authorised the institution to perform credit business pursuant to section 1 (1) sentence 2 number 2 of the Banking Act or (b) a bank is domiciled outside the euro area.



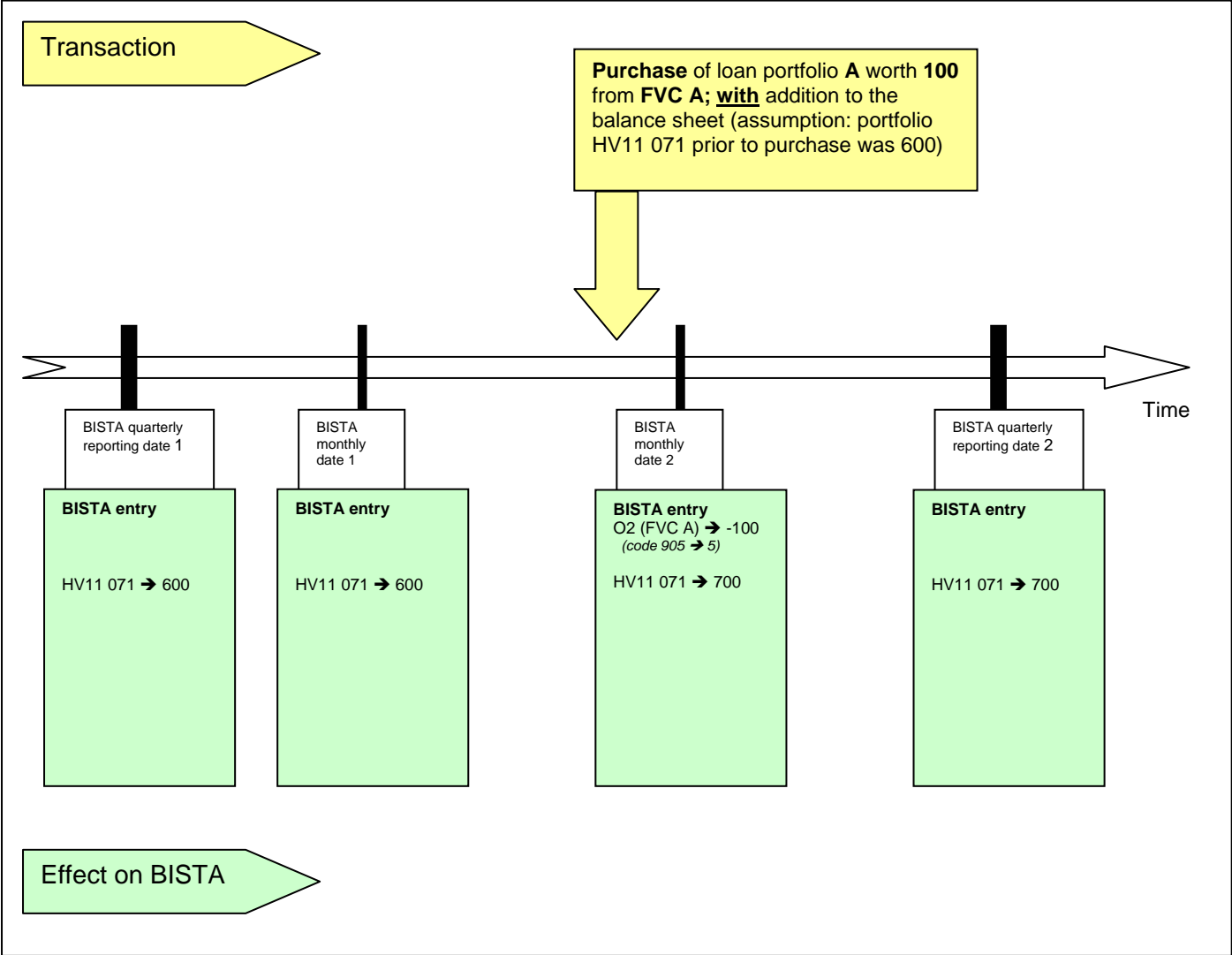
**3.2.1.1.2 Repurchase of a loan portfolio which the bank (MFI) originally sold to an FVC (as an on-balance true sale)**

Example to section 3.2.1.1.2



**3.2.1.2 All other constellations where the bank (MFI) purchases a loan portfolio from an FVC**

Example to section 3.2.1.2



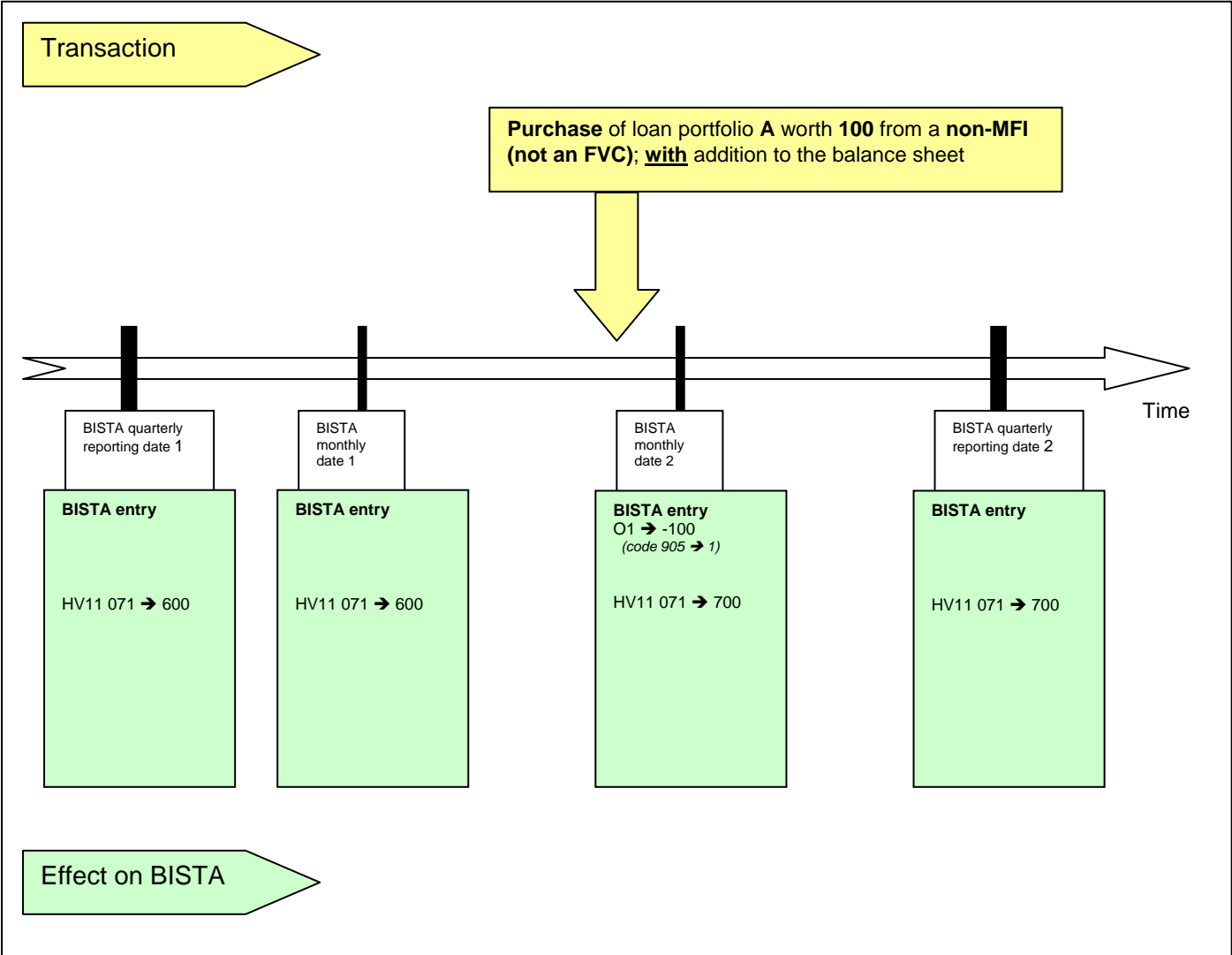
**3.2.2 Loan portfolio purchases from "other non-MFIs" which are not FVCs**

The bank (MFI) purchases a loan portfolio from a non-MFI (which is not an FVC).

**3.2.2.1 With an impact on the balance sheet**

The bank (MFI) purchases a loan portfolio from an "other non-MFI" (eg a bank with no MFI status<sup>11</sup> or from some other non-MFI). The loan portfolio purchased is recognised/recorded in the balance sheet.

Example to section 3.2.2.1

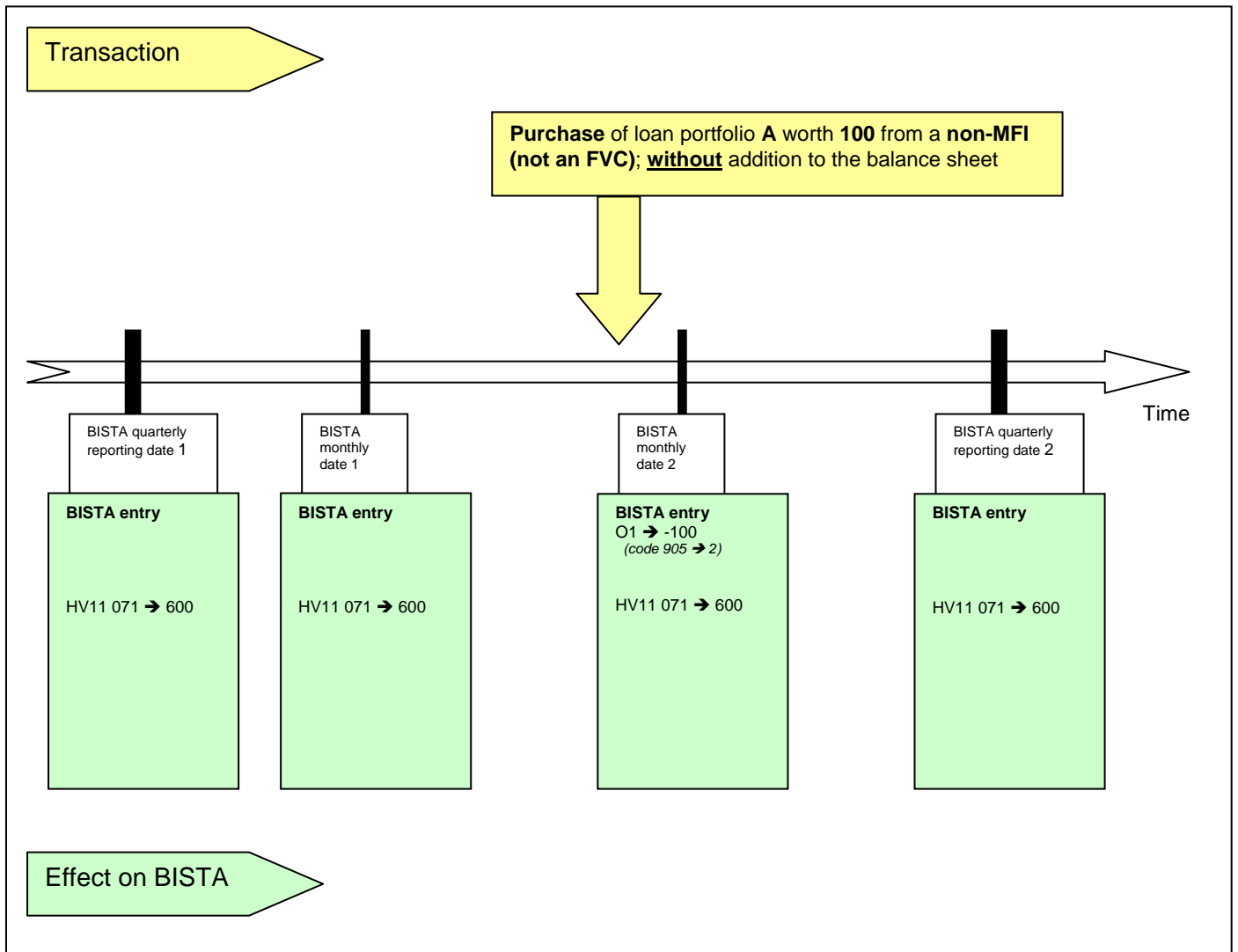


<sup>11</sup> For example (a) BaFin has only authorised the institution to perform credit business pursuant to section 1 (1) sentence 2 number 2 of the Banking Act or (b) a bank is domiciled outside the euro area.

### 3.2.2.2 Without any impact on the balance sheet

The bank (MFI) purchases a loan portfolio from an "other non-MFI" (eg a bank with no MFI status<sup>12</sup> or from some other non-MFI). The loan portfolio purchased is not recognised/recorded in the balance sheet<sup>13</sup>.

Example to section 3.2.2.2



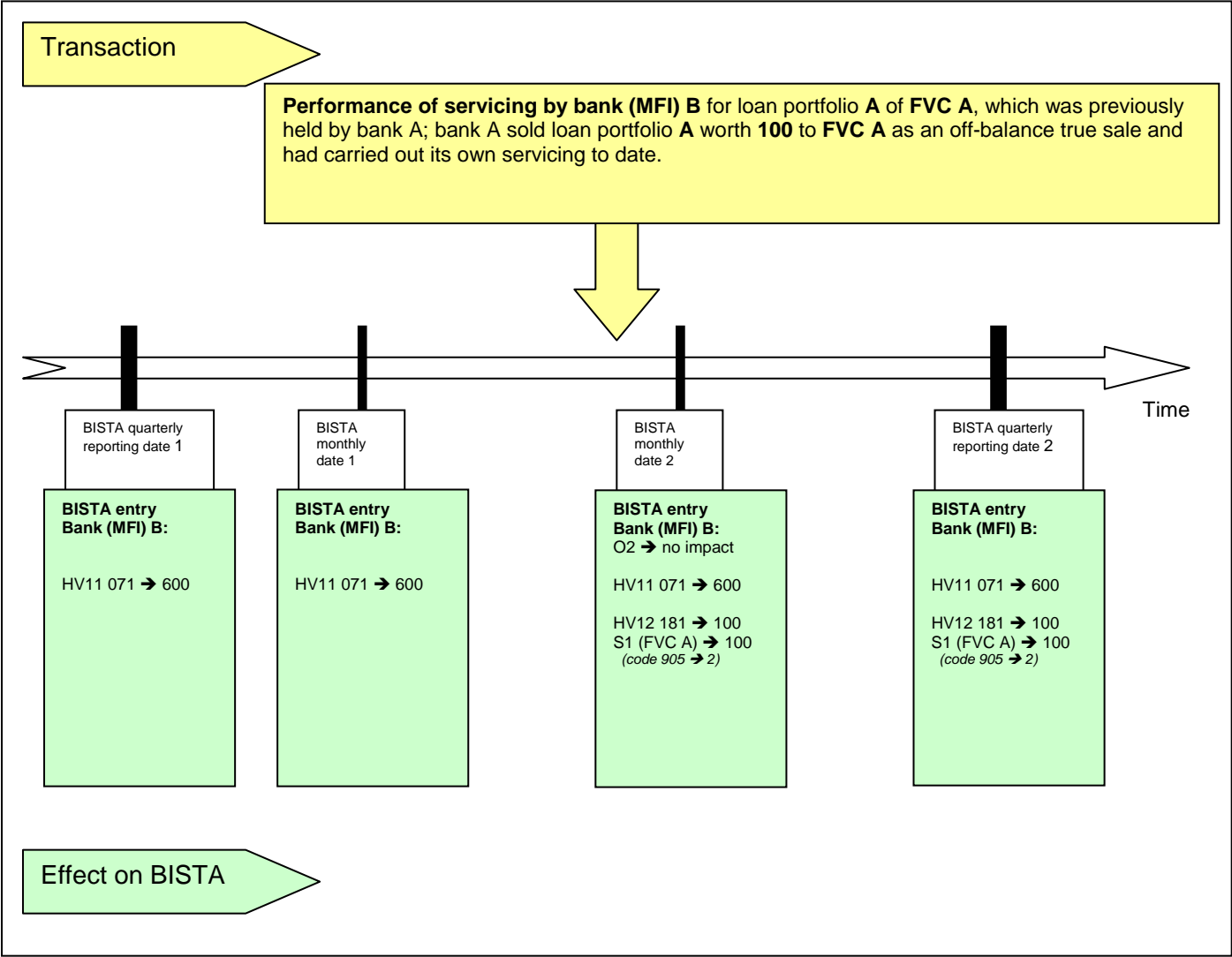
<sup>12</sup> For example (a) BaFin has only authorised the institution to perform credit business pursuant to section 1 (1) sentence 2 number 2 of the Banking Act or (b) a bank is domiciled outside the euro area.

<sup>13</sup> The circular issued by the Institute of External Auditors (IDW RS HFA 8 of 1 October 2002; amendment of 9 December 2003) clarifies that even when accounting according to the German Commercial Code is applied, (non-securitised) credit receivables sold may still have to be shown on the balance sheet of the originating institution.

**3.3 Performance of servicing only by the reporting bank (MFI); bank (MFI) is neither the originator nor the purchaser of the loan portfolio**

Bank (MFI) B performs servicing for a loan portfolio which, for example, another bank A has sold to FVC A; the inclusion of bank (MFI) B as follows is restricted to servicing.

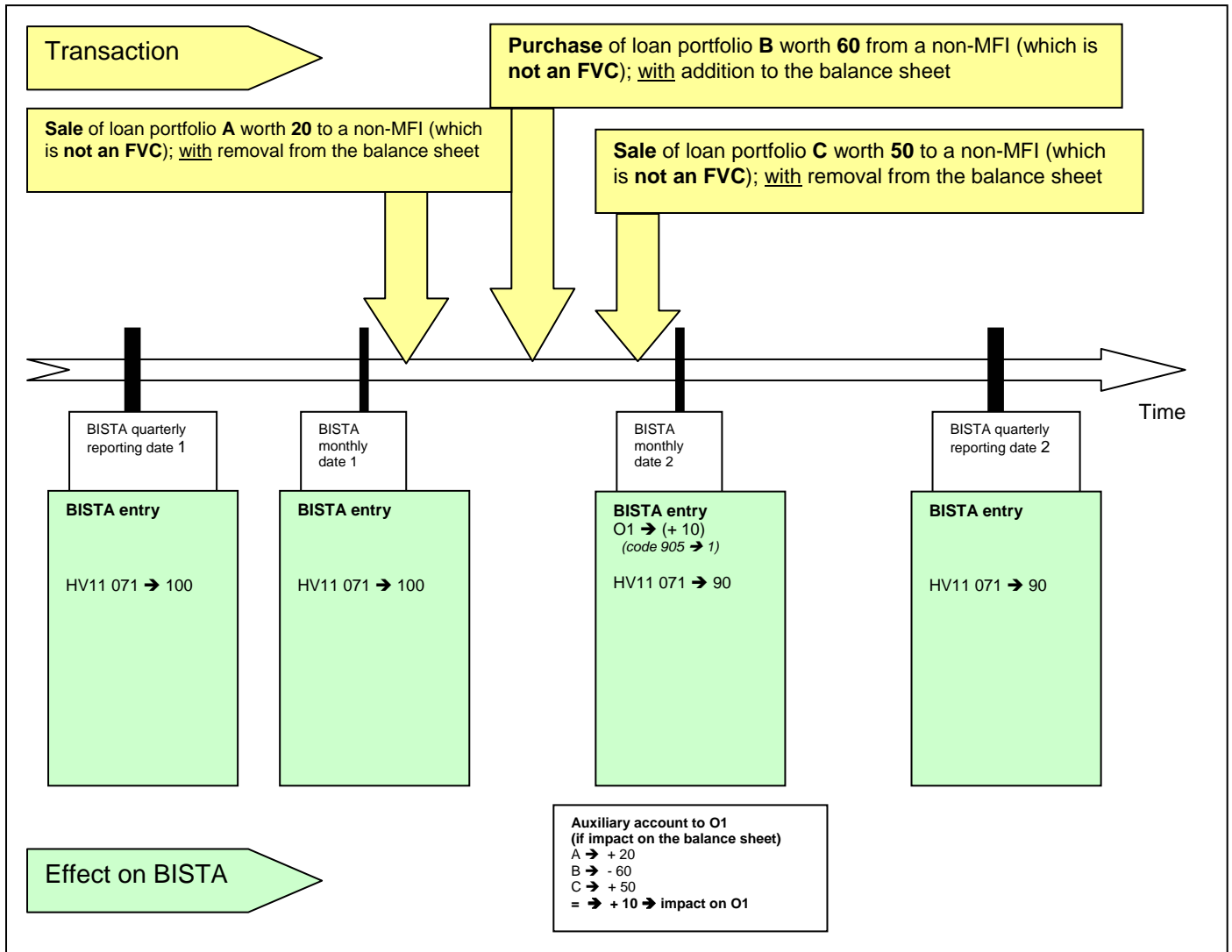
Example to section 3.3



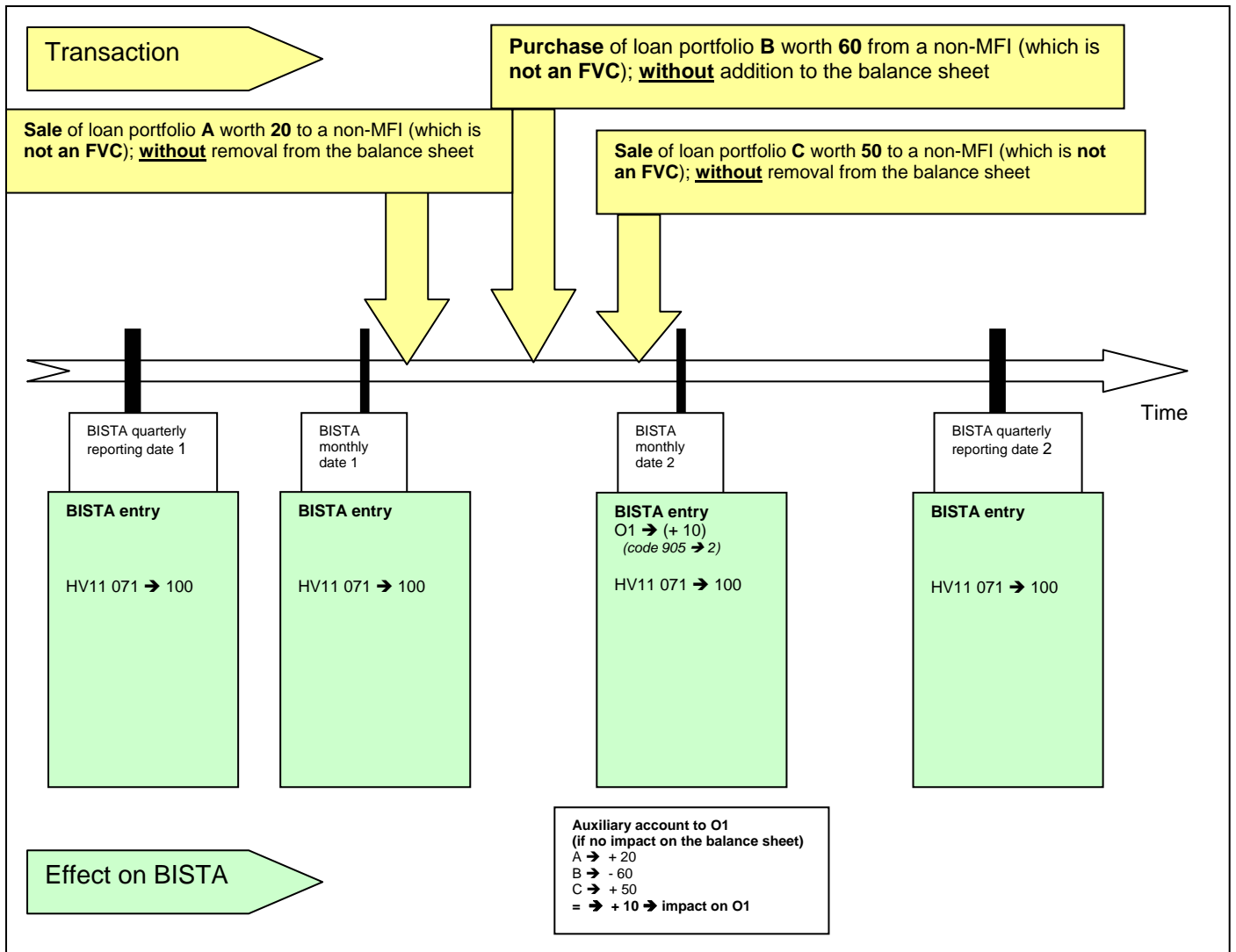
## 4 Further examples

### 4.1 Purchase and sale of several loan portfolios from various non-MFIs (which are not FVCs) in one reporting period

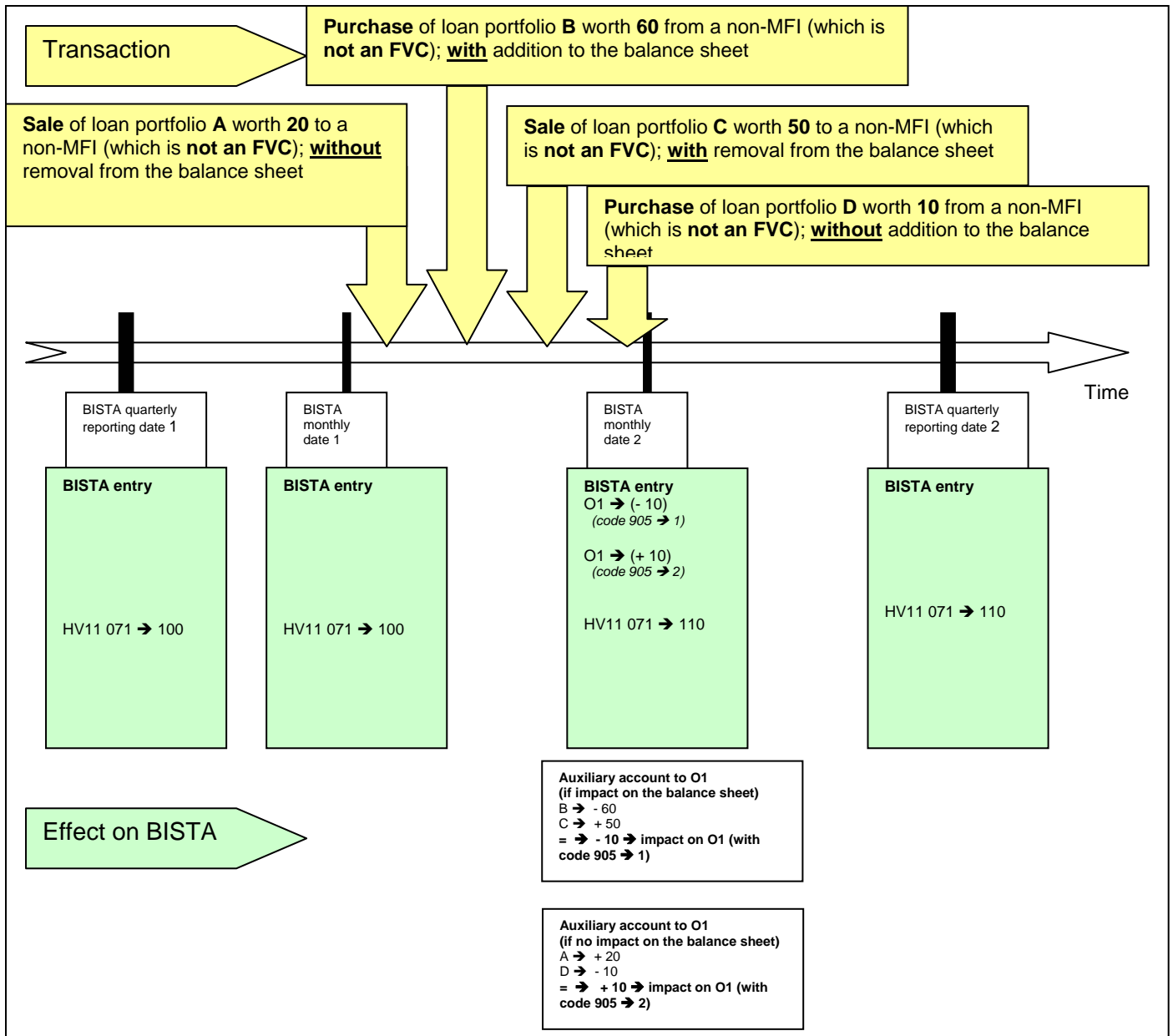
Example A to section 4.1



Example B to section 4.1



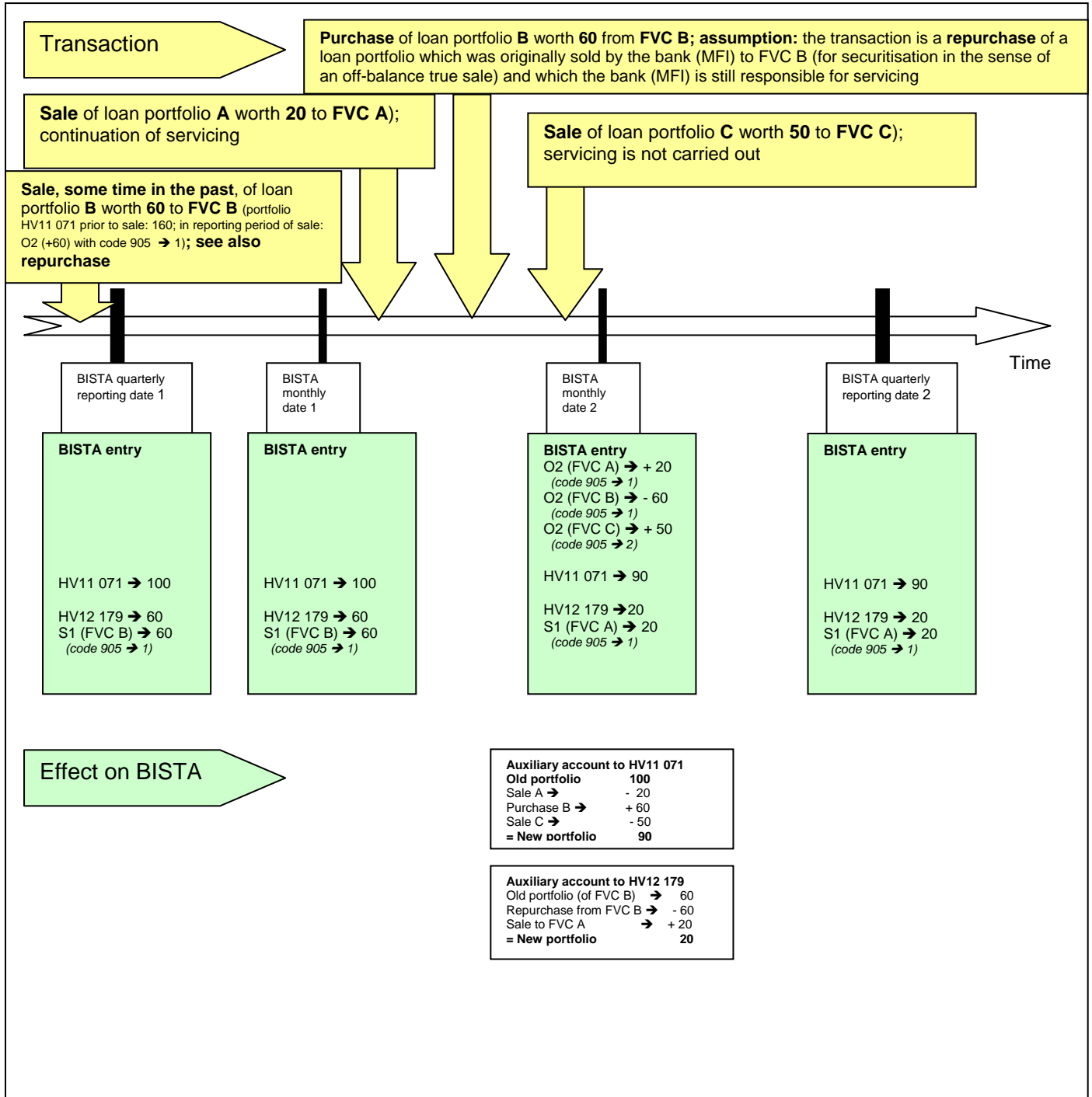
Example C to section 4.1





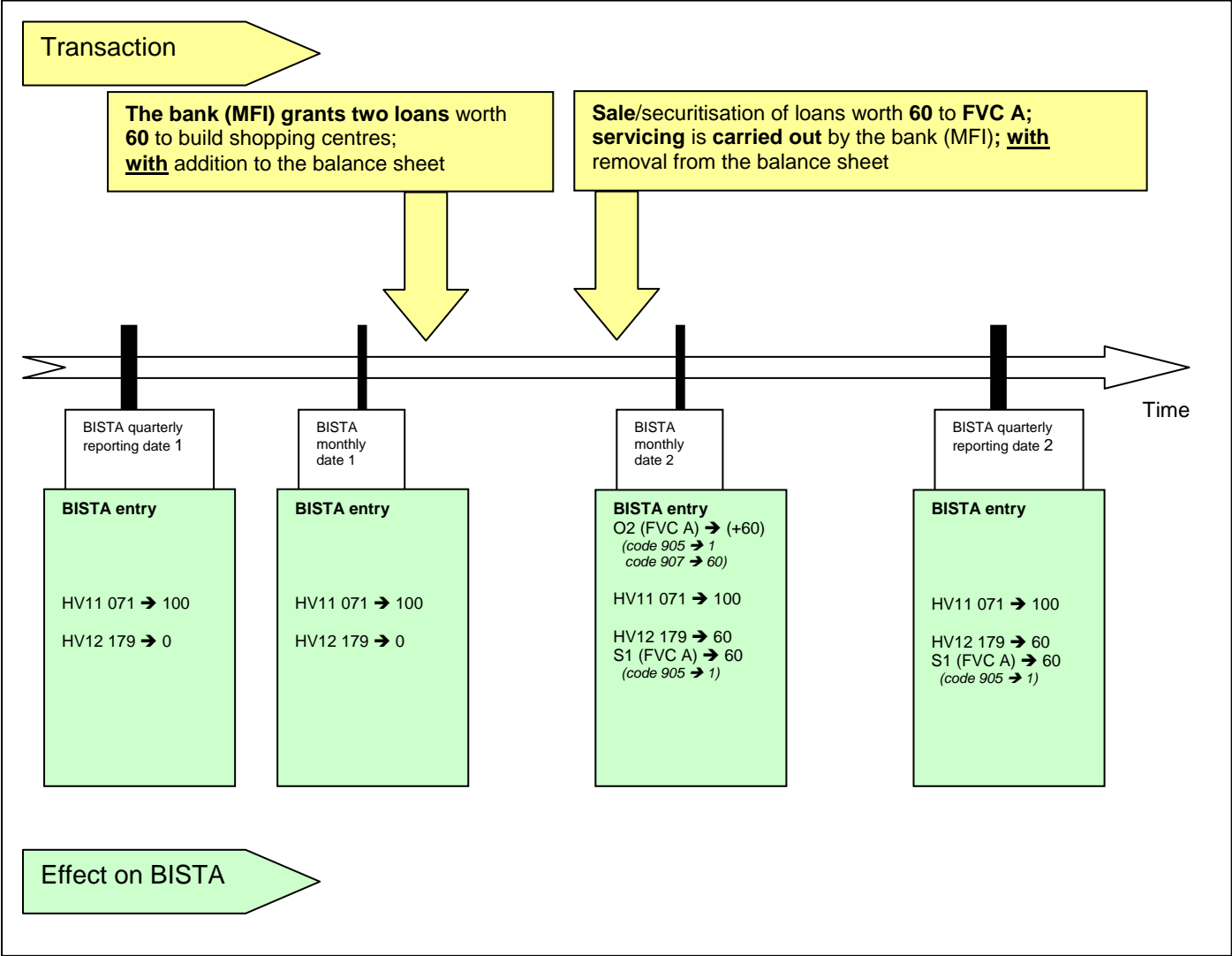
## 4.2 Securitisation (off-balance true sale) and repurchase of several loan portfolios from various FVCs

Example to section 4.2



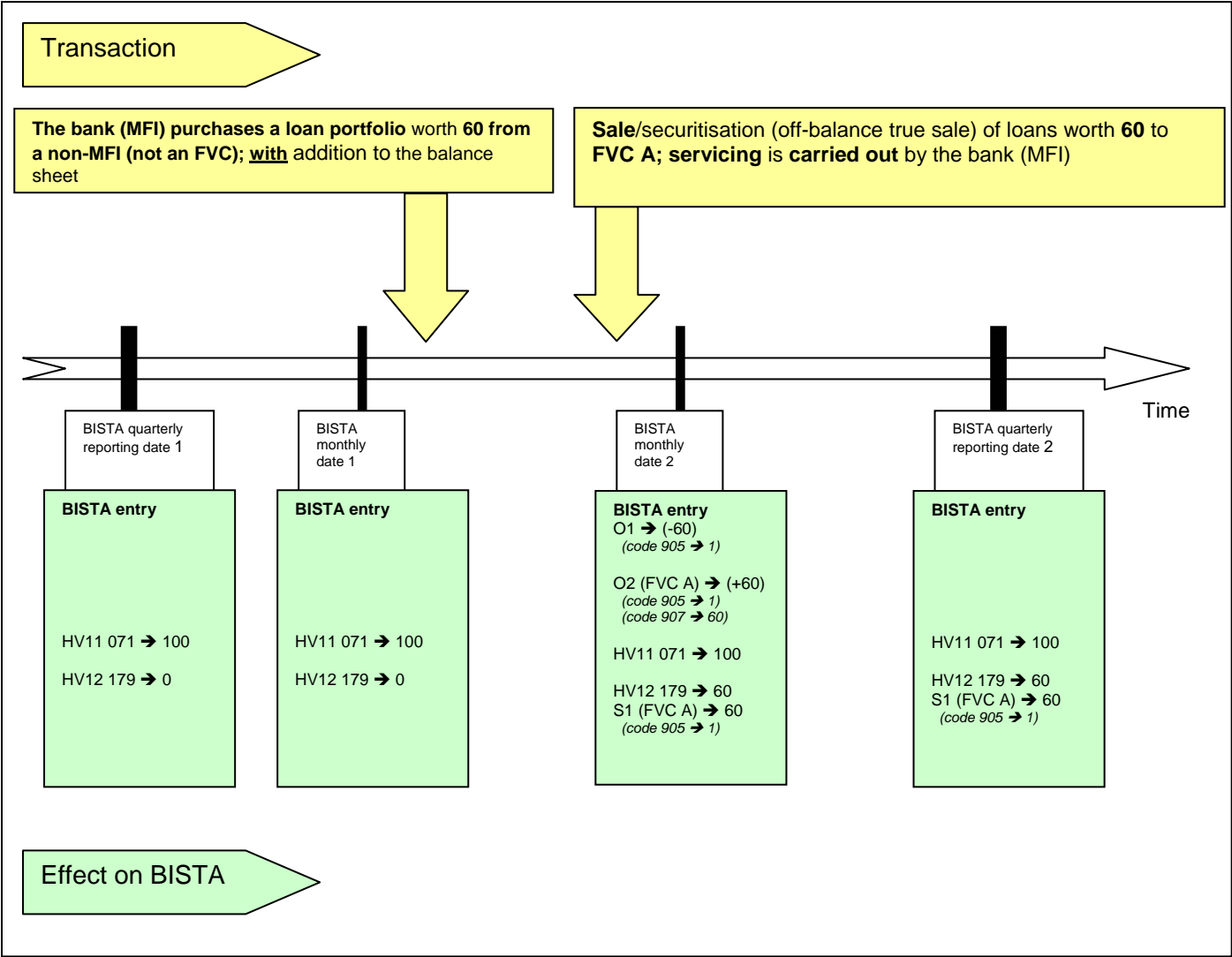
**4.3 Lending by bank (MFI) and subsequent securitisation (off-balance true sale) take place within one reporting period; the loan portfolio is no longer included on the bank's (MFI's) books on the BISTA reporting date**

Example to section 4.3



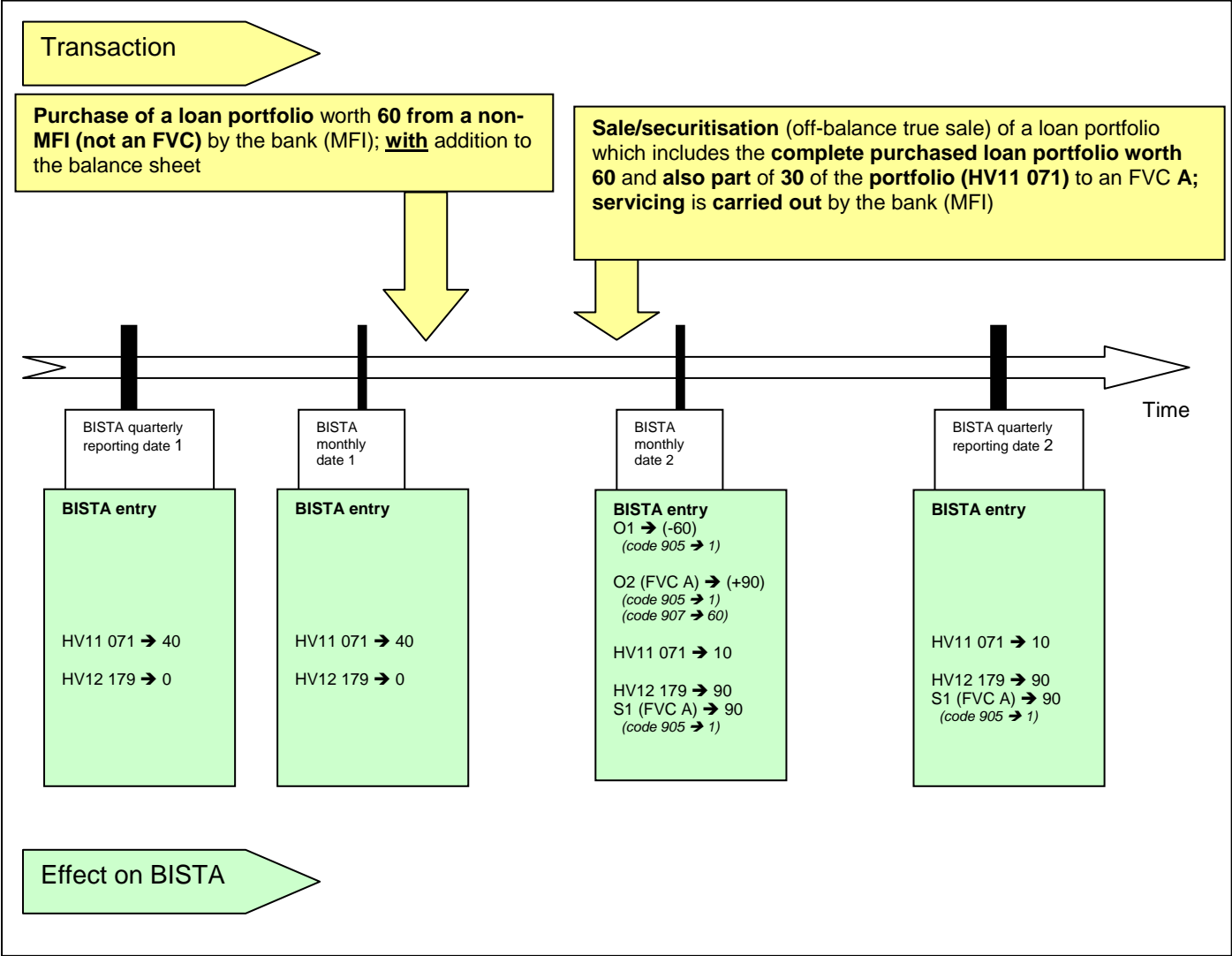
**4.4 Bank (MFI) purchases a loan portfolio from a non-FVC and securitises (off-balance true sale) it in the month of purchase; although the loan portfolio is no longer included on the bank's (MFI's) books on the BISTA reporting date, servicing is still carried out.**

Example to section 4.4



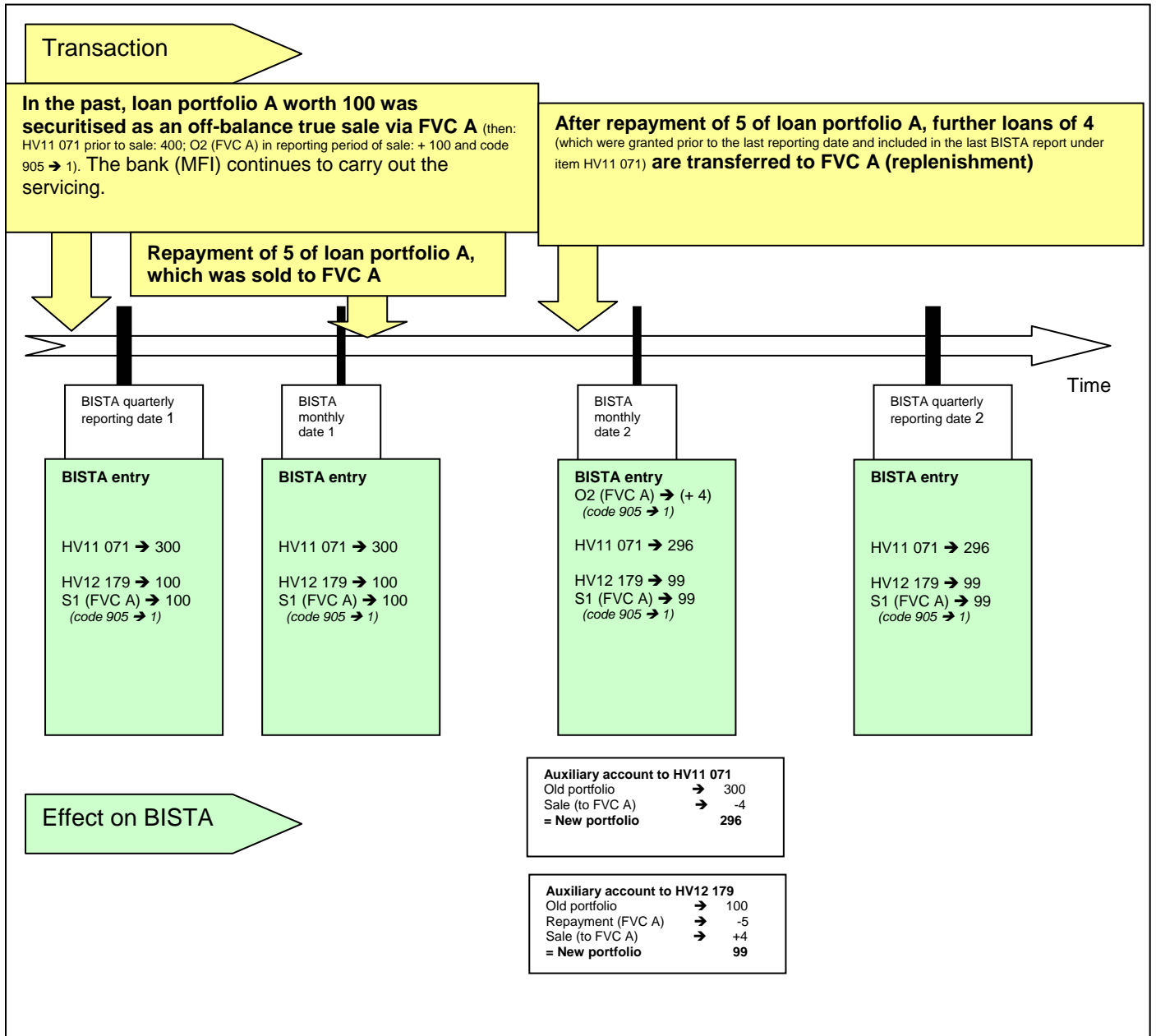
**4.5 Bank (MFI) purchases a loan portfolio from a non-FVC and securitises (off-balance true sale) it in the month of purchase; although the loan portfolio is no longer included on the bank's (MFI's) books on the BISTA reporting date, servicing is still carried out. As well as the purchased loan portfolio, the securitised loan portfolio includes parts of the HV11 071 portfolio shown in the last BISTA report.**

Example to section 4.5



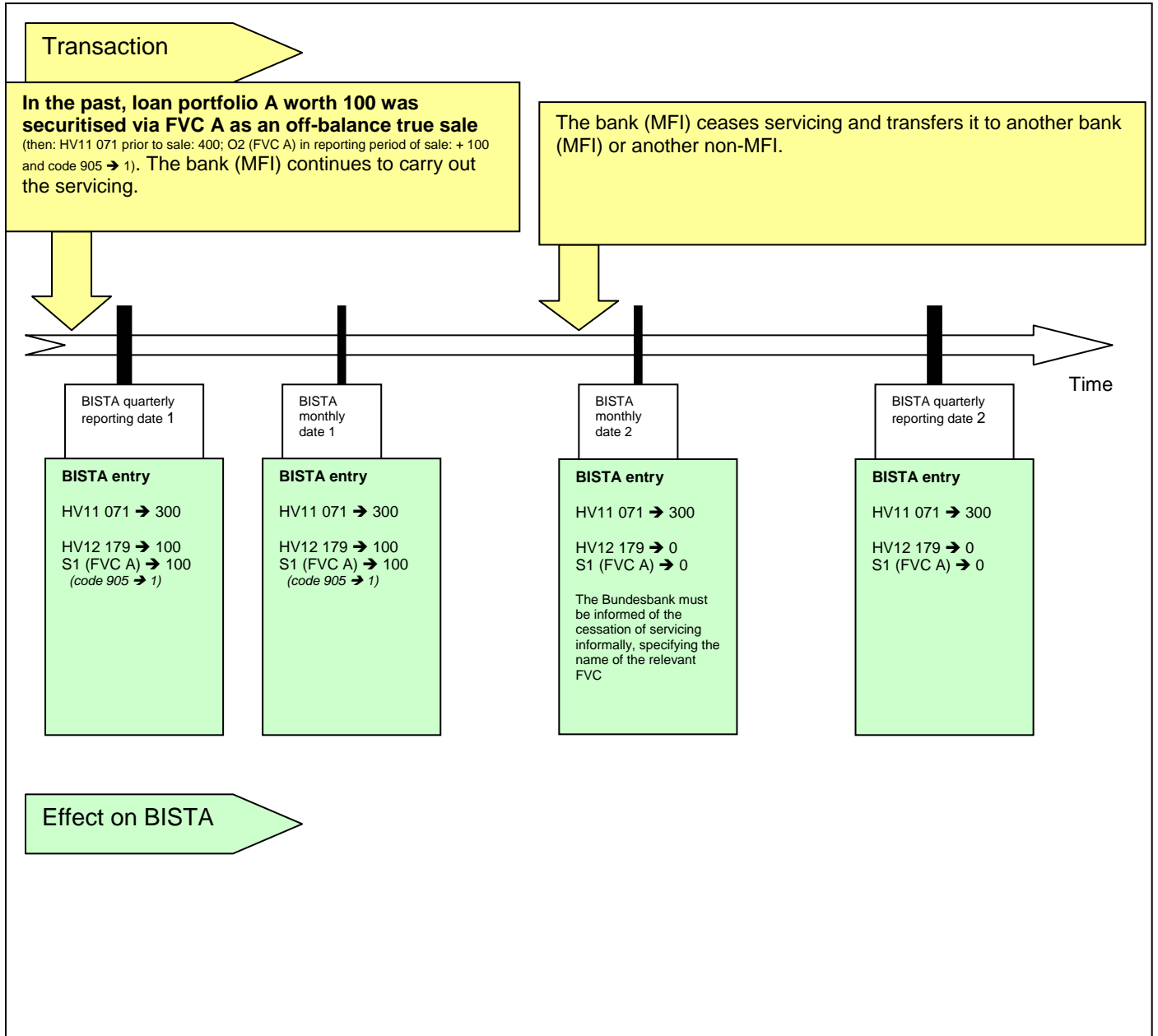
## 4.6 Replenishment period for an off-balance true-sale securitisation where the bank (MFI), as the originator, carries out the servicing

Example to section 4.6



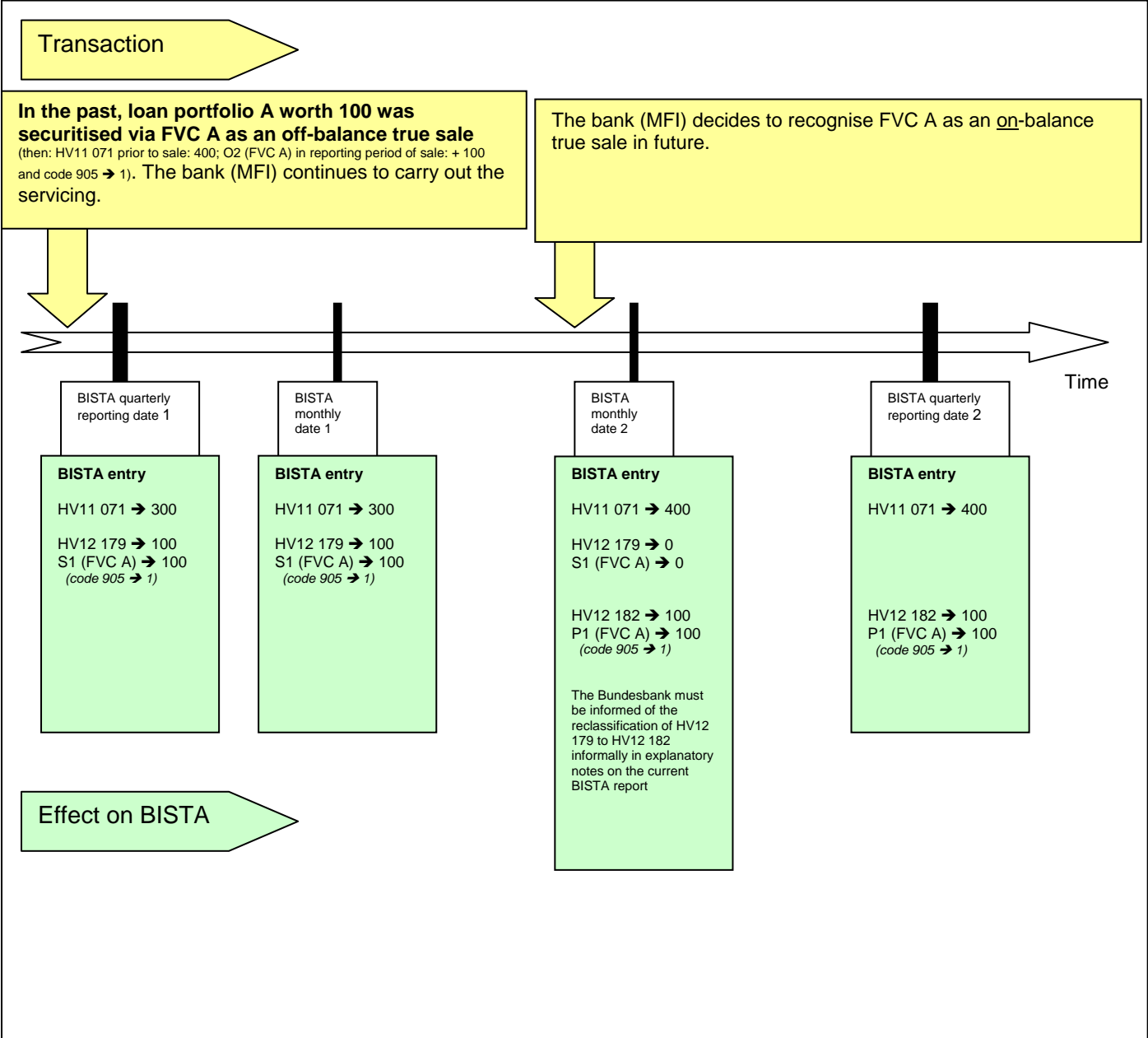
## 4.7 Cessation of servicing of an off-balance true-sale securitisation transaction by the bank (MFI)

Example to section 4.7



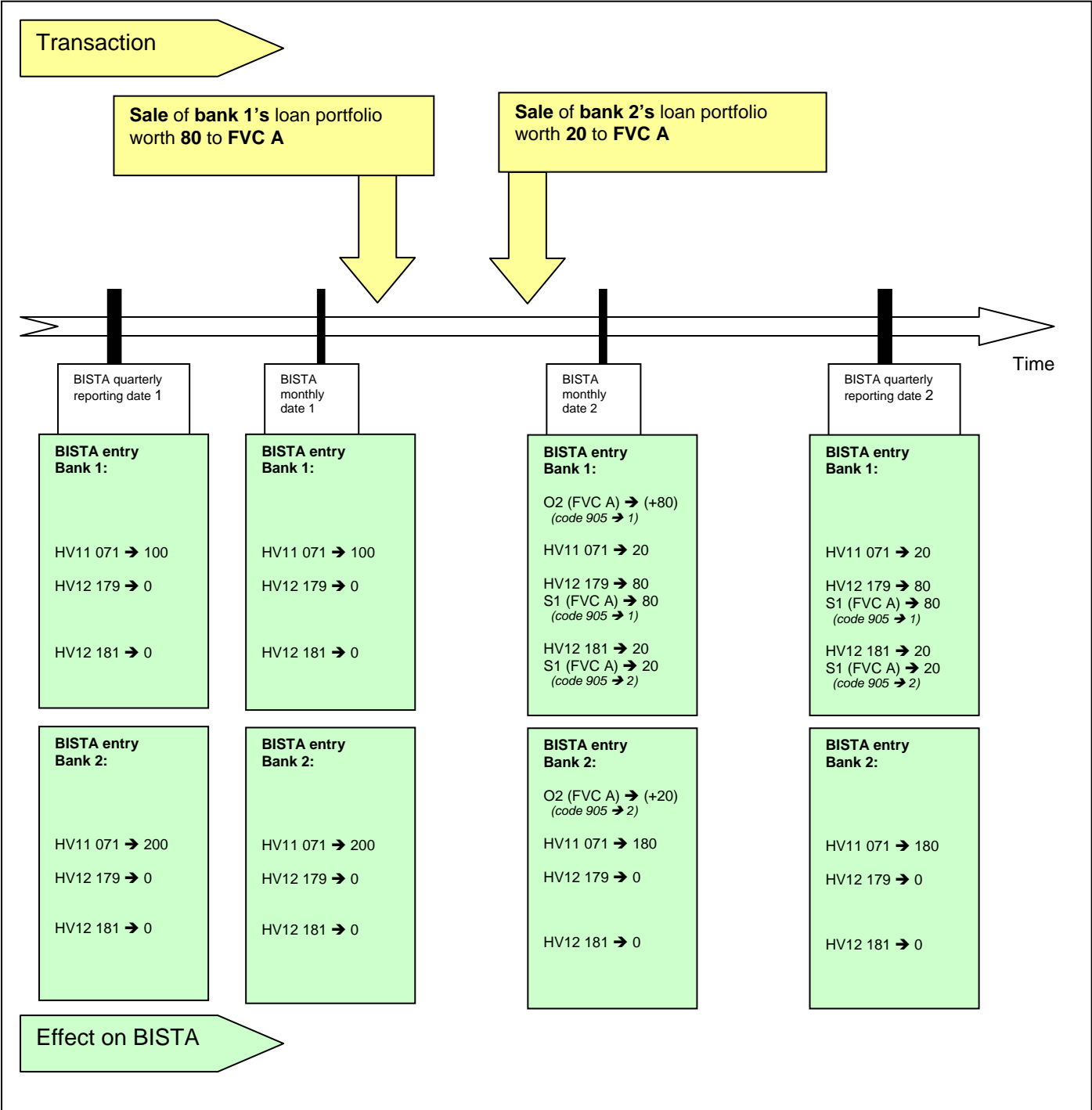
**4.8 The bank (MFI) carries out the servicing for a loan portfolio it securitised in the past. The bank (MFI) initially classifies the transaction as an off-balance true sale; it later decides to report the securitisation transaction in the balance sheet as an on-balance true sale.**

Example to section 4.8



**4.9 Off-balance true sales where the securitised loan portfolio consists of the sub-portfolios of two banks (MFIs)**

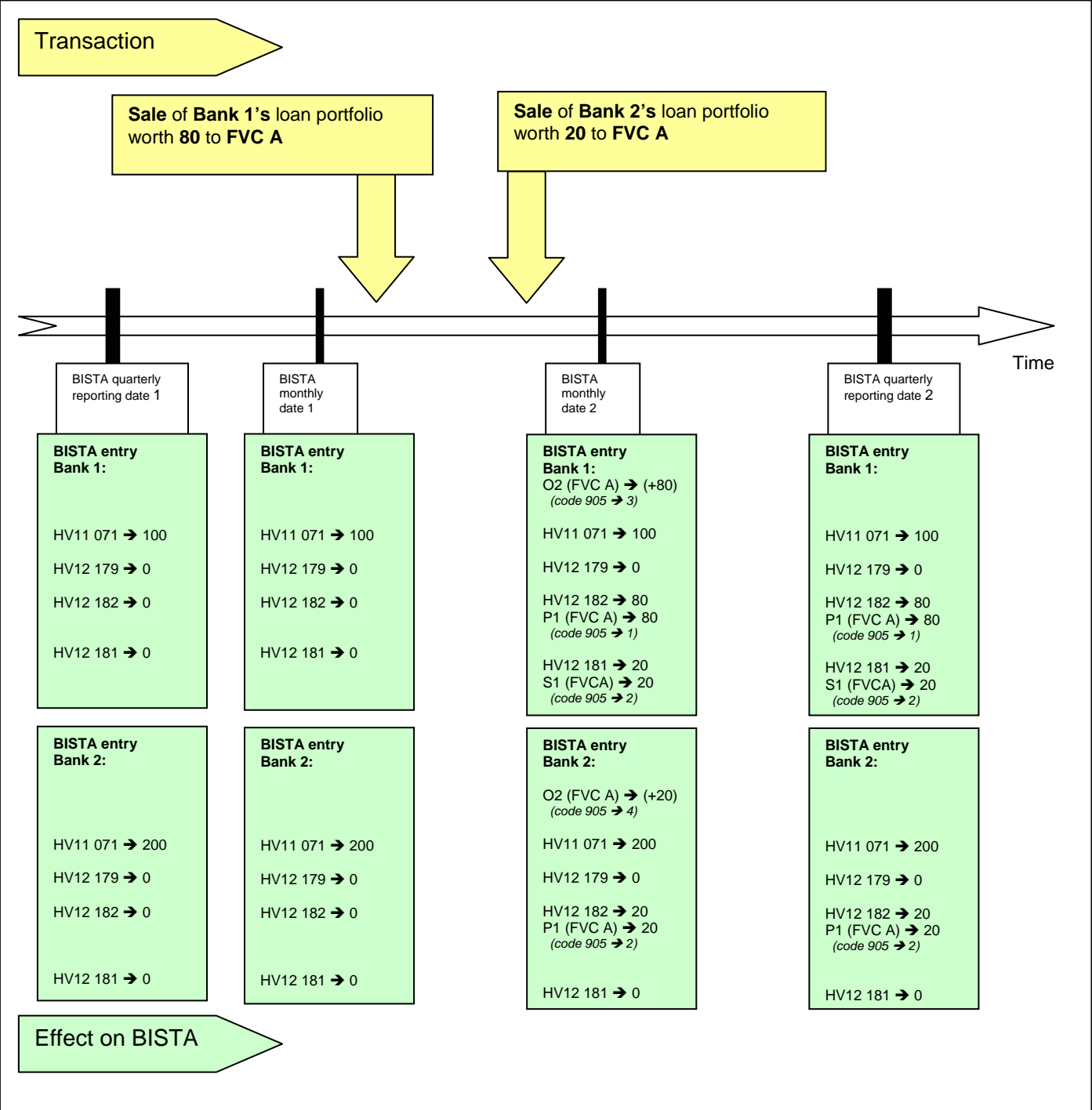
Two banks (MFIs) (bank 1 and bank 2) each sell one loan portfolio to FVC A (name, for example, “Bundesbank 2009-1 GmbH”) as a true sale with removal from the balance sheet; both banks remove their loan portfolios from the balance sheet; the value of the overall portfolio is 100 (80+20). Bank 1 is responsible for servicing.





**4.10 On-balance true sales where the securitised loan portfolio consists of the sub-portfolios of two banks (MFIs)**

Two banks (MFIs) (bank 1 and bank 2) each sell one loan portfolio to FVC A (name, for example, “Bundesbank 2009-1 GmbH”) as a true sale without removal from the balance sheet; both banks do not remove their loan portfolios from the balance sheet; the value of the overall portfolio is 100 (80+20). Bank 1 is responsible for servicing.



**5 Final version of BISTA main template HV12 and BISTA annexes O1, O2, P1 and S1**

see

[http://www.bundesbank.de/download/meldewesen/bankenstatistik/sonstige\\_schreiben/20090709\\_bista\\_meldeschema.pdf](http://www.bundesbank.de/download/meldewesen/bankenstatistik/sonstige_schreiben/20090709_bista_meldeschema.pdf) (in German only)