

## Consultation Response

### Targeted consultation on the functioning of the EU Securitisation Framework

4 December 2024

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the [European Commission's targeted consultation on the functioning of the EU Securitisation Framework](#). Please find our responses below.

#### Effectiveness of the securitisation framework

- 1.1. Do you agree that the securitisation framework (including the Securitisation Regulation and relevant applicable provisions of the CRR, Solvency II and LCR) has been successful in, or has contributed to, achieving the following objectives:

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
1. Revival of a safer securitisation market					X	
2. Improving financing of the EU economy by creating a more balanced and stable funding structure of the EU economy					X	
3. Weakening the link between banks' deleveraging needs and credit tightening				X		
4. Reducing investor stigma towards EU securitisations		X				
5. Removing regulatory disadvantages for simple and transparent securitisation products			X			
6. Reducing/eliminating unduly high operational costs for issuers and investors					X	
7. Differentiating simple, transparent and standardised (STS) securitisation products from more opaque and complex ones		X				

#### Association for Financial Markets in Europe

**London Office:** Level 10, 20 Churchill Place, London E14 5HJ, United Kingdom T: +44 (0)20 3828 2700

**Brussels Office:** Rue de la Loi 82, 1040 Brussels, Belgium T: +32 (0)2 883 5540

**Frankfurt Office:** c/o SPACES - Regus First Floor Reception Große Gallusstraße 16-18 60312 Frankfurt am Main, Germany  
T: +49 (0)69 710 456 660

[www.afme.eu](http://www.afme.eu)

7.1. Increasing the price difference between STS vs non-STS products				X		
7.2. Increasing the growth in issuance of STS vs non-STS products				X		
8. Supporting the standardisation of processes and practices in securitisation markets		X				
8.1. Increasing the degree of standardisation of marketing and reporting material		X				
8.2. Reducing operational costs linked to standardised securitisation products				X		
9. Tackling regulatory inconsistencies		X				

## 2. Impact on SMEs

	Question	Answer
2.1	<p>Have you come across any impediments to securitise SME loans or to invest in SME loan securitisations?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Yes. SME loans are typically more difficult to securitise in traditional securitisations because of difficulties doing a "true sale" of the loans which is in turn because of the possibility of contractual restrictions on transfer written into the loan agreements. Another difficulty presented by this asset class is that it sits in the "awkward middle" when it comes to the loan agreements themselves. These loans are typically too large to take a "consumer" approach of relying on all loans being done on a single standard form and according to a standardised underwriting process – they tend to be negotiated at least a little bit meaning the terms will vary. They are also too small for it to be practical to do detailed diligence on each individual loan. Sitting in this awkward middle also makes it more difficult and proportionally more expensive to report all required fields in the current disclosure templates. Similar difficulties</p>

		<p>arise with credit rating agency methodology. The result is that SME loans are often securitised by banks in synthetic transactions, which can help solve some of these problems. A synthetic securitisation does not involve a transfer of the loan to an SSPE as would usually be the case for a traditional securitisation. Because there is no transfer and the credit risk is sold via a guarantee or derivative, synthetic securitisations are also less sensitive to the specific terms of the loans.</p> <p>That said, SME loans, leasing exposures and factoring receivables are securitised in cash securitisations, but they tend to be in private securitisations, where smaller deal sizes are practical, and structural mechanisms can be put in place to help overcome the "awkward middle" problem described above. In both the public and private spaces, government (or other public) support has often been required to make deals more appealing to investors, which itself adds complexity.</p> <p>In both cases, principles-based due diligence requirements (see our answers to questions 4.7 and 4.8) and more risk-sensitive capital requirements for banks and insurers as investors would enable a wider distribution of SME securitisations.</p> <p>We would further add that some members report it is difficult to do STS transaction with SME loans both because of the requirements for data on guarantors and the granularity requirements in Art. 243 CRR.</p> <p>In respect of STS on-balance-sheet securitisations, the requirement for at least one payment prior to transfer of the exposures hampers members' ability to have ramp-up portfolios or undrawn credit lines.</p>
2.2	How can securitisation support access to finance for SMEs?	<p>Securitisation supports access to finance to SMEs in the following ways:</p> <ol style="list-style-type: none"> <li>1) Banks lend via their ABCP programs or directly from their balance sheets to their corporate client relationships as part of their commercial lending activity, secured by an array of current or long-term loans, such as working capital, contractual leases, loans and trade receivable finance,</li> </ol>

		<p>often to SMEs. These securitisations, therefore, provide financing to the SME sector.</p> <p>2) Banks also finance non-banks via securitisation warehouses to enable the latter to grow their lending to SMEs. These private warehouses will invariably be refinanced via the ABS markets at some point when critical mass is reached, and data has been accumulated.</p> <p>3) Securitisation enables banks to transfer the credit risk on their SME lending book (or other books) to third parties through SRT, so by releasing regulatory capital, they can provide even more SME lending.</p> <p>4) The use of SRT by banks to manage provisioning can also be of importance to banks originating SME portfolios.</p> <p>In general, making the SECR transparency and investor due diligence requirements more proportionate and therefore less burdensome, as well as removing caps, haircuts and other restrictions that hinder the ability to invest more rather than less in securitisations (including amendments to the 10% acquisition limit in Article 56 of UCITS (as to which see further comments in Q. 12.10 below) will collectively also contribute to the use of securitisation (cash and synthetic) as a tool to support SME lending.</p>
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### 3. Scope of application of the Securitisation Regulation

	Question	Answer
3.1	<p>In your opinion, should the current jurisdictional scope of application of the SECR be set out more clearly in the legislation?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	<p>No. The jurisdictional scope of SECR was the subject of a great deal of uncertainty initially, but is now well-understood and satisfactorily settled. Reopening this would risk significant market disruption, especially if the substance of the rules on which the market has settled were to be changed.</p>
3.2	<p>If you answered yes to question 3.1, do you think it would be useful to include a specific article that states that SECR</p>	N/A

	<p>applies to any securitisation where at least one party (sell-side or buy-side) is based or authorised in the EU, and to clarify that the EU-based or EU-authorised entity(ies) shall be in charge of fulfilling the relevant provisions in the SECR?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
3.3	<p>Do you think the definition of a securitisation transaction in Article 2 of SECR should be changed? You may select more than one option.</p> <ul style="list-style-type: none"> <li>• Yes, the definition should be expanded to include transactions or vehicles that could be considered securitisations from an economic perspective;</li> <li>• Yes, the definition should be narrowed to exclude certain transactions or introduce specific exceptions;</li> <li>• No, it should not be changed;</li> <li>• No opinion.</li> </ul>	
3.4	<p>Should the definition of a securitisation exclude transactions or vehicles that are derisked (e.g. by providing junior equity tranche) by an EU-level or national institution (e.g. a promotional bank) with a view to crowding-in private investors towards public policy objectives?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
3.5	<p>If you answered yes to question 3.4., what criteria should be used to define such transactions?</p>	N/A
3.6	<p>Should the definition of a sponsor be expanded to include alternative investment firm managers established in the EU?</p>	<p>The broader point is that non-EU investment firms should be permitted to act as sponsors. Failure to do this makes cross-border risk retention much more difficult and requires parties to jump</p>

	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• <b>No opinion</b></li> </ul>	<p>through somewhat confected hoops to turn a perfectly good sponsor into an "originator" for the purposes of cross-border offerings. This issue was raised early on after the original approval of SECR by market participants and the existing legislative text is broad enough to permit non-EU investment firms to be sponsors. A formal interpretation by the European Commission therefore might be sufficient to deal with this issue.</p> <p>Members have different views about expanding the definition to permit AIFMs to act as sponsors. We will therefore limit ourselves to commenting on technical considerations relevant if the Commission decides to proceed with this proposal. A threshold question about permissions would arise if the definition were expanded, as AIFMs are restricted in their activities to those they have permission to carry out. It might be prudent therefore to amend Article 6 of AIFMD to confirm that an AIFM can act as a sponsor of a securitisation. From a commercial perspective, AIFMs' main business is management, not holding assets directly. Although sponsors do not own the assets before they are securitised, a sponsor under these circumstances would still need to hold risk retention, which is not something most AIFMs are set up to do themselves. If it were to be permitted for them to hold the risk retention in an AIF managed by the AIFM, then a question arises about how their duty to act in the best interests of their AIF investors would interact with their obligation to hold the risk retention for the life of the transaction. These are mentioned not as objections, but simply as collateral issues that would need to be dealt with in connection with allowing AIFMs to act as sponsors.</p>
3.7	<p>If you answered yes to question 3.6., are any specific adaptations or safeguards necessary in the Alternative Investment Firms Directive (AIFMD13), taking into account the originate-to-distribute prohibition in the AIFMD, to enable AIFMs to fulfil the functions of a sponsor in a securitisation transaction, as stipulated in the SECR? You may select more than one option.</p>	<p>Again, AFME members have different views about expanding the definition to permit AIFMs to act as sponsors. We will therefore limit ourselves to commenting on technical considerations relevant if the Commission decides to proceed with this proposal. In respect of these options, the main one we think is sensible is to adjust capital requirements. At the moment, the capital requirements are set up to deal with the assets the AIFM has under management, but they do not provide for capital to be held in respect of assets</p>

	<ul style="list-style-type: none"> <li>• An AIFM should not sponsor loans originated by the AIFs it manages</li> <li>• AIFs should not invest in securitisations sponsored by its AIFM</li> <li>• Minimum capital requirements under the AIFMD should be adapted to enable AIFMs, in particular to fulfil the risk retention requirement under SECR</li> <li>• Other safeguards</li> <li>• No safeguards are needed</li> </ul>	<p>held directly by the AIFM. This situation would presumably need to be corrected if AIFMs were to sponsor securitisations and hold risk retention themselves. That said, the commercial issues raised in answer to Question 3.6 with AIFMs holding risk retention directly would presumably only become more of an obstacle if a requirement to hold more capital were to be introduced.</p> <p>In terms of other safeguards, it is perhaps academic, but AIFMs do not have the licencing, systems and governance in place to manage liquidity lines in the way that banks do, so it may be sensible to explicitly say AIFMs are prohibited from sponsoring of fully-supported ABCP programmes, even if they are otherwise permitted to act as sponsors.</p>
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#### 4. Due diligence requirements

	Question	Answer
4.1	<p>Please provide an estimate of the total annual recurring costs and/or the average cost per transaction (in EUR) of complying with the due diligence requirements under Article 5.</p> <p>Please differentiate between costs that are only due to Article 5 and the costs that you would incur during your regular due diligence process regardless of Article 5.</p> <p>Please compare the total due diligence costs for securitisations with the total due diligence costs of other instruments with similar risk cha</p>	<p>As a general comment, the full cost of compliance with Article 5 and, as a matter of fact with Article 7 too, is very difficult to quantify.</p> <p>Before we explain the reasons why, it is important to emphasise at the outset that Article 5 takes a one-size-fits-all approach to a multi-dimensional subject – for example, there is no distinction given to differing levels of risk in the same structure, differing risks across underlying asset classes, risks arising from different durations, risks arising from different investment strategies, relative risk as a percentage of total AUM, to name but a few.</p> <p>Taking risk tranching as one example, the application of the same level of regulatory due diligence from an investor investing in Senior ABS versus an equity exposure is non sensical. This non risk sensitive approach results in a disproportionate amount of administrative work required to invest in the former which deviates from what is deemed reasonable business practice for this level of risk. Most importantly, it has the effect of disincentivising investors from investing in the least risky part of the capital structure, namely the Senior tranche.</p>

		<p>The creation of obligations upon investors that are already assumed by originators have the effect of duplicating work across parties and accreting costs within the securitisation ecosystem unnecessarily, for example, risk retention and STS verification. These costs that exist in no other fixed income product have the effect of elevating barriers to entry, increase time to market and pose competitive disadvantages for European investors that exist nowhere else around the world.</p> <p>The range of institutions investing in securitisation originated in the EU has the potential to be both broad, encompassing asset managers, insurers, pension funds, banks, supranationals and central banks.</p> <p>The costs incurred by these different types of investors investing in this product will vary considerably and will be dependent upon their own IT infrastructures, scale, regulation and supervision to name a few.</p> <p>One fundamental contradiction in conducting this exercise is the act of soliciting data and feedback from an investor base that is already investing in this product, whilst the target of this exercise should be an investor base that has not yet engaged in this product as a result of a combination of factors, one of which is that the “cost” - arising from the uncertainty and implicit complexity of complying with Article 5 – outweigh the “benefit” - the aggregate returns of the product.</p> <p>This contradiction will create a bias in the results. That is to say, investors that already had infrastructure, resource and critical mass in terms of assets under management in this product prior to 2019, will be better positioned to interpret the uncertainty in Article 5 in a way that enables them to effectively manage the regulatory cost and amortise that cost over revenues generated from a large and diversified portfolio, eg. EUR1bln plus.</p> <p>Conversely, an investor considering re-entering the market and building AUM over several years to less than EUR1bln for example, will not only assume the upfront set up costs augmented by Article 5 (external counsel views, advisor input,</p>
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		<p>etc.) but also the elevated operating costs arising from a conservative interpretation of Article 5 and amortised over start up revenues generated from a smaller portfolio.</p> <p>This has the inevitable effect of disincentivising investors from allocating AUM to the product.</p> <p>Notwithstanding the above, for the purpose of this exercise, AFME engaged with investors broadly defined as asset managers with the objective of unpacking the various costs incurred in investing in EU originated securitisation by this group.</p> <p>AFME engaged with c. 50% of the more established asset managers in the European ABS markets and conducted exercises to estimate a subset of costs incurred from Article 5 Regulation. Given the critical mass and extensive experience of these managers in this asset class of this sample, logically, Article 5 related costs incurred by this sample will be lower than those from smaller asset managers with less experience in this asset class for the reasons given above. For this more established group of managers, estimates referenced in AFME's supporting materials may, therefore, be considered a floor for costs incurred by smaller asset managers investigating opportunities in the product. An equally important consideration is the start-up costs arising from Article 5 (both time taken from internal resource and economic costs of advisors) to be in a position to invest.</p> <p>The above costs do not take into account additional Article 5 related costs incurred, such as:</p> <ul style="list-style-type: none"> <li>• The opportunity costs resulting from the inability to invest in primary and secondary offerings as a result of the practical challenge in meeting the offering timeline if one is to meet the Article 5 regulatory requirements. ABS transactions are often announced in primary at the same time (e.g. early September). This uneven supply will prevent investors analysing all transactions offered. Similarly in secondary, it is often the case that time</li> </ul>
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		<p>taken to meet Article 5 DD requirements cannot be completed within the secondary offering window.</p> <ul style="list-style-type: none"> <li>• EU investors will be further limited in their investment scope versus their global competitors due to regulatory limitations imposed by Article 5(1)(e) (In this respect, please refer to <a href="#">this</a> Joint Associations' Letter dated 9 December 2022 in relation to Article 5(1)(e)).</li> <li>• Unnecessary frictional costs are also borne by asset managers and clients due to the lack of clarity around delegation of obligations from client to asset manager, meaning that both parties will be required to fulfil the same regulatory obligations.</li> <li>• Interpretations of Article 5 by National Competent Authorities vary substantially, depending on the Member State. This inequitable treatment subjects some asset managers to more challenging environments than others.</li> </ul> <p>Reforms are therefore, needed urgently to recalibrate Article 5 by applying a more principles-based, proportionate and less complex approach in order to reduce upfront and ongoing costs. Furthermore, allowing investors to rely on third-party information, such as TPVs for STS, could further streamline the due diligence process.</p> <p>Please refer to AFME's supporting materials for an array of breakdown of costs for asset managers sampled.</p>
4.2	If possible, please estimate the total one-off costs you incurred (in EUR) to set up the necessary procedures to comply with Article 5 of SECR.	<p>As a general comment, the full cost of compliance with Article 5 and, as a matter of fact with Article 7 too, is very difficult to quantify.</p> <p>The sample set of asset managers consists of well-established managers with seasoned experience in ABS. The set-up costs related to Article 5 for this group evolved pre-implementation of EUSECR and were overlaid onto existing underwriting practise, meaning that they may differ from an asset manager setting up an ABS business and seeking to comply with Article 5 today. To take one example, 5.4(a) mandates written procedures for</p>

		<p>each exposure, the interpretation of which may be different between the two groups. Total one-off costs incurred to set up procedures to comply with Article 5 in terms of time, are estimated to be in the region of 3 months' work of internal resource across the business, including front office, legal, compliance, middle and back office as well as incurrence of external costs from legal counsel and advisors. The weighting between internal to external costs vary across investors, dependent upon the scale and expertise of internal resource across these different functions.</p> <p>Once again, set up costs will vary depending on the type of investor.</p> <p>Please refer to AFME's supporting materials for an array of breakdown of costs for asset managers sampled.</p>
4.3	<p>Please select your preferred option to ensure that investors are aware of what they are buying and appropriately assess the risks of their investments.</p> <ul style="list-style-type: none"> <li>• Option 1: The requirements should be made more principles-based, proportionate, and less complex;</li> <li>• Option 2: The requirements should be made more detailed and prescriptive for legal certainty;</li> <li>• Option 3: There is no need to change the text of the due diligence requirements;</li> <li>• No opinion</li> </ul>	
4.4	<p>Should the text of Article 5(3) be simplified to mandate investors to assess at minimum the risk characteristics and the structural features of the securitisation?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>The biggest issue with Article 5(3) is that it is not expressly subject to the proportionality principle set out in Recitals (9) and (33). It would be helpful for the whole of Article 5 to be made explicitly subject to a proportionality approach.</p> <p>In that context, it may be helpful to redraft Article 5(3) to reflect this simplified, proportionate approach generally.</p> <p>In addition, we would urge the elimination of the requirement in 5(3)(c) to verify STS criteria, at least in circumstances where the investor in question is not proposing to rely on the STS status of the transaction. While investors may rely, to an appropriate extent, on the STS notification (per</p>

		<p>Article 27(1)) and the information provided by the originator, sponsor, and SSPE regarding compliance with STS requirements, they cannot do so in a purely mechanical way. This means that investors must conduct their own assessment and not rely solely on the STS designation, or the information provided. See also, in this respect, our answer to question 4.10 below.</p> <p>The rest of this answer is an explanation of our answer to question 4.3</p> <p>Option 1 is by far the most sensible option on offer, especially in the context of sophisticated professional investors being the only investors permitted to invest in securitisations.</p> <p>Due diligence is at the very foundation of the business of a professional investor. Legislating in detail what information investors have to consider in making investment decision necessarily involves the legislator (or regulator) substituting its own judgment for that of an investor. This, in turn, leads to inefficient allocations of capital.</p> <p>The problems in the securitisation markets during the global financial crisis of 2008 have shown us that some measure of legislation around due diligence is sensible, but the current situation is too prescriptive, especially in respect of senior tranches, where the problem is most acute. The far better approach would be to set out a series of broad principles for matters institutional investors should be verifying, but leave the detail to the individual investors, who should remain accountable to their national competent authorities for the way they choose to comply with those principles and to their stakeholders for the results of those investments.</p> <p>As a general matter, investors should not be made to be "proxy regulators". That is to say they should not be required to check compliance by other parties with their legal or regulatory obligations as a condition of investing. We take the view that the UK's changes to the due diligence requirements implemented from 1 November 2024 were a step in the right direction. These changes mean UK institutional investors are no longer required to check they are getting UK-style disclosure/templates as a condition of investing.</p>
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		<p>Rather, this has been replaced with an obligation to ensure they are getting information in a few broad categories and to satisfy themselves that they have sufficient information to make an independent assessment of the risks of the investment. We believe the EU should consider taking this approach even farther, e.g. by making clear institutional investors need not verify STS compliance except where they propose to rely on it. Where investors are checking compliance by the sell side, we should take inspiration from the old approach to risk retention in the CRR, where it was sufficient for investors to check the sell side had disclosed it was complying, without having a regulatory obligation to look behind that disclosure.</p> <p>In addition, currently, third country securitisations also have to be assessed on whether risk retention has been met by reference to SECR risk retention rules. This is despite the fact that the originator, sponsor or original lender located outside of the EU will not be subject to the requirements of the SECR. This represents a significant obstacle for European investors. As a solution, AFME members would encourage the Commission to consider permitting investors to fulfil their risk retention diligence requirements by reference to local risk retention requirements where these exist and apply to the transaction.</p>
4.5	If you answered yes to question 4.4., please specify how this could be implemented.	<p>Some possible drafting designed to achieve the desired outcome is as follows:</p> <p>"Prior to holding a securitisation position, an institutional investor, other than the originator, sponsor or original lender, shall carry out a due-diligence assessment. That assessment shall consider, in a manner proportionate under all the circumstances, the risks of the investment arising both from the underlying exposures and the structure of the transaction."</p>
4.6	Taking into account your answer to 4.4, what would you estimate to be the impact (in percent or EUR) of such a modification in Article 5(3) on your one-off and annual recurring costs for	<p>On the basis that the proposed modification does not resolve the issue of proportionality, it would not produce significant saving.</p> <p>The implied elimination of the requirement set out in 5.3(c) would have the effect of streamlining that part of the investment process related to STS,</p>

	<p>complying with the due diligence requirements under Article 5?</p>	<p>especially for those investors that see no capital benefit from the STS label. However, this saving can be dwarfed by guidance underlining the concept of a proportionate approach.</p> <p>Please refer to AFME's supporting materials for an array of breakdown of costs for asset managers sampled.</p>
4.7	<p>Should due diligence requirements differ based on the different characteristics of a securitisation transaction?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
4.8	<p>If you answered yes to question 4.7., please select one or more of the following options to differentiate due diligence requirements:</p> <ul style="list-style-type: none"> <li>• Due diligence requirements should differ based on the risk of the position (e.g. senior vs non-senior)</li> <li>• Due diligence requirements should differ based on the risk of the underlying assets.</li> <li>• Due diligence requirements should differ based on the STS status of the securitisation (STS vs non-STS)</li> <li>• Other</li> </ul>	<p>It is obvious to AFME members that due diligence practices need to vary in order to take account of the circumstances. These circumstances vary so widely and based on so many different factors, that it is not practical or desirable to try to prescribe them in legislation. We would therefore argue that the due diligence requirements should set out high-level outcomes and leave the detail of due diligence to be determined by investors in the circumstances of each case, applying the principle of proportionality throughout. AFME's position is that it is not helpful for legislators to substitute their judgment for the judgment of professional investors when deciding what particular information is needed and at what level of detail. It is essential that market participants should be put in a position to satisfy their due diligence requirements without the obligation to check that prescriptive templates are being followed. Rather, they ought to be able to rely on processes calibrated internally. Explicit authorisation for investors to rely on information provided by third parties could also streamline due diligence processes.</p> <p>Although it is impractical to legislate for all the different possible combinations of factors that might affect decisions about the precise nature of due diligence needed, some of these may include, where appropriate in the circumstances:</p>

		<ul style="list-style-type: none"> <li>- Type (including asset class) and characteristics of underlying assets</li> <li>- Attachment and detachment point of the investment (i.e., level of seniority in the capital stack and credit enhancement)</li> <li>- Size of the investment relative to the investor's overall portfolio</li> <li>- Length of time the investor expects to hold the investment (which may be reflected in holding in the trading vs. banking book, and whether the investor is acting as market maker)</li> <li>- Tenor of the underlying asset(s)</li> <li>- Tenor of the securitisation</li> <li>- Whether the transaction is a traditional or synthetic securitisation</li> </ul> <p>We would note that the STS label is not (and not intended to be) in itself a measure of credit quality and therefore has very limited bearing on the credit-based investment decisions of an investor.</p>
4.9	Taking into account your answers to 4.7 and 4.8, what would you estimate to be the impact (in percent or EUR) of differentiating due diligence requirements on your one-off and annual recurring costs for complying with the due diligence requirements under Article 5?	<p>The majority of the cost differential in complying with DD requirements arising from compliance with 5.3(a-b) vs managers' own credit underwriting processes, is largely limited to the administrative burden in minuting, record keeping, evidencing and communicating the fullest scope of analysis, regardless of the level of risk. The burden of verification of STS compliance under 5.3(c) by the investor imposes an unnecessary supervisory obligation of compliance.</p> <p>It is very challenging to attribute a cost differential in isolation to 5.3 given that this provision is interconnected with other provisions within the Article and specifically to 5.4 and 5.5.</p> <p>Notwithstanding the above, please refer to AFME's supporting materials for an array of breakdown of costs for asset managers sampled.</p>
4.10	For EU investors investing in securitisations where the originator, sponsor or original lender is established	<p><u>Risk retention</u></p> <p>This is a sensible middle ground. The purpose of the risk retention requirement is to prevent the</p>

	<p>in the Union and is the responsible entity for complying with those requirements, should certain due diligence verification requirements be removed as the compliance with these requirements is already subject to supervision elsewhere? This could apply to the requirements for investors to check whether the originator, sponsor or original lender complied with:</p> <p>(i) risk retention requirements</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul> <p>(ii) credit granting criteria requirements,</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion ▪</li> </ul> <p>(iii) disclosure requirements</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion ▪</li> </ul> <p>(iv) STS requirements, where the transaction is notified as STS</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>recurrence of originate to distribute. While it is sensible to require investors to check risk retention is complied with where the risk retainer is not itself subject to a risk retention obligation, requiring the investors to check this even where the risk retainer is subject to a Union requirement to retain risk is excessive. It puts the investors in the position of "proxy regulator", a role that they should not be required to play, and that imposes costs out of proportion to the reduction in systemic risk thereby achieved. Another option would be to shift the requirement from its current state to make it a disclosure matter. That is, investors would just be required to check that they had received explicit disclosure from the sell-side of the risk retention standards being complied with.</p> <p><u>Credit granting</u></p> <p>AFME is of the view that the credit granting requirements are important in mitigating moral hazard, especially when combined with risk retention and resecuritisation prohibitions. However, requiring investors to check how sell-side entities are complying with this in their internal processes is going too far and is not helpful. Investors' attention is more productively directed at the credit quality of the assets, which include an assessment of how they were underwritten, but may not need to in all cases. For example, starting within a few years of an asset being originated, the original credit granting requirements used to originate an asset are no longer a reliable indicator of asset quality. Data such as recent performance of the asset is far more relevant. We would therefore recommend removing the requirement to verify compliance where at least one sell side party is under a Union obligation to comply with Article 9. That is effectively the case currently under Article 5(1)(a) where there is an exemption where the originator is an EU CRR firm.</p> <p><u>Disclosure</u></p> <p>This is a sensible middle ground. The purpose of the disclosure requirements is to minimise the asymmetry of information between sell side and buy side that might otherwise characterise</p>
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		<p>securitisation. While it is sensible to require investors to check they are getting sufficient information (although not necessarily the specific information required of EU originators, sponsors and SSPEs) when none of the originator, sponsor or SSPE is in the EU, requiring the investors to check this even where at least one of them is subject to Union disclosure requirements is excessive. It puts the investors in the position of "proxy regulator", a role that they should not be required to play, and that imposes costs out of proportion to the reduction in systemic risk thereby supposed to be achieved.</p> <p><u>STS</u></p> <p>This is another area where it would be sensible to lighten the due diligence burden imposed on institutional investors. The STS system as designed, requires originators and sponsors not only to go through the process of verifying their own STS status, but also to go the further step of notifying their claim of STS status to ESMA. The result is that originators and sponsors are already heavily incentivised to ensure they are claiming STS status only when they can be very sure that claim is correct, since they have to draw supervisors' attention to the fact they are claiming it. Additionally subjecting institutional investors to regulation requiring that they separately verify this claim (especially when many institutional investors do not rely on STS status) is disproportionate. Ideally, AFME members would recommend that the obligation to verify STS status be removed from investors. As a fallback, it would be acceptable to remove it only where either (1) the investor does not rely on the STS status; or (2) an authorised third-party verifier of STS status is used for the transaction.</p>
4.11	Taking into account your answers to Q.4.10, what would you estimate to be the impact (in percent or EUR) of removing those obligations on your one-off and recurring costs for complying with the due diligence requirements?	<p>As per our response to Q. 4.1 above, it is very difficult to disaggregate the costs provision by provision given that they are indeed interconnected in order to estimate the full cost of compliance with Article 5. Additional factors must be taken into account, such as:</p> <ul style="list-style-type: none"> <li>• The need to allocate personnel, time and resources to facilitate compliance. For</li> </ul>

		<p>example, for an investor to review up to 3 transactions per week, two people are required on a full-time basis. It is hard, however, to quantify how much of that time is ascribable to individual elements of the due diligence. For STS in particular, given the supporting roles of the TPVs, the cost is essentially split between the issuers and investors. The issuance TPV cost is in the region of 20k€/transaction, with annual maintenance of 5/10k€ (amounts +VAT). The investor can have regard to the information provided by the originator but not wholly rely upon it;</p> <ul style="list-style-type: none"> <li>• The frequency in which opportunities are missed due to an EU investor's obligation to obtain Article 7 reporting as part of their due diligence requirements even when the information available is sufficient to conduct credit due diligence. This is particularly acute in the context of third-party securitisations with EU investors. (In this respect, please refer to <a href="#">this</a> Joint Associations' Letter dated 9 December 2022 in relation to Article 5(1)(e)).</li> </ul> <p>Additionally, these verification requirements exist for all securitisation transactions but are supplemental for STS transactions. Therefore, the removal of these burdens and the reduction of these costs will therefore vary depending on the investor's mandate. A comparison in EUR or % will also vary depending on both the size and mandate of the investor. In any case, the removal of DD verification requirements should be combined with other important measures, such as the removal of various prudential (CRR3, Solvency II and LCR Delegated Act) barriers, in order to have a meaningful impact on the market. In general, AFME members believe that only a package of measures can collectively contribute to the growth and size of the EU securitisation market.</p> <p>Please refer to AFME's supporting materials for a breakdown of costs for asset managers sampled.</p>
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4.12	<p>Do the due diligence requirements under Article 5 disincentivise investing into securitisations on the secondary market?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Yes. AFME members have previously pointed out that overall market inefficiencies result from the need to comply carefully with Article 5. This is because compliance with Article 5 (and especially Article 5(3)) is often incompatible with the typical timeframe of a secondary market trade, and would often be disproportionate to the benefit for smaller trades in any case. The result of this is that EU institutional investors are put at a serious competitive disadvantage as compared with investors not subject to Article 5 requirements. The suggestions made in previous answers to allow for proportionate diligence to be carried out in all circumstances are meant in part to address this issue and bring securitisations in line with other listed and traded instruments.</p>
4.13	<p>If you answered yes to question 4.12., should investors be provided with a defined period of time after the investment to document compliance with the verification requirements as part of the due diligence requirements under Article 5?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
4.14	<p>If you answered yes to question 4.13., how many days should be given to investors to demonstrate compliance with their verification requirements as part of the due diligence requirements under Article 5?</p> <ul style="list-style-type: none"> <li>• 0 – 15 days</li> <li>• 15 – 29 days</li> <li>• 29 – 45 days</li> <li>• No opinion</li> </ul>	N/A
4.15	<p>If you answered yes to question 4.13., what type of transactions should this rule apply to?</p>	N/A
4.16	<p>Do the due diligence requirements under Article 5 disincentivise investing into repeat securitisation issuances?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	

4.17	If you answered yes to question 4.16., how should repeat or similar transactions be identified in the legal text and how should the respective due diligence requirements be amended?	No need to identify repeat or similar transactions – this concept is already well understood and would anyway not need writing into legislation. This issue would be adequately addressed by taking the approach we have suggested that emphasises proportionality in due diligence. The familiarity of the investor with the originator/issuance structure/programme will be one factor taken into account in assessing the correct, proportionate approach to take.
4.18	<p>Should Article 32(1) be amended to require Member States to lay down rules establishing appropriate administrative sanctions, in the case of negligence or intentional infringement, and remedial measures in case institutional investors fail to meet the requirements provided for in Article 5?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	<p>Experience suggests that existing sanctions imposed on institutional investors under sectoral prudential frameworks rules are sufficient to incentivise compliance with the due diligence requirements. In addition, having the relevant sanctions tailored to the specific type of institutional investor so that they dovetail well with the rest of the relevant prudential framework is an important priority. If the objective is to encourage more investors into the market, it seems to us that adding further, less well-tailored sanctions in SECR would likely have the opposite effect.</p> <p>We are also not aware of any other product that carries regulatory sanctions for failing to comply with product-specific requirements. The presence of such sanctions serves to perpetuate the stigma associated with securitisation, contrary to the stated goals of the Commission and a number of Member States.</p>
4.19	Taking into account the answers to the questions above on due diligence requirements, do you think any safeguards should be introduced in Article 5 to prevent the build-up of financial stability risks?	No. Financial stability should be monitored and regulated via sectoral/prudential regulation. It is hard to see how doing so on an entity-by-entity basis looking at their investments in a single product would contribute in any meaningful way to overall financial stability. It does, however, have the unfortunate side effect of perpetuating the stigma associated with securitisation and thereby discouraging investments in it in favour of less regulated products.
4.20	Taking into account your answers to the previous questions in this section, by how much would these changes impact	<p>AFME infers that the target of this question is the institution rather than the collective group.</p> <p>For the reasons given above, if responses were solicited from the full spectrum of potential</p>

	<p>the volume of securitisations that you invest in?</p>	<p>investors, the array of individual responses would be very broad and would vary, dependent upon the implementation of other interlinked and mooted reforms. For example, a Standard formula insurer asked the same question would provide different responses, depending on whether Solvency II capital calibrations were fixed or not. Therefore, one may validly argue that responses to this question need to be understood in the context of other inhibitors affecting the investor's propensity to invest.</p> <p>Proportionate revisions to Article 5 will likely have the effect of removing Article 5 related disincentives that exist to date and therefore attracting back a proportion of the investor base that have since reallocated capital. However, for some constituencies, such as STD formula insurers, these hurdles are secondary to the hurdles created by a non-risk sensitive Solvency II framework and LCR criteria.</p> <p>Whilst it is helpful to receive responses from existing ABS investors, i.e.. the constituent group who will most likely respond to this questionnaire, the more important silent majority are those investors to whom Article 5 creates a barrier to investment that is absolute. An aggregation of uninvested capital from this constituent group is key to truly understand the impact of Article 5 upon demand, which will likely dwarf the delta in demand from engaged groups.</p> <p>That said, if due diligence were to take less time, opportunity costs would also be reduced. For example, an analyst would have more time to seek opportunities in more ABS investments which could increase current holdings (provided that supply would meet the demand, of course). We would expect this effect to be most pronounced among smaller investors, who are most resource constrained.</p> <p>For larger investors, it is also necessary to consider broader restrictions that limit their ability to invest, especially in senior tranches, such as Article 56 of the UCITS Directive, as referred to in Q.12.10 below. Another example is the maturity restrictions faced by Money Market Funds.</p>
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4.21	If you are a supervisor, how would the changes to the due diligence requirements suggested in the previous questions affect your supervisory costs?	N/A
4.22	<p>Should the National Competent Authorities (NCAs) continue to have the possibility to apply administrative sanctions under Article 32 and 33 of SECR in case of infringements of the requirements of Article 5 SECR to either the institutional investor or the party to which the institutional investor has delegated the due diligence obligations?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	<p>The premise of the question is incorrect. Sanctions for non-compliance with Article 5 have never been available under Articles 32 and 33 SECR. The parties and obligations sanctionable under those provisions are set out in Article 32(1) SECR and include originators, sponsors, original lenders, SSPEs and third-party verifiers, but not institutional investors. Existing sanctions available under sectoral regulatory regimes have to date provided sufficient sanction to encourage institutional investors to comply with their Article 5 obligations.</p> <p>Furthermore, the market's generally accepted interpretation of Article 5(5) is that, where obligations are delegated within its terms, then the delegate is responsible for compliance to the exclusion of the principal, and not in addition to the principal. The interpretation proposed by the Commission would undermine the purpose of delegating under Article 5(5) for the parties. In the absence of any explicit legislative rule, the principal would have direct regulatory responsibility anyway, so no purpose would be served for the parties by adding direct regulatory responsibility for the delegate.</p> <p>To the extent the Commission thinks it would be advisable to amend the wording of the legislation to make the above clear, AFME would support such a change.</p>
4.23	<p>If you answered no to question 4.22, which party should be subject to administrative sanctions in case of infringement of the due diligence requirements?</p> <ul style="list-style-type: none"> <li>• the institutional investor</li> <li>• the party to which the institutional investor has delegated the due diligence obligations</li> </ul>	No ability to expand on this in the web form. Please see our commentary in section 12.10.

## 5. Transparency requirements and definition of public securitisation

	Question	Answer
5.1	<p>Please provide an estimate of the total annual recurring costs and/or the average cost per transaction (in EUR) of complying with the transparency regime under Article 7.</p> <p>Please differentiate between costs that are only due to Article 7 and costs that you would incur during your regular course of business regardless of Article 7.</p> <p>Please compare the total transparency costs for securitisations with the total transparency costs of other instruments with similar risk characteristics.</p>	<p>The full cost of compliance with Article 7 is as difficult to quantify as the full cost of compliance with Article 5. (Please refer to our response to Q. 4.1. above.) Firstly, the total annual recurring costs and average cost per transaction will be dependent on several variables, such as the originator itself and their IT infrastructure, the number and average size of transactions, the transaction type as well as the asset classes securitised. Additionally, the utilisation of internal resources (including indirect costs on compliance and regulatory oversight), the overlap of Article 7 templates and other reports that banks must complete, such as those for CASPER, which requires duplicative efforts, and the different types of trades all make estimating costs challenging.</p> <p>It is also impossible to quantify the missed opportunities with respect to those originators who decide not to enter into a securitisation due to the reporting requirements and associated risks (sanctions). This is particularly the case for smaller institutions which might struggle to cover the significant initial costs of implementing the IT infrastructure required. To be specific, set-up costs come up to EUR 250.000€ <b>at a minimum</b>, and ongoing costs come up to approximately 50.000 – 100.000€. However, these figures can grow exponentially in the case of larger groups which have a broad range of assets to securitise and a large number of units across different jurisdictions. In such cases, costs range from EUR <b>1 to 2 million</b>. In addition, the initial data gap exercise carried out normally by a team of 2-5 people can take several hundreds of manhours to complete, since such exercise requires analysis and interpretation of the various data fields definitions in each one of the ESMA templates.</p> <p>Subsequently, the production of Article 7 reporting templates costs as a minimum between 5.000€ and 7.000€ <b>per year</b> (+VAT) and can be multiples of this when such tasks are contracted externally. Larger issuers normally produce these</p>

		<p>reports internally, and depending on the number of outstanding transactions, a team of 2-5 people will be required and, of course, several hundreds of manhours and significant computer capacity.</p> <p>When services are needed from TPVs and securitisation repositories, the associated cost comes up to 50.000€ (+VAT) per transaction annually. (This, however, covers compliance across the board for the purposes of transparency.)</p> <p>For private transactions, it is estimated that around 25% of total costs are due to article 7 compliance.</p> <p>In addition, trustee legal costs come up to ~€50k (as an one-off cost) when external counsel is engaged.</p> <p>Furthermore, STS verification requires several hundreds of manhours and the cost - one-off ~ €50.000 - should not be underestimated. Some members report that in some cases an internal decision was taken to not seek compliance with STS requirements, even though STS compliance was technically possible, because compliance costs seemed to significantly outweigh the expected benefits.</p> <p>In relation to CLOs, European CLO managers need (i) obligor level data in order to fill in Annex 4 (Underlying exposures – corporate) and (ii) fund level data in order to fill in Annex 12 (Investor report – non-ABCP securitisation). For the collection of obligor level data, CLO managers rely on third-party service providers which charge on average €10,500 per annum per European CLO. This fee captures four quarterly Article 7 reports. For the collection of fund level data, CLO managers rely on the trustee/collateral administrator, who already generates this data as part of the CLO's usual monthly reporting process. The average fee which the trustees charge per CLO is €10,000 per annum. Consequently, the total fees paid by each European CLO annually in order to comply with Article 7 reporting requirements come up to €20,500 on average. (The fees are incurred by the</p>
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		<p>CLO itself and so are paid for by the investors, not the CLO manager.)</p> <p>In addition to the cost of reporting, there are other associated costs that should also be considered. For example, the stringent reporting requirements render some loans on institutions' balance sheets ineligible for securitisation. The templates contain many mandatory fields for seasoned loans or for loans that have not been securitised that can't be completed, however, because not all mandatory data is readily available. Consequently, if one wants to securitise these assets, the underlying information database needs to be "enriched", (potentially by using third-party data sources which can be expensive) or otherwise the assets can't be securitised. This cost is significantly higher compared to the pure reporting cost.</p> <p>When it comes to securitisations for which the banks' client is a corporate (e.g. securitisations of trade receivables, handset receivables, car fleet, etc), an additional cost of 10 – 25bps is incurred (both as upfront and then on-going) in order to pay a third-party calculation agent or a management company to produce the monthly (usually) report. Depending on size and complexity, this can go higher than this range. These costs are always re-invoiced to the corporate and do not include the very important IT developments needed at the client's level, in particular when it comes to extracting of loan-by-loan exposures and implementing appropriate controls on the integrity of the data and the systems supporting them. It is not unusual that this last point constitutes a deal-breaker for the client that would prefer a less invasive solution. Please note the vast majority of those transactions are private.</p> <p>Borrowers also encounter inefficiencies in Article 7 requirements which prescribe that they must produce significantly more detailed reporting when borrowing from banks who lend directly from their balance sheets, rather than via an ABCP Conduit. This means that they often encounter the dilemma of having to report in two different formats for the same transaction as a result of the</p>
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		<p>lender configuration. Often borrowers choose not to borrow from bank lending directly as a result of this additional reporting requirement. In this way, it can be seen that Article 7 has another direct impact on borrowers' financing options.</p> <p>Please refer to AFME's supporting materials for a breakdown of costs for originators using securitisation as a funding tool.</p>
5.2	<p>If possible, please estimate the total one-off costs you incurred (in EUR) to set up the necessary procedures to comply with Article 7 of SECR.</p>	<p>As per our response to Q. 5.1 above, set-up costs come up to EUR 250.000€ <b>at a minimum</b>, and ongoing costs come up to approximately 50.000 – 100.000€. However, these figures can grow exponentially in the case of larger groups which have a broad range of assets to securitise and a large number of units across different jurisdictions. In such cases, costs range from <b>EUR1 to 2 million</b>.</p> <p>The feedback could be very different from one entity to another: One consumer lending specialist already has (by design) IT set up to work for third parties, so has experienced limited development costs. The situation is different for the same entity's retail bank network where the data need to be aggregated and harmonised to feed the database and produce the templates, which has created substantial costs.</p> <p>In terms of time needed, set-up can be a particularly lengthy procedure which might last for one (1) to two (2) years.</p>
5.3	<p>How do the disclosure costs that you provided in 5.1. compare with the disclosure costs for other instruments with similar risk characteristics?</p> <ul style="list-style-type: none"> <li>• Significantly higher (more than 50% higher)</li> <li>• Moderately higher (from 10% to 49% higher)</li> <li>• Similar</li> <li>• Moderately lower (from 10% to 49% lower)</li> <li>• Significantly lower (more than 50% lower)</li> </ul>	<p>The high implementation costs for securitisation arise for banks predominantly due to the complexity of Article 7 and the high level of detail in its provisions, as well as due to the vast scope of the disclosure required. Further, there is a disparity in regulatory requirements compared to other capital market instruments with a similar risk profile. For example, corporate bonds have minimal disclosure requirements, whilst disclosure costs for covered bonds are also smaller given the fact that aggregated reporting is required rather than loan-by-loan.</p> <p>Please refer to AFME's supporting materials for a breakdown of costs for originators.</p>

5.4	<p>Is the information that investors need to carry out their due diligence under Article 5 different from the information that supervisors need?</p> <ul style="list-style-type: none"> <li>• Significantly different</li> <li>• Moderately different</li> <li>• Similar</li> </ul>	<p>The specific information that individual investors need to make a well-informed investment decision will vary from case to case (see our response to questions 4.4 and 4.8), so it is not readily feasible to come up with a detailed list of information needed by investors, a list of information needed by supervisors and compare the two in order to answer this question. That said, it seems clear that the two groups will need different information, possibly at different times.</p> <p>In general, the purpose of investors gathering information is to make an investment decision. That means they want to assess both risks and returns offered by the potential investment(s), determine relative value to other potential uses of their capital, and manage their capital efficiently and in a way that makes sense with their expected liabilities. The specific information required will depend on the type of securitisation and the factors including those listed in our response to question 4.8, but may include some quite detailed analytical due diligence of underlying loans, a detailed understanding of any credit enhancement provided by the transaction, the amortisation profile, expected cash flows, specific triggers, etc.</p> <p>The information supervisors require is, of course, best determined by them, but our understanding is based on the idea that the information supervisors might need is for the purposes of market supervision rather than prudential supervision. That is because prudential supervisors already have access to whatever information they require from the firms they regulate. In that context, we would expect market supervisors to require a small subset of the information investors might want. Namely, we would expect them to need the type of information that is susceptible of being aggregated to get a broad view of the market. This might include number and size of tranches, tenor, type of securitisation (traditional vs. synthetic), asset class, whether the exposures are performing or non-performing, type of risk retainer (limb (a) originator, limb (b) originator, sponsor or original lender – or servicer in the case of an NPE securitisation), and risk retention option (option (a) through (e) contemplated at Article 6(3))</p>
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		SECR). See also our March 2024 response to ESMA's disclosure consultation, available <a href="#">here</a> .
5.5	<p>To ensure that investors and supervisors have sufficient access to information under Article 7, please select your preferred option below.</p> <p>Option 1:</p> <ul style="list-style-type: none"> <li>• Streamline the current disclosure templates for public securitisations</li> <li>• Introduce a simplified template for private securitisations and require private securitisations to report to securitisation repositories (this reporting will not be public). Commission Delegated Regulation (EU) 2024/1224</li> </ul> <p>Option 2:</p> <ul style="list-style-type: none"> <li>• Remove the distinction between public and private securitisations.</li> <li>• Introduce principles-based disclosure for investors without a prescribed template.</li> <li>• Replace the current disclosure templates with a simplified prescribed template that fits the needs of competent authorities with a reduced scope/reduced number of fields than the current templates.</li> </ul> <p>Option 3:</p> <ul style="list-style-type: none"> <li>• No change to the existing regime under Article 7.</li> </ul>	Please see our response in section 12.10.
5.6	If you are a supervisor, what impact (in percent or EUR) would you anticipate Option 1 would have on your supervisory costs?	N/A
5.7	Assuming that transparency requirements are amended as suggested in Option 1, by how much would the volume of securitisations that you issue, or invest in, change?	<p>Determining causality between issuance volumes and the amendment of just one article under the SECR is not possible given that the growth in supply and demand are linked and dependent on several other factors.</p> <p>However, it would be logical to assume that the consequence of Option 1 will primarily benefit new entrants to the market who will use</p>

		<p>securitisation as a funding and/or capital management tool, initially in the private markets. It is unlikely to cause a marked increase in public issuance from existing issuers, unless the latter are incentivised to bring new jurisdictions or asset classes on line as a result of streamlining. In any case, the proposed introduction of the requirement that private securitisations report to securitisation repositories will most likely have an adverse impact on any potential change in issuance, as such measure will increase compliance costs and introduce additional risks, such as potential breaches or leakage of information on deals which are meant to be kept private.)</p> <p>In general, reducing unnecessary complexities and the burden of regulatory compliance with Article 7 would certainly be a positive step in the right direction, however no single change can ever be effective in isolation. Only a combination of measures could increase both supply and demand, such as making both transparency and investor due diligence requirements more proportionate and less burdensome. To reiterate, only a package of measures can collectively have a meaningful impact on the growth and size of the securitisation market.</p>
5.8	<p>What impact (in percent or EUR) would you anticipate Option 1 would have on your one-off and annual recurring costs for complying with the transparency requirements in Article 7? Please explain your answer.</p>	<p>It is difficult to quantify such impact, as costs would also depend on the respective asset class. In general, AFME members would expect Option 1 to result in moderate one-off costs and potentially minor annual recurring costs.</p> <p>Simplification of templates for private transactions will lower barriers to entry for platforms looking to obtain warehouse funding from investors, and will generally benefit new entrants (or new asset classes / new jurisdictions), as existing issuers already have in place the relevant IT infrastructure and internal systems. However, as mentioned above, the additional one off and ongoing costs incurred in complying with a new prescribed, albeit simplified template as well as registering these transactions with a securitisation repository will create the counter effect.</p>

5.9	<p>Do you see any concerns, impediments, or unintended consequences from requiring private securitisations to report to securitisation repositories?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Requiring private securitisations to report to repositories would significantly reduce the scale of the improvements in "regulatory drag" made by simplifying reporting and would add to transaction costs. That regulatory drag is caused not just by the templates themselves, but by the additional bureaucratic hurdles caused by having to report to repositories. Limits on the number of available ND fields and difficulty providing explanations where there are somewhat bespoke situations without tripping up repositories' (necessarily automated, and therefore inflexible) completeness and consistency checks are just two examples of additional "regulatory drag" added by repository reporting. This is likely to be especially acute for private deals, which are more likely than public deals to have bespoke features requiring some explanation in their reporting. Assuming the new private templates require only basic information relevant to regulators, the need for completeness and consistency checks will presumably be significantly attenuated as well, further reducing the argument for requiring repository reporting.</p> <p>It is also important to remember that – due to the broad definition of a "securitisation", "private securitisations" are often small arrangements with only 2-3 parties and sometimes they don't think of themselves as doing securitisation until (often) a lawyer points it out as a regulatory consideration. This is particularly acute for non-EU parties. As a result, requiring repository reporting on a private securitisation risks having the effect of creating an additional disadvantage for, e.g., EU banks wishing to provide asset-based lending to non-EU clients. Those clients are already disincentivised to use EU banks by the template requirements, which this consultation and ESMA's December 2023 consultation are considering significantly scaling back or removing. Requiring SMEs in non-EU jurisdictions to report to EU securitisation repositories as a result of having an EU bank as an "institutional investor" would be a similar (and possibly even greater) obstacle.</p> <p>We would add that we also understand securitisation repositories are the main reason for requiring XML reporting. To the extent removal of</p>
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		<p>the XML requirement is facilitated by a move away from using securitisation repositories, we would view this as a positive development. XML files are not used in practice by market participants. AFME members would support removing the requirement to report in XML format and instead requiring reporting in a format commonly used in the market already, which would currently be Excel or CSV format.</p>
5.10	<p>Under Option 1, should the current definition of a public securitisation be expanded to a securitisation fulfilling any of the following criteria: (1) a prospectus has been drawn up in compliance with the EU Prospectus Regulation; or (2) notes were admitted a trading venue; or (3) it was marketed (to a broad range/audience of investors) and the relevant terms and conditions are non-negotiable among the parties?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	<p>This suggestion moves in the right direction, but requires a modification in order to be workable. AFME members favour still defining "public" securitisations as narrowly as possible while still capturing transactions that genuinely have broad distributions. In particular, it is critical that not all transactions admitted to just any trading venue be captured by the concept of "public".</p> <p>It is necessary to keep reference to the prospectus as you have done. This is important, among other reasons, to ensure that retained deals listed using a prospectus can continue to be considered public. It might also be wise to consider an option to allow a deal to "opt in" to being treated as public if the originator/sponsor so wish.</p> <p>Limb (2) is particularly problematic here. The admission of any notes to any trading venue is far too broad and will end up capturing a large number of genuinely private transactions. A listing will sometimes be intended to achieve broad distribution and ongoing liquidity of the securitisation exposures, but very often is it done purely for the purposes of withholding tax exemptions, satisfying investor investment criteria, etc. without meaningfully leading to broader distribution or later liquidity of the securitisation exposures. An appropriate outcome might be reached by significantly narrowing down the listings that would be treated as public to those known, from time-to-time, to provide broader distribution and/or ongoing liquidity. The Commission might also consider making private any transaction where each investor has a contractual obligation in favour of the issuer/originator not to transfer their investment, regardless of whether the transaction is listed.</p>

5.11	If you answered yes to question 5.10., what criteria should be used to assess point (3) in the definition above (i.e. a securitisation marketed (to a broad range/audience of investors) and the relevant terms and conditions are non-negotiable among the parties)?	<p>We do not support the criteria listed in question 5.10 for the reasons set out in our response to that question.</p> <p>As we understand it, this category is really meant to capture transactions that have been the subject of a public "bookbuild". Accordingly, the criteria should require all of the following, and should be designed only to capture marketing within the EU:</p> <ul style="list-style-type: none"> <li>(1) An announcement made via a channel that could reasonably be expected to reach a broad range of investors in the relevant EU market</li> <li>(2) Following the announcement in (1), interested investors are invited to submit orders on the basis of fixed transaction terms in which investors specify price (coupon or margin over a reference rate) and order size, but the other material terms of the transaction are non-negotiable (the "<b>bookbuild</b>")</li> <li>(3) Following the submission of orders, the transaction is completed on the basis of the pre-determined terms, but in a size and at a price determined by the outcome of the bookbuild.</li> </ul>
5.12	If the definition of a public securitisation is expanded (for example, to encompass securitisations fulfilling the criteria set out in question 5.10), what share of your existing private transactions would now fall under this newly-expanded public definition?	This question is bank-specific, so best to be addressed by each banking institution on an individual basis.
5.13	Under Option 1, what would you estimate to be the impact (in percent or EUR) of changing the definition of public securitisation on your one-off and annual recurring costs for complying with Article 7?	<p>As per our response to Q. 5.1 above, compliance costs are hard to quantify given the interplay between multiple factors.</p> <p>Given that there is currently no distinction in reporting requirements between private and public securitisation, an expansion of the scope of public securitisation will not impact the cost of reporting today, but will increase the cost differential between Options 1 and 2.</p>
5.14	Assuming that transparency requirements are amended as suggested in Option 2, by how much would the	Determining causality between issuance volumes and the amendment of just one article under the SECR is not possible given that the growth in



	<p>volume of securitisations that you issue, or invest in, change?</p>	<p>supply and demand is dependent on several other factors.</p> <p>The key differences between Options 1 and 2 are the following in order of importance:</p> <p>a) Investors (especially non-bank investors) investing in public ABS transactions today may be disincentivised by a regime which no longer requires template-based reporting for public transactions, since investors don't typically have the same ability to negotiate disclosure obligations in the way that they do for bilateral or other private transactions involving a small investor base. In addition, data needs to be as comparable as possible to facilitate investor (and rating) analysis and decision making. Standardised templates provide the consistency and transparency required to meet the general and operational requirements for HQLA eligibility. Having this information in a non-standardised way would significantly increase the operational costs associated with investing in securitisations.</p> <p>b) As set out in Option 2, the simplified prescribed template is similar to that contemplated in Option 1.</p>
5.15	<p>What impact (in percent or EUR) would you anticipate Option 2 would have on one-off and annual recurring costs for complying with the transparency requirements in Article 7? Please explain your answer.</p>	<p>As a general point, for those users of securitisation, the set-up cost already incurred is a sunk cost, and therefore any changes to regulation will cause these issuers to incur additional costs on the same asset classes, seller jurisdictions. The primary beneficiaries from the perspective of sunk costs then are those issuers who are securitising either new products or in new jurisdictions. That being said, it is difficult to provide an accurate estimate without knowing the specifics of the new framework suggested under Option 2. However, given the flexibility and simplification that (we understand) Option 2 would introduce, AFME members would <i>assume</i> that costs would be significantly lower – perhaps by 50% – compared to the set-up and ongoing costs incurred currently for complying with the existing reporting regime. (Please refer to our response to Q. 5.1 and 5.2 above.) That is notwithstanding the fact that reporting requirements to meet Eurosystem eligibility will, no doubt, remain similar to current requirements.</p>

		<p>In addition, we understand that the simplified template envisaged by Option 2 will aggregate information, i.e. the number of fields will be reduced significantly. If that's not the case, a set-up process will still be required, so costs will inevitably be incurred.</p> <p>Moreover, whilst we acknowledge that Option 2 does not seem to contemplate a requirement for private securitisations to report to securitisation repositories, it is important to emphasize that if such requirement were to be imposed, it would be very difficult to assume that Option 2 would offer any savings. Lastly, it is important to reiterate that, although reducing unnecessary complexities and the cost of regulatory compliance with Article 7 would certainly be a positive step in the right direction, no single change can ever be effective in isolation. Only a combination of measures could increase both supply and demand, such as making both transparency and investor due diligence requirements more proportionate and less burdensome. In other words, only a package of measures can collectively have a meaningful impact on the growth and size of the securitisation market.</p>
5.16	<p>Under Option 2, what should be included in the principle-based disclosure requirements for investors to reduce compliance costs while ensuring access to information?</p> <p>How should investors access this information?</p> <p>Please explain your answer, listing all relevant information that you think investors need to do proper due diligence that could be common across all securitisations.</p>	<p>If there is a move to a principles-based approach to disclosure and reporting, it should emphasise providing all materially relevant information for informed investment decisions, similar to the old CRR regime. The materially relevant information should include factors like deal characteristics, industry standards, and information on the underlying exposures relevant to assessing credit and deal cash flows. Transaction documents, including STS notifications, should be made available to understand the deal, with ongoing disclosure of material changes through appropriate communication methods. Asset-level or investor reporting should provide sufficient data quarterly (or monthly, depending on asset class standards), without prescribed templates, allowing aggregated data where relevant. Notifications of significant events and material changes should be provided promptly and without a template, as is the case under the market abuse rules. The use of securitisation repositories could be considered for public securitisations only and if</p>

		simplified, but private securitisations can already provide necessary access to supervisors without them. Private securitisations should not be required to report to repositories for the reasons set out above in our response to question 5.9.
5.17	<p>Under Option 2, should intra-group transactions, and securitisations below a certain threshold, be excluded from the reporting requirements in Article 7?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul> <p>Please explain your answer. If you answered yes, how should intragroup transactions be defined and how should the threshold be determined?</p>	<p>Intragroup transactions do not present any of the conduct risks sought to be regulated by SECR. Making sure one entity in a group provides information to another entity in the same group under common ownership in a defined manner is clearly an unnecessary regulatory intervention, given the economic incentives at play.</p> <p>The rationale for excluding securitisations below a certain threshold presumably attempts to link either an absolute funding notional or % of funding to a materiality threshold, such that transactions or an aggregation of transactions falling short of the threshold should not meet the reporting requirements in Article 7. In this instance, it would make more sense adopting an approach that is proportionate across all transactions that would give investors relevant information to enable them to meet their own principle-based DD requirements.</p>
5.18	Under Option 2, what would be the impact (in percent or EUR) on your one-off and annual recurring costs for complying with the transparency requirements of excluding intra-group transactions and securitisations below a certain threshold from the reporting requirements in Article 7?	As per our response to Q. 5.1 above, compliance costs are hard to quantify given the interplay between multiple factors. On average, intra-group transactions make up a very small proportion of securitisations. Therefore, the exclusion of intra-group transactions would have a minimal impact on costs overall. Please see above in relation to the position on transactions below a prescribed threshold.
5.19	<p>Should the text of Article 7 of the SECR explicitly provide flexibility for reporting on the underlying assets at aggregated level?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
5.20	If you answered yes to question 5.19., which categories of transactions should be allowed to provide reporting only at	We see value in making sure this option is available to any highly granular asset class that shares the features of credit card receivables and trade receivables. That is to say, if the portfolio is sufficiently granular for the law of large numbers

	<p>aggregated level? You may select more than one option.</p> <ul style="list-style-type: none"> <li>• Granular portfolios of credit card receivables</li> <li>• Granular portfolios of trade receivables</li> <li>• Other</li> </ul>	<p>to apply, then aggregated data should be permitted in place of loan-by-loan data. Some auto portfolios, leasing exposures and consumer loans may, for example, fall into this category.</p> <p>It is worth remembering that a loan-by-loan analysis is virtually impossible for very granular portfolios, and does not add value. Instead, investors already rely on reviewing portfolio-level, aggregated data (stratification tables) that give them a representative view of the securitised assets at pool level. In particular for granular portfolios that often “turn over” quickly, individual loan credit metrics are irrelevant, and it is the overall portfolio profile that is important.</p> <p>Separately, while financial institutions may be equipped to extract loan-by-loan data on a regular basis, corporates are usually much less well placed to do so. This is most problematic for corporates operating a B2C business (e.g., utilities, telcos), because there can be millions of exposures involved in a securitisation. This also has the effect of creating an unlevel playing field between banks funding via a conduit (who are allowed to use aggregate data on the ABCP templates) and those funding via their own balance sheets (where far more onerous non-ABCP templates with loan-by-loan data are required). This creates a serious competitive disadvantage for non-conduit banks.</p>
5.21	If you are a supervisor, what impact (in percent or EUR) would you anticipate Option 2 would have on your supervisory costs?	N/A

## 6. Supervision

	Question	Answer
6.1	<p>Have you identified any divergencies or concerns with the supervision, based on the current supervisory set up?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Yes. The main ones we are aware of are:</p> <p>(1) The divergent approaches NCAs take to reporting securitisations to them (including some who impose additional burdensome reporting obligations over and above those provided for at European level), for both private and public deals;</p>

		<p>(2) A clearly incorrect (and inconsistently applied) position taken by one NCA that true equity counts as a tranche;</p> <p>(3) Inconsistent approaches on STS, including a number of supervisory expectations that came as a surprise to the market following the French AMF SPOT inspection; and</p> <p>(4) The tendency to treat the EBA's 2020 report on SRT as though it was binding, even though it was just a set of recommendations to the Commission.</p> <p>(5) Different JSTs providing different responses in the context of the SRT process. Whilst significant improvements have been identified in the EU SRT process in recent years, we continue to see a high-level of divergence in the guidance provided from the various JST teams, sometimes even within the same countries. The SRT process remains too informal, and this lack of consistency leads to uncertainty and a lack of a level playing field. Examples include the approach to the regulatory SRT tests, as well as the information to be provided and the different loss scenarios to be run.</p>
6.2	<p>Would you see merit in streamlining supervision to ensure more coordination and supervisory convergence?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
6.3	<p>If you answered yes to question 6.2., what should be the scope of coordinated supervision?</p> <ul style="list-style-type: none"> <li>• STS securitisations only</li> <li>• All securitisations</li> <li>• Other (please specify)</li> </ul>	<p>The issue with securitisations is that there is the potential for many different authorities to have different views on all regulatory aspects of securitisations. It would therefore be helpful to know that there is a lead regulator who is capable of forming a consistent, authoritative view on what the regulations require. This is not limited to STS status of securitisations. Rather, it is an issue any time a securitisation is offered across national borders within the Union.</p>
6.4	<p>If you answered yes to question 6.2., what should be the supervisory tasks of coordinated supervision?</p> <ul style="list-style-type: none"> <li>• Compliance with Securitisation Regulation as a whole</li> <li>• Compliance only with STS criteria</li> </ul>	

	<ul style="list-style-type: none"> <li>• Compliance with Securitisation Regulation and prudential requirements for securitisation</li> <li>• Other (please specify)</li> </ul>	
6.5	<p>If you answered yes to question 6.2., which model would you prefer?</p> <ul style="list-style-type: none"> <li>• Setting up supervisory hubs</li> <li>• Having one national authority as lead coordinator in the case of one issuance involving multiple supervisors</li> <li>• Another arrangement (please specify)</li> </ul>	AFME members consider that they do not have sufficient information to take an informed position on this matter. We are very interested in improving the supervision of securitisations in the Union and would happily engage on this issue when more detail becomes available.
6.6	<p>If you answered yes to question 6.2., would you require participation by all NCAs or only some?</p> <ul style="list-style-type: none"> <li>• All</li> <li>• Some</li> <li>• No opinion</li> </ul>	
6.7	<p>If you answered "Some" to 6.6., based on what criteria would you select NCAs? Please specify.</p>	N/A
6.8	<p>If you are a supervisor, how would the changes to supervision suggested in the previous questions affect your supervisory costs?</p>	N/A

## 7. STS standard

	Question	Answer
7.1	<p>Do you think that the STS label in its current form has the potential to significantly scale up the EU securitisation market?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>The STS label has existed now for over five years and has not achieved this outcome. While we fully support the STS framework, the label did not bring the hoped-for new originators or investors to the market. Figures provided by the EBA and by AFME evidence that the STS market share is quite low in Europe (around 35% of the total issuances) and that the STS issuance amounts placed in the market are disappointing. For the reasons we stated in our response to the ESAs' survey for their Article 44 SECR report earlier this year, we believe the STS label is far more complex than needed to achieve its objects, particularly with the</p>

		<p>risk/reward ratio it currently carries. It has contributed to the reduction of the stigma surrounding securitisation to some extent, but it may have had the opposite effect for non-STS securitisation. Overall, for traditional securitisations, the differences in regulatory treatment are not sufficient to outweigh the additional work and risk of ensuring compliance with the criteria, as evidenced by the fact that STS deals do not consistently price more advantageously for issuers than non-STS deals with equivalent ratings. In addition, we note that simplifying and broadening the STS category seems likely to increase the volume of securitisation investments by increasing the investable universe for bank treasuries.</p>
7.2	<p>Which of the below factors, if any, do you consider as holding back the expansion of the STS standard in the EU? You may select more than one option.</p> <ul style="list-style-type: none"> <li>• Overly restrictive and costly STS criteria</li> <li>• Low returns</li> <li>• High capital charges</li> <li>• LCR treatment</li> <li>• Other</li> </ul>	<p>See answer to question 7.1. In addition, there is currently a dearth of buyers for senior tranches of securitisations in Europe. Bank treasuries were historically significant buyers of this paper, but over the years, capital charges have increased and it has become more difficult to use them for LCR purposes, meaning that they have become much less attractive as investments for bank treasuries, and yield too little for many other investors.</p> <p>By way of explanation of the overly restrictive nature of STS criteria, since the entry into force of SECR in 2019, we observe, despite being safe and useful, many securitisations, by their very nature, will never meet all 100+ STS criteria. Focusing prudential improvements only on STS will not trigger sufficient impact on the market and will leave entire segments of the potential scope on the sidelines:</p> <p>- Some portfolios or transactions cannot meet all the STS criteria by nature (for instance the 2% granularity/concentration criteria from Art 243 CRR or the homogeneity criteria – see below for more on Art 243 CRR). These include many securitisations of trade receivables, mid-sized corporates and SMEs, corporate loans and revolving credit facilities.</p> <p>In the case of corporate loan securitisations, this 2% is particularly detrimental for banks not using a conduit. This is because the 2% concentration limit applies at the conduit level for ABCP</p>

		<p>programmes, but at transaction level for non-ABCP transactions (that is, for banks funding via their balance sheet). In the corporate/trade receivables world, which is all B2B business, the top obligor will be larger than 2%, and therefore any resulting STS transactions are not accessible for banks funding via their balance sheet but are accessible for banks funding via a conduit, regardless of what is in their conduit. This is detrimental to the flourishing of the securitisation market.</p> <p>In addition, we strongly believe that the paragraph in Article 243(1)(b) of the CRR allowing to net out credit protection for the purpose of calculating the 2% concentration in the case of trade receivables should be duplicated for non-ABCP programmes in Article 243(2)(a) of the CRR. There is no justification for this asymmetry and it should be corrected.</p> <ul style="list-style-type: none"> <li>- Some originators have structural difficulties with achieving the STS label, e.g. new companies (such as fintechs or solar panels manufacturers) that cannot meet the requirement for 5 years of historic data, or smaller banks that, by construction, handle smaller pools and fail to achieve the granularity or homogeneity criteria.</li> <li>- Other issuers, such as commercial vehicles or equipment leasing companies, have leases that cannot meet the STS criteria for ABCP (which requires that assets have a residual maturity of less than 6 years and that the assets have a weighted average life of less than 3.5 years)</li> <li>- Some underlying assets are not eligible for the STS label because of the STS criterion requiring that repayment not rely predominantly on the sale of the assets. This is the case for the certain types of real asset financing (e.g., car fleet and car rental deals).</li> </ul> <p>Further, the maximum risk-weight restrictions imposed by Article 243 of the CRR, while not formally part of the STS criteria, limit the ability of banks to issue STS securitisations.</p> <p>Under Article 243(1)(a) of the CRR, positions in an ABCP programme or transaction that qualify as STS shall be eligible for the STS related prudential</p>
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		<p>treatment (Articles 260, 262 and 264) if the underlying exposures meet, under the Standardised Approach, a risk weight equal to or smaller than 75 % on an individual exposure basis where the exposure is a retail exposure or 100 % for any other exposures. This excludes any corporate loans with external rating of B+ or below and risk weight of 150%, for instance portfolios of leasing, trade receivables or SMEs.</p> <p>Under Article 243(2) of the CRR, positions in a securitisation, other than an ABCP programme or transaction, that qualify as STS, shall be eligible for the STS prudential treatment (Articles 260, 262 and 264) only if the underlying exposures meet, under the Standardised Approach, a risk weight equal to or smaller than: (i) 40% on an exposure value-weighted average basis for the portfolio where the exposures are loans secured by residential mortgages or fully guaranteed residential loans with the additional constraint that no loan in the pool of underlying exposures shall have a loan-to-value ratio higher than 100%; (ii) 50% on an individual exposure basis where the exposure is a loan secured by a commercial mortgage; (iii) 75 % on an individual exposure basis where the exposure is a retail exposure; (iv) for any other exposures, 100% on an individual exposure basis. This last point (iv) excludes any corporate loans with risk weights above 100%, for instance corporate loans with external rating of B+ or below and standard risk weight of 150%, which can be present in portfolios of leasing, trade receivables or SMEs, as well as portfolios of pre-operational project finance loans which are risk-weighted at 130% under CRR3.</p> <p>Both for ABCP and non-ABCP STS transactions, the mere presence of one corporate exposure in the pool that has a standard risk weight above 100% means that the securitisation does not qualify for the STS prudential treatment (per Article 243(2)(b)(iv) of CRR). It is therefore necessary <u>either to increase the risk weight cap from 100% to 150% or to review Article 243 of CRR to introduce a materiality threshold above which the STS benefit is no longer applicable.</u> The same principle applies for commercial mortgages.</p>
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		In addition, the maximum risk-weights for all asset classes need to be recalibrated to reflect the increases in risk-weights under CRR3. For example, under CRR3, pre-operational project finance exposures attract a 130% risk-weight, which makes them ineligible for STS securitisation, which hinders the ability to use securitisation to assist in financing the green and digital transition.
7.3	How can the attractiveness of the EU STS standard be increased, for EU and non-EU investors?	<p>By addressing the problems mentioned in the answers to questions 7.1 and 7.2. The RWA gap between STS and non-STS transactions would need to be increased (by improving STS treatment) in order to reflect the additional efforts required to comply with the STS framework and criteria. In addition, the STS criteria should be streamlined, senior STS positions should be upgraded to LCR Level 2A provided they have an ECAI credit assessment of at least CQS 2.</p> <p>As to non-EU investors, very few countries (EU, UK, Canada, Japan, South Africa, China) have implemented the 'optional' Basel STC label. However, it is key that the EU set up an equivalence regime between the EU STS framework and the UK STS framework, otherwise this will restrict investment options for the EU investor base.</p>
7.4	<p>In the case of an unfunded credit protection agreement where the protection provider provides no collateral to cover his potential future liabilities, should such an agreement be eligible for the STS label, to facilitate on-balance-sheet STS securitisations?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
7.5	<p>If you answered yes to question 7.4., what safeguards should be put in place to prevent the build-up of financial stability risks arising from the provision of unfunded credit protection?</p> <ul style="list-style-type: none"> <li>• The protection provider should meet a minimum credit rating requirement.</li> </ul>	<p>Prior to the introduction of CRR3, the Securitisation Framework applied a minimum rating requirement for private sector protection sellers (see Article 249(3)) when providing credit protection in respect of a securitisation position. This is changing with CRR3 such that credit institutions, insurers and reinsurers will no longer be subject to a minimum rating requirement (although the rating will still be relevant in</p>

	<ul style="list-style-type: none"> <li>• The provision of unfunded credit protection by the protection provider should not exceed a certain threshold out of their entire business activity.</li> <li>• Other</li> </ul>	<p>determining the amount of capital which the originator would need to hold against the resulting exposure to the insurer). That said, given that the unfunded non-STS SRT securitisation market in the EU has been functioning well for several years now with this minimum rating requirement in place, if there is a need to impose a minimum credit rating for insurers and reinsurers when providing protection to a STS securitisation, that would be workable.</p> <p>See also Page 22 of <a href="#">AFME's response to the EBA Discussion Paper for the STS Framework for Synthetic Securitisations</a>.</p> <p>The below is a further explanation of our response to question 7.4:</p> <p>Unfunded credit protection provided by private sector investors should indeed be eligible for the STS label. Such transactions are no more complicated than equivalent public sector transactions. While we acknowledge that there is a greater risk for the originator in the case of unfunded credit protection, this additional risk is already reflected in the Securitisation Framework in the form of the originator being required to risk-weight the protection provider and hold capital against that exposure. In any case, it should not be the purpose of the STS framework to prevent parties from being exposed to risk. Rather the purpose of the framework should be to ensure that parties are able properly to assess those risks and make a fully informed decision as to whether or not the risk is one which they are able to accept. Further, from the perspective of the protection seller, providing unfunded protection enables it to avoid taking credit risk on the protection buyer entirely.</p> <p>One asset class that is particularly well-suited to unfunded protection is residential mortgages, which is a difficult asset to securitise through funded SRT securitisation due to the long portfolio WAL (10 to 15 years) and relatively low risk-weights and the inability to use time calls in traditional SRT securitisations. As shown by the number of non-STS unfunded residential mortgage SRT securitisations in recent years, we believe that making such transactions eligible for</p>
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		<p>the STS label would significantly contribute to the ability to securitise these assets.</p> <p>In that regard, please also refer to <a href="#">AFME's response to the EBA Discussion Paper for the STS Framework for Synthetic Securitisations</a>.</p>
7.6	<p>What would be the implications for EU financial stability of allowing unfunded credit protection to be eligible for the STS label and the associated preferential capital treatment?</p>	<p>For some types of exposures, particularly those which have low risk-weights to start with, the availability of unfunded credit protection can be the difference between a securitisation being unviable and being a cost-effective portfolio management tool for the originator.</p> <p>There is a limit to the amount of funded credit protection which is available in the market at an appropriate price, and as bank capital requirements are expected to increase once CRR3 fully comes into effect, this will create the need for additional options for the banks meet those increased requirements.</p> <p>The insurance sector is well-positioned to assist in meeting this demand. In addition to the experience with the non-STS unfunded SRT market in the EU in the last few years, insurers have also been very significant providers of unfunded protections to the US agencies in the context of their mortgage CRT platforms.</p> <p>Given that the Securitisation Framework already contemplates banks being required to hold capital against the resulting exposure to insurers, AFME members do not consider that allowing such transactions within the STS framework would have any adverse impact on prudential standards.</p> <p>See also Page 22 of <a href="#">AFME's response to the EBA Discussion Paper for the STS Framework for Synthetic Securitisations</a>.</p>
7.7	<p>How would allowing unfunded credit protection to be eligible for the STS label and the associated preferential capital treatment impact EU insurers' business model of providing credit protection via synthetic securitisation (for example, would EU insurers account such transactions as assets or as liabilities)?</p>	<p>The ability to provide protection for SRT securitisations would also be beneficial for EU financial stability as it would enable insurers to diversify the risks they take on their balance sheet, thus reducing their overall risk. It would also enable some protection providers to develop their stakes in some long-term risk areas such as the infrastructure asset class when it fits well with their activities.</p>

7.8	<p>If you are an originator, what impact on the volume of on-balance-sheet securitisations that you issue do you expect to see if unfunded credit protection becomes eligible for the STS label and the associated preferential capital treatment?</p>	<p>AFME members consider that expanding the STS framework to include unfunded credit protection investors would increase and diversify demand in the market, foster competition and eventually lead to increased securitisation volumes.</p> <p>Some asset classes (e.g. specialized lending, transaction banking, residential mortgages) are historically better known by, or are a better fit for, insurers due to their longer maturities. Accordingly, at least in the first few years, we would expect STS transactions to be originated from these asset classes and distributed to unfunded credit protection providers if such credit protection format became eligible to STS.</p>
7.9	<p>If you answered no to question 7.4., do you see merit in expanding the list of eligible high quality collateral instruments in Article 26e(10) to facilitate on-balance-sheet STS securitisations?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	N/A
7.10	<p>If you answered yes to question 7.9., which high-quality collateral instruments should be added to the list?</p>	<p>AFME members do not consider that this depends on the answer to Question 7.4.</p> <p>The list of eligible collateral in Article 26e(10) is overly restrictive. While it is true that many synthetic SRT securitisations currently use either cash or government securities, the requirement that such securities collateral be limited to a remaining maturity of no more than three months is unnecessarily restrictive. Further, it also precludes the use of other types of high quality collateral such as covered bonds or the senior tranches of securitisations. The CRR contains provisions to allow for the application of haircuts for collateral having a lower credit quality or longer maturity and there is no therefore reason why parties to a STS securitisation should be restricted from agreeing to use such other types of collateral if that meets their commercial requirements.</p> <p>In addition, the differential between the minimum credit rating which applies to cash held with the</p>

		originator (CQS2) and that which applies to cash held with a third party (CQS3) is unnecessary and should be eliminated. Indeed, this requirement has a negative impact on financial stability, by increasing the risk-weight amount associated with the protected tranche for the originator (as a result of it having to transfer cash collateral to a third party bank if the originator is downgraded below CQS2) and therefore reducing its CET ratio at precisely the time when the originator may be under stress.
7.11	What would be the implications for EU financial stability of extending the list of high-quality collateral arrangements under Article 26e(10)?	None. As noted in our answer to Question 7.10, the CRR already contains provisions to address the increased risk of lower quality collateral in the form of haircuts to be applied that collateral.
7.12	Do the homogeneity requirements for STS transactions represent an undue burden for the securitisation of corporate loans, including SMEs? Please explain your answer.	Yes. In particular the requirement that corporate loan portfolios containing both SME and non-SME exposures be from a single jurisdiction is onerous, and has an uneven impact across the EU. In particular, this present an issue for originators from smaller member states, where is common for portfolios to be comprised of exposures to obligors in multiple jurisdictions. Given that no true sale is required for a synthetic STS securitisation, there is no particular reason why portfolios need to be restricted in this way, and removing this limitation would help to level the playing field for banks across the EU.
7.13	Should the STS criteria (for traditional, asset backed commercial paper (ABCP) or on-balance sheet securitisation) be further simplified or amended? Please explain your answer and provide suggestions. <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Yes. See responses to questions 7.1 and 7.2.</p> <p>The credit impaired obligor rules in Art 20(11) could benefit from simplification, as could the homogeneity rules. Both of these are highly complex and require compliance processes/exclusion of assets at a level that is out of proportion with any corresponding gain or simplification for investors.</p> <p>The territoriality limitation in Article 18 is also overly restrictive. Where there is an EU sponsor, it would be sensible to permit non-EU originators (both for ABCP and non-ABCP) as the sponsor will take responsibility for structuring the transaction and will be subject to EU enforcement jurisdiction.</p>

7.14	<p>On a scale of 1 to 5 (1 being the least valuable), please rate the added value of TPVs in the STS securitisation market.</p> <p>1 / 2 / 3 / 4 / 5</p>	<p>The use of TPVs under the SECR is currently optional, however their services are particularly valuable in the traditional securitisation market (funding and capital relief ABS transactions), where many senior bond investors require STS verification in order for them to buy the paper. Given the complexity, also, of the STS framework, TPVs often end up assisting securitisation parties with interpretation issues, they, therefore, support consistency across transactions and a certain level of homogeneity across the EU.</p> <p>However, at the same time, TPVs are not considered necessary in relation to investments in junior/equity tranches. For these transactions, a TPV's involvement would only mean an additional layer of bureaucracy and cost without any added value. That being said, a TPV's involvement in an SRT transaction can certainly be valuable to the originator bank, since verification of STS compliance by the TPV is relevant to the benefit of preferential capital treatment for the retained tranches.</p> <p>Consequently, the value of TPVs in the STS securitisation market depends on the type of the transaction, but, in any case, the current status of optionality is appropriate and should be maintained.</p> <p>Lastly, the introduction of a simpler STS framework would reduce the costs of third-party verification.</p>
7.15	<p>If you answered yes to question 4.10.(iv), should the TPVs be supervised to ensure that the integrity of the STS standard is upheld?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul> <p>Please explain your answer to the above, including where necessary whether TPVs should be supervised at EU level.</p>	<p>According to Article 28 of the SECR, TPVs <i>are</i> currently supervised by national competent authorities, such as AMF in France and BaFin in Germany (as well as the FCA in the UK). We understand that TPVs have regular meetings with their local supervisors, where their processes, resourcing, client concentrations and code of conduct are all discussed.</p>
7.16	<p>To what extent would supervision of TPVs increase the cost of issuing an STS securitisation?</p> <ul style="list-style-type: none"> <li>• To a large extent</li> </ul>	<p>No opinion, considering that TPVs are already supervised as per our response above.</p>

	<ul style="list-style-type: none"> <li>• To a moderate extent</li> <li>• Limited or no effect</li> <li>• <b>No opinion</b></li> </ul> <p>Please explain your answer, and if available, estimate the total costs in EUR.</p>	
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## 8. Securitisation platform

	Question	Answer
8.1	<p>Would the establishment of a pan-European securitisation platform be useful to increase the use and attractiveness of securitisation in the EU?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• <b>No opinion</b></li> </ul>	
8.2	<p>If you answered yes to question 8.1., which of the following objectives should be main objective(s) of the platform? You may select more than one option</p> <ul style="list-style-type: none"> <li>• Create an EU safe asset</li> <li>• Foster standardisation (in the underlying assets and in securitisation structures, including contractual standardisation)</li> <li>• Enhance transparency and due diligence processes in the securitisation market</li> <li>• Promote better integration of cross-border securitisation transactions by offering standardised legal frameworks</li> <li>• Lower funding costs for the real economy</li> <li>• Lower issuance costs</li> <li>• Support the funding of strategic objectives (e.g. twin transition, defense, etc.)</li> <li>• Other</li> </ul> <p>Please explain how the platform could be designed to achieve the objectives that</p>	N/A



	you selected in your answer to question 8.2.	
8.3	If you answered yes to question 8.1., how would access to a pan-European securitisation platform increase the use and attractiveness of securitisation in the EU?	N/A
8.4	Should the platform target specific asset classes? <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
8.5	If you answered yes to question 8.4., which asset classes should the platform target? Please provide a justification. <ul style="list-style-type: none"> <li>• SME loans</li> <li>• Green loans (i.e. green renovation, green mobility)</li> <li>• Mortgages</li> <li>• Corporate loans</li> <li>• Other</li> </ul>	N/A
8.6	Are guarantees necessary? <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	N/A
8.7	If you answered yes to question 8.6., please explain who (private or public) would provide it and how you would design such a guarantee	N/A
8.8	What do you view as the main challenges associated with the introduction of such a platform in the EU, and how could these be managed?	Even though the objectives and specificities of such platform are currently unknown, in principle, AFME members are not opposed to the idea but do not consider it a priority. We think that a pan-European securitisation platform could contribute to broader CMU funding objectives and EU growth more generally, but we are uncertain about its impact upon the market itself. In any case, the success of the platform will ultimately be determined by the way it will be decided to create it and, of course, the support that it will receive or not from the various EU Member States.

		<p>We also believe that such initiative is a medium to long-term objective, and any implementation efforts should be accompanied by a feasibility study and a separate, targeted public consultation where specific details around the set up and function of the platform as well as the conditions of its implementation could be thoroughly considered and discussed.</p> <p>In the short term, AFME members would urge policymakers to prioritise much more important reforms, such as those in relation to due diligence and transparency requirements as well as reforms to the prudential framework (CRR3, Solvency II and LCR Delegated Act). In other words, the establishment of a pan-European securitisation platform, albeit potentially beneficial, should not delay these other reforms that do take precedence.</p> <p>In addition, the platform as a single measure cannot increase the use and attractiveness of securitisation just by itself. As per our comment previously, only a package of measures can collectively have a meaningful impact on the growth and size of the EU securitisation market.</p>
8.9	What key considerations need to be taken in designing a pan-European securitisation platform, for such a platform to be usable and attractive for originators and/or investors?	<p>As per our comment above, the design, key features, and objectives of the platform should first be considered in the context of a feasibility study that should then be followed by a separate, targeted public consultation, where specific details around the set up and function of the platform could be thoroughly considered and discussed. As per our comment above, the success of the platform will ultimately be determined by the way it will be decided to create it and, of course, the support that it will either receive or not from the various EU Member States.</p>
8.10	Besides the creation of a securitisation platform, do you see other initiatives that could further increase the level of standardisation and convergence for EU securitisations, in a way that increases securitisation volumes but also benefits the deepening and integration of the market?	<ol style="list-style-type: none"> <li>1) Review Member States' best practice in relation to capital and funding initiatives at a national level.</li> <li>2) Harmonise national legal and tax systems (e.g. insolvency).</li> <li>3) Expand the EIB/EIF budget, resources and capabilities so that, in turn, they can support banks in different ways, such as with infrastructure investments. As highlighted by the Draghi report recently,</li> </ol>

		<p>new infrastructures need to be built for the development and completion of complex and sophisticated projects necessary for the green and digital transition. For this type of investment/asset class, one needs the support of an entity which can assume a large amount of risk, particularly in that phase of the project (e.g. construction phase) for which it's difficult to find investors. EIB/EIF can play a key role in these infrastructure investments, however, there's little they can do currently due to their limited budget under the existing mandate. It would, therefore, be necessary to provide them with a bigger budget/resources/capabilities so that they can support banks accordingly.</p>
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## 9. Prudential and liquidity risk treatment of securitisation for banks

	Question	Answer
9.1	What concrete prudential provisions in the CRR have the strongest influence on the banks' issuance of and demand for those types of traditional, i.e. true sale, securitisation which involve the senior tranche being sold to external investors and not retained by the originator?	<p>For an originator bank, securitisation only has an impact on the bank's capital position where the securitisation achieves significant risk transfer ("SRT") pursuant to Article 244 (for traditional securitisation) or Article 245 (for synthetic securitisation) of the CRR. The majority of SRT securitisations in the EU are executed as synthetic securitisations. Nevertheless, traditional securitisation is also used for SRT in some sections of the market, and has an important role to play.</p> <p>Securitisation serves two primary objectives for the originator. One of these objectives is the use of assets held by the originator as collateral for cost-effective funding for the originator. This is usually achieved by the originator placing the senior, low risk, tranches of the securitisation with investors, with the originator often retaining some or all of the more risky junior tranches. The other objective is to mitigate the credit risk and associated capital requirements associated with the securitised exposures (ie, a SRT securitisation), which will be achieved by the originator placing the risky junior and/or mezzanine tranches with investors. In this case, however, the originator will usually retain</p>

		<p>the senior tranche(s). Synthetic securitisation is particularly well-suited to SRT securitisation because it is possible to execute only the placed tranches, without also needing to execute the retained senior tranche(s) held by the originator, which otherwise has accounting implications, and can also have implications for the originator's LCR and NSFR position.</p> <p>The objectives of funding and credit/capital management also pull in opposite directions when structuring a securitisation. When used for funding purposes, the originator is incentivised to minimise the level of risk transferred to investors, particularly, in respect of the senior tranche, so as to enable it to reduce the cost of that funding. Given that the originator will continue to maintain capital in respect of the securitised exposures as if they had not been securitised, this does not present any prudential concerns. However, when structuring a SRT securitisation, the originator intends (and indeed the SRT requirements are designed to ensure) that the risk associated with the securitised exposures is transferred to investors permanently, and that it will not flowback to the originator.</p> <p>For these reasons, while SRT can be achieved through traditional securitisation, and there are several examples of this in the market, <b>AFME members' view is that traditional securitisation is not a particularly suitable tool for achieving SRT in circumstances where the originator is not <i>also</i> looking to achieve a funding benefit from the securitisation</b>, and it is important for this reality to be recognised in regulatory policy. This is not so much a result of specific rules in the CRR as the more general principles set out above. In contrast, <b>synthetic securitisation is a very effective tool</b> to assist banks in managing credit risk and their associated prudential capital requirements.</p> <p>However, two points which do specifically make it more difficult to use traditional securitisation for SRT purposes should be noted. First, the prohibition of the use of time calls in traditional SRT securitisation (Article 244(4)(d) of the CRR) compares unfavourably with the ability to include</p>
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		<p>a time call in a synthetic SRT securitisation, as indeed is common in the market (as confirmed by the EBA in the SRT Report of 2020). This limits the ability of the originator to take advantage of favourable market conditions to unwind a traditional SRT securitisation prior to its scheduled maturity so as to be able to use the securitised exposures as collateral for other funding transactions on more attractive terms.</p> <p>Secondly, although the question asks about traditional securitisations where the senior tranche is placed with investors unless the originator is also looking for a funding benefit this is generally not economically advantageous for the originator and therefore the originator will usually retain the senior tranche. In this context the so-called "market test" expounded by the EBA in its SRT Report of 2020 creates challenges, because it requires the originator nevertheless to place at least 15% of the senior tranche, or otherwise be able to demonstrate that the pricing of the senior tranche reflects market terms, which can be difficult to do in practice where the senior tranche is fully-retained. Failure to satisfy this test will result in SRT not being achieved due to concerns over the amount of excess spread that is supporting the placed tranches, Thus, even if the originator did wish to use a traditional securitisation for SRT purposes (without achieving a funding benefit), its ability to do is hindered by this requirement.</p> <p>Please also see our comments in relation to the risk-weight floor in the responses to Questions 9.3 and 9.12 below. Lowering the risk-weight floor for banks would make it more viable for banks to invest in the senior tranche of traditional SRT securitisations issued by other banks, thus increasing the pool of available investors for such securitisations.</p> <p>From an investor perspective, the other factor which has the biggest impact upon the attractiveness of securitisations as an investment is the treatment of such investments for LCR purposes. In this regard please see our response on Question 9.2 below, as well as our Questions 9.40 to 9.49 below.</p>
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9.2	Please explain how possible changes in the prudential treatment would change the volume of the securitisation that you issue, or invest in (for the latter, split the rationale and volumes for different tranches).	<p>Changes that adjust RW density of the senior tranche of risk in a risk sensitive manner will change:</p> <ol style="list-style-type: none"> <li>1) Volumes of SRT issuance <ol style="list-style-type: none"> <li>a. Depending on the nature of the changes, potentially significantly for IRB banks, because it would likely present opportunities for banks to transfer risk on portfolios with lower RW density, because the capital adjustments resulting from the proposed changes will enable banks to transfer risk referencing such portfolios at a unit capital cost that would become viable for the originating bank as a result of the change.</li> <li>b. Potentially significantly for SA banks given that this segment has limited scope to use this tool, partly driven by the economic challenges arising in executing these transactions arising from the lack of risk sensitivity of the Prudential Framework.</li> </ol> </li> <li>2) Volumes of senior tranches, because globally banks naturally have appetite to invest in senior tranches of securitisation in 2 scenarios; <ol style="list-style-type: none"> <li>a. To form part of a low risk diversified HQLA book to meet LCR needs, and</li> <li>b. To finance corporate clients and other third-party originators through lending as part of their banking book.</li> </ol> </li> </ol> <p>In the case of a), proportionate haircuts, eligibility criteria and small adjustments to the way bank capital is calculated would give bank treasury functions, options to diversify exposure into what is currently a very limited pool of high-grade floating rate fixed income (which supports financial stability). Please see <a href="#">AFME LCR Survey</a>.</p>
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		<p>In the case of b) increased bank lending to corporates or other third-party originators at lower cost of borrowing through lenders structuring private securitisations, enabling banks to lend to corporates through the purchase of the senior note, thereby financing the corporate client at a cost of funding that reflects the reduced risk through a non-recourse, secured structure. Banks naturally have limited appetite for non-senior tranches of securitisation and the focus of the corporate client is invariably on funding, so the priority is senior funding via securitisation. However, often senior funding by the banks will attract additional investment from other institutional investors who have natural appetite for non-senior investment grade exposure and so the preference for the client is to extend the bank senior financing to include additional B, C notes, etc. in order that the corporate client can obtain additional funding (albeit at a greater cost commensurate with the greater risk.)</p> <p>One significant factor which limits the attractiveness of securitisations vs other asset classes as an investment for banks is a combination of the haircut levels applied to securitisation and the extensive eligibility criteria to meet (which gold plate Basel LCR requirements). Existing eligibility criteria to be refined, for example, to include within scope, tranches of STS securitisations with CQS1 and CQS2 ratings. (in line with Basel) with haircuts that are commensurate with the risk of Level 2A assets (i.e. increasing in steps down the rating scale from AAA to AA-) to limit the liquidity cliff risk inherent within the current framework which further disincentivises banks.</p> <p>Please refer to AFME's supporting materials for an estimation of first order change in supply as a result of LCR changes.</p>
9.3	Based on your answer to 9.1, please explain how possible changes in the prudential treatment could support the supply for and demand of SME and corporate exposure-based securitisation transactions.	Securitisations of SME and other corporate exposure categories are rarely executed in traditional public format for the reasons mentioned in the responses to Questions 2.1 and 9.1 above.

		<p>However, large corporate exposures constitute the largest asset class for synthetic SRT securitisation, followed by SME exposures.</p> <p>Indeed, in the case of SME exposures, the nature of these exposures (small nominal amount, lack of ratings or other publicly-available information, revolving nature, etc.) means that many of the other tools that are available to banks to manage their credit risk and capital requirements for other types of exposures (in particular credit insurance and credit derivatives) are not well-suited to credit risk mitigation of SME exposures. This means that synthetic securitisation is one of the key effective tools available to banks for this purpose.</p> <p>Even in the case of large corporate exposures, the significant reduction in liquidity in credit default swap markets, as well as the relatively penal treatment applied to credit insurance following the implementation of Basel 3 Final means that neither product can provide as efficient a credit risk mitigation technique as synthetic securitisation.</p> <p>That said, AFME members' view is that the securitisation framework in the CRR remains overly conservative taking into account the historical performance of synthetic securitisation. This includes the performance of European synthetic securitisations before and during the global financial crisis of 2008–09. In fact, there is no experience of losses being borne by the senior tranche(s) of such SRT securitisations, whether they are held by the originator or by third party banks as investors since the introduction of risk retention into the European capital requirements regulation in 2011. The conservative nature of this framework, however, means that SRT securitisation is much less efficient than it could be if the framework were recalibrated to take into account the actual performance of SRT securitisations over the last 20 years.</p> <p>By far the most significant impact here is the non-neutrality principle, as represented by the "p-factor" and the risk-weight floor which applies to the tranche risk-weights generated by the SEC-IRBA and SEC-SA formulae.</p>
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		<p>While AFME members acknowledge that the process of securitisation does introduce some additional risk which should be reflected in the Securitisation Framework, in our view, the capital surcharge imposed by the p-factor is grossly disproportionate to the level of additional risk entailed. The p-factor is also risk insensitive, in that it fails to take into account the way many of the risks associated with securitisation can be mitigated through structural techniques. A reduction in the capital surcharge (ie, reducing the p-factor) would therefore have a significant impact in reducing the cost of SRT securitisation, and therefore lead to a significant increase in banks using this risk transfer technique. It will in addition, leads to a more risk aligned capital requirement for securitisation positions which are invested into by institutions that are originated by third parties.</p> <p>In a similar vein, the risk-weight floor also reduces the ability of originators to take full advantage of the Securitisation Framework, and indeed means that originators are disincentivised from transferring more risk than might otherwise be the case because of the inability to apply a risk-weight below the floor to the retained senior tranche(s). In this regard, we again note that there are no examples of the retained senior tranche of SRT securitisations bearing losses over the last 15 years. However, the changes introduced to the CRR in 2019 had the effect of more than doubling the risk-weight floor for the retained senior tranche from 7% to 15%. Returning the floor to its original level of 7% would therefore significantly improve the efficiency of SRT securitisation, and consequently lead to a significant increase in banks originating such transactions or investing in securitisation originated by third parties.</p> <p>While the p-factor and the risk-weight floor are the two most significant factors, there are numerous other ways in which the securitisation framework is calibrated conservatively, thus reducing the efficiency of SRT securitisation as a credit risk mitigation and capital management technique and resulting in higher capital requirements compared</p>
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		<p>with the actual risk exposure for securitisation investments. These include the following:</p> <ul style="list-style-type: none"> <li>• The inability to take prepayment assumptions into account in calculating tranche maturity synthetic securitisations for the purpose of the SEC-IRBA and SEC-ERBA methodologies. This results in tranche maturity being significantly longer than is the case in practice, particularly in the case of some types of portfolios which experience a high rate of early refinancing.</li> <li>• The inability to apply the STS framework for on-balance-sheet securitisations where the protection is provided by protection providers who do not qualify for a zero per cent risk-weight under the CRR and do not post collateral. This is despite the fact that the securitisation framework already provides for capital to be maintained in respect of the resulting exposure to that protection provider as if the credit protection were a direct exposure to that provider, notwithstanding that the probability of the protection provider being required to pay the full amount of that exposure being extremely low given the "double default" nature of the protection provided in a synthetic securitisation. In this regard, see also our responses to Questions 7.4 to 7.8.</li> <li>• The assumptions underpinning the commensurate risk transfer tests set out in the EBA SRT Report of 2020, which assume an unrealistic assumption that most of the losses will occur in the final year of the securitisation. This increases the thickness of the tranches which are required to be transferred to investors to demonstrate commensurate risk transfer over and above that which would be required if applying more realistic assumptions to portfolio performance.</li> <li>• The overly-complicated methodology for being permitted to apply the derogation on Article 6(2) of the Final Draft RTS for the treatment of synthetic excess spread. AFME members' view is that effectively the same outcome could be achieved through a much simpler approach.</li> </ul>
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		<p>Separately from the broader issue of the impact of the non-neutrality principle discussed above, there are also some more targeted simple amendments which could be made to the securitisation framework which would have a significant impact on the ability of banks to provide financing to warehouse or conduit facilities. These are as follows:</p> <ul style="list-style-type: none"> <li>• The credit conversion factor (CCF) applied to liquidity facilities and undrawn credit lines granted by banks in securitisation transactions under Article 248 of the CRR is too binary, being 100% for liquidity facilities in general or 0% for facilities that are super senior and cancellable. This binary treatment was a reaction to the position under the Basel 1 Framework, which turned out not to be appropriate during the financial crisis. However, the resulting binary approach goes too far the other way and creates a significant discrepancy between the conversion factor for a regular corporate RCF (~40%) and a liquidity facility used in the context of a securitisation (100%). This is despite the fact that a liquidity facility used in a securitisation (and particularly in the case of a warehouse securitisation) will be subject to conditions precedent to drawings, and will also benefit from super senior ranking in the securitisation waterfall. Further unlike a regular corporate RCF which can be drawn in full at any time, drawings under a securitisation liquidity facility will only be for the purpose of managing cashflows. Such facilities may also be sized to be considerably larger than is likely to be required in order to provide headroom for the securitisation to increase in size, but subject to strict eligibility requirements that mitigate the risk associated with the larger facility size. As such, there is less likelihood of the facility being drawn in full. This punitive treatment of securitisation liquidity facilities makes such facilities much more expensive than would otherwise be the case, thereby hindering the amount of securitisation activity with the corollary of passing on a higher cost of financing to the real economy.</li> <li>• The rules for calculating <math>K_{IRB}</math> in the case of securitisations of exposures originated or serviced by clients of a bank is overly</li> </ul>
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		<p>conservative. For this purpose, a bank is not permitted to apply its own estimate of LGD, but is instead required to apply a fixed LGD of 50% for senior exposures and 100% for subordinated exposures. No distinction is drawn between secured and unsecured exposures (despite this having a very significant impact on actual LGD, as reflected in the 25% risk-weight applied to unsecuritised secured exposures under the F-IRB approach). Indeed, it is also greater than the 75% risk-weight which applies to unsecuritised exposures under the F-IRB. This is <i>before</i> the impact of the non-neutrality principle is taken into account in calculating the capital requirements for securitisation positions. Thus, the punitive treatment cannot be justified on the basis of the additional risk (or, more accurately, uncertainty) created by the process of securitisation. Alongside this, we believe that there is a need for review of the EBA RTS on the calculation of <math>K_{IRB}</math> (Commission Delegated Regulation (EU) 2024/1780).</p> <p>In addition to the above, and except as otherwise addressed in the responses to Questions 9.12 to 9.17, below, AFME members also generally support the proposals in Sections 3.2 and 3.3 of the Joint ESA report.</p>
9.4	<p>Does the prudential treatment of securitisation in the CRR appropriately reflect the different roles a bank can play in the securitisation chain, concretely the roles of originator (limb 'a' and limb 'b' of the definition of the originator in the Securitisation Regulation<sup>21</sup>), servicer and investor?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	
9.5	<p>If you answered no to question 9.4., please explain and provide suggestions for targeted amendments to more appropriately reflect the different roles of banks as originator, investor, and servicer.</p>	<p>The main distinction to draw here is between the position of the originator (when acting as an originator or counterparty to the securitisation) and the position of other investors or counterparties to the securitisation. Nevertheless, while recognising that such differences occur, AFME members do not consider that they justify</p>

		<p>applying a more conservative treatment for non-originator investors/counterparties than applies for the originator.</p> <p>Most of the additional "risk" that is associated with investing in a securitisation comes from the asymmetry that exists between the information available to the originator, which will often also be acting as the servicer of the securitised exposures, and the information which may be available to other investors or counterparties. However, this asymmetry is greatly reduced by the extensive reporting requirements which apply under Article 7 of the EUSR such that we do not think it justifies a differential different capital treatment for originators compared with other investors/counterparties.</p> <p>That said, while we consider that the existing securitisation framework is overly conservative for both originators and other investors/counterparties, for the originator, this conservative approach is even less appropriate for originators than it is for other investors/counterparties. This is because, where the originator is acting as an investor in the securitisation, the Securitisation Framework only applies to an originator when it achieves SRT (because in other circumstances the originator would continue to calculate its capital requirements in respect of the securitised exposures on an unsecuritised basis). Because of the assessment process applied by competent authorities to SRT securitisations, this also means that the originator will have been required to demonstrate to its competent authority that the securitisation achieves a level of risk transfer that is commensurate with the reduction in its RWAs (ie, the CRT test). This assessment process goes a long way to mitigating any additional risk (or, to put it better, any increased uncertainty) which may be considered to arise from securitisation, and therefore justifies modifying the Securitisation Framework so as to lessen the impact of the non-neutrality principle for the originator. One example of this is the current Article 270 of the CRR, which permits the originator of a synthetic STS securitisation to apply a reduced p-factor and risk-weight floor to</p>
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		the retained senior tranche in the securitisation. However, AFME members consider that this principle should be reflected more generally throughout Section 3 of Part Three, Title II, Chapter 4 of the CRR.
9.6	<p>Have you identified any areas of technical inconsistencies or ambiguities in the prudential treatment of securitisation in the CRR (other than the 'quick fixes' identified by the ESAs in the report JC/2022/66) that could benefit from further clarification?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
9.7	<p>If you answered yes to question 9.6., please explain and provide suggestions for possible clarifications.</p>	<p><b><i>Specific Credit Risk Adjustments</i></b></p> <p>Article 255 of the CRR currently requires that expected losses and the amount of any SCRAs are required to be included in the calculation of KIRB/KSA. While for IRB banks Article 251(2) of the CRR provides that the expected losses for the securitised exposures are deemed to be zero, the effect of which is that they will be excluded for the purposes of the capital deduction in Article 159 of the CRR, the SCRAs will still be deducted from capital pursuant to Article 36(1)(a) of the CRR, leading to a double-counting. Accordingly, the amount of any SCRAs that are already deducted from capital pursuant to Article 36(1)(a) of the CRR should not also be required to be included in the calculation of KIRB/KSA.</p> <p><b><i>Application of Article 178 to securitisation positions</i></b></p> <p>It should be clarified that securitisation positions are not in scope for the purposes of Article 178 of the CRR. The concept of "default" as used in Article 178 is not meaningful in the context of securitisation positions, which are designed to bear losses resulting from defaults in respect of underlying exposures. Both the SEC-IRBA and SEC-SA methodologies already take into account the effect of defaulted exposures in calculation of the tranche risk-weights. Further, even if there is a writedown in a securitisation position as a result of losses on the underlying exposures, that does</p>

		<p>not mean that the entire tranche should now be treated as defaulted.</p> <p>Further, in the case of a synthetic securitisation where an originator has an exposure to the protection provider, a default by the protection provider would be treated as an early termination event in respect, leading to the unwind of the securitisation, rather than suggesting that the securitisation position itself should be treated as a defaulted exposure.</p> <p><b><i>Application of Article 47a to securitisation positions</i></b></p> <p>In a similar vein, it should be clarified that securitisation positions are also not in scope for the purposes of the non-performing exposures regime in Article 47a of the CRR. This regime clearly was not drafted with securitisation positions in mind, which reflects the fact that, as with defaulted exposures, securitisation positions reflect the performance of the underlying portfolio and thus it makes no sense to talk about whether the securitisation position is itself performing or not.</p> <p><b><i>KIRB calculation error</i></b></p> <p>There is a drafting error in the formula for calculating KIRB in that the nominal amount of expected losses are included in the numerator without being multiplied by a risk-weight to as to make properly comparable to the RWAs for the unexpected losses. This should be remedied either by multiplying the expected losses by 1250%.</p> <p><b><i>Application of Securitisation Framework to accounting derecognition securitisations</i></b></p> <p>It should be clarified that where a bank securitises a portfolio in circumstances which achieve accounting derecognition, it should no longer be considered to be the "originator" of that securitisation for the purposes of the Securitisation Framework (which under Articles 244, 245 and 247 of the CRR could be taken to mean that the securitisation also needs to satisfy the requirements for significant risk transfer), albeit that the bank may still be the "originator" for the purposes of the EU Securitisation Regulation. This is consistent with the fact that, post-</p>
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		<p>securitisation, the exposures will have been entirely removed from the originator's accounting balance sheet, which has the same effect from a capital perspective as if the bank suffered a 100% loss on the portfolio upfront (although that will, of course be off-set by the purchase price received by the originator for the portfolio), and thus the capital impact of the sale has already been fully reflected by the bank. This is also consistent with Articles 111 and 166 of the CRR, both of which specify that the exposure value of an exposure shall be its accounting value. If the exposure value is therefore zero (on the basis that the exposure has been removed from the accounting balance sheet), it follows there is no risk transfer to be the subject of a SRT analysis. The bank would, of course, still be required to calculate its RWAs in respect of any exposures that it does retain to the securitisation notwithstanding the accounting derecognition, and the Securitisation Framework should apply for that purpose in the same way as it would for any other investment by a bank in securitisation by a third party.</p> <p><b><i>Application of Securitisation Framework to tranching credit risk mitigation of individual exposures</i></b></p> <p>Article 234 of the CRR provides that where an institution transfers part of the risk of a loan in one or more tranches, the Securitisation Framework shall apply. In most cases, this is an unworkable approach, as the tranching of a single exposure will not generally create a securitisation, and if it did, applying the Securitisation Framework would require the originator to demonstrate that the tranching achieves significant risk transfer (and undertake the SRT assessment process). At the same time, Articles 235(2) and 235a(2) of the CRR makes no sense where the protection applies on a first loss basis. If the intention is to apply the Securitisation Framework in these circumstances, then it should be clarified that the arrangement should be deemed to be a securitisation for this purpose (as in many cases it will not satisfy the definition of "securitisation" in the EUSR), and that there is no requirement to achieve SRT in respect of that deemed securitisation.</p>
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		<p><b><i>Calculation of the effect of credit risk mitigation for synthetic securitisation</i></b></p> <p>Article 249 of the CRR requires that funded and unfunded credit protection for securitisation positions is to be taken into account in calculating a bank's RWAs for those securitisation positions. This is particularly relevant in the context of synthetic securitisations, where the credit protection is the mechanism for transferring the risk in the first place (Article 245(4)(b) of the CRR).</p> <p>However, the rules for recognising the effect of unfunded credit protection in Articles 235–236a of the CRR cannot be applied directly to securitisation positions without some adjustment for various reasons. First, the application of the SEC-IRBA and SEC-SA methodologies do not always map exactly to whether the underlying exposures are assessed under the IRB or Standardised approach, and where the SEC-ERBA applies, that distinction is irrelevant. Secondly, the concept of whether or not the institution uses its own estimates of LGD in Articles 236 and 236a of the CRR is meaningless in the case of a securitisation position which has a specified risk-weight, rather than the originator determining a risk-weight taking into account the LGD of the securitisation position itself (which does not exist). AFME members therefore propose that it should be stated that in all cases, the originator should simply assign to the protected portion of the tranche the risk-weight which it would apply to a direct exposure to the protection provider, regardless of which securitisation methodology is being applied and regardless of whether the securitised exposures are assessed under the IRB or Standardised approach.</p> <p>In the case of funded credit protection, Article 245(5) of the CRR attempts to convert a modified application of the Financial Collateral Simplified Method into a risk-weight for the protection provider for the purpose of applying the rules for unfunded credit protection. This appears to stem from a need to treat SSPEs as if they were eligible unfunded protection providers (see the derogation in Article 249(4) of the CRR), but this</p>
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		<p>creates unnecessary complexity as there is no reason why the originator should not simply be permitted to look through to the funded credit protection directly. Further, the methodology in Article 249(5) applies a concept of "volatility-adjusted market value" which is not actually defined, but appears to be intending to capture the concept of "volatility-adjusted value" in Article 223(2) of the CRR. However, this is overly conservative. The FCSM does not apply a volatility haircut because the beneficiary is required to risk-weight the collateral. In contrast, the FCCM does not require the beneficiary to risk-weight the collateral, but instead haircut the value of the collateral. Article 249(5) effectively requires the originator both to risk-weight the collateral and apply a haircut. Given that most synthetic securitisations use either cash or high-quality securities collateral, the impact of this conservative approach is limited, but it does limit the ability to use other types of collateral.</p> <p><b><i>Eligibility of credit protection from ineligible protection providers</i></b></p> <p>Article 249(4) of the CRR only expressly permits SSPEs to act as eligible funded protection providers in respect of securitisation positions. This is because the protection provider also needs to provide eligible unfunded protection, which is then collateralised by the funded credit protection. However, it is widely understood that other types of entities can also act as protection providers, even if they are not included in the list of eligible unfunded protection providers in Article 201 of the CRR, provided that they provide collateral that complies with the requirements for funded credit protection. This should be rectified in the rules.</p> <p>In addition, the drafting of Article 201(1)(g) of the CRR suggests that entities falling under that paragraph are not eligible protection providers for securitisation. This is presumably a drafting imperfection, as it is inconsistent with Article 249(3) of the CRR, which explicitly contemplates that such entities are eligible, and then goes on to prescribe a minimum rating requirement. This inconsistency should be corrected.</p>
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		<p><b><i>Volatility haircuts to be applied to unrated securitisation positions</i></b></p> <p>The volatility haircuts that apply in Article 224(4) of the CRR only set out the haircut that applies to securitisation positions which are rated. However, Article 196(1)(h) of the CRR provides that securitisation positions are eligible collateral when they have a risk weight of 100% or lower under Articles 261 to 264 of the CRR. Articles 261–262 relate to the SEC-SA approach, which implies that the position need not be rated in order to be eligible. Article 222(4) should therefore specify the haircut that applies based on the risk-weight of the position rather than by reference to credit quality steps.</p> <p><b><i>Clarification of nominal amount for the defaulted exposures for the purposes of the "W" parameter in the SEC-SA formula</i></b></p> <p>Article 261(2) of the CRR provides that the "W" parameter to be used to calculate KA in the SEC-SA formula is equal to the ratio of the "sum of the nominal amount of underlying exposures in default to the sum of the nominal amount of all underlying exposures". It should be clarified that, for this purpose, the "nominal" amount of defaulted exposures is the accounting value of the defaulted exposures minus any amounts by which the tranches have already been written down to absorb the losses on those defaulted exposures (or which has been absorbed by excess spread).</p> <p><b><i>Treatment of defaulted exposures in calculation of attachment and detachment points in Article 256 of the CRR</i></b></p> <p>The calculation of the attachment and detachment points for each tranche in a securitisation in Article 256 of the CRR involves comparing the balance of the relevant tranche(s) to the balance of the securitised exposures. This creates an issue where the tranches have been written down to reflect losses on securitised exposures which remain in the securitised portfolio, as the sum of balance of all the tranches will now be less than the sum of the balance of all the securitised exposures, meaning that the attachment and detachment points no longer accurately reflect the point at which the tranches will bear future losses. To</p>
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		address this, it should be clarified in Article 256 of the CRR that outstanding balance of the portfolio should, for this purpose, be reduced by the amount of losses already allocated to the tranches in respect of the defaulted exposures that are still included in the securitised portfolio.
9.8	<p>Are there national legislations or supervisory practices which in your view unduly restrict banks in their potential role as investor, originator, servicer or sponsor of securitisation transactions?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
9.9	If you answered yes to question 9.8., please explain and provide examples.	<p>There are divergencies in supervisory practices which need to be harmonised (for further detail and examples, please see our response to Q. 6.1).</p> <p>Moreover, the EBA guidelines on the WAL calculation introduces complexity and should be simplified. One suggestion could be to align the calculation with the value used for market pricing.</p>
9.10	How do banks use the capital and funding released through securitisation? Please explain your answer and if possible, quantify how much of the released capital and funding is used for further lending to the EU economy.	<p>For many banks, the entirety of the capital released through securitisation is used to fund the business, either being deployed directly into further lending or into areas which enable the bank to grow, and in turn, finance more customers. To give one example, ABCP and private non-ABCP (true-sale securitisation) are market segments which both fund the real economy directly. Trade receivables, smaller car and leasing portfolios can all be securitised, allowing enterprises to receive funding which supports their growth by expanding their ability to process new orders from customers. Over 67% of private cash securitisations fund sellers in the EU, and over 74% directly fund the real economy (see <a href="#">European Benchmarking Exercise for Private Securitisations</a>).</p> <p>Synthetic securitisation also finances the real economy indirectly. Banks grant loans to a vast range of clients from retail customers to small, medium, and large enterprises; however, there is a limit to the number of loans banks can grant, as they must also retain regulatory capital in the case of potential default on these loans. There is, thus, a</p>

		<p>need for an instrument that can cover the growing need for further lending. SRT allows banks to transfer the credit risk on these loans to third-party institutional investors and reduce the amount of regulatory capital they must hold. By freeing up regulatory capital, banks can then grant additional loans to both retail customers and enterprises which has a direct benefit to the real economy. To give an illustration of how much of the released capital is used for further lending, the EIB signed a EUR 106 million synthetic securitisation transaction with an AFME member in December 2023 (see <a href="#">European Investment Bank, Press Release, 2023</a>). The released regulatory capital is enabling the AFME member to deploy EUR 425 million in new financing for French SMEs over a 2-year period, and at least EUR 85 million is being allocated to projects promoting the transition to climate neutrality. Transactions in which the EIB/EIF participates as investor invariably include an obligation by the bank to use released capital to fund SME or green lending. It does not limit banks' appetite to invite the EIB/EIF as investors because this objective forms part of their "modus operandi".</p> <p>Use of SRT enables banks both to more effectively rotate capital and in doing so improve the velocity of capital – that is to say, be more efficient with the use of a unit of capital to generate more income – which is key both to supporting a stronger banking system in the EU and one that supports EU banks in being more competitive vs global peers.</p>
9.11	<p>Do you agree that securitisation entails a higher structural model risk compared to other financial assets (loans, leases, mortgages) due to, for example, the inherent tranching? Please explain your answer.</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	<p>AFME members disagree that the process of securitisation itself changes the risk associated with the securitised exposures. That risk is unchanged, and the securitised exposures continue to be serviced as if no securitisation had occurred, meaning that the total losses which could be incurred across the entire securitised portfolio is unchanged. This is the capital charge reflected in <math>K_{IRB}/K_{SA}</math> which is then distributed across the tranches.</p> <p>While securitisation involves tranching, which does introduce complexity, this does not inherently increase model risk when the securitisation structure is well-managed and the</p>

		<p>underlying assets are transparent and of high quality. The tranching redistributes the risks differently, with a dedicated priority of payments, but there is no additional source of risk.</p> <p>European securitisation markets demonstrated resilience during the Global Financial Crisis (GFC), with low default rates across various asset classes. The risk profile of securitised assets is largely driven by the quality and predictability of the underlying asset pool, and well-established securitisation practices.</p> <p>Model risks associated with securitisation can be effectively managed through robust due diligence, transparency, and regulatory safeguards (such as those mandated under the Securitisation Regulation), making the model risk comparable to or even lower than that for other complex financial assets. Thus, with proper structuring and regulation, securitisation does not inherently carry a higher structural model risk than other financial instruments.</p> <p>It is true that securitisation does mean that there is a risk that any deficiencies in the model used to assess the risk of the securitised exposures may be amplified for the more junior tranches in the securitisation due to the effect of leveraging, with a bank holding only those junior positions unable to rely on the capital held on the more senior tranches to off-set that in the way it could do if holding the exposures on an unsecuritised basis. However, this does not present an issue in practice given that banks do not normally invest in the junior tranches of third-party securitisations.</p> <p>At the same time, this also means the impact of such model risk decreases as you move up the capital stack, such that there remains only negligible additional risk associated with the senior tranche. Against this backdrop, the impact of the combination of <i>both</i> the p-factor and the risk-weight floor is completely disproportionate to the actual level of additional model risk entailed by the securitisation process.</p> <p>Furthermore, the changes introduced with CRR3 from 1 January 2025 mean that there will be less reliance by banks on their own estimates of risk parameters, reducing the variability in RWA</p>
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		<p>outcomes through the IRB-A floors and SA output floors. This will significantly reduce model risk as there is less subjectivity involved in the RWA calculations in the first place.</p> <p>All that said, CRA ratings transition studies and analysis evidences through 30 years of data that default risk and ratings transition of European securitisation across tranches rated AAA to BB are commensurate with default and ratings transition data for other fixed income asset classes rated the same levels.</p> <p>Please refer to AFME's supporting materials for insight.</p>
9.12	<p>Do you consider that scope and the size of the reduction of the risk weight floors, as proposed by the ESAs, is proportionate and adequate to reflect the limited model and agency risks of originators and improve the risk sensitivity in the securitisation framework, taking into account the capital requirements for other financial instruments?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
9.13	<p>If you answered no to question 9.12., should the scope and size of the reduction of the risk weight floors be amended?</p> <p>For example, should it be extended to investors in a targeted manner (such as, for example, to investors in STS securitisations and under SEC-IRBA approaches only, to prevent discrepancies with the prudential treatment of covered bonds under the SA approach)?</p> <p>Or, on the contrary, should the scope be reduced to only include originators who are servicing the underlying exposures?</p> <p>Please justify your reasoning.</p>	<p>No. AFME Members support the re-introduction of a 7% RW floor in all approaches for STS securitisations (cash and synthetic) for banks in the role of originator, sponsor or investor and 12% for non-STs transaction. In our view, the more limited approach proposed by the ESAs in Section 3.3.1 of the ESA Report is overly conservative and does not accurately reflect the actual performance of securitisations in the EU throughout the credit cycle. Recognising that the existing calibration is completely disproportionate to the actual risk should be the starting point, and that leads to applying the 7% risk-weight floor to STS securitisations across the board rather than carving out a sub-set of securitisations for that purpose. Similarly, there is no need to create additional conditions in order for a 12% risk-weight floor to apply to non-STs securitisations.</p>

		<p>As an alternative approach, AFME members also support the proposals set out in the Paris Europlace July 2024 paper, which would set the floor at the lower of 15% and a percentage equal to <math>10\% \times K_{IRB}/K_{SA} \times 1250\%</math>. This would be a more risk-sensitive approach, which balances recognition of the need for a risk-weight floor against the unsecuritised risk-weight of the securitised exposures. This would ensure that the benefits of securitisation can apply equally to all asset classes, unlike the current positions where the fixed floor means that securitisation is more efficient for riskier asset classes than it is for less risky ones.</p> <p>AFME members also consider that it is appropriate for the reduced risk-weight floor to apply to all of originators, sponsors and investors, rather than being limited to the originator only. There is no meaningful difference in the risk to which an investor is exposed in relation to the senior tranche of a securitisation compared with that to which an originator holding that same position would be exposed which justifies the more punitive treatment for investors, and this is borne out by credit rating agency data.</p> <p>In addition, for both STS and non-STS transactions:</p> <ul style="list-style-type: none"> <li>• A minimum level of granularity of 2% should be applied, instead of the 0.5% recommended by the ESAs;</li> <li>• The "thickness of the sold non-senior tranches" criterion proposed by the ESAs should not be implemented to ensure the new rules do not introduce additional cliff-edge risk into then framework.</li> </ul> <p>For a more detailed explanation of our position, please see <a href="#">Adjustments to the Securitisation Framework – CRR3 / CRD6</a>.</p>
9.14	Do you consider that the ESAs' proposed accompanying safeguard, with respect to the thickness of the sold non-senior tranches, is proportionate and adequate in terms of ensuring the resilience of the transactions?	



	<ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	
9.15	<p>If you answered no to question 9.14., please provide and explain alternative proposals to ensure a sufficient thickness of the sold non-senior tranches to justify a possible reduction of the risk-weight floor in an efficient and prudent manner.</p>	<p>No. As set out in response to Question 9.12, AFME members consider that this requirement is overly conservative and should not be implemented. The risk-weight formulae already provide sufficient protection against securitisations insufficient risk is being transferred to investors.</p> <p>Further, as a practical matter this requirement is unnecessary. All SRT securitisations in the market have protected tranches which detach above <math>K_{IRB}/K_{SA}</math>, because otherwise the resulting risk-weight of the senior tranche would be significantly above the floor anyway. Including additional conditions along these lines therefore simply complicates the framework without having any real impact on the outcome.</p> <p>Again, see also <a href="#">Adjustments to the Securitisation Framework – CRR3 / CRD6</a>.</p>
9.16	<p>Do you consider that the other three safeguards as proposed by the ESAs (amortisation structure, granularity and, for synthetic securitisations only, counterparty credit risk) are proportionate and adequate in terms of ensuring the resilience of the transactions?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	
9.17	<p>If you answered no to question 9.16., please provide and explain alternative proposals for safeguards that would effectively ensure the resilience of the transaction and would justify the reduction of risk-weight floors.</p>	<p>As set out in response to Question 9.12, AFME members consider that these requirements are overly conservative and should not be implemented.</p> <p>In particular, the minimum granularity requirement is too restrictive and would mean that most non-SME corporate loan portfolios (which represent by far the largest segment of the SRT market) would not be eligible for the reduced risk-weight despite there being no evidence at all securitisations of non-SME corporate loans securitisations perform in such a way as to suggest</p>

		<p>there is a greater likelihood of the senior tranche bearing losses.</p> <p>Again, see also <u>Adjustments to the Securitisation Framework – CRR3 / CRD6</u>.</p> <p>In general, AFME members disagree with the premise of Q. 9.17. As noted above, in our view the current Securitisation Framework is overly conservative, so the question is not what alternative safeguards could be proposed to ensure resilience of transactions in order to justify a reduced risk-weight floor, but rather what is the correct risk-weight floor to apply given the actual level of risk and observed performance of securitisations under the existing framework for many years now. As explained above, we consider that the lower risk-weight floor is justified <i>without</i> the need for additional safeguards. Indeed, as set out in our response to Question 9.3 above, we consider that there should be a broader recalibration of the Securitisation Framework to reduce the overly conservative bias in the current framework.</p> <p>Please refer to AFME's supporting materials.</p>
9.18	<p>If you answered no to question 9.16., as an alternative, instead of these three safeguards, taking into account the need to ensure simplicity, would it be preferable to limit the reduction of the risk weight floor to STS transactions only? Please explain.</p>	<p>No. Please see responses above.</p>
9.19	<p>What would be the expected impact of a possible reduction of the risk weight floor on EU securitisation activity?</p> <p>Please explain any possible impact on different types of securitisations (traditional securitisation, synthetic securitisation), from both supply and demand sides.</p>	<p>It depends on a) how it is implemented and b) how the effect of its implementation combines with the effect of an adjustment to the prudential framework, and c) the impact of these 2 effects on the pricing of distributed risk.</p> <p>For Synthetic SRT, it could be envisaged that the combination of a) and b) may well result in the sale of a greater percentage of the mezzanine risk with presumably a net positive impact on micro and macro prudential risk. A repricing of the mezzanine risk to reflect reduced leverage in the sold tranche would further support these outcomes.</p> <p>For traditional securitisation, in which banks are lending to clients, the combination of a reduced</p>

		RW floor and adjustments to the prudential framework for senior tranches should have the effect of improving returns on regulatory capital and therefore on a cost-plus basis, improve pricing for borrowers.
9.20	<p>Do you consider that the current levels of the (p) factor adequately address structural risks embedded in securitisation, such as model risk, agency risk and to some extent correlation, as well as the cliff effects?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	
9.21	<p>If you answered no to question 9.20., please provide the justification, and provide quantitative and qualitative data, for whether and how the (p) factor overestimates the risks and inappropriately mitigates the cliff-effects, for specific types of securitisation exposures.</p>	<p>The p-factor amounts to a simple overcapitalisation requirement for a given portfolio of exposures when held in securitised form. We echo the PRA's views (CP 13/24) that this degree of overcapitalisation is not driven by the degree of model and agency risk. While the p-factor under the SEC-IRBA does vary in accordance with a formula, that formula relates almost entirely to underlying securitised exposures rather than the structure of the securitisation itself. As such, to the extent there are any model risks relating to the securitised exposures, the place to address those is in the model itself, not by applying a capital surcharge when those exposures are securitised.</p> <p>In addition, to the extent that the p-factor is intended to address model and agency risks, then it applies in exactly the same way regardless of what steps may be taken to mitigate those risks in the securitisation.</p> <p>The starting point for assessing the appropriateness of the p-factor is to identify what risks it is intended to mitigate. This is manifestly not the case with the SEC-SA, where it appears that a p-factor of 1 has been largely plucked out of thin air. There is no reason to consider that the process of securitisation <i>doubles</i> the risk associated with the securitisation (as implied by a p-factor of 1). In a similar vein, while AFME members obviously support a lower p-factor for STS securitisations, it is not at all clear what features of the STS regime</p>

		<p>distinguish the resulting risk of the securitisation to an extent that the overall capital charge of the securitisation is reduced to 75% of that which applies to a non-STS securitisation.</p> <p>While AFME members acknowledge that some level of increase in the total capital charge for a securitised portfolio is necessary to distribute across tranches in excess of <math>K_{IRB}/K_{SA}</math>, as it would be inappropriate for such tranches to carry a 0% risk-weight, the current level of over-collateralisation is simply too high, and it is not clear why this is necessary given the presence of the risk-weight floor in any case.</p> <p>Please also see our response to Question 9.11, above.</p> <p>In addition, AFME members have conducted impact analyses reviewing the impact of both SEC-IRBA and SEC-SA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlights their effects but also the effect of proposed positions.</p> <p>Anecdotally, in simulations performed by one AFME member, non-STS SEC-SA transactions (<math>p</math>-factor = 1) are not executable. Even where all of the regulatory expected and unexpected losses are transferred via the non-senior tranches (even taking into account significant additional credit enhancement), the risk-weight of the retained senior tranche is still greater than 50% of the underlying pool risk-weight, which makes no sense from a risk perspective, as the credit risk borne by retained senior tranches is close to zero. Essentially, when the <math>p</math>-factor increases beyond a certain level (<math>\sim 0.5</math>), the calibration becomes too insensitive to credit enhancement such that the resulting risk-weight on the retained senior tranche becomes disconnected to the underlying credit risk. In other words, even if the senior tranche attaches well above <math>K_{SA}</math>, its risk-weight remains at levels that are completely disconnected from its credit risk. Against this backdrop, AFME members have previously made the following proposals:</p> <ul style="list-style-type: none"> <li>• Introducing a <math>p</math>-factor of 0.25 for SEC-SA for STS securitisations and of 0.5 for SEC-SA for</li> </ul>
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		<p>non-STS securitisations (for banks acting in the role of originator, sponsor or investor). While we note that this proposal has been implemented in CRR3 for the purposes of output floor calculations, we consider that it is appropriate to extend these reductions to <i>all</i> applications of the SEC-SA.</p> <ul style="list-style-type: none"> <li>Recalibrating the fixed parameters that are components of the p-factor for SEC-IRBA with a floor of 0.1 and maximum of 0.3 for STS securitisations, and a lowered floor of 0.25 and maximum of 0.75 for non-STS securitisations (for banks acting in the role of originator, sponsor or investor).</li> <li>Recalibrating the SEC-ERBA and IAA approaches accordingly.</li> </ul> <p>For a more detailed explanation of our position, please see <a href="#">Adjustments to the Securitisation Framework – CRR3 / CRD6</a>.</p>
9.22	<p>Do you consider that potential targeted and limited reductions to the (p) factor may increase securitisation issuance and investment in the EU, while at the same time keeping the capitalisation of the securitisation tranches at a sufficiently prudent level?</p> <ul style="list-style-type: none"> <li>Yes</li> <li>No</li> <li>No opinion</li> </ul>	<p>Yes. As noted in our answers above, AFME members consider that the current calibration of the Securitisation Framework, including the p-factor, is overly conservative, such that a reduction in the p-factor, even if combined with reduction of the risk-weight floor, would mean that capitalisation of securitisations remains at a sufficiently prudent level.</p> <p>AFME members have conducted impact analyses reviewing the impact of both SEC-IRBA and SEC-SA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlights their effects but also the effect of proposed positions.</p>
9.23	<p>If you answered yes to question 9.22., what criteria should be considered when considering such targeted and limited reductions? You may select more than one option.</p> <ul style="list-style-type: none"> <li>Exposures held by originators versus investors</li> <li>Exposures in STS versus non-STS securitisations (beyond the differentiation already provided for in Article 260 and in Article 262 CRR)</li> </ul>	<p>AFME members do not consider that any criteria need to be applied to restrict the application of a reduced p-factor in the ways suggested here.</p>

	<ul style="list-style-type: none"> <li>• Exposures in senior versus non-senior tranches</li> <li>• Exposures calculated under different capital approaches</li> <li>• Other criteria</li> </ul>	
9.24	<p>As regards your answer to 9.22., please provide quantitative and qualitative data on the likely impact of possible targeted and limited reductions to the (p) factor as investigated above, in particular how such targeted reductions would avoid cliff effects and undercapitalisation of mezzanine tranches and, how they would not create incentives for banks to invest in mezzanine tranches.</p>	<p>AFME members have conducted impact analyses reviewing the impact of both SEC-IRBA and SEC-SA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlights their effects but also the effect of proposed positions.</p> <p>AFME members focus remains on prudential adjustments to the exposure most relevant to banks - the senior tranche – and AFME's proposals have this in mind.</p>
9.25	<p>As regards your answer to 9.22, please provide the data on how they would have a positive impact on the issuance of securitisation, the investments in securitisation, and the placement of securitisation issuances with external investors, for different types of securitisations (traditional securitisation, synthetic securitisation).</p>	<p>AFME members have conducted impact analyses reviewing the impact of both SEC IRBA and SECSA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlights their effects but also the effect of proposed positions.</p>
9.26	<p>Do you consider that the current approach to non-neutrality of capital requirements as one of core elements of the securitisation prudential framework, leads to undue overcapitalisation (or undercapitalisation) of the securitisation exposures, in particular when compared to the realised losses and distribution of the losses across the capital structure (different tranches of securitisation) over a full economic cycle? Please explain your answer.</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>AFME members have conducted impact analyses reviewing the impact of both SEC-IRBA and SEC-SA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlight their effects but also the effect of proposed positions.</p> <p>As outlined in our responses above, AFME members consider that the current Securitisation Framework is overly conservative and leads to significant overcapitalisation of securitisations when compared with the performance of such securitisations over the capital cycle. Please refer to AFME's supporting materials to review the relevant data.</p> <p>There are no recorded examples where the senior retained tranches of a SRT securitisation executed in the EU have borne losses, or even come close to doing so, given the overly-conservative tranching enforced by both the SEC-IRBA and SEC-SA</p>

		<p>formulae. Furthermore, there have been little (if no evidence) of losses borne by European senior securitisation financing exposures since the GFC where bank has acted as an investor.</p> <p>The reality is, SRT securitisations function in exactly the way they are meant to, and really do transfer risk away from the banking sector. This is a positive contribution to the safety and stability of the banking system, and rather than being viewed with suspicion or as something to be discouraged, SRT securitisation should instead be viewed as an important part of proper credit risk and capital management by banks. The prudential treatment of securitisation should reflect that.</p> <p>The current Securitisation Framework has been calibrated based largely on the experience of US sub-prime mortgage securitisation pre-2008, which is completely inappropriate for the EU market.</p>
9.27	<p>If you answered yes to question 9.26, please justify your reasoning and provide quantitative and qualitative data to show the extent of the undue non-neutrality (overcapitalisation or undercapitalisation), in particular when compared to the realised losses and distribution of the losses across the capital structure, taking into consideration the need to cover a full economic cycle.</p>	<p>See above. There are no recorded examples where the senior retained tranches of a SRT securitisation executed in the EU have borne losses, or even come close to doing so, given the conservative tranching enforced by both the SEC-IRBA and SEC-SA formulae.</p> <p>Furthermore, there have been little (if no evidence) of losses borne by European senior securitisation financing exposures since the GFC where bank has acted as an investor.</p> <p>AFME members have conducted impact analyses reviewing the impact of both SEC-IRBA and SEC-SA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlights their effects but also the effect of proposed positions.</p>
9.28	<p>Based on your answer to 9.26., do you consider that alternative designs of the risk weight functions, such as an inverted S-curve, or introducing a scaling parameter to scale the KA25 downwards, within the current halfpipe design, as investigated in the Section 3.3.2 of the EBA report, have potential to achieve more proportionate levels of capital non-</p>	<p>As the EBA set out in Section 3.3.2 of its report dated 12/12/22 within which it debates medium to long term considerations which likely would need to be brought before the Basel Committee, AFME members have significant concerns that the timeline to resolution within this forum is far longer than the timeline available to ensure that securitisation contributes to meeting the pressing</p>

	<p>neutrality and capital distribution across tranches, address the potential cliff effects more appropriately and achieve prudential objectives?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>financing needs within the EU over the next decade.</p> <p>We do not consider that alternative designs of the risk weight functions, such as an inverted S-curve, have potential to achieve more proportionate levels of capital non-neutrality and capital distribution across tranches, address the potential cliff effects more appropriately or achieve prudential objectives.</p> <p>However, the alternative of or introducing a scaling parameter to scale the KA downwards, within the current halfpipe design, would have some potential to achieve more proportionate levels of capital non-neutrality and capital distribution across tranches, address the potential cliff effects more appropriately and achieve prudential objectives.</p> <p>AFME members reason that the concerns cited above underpin its proposal for the application of simplified adjustments both to P factors and RW floors. The effect of the combined approach should mitigate concerns that have arisen in relation to elevated cliff risk.</p>
9.29	<p>If you answered yes to question 9.28, please specify the impact of such alternative design compared to the existing risk weight functions and explain an appropriate calibration of such alternative designs and possible safeguards for the measures to achieve prudential objectives.</p>	<p>AFME members have conducted impact analyses reviewing the impact of both SEC-IRBA and SEC-SA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlights their effects but also the effect of proposed positions.</p>
9.30	<p>Do you agree with the conditions to be met for SRT tests as framed in the CRR (i.e. the mechanical tests - first loss and mezzanine tests, and the supervisory competence to assess the commensurateness of the risk transfer, as set out in Articles 244 and 245 of the CRR)? Are the SRT conditions effective in ensuring a robustness and consistency of the 'significant risk transfer' from an economic perspective?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>AFME members view the mechanistic tests in Articles 244(2) and 245(2) of the CRR as clear and relatively straightforward to apply.</p> <p>The same cannot be said for the commensurate risk transfer test, which is not derived from the Basel Framework. As expressed in the CRR, this is a vague test which gives competent authorities a broad power to disallow the recognition of SRT for a given securitisation. It is, however, difficult to codify this test, as can be seen from the EBA's attempts to do so in both its 2017 Discussion Paper on SRT and its 2020 Report on SRT. In both cases, market participants have demonstrated how the formulaic tests proposed by the EBA are</p>



		<p>both difficult to comply with (despite the fact that competent authorities have not had concerns that existing SRT securitisations fail to achieve SRT) and produce anomalous outcomes in many cases.</p> <p>We also note that both the 2017 and 2020 EBA proposals on CRT have their issues, and yet have never been the subject of a proper industry consultation. AFME members support the European Commission providing the EBA with a mandate to undertake a formal consultation on these tests before any attempt is made to introduce them into the formal regulatory framework.</p>
9.31	<p>If you answered no to question 9.30, do you consider that the robustness and efficiency of the SRT framework could be enhanced by replacing the current mechanical tests with the PBA test? The PBA test could be based on the recommendations in the EBA report, while the recommendations on the allocation of losses to the tranches could be reconsidered.</p>	<p>As with the CRT tests mentioned in our response to Question 9.31, the PBA test has never been formally consulted on. There would also need to be a consultation on this test so that it becomes a formal piece of regulation.</p>
9.32	<p>Do you consider the process of the SRT supervisory assessments to be efficient and adequate?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	<p>Overall, the SRT assessment process has become more responsive over the years and many originators receive a non-objection on time. We cannot say, however, that the process is "efficient and adequate" for at least two reasons.</p> <p>First, the templates used to inform the JST of a new transaction are too burdensome (often involving the same information being provided several times in different formats), especially for "repeat deals", whose initial notification could be streamlined. In addition, for SRT securitisations with new or unusual features or underlying assets, the 3-month scrutiny period may be exceeded significantly, so we believe that it would also be useful to streamline the supervisory process for these non-repeat transactions.</p> <p>Secondly, the EBA 2020 Report on SRT has introduced significant regulatory uncertainty. The recommendations set out in this report are officially non-binding but some of them have gradually become mandatory in practice, without any clear statement from competent authorities as</p>

		<p>to which of these recommendations they see as binding and which they do not. As a result, originators cannot have a clear view of which EBA recommendations will de facto become binding, partly because some of the recommendations are vague and impractical as worded in the EBA Report, so significant fine-tuning is necessary. This regulatory "grey area" is deeply regrettable in the context of a highly regulated activity.</p> <p>Aa with the PBA and CRT tests, the SRT process has not been the subject of a formal consultation. It should be before those proposals become part of the formal regulatory framework.</p>
9.33	If you answered no to question 9.32., please provide justifications and suggestions how the SRT assessment process could be improved further.	Please see our answer to Question 9.32.
9.34	<p>Should the process of the SRT supervisory assessments be further specified at the EU level (e.g., in guidelines, based on a clear mandate in Level 1), or should it be rather left entirely to the competent authorities to set out their own process?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>We agree that it would be beneficial for the industry for the SRT supervisory assessment to be further specified at the EU level to the extent that it would foster standardisation. We disagree that it should be left entirely to the competent authority to set out their own process.</p>
9.35	If you answered yes to question 9.34., please provide suggestions.	Please see our answer to Question 9.34.
9.36	If you are a supervisor, how would a change in the SRT regulatory framework (in particular on the SRT tests and the process of SRT supervisory assessments) impact your supervisory costs?	N/A
9.37	<p>Do you consider that the transitional measure will remain necessary and should be maintained, in case of introduction of other changes to the prudential framework?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	

9.38	<p>If you answered yes to question 9.37., please explain why and whether there are any alternative measures that could be more appropriate to achieve the original objective of the transitional measure.</p>	<p>As discussed at length during the negotiations over CRR3, the reduction in the p-factor is absolutely essential to the viability of SRT securitisations for IRB banks which become constrained by the output floor. While it is by no means a perfect solution, in the absence of a wholesale review of the Securitisation Framework, this transitional measure will remain necessary. In addition, any reforms to the Securitisation Framework must take into account the need to address the problem created by applying the SEC-SA to a securitisation which has been structured under the SEC-IRBA.</p> <p>Consideration should also be given to a general reduction in the p-factor for the purposes of the SEC-SA, possibly along the lines currently being proposed by the UK PRA in its Consultation Paper CP 13/24. As discussed in our response above, AFME members' view is that the current SEC-SA p-factor of 1 (for non-STs) and 0.5 (for STs) is simply too conservative and does not reflect the actual level of risk associated with securitisation. This is particularly the case given that <math>K_{SA}</math> will almost always be higher than <math>K_{IRB}</math> in the first place, and so that actual capital requirements under the SEC-SA will always be higher than for a SEC-IRBA securitisation applying the same level of p-factor.</p>
9.39	<p>If you answered yes to question 9.37, do you consider that a potential targeted and limited reduction of the p-factor might affect the effectiveness of the transitional measure under the output floor?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Please see our response to Question 9.21, above. If these amendments were introduced, then the transitional measures may no longer be necessary. However, please also note our responses to Questions 9.37 and 9.38.</p>
9.40	<p>Does the liquidity risk treatment of the securitisation exposures under the LCR Delegated Regulation have a significant impact on banks' securitisation issuance and investment activities and on the liquidity of the securitisation market in the EU?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>	

	<ul style="list-style-type: none"> <li>No opinion</li> </ul>	
9.41	<p>As regard to your answer to 9.40., please explain the impact on banks' issuance of securitisation, investment in securitisation, and relative importance of the liquidity treatment under the LCR in the activity of the primary and secondary securitisation markets.</p>	<p>AFME members have conducted impact analyses in relation to this question. Please refer to the materials accompanying AFME's response which highlights the importance.</p> <p>In respect of issuance, reduced demand resulting from both first and second order effects impacts investors' capacity to absorb senior ABS paper and therefore constrains issuance volumes.</p> <p>In respect of banks' investments in securitisation, AFME's LCR survey of bank treasuries (<a href="#">here</a>) identified several inhibitors to investing in ABS as part of banks' HQLA. The most serious ones in order of priority are:</p> <ul style="list-style-type: none"> <li>(1) LCR haircut levels;</li> <li>(2) LCR eligibility criteria; and</li> <li>(3) Lack of supply of eligible paper.</li> </ul> <p>The above list represents inhibitors creating first order effects. However, the current LCR treatment has second order effects, too, on product demand and liquidity (and therefore supply). The withdrawal of bank treasuries – natural buyer of senior ABS paper – from the market de facto reduces both the capacity of the investor base but also its granularity - 2 important factors that support pricing in the primary market and liquidity in the secondary market.</p> <p>In respect of impact on activity in the primary market, bank treasuries are natural buyers of senior European ABS paper, which has performed in line with expectations over the past 40 years (please refer to the relevant tables in AFME's supporting materials). The restoration of this investor base is an important component of normalisation of the demand side through increasing investor capacity and building back a granular investor base.</p> <p>In respect of impact on activity in the secondary market, the restoration of this investor base (i.e.</p>

		bank treasuries) will have an accretive effect on the market through increasing investor capacity and building back a granular investor base.
9.42	<p>Do you consider that the existing liquidity risk treatment of securitisation, in particular in terms of credit quality steps (CQSs) and haircuts applied to securitisations eligible for Level 2B HQLA, are adequately reflecting the liquidity and stress performance of securitisations, across the full economic cycle, including in crisis conditions, and in comparison, with the treatment of other comparable financial instruments?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• <b>No</b></li> <li>• No opinion</li> </ul>	
9.43	<p>If you answered no to question 9.42., please justify your reasoning, providing quantitative and qualitative data on the impact, and provide suggestions for what you would consider as appropriate and justified treatment in terms of CQSs, haircuts and other relevant requirements, without endangering financial stability.</p>	<p>In 2022, AFME published 2 studies which compare the liquidity of ABS against that of covered bonds and corporate bonds over a 10-year period (as far as access to the relevant data set was available), which covers several stressed periods within the economic cycle. ABS in both studies exhibited similar levels of liquidity to the other fixed income asset classes. These studies are available <a href="#">here</a> and <a href="#">here</a>. (The latter focuses on GBP-denominated securities.)</p> <p>AFME members have conducted impact analyses reviewing the impact of both SEC-IRBA and SEC-SA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlights their effects but also the effect of proposed positions.</p>
9.44	<p>With a change in the CQSs, haircuts and other relevant eligibility conditions to the Level 2B liquidity buffer, by how much would the volume of securitisations that you invest in, change?</p>	<p>AFME members have conducted impact analyses reviewing the impact of both SEC-IRBA and SEC-SA on use cases across both SRT and lending across a range of underlying asset classes. Please refer to the materials accompanying AFME's response which highlights their effects but also the effect of proposed positions.</p> <p>In isolation, changing the CQSs, haircuts and other eligibility conditions related to the Level 2B liquidity buffer would have a limited impact on</p>

		<p>banks' investment in securitisations as part of their HQLA portfolios. There would remain supply-side issues (e.g., narrow supply of eligible paper, limited universe of issuers) and demand-side issues (e.g. high capital charges, regulatory due diligence burden). There could be second order impacts; for instance, a reduction in haircuts would likely tighten issuance spreads, thus encouraging new issuers to the market, although this would take time.</p> <p>Thus, adjusting the CQSs, haircuts and eligibility conditions would only be efficient in increasing the volume of securitisations that banks invest in when combined with policies addressing the other impediments faced by market players (e.g. due diligence requirements, capital prudential treatment of securitisation tranches, RW floors – please see our response to Q. 9.49).</p> <p>These measures, when combined, would have both a demand-side and supply-side effect, hence contributing to the return of liquidity to the market. This could have the potential to significantly increase the volume of ABS that bank treasuries invest in as part of their HQLA portfolio. At a minimum, banks envisage a turnback to pre-2018 volumes.</p>
9.45	<p>Have the senior tranches of the STS traditional securitisations reached a sufficient level of market liquidity and stress resilience based on historical data covering a full economic cycle, including crisis conditions, and are there any additional solid arguments that could justify their potential upgrade from the Level 2B to Level 2A HQLA?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Whilst the STS regime was implemented in 2019, a strong proxy to STS eligible transactions has been issued for over 20 years, as represented by a subset of granular balance sheet consumer ABS and SME CLO transactions. Over this period, there have been events that have evidenced stress in selective asset classes, such as:</p> <ul style="list-style-type: none"> <li>• Government bonds (Emerging market crisis)</li> <li>• UK Gilts (LDI crisis)</li> </ul> <p>This demonstrates that it is important that banks can source liquidity from a diversified pool of HQLA eligible assets given that they each exhibit comparatively more or less liquidity resulting from differing stresses. Please also refer to the <a href="#">AFME LCR Survey</a> dated 4 June 2024.</p>

		<p>The senior tranches of STS securitisations are safe, provide good yield and can enhance management of the liquidity buffer. Moreover, they are mostly floating rate instruments, meaning they are less sensitive to interest rate movements.</p> <p>Please refer to supporting materials for AFME's proposed adjustments to LCR eligibility.</p>
9.46	<p>If you answered yes to question 9.45., please provide arguments and data, that could justify the potential upgrade from Level 2B to Level 2A HQLA.</p>	<p>Please refer to the:</p> <ul style="list-style-type: none"> <li>• <a href="#">AFME LCR Survey</a> which found that securitisation as an investment grade floating rate product can be a strong source of liquidity in stressed scenarios, such as the UK's 2022 LDI crisis during which ABS proved to be very liquid. Contrary to the <a href="#">IC advice</a> which found the current framework to be fit for purpose, the Survey also found that regulatory constraints, such as haircut levels and the LCR eligibility criteria, reduce appetite in the product for HQLA purposes.</li> <li>• RCL research report commissioned by AFME, "<a href="#">Comparing CB, ABS and Corporate Bond Liquidity</a>"; and</li> <li>• RCL research report commissioned by AFME, "<a href="#">Comparing ABS and Covered Bond Liquidity</a>",</li> </ul> <p>which both show that senior ABS have provided equal or superior level of liquidity compared to these other asset classes over the sample period that was examined.</p>
9.47	<p>Considering your answer to 9.46, with an upgrade of securitisations from Level 2B to Level 2A HQLA, by how much would the volume of securitisations that you invest in, change?</p>	<p>In Q2 2024, the HQLA portfolios of SI banks cumulatively totalled EUR 4.99 trillion (see <a href="#">ECB Supervisory Banking Statistics for significant institutions</a>). Anecdotally, AFME members hold around 0.3% of their HQLA in securitisations. If banks invested 5% of their HQLA in securitisations, this would result in an increase of EUR 234.5 billion. As it stands, AAA EU STS outstanding (sold) stands at EUR 105 billion, so issuance needs to increase. However, as per our response to Q 9.44, adjusting the LCR treatment of securitisations is unlikely to have such an impact by itself, unless combined with other measures</p>

		<p>addressing the other impediments posed by the current Securitisation Framework.</p> <p>Also, any concerns arising in relation to hitting a cap of 15% are overstated in this context.</p>
9.48	<p>Are there any impediments in the current liquidity framework that prevent or discourage banks from making a better use of their liquidity buffer capacity and from increasing their investments in securitisation exposures?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
9.49	<p>If you answered yes to question 9.48, please specify what are the impediments and provide suggestions for targeted amendments to make the liquidity treatment more proportionate, without endangering financial stability. Provide estimates of the potential additional volumes of securitisations that could be included in banks' liquidity buffers.</p>	<p>The impediments to increasing ABS investment are rooted in the incremental work (Article 5 DD, STS verification) required for a limited benefit (high haircuts creating limited liquidity attribution, low LCR eligible supply). Both sides of the equation require improving to make the cost benefit ratio more balanced and render it more comparable to alternative fixed income asset classes.</p> <p>The ECB eligibility criteria is another impediment. Currently, the ECB accepts securitisations backed by residential mortgages, SME loans and consumer loans for inclusion in the Eurosystem's collateral framework, but not those backed by mid-size and large corporate loans. This presents a barrier for banks who need to use retained tranches for liquidity purposes and for banks as investors, as they are not allowed to pledge them in the Eurosystem.</p> <p>From a financial and operational perspective, even if the HQLA treatment were improved, such improvement would not be enough by itself to incentivise banks to increase investments in senior tranches. Reduced appetite for senior tranches specifically results from a regulatory triple whammy: liquidity (discounted HQLA at best), elevated capital charge vs comparable asset classes and lastly the regulatory DD burden introduced by Article 5, exacerbated for STS labelled issuance (STC eligibility is not a requirement by Basel). Consequently, changes to</p>



		<p>the LCR should be complemented by the following measures:</p> <ul style="list-style-type: none"> <li>• Simplification of due diligence requirements;</li> <li>• Improvement of the prudential treatment of the securitisation tranches bought, particularly in relation to RW floors; and</li> <li>• The recognition of non-EU securitisations as EU equivalent.</li> </ul>
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## 10. Prudential treatment of securitisation for insurers

	Question	Answer
10.1	<p>Is there an interest from (re)insurance undertakings to increase their investments in securitisation (whether a senior tranche, mezzanine tranche, or a junior tranche)?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
10.2	<p>If you answered yes to question 10.1., please specify the segments of securitisations in which (re)insurers would be willing to invest more (in terms of seniority, true sale or synthetic nature, type of underlying assets, etc.) and describe the potential for increase in the share of securitisation investments in (re)insurers' balance sheet.</p>	<p>Yes – we have had categoric feedback from insurers that there would be material interest in securitisation investments, across the capital structure if it were not for the elevated capital charges associated with securitisation positions vs vanilla credit (on a like-for-like rating basis).</p> <p>We would expect interest across STS, Non-STS, senior, non-senior, investment grade rated or unrated tranches, in true sale format.</p> <p>Underlying assets could be a variety ranging from SME loans, corporate loans, residential mortgage, consumer assets, subscription finance, private debt portfolios (real estate debt, corporate debt, infrastructure debt), digital infrastructure, and other esoteric asset classes.</p>
10.3	<p>Is there anything which in your view prevents an increase in investments in</p>	<p>Article 5 of the SECR: DD requirements directly impact both STD formula and Internal model</p>

	<p>securitisation by (re)insurance undertakings?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>insurers whilst Solvency II capital framework directly impacts STD formula insurers and indirectly impacts Internal model insurers. Depending on the insurer business model (eg. P&amp;C, Life, etc.) and the jurisdiction, ABS appetite will differ.</p> <p>Please refer to the materials accompanying AFME's response.</p>
10.4	<p>Is Solvency II providing disincentives to investments in securitisation for insurers which use an internal model?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>The response will depend on the jurisdiction of the insurer and the organisational structure of the insurer. Depending on the jurisdiction, the supervisor will be more or less mindful of the output variance between the STD formula approach and the output of the Internal Model of the insurer. To the extent there is a significant variance, it will likely attract increased scrutiny. In some jurisdictions, Internal model insurer capital will be directly influenced by STD formula outputs.</p>
10.5	<p>Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for the senior tranches of STS securitisations proportionate and commensurate with their risk?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Whilst the current calculation is more aligned than for STS non-Senior and non-STs, the longer the duration, the greater the divergence from comparable asset classes, which skews for insurers appropriate returns on capital employed.</p> <p>Please see <a href="#">AFME Solvency II research paper</a> investigating this topic in some detail.</p>
10.6	<p>Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for the non-senior tranches of STS securitisations proportionate and commensurate with their risk?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	<p>Please refer to 10.5 above.</p>
10.7	<p>Is it desirable that Solvency II standard formula capital requirements for spread risk differentiate between mezzanine and junior tranches of STS securitisations?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>	<p>It is important that the mezzanine investment grade tranches be risk sensitive given that there is natural appetite for this risk by insurers. Therefore, it is also important that junior tranches also be risk sensitive in order to mirror the economic risk of that part of the capital structure and to correct the effect created by the current</p>

	<ul style="list-style-type: none"> <li>No opinion</li> </ul>	<p>prudential framework which unintentionally incentivises insurers to invest in the riskiest part of the capital structure - in non-STS equity - due to the capping of capital charges.</p>
10.8	<p>If you answered yes to question 10.7., please provide suggestions for calibrations of capital requirements for such mezzanine and junior tranches, including the data/evidence of historical spread behaviors backing such suggestions.</p> <p>Please indicate how you would define the mezzanine tranche as well as the assumption (e.g. of thickness of the tranche) underlying your proposed calibration.</p> <p>Please also indicate whether and why such introduction of a mezzanine calibration would be needed in Solvency II, even if no dedicated treatment for mezzanine tranches is introduced in EU banking regulation (CRR).</p>	<p>For suggestions as to appropriate capital calibrations, please refer to <a href="#">AFME Solvency II research paper</a>.</p> <p>Mezzanine tranche defined as non-Senior investment grade tranche, normally Classes B, C, D.</p> <p>ABS appetite from insurers will differ depending on the business model of the insurer (e.g. Property &amp; Casualty, Life, Health).</p> <p>The nature of the insurers' liabilities differ depending on the business model (long term / short term, predictable / less predictable) and create very different calls on liquidity for these businesses. This will in turn have a bearing on the proportion of cash and liquid assets needed to fund pay outs.</p> <p>Securitisation is a versatile asset class which offers a spectrum of yields, credit risk, liquidity and duration, depending on tranche seniority and underlying asset class, which well accommodates the range of credit appetite across the insurance market. Whilst senior floating rate STS ABS investments is a source of liquidity, investment grade non-Senior STS and non STS is a source of yield enhancement and longer duration which, within an appropriately calibrated prudential framework, should generate appropriate returns on regulatory capital.</p> <p>Banks, conversely, must hold highly liquid assets that meet HQLA criteria to meet short-term obligations in events of market disruption. This logically limits ABS eligibility to Senior ABS (under Basel guidelines) or Senior ABS with an STS label under CRR (tighter criteria applicable only in Europe).</p>
10.9	<p>Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for non-STS securitisations proportionate and commensurate with their risk, taking into account?</p>	<p>Please also see <a href="#">AFME Solvency II research paper</a>.</p>

	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
10.10	<p>Is there a specific sub-segment of non-STS securitisation for which evidence would justify lower capital requirements than what is currently applicable?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
10.11	<p>If you answered yes to question 10.10., please specify the sub-segment of non-STS securitisations that you have in mind as well as its related capital requirement, including any evidence/data of historical spreads supporting your proposal.</p>	Granular Consumer, SME portfolios (outside STS label), CLOs.
10.12	<p>Is it desirable that Solvency II standard formula capital requirements for spread risk differentiate between senior and non-senior tranches of non-STS securitisations?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
10.13	<p>If you answered yes to question 10.12., please provide suggestions for calibrations of capital requirements for such senior and non-senior tranches, including the data/evidence backing such suggestions. Please also indicate whether you target a specific segment of non-STS securitisation.</p>	

## 11. Prudential framework for institutions for occupational retirement provision (IORPs) and other pension funds

	Question	Answer
11.1	<p>For the purpose of this section, please indicate whether you are an IORP, a non-IORP or another type of stakeholder.</p> <ul style="list-style-type: none"> <li>• IORP</li> </ul>	This response is submitted on behalf of AFME, members of which include legal advisers to and

	<ul style="list-style-type: none"> <li>Nationally regulating pension fund not regulated by IORP II</li> <li>Other</li> </ul>	investment managers of IORPs as well institutions that sponsor IORPs.
11.2	<p>Is there an interest from IORPs and/or non-IORPs to increase their investments in securitisation (whether a senior tranche, mezzanine tranche, or a junior tranche)?</p> <ul style="list-style-type: none"> <li>Yes</li> <li>No</li> <li>No opinion</li> </ul>	
11.3	<p>Please clarify whether your answer to question 11.2. concerns your own situation, or whether it is an assessment of a given national market (in which you operate for instance).</p> <p>If you answered yes to question 11.2., please specify the segments of securitisations in which IORPs and/or non-IORPs would be willing to invest more (in terms of seniority, type of underlying assets, etc.) and describe the potential for increase in the share of securitisation investments in their balance sheet.</p> <p>In addition, if your reply concerns or encompasses non-IORPs, please indicate i/ the number of non-IORP in your jurisdiction, ii/ the amount of assets under management and iii/ the type of pension business concerned, for which investment in securitisation would be interesting.</p>	<p>As the regulatory landscape currently stands, our understanding is that investing in securitisation is something that only the largest IORPs currently have an appetite for as it is a more complex market. Larger IORPs are more likely to have individuals with the requisite expertise on their trustee/management boards and/or access to investment managers who specialise in these products, as well as having a larger asset pool to invest. Smaller IORPs may well have trustee/managers with a less sophisticated investment appetite and therefore be inclined to invest in more straightforward, "vanilla" products. Our response is based on an assessment of the overall position across EU markets based on feedback from AFME members.</p>
11.4	<p>Does the IORP II Directive contain provisions which in your view restrict IORPs' ability to invest in securitisation?</p> <ul style="list-style-type: none"> <li>Yes</li> <li>No</li> <li>No opinion</li> </ul>	<p>We do not view the IORP II Directive as containing any specific barriers which would directly prevent or restrict an IORP's ability to invest in securitisation <i>per se</i>, but there may be some indirect barriers.</p> <p>IORP II imposes a number of general investment rules on IORPs (see Article 19). In particular: we would flag the following rules:</p> <ul style="list-style-type: none"> <li>Assets shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a</li> </ul>

		<p>whole (Article 19(1)(c)). To the extent that the regulatory environment remains such that there is limited liquidity in securitisation markets, this might restrict securitisation investments.</p> <ul style="list-style-type: none"> <li>Assets shall be predominantly invested on regulated markets (and investment in assets which are not admitted to trading on a regulated financial market must in any event be kept to prudent levels) (Article 19(1)(d)). Given that the majority of securitisations (even those that are listed and have relatively good liquidity) are not listed on regulated markets, this might restrict securitisation investments.</li> <li>Assets shall be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings and accumulations of risk in the portfolio as a whole. Investments in assets issued by the same issuer or by issuers belonging to the same group shall not expose an IORP to excessive risk concentration (Article 19(1)(f)). The focus on the issuer here is not sensible in the context of securitisations, where the issuer is not meaningfully the credit to which the investment creates an exposure. Rather, the underlying loans are the credit.</li> </ul> <p>Therefore, while there are no specific or direct barriers within IORP II to investing in securitisations, any potential investment needs to be considered in the context of the above rules (with trustees/managers needing to be satisfied that any proposed investment in securitisation satisfies such rules) and as part of the IORP's investment portfolio as a whole.</p>
11.5	<p>Are there national legislations or supervisory practices which in your view unduly restrict IORPs' and non-IORPs' ability to invest in securitisation?</p> <ul style="list-style-type: none"> <li>Yes</li> <li><b>No</b></li> <li>No opinion</li> </ul>	<p>The main source of restriction as far as we are aware are the highly prescriptive due diligence requirements set out in Article 5 SECR, rather than from national legislation or supervisory practices. An IORP would (typically with the assistance of its investment advisers) need to consider the risks when contemplating any type of investment. However, the more prescriptive process required specifically for investing in securitisation goes a</p>

		step further and therefore supports our sense that this is likely to be something that only larger IORPs (with trustee boards/managers who perhaps have a more sophisticated investment appetite) are likely to consider.
11.6	<p>Are there wider structural barriers preventing IORPs and non-IORPs from participating in this market?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• <b>No opinion</b></li> </ul>	We are not aware of any.
11.7	If you answered yes to question 11.6., please explain how these barriers should be tackled? Please explain your answer, as well as whether it applies to IORPs, non-IORPs, or both. Please be specific in particular where you refer to non-IORPs.	N/A

## 12. Additional questions

	Question	Answer
12.1	<p>What segments of the securitisation market have the strongest potential to contribute to the CMU objectives, and that should be the focus of any potential regulatory review? You may select more than one option.</p> <ul style="list-style-type: none"> <li>• <b>Traditional placed securitisation</b></li> <li>• <b>Synthetic securitisation</b></li> <li>• <b>SRT securitisation</b></li> <li>• <b>ABCP securitisation</b></li> <li>• <b>STS securitisation</b></li> <li>• <b>Non-STS securitisation</b></li> <li>• <b>Securitisation of SME and corporate exposures</b></li> <li>• <b>Securitisation of mortgages</b></li> <li>• <b>Securitisation of other asset classes</b></li> <li>• <b>Other</b></li> </ul>	<p>All segments of the securitisation market have a strong potential to contribute to the CMU objectives and increase the robustness of the EU's financial system. Traditional and synthetic securitisations of mortgages, SME loans, corporate exposures, and other asset classes have the ability to finance the real EU economy on a greater scale. The SRT market has experienced growth in recent years (see <a href="#">AFME Securitisation Data Reports</a>) and can further contribute to the deepening of EU capital markets by allowing issuers to transfer risk and release regulatory capital. The STS label has been widely adopted, and at the same time, non-STS products remain an important segment of the market to issuers and investors. Private cash securitisations (both ABCP and non-ABCP) can further provide important lines of credit to businesses across Europe. In terms of 'Other' segments, ESG securitisation has the potential to grow in order to increasingly support green transition financing in the EU. More recently, portions of the debt originated by the private credit sector have been transferred to CLOs, contributing to the wider pool of debt market</p>

		<p>participants which was a planned consequence of the post-crisis reforms. Lastly, just one data centre ABS has been recently issued in the EU, and further issuance can support the EU's transition to digitalisation.</p> <p>As such, it is clear that regulatory reviews should not target only certain segments of the securitisation market – in order to achieve the CMU objectives, it is important to have an effective securitisation framework which market participants can use regardless of the collateral or vehicle. Indeed, as stated by Christine Lagarde, President of the ECB, “a genuine CMU would mean building a sufficiently large securitisation market, allowing banks to transfer some risk to investors, release capital and unlock additional lending.” <a href="#">(Christine Lagarde (ECB) Speech at the European Banking Conference, 2023).</a></p>
12.2	<p>What are the principal reasons for the slow growth of the placed traditional securitisation (where the senior tranche is not retained, but placed with the market)? Why do banks choose not to issue traditional securitisation for both funding and capital relief? You may select more than one option.</p> <ul style="list-style-type: none"> <li>• Interest rate environment</li> <li>• Low returns</li> <li>• Operational costs</li> <li>• High capital charges</li> <li>• Difficulty in placing senior tranches</li> <li>• Significant Risk Transfer process</li> <li>• Preference for alternative instruments for funding</li> <li>• Prefer to retain to keep the client relationships</li> <li>• Prefer to retain to keep the revenue from the underlying assets</li> <li>• Prefer to retain to access central bank liquidity</li> <li>• Other</li> </ul>	<p>There are structural factors which inhibit the growth of the placed traditional securitisation market. Traditional securitisations primarily suffer from a small investor base for senior tranches, which have led to difficulties in placing these tranches with the market. Regulatory amendments, as per our response to Q. 12.3, are needed to bring back the banks, insurers, and funds who previously constituted the senior investor base.</p> <p>Certain factors may be market-based (e.g. interest rate environment, low returns); however, “low returns” has to be understood not only as low returns for investors but as high costs and high capital charges for originators too.</p> <p>Basel rules as well as accounting in general represent significant hurdles in achieving capital relief, and as a result, rarely can funding transactions achieve both funding and capital derecognition. This is not just relevant to the SRT process, but to internal modelling and requirements for external approvals that both shape a transaction, which will only rarely also provide funding and mostly incidentally.</p> <p>In respect of “Other”, as per our response to Q. 9.49, the fact that the ECB does not accept mid-size and large corporate loans in the Eurosystem's</p>



		collateral framework poses a major barrier for securitisations backed by corporate loans; for banks as originators who need to use the 'retained' tranches for liquidity purposes and for banks as investors if they are not allowed to pledge them in the Eurosystem.
12.3	Please specify which regulatory and non-regulatory measures have the strongest potential to stimulate the issuance of placed traditional securitisation.	<p>The measures which have the strongest potential to stimulate placed traditional securitisation include:</p> <ul style="list-style-type: none"> <li>• Upgrading the HQLA treatment of senior STS and non-STS tranches in the LCR.</li> <li>• Recalibrating Solvency II capital charges.</li> <li>• Simplifying due diligence and transparency requirements and introducing proportionality in Articles 5 and 7 of the SECR.</li> <li>• Recalibrating the risk weight floor for banks.</li> </ul> <p>In respect of the CRR, and as per our response to Q. 9.21, introducing a p-factor of 0.25 for SEC-SA for STS securitisations and of 0.5 for SEC-SA for non-STS securitisations, and recalibrating the fixed parameters that are components of the p-factor for SEC-IRBA with a floor of 0.1 and maximum of 0.3 for STS securitisations, and a lowered floor of 0.25 and maximum of 0.75 for non-STS securitisations.</p>
12.4	What are the main obstacles for cross-border securitisations (i.e. securitisations where the underlying exposures, or the entities involved in the securitisation, come from various EU Member States)?	<p>The main barrier to mixing assets from different jurisdictions, is different legal (including regulatory and tax) regimes governing those assets. They are also sometimes denominated in different currencies. This complicates the due diligence and the credit analysis, all of which contributes to it being more onerous to do cross-border securitisations. The problems here include different insolvency laws, different laws governing the taking and enforcement of security, differing consumer protection regimes.</p> <p>A smaller but still significant barrier is different products that have grown up in different jurisdictions in consumer markets. This problem is especially acute in the residential mortgage</p>

		<p>securitisation market because it is so common to have residential mortgage products that are unique to a particular member state. Consumer securitisation products also tend to rely on due diligence of the form of agreement used by the originator and a description of it in offering documentation, making it harder to account for variations across borders. For large corporate loans, this problem is less acute because they are more likely to have the same governing law, Loan Market Association standard forms are often used, and there are fewer assets, so it often makes sense to do due diligence on each loan agreement in any case.</p> <p>Finally, in some scenarios dealing with cross-border STS securitisations, homogeneity rules that require assets to be from the same jurisdiction obviously discourage cross-border transactions.</p> <p>In future, we expect CRD6 rules prohibiting the provision of cross-border banking services into the EU will inhibit investment in EU securitisations by non-EU banks. Where such banks participate by making a loan into the securitisation, cross-border banking rules may act as an obstacle to such investment.</p>
12.5	What measures could be taken to stimulate cross-border securitisation in the EU? Please substantiate your answer for traditional and synthetic securitisation respectively.	<p>Addressing the issues mentioned in the answer to question 12.4 and the inconsistent supervision issues discussed in section 6.</p> <p>It is also critical to put EU investors on a level playing field with their non-EU counterparts by adjusting the due diligence rules to make them more proportionate in the way we have suggested in section 4. In particular, stopping the practice of requiring EU investors to obtain EU templates (or disclosure on an EU repository) before they can invest in a transaction is foundational.</p> <p>In particular, having uniform EU insolvency, contract and secured financing laws would make it much easier.</p>
12.6	Securitisation activity is heavily concentrated in a few Member States – primarily Italy, France, Germany, Netherlands and Spain.	<p>Cost/benefit considerations are certainly a factor, and these refer both to:</p> <ul style="list-style-type: none"> <li>• Net interest margin: Coupon vs underlying interest</li> </ul>

	<p>What are the main obstacles to increasing securitisation activity in other Member States?</p> <p>What measures could make securitisation more attractive in those Member States?</p>	<ul style="list-style-type: none"> <li>• Cost of structuring, including counsel and arrangers. In certain states, market participants operate on a smaller scale and do not have the critical mass needed to establish securitisation platforms.</li> </ul> <p>Market liquidity is also an element to consider. In a very circular way, markets with little issuance attract little activity which disincentivises trading. Additionally, there is a lack of harmonisation in securitisation laws across different Member States, and the limited market infrastructure and expertise within some EU countries also prevents the development of their domestic securitisation market.</p> <p>There is also a shortage of cash investors for certain currencies, which poses barriers for Member States where the Euro has not yet been adopted.</p> <p>According to AFME Research, issuers from only 9 Member States utilised traditional securitisation in the first half of 2024, although there are generally more countries where synthetic securitisation is used. There remains a wide dispersion in the GDP-adjusted size of the securitisation market across EU Member States (please see AFME's supporting materials). The narrow issuer base, with relatively few countries observing loan transfer instrument issuance, poses challenges for investors seeking to diversify country risk and for the amplification of the product's liquidity pool.</p>
12.7	<p>Does the EU securitisation framework impact the international competitiveness of EU issuers, sponsors and investors?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul> <p>Please explain your answer and where possible elaborate on the difference in regulatory costs stemming from the prudential, due diligence and transparency requirements in non-EU</p>	<p>EU securitisation issuance as a proportion of GDP has consistently underperformed compared to China, Japan, the US, the UK and Australia (please see AFME's supporting materials). Moreover, securitisation and portfolio sales as a proportion of total outstanding loans stands at just 1.9% in the EU, compared to 2.8% in Australia and 7.0% in the US (please see AFME's supporting materials). Some stakeholders have commented that reforms are not needed in the EU given that the ABS market is currently growing. This argument, however, does not account for several important facts of the current market context. Firstly, nominal growth in ABS issuance is driven, in part, by inflation, which</p>

	<p>jurisdictions, in comparison to the EU securitisation framework.</p>	<p>has accumulated 23% in the EU since 2021 – in fact, examining placed issuance once adjusted for inflation shows no evidence of a growth trend (please see AFME’s supporting materials). Secondly, as interest rates have risen, fixed income issuance has increased across the board in the EU owing to tighter spreads and more conducive market conditions. For instance, comparing securitisation issuance to non-financial corporate bond issuance again shows little evidence of meaningful growth (please see AFME’s supporting materials). Thirdly, the issuance of securitised products has visibly increased in other regions; for example, in the first three quarters of 2024, issuance in Australia has grown 25% YoY and US non-agency issuance has increased 49% YoY, whilst Japanese ABS issuance increased by around 16% in H1’24. Therefore, the recent nominal growth in EU securitisation issuance cannot be interpreted as ‘closing the gap’ between the EU market and its global competitors.</p> <p>In relation to EU investors’ international competitiveness, and as per our response to Q. 4.1 and 4.11, the current Article 5 regime in the EU is particularly limiting for EU investors investing in third-country deals given they are obliged to obtain full Article 7 information from third country reporting entities. Third country originators are not subject to the SECR, they are not obliged, therefore, to report the relevant information in the form of the ESMA Article 7 templates. This causes disruption in the market and hinders the international competitiveness of EU investors.</p> <p>Contrary to the EU, the UK has recently taken a much more principles-based and proportionate approach to this matter. Under the new UK securitisation regime which came into force on 1 November 2024, the FCA and the PRA rulebooks have now prescribed the “sufficient information” test for both UK and non-UK securitisations. This means that UK institutional investors are required to verify the <i>sufficiency</i> of the information an originator has made available to them in order to enable them to independently assess the risk of holding the securitisation position. Consequently,</p>
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		no strict compliance with UK reporting is required, which introduces greater flexibility in the whole process, especially in relation to non-UK/third country securitisations.
12.8	How could securitisation for green transition financing be further improved? What initiative could be taken in the industry or in the regulatory field?	<p>Leaning more heavily into the "green use of proceeds" (rather than a "green assets") approach would be helpful because it would encourage the use of existing assets to fund greener assets for the future. Secondly, it would be helpful to limit the additional disclosure obligations for green securitisations as opposed to any other kind of green instrument to those really necessary for the instrument. Thirdly, extending the European Green Bond Standard (EuGBS) to synthetic securitisations sooner rather than later would be helpful.</p> <p>Using capital and fiscal incentives to support both originators and investors to transition towards green assets would be welcome. As it stands, there is relatively little incentive to use the EuGBS and significant risks to doing so.</p> <p>According to AFME data, ESG securitisations (green, social and sustainable) represent only 3% of the total European issued market in 2024, whereas the percentage of ESG on the total bond market is closer to 13% (please see AFME's supporting materials). This showcases the potential of the securitisation market to further contribute to the green transition financing.</p> <p>Further, growth companies in areas including green technologies may use private securitisation to finance their assets. Adjustments discussed elsewhere in this response to reduce disproportionate costs to originators, e.g., streamlining the disclosure requirements for private securitisations (and removing the requirement to produce a transaction summary), can help reduce the costs to companies of using these financing lines. Those costs can create a high barrier to entry for SMEs. The focus, therefore, should not just be on the development of a public green ABS market, because reducing compliance costs could help the private securitisation market to finance and support growth of green businesses and business lines, and therefore creation of green or transition assets.</p>

12.9	<p>Are there any other relevant issues (outside of those addressed in the specific sections of the consultation paper above) that affect securitisation issuance and investments that you consider should be addressed?</p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• No opinion</li> </ul>	
12.10	<p>If you answered yes to question 12.9., please explain your answer.</p>	<p><b>SCOPE OF SECR</b></p> <p>The current definition of securitisation has been in place for nearly two decades now and is reasonably well understood. For that reason, AFME members do not believe that it should be replaced. That would risk losing the benefit of the many years industry and the authorities have collectively spent coming to an understanding about the definition, which in most cases works reasonably well. The definition is also derived from Basel standards and works well for prudential purposes. Changing the definition would cause a great deal of uncertainty in prudential regulatory schemes because, e.g. any excluded transactions would have to be recategorised and the appropriate way to do that is unclear.</p> <p>That said, the definition of securitisation is set too widely to be appropriate for managing the mischiefs that SECR seeks to address. There are certain transactions that may meet the definition of securitisation but do not present the concerns that SECR is seeking to address.</p> <p>For those reasons, we would suggest leaving the definition of securitisation (which is cross-referred to in many other pieces of legislation) untouched, but amending Article 1 of SECR to exclude certain transactions from its scope.</p> <p>The substance of SECR is largely to put in place measure to mitigate the risks that arise from (1) one entity originating debt while another takes the credit risk ("agency risks"); and (2) the complexity that arises from the portfolio effect when tranching a number of different credit risks ("model risks"). Agency risks arise in large part because of information asymmetry between the</p>

		<p>buy- and sell-side entities on transactions. AFME would therefore suggest that where these types of agency risk or model risks are not present – or when they are otherwise adequately addressed – then the transaction in question ought to be excluded from the scope of SECR. In particular, we would suggest excluding three categories of transaction from the scope of SECR via Article 1. These are as follows:</p> <ul style="list-style-type: none"> <li>(1) Transactions with fewer than ten underlying exposures where all materially relevant information on each underlying exposure is made available to investors and potential investors. (Minimal model risk because of the small number of exposures and minimal agency risk because of the full disclosure of information permitting meaningful, detailed due diligence by investors on each underlying exposure.</li> <li>(2) Transactions where the underlying credit represents the credit risk of a single enterprise. (No model risk as only one credit).</li> <li>(3) Transactions where the creation or management of the pool is already subject to another regulatory scheme, such as where the transaction is managed on a discretionary basis by an AIFM, a UCITS (or UCITS management company, or by an investment firm. (Presents mainly agency risks, but those are mitigated by an existing regulatory scheme.)</li> </ul> <p><b>JURISDICTIONAL SCOPE</b></p> <p>On the subject of question 3.2, requiring the EU-based or EU-authorised entity(ies) to be in charge of SECR compliance would be extremely problematic. We set out the reasons this would be problematic in <a href="#">our response to the Commission's 2021 Targeted Consultation on the Functioning of the EU Securitisation Framework</a> (see answers to questions 4.2 and 4.3, in particular), and many of those reasons were set out in the Commission's report that followed on 10 October 2022.</p> <p><b>DELEGATION OF DUE DILIGENCE</b></p>
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		<p>In respect of question 4.23, we have not answered because the response we would give is not available as an option.</p> <p>Firstly, AFME members would find it useful if legislation clearly stated the existing legal position, that is to say: institutional investors are permitted to delegate their due diligence responsibilities (in the sense of having a third party do the practical due diligence work – but without commenting on primary regulatory responsibility) in any way they see fit. This would not normally need stating explicitly, but given historical divergences in supervisory approaches across the Union, we would find it useful.</p> <p>Secondly, we would suggest dealing with the question of primary regulatory responsibility for the due diligence obligations as a separate matter. The position there should be that where the delegate is itself an institutional investor in scope of SECR, then the principal and delegate should be able to agree contractually to move the primary regulatory responsibility, but it should not be automatic. This would presumably necessitate a notification of some kind to an appropriate regulator/supervisor.</p> <p><b>APPROACH TO DISCLOSURE</b></p> <p>We thank the Commission for engaging on the question of the appropriate approach to disclosure for securitisations. We have not selected any of the options presented in question 5.5 because none of the options presented is wholly appropriate.</p> <p>Broadly speaking option 1 is the closest to being appropriate. AFME members support the idea of streamlining the current disclosure templates (removing certain fields and increasing the number of fields where ND responses are accepted) for public securitisations. One reason for this is that we are aware that the ECB would in any case need templated information for repo system eligibility purposes. As (public) market participants are broadly already set up to use the existing templates, retaining these in a streamlined form is a logical and efficient solution. It also seems to be the best way of balancing the sell side's need for simplification of reporting with the buy side's need for minimum standards of</p>
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		<p>disclosure where a transaction is widely distributed.</p> <p>We also support the introduction of simplified templates for private securitisations, assuming the intention here would be to have "private" templates designed solely to provide supervisors with the information they require to adequately supervise the market.</p> <p>We would further make the following observations:</p> <ul style="list-style-type: none"> <li>- It is critical to this arrangement functioning that the category of "public" securitisations not be drawn too broadly (as to which see our answers to questions 5.10 and 5.11). In particular, third country securitisations should be treated as "private" securitisations. It will act as a serious disincentive to cross-border capital flows if third country securitisations are captured by even a streamlined version of the current templates.</li> <li>- The requirement to fill in templates should be able to be met by investors if they wish. This is critical in order to permit European institutions to be competitive in third country markets. For example, if an EU bank is providing an asset-backed lending facility (which may qualify as a securitisation under SECR) to an American corporate client, the EU bank should be in a position to compete on a level playing field with third country banks for that corporate's business. This will only be possible if the arrangement in question is both treated as "private" (meaning that the bank is likely to collect the necessary information to fill in the template in the normal course anyway) and the bank can fill in any required templates on the corporate's behalf.</li> <li>- The requirement to report to a repository is problematic for the reasons set out in our response to question 5.9.</li> </ul> <p><b>NPE SECURITISATION</b></p> <p>The regime for NPE securitisations introduced in 2021 was an improvement on the previous regime but it could be further improved. Some suggestions from AFME members are below.</p>
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		<p>issuing body is a single transaction SSPE (and not a programmatic issuer). The 10% cap therefore limits such large UCITS investors' ability to increase their securitisation investment volumes. This, in turn, drives more UCITS investments towards unsecured corporate credit with higher risk of default, fewer protections and lower rates of return compared to securitisation. Our members who raised this issue therefore suggest removing the 10% limit in respect of securitisations since it has a differential and unintended effect in that context. It also creates adverse incentives for UCITS investors wishing to increase their securitisation investments, which is undesirable in the context of the CMU 2.0 objective of growing the European securitisation market.</p>
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## About AFME

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is registered on the EU Transparency Register, registration number 65110063986-76.

### AFME Contacts

Shaun Baddeley  
Managing Director,  
Securitisation  
[Shaun.Baddeley@afme.eu](mailto:Shaun.Baddeley@afme.eu)  
+44 (0)20 3828 2698

Maria Pefkidou  
Associate Director,  
Securitisation  
[Maria.Pefkidou@afme.eu](mailto:Maria.Pefkidou@afme.eu)  
+44 (0)20 3828 2707

Remi Kireche  
Director,  
Advocacy  
[Remi.Kireche@afme.eu](mailto:Remi.Kireche@afme.eu)  
+32 479 02 79 93