



TARGETED CONSULTATION

**ON THE FUNCTIONING OF THE EU SECURITISATION
FRAMEWORK**

Final Full Version, 9th December 2024

CONSULTATION QUESTIONS

1. 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			
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		X				

and practices in securitisation markets						
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

Questions to stakeholders:

2.1. Have you come across any impediments to securitise SME loans or to invest in SME loan securitisations?

- Yes
- No
- No opinion

Please explain.

General Comments

The current level of securitisation issued by EU banks would have considerable room for growth. An estimate of 2022 European Commission (EC) of the ratio of securitisation instruments to bank loans (as reminded by the recent paper published by Europlace)¹, shows the predominance of the banking model to finance the real economy through loans kept on balance sheet rather than by securitising them. The ratio of value of securitisation instruments relative to bank loans, stands, except in Ireland, below 15% for many EU countries, including the largest ones.

In fact, the Securitisation Regulation (SECR) should have facilitated access to credit for SMEs, but – despite the EIB actions and the appropriateness of the securitisation tool to finance the real economy – success has been limited so far. This is because direct SME funding through securitisation remains complex. Nevertheless, securitisation has supported SME funding directly (e.g., through private trade receivable securitisations) or indirectly (e.g. synthetic securitisations of SME exposures).

Impediments to securitise SME loans or to invest in SME loan securitisations

As a general observation, SME loans are more difficult to securitise in traditional ('true sale') securitisations because of **contractual restrictions on transfer** and **heterogeneity** of the loan formats. One other important factor is STS eligibility (more details in answer to question 7.2). In general, some SMEs and corporate loan portfolios cannot meet all the STS criteria by nature (2% granularity criterion meaning 50 names minimum or the homogeneity criterion, information on guarantors). Also, uncertainty about the supervisory process, including the risk of pillar-2-add-on has effectively undermined the market in some jurisdictions.

For this reason, SME loans are often securitised:

- in synthetic format, where the credit risk is transferred via a guarantee or a credit derivative. Synthetic securitisations are less sensitive to the specific terms of the loans in private format (via synthetic SRT or via structures involving ABCP or banks' balance sheet in direct) rather

¹ How can securitisation contribute to the financing of the EU agenda?, Paris Europlace, Paris, September 2024

than public one.

Against this background, the current level of securitisation issued by EU banks would have considerable room for growth. An estimate of 2022 by the European Commission (EC) of the ratio of securitisation instruments to bank loans (as reminded by the recent paper published by Europlace)², shows the predominance of the banking model to finance the real economy through loans kept on balance sheet rather than by securitising them. The ratio of value of securitisation instruments relative to bank loans, stands, excepted in Ireland, below 15% for many EU countries, including the largest ones.

Arguments supporting a review of the EU securitisation framework

It should be kept in mind that the SME sub-market is facing the same impediments as issuers for other underlyings.

Therefore, at a general level, the EBF believes that focusing on niches, given the diversity of the securitisation market (by asset class, by type of issuers, investors, structuring features...), i.e., a cherry-picking approach, consisting in targeting a specific market segment, would be counterproductive insofar as it would not offer the critical mass that issuers and investors need to invest in resources.

Thus, a coordinated and cumulative approach of the below quick wins is much better placed to foster the securitisation market as a whole including the SME sub-market:

- 1. On STS and non-STs exposures: recalibration of the risk-weighting of securitisation tranches when the bank is the originator.**
- 2. On eligibility for the LCR: improvement of the treatment of securitisations in the LCR. .**
- 3. Recalibration of the prudential treatment of securitisations in Solvency II to encourage insurers to invest in senior or mezzanine tranches.**
- 4. Due diligence for investors should be more proportionate and “principal based only”.**

Reducing capital requirements on retained tranches—either by lowering the P-Factor or reducing the Risk-Weighted Assets floor—would allow issuers to transfer less risk or purchase less protection while remaining compliant with Significant Risk Transfer (SRT) requirements. Such adjustments could make securitisation a more viable option for smaller banks or specific portfolio segments within larger banks, which might previously have found it economically unfeasible. For instance, smaller regional banks could more easily securitise SME loan portfolios, enabling them to optimise their capital structures. Overall, this policy shift has the potential to stimulate greater activity within the securitisation market, unlocking additional capital to support increased SME lending across the EU, thereby fostering economic growth and financial inclusion.

2.2. How can securitisation support access to finance for SMEs?

Securitisation is a crucial financial mechanism that benefits a wealth of stakeholders. Revamping the EU securitisation market not only holds the potential of broadening SMEs financing on near-capital market terms, but can also serve as a tool to support the EU in meeting its ambitious financing needs, including for the green and digital transitions.

Concretely, by pooling and tranching, securitisation allows sectors of the economy to be funded by capital market investors who can choose how much risk they take, for how long and for what return. Securitisation offers opportunities for investors to invest in consumer and corporate credit exposures that otherwise would not be available to them. Pooling and tranching are what makes securitisation unique as a means to match up specific investment needs such as those of pension funds and insurance companies with the funding needs of European households and SMEs.

Securitisation also ensures that credit risk does not solely stay with banks and allows banks to free up capital, thereby increasing their capacity to extend new funding to SMEs and support the transition to a more sustainable economy.

Concretely, securitisations support access to finance for SMEs in the following ways:

² *How can securitisation contribute to the financing of the EU agenda?*, Paris Europlace, Paris, September 2024

- Credit risk transfer through synthetic securitisation is particularly useful for securitising corporate, SME, and project finance loans, which are capital-intensive. Without synthetic securitisation, banks would be more constrained in their lending capacity, limiting the financing available to SMEs and the wider economy.
- Also, while usually SMEs do not issue securitisation.

The instrument can be used directly to finance companies if banks or special purpose entities supported by banks (so-called conduits) purchase receivables from companies and thus provide the seller of the receivables with direct liquidity.

- If, when a bank purchases a portfolio of receivables, the first losses continue to be borne by the seller of the receivables, the banks must calculate the capital requirements for the purchased receivables in accordance with the regulations for securitisations. The same applies to liquidity facilities provided by banks as part of asset-backed commercial paper (ABCP) transactions. As part of such transactions, companies sell receivables at a purchase price discount to conduits. The conduits in turn issue securities that are covered by the purchased receivables. For these transactions, banks provide liquidity facilities as sponsors which cover all losses from the securitised portfolio that exceed the agreed purchase price discount. By nature, ABCP securitisation is perfectly adapted to the funding of real economy assets such as trade receivables.
- Besides, banks use securitisation as a tool to monitor the exposures stemming from their commercial lending activity (both in terms of risk and liquidity).

3. Scope of application of the Securitisation Regulation

Jurisdictional scope

Questions to stakeholders:

3.1. In your opinion, should the current jurisdictional scope of application of the SECR be set out more clearly in the legislation?

- Yes
- No
- No opinion

Please explain.

European Banking Federation (EBF) Members emphasize that at the moment there is no non-EU STS securitisation. The lack of involvement of third-country investor however does not seem to be related to the jurisdictional scope of application of the SECR, but rather to unrealistic disclosure requirements imposed by the EU framework.

EU regulation is based on the assumption that strict compliance with the regulation is sufficient to carry out proper due diligence, whilst other jurisdictions focus on the capacity of market participants to make their own due diligence assessment. This makes it very difficult to comply with both EU and non-EU regulations (in terms of Transparency requirements of Article 7 in form and content / ESMA Templates), and virtually impossible to expect non-EU securitisation to comply with EU regulation, therefore preventing EU participant to be active in non-EU markets as well

Geographical differences exist as illustrated by the example of the Simple Transparent and comparable (STC) label, the non-EU STS securitisation standard defined at Basel level, which is only applied by a few jurisdictions (UK for the time being). The STS label may have amplified geographical segmentation of securitisation market between EU and non-EU operation.

Having said that, EBF members consider that there could be merit in further clarifying SECR specific provisions aimed at regulating the participation of non-EU entities and the relevant due diligence obligations of EU-based or EU-authorised entities in order to facilitate a larger inflow of investments from non-EU countries into the European securitisation market. However, EBF understands that while there may be room for improvement in the SECR text, this particular issue is not a priority at the moment.

Arguably, EBF understands that it is more urgent to streamline ESMA disclosure templates and calibrate due diligence requirements for third-country securitisations. Notably, the EBF recommends that the ESMA templates for third-country securitisations be revised, as they are currently not fit for purpose. Reporting should either comply with local regulatory requirements in the relevant jurisdiction or utilize a simplified, tailored template to better address the specific needs of these transactions.

To conclude, the EBF would like to recall that the industry has previously (i) requested that ESAs issue guidance to national supervisors on the application of Article 5(1)(e) during the transitional period, and (ii) proposed a dedicated reporting based on aggregated data, to be used for public and private operations when originated in third countries and provided by the European Union investors.

3.2. If you answered yes to question 3.1, do you think it would be useful to include a specific Article that states that SECR 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?

- Yes
- **No**
- No opinion

Please explain.

N/A.

Legal definitions

Questions to stakeholders:

Definition of a securitisation

3.3. Do you think the definition of a securitisation transaction in Article 2 of SECR should be changed? You may select more than one option.

- Yes, the definition should be expanded to include transactions or vehicles that could be considered securitisations from an economic perspective;
- Yes, the definition should be narrowed to exclude certain transactions or introduce specific exceptions;
- **No, it should not be changed;**
- No opinion.

Please explain and specify, if necessary, how the definition should be expanded or narrowed in your view.

The preferred definition in Article 2 SECR is a core definition in securitisation business and also a proven criterium to distinguish securitisation structures from other forms of secured financing. European Banking Federation (EBF) members emphasize that materially changing the definition of a securitisation transaction in Article 2 SECR should not be considered a priority in the context of the relaunch of the EU securitisation market (for which other reforms are urgently needed as outlined in the response to this consultation). The definition of securitisation is now well understood by the market participants.

Having said that, in the long term, minor fine-tuning could be considered. As way of example:

- Currently, a loan-on-loan structure or a guarantee with excess are not comprised by the definition of ‘securitisation’. Yet, this exclusion triggers the need of legal opinions and reviews (hence extra costs), which could be avoided with a clearer definition. Also, a clarification on the inclusion/exclusion of securitisation transactions of physical assets from the SECR perimeter would be welcome. At the moment, it is only mentioned in Recital (6) of EU Reg 2017/2402, but that does not provide enough legal certainty.

In addition, Article 2 (1), point (c), of the SECR could be fine-tuned in order to more clearly exclude the transactions which does not match all the characteristics listed in Article 147(8) of CRR (so-called “specialised lending”): e.g. securitisation of income-producing real estate (“IPRE”) assets.

3.4. 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?

- Yes
- **No**
- No opinion

3.5. If you answered yes to question 3.4., what criteria should be used to define such transactions?

N/A.

Definition of a sponsor

3.6. Should the definition of a sponsor be expanded to include alternative investment firm managers established in the EU?

- Yes
- **No**
- No opinion

Please explain, including if the definition should be expanded to any other market participants.

Given the current provisions of SECR and its set of level 2 regulations (e.g. Retention RTS), and the wide-ranging implications of the qualification as Sponsor under SECR, notably in terms of support and guarantees requirements (e.g. for ABCP securitisations), the EBF strongly believes it is not appropriate for EU AIFMs to be included in the definition of Sponsor under SECR.

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3.7. 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.

- An AIFM should not sponsor loans originated by the AIFs it manages
- AIFs should not invest in securitisations sponsored by its AIFM
- Minimum capital requirements under the AIFMD should be adapted to enable AIFMs, in particular to fulfil the risk retention requirement under SECR
- Other safeguards
- No safeguards are needed

Please explain your answer.

N/A.

4. Due diligence requirements

Questions to stakeholders:

4.1. 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.

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.

Please compare the total due diligence costs for securitisations with the total due diligence costs of other instruments with similar risk characteristics.

As a trade association, the European Banking Federation (EBF) refrains from discussing or consolidating specific cost figures. However, the EBF is committed to providing complementary qualitative assessments that reflect the expert-driven discussions among our members.

Against this background, the EBF emphasizes that investors are currently burdened by overly prescriptive and disproportionate due diligence requirements. Article 5 of the SECR introduces provisions that create confusion, impose redundant obligations across multiple parties, and hinder practical investment efforts, resulting in an overall disproportionate burden on investors. Consequently, these obligations diminish investor commitment and resources, hampering the development of a functional market.

Notably, Article 5 mandates (i) extensive due diligence and (ii) continuous monitoring obligations on investors, leading to administrative costs that surpass those associated with higher-risk products. This lack of proportionality applies uniformly to investments in both senior and subordinate tranches, furthering a one-size-fits-all approach that fails to account for varying risk levels. Moreover, comprehensive requirements, such as verifying risk retention and reassessing STS notifications, increase costs and complexity for investors, create barriers to market entry and pose competitive disadvantages to European banks.

The EBF therefore recommends recalibrating Article 5 of the SECR by applying proportional principles-based requirements on risk profiles, granularity, or thresholds (e.g., rating classes) to reduce costs, and grant investors greater authority to rely on third-party information to streamline the process. Overall, the underlying idea is to simplify and streamline Article 5 of the SECR.

The primary objective is to increase both the number of investors and their demand for securitisations.

Achieving this requires reducing trading costs for EU-based banks, insurance companies, asset managers, and other investors involved in securitisation. Since investor costs are disproportionately high in the securitisation market, it is essential to streamline regulatory requirements to a more appropriate level. Without these adjustments, investors face an unjustified competitive disadvantage in the securitisation market, especially given the low default rates associated with these assets.

Technical Amendments of Article 5 SECR include:

- **Article 5(1) point c. of the SECR should be deleted** (please see question 5.10).
- **Article 5(1) point d. of the SECR should be changed** (please see question 5.10).
- **Article 5(1) point e. of the SECR should be changed** (please see question 5.10).
- **Article 5(2) of the SECR should be extended** - according to Article 5 para. 2 STS Regulation, investors do not need to obtain the information pursuant to Article 5 para. 1 part a. STS Regulation themselves when investing in fully supported ABCP but can delegate this to the sponsor. In our opinion, this should also be possible for the other criteria in Article 5 para 1 STS Regulation.
- **Article 5(3) of the SECR should be changed** (please see question 4.5).
- **Article 5(3) point c. of the SECR should be deleted** (please see question 4.5).
- **Article 5(4) point a. sentence 2 of the SECR should be deleted** (please see question 4.5).
- **Article 5(4) points b. and c. of the SECR should be deleted in their entirety** (please see question. 4.5).
- **Article 5(4) point d. of the SECR should be changed** (please see question 4.5).

Given the cap for characters, further details were included in each relevant sub-question of Section 4.

- 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.

As a trade association, the European Banking Federation (EBF) refrains from discussing or consolidating specific cost figures.

- 4.3.** Please select your preferred option to ensure that investors are aware of what they are buying and appropriately assess the risks of their investments.

- **Option 1: The requirements should be made more principles-based, proportionate, and less complex;**
- Option 2: The requirements should be made more detailed and prescriptive for legal certainty;
- Option 3: There is no need to change the text of the due diligence requirements;
- No opinion

Due diligence requirements prior to holding a securitisation position

- 4.4.** 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?

- **Yes**
- No
- No opinion

Please explain.

Overall, the assessment steps in Article 5(3) should be subject to a proportionality approach and replaced

by a principle-based wording

Currently, institutional investors in an STS securitisation have an obligation to verify the securitisation's compliance with specific requirements outlined in Articles 19 to 22 (for non-ABCP securitisations) or Articles 23 to 26 (for ABCP securitisations), along with Article 27. While investors may rely, to an appropriate extent, on the STS notification (per 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 solely rely on the STS designation, or the information provided.

By mandating investors to assess at minimum the risk characteristics and the structural features of the securitisation, investors would be relieved from the obligation set out in paragraph (c). Given that STS-compliant transactions are already subject to rigorous checks, the European Banking Federation (EBF) supports reducing investor due diligence in such cases, relying instead on the notification system that confirms compliance with STS standards.

A principle-based approach could be implemented: i) by removing the examples for structural features of a securitisation position, ii) while further removing the provision regarding the fulfilment of STS criteria altogether (for securitisations notified as STS). The latter simplification could result in an increased appeal of STS securitisations.

4.5. If you answered yes to question 4.4., please specify how this could be implemented

Concretely, the EBF recommends the following:

- **Article 5(3) of the SECR should be changed** - the individual assessment steps in Article 5(3) points a. to c. of the SECR should be deleted and replaced by principle-based wording. This might look as follows: "Prior to holding a securitisation position, an institutional investor, other than the originator, sponsor or original lender, shall carry out a due diligence assessment which enables it to assess the risks involved. This assessment must take the underlying exposures and the structural features of the securitisation into account". The proposal supports a principle-based approach. As such, the overly detailed requirements have been waived. The core of the provision remains in place, so that the due diligence assessment includes both the underlying exposures and the specific, legal securitisation structure. Formulating the provision to align with a principle makes it possible to perform a due diligence assessment matched to the type, risk and asset class of the securitisation. Simply fulfilling requirements that have no added value for the assessment is thus no longer necessary, and transaction costs for the investment can be reduced.
- **Article 5(3) point c. of the SECR should be deleted:** The investor is required to once again assess the results of the external STS notification. The proposal relies more heavily on the originator and, if applicable, the STS verifier. However, at the same time, it reduces duplications when verifying whether STS criteria have been met. This in turn will result in a simplification of STS securitisations, which will increase the appeal of this product.

In addition, the EBF also proposes some changes to Article 5(4), aimed at removing burdensome and inexpedient requirements for investors:

- **Article 5(4) point a. sentence 2 of the SECR should be deleted:** There is support of explicitly setting out procedures in writing in order to monitor the performance of the securitisation position and the underlying exposures, including in regard to compliance specifications. However, the EBF believes that a detailed list of what to include in these procedures is both laborious and inexpedient. Investors are obligated, including by supervisory specifications, to determine and indeed capable of determining procedures that take into account the elements appropriate for their purposes. Given the several types of securitisation transactions and any potential new asset classes, there may be a variety of distinctive features appropriate for evaluating the performance of a securitisation position and its underlying exposures. As such, not all of the listed characteristics are relevant to every securitisation. The detailed list, however, means that investors must check off each feature to be assessed and, to remain compliant, provide proof as to what extent the characteristic in question is relevant in

each specific case.

- **Article 5(4) points b. and c. of the SECR should be deleted in their entirety:** Detailed provisions for stress tests are not necessary, as the fixed written procedures pursuant to Article 5(4) point a of the SECR already adequately specify how the risk assessment is to be carried out.
- **Article 5(4) point d. of the SECR should be changed** – in a way that internal reporting to their management body or an entity designated by the management body, so that the management body or the entity designated by the management body is aware of the material risks arising from the securitisation position and so that those risks are adequately managed: The delegation to an entity designated by the management body provides the management body greater flexibility without having any effect on the quality of the information processing. Inclusion of the management body in individual decisions is also not necessary. Indeed, this obligation only serves to slow down the transaction. It makes investments into securitisations less attractive, because there is no equivalent provision for other financial products.

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 complying with the due diligence requirements under Article 5?

Please explain.

The European Banking Federation (EBF) respectfully refrains from replying to this question.

4.7. Should due diligence requirements differ based on the distinctive characteristics of a securitisation transaction?

- Yes
- No
- No opinion

4.8. If you answered yes to question 4.7., please select one or more of the following options to differentiate due diligence requirements:

- Due diligence requirements should differ based on the risk of the position (e.g. senior vs non-senior)
- Due diligence requirements should differ based on the risk of the underlying assets
- Due diligence requirements should differ based on the STS status of the securitisation (STS vs non-STS)
- Other

Please explain your answer.

The European Banking Federation (EBF) is of the view that due diligence requirements should be re-calibrated based on proportionality:

The greater the risk, the more sophisticated the investors should be. Therefore, more sophisticated investors should be able to determine the exact level, scope and nature of due diligence they should be carrying out in order to appropriately assess the risk. In this case, a higher due diligence standard should not amount to a more prescriptive due diligence scope or template.

On the contrary, basic due diligence required from non-sophisticated investors could be standardised

and may be reasonably prescriptive, while more informed investors taking higher risks should be authorised to determine appropriate due diligence level, proportionate to the level and nature of the risk of the contemplated transaction. In practice, this has proven to remain the case and riskier or more complex transactions are analysed by sophisticated investors with no use of the ESMA templates disclosures.

Another impediment is linked to the level of due diligence that banks should put in place (even in the case of a repo transaction). Simplifications should be granted for senior tranches of high quality. It is doubtful that a ST repo with an ABS senior tranche that is protected by an important first loss would require any due diligence at all.

Even some renowned major actors, such as some European regional central banks, have let it know that they used less than half of the disclosed data to be checked as per due diligence requirements. Here again, a strong simplification is needed

The EBF, therefore, recommends redefining the requirements in Article 5 of the SECR to reduce associated costs, adopting proportionality principles based on a number of factors such as risk profiles, granularity, or thresholds (such as rating classes).

It is essential that market participants can satisfy the due diligence requirements without the following of prescriptive templates, but rather based on processes calibrated internally.

Furthermore, granting investors greater authority to utilize information provided by third parties could also streamline the process.

Having said that, the options proposed in the question 4.8 appear too rigid. The investor should have the proper flexibility to assess the most effective due diligence that could be based on a combination of more factors. This flexibility is crucial because it allows investors to tailor their due diligence processes to the specific characteristics of each transaction, rather than adhering to a one-size-fits-all approach.

The current models, as outlined in the consultation document, impose a standardised set of requirements that may not be suitable for all types of securitisation transactions. For instance, the due diligence requirements should differ based on senior/ non senior (due diligence requirements shall be reduced or simplified for AAA positions), the risk of the underlying assets (cf. Questions 4.4. and 4.5), the STS (Simple, Transparent, and Standardised) status of the securitisation, and other relevant factors. By allowing investors to consider a combination of factors, they can better assess the risks and opportunities associated with each transaction.

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?

Please explain your answer.

The European Banking Federation (EBF) respectfully refrains from replying to this question.

4.10. For EU investors investing in securitisations where the originator, sponsor or original lender is established 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:

- (i) risk retention requirements,
 - Yes
 - No
 - No opinion
- (ii) credit granting criteria requirements,
 - Yes
 - No
 - No opinion
- (iii) disclosure requirements,
 - Yes
 - No
 - No opinion
- (iv) STS requirements, where the transaction is notified as STS
 - Yes
 - No
 - No opinion

Please explain if you see any risks arising from the removal of these requirements, and if so, how they should be mitigated.

(i) risk retention requirements,

Yes

- **Article 5(1) point c. of the SECR should be deleted:** The originator, sponsor or original lender located in the EU is already subject to the obligation to retain risk retention pursuant to Article 6 of the SECR. It is not necessary to simultaneously burden investors with the obligation to monitor compliance with risk retention. This is an unnecessary and duplicated burden, and there is no need to impose it on either investors already active on the market or potential investors.
- **Article 5(1) point d. of the SECR should be changed** - the reference to Article 6 of the SECR should be deleted (analogue to the reference to Article 7 SECR). Instead, reference could be made to “equivalent provisions” for the originator, sponsor or original lender to affect an “alignment of interest”: The proposal still maintains a requirement to assess third country securitisations by requiring that risk retention be met. This is guaranteed by the wording “which, in any event, shall not be less than 5 percent”. The originator, sponsor or original lender located outside of the EU, however, is not subject to the requirements of the SECR. Linking the assessment obligation to Article 6 of the SECR therefore represents a significant obstacle for European investors. An investment could fail due to this clause. Instead, reference could be made to similar and/or equivalent provisions that third country originators, sponsors or original lenders must comply with.

(ii) credit granting criteria requirements,

Yes

when credit granting is already regulated in the EU at the original lender [or originator] level

(iii) disclosure requirements,

Yes

- **Article 5(1) point e. of the SECR should be changed** - the reference to Article 7 of the SECR should be replaced by more generalised wording. For example, the investor could be required to verify whether or not they possess sufficient information in order to carry out the required due diligence pursuant to Article 5(3) of the SECR: Verification remains necessary. However, the reference to transparency requirements pursuant to Article 7 of the SECR makes it practically impossible to invest in third country securitisations. Originators, sponsors or original lenders located outside of the EU are not subject to the requirements of the European Securitisation Regulation. European investors are therefore unable to fulfil these requirements and are thus excluded from the third country securitisation market. The result is that European

investors cannot provide as much support to European companies that operate around the world, and the fixed transaction costs (e.g. establishment of a specialised department) cannot be distributed across a larger volume of investments. It also limits opportunities for financing banks and investors in Europe to develop expertise in new asset classes in other regions, such as Solar ABS in the USA 5 to 7 years ago, and then in turn to actively help develop these sectors within the EU. Last but not least, this reinforces the home bias towards the EU, in particular for smaller investors.

(iv) STS requirements, where the transaction is notified as STS

Yes

The verification of the STS criteria relies primarily on the originator and, if applicable, the STS verifier. It does not seem necessary to duplicate the burden of verification towards investors. The simplification would increase the appeal of the label.

Concerning the simplifications, the modifications envisaged should be defined as a subset of existing reporting or disclosure requirements, in order to avoid additional development on existing transactions. Also, conceptually, the STS label was created to give comfort to investors that are investing in a transaction that is deemed to be compliant with certain generally accepted criteria: requiring investors to verify that the STS label was appropriately granted devoids the label of its purpose.

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?

Please explain.

The European Banking Federation (EBF) respectfully refrains from replying to this question

4.12. Do the due diligence requirements under Article 5 disincentivise investing into securitisations on the secondary market?

- Yes
- No
- No opinion

Please explain

For secondary market investors, due diligence requirements under Article 5 can be particularly off-putting as they make securitisations less attractive compared to other investments with less stringent monitoring requirements. Fulfilling all the requirements under Article 5 is typically unfeasible within the usual timelines of secondary market transactions and frequently does not benefit smaller trades. As a consequence, EU institutional investors face a significant competitive disadvantage relative to those investors.

As mentioned, the EBF suggests adopting **proportional principle-based due diligence requirements**. By tailoring obligations based on factors such as risk profile, granularity, and rating classes, the regulatory burden could be more appropriately calibrated. This would lower costs and reduce complexity for secondary market investors, encouraging broader market participation.

4.13. 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?

- Yes
- No
- No opinion

4.14. 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?

- 0 – 15 days
- 15 – 29 days
- 29 – 45 days
- No opinion

4.15. If you answered yes to question 4.13., what type of transactions should this rule apply to?

N/A.

4.16. Do the due diligence requirements under Article 5 disincentivise investing into repeat securitisation issuances?

- Yes
- No
- No opinion

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?

The European Banking Federation (EBF) emphasises that the current approach envisages a “one-size-fits-all” due diligence approach leading multiple issuances from the same issuer under the same

programme to require the same level due diligence . This approach::

- puts the European investors subject to CRR to a competitive disadvantage,
- duplicates costs for repeating an unnecessary due diligence and misallocating due diligence cost to other trades that may require more attentions.

4.18. 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?

- Yes
- **No**
- No opinion

Please explain your answer.

Adding new sanctions in SECR would only deter more investors from coming into the market, which would be detrimental to the development of the EU financial market.

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?

Nothing specific in addition to the above.

4.20. Taking into account your answers to the previous questions in this section, by how much would these changes impact the volume of securitisations that you invest in?

The European Banking Federation (EBF) respectfully refrains from replying to this question

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?

The European Banking Federation (EBF) respectfully refrains from replying to this question

Delegation of due diligence

4.22. 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?

- Yes
- **No**
- No opinion

Please explain your answer.

No. The referred Articles 32 and 33 SECR do not provide direct legislative power to national authorities to issue regulations for administrative sanctions in relation to “institutional investors” and to apply administrative sanctions based thereon.

Against this background and in reference to question 4.23, the European Banking Federation (EBF) deems both options not applicable.

4.23. 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

- the institutional investor
- the party to which the institutional investor has delegated the due diligence obligations

5. Transparency requirements and definition of public securitisation

Questions to stakeholders:

5.1. 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.

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.

Please compare the total transparency costs for securitisations with the total transparency costs of other instruments with similar risk characteristics.

As a trade association, the European Banking Federation (EBF) refrains from discussing or consolidating specific cost figures. However, the EBF is committed to providing complementary qualitative assessments that reflect the expert-driven discussions among our members.

Article 7 of the SECR requires detailed loan-level data reports, imposing significant costs and effort on entities to create and maintain these systems. This complexity creates high barriers for new originators, and small banks. The prescriptive templates produced by ESMA for the purposes of the disclosure under Article 7 SECR (“ESMA Templates”) have been largely discussed among the different market participants. Notably, current templates include information that are not useful for the investors or replicate information already provided to them. While transparency is key for investors, any overdetailed disclosure reporting is in our view an obstacle to the development of the securitisation market and a comprehensive review would therefore be highly necessary.

The information investors need to assess risk is misaligned with the content and format of ESMA reports. Investors require customized reporting to reflect specific eligibility criteria, concentration limits, performance tests, and covenants, rendering the one-size-fits-all approach of ESMA Templates ineffective.

Hence, the EBF advocates for more targeted changes ensuring a more efficient securitisation reporting, reducing the mandatory fields, and more generally, providing more flexibility in filling in the templates.

In addition, the EBF suggests:

- (a) amending Article 7 of the SECR to eliminate loan-level reporting for granular portfolios and shifting to aggregated transaction-level reporting .
- (b) reviewing the ESMA Templates for third-country securitisations, as they are currently not fit for purpose. Reporting should either comply with local regulatory requirements in the relevant jurisdiction or utilise a simplified, tailored template to better address the specific needs of these transactions. The review should meet more accurately the regulators' and investors' needs, while limiting the burden of completing the disclosure to what is actually necessary.

Implementing these changes would simplify the securitisation process, lower entry barriers for new participants, and provide substantial cost and time savings for originators and supervisors.

At the same time, the EBF cautions against new investments that the banks would have to bear in addition to the significant costs already incurred in the past for the set-up of the templates and incurred on an ongoing basis in order to maintain such disclosure infrastructure. Indeed, banks have made huge IT investments in order to comply with current disclosure requirements made under SECR. Therefore, the EBF suggests striking the right balance between existing templates (already paid for) and a welcomed new simplified approach.

- 5.2.** 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.

The European Banking Federation (EBF) respectfully refrains from replying to this question.

- 5.3.** How do the disclosure costs that you provided in **5.1.** compare with the disclosure costs for other instruments with similar risk characteristics?

- Significantly higher (more than 50% higher)
- Moderately higher (from 10% to 49% higher)
- Similar
- Moderately lower (from 10% to 49% lower)
- Significantly lower (more than 50% lower)

Please explain your answer.

The European Banking Federation (EBF) respectfully refrains from replying to this question.

- 5.4.** Is the information that investors need to carry out their due diligence under Article 5 different from the information that supervisors need?

- Significantly different
- Moderately different
- Similar

Please explain your answer.

As originating banks, arrangers and lead managers of securitisation in the public and private market, our understanding is that the current data disclosure is too detailed and certain mandatory information is not required / used by investors or rating agencies. Transparency is key for the investors, but excessive disclosure reporting is in our view an obstacle to the development of the securitisation market.

In practice, certain investors require a detailed information, but this does not necessarily correspond to the information as set out in the ESMA Templates. As a result, ESMA templates for disclosure is either not used because investors do not require such level of detail, or because they require different information, so that the disclosure needs to be done in two different formats.

Reporting should become better fit for purpose overall: for investors, supervisors, and the public. It is therefore key that existing reporting systems are consolidated and simplified.

Investors will conduct their assessment depending on some factors including the type of securitisation, the underlying assets (granularity, tenor), the level of seniority of the securitisation position (equity vs senior), the size of the contemplated investment etc. In order to make their investment decision, investors will need some details on the underlying loans (but generally not on a loan-by-loan basis), details on credit enhancement provided, amortisation & triggers, cash flow models, etc.

Supervisors shall require only a subset of the information needed for investors, in order to get a broad view of the market (e.g. type of securitisation, asset class, number and size of tranches, risk retention scheme, etc.).

More specifically, for instance:

- The requirement laid out in the EU Securitisation Regulation (SECR) to report loan level data for public ABS transactions should be removed. Investors and rating agencies do not evaluate a portfolio on loan level, but instead use aggregated data and stratification tables that were created by collating individual data. Supervisors also assess granular portfolios as a whole using stratification tables, so that reporting based on individual receivables does not provide any added value.

- For private ABCP, private non-ABCP, and synthetic securitisations, the above requirement should equally be removed. While supervisors only require transaction-level data, for private investors, loan level reporting does in this context also not provide an added value.

To provide more detail, investors in private securitisations enjoy early involvement in the transaction process. If they need specific information, it is provided to them before the transaction is concluded. If the requested information cannot be provided, the transaction is not concluded. Loan level reporting, therefore, does not offer added value to private investors in most cases.

5.5. To ensure that investors and supervisors have sufficient access to information under Article 7, please select your preferred option below.

- Option 1: -

- Streamline the current disclosure templates¹⁶ for public securitisations
- Introduce a simplified template for private securitisations and require private securitisations to report to securitisation repositories (this reporting will not be public).

- Option 2:

- Remove the distinction between public and private securitisations.
- Introduce principles-based disclosure for investors without a prescribed template.
- 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.

- Option 3: No change to the existing regime under Article 7.

5.6. If you are a supervisor, what impact (in percent or EUR) would you anticipate Option 1 would have on your supervisory costs?

The European Banking Federation (EBF) respectfully refrains from replying to this question.

- 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?

The European Banking Federation (EBF) respectfully refrains from replying to this question.

- 5.8. 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.**

The European Banking Federation (EBF) respectfully refrains from replying to this question.

- 5.9. Do you see any concerns, impediments, or unintended consequences from requiring private securitisations to report to securitisation repositories?

- Yes
- No
- No opinion

Please explain your answer.

It remains unclear why Option 1 proposes the introduction of new obligations for private securitisations to report to repositories, particularly given that such reporting would not be made public—as it arguably should not, considering the nature of these transactions. Instead, the EBF recommends streamlining the existing ESMA reporting framework for private securitisations by focusing only on the fields genuinely required by investors and supervisors. This approach would avoid the need for costly one-off investments to adapt to new templates, in addition to recurring operational and IT costs associated with compliance.

Private transactions typically involve sophisticated investors who already have access to necessary information through tailored agreements with originators. Mandating repository reporting for these transactions would impose unnecessary administrative burdens and additional costs without delivering meaningful benefits to the parties involved. Such a requirement would also contradict the broader aim of simplifying reporting obligations for private deals.

Furthermore, the EBF anticipates that no additional information should be required beyond the current ESMA reporting framework (e.g., aggregated Annexes 11/13 for ABCP trade receivables securitisations). Existing channels for information exchange are already sufficient, and requiring the use of repositories would only add unnecessary expenses.

Lastly, this approach risks breaching confidentiality obligations relating to the underlying assets, the structure of securitisation transactions, and the funding sources and risk management strategies of originators. It could also jeopardise the trust inherent in the relationships between originators and arrangers, sponsors, or investors.

- 5.10. 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?

- Yes
- No
- No opinion

Please explain your answer.

The EBF believes the current definition of public and private securitisations is appropriate and should remain unchanged, as expanding it could introduce greater uncertainty.

Specifically, criteria (2) and (3) appear very broad, potentially resulting in transactions currently classified as "private securitisations" being reclassified as "public securitisations." Moreover, admission to a trading venue should not be a determining criterion in this distinction.

Nonetheless, (3) may be a relevant criterion, provided it is narrowly defined to include only transactions where investors have no direct relationship with the originator or sponsor. A more targeted amendment to the definition of public securitisation could address this issue.

Such an amendment would also allow Collateralised Loan Obligations (CLOs) to be classified as public securitisations. This change would harmonise transparency requirements across public and private transactions since CLOs are the only "private" deals where investors typically require loan-level data. CLOs also share similarities with public transactions, as they are rated by agencies and publicly disclosed on platforms such as Bloomberg.

To further clarify the distinction between public and private transactions, additional criteria could include a public rating or an announcement on platforms like Bloomberg. For private transactions, reporting requirements should be entirely shifted to an aggregated data basis to simplify compliance and improve regulatory clarity.

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)?

The European Banking Federation (EBF) respectfully refrains from replying to this question.

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?

The European Banking Federation (EBF) respectfully refrains from replying to this question.

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?

Please explain your answer.

The European Banking Federation (EBF) respectfully refrains from replying to this question.

5.14. Assuming that transparency requirements are amended as suggested in Option 2, by how much would the volume of securitisations that you issue, or invest in, change?

From a general viewpoint, it is not possible to estimate the link between a potential increase of volume of securitisation issuances and the amendment of transparency requirements, as the growth in supply and demand of these issuances is dependent on several other factors.

Having said that, it is not clear what would be the consequences of removing the distinction between public and private securitisations. Should this lead to private deals being disclosed via securitisation repositories, it would negatively impact private securitisations, in particular for the ones where there is a partial or total disclosures of the underlying obligors, as for them information cannot be made public. In addition, with Option 2 a new disclosure template will need to be developed, with again impacts as one-off costs for the originators. The EBF believes that streamlining current templates is a better solution.

5.15. 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.**

The European Banking Federation (EBF) will respectfully refrain from answering to this question.

5.16. Under Option 2, what should be included in the principle-based disclosure requirements for investors to reduce compliance costs while ensuring access to information?

How should investors access this information?

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.

The European Banking Federation (EBF) advocates for more targeted and efficient securitisation reporting. Specifically, amending Article 7 of the SECR to eliminate loan-level reporting for granular portfolios and shifting to aggregated transaction-level reporting would be beneficial. Similar adjustments should apply to private transactions, introducing a dedicated template for private securitisations that meets supervisory needs while easing regulatory burdens.

However, while a targeted revision of disclosure templates is necessary, it should also be tailored to suit the various securitisation market segments.

For instance, originators have largely automated the process of filling in ESMA reporting templates for public ABS transactions. Thus, any smaller adjustments to existing templates would have no effect on investor behaviour, but only create additional costs for originators.

5.17. Under Option 2, should intra-group transactions, and securitisations below a certain threshold, be excluded from the reporting requirements in Article 7?

- Yes
- No
- No opinion

Please explain your answer. If you answered yes, how should intragroup transactions be defined and how should the threshold be determined?

N/A.

- 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? **Please explain your answer.**

The European Banking Federation (EBF) will respectfully refrain from answering to this question.

- 5.19. Should the text of Article 7 of the SECR explicitly provide flexibility for reporting on the underlying assets at aggregated level?

- Yes
- No
- No opinion

- 5.20. **If you answered yes to question 5.19.,** which categories of transactions should be allowed to provide reporting only at aggregated level? You may select more than one option.

- Granular portfolios of credit card receivables
- Granular portfolios of trade receivables
- Other

If you chose “other”, please explain.

The European Banking Federation (EBF) proposes eliminating mandatory loan-level reporting for highly granular portfolios, such as credit card and trade receivables, where transaction-level aggregated reporting would suffice. This adjustment reflects the nature of these portfolios, which consist of large volumes of relatively uniform assets.

For private transactions, mandatory standardised reporting templates are unnecessary. Investors in these transactions typically negotiate bespoke templates with issuers, tailored to their specific requirements. Reporting in private securitisations is often used not only for risk evaluation but also for dynamic calculations, tests on eligible assets, and concentration limits—elements not captured in standard ESMA templates. Since most private securitisations are not ECB-eligible and are unrated, detailed line-by-line reporting in a securitisation repository is unwarranted. Disclosure levels should instead be determined bilaterally between sellers and investors, ensuring sufficient information is provided for proper evaluation.

For new asset classes such as factoring and trade receivables, which are characterised by short maturities and large volumes of receivables, a granular loan-level dataset (LLD) is not critical for risk analysis. Sponsors could address disclosure requirements at an aggregate level, simplifying the process while maintaining investor confidence.

However, for highly granular asset classes already supported by established templates, such as residential mortgages, the EBF does not recommend removing LLD reporting unless at the issuer's discretion, especially where reporting infrastructure is already in place and functioning effectively.

Further discussions are required to define the types of transactions eligible for aggregated-level reporting. Nevertheless, aggregated reporting is particularly suitable for portfolios with high granularity, such as small consumer loans, auto loans, or similar products, where loan-level data is less relevant to overall risk assessment. This approach would balance the need for transparency with operational efficiency.

In the specific case of private securitisations not distributed to institutional investors, such as warehousing lines, issuers should be allowed to provide the ESMA reporting at aggregate level, in the same way as SECR allows ABCPs to provide ESMA reporting at aggregate level. This reporting can be complemented with a loan-by-loan reporting if requested by the investor.

Indeed, pursuant to Article 7(1) point a. and subparagraph 4 of Article 7(1) of the SECR, ESMA reports must currently be generated on the level of individual loans. This also applies to private securitisations

not distributed to institutional investors, such as ABCP transactions or warehousing lines. It creates unnecessary costs and efforts when collecting and processing data in the ESMA template format when the investors already negotiate ad hoc reporting templates suited to their own requirements directly with the issuer. The mandatory requirement to create loan-level reports should be removed for private securitisations where banks are providing the senior securitisation financing and not distributing to international investors.

The rationale is that, for private transactions where banks provide the senior securitisation funding and do not distribute to institutional investors, such as ABCP transactions or warehousing lines, there is no need to require mandatory detailed reporting templates under ESMA format when the banks negotiate ad hoc template suited to their own requirements directly with the issuer. Indeed, for such private securitisations, the reporting used by banks acting as investors is not just for risk evaluation but also for the active determination of the borrowing base/ utilisation of the transaction. It, therefore, requires specific information, tests on eligible assets, concentration limits and dynamic calculations that are not part of the ESMA templates and require tailor-made templates. Such bespoke templates are contractually agreed between banks and the issuer and are the ones that banks used for monitoring the transactions.

Hence, the obligation to provide in addition ESMA templates for loan-by-loan and investor reports creates unnecessary costs and burdens. Such private transactions are typically not ECB-eligible and not rated by the rating agencies. In this context, there is no reason to provide detailed line-by-line information in a securitisation repository. The level of disclosure should only be negotiated on a bilateral basis between the seller and the involved investors, it being specified that the investors shall, in all circumstances, be able to conduct a proper evaluation.

5.21. If you are a supervisor, what impact (in percent or EUR) would you anticipate Option 2 would have on your supervisory costs?

The European Banking Federation (EBF) will respectfully refrain from answering to this question.

6. Supervision

Questions to stakeholders:

6.1. Have you identified any divergencies or concerns with the supervision, based on the current supervisory set up?

- Yes
- No
- No opinion

Please explain and give specific examples.

The EBF has observed that each National Competent Authority (NCA) may interpret the provisions outlined in the Securitisation Regulation (SECR) differently, leading to significant variability (as well as redundancy) in regulatory approaches. For instance, in some jurisdictions the supervisory requirements of pillar 2-add-on with reference to agency risk is an example of unlevel playing field, as other jurisdictions do not have the same ex-ante requirement. Such divergence can present considerable challenges during the structuring of a securitisation transaction and potentially distort the market. As a result, some market participants may find themselves at an advantage compared to their peers who are subject to the oversight of an NCA with a more conservative interpretation of the SECR rules. Another clear example is given by the SRT process which is not uniform at EU level as every local NCA is applying different assessment approaches when evaluating securitisation transactions. Furthermore, market participants frequently regard the EBA's 2020 report on SRT as binding, although it is currently a set of recommendations awaiting legislative adoption.

One should recall that the Eurogroup has emphasized the importance of reducing fragmentation across

EU markets to advance the Capital Market highlighting the role of securitisation.

Against this background, the EBF understands that supervisory convergence is required on two levels: both uniformity of treatment by the Joint Supervisory Teams (JST) and alignment among individual national supervisors.

6.2. Would you see merit in streamlining supervision to ensure more coordination and supervisory convergence?

- Yes
- No
- No opinion

6.3. If you answered yes to question 6.2., what should be the scope of coordinated supervision?

- STS securitisations only
- All securitisations
- Other (please specify)

Yes, in our view there is significant merit in streamlining supervision to ensure greater coordination and supervisory convergence in the context of the securitisation market.

The complexity of securitisation transactions often leads to varied interpretations and applications of regulations by different supervisory authorities.

Therefore, a more coordinated approach will facilitate a stable, transparent, and equitable market, ultimately benefiting investors, issuers and broader economic stability. To this end, a coordinated approach should include all types of securitisations. It is also crucial for facilitating smooth and efficient cross-border transactions.

6.4. If you answered yes to question 6.2., what should be the supervisory tasks of coordinated supervision?

- Compliance with Securitisation Regulation as a whole
- Compliance only with STS criteria
- Compliance with Securitisation Regulation and prudential requirements for securitisation
- Other (please specify)

The EBF would support coordinated supervision for the following tasks:

1. Compliance with Securitisation Regulation and prudential requirements for securitisation
2. Sharing or exchange of information between the ECB and local supervisors to avoid the duplication of requests related to SRT

6.5. If you answered yes to question 6.2., which model would you prefer?

- Setting up supervisory hubs
 - Having one national authority as lead coordinator in the case of one issuance involving multiple supervisors
 - Another arrangement (please specify)
- Please explain your answer**

The EBF would support a single European supervisor without establishing a new supervisory role or entity.

The European Central Bank (ECB), through the Single Supervisory Mechanism (SSM), is already positioned to provide a sufficient level playing field for the banks within its jurisdiction. In any case, it is essential to ensure that the requests from the various JSTs are more harmonized.

6.6. If you answered yes to question 6.2, would you require participation by all NCAs or only some?

- All
- **Some**
- No opinion

6.7. If you answered “Some” to 6.6., based on what criteria would you select NCAs? Please specify.

The European Banking Federation (EBF) suggests “some”.

The criteria for determining the eligibility of a National Competent Authority (NCA) to participate in the supervisory process of a securitisation transaction should be based on the authority’s connection to either: (i) the jurisdiction in which the asset-backed securities are issued, or (ii) the jurisdiction where the underlying assets are originated.

It is understood that a minimum threshold—such as a specific level of investment in the notes or a percentage of the underlying assets relative to the aggregate portfolio—may be established as a prerequisite for such involvement.

6.8. If you are a supervisor, how would the changes to supervision suggested in the previous questions affect your supervisory costs?

N/A.

7. STS standard

Questions to stakeholders:

7.1. Do you think that the STS label in its current form has the potential to significantly scale up the EU securitisation market?

- Yes
- **No**
- No opinion

Please explain.

The European Banking Federation (EBF) supports the Simple, Transparent, and Standardised (STS) label, but after more than five years, it has not led to the anticipated growth in originators or investors. Data from the EBA and AFME show STS market share remains low (around 35% of total issuances), and placement volumes are disappointing.

To scale up STS securitisations, it is crucial not to inadvertently worsen perceptions of non-STS securitisations. Both STS and non-STS transactions are essential for fostering the Single Market for Securitisation and supporting the green and digital transitions of the European economy.

The EBF recommends extending measures discussed for the securitisation market to non-STS transactions with calibrated adjustments. For instance, current debates on developing the European

securitisation market should include non-STIS securitisations in prudential improvements with appropriate calibration to help relaunch the market effectively.

As for factors holding back the expansion of the STS standard in the EU, EBF members emphasize the following (start of the response to question 7.2):

1) Overly restrictive and costly STS criteria

- STS and SMEs securitisations: in order to allow the structuring of more STS transactions on SME portfolios some specific criteria should be streamlined (e.g., the current requirement on information on guarantors). The most important burden is the par. 12 of the Article 20 (12) of the SECR which requires that at least one payment should have been already performed by the relevant borrower before the loan transfer to the SPV. On average, complying with this requirement (i.e., par. 12 of the Article 20 (12) SECR) may imply significant losses (around 30% of the transferrable pool).
- While the STS framework is supported, not all deals can meet its over 100 criteria. Certain portfolios or transactions cannot meet all the STS criteria by nature (2% granularity criterion meaning 50 names minimum or the homogeneity criterion), such as trade receivables, some SMEs, corporate loans, infrastructure financing, aviation and ship financing, mixed cross-border commercial loans. in.
- Additionally, some issuers have structural difficulties to achieve the STS label, e.g. new companies (such as Fintechs) that cannot meet the 5 years historic data requirement, or smaller banks that, by construction, handle smaller pools and fail to achieve the granularity or homogeneity criteria. Some underlying assets are not eligible to STS label because of the STS criteria “repayment not predominantly based on sale of assets”; this is the case for the certain types of real asset financing (e.g., car fleet and car rental deals). In addition, some securitisation structures may not necessarily meet the STS criteria, while contributing to the efficient financing of the economy; revolving warehouse financing the assets funded before the first payment is made; SRT securitisations tailored to specific investors constraints and needs, such as synthetic unfunded securitisations directly protected by Solvency 2 regulated insurers.
- Some underlying assets are not eligible to STS label because of the STS criteria “repayment not predominantly based on sale of assets”; this is the case for the certain types of real asset financing (e.g. car fleet and car rental deals).
- Some underlying assets are not eligible to STS label because of the STS criteria related to the residual maturity <6 years + WAL of assets max 3.5 years, such as Leasing assets (typically 5/7y maturity for commercial vehicles or equipment leasing)
- When customers (certain large EU corporates) have their financing arms/retainer in non-EU jurisdictions, EU banks as sponsors cannot achieve STS. Conversely, non-EU global corporates with substantial EU operations may not achieve STS for their portfolio of EU trade receivables if the retainer is outside the EU.

7.2. 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.

- Overly restrictive and costly STS criteria
- Low returns
- High capital charges
- LCR treatment
- Other

Please

explain.

CRR III Articles 243 (1a) and (2)

In order to benefit from the STS prudential framework, banks need also to meet the CRR Article 243 “Criteria for STS securitisations qualifying for differentiated capital treatment”.

When banks issue STS securitisations, they always need to retain a portion of the transaction in their balance sheet (they can choose to retain the senior tranche, or to retain the mezzanine / junior tranche depending on the transaction; and in all transactions, banks need to hold a minimum of 5% because of the risk retention requirement). The prudential treatment of the retained tranche has a cost in the economic viability of the transaction. That’s why the additional limitations imposed for benefiting from the STS prudential treatment, as per Article 243 of CRR, may discourage banks to issue some transactions under the STS standard. Similarly, when bank provide senior Securitisation funding to clients, under STS format, the prudential benefit of STS for the banks is subject to compliance with Article 243.

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 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. The derogation, provided the risk weight of the liquidity facility is below 100%, is limited to institutions applying Internal Assessment Approach (IAA), and unduly excludes those under SEC-IRBA, SEC-SA or SEC-ERBA.

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

SSPE

Pursuant to Article 20(1) and 24(1) of the SECR, a purely formal review shows that the only transactions that qualify for the STS label are those for which the ownership of the underlying exposures are acquired by an SSPE. It is thus not possible for an investor to acquire the exposure directly, even though this alternative would, in some cases, be subject to less risk and incur fewer costs. This formal approach was, unfortunately, confirmed as part of the Q&A process by the responsible supervisory authorities, who rejected a more appropriate substantive assessment.

In some cases, the bank, as an example, takes receivables from an industry business onto their balance sheet themselves, meaning there is no need to involve a Securitisation Special Purpose Entity (SSPE). However, tranching takes place just like a classic ABS transaction involving a SSPE. These types of transactions, in which banks purchase receivables directly without involving a SSPE, should also meet STS requirements. There are no disadvantages or risks, as no additional, third-party investors are involved in these transactions.

Against this background the EBF highlights that areas for which reflection on possible improvements is needed are (see 7.3 for details):

- Simplification / Calibration of certain STS eligibility criteria;
- Better regulatory calibration for both STS and non-STS
 - Better treatment for all investment products under Solvency II,
 - Recognition in SEC-R of guarantees provided by insurers in the STS label
 - Better capital requirements calibration in CRR3

- More proportionality in due diligence processes for all transactions.
- Addressing underestimated additional constraints.
- **Increase the LCR benefit for STS**

7.3. How can the attractiveness of the EU STS standard be increased, for EU and non-EU investors?

Firstly, the EBF believes that Article 243 should be deleted, or amended as the following. Regarding Article 243 (1)(a) of CRR, the EBF believes that the derogation should apply to all approaches. Both for ABCP and non-ABCP STS transactions, the mere presence of one corporate in the pool that has a standard risk weight above 100% leads to no STS prudential benefit for the bank. It is therefore necessary 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. This is also needed for residential and commercial mortgages especially as the 40% and 50% risk weight criteria were calibrated in CRR II and have to be recalibrated in line with the changes on standard risk weight in CRR III.

Secondly, only very few countries (EU, UK, Canada, South Africa, China except for ABCP...) have onboarded the 'optional' Basel STC label. However, it is key that Europe 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. Three jurisdictions (US, China, Turkey) do not still even apply the Basel III securitisation framework. Incentivizing only STS transactions /disincentivizing non-STs ones would create an uneven playing field to the detriment of the EU by constraining the range of securitisation options available to market stakeholders.

Thirdly, a prudential recalibration for both STS and non-STS securitisations, as proposed in Section 9 for banks and Section 10 for insurers, is absolutely necessary to increase the number of transactions in Europe.

Furthermore, the EU's STS label, may benefit from easy to implement amendments that would encourage some investors, like the insurers, to make a comeback in the European securitisation market (and notably the synthetic SRT one):

- (re)insurers providing credit insurance through unfunded protection should be eligible as protection providers in synthetic STS transactions in SEC-R, as detailed in questions 7.4 to 7.11;
- **SSPE** – A direct investment via the bank balance and not via an SSPE does not lead to increased risk per se, while additionally, costs could be reduced. It should thus be allowed that securitisations qualify for the STS label even if no SSPE is involved.
- **An amended suggested wording to Articles 20(1) and 24(1) of the SECR could read:** The title to the underlying exposures shall be acquired by the SSPE by the buyer of the receivables by means of a true sale or assignment or transfer with the same legal effect in a manner that is enforceable against the seller or any other third party. The transfer of the title to the SSPE the buyer of the receivables shall not be subject to severe clawback provisions in the event of the seller's insolvency.
- **Historic performance** – Currently, data on static and dynamic historical default and loss performance must be made available to investors (pursuant to Articles 22(1), 24(14), 26d(1) of the SECR). It would be more useful if the originator could provide targeted information to the investor – taking into account factors specific to the business and the transaction.
- **Residual maturity** – Article 24(15) of the SECR limits the residual maturity of a securitisation pool (e.g., to a maximum of three and a half years for car loans). This limitation criterion should be removed given that particularly assets within the transition financing framework (e.g. tractor units) often have longer residual maturities and can therefore not be financed within the STS framework. In addition, transactions with long residual maturities are equipped with increased security mechanisms.
- **Revolving period** – Article 21(6) point d of the SECR mandates ending the revolving period when the underlying exposures do not meet the predetermined credit quality. This criterion should, at the minimum, be waived for private transactions, which are often exposed to fluctuating exposure volumes. This is particularly important in order to ensure that industries

with cyclical financing needs (such as agriculture) have access to fluctuating volumes.

- The need for the obligor to have made at least one payment: that limits the use of SRT transaction directly on new lending, for no particular reason as it could be simply required that, in case any problem arises with any loan in the portfolio, those could be simply excluded as they had never taken part in the transaction.

STS criteria

7.4. In the case of an unfunded credit protection agreement¹⁸ 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?

- Yes
- No
- No opinion

7.5. 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?

- The protection provider should meet a minimum credit rating requirement.
- The provision of unfunded credit protection by the protection provider should not exceed a certain threshold out of their entire business activity.
- Other

Please explain

The answer to question 7.4 is an **unequivocal ‘Yes’**. The answer to the associated question 7.5 needs context.

The terminology ‘unfunded’ does not refer to the funding equivalent that an issuer receives as part of traditional securitisations, but to the presence or not of collateral against a guarantee.

The term ‘funded STS’ is applied on what are clearly synthetic transactions with no ‘true sale’ (and no associated funding), therefore ‘funded STS’ means from a legal point of view ‘collateralised STS’, and thus ‘unfunded STS’ means ‘uncollateralised STS’. While the market and SECR use the terminology ‘unfunded’ credit protection, a more appropriate and legally exact terminology would be ‘uncollateralised’ credit protection.

The presence of collateral against a guarantee has nothing to do with the technique of securitisation *per se*. Whether a collateral requirement is needed against a guarantee is dependent on the counterparty that provides the protection. There are already criteria in the CRR on credit risk mitigation (CRM).

That was the situation for banks in Europe, until out of nowhere, in 2021 the rules changed, but only for Synthetic STS transactions, which – by nature – aim at transferring credit risk. The change resulted from the implementation of the Capital Markets Recovery Package (CMRP), also called ‘COVID Quick Fix’. As the name suggests, this legislation was passed in a hurry, and **it contained an accidental interaction of rules that fragmented the Synthetic STS market** for credit protection providers such as (re)insurers, into an investable Non-STS market, and a **non-investable STS market**.

The complex interactions of rules that makes the STS market non-investable for unfunded credit protection providers is explained in detail in the September 2024 Paris Europlace Securitisation Report (see its Recommendation 5).

The problem is not caused by the banking CRR, it is created in the 2021 amendment of the SECR. **Accidental market fragmentation, detrimental to the European economy, should be fixed as soon as possible.**

Credit (re)insurers play a vital role in the economic fabric, being central to trade finance, to corporate loans, to specialised lending, to banks' limit management on a single name basis, and increasingly to banks' capital management on a portfolio basis with synthetic securitisation. **Their participation in those markets is on an uncollateralised ('unfunded') basis**, with the (re)insurers settling in cash the claims. This is a fundamental tenet of insurance that liquid assets, such as cash, is for honouring claims of clients and customers when they arise; they are not to be used as collateral against all potential scenarios of future claims.

Allowing unfunded protection will not undermine the STS rationale. The additional counterparty risk is already accounted for through the Risk-Weighted Exposure Amount (RWEA) associated with the credit rating. This change would enable STS synthetics for asset classes currently deemed unfeasible, such as residential mortgages, where the returns required by funded investors do not align with market realities.

Furthermore, most European (re)insurers providing credit protection are highly regulated (subject to EIOPA rules), well capitalised (subject to the Solvency II regime), and well diversified (multi-lines). Their business model is explicitly allowed in point (g) of Article 201(1) of the CRR that stipulates:

"CRR 201(1). Institutions may use the following parties as eligible providers of unfunded credit protection: [...] (g) other corporate entities, including parent undertakings, subsidiaries, and affiliated corporate entities of the institution, where either of the following conditions is met: (i) those other corporate entities have a credit assessment by an ECAI; [...]"

In short, Unfunded protection should be permitted because the CRR already allows it. Article 202 of the CRR goes further in explaining that the notion of well capitalised should be understood as having an external rating equal or better than CQS 2 (i.e., AAA, AA and A) when a transaction is signed, and that it should be maintained at CQS 3 or better (i.e., AAA, AA, A and BBB) during the life of the transaction for the credit protection to remain uncollateralised.

The unfunded protection provider could be a non-regulated entity such as an SPV so long that SPV is itself fully collateralised.

The EBF does not see any reason to add additional CRM criteria in the CRR for Synthetic STS transactions.

The question of financial stability arises mainly from the type of counterparty that provides the uncollateralised credit protection. And in particular, whether such counterparty will remain an active participant in a stressed market environment. Counterparties whose capital requirement is regulated are referred to as 'permanent capital'. Re(insurers) subject to European Solvency II rules are 'permanent capital'.

7.6. 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?

Allowing the participation of (re)insurers on an uncollateralised basis in the market eligible to the STS label would actually improve financial stability.

As explained in the answer to question 7.5, highly regulated, well capitalised and well diversified (re)insurance companies acting as credit protection providers do not provide collateral as part of their normal course of business.

In fact, this is one of the major lessons of the Global Financial Crisis (GFC) documented in the US Congress report (2011).³

In the post-GFC environment, prudent (re)insurers do not, in the normal course of their business, use their liquid assets as collateral against insurance contracts or guarantees. They use them to pay claims. Thus, prudent (re)insurers will not make an exception for STS, simply to satisfy an accidental and

³ US Congress (2011), "The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States".

complex interplay of rules when the Synthetic STS framework was drafted in a hurry during COVID.

Prior to the market fragmentation caused by the COVID Quick Fix, prudent (re)insurers had access to the entire European Synthetic STS market. They will remain active in the European Non-STs market that is accessible to them, providing European banks with capital velocity benefiting the European economy.

From originating banks' perspective, until highly regulated, well capitalised and well diversified (re)insurers are not allowed to provide credit protection to synthetic securitisations with the STS label, the choice of risk-takers is restricted.

Increasing the choice of available risk-takers enables banks:

- to reduce their costs on synthetic STS transactions;
- to have access to high quality regulated counterparties with 'permanent' capital, i.e., that will be present in the market during periods of financial stress (unlike credit hedge funds currently present in the STS market with leveraged collateral) and are not sensitive to the same factors of systemic risk;
- to increase capital velocity which benefits directly the European economy;
- to increase their volumes of STS transaction and thus more risks would be transferred away from the European banking system.

Last but not least, access to (re)insurers would generate more level playing field between SA banks and IRB banks.

To conclude, financial stability would be improved for originating banks wanting to issue with the 'STS' label.

From the (re)insurers' perspective, enabling them to participate in the synthetic 'STS' market on an uncollateralised basis would:

- immediately increase investment opportunities located in Europe;
- give them access to risks from generally higher credit quality securitised assets;
- strengthen quantitatively and qualitatively over the long term the diversification of their credit insurance portfolios.

To conclude, financial stability would be improved for (re)insurers.

Thus, a statement in future legislation that transparently and explicitly mentions that European credit (re)insurers are eligible in the European synthetic STS market on an uncollateralised ('unfunded') basis should be made.

This would be achieved by **adding a point (d) in Article 26e(8) to explicitly say that highly regulated, well-capitalised and well diversified (re)insurers (regulated under the European insurance directives and equivalent regimes) can provide banks with uncollateralised ('unfunded') credit protections guarantees on securitisation benefiting from the STS label.** The credit risk mitigation rules (CRM) that would apply are the ones currently present in the CRR.

7.7. 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)?

Please explain your answer.

(Re)insurers participate in banks' capital relief trades via the liability side of their balance sheets, as they prefer to hold liquid assets on the asset side of their balance sheets to be able to pay insurance claims when such claims arise (e.g., property and casualty claims arising after a natural catastrophe such

as an earthquake or a flood). Non-senior tranches in SRT transactions are notoriously illiquid and are not suited for the asset side of their balance sheet⁴. They are risk bearing instruments, best suited for the liability side.

(Re)insurers can play **two complementary roles** in securitisation and are the only ‘non-banks’ which are in the scope of **prudential regulations** (Solvency II) and **supervisory oversight** dedicated to their investments/risk taking in securitisation transactions.

1. As **funded investors on the asset side of their balance-sheet**, (re)insurers can hold bonds in true sale securitisations, and/or credit linked notes (CLNs) (direct or via an SPV) in synthetic on-balance-sheet securitisations.
 - Because there is an underlying assumption in the regulatory capital charge calibration for (re)insurers, that they will sell their assets under distressed market conditions, these investments are treated as “market risk” (‘spread risk shocks’) under Solvency II. While still too high, the capital charges for STS are less unfavourable than for Non-STs.
 - The originator bank issuing STS CLNs is exposed to collateral management issues, having to maintain cash on deposit being at least CQS 2 (which means that countries such as Italy were until recently unable to execute STS transactions – the problem was fixed in June 2024 with a granting by the EBA of a regulatory privilege given to Consob, lowering the requirement to CQS 3, a privilege that is not available to Central and Eastern European countries in a similar situation)⁵.

The EBF is not aware of Synthetic SRT transactions being invested by (re)insurers on the asset side of their balance sheets.

2. The credit insurance arm of well diversified non-life (re)insurers can also sell **uncollateralised (‘unfunded’) credit protection from the liability side of their balance-sheet**, and cover losses in specific tranches of securitisations. Contracts can take the form of credit insurance policies, non-payment insurance, risk participation agreements or guarantees.
 - These contracts are treated as “Non-life underwriting risk” in Solvency II regulation. The strategy is to hold the risk.
 - With the drafting problem in the COVID Quick Fix, the European Synthetic SRT market became fragmented into an STS market that is non-investable, and a Non-STs market that remains investable.
 - As stated by the EBA in its October 2024 report on credit insurance: “**It is worth noting that no default on credit insurer has been observed in the EU.**”⁶ In the unlikely event of an insurer defaulting, these credit protections that are underwritten are – by Solvency II – senior to bondholders and other non-insurance credit obligations of the insurer. Thus, their recovery rates in Europe should be high. This is linked to the strong regulatory regime to which (re)insurers are subject to.

With regard to the **business model itself**, (re)insurers allocate capital to various activities, based on their business strategy, asset and liabilities management and other parameters. This allocated capital is then deployed where investment opportunities exist. The fact that Europe has reduced investment opportunities to European (re)insurers in the synthetic securitisation area, by forbidding them (albeit inadvertently) to provide credit protection on their liability side to originating banks executing STS transactions has led to three important consequences:

- a) Investment teams specialising in securitisation products do not grow to their full potential in Europe.
- b) (Re)insurers are unable to build the diversified portfolios that they would like to create, across European countries, across SA and IRB banks, across the asset classes in which they have expertise.
- c) Europe has global champions in the (re)insurance sector. Global (re)insurers invest globally, and allocated capital that could have been deployed in Europe on synthetic STS is currently deployed in other regions of the world where they are eligible.

⁴ In contrast, funded senior tranches of traditional securitisations are ideal for the asset side.

⁵ EBA (2024), “Opinion of the European Banking Authority on Consob decision to grant the permission referred to in Article 26e(10) of Regulation (EU) No 2017/2402”, EBA/Op/2024/03, June

⁶ EBA (2024), Report on Credit Insurance, Mandate under Article 506 of the CRR as amended by the CRR3, EBA/Rep/2024/21, October

Because (re)insurers are playing an increasingly important role in the protection of mezzanine tranches of synthetic SRT transactions, a market which is expected to be growing further in the frame of the CRR regulation with thicker mezzanine tranches, the EBF supports adding a new point (d) in Article 26e(8) of SECR to explicitly say that highly regulated and well-capitalised (re)insurers (under Solvency II or equivalent) can provide banks with unfunded credit protection guarantees on their STS transactions.

7.8. 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?

Opening STS eligibility to unfunded credit protection investors would definitely increase and diversify demand in the market, foster competition and eventually lead to larger securitisation volumes. Also, some asset classes (e.g. specialized lending, transaction banking) are historically better known by insurers: at least in the first few years, the EBF 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.

¹⁸ According to Article 26e(8)(c) eligible credit protection for STS on-balance-sheet securitisation should be “secured by collateral meeting the requirements laid down in paragraphs 9 and 10 of this Article”.

7.9. **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?

- Yes
- No
- No opinion

7.10. **If you answered yes to question 7.9.,** which high-quality collateral instruments should be added to the list?

To date, many banks have refrained from issuing synthetic STS transactions due to the impracticality of the requirements set out in Article 26e, paragraph 10. These provisions fail to enhance the economic viability of such transactions, particularly for banks that do not meet the minimum credit quality step (CQS) needed to hold high-quality collateral, such as cash on deposit, within their accounts.

For the derogative treatment, for instance, the CQS2 threshold may be a concern for some banks whose rating is limited by the country rating ceiling. This may be captured for instance as a minimum (CQS2, country rating).

The European Banking Federation (EBF) recommends that Article 26e, paragraph 10 of the Securitisation Regulation be dispensed with entirely.

The collateral management requirements it imposes are excessively complex and could even undermine financial stability. For instance, if the credit protection beneficiary is downgraded, the rules may trigger a mandatory transfer of cash collateral. Such a transfer could cause significant disruption, including the termination of Significant Risk Transfer (SRT) and the reintroduction of Risk-Weighted Assets (RWA) back onto the originator's balance sheet.

An alternative outlined in Article 26e, point 10(a)(i), involves investing the cash collateral in 0% risk-weighted debt securities rolling every three months. However, this approach introduces additional operational burdens to manage rolling investments and creates a "negative carry." Specifically, the cost of funding for banks is unlikely to be offset by the limited returns from these low-yielding securities, nor by the RWA relief gained from the STS designation.

Furthermore, there is a technical inconsistency within the Level 1 text that warrants attention. Under current rules, collateral in the form of cash must be held with a third-party credit institution with a minimum credit quality step of 3 (CQS 3). However, if the originator itself is the custodian, it must qualify for the higher standard of CQS 2. This discrepancy creates an unnecessary and illogical barrier. The EBF suggests harmonising these requirements by aligning the credit quality step for collateral held by the originator (or its affiliates) with that required for third-party institutions, i.e., CQS 3 for both.

Such revisions would streamline the rules, reduce complexity, and enhance the practical viability of synthetic STS transactions while maintaining safeguards for financial stability.

7.11. What would be the implications for EU financial stability of extending the list of high-quality collateral arrangements under Article 26e(10)?

The European Banking Federation (EBF) does not see risks.

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.**

The securitisation of cross-border portfolios, including SMEs and other types of enterprises, should be permitted, provided the originator employs suitable and homogeneous risk measurement procedures or internal rating systems to appropriately assess the quality of these portfolios. A clarification to this effect would ensure alignment with best practices while maintaining the integrity of securitisation structures.

Currently, the RTS on homogeneity under Article 2(3) generally restricts the securitisation of cross-border portfolios containing SMEs and other businesses. However, an exception exists for portfolios evaluated using a standardised internal rating system. While this exception is welcome, the stringent requirement for pool homogeneity under Article 26b(8) remains a significant limitation for certain types of businesses, such as highly diversified trade finance portfolios that include corporate and financial institution borrowers. This restriction hampers the securitisation of such portfolios, despite the relevant RTS providing for flexibility.

Another challenge lies in the exclusion of credit-impaired debtors under Article 26b(11). Banks face significant difficulties in tracking the broad scope of this definition within their systems, creating operational and compliance burdens. Greater clarity and feasibility in applying these definitions would benefit the market.

Furthermore, the clarification that short-term positions in credit derivatives arising from market trading activities—outside the scope of credit and portfolio management—are not considered "double hedging" under Article 26b(4) would enhance the practicality of the rules without compromising their intent.

It is also important to ensure that the lists of sources or circumstances provided in the regulation are treated as non-exhaustive and non-mandatory. Flexibility in interpretation would allow institutions to adapt to varying operational realities while complying with the core principles of the regulation.

Finally, the criteria for creditworthiness and homogeneity should focus on the debtor rather than each individual loan, as per the Level 1 text. This approach aligns with the broader objectives of the regulation while reducing unnecessary complexity and facilitating more efficient securitisation processes. The securitisation of cross-border portfolios with SMEs and other types of enterprises should be allowed.

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.

- Yes
- No
- No opinion

Yes, as the private ABCP corporate securitisations requirements exceed those for other financial products backed by the same assets, including retention obligations, originator liabilities, and extensive reporting.

There should be a simplification through removed or lighter criteria (in the sense of not adding any requirement to the pre-existing criteria).

- Aligning the interim payments with what the bank records in its P&L, as per Article 26e(2), second subparagraph, points (a) and (b);
- Limit the scope of Article 26b(11) to borrowers only;
- In case of new lending transactions, allow a derogation to the requirement of at least one payment set out in the Article 26b (12);
- Requirements relating to standardisation: (art. 26c (2)): it is not appropriate to introduce a specific additional obligation to mitigate interest rate or currency risk for synthetic transactions as it is already reflected in the capital requirement calculation.
- The requirement to specify the servicing procedures that apply to the underlying exposures (criteria 26.c.7) is burdensome, as the bank usually needs to draft a specific document as a synthesis of servicing procedures with a focus on the relevant asset class, while the topic is usually fully addressed during the on-site due diligence performed by the investors.
- avoid updating, after pricing, the liabilities model on an ongoing basis to potential investors upon request (Article 26d(3)), considering the nature of high sophisticated investors involved in this kind of transaction and also in order to reduce the operational burdens for the originator.

- Criteria 26.e.4: exhaustive check of the Eligibility Criteria by the Verification Agent is a challenge regarding some criteria that are not 'factual'. The EBF would rather have this addressed by representations made by the bank
- Debt securities as collateral: more flexibility would be appreciated regarding the maximum maturity (currently 3 months). The EBF would welcome longer term securities subject to, for instance, higher over-collateralisation levels agreed between the parties.
- In addition, for the derogative treatment, the CQS2 threshold may be a concern for some banks whose rating is limited by the country rating ceiling (e.g. Italian banks). This may be captured for instance as a minimum (CQS2, country rating).

For traditional securitisations (including ABCP):

- The territoriality provision in Article 18 may be viewed as too restrictive for some private pan-European securitisations notably in the context of ABCP transactions. The EBF suggests enabling the transactions with non-EU originators to be eligible to the EU STS label when the sponsor bank is EU (and the transaction fits all the other STS criteria of course).
- Removing the requirement for the inclusion of a SSPE in the context of private ABCP transactions, notably for full-support ABCP programs;
- Significantly simplifying/lightening the credit-impaired criterion, especially for corporates.
- Besides, a recognition of the UK STS label (equivalence regime) would be welcome for EU institutional investors currently facing a competitive disadvantage.
- Reducing the length of historical data to be provided for STS qualification (5 years)
- Remove the WAL criteria for ABCP transactions or at least extend the WAL lengths.

Third-Party Verifiers (TPVs)

7.14. On a scale of 1 to 5 (1 being the least valuable), please rate the added value of TPVs in the STS securitisation market.

1 / 2 / 3 / **4** / 5

Please explain.

Third party STS verifiers are overall positive although not strictly necessary or required. They constitute one of the pillars, together with law firms and arrangers, which has facilitated the standardisation of the verification process across the industry. In general, however banks may also proceed with self-certification on STS, adopting very sound and conservative criteria which, as such, are equally taken into account by investors. Thus, the EBF would caution against any possible mandatory implementation of TPVs but would see this as voluntary and up to the discretion of issuers.

In fact, regarding traditional cash securitisation, added value of TPVs in the STS securitisation market can be low. In on-balance-sheet Securitisations, the TPV assists, especially for first time STS issuance, the originator in understanding the relevant regulation based on market best practices ensuring to meet all regulatory requirements and enhances the transaction quality and reliability to potential investor.

7.15. 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?

- Yes
- **No**
- No opinion

Please explain your answer to the above, including where necessary whether TPVs should be supervised at EU level.

In the case of Paris-based Prime Collateralised Securities (PCS), a Third-Party Verifier (TPV) with observer status at Paris Europlace, it is already supervised by the AMF, the National Competent Authority (NCA). For its UK-related activities, it is also supervised by the FCA. In both cases, after

having gone through a mandatory agreement process, PCS is regularly subject to supervisory questions, as supervisors monitor their ongoing activity.

The European Banking Federation (EBF) recommends that the said supervision allow to remove from investors' controls of STS compliance with regulatory criteria within their due diligence processes (cf. question 4.10). Indeed, these controls are unduly required from all investors, in addition to those already performed at originator/sponsor's level (3 level of internal controls as per existing regulation + supervision) and by TPVs. They do not mitigate any residual risk, and unduly burden the investment process.)

The term "supervision" can be understood in two ways: (1) oversight of conduct (e.g., managing conflicts of interest, ensuring non-discriminatory billing, maintaining records), or (2) oversight of the content of verifications (i.e., the interpretation of STS criteria), akin to how rating agencies are supervised.

On the first point, there is no need for EU-level conduct supervision.

On the second point, there is already a mechanism to harmonise interpretations of STS criteria at the EU level: the EBA Q&A process. While this process has provided useful clarifications, it is rarely used due to its inefficiency. Responses often take 18–24 months, making it impractical for market participants to rely on this system for timely guidance. As a result, participants are forced to depend on their own interpretations, supported by legal counsel and third-party verifiers (TPVs).

If content supervision were to mirror the approach used for rating agencies—requiring transactions to pause until European regulators resolved interpretation issues—this could result in additional burdensome controls on STS criteria and higher costs.

Nevertheless, these views do not prejudice the fact that third-party STS verifiers can play a valuable role in standardising the verification process across the industry.

7.16. To what extent would supervision of TPVs increase the cost of issuing an STS securitisation?

- To a large extent
- To a moderate extent
- Limited or no effect
- **No opinion**

Please explain your answer, and if available, estimate the total costs in EUR.

N/A.

8. Securitisation platform

Questions to stakeholders:

8.1. Would the establishment of a pan-European securitisation platform be useful to increase the use and attractiveness of securitisation in the EU?

- Yes
- No
- **No opinion**

8.2. 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

- Create an EU safe asset
- Foster standardisation (in the underlying assets and in securitisation structures, including contractual standardisation)
- Enhance transparency and due diligence processes in the securitisation market
- Promote better integration of cross-border securitisation transactions by offering standardised legal frameworks
- Lower funding costs for the real economy
- Lower issuance costs
- Support the funding of strategic objectives (e.g. twin transition, defence, etc.)
- Other

Please explain how the platform could be designed to achieve the objectives that you selected in your answer to question 8.2.

While EBF members recognise that a European securitisation platform could, in principle, support the sale of eligible assets, this depends on achieving sufficient standardisation in areas such as eligibility, pricing, structuring, and documentation. Given the inherent heterogeneity of European assets, reaching this level of standardisation is a challenge. For this reason, EBF members emphasize that such a platform should be considered at a later stage and must not delay the urgent need for a comprehensive review of the current regulatory framework—particularly the prudential and STS frameworks. The immediate focus of regulatory reform should remain on addressing the existing barriers to scaling up EU securitisation markets.

In the meantime, regardless of the development of a platform, the EU should not necessarily link the establishment of a platform with continued efforts to improve existing guarantee schemes (e.g., EIB/EIF) and introducing new guarantees for securitisations. These measures would allow banks to free up regulatory capital, enabling them to originate new loans to support the real economy.

To allow for further reflection on this topic, the EBF leaves this section blank and commits to continuing its analysis of the potential benefits and challenges of a European securitisation platform. The EBF will develop detailed views and share them with regulators at an appropriate time.

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?

- Yes
- No

- No opinion

¹⁹ Developing European capital markets to finance the future: Proposals for a savings and investments union. Available at: <https://www.tresor.economie.gouv.fr/Articles/2024/04/25/developing-european-capital-markets-to-finance-the-future>

²⁰ The challenge of financing the transformation for companies and banks in Germany – securitisation as an instrument for linking bank loans and capital markets. Available at: https://www.true-sale-international.de/fileadmin/tsi-gmbh/tsi_downloads/aktuelles/Final_Report_German_Securitisation_Platform_convenience_translation.pdf

8.5. If you answered yes to question 8.4., which asset classes should the platform target? Please provide a justification.

- SME loans
- Green loans (i.e. green renovation, green mobility)
- Mortgages
- Corporate loans
- Other

8.6. Are guarantees necessary?

- Yes
- No
- No opinion

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?

N/A.

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?

N/A.

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?

N/A.

9. Prudential and liquidity risk treatment of securitisation for banks

Questions to stakeholders:

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?

Several prudential provisions in the Capital Requirements Regulation (CRR) significantly impact banks' issuance of, and demand for, traditional (true sale) securitisations, particularly when the senior tranche is sold to external investors. Key provisions, presented below in the order of the EC Consultation Paper, include:

- **Risk-Weight Floors:** The European Banking Federation (EBF) notes that the risk-weight floors for senior tranches in securitisation transactions are often set disproportionately high relative to the actual risk. Risk-weight floor for senior tranches, currently set at 10% for STS and 15% for non-STS, should be recalibrated. Senior tranches, while attracting between c. 25% to 50% of the total risk weight of a securitisation transaction, bear minimal risk due to their

protective position. Therefore, they should not carry such high-risk weights.

- **P-Factor Adjustments:** The p-factor parameter in both the SEC-SA (Standardised Approach) and SEC-IRBA (Internal Ratings-Based Approach) formulas imposes excessive additional capital requirements on securitised positions that hamper the economic viability of many securitisation transactions. This is a critical concern as the securitisation market is central to the Capital Markets Union (CMU, recently rebranded as Savings and Investment Union) Action Plan and as institutions may increasingly rely on securitisation to manage their portfolios effectively. The P-Factor should be recalibrated both under SEC-SA and SEC-IRBA.
- The current adjustment is a temporary measure lasting until 2032. During this period, institutions using the SEC-IRBA, and the IAA can apply a reduced p-factor (halved) to both STS and non-STS securitisation positions when calculating their output floor.
- However, the benefits of this measure are contingent on exceeding the total consolidated Output Floor (OF). Unless such circumstance materialises, it does not result in a reduction of RWAs for securitisations compared to the current treatment. The P-Factor should not only be (temporarily) adjusted for retained originator positions, but also be **recalibrated a permanent basis and beyond the output floor**: see our answers to questions 9.5, 9.22 and 9.23.
- **Significant Risk Transfer (SRT) Criteria:** The CRR's stringent criteria for SRT present operational challenges and uncertainties for banks, making it difficult to obtain regulatory approval. The complex approval process and stringent quantitative tests required for SRT make it less attractive for banks to issue securitisations aimed at reducing risk on their balance sheets.
- **Liquidity Coverage Ratio (LCR) Treatment:** Under the CRR, senior tranches of securitisations are restricted to Level 2B assets within the Liquidity Coverage Ratio framework, with a high haircut low share and 5-year WAM restriction. This limits the attractiveness of these tranches for investors.
- In addition, we recall that the current eligibility for the LCR requirements hampers the inclusion of transactions which are penalised only because of the existing country ceiling criteria being applied to originators of certain Member States, irrespective of the soundness of the securitisation transaction itself. Such criteria adopted by the rating agencies do not allow many transactions to achieve the highest ratings obtainable only because of the issuing Member State, therefore a relaxation of the LCR criteria to allow lower rated senior tranches is warranted.

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).

- **If securitisation risk-weights (RW) on senior tranches are adjusted to align more closely with capital neutrality** such as by introducing a floor sensitive to the RW of the underlying pool, **combined with measures related to the P-Factor — securitisation would become a significantly more efficient tool for risk redistribution.** This would particularly enhance its utility in achieving significant risk transfer (SRT) across a wider range of portfolios, including those that currently attract lower capital charges. Portfolios with low risk, which are currently excluded from SRT transactions, represent a substantial untapped pool of assets with significant potential for securitisation. Furthermore, banks acting as investors in third party securitisations would benefit from a reduction in the RWA inflation expected for their transactions under CRR 3. In particular, banks tend to act as financiers through providing senior financing in securitisation form to corporates or other third parties seeking to raise funding. A large proportion of these tend to be private / bi-lateral trades and with appropriate lender protections, therefore, the changes to both the risk weight floor and the p-factor will allow to mitigate the expected RWA inflation due to CRR 3 and will also allow for better risk aligned capital

requirements for such investments.

- **Addressing the Liquidity Coverage Ratio (LCR) treatment of asset-backed securities (ABS) would also provide a critical boost to both the primary and secondary ABS markets, improving pricing and market liquidity.** A broader and more stable investor base, supported by LCR adjustments, would enhance market dynamics. Importantly, non-bank investors also place high value on LCR eligibility, which would help stimulate the involvement of non-bank participants, fostering a globally active and positive market ecosystem and improving liquidity across all parameters.
- Setting aside the potential for additional new asset development or the specific impact on non-bank participants, the below proposed adjustment to the current floor could bring about an increase in securitisation volumes. This change would undoubtedly generate momentum, particularly when combined with complementary initiatives, such as the Solvency II treatment for non-banks. Together, these developments could unlock significant expansion in the securitisation of low-risk portfolios.
- This segment of the market, with its vast capacity and potential, represents the greatest opportunity for growth. It could play a pivotal role in facilitating the €800 billion of new investments envisioned by the Draghi Report,⁷ providing critical support for Europe's broader economic ambitions.

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.

Small and medium-sized enterprises (SMEs) and corporate assets currently face inefficient prudential treatment across securitisation transactions, particularly due to the overly conservative application of the RW floor.

These assets are commonly securitised through synthetic and private structures, where protections are applied to lower tranches while the senior tranche is typically retained. This aligns with the low-margin context of such transactions, which are designed to mitigate the operational constraints imposed by existing frameworks. Additionally, a significant volume of SME and corporate exposures is managed through ABCP structures, which remain fully supported in terms of capital and liquidity by the sponsoring bank or through on-balance sheet investments in third party securitisations. This dependence makes such transactions acutely vulnerable to the inefficiencies of current prudential rules.

Introducing a risk-sensitive RW floor would address the current disconnect between the prudential treatment and the economic risk weight of securitised pools, particularly for low-risk portfolios. This would benefit both originators—when the senior tranche is retained—and investors—when the senior tranche is sold.

In synthetic securitisations, which are commonly used for SMEs and corporate pools, protections are typically placed on lower tranches while the senior tranche remains with the originator. Given that SME portfolios often benefit from the SME supporting factor, they tend to fall within the low-risk category, making them particularly well-suited to benefit from a risk-sensitive floor.

As answered in question 9.1, beyond adjustments to the RW floor, reducing the p-factor under SEC-IRBA and SEC-SA and revising the LCR treatment could also enhance demand for SME and corporate securitisations. Extending the eligibility criteria and enlarging liquidity buckets to include these assets would further stimulate investor interest and support market growth.

If the EU capital requirements are aligned with the securitisations risk profile, it will allow banks to be an actor in the securitisation market as issuers and sponsors and so increase the supply for SMEs.

Overall, reducing capital requirements on retained tranches, by lowering the P-Factor and reducing the

⁷ “The future of European competitiveness”, Report by Mario Draghi, September 2024

floor for RW assets, would significantly ease the regulatory burden on issuers of securitisation transactions. The rationale for advocating for both changes is to address the RWA inflationary effect of CRR3 which is expected to not only increase the risk weights of securitised assets but also for securitisations themselves as a result. Despite making these adjustments, issuers would still transfer risk to meet the requirements for SRT but enable a more aligned risk weight compared to the economic risk exposure for the retained senior tranche. This regulatory flexibility would maintain the integrity of financial stability measures while lowering barriers to participation in securitisation markets.

Such reforms could play a key role in expanding the viability of securitisation, particularly for smaller banks and specific portfolio segments within larger financial institutions. Many smaller banks, including regional ones, often face limitations in engaging with securitisation due to the extremely high costs and complexity of complying with current capital requirements. Similarly, within larger banks, certain pockets of their loan portfolios—such as those consisting of SME loans—may not achieve the economies of scale necessary to make securitisation economically viable under the existing framework. Adjusting the capital requirements would directly address these challenges, creating opportunities for smaller players to participate more effectively in the securitisation market.

For example, a regional bank with a strong focus on lending to SMEs could benefit from these reforms by securitising its SME loan portfolios more easily. This would enable the bank to free up capital tied to these loans, optimise its capital structure, and reinvest the released capital into additional SME lending. Such a development would not only support the bank's growth but also channel critical financing to SMEs, which are a cornerstone of economic activity and employment across the EU.

At a broader level, this policy shift has the potential to revive the EU securitisation market, which remains underdeveloped compared to other global regions. By encouraging more participants and increasing market activity, the reforms could unlock significant additional capital for lending purposes. In turn, this would enhance the capacity of banks to extend credit, particularly to SMEs, which often face challenges in accessing financing. This increased flow of capital would support business expansion, job creation, and innovation, driving economic growth across the EU. Moreover, fostering a more active securitisation market could improve financial inclusion by enabling a wider array of businesses and individuals to access affordable credit.

Ultimately, these measures would not only strengthen the EU securitisation market but also reinforce its role as a vital tool for achieving the EU's broader economic goals, including fostering sustainable growth, enhancing the competitiveness of European businesses, and supporting a resilient and inclusive financial system.

9.4. 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](#)²¹), servicer and investor?

- Yes
- **No**
- No opinion

9.5. 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.

The roles of banks in securitisation transactions, as outlined in the Capital Requirements Regulation (CRR), are well-defined, covering their functions as issuers, sponsors, and investors. However, the current calibrations are overly conservative across all these roles, potentially stifling the efficiency and growth of securitisation markets.

Securitisation should be viewed primarily as a mechanism for transforming the risk of the underlying pool. Thanks to improved frameworks and controls, residual inefficiencies are now well-contained. As a

result, the capital allocation for securitisations should align closely with capital neutrality, reflecting the true economic risk of the pool.

To address this, targeted amendments - such as revisiting the P-factor and risk weight floors in the upcoming CRR III - are essential for banks in all their roles (issuers, sponsors and investors), as well as through any other regulation that could preventing regulated investors to get active in this market, as for an example, Solvency II prudential framework should be reviewed to make insurers come back as investors.

These adjustments should ensure a balanced regulatory framework that reflects actual risks while supporting the sustainable development of securitisation. Adjusting the framework should also have the goal of eliminating the differentiation between investor, originator and sponsor roles, since under EU rules, the asymmetry of information is relatively well-managed, ensuring a balanced framework. Securitisation should be regarded as a mechanism for transforming the risk profile of the asset pool. While a minor inefficiency may persist, it is now well-contained, meaning that the resulting capital allocation should align closely with capital neutrality. Consequently, there is no justification for granting preferential treatment to any specific role within the regulatory structure.

9.6. 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?

- Yes
- No
- No opinion

9.7. If you answered yes to question 9.6., please explain and provide suggestions for possible clarifications.

In addition to the proposals of amendments to Article 243 of CRR (as presented above in Section 7 related to STS label) and of modifications to the prudential treatment of Credit Conversion Factors (as presented below in Question 12.3), the European Banking Federation (EBF) believes that there is another issue in the CRR for the capital calculation of securitisation facilities that needs fixing.

While these are technical points, they have a huge impact on the development of the market.

The **LGD calibration for SEC-IRBA** limits the emergence in Europe of loan-on-loan private securitisation for real assets and their refinancing into public ABS markets. These asset classes such as aircraft ABS, project finance CLO, data centre CMBS, are well developed in the US and are needed in Europe given its huge financing needs. Regarding the **EBA RTS on KIRB calculations**, which became effective in Q3 2024, there is an issue on the LGD calibration. In brief, when banks as investors in the senior tranche are using SEC-IRBA for the pools originated or serviced by clients, EBA accepts that the PD derived from banks’ internal models can be used for the PD but not the LGD. Rationale being that LGD is originator/servicer-specific as it reflects underwriting/servicing standards. For pools originated and serviced by banks’ clients, banks must use flat LGD of 50% for senior exposure and 100% for sub exposures. This creates two issues: 1) for senior exposures, there is no differentiation between senior unsecured exposures and senior secured exposures; no LGD benefit from security which exists under the foundation approach where the LGD is reduced to 25%; and 2) for subordinated exposures where the 100% LGD is too harsh compared to the foundation calibration of 75% LGD.

Our proposal is to modify the EBA RTS on KIRB calculations in line with the Foundation Approach (25% LGD for secured, 40% for senior unsecured and 75% for subordinated).

- As part of the KIRB calculation for the SEC-IRBA approach, allowance of specific credit risk adjustments on the underlying pool to reduce the expected loss should not be limited to the overall cap calculation, as per chapter 3.2.2 of the ESAs report JC/2022/66. Instead, specific credit risk adjustments on the underlying pool should also be allowed to reduce expected loss for the underlying exposures as well. The rationale is that KIRB should express the capital requirements pre-securitisation. In the IRB approach, the expected loss amounts are also reduced by the specific credit risk adjustments.
- **Clarification of KIRB calculation:** Articles 255 (2) and (3) CRR currently seems to contain an error, since for the determination of the total capital requirements for non-securitisation exposures, the risk-weighted exposure amounts covering the unexpected losses, and the

expected losses must be multiplied with 8%. The EBF believes that KIRB must be calculated as follows since the expected loss must be transferred into an 'RWA equivalent': **(RWAs + 12.5 * expected loss) * 8% / exposure value**.

- **The scope of Article 178 CRR for securitisation positions:** It should be clarified that securitisation positions are not in scope of Article 178 CRR default definition. The rationale is that Article 178 is in chapter 3 and within this chapter, Article 151(10) CRR requires that the RWA for securitised exposures and for securitisation positions are calculated in accordance with chapter 5. Within this chapter 5, there is no reference back to chapter 3, and where the term 'defaulted' is used (e.g. Article 261(1) CRR), a different definition is used for this purpose. In addition, it would not make sense to apply the default definition on 'obligor level' for different tranches of the same securitisation. If this 'obligor level' was applied and the junior tranche was considered to be defaulted, the senior tranche would automatically be treated as defaulted because the same SSPE is the obligor. But this does not make sense because the definition of a tranche (see Article 2 (6) SECR) acknowledges that each tranche entails a risk of credit loss which is greater than or less than another tranche.
- **The scope of Article 47a CRR for securitisation positions:** It should be clarified that securitisation positions are not in scope of Article 47a CRR, i.e. not in scope of the minimum loss coverage requirement for Non-Performing Exposures. In Article 47a(3) all the conditions for the exposures to be classified as non-performing are listed. Two conditions are of relevance here: the condition for the default in accordance with Article 178 CRR (Article 47a(3)(a)), and the impairment according to the applicable accounting framework (Article 47a(3)(b)). There is no statement in these CRR Articles for the inclusion or exclusion of securitisation positions from the scope of the backstop regulation, leaving it unclear. However, considering Article 47a(1), only the case of "debt instrument" (point a) can be interpreted as inclusive also of securitisation positions since the CRR does neither define the term 'debt instrument' nor the term 'debt security'. Beyond the CRR, if the only differentiation is on the level of 'debt security' vs. 'equity security', a securitisation note would fall under 'debt security'. However, in the CRR, for example, for the topic of eligible financial collateral in Article 197, debt securities and securitisation positions are separately mentioned. In addition, according to Article 4(61) CRR, securitisation has its own specific definition, but it is not stated whether a securitisation would qualify as 'debt security'. The EBF would welcome the statement that the term "debt instrument, including a debt security" does not include securitisation positions.
- Moreover, compared to a common debt instrument (for example a corporate bond), securitisation positions are generally designed to be loss absorbing and to sustain losses, which are statistically expected since the beginning, throughout the life of the securitisation. This phenomenon is clearly driven by the underlying securitised pool of assets and its lifetime performance. The terms and conditions of the notes provide for the priority of payments of investors in normal and distressed scenarios. Therefore, principal losses on a securitisation tranche (for example a junior one) may occur, but without triggering a regulatory classification of default, which does not apply in this context. This is simply driven by the portfolio performances that can affect positively or negatively the overall return on the investment. Consequently, securitisation positions do not have credit events similar to, e.g., corporate exposures and therefore, the application of the minimum loss coverage seems to be not appropriate.
- **Concerning maximum capital requirements, on Article 268(1) CRR:** The ability for an institution to use the maximum capital requirement should be available to institutions acting across all roles. Therefore, when using either the SEC-SA or SEC-ERBA, an investor institution should also be able to take benefit of Article 268(1) CRR. Rationale for allowing an investor to benefit from this provision, is because of the information that it receives in relation to the performance status of the reference portfolio on a regular basis.

9.8. 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?

- Yes
- No
- No opinion

²¹ According to Article 3(2) of the [Securitisation Regulation](#), an originator can be an entity that has originated the exposures that are securitised (letter (a)), or has purchased a third party's exposures on its own account and then securitises them (letter (b))

9.9. If you answered yes to question 9.8., please explain and provide examples.

The European Banking Federation (EBF) understands that the European Commission should act so that there is level playing field for all banks in the European Union and that national competent authorities should not have the opportunity to introduce special capital requirements for banks that want to carry out securitisations. For example, it shall not be permitted for national competent authorities to introduce Pillar-2 requirements to protect against systemic risks that are assumed to arise when a bank securitise assets.

Furthermore, the EBF believes that some supervisory practices should be adjusted:

1. The EBA guidelines for SRT introduce some ratios (especially the CRT ratio) that are not economically linked to the transfer of risk or that are too prescriptive. (See above Section 7 on SRT)
2. The EBA guidelines on WAL calculation also introduce too much complexity for a simple parameter. This parameter is capped at 5 years usually in banking regulation and floored at 1 year. The EBF considers that WAL calculation should be simplified. It could be aligned to the WAL value used for market pricing.

In addition to national supervisory practices, there are also national legislations that would benefit from being revised and/or amended. For instance, the absence of a legal framework for synthetic securitisations in some jurisdictions, including Belgium, unduly restricts banks in their potential role as originators or sponsors of securitisation transactions. For this reason, as of now, the Belgian securitisation framework does not allow the use of a Belgian special purpose vehicle for synthetic securitisation. Against this background, the EBF believes that the Belgian law should be amended by moving to a securitisation undertaking that would cover all types of exposures whether via a classic true sale or a synthetic securitisation.

To conclude, EBF would like to highlight that these are only a few examples and should not be read/understood as an exhaustive list of national legislations and supervisory practices that hinder securitisation transactions.

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.

In general, by converting assets into tradeable securities, banks can increase their lending potential and offer refinancing options without requiring additional resources or liquidity. This process effectively redistributes risk to investors, contributing to greater financial stability across the system. By enabling banks to offload assets from their balance sheets, securitisation boosts their lending capabilities and provides investors with access to a diverse range of asset classes.

Risk weight floors

Questions to stakeholders:

- 9.11. 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.**
- Yes
 - **No**
 - No opinion

While securitisation involves tranching, which could introduce complexity, this does not inherently increase model risk when the securitisation structure is well-managed, and the 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. EU 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 in the EU.

In general, model risks associated with securitisation can be effectively managed through robust due diligence, transparency, and regulatory safeguards, making the model risk comparable to or even lower than other complex financial assets and since the GFC, banking organisations whether acting as originators of securitisations or investors in securitisations have fundamentally changed the way they approach the underwriting of credit or conducting due diligence when investing this change in approach together with rules and regulatory frameworks which have come into force since the crisis (e.g. regulation related to due diligence such as the Mortgage Credit Directive, conduct rules including the senior manager regime and compensation related regulation has meant that organisations and individuals employed in such organisations are expected to conduct business with due care and diligence. These changes have led to, vastly improved structuring of securitisations and hence they do not inherently carry a higher structural model risk than other financial instruments.

²² Positions in resecuritisations – generally not admitted under the EU securitisation framework – when allowed by supervisors, are subject to a more conservative 100% risk-weight floor.

²³ For instance, only originators involved in the origination of the underlying exposures as referred to in point (3)(a) of Article 2 of the Securitisation Regulation. This would exclude any originator that “purchases a third party’s exposures on its own account and then securitises them”, according to point (b) of the same Article, to avoid that credit institutions would expand beyond core businesses just for the purpose of securitising the respective exposures in order to benefit from the reduction in the risk weight floor.

9.12. 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?

- Yes
- **No**
- No opinion

9.13. **If you answered no to question 9.12.,** should the scope and size of the reduction of the risk weight floors be amended?

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)?

Or, on the contrary, should the scope be reduced to only include originators who are servicing the underlying exposures?

Please justify your reasoning.

Post-securitisation, the capital requirement (KSA or KIRB) for an underlying portfolio naturally increases and can often double compared to pre-securitisation levels. This adversely affects the economics of these transactions, as the capital requirement of the underlying pool is one of the key drivers of the RWA of securitisation positions.

Capital "non-neutrality" stems from the inclusion of a "P-Factor" in both the internal ratings based (SEC-IRBA) and the standardised approach (SEC-SA). This adjustment results in risk-based capital charges of the securitised portfolio being multiplied by (1+p), leading to a mechanical non-linear increase in capital. Risk weight floors have been set for senior tranches at levels far exceeding their actual risk. (.

To address these issues, **priority** should be given to: (a) **lowering the risk-weight (RW) floor for STS (and non-STS) transactions; and (b) reducing the influence of that the p-factor parameter has in the SEC-IRBA and SEC-SA formulae** (see answer to question 9.23)

The European Banking Federation (EBF) deems it advisable to extend less stringent prudential measures to non-STs transactions. While the STS framework is valuable, not all deals can meet its criteria. Limiting prudential improvements to STS transactions alone may not sufficiently impact the market and could exclude significant segments. While the EBF fully supports the STS framework, the EBF also observes that it is not possible that all deals meet all the STS criteria. As a consequence, focusing prudential improvements only on STS may not trigger sufficient impact on the market and will leave entire segments of the potential scope on the sidelines.

The reduction in capital requirements for banks and insurers is justified by the advancements in the EU securitisation framework over the past decade, which have significantly mitigated agency and model risks.

Specifically, the EBF members support:

- **The reduction in the non-neutrality P-Factor of SEC-SA and SEC-IRBA of the securitisation framework with some; proposals for the risk-weight floor; and**

The risk-weight floor for senior tranches, currently set at 10% for STS and 15% for non-STs, should be recalibrated. Senior tranches, while attracting between c. 25% to 50% of the total risk weight of a securitisation transaction, bear minimal risk due to their protective position. Therefore, they should not carry such high-risk weights.

- **The adoption of the implementation of a risk-sensitive RW Floor**

As a preferred option, the EBF suggests a targeted measure aimed at bringing some proportionality in the determination of the RW Floors. Today's lack of proportionality, with fixed risk-weight floors, can represent a significant impediment to structuring some SRT transactions on some assets (e.g. RMBS, CMBS or high-grade Corporates).

As a side-note, it is worth highlighting that this risk-based approach is also proposed in the Paris Europlace July 2024 paper,⁸ based on the study “*Rethinking the Securitisation Risk Weight Floor*”⁹ is a scientific-based good starting point. The RW floor could be proportional to the underlying portfolio/pool capital (KIRB or KSA), with the formula $RW \text{ Floor} = 10\% \times K_{\text{Pool}} \times 12.5$, with KPool amortizing during the life of the transaction.

In general, the implementation of a risk-sensitive RW Floor follows a risk-based approach with the RW Floor proportional to the underlying portfolio/pool capital (KIRB or KSA), with the formula RW Floor differentiate for STS and non-STs:

Senior RW Floor = 7 % × Kpool × 12.5 for STS transactions or

Senior RW Floor = 12 % × Kpool × 12.5 for non-STs transactions

whereby Kpool = KIRB and/or Kpool = KA pursuant to Article 255 of the CRR for originators and

Kpool = KSA for investors (including banks ABCP conduit acting as investors in ABCP transactions).

For higher risk portfolio, the RW Floor would remain in the 10-15% range (based on underlying RW of 100% - 150% respectively), while for low-risk portfolios the RW Floor could be lowered to better reflect the quality of the underlying portfolio. Consequently, the capital saving for such transactions would be more commensurate, unlocking significant potential volumes.

Since the asymmetry of information is different between an (external) investor and an originator, the floor for an investor could be based on Standard Risk Weights, whereas for an originator it could follow its internal method (resp. IRB or SA). Rather than having a different approach for different types of investors, the EBF proposes to use the standard approach only to estimate the RW of the pool for an (external) investor.

The proposed floor structure delivers risk-appropriate floor levels, as it changes according to the benchmark portfolio risk (KIRB and/or KA). Example: the proposed amendment with a unified proportionality factor (10%) delivers the current STS floor (10%) for SME portfolios with a medium KSA risk weight of 100% and KA = 0.08.¹⁰ The proposal does not create additional cliff effects. This adjustment can be achieved by amending the CRR, after which relief would occur directly after the amendment takes effect.

In alternative to the option of implementing a risk-sensitive RW Floor, EBF would support reducing the RW Floor as a fixed value, as a second option.

For this option, which is proposed by the ESAs in Section 3.3.1 of the ESA Report, a 7% RW floor for STS securitisations (both cash and synthetic) for banks as originators, sponsors, or investors would be reintroduced, whereas a 12% RW floor for non-STs transactions in the same roles in all approaches (including SEC-ERBA and IAA would also be reintroduced. Further expanding on the analogy with recommendations advanced by ESMA, EBA, EIOPA in the Joint Committee advice of December 2022, where the reduction of the RW Floor would be targeted to transactions that respect a set of eligibility criteria, the EBF suggests one criteria: requiring a 2% granularity criterion and no thickness criteria for sold non-senior tranches.

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?

- Yes
- No
- No opinion

⁸ *How can securitisation contribute to the financing of the EU agenda?*, Paris Europlace, September 2024

⁹ *Rethinking the Securitisation Risk Weight Floor*, Riskcontrol, May 2024

¹⁰ “*Securitisation Reform to Boost European Competitiveness*”, SUERF Policy Brief | No. 976 | 12 Sep, 2024

9.15. 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.

The European Banking Federation (EBF) believes that the criterion related to the thickness of the sold non-senior tranches is not very clear. If the interpretation of our members is correct, the new floors could only be applied if, by using the formulas for calculating the RW of securitisation positions provided by the CRR, one would obtain, without applying the floor, an RW of no more than 5% for STS or 7.5% for non-STS transactions. This provision is overly conservative and seems an unnecessary safeguard that would only lead to increased costs for originators, which would be forced to sell tranches disproportionate to the actual riskiness of the portfolio. Moreover, in the current framework the required thickness to reach the floor already allows transactions to withstand high default rates corresponding to highly stressed scenarios, without ever impacting the senior tranches with losses. Finally, if the objective of the measure is to make the framework more risk-sensitive, introducing an additional constraint regardless of the type of underlying asset does not seem coherent. For these reasons, the EBF believes that this criterion should not be included.

9.16. 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?

- Yes
- **No**
- No opinion

9.17. 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.

Further conditions for lowering the minimum RW should, in principle, be avoided. The minimum granularity of 0.5 % proposed by the ESAs would have a significant negative impact on the ability to provide liquidity for SME sellers of receivables as these receivables could then no longer be purchased with an effect on liquidity. If a minimum granularity is therefore required for the reduction of the minimum RW, the EBF is in favour of the limit of 2% proposed by the European Commission as part of the negotiations on CRR III. This limit is also used in the STS criteria. Additionally, the requirement regarding counterparty credit risk also appears excessively restrictive. Restricting the benefit of a lower floor solely to transactions using only funded investors significantly limits the applicability of the RW reduction, thereby diminishing its intended benefits.

9.18. 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.

The European Banking Federation (EBF) answer is no, as the proposals should address issues in the entire EU securitisation market, traditional and synthetic, STS and Non-STS. The STS label, introduced in 2017, offers benefits like increased transparency, standardisation, improved capital treatment, and enhanced market positioning for originators.

While the STS framework is beneficial, not all deals can meet its over 100 criteria. Certain portfolios or transactions cannot meet all the STS criteria by nature (2% granularity criterion meaning 50 names minimum or the homogeneity criterion), such as trade receivables, SMEs, corporate loans, infrastructure financing, commercial real estate loans, aviation and ship financing, cross-border commercial loans.

Additionally, some issuers have structural difficulties to achieve the STS label, e.g. new companies (such as Fintechs) that cannot meet the 5 years historic data requirement, or smaller banks that, by construction, handle smaller pools and fail to achieve the granularity or homogeneity criteria. Some underlying assets are not eligible to STS label because of the STS criteria “repayment not predominantly based on sale of assets”; this is the case for the certain types of real asset financing (e.g., car fleet and car rental deals). In addition, some securitisation structures may not necessarily meet the

STS criteria, while contributing to the efficient financing of the economy; revolving warehouse financing the assets funded before the first payment is made; SRT securitisations tailored to specific investors constraints and needs, such as synthetic unfunded securitisations directly protected by Solvency 2 regulated insurers.

Against this background, the EBF highlights that areas for which reflection on possible improvements is needed are:

- Simplification / Calibration of certain STS eligibility criteria;
- Better treatment for all investment products under Solvency II; and
- More proportionality in due diligence processes.

Regarding the criteria to benefit from the capital treatment for STS securitisations, Article 243 of the CRR will deprive the whole transaction (under the Standardised Approach), from the lower STS capital charge if only one single corporate loan in the portfolio does not meet the constraints in terms of RW.

9.19. What would be the expected impact of a possible reduction of the risk weight floor on EU securitisation activity?

Please explain any possible impact on different types of securitisations (traditional securitisation, synthetic securitisation), from both supply and demand sides.

The implementation of a possible reduction of the risk weight floor could potentially lead to positive outcomes, specifically in the context of executing operational transactions, without differentiating between synthetic and traditional methodologies. However, it is unlikely to facilitate NPL transactions that consistently fail to meet the minimum RW Floor threshold of 15%.

For synthetic securitisations, the main effect of reducing RW Floors for the senior tranche would be to allow the securitisation of portfolio segments with lower RW, such as for example residential mortgages with lower LTV ratios. This would facilitate an increase in securitisation volumes and, consequently, free up resources for new origination.

The (p) factor

Questions to stakeholders:

9.20. 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?

- Yes
- **No**
- No opinion

9.21. 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..

The p-factor is overly conservative in all methods and increases the non-neutrality (which is embedded in the formulas following the 1250% RW of the Kirb first loss).

As indicated in question 9.4, the European Banking Federation (EBF) recommends moving towards closer to neutrality for originators (and ABCP sponsors) since there is no asymmetry of information.

The reduction of the p-factor is part of the solution.

a) When a bank realises a securitisation to transfer risk (through SRT), or as sponsor of an ABCP, the bank is exposed to its own portfolio and the securitisation is an insurance that can only lead to a

reduction of the capital allocated. There is no additional risk linked to model risk, agency risk or correlation risk since the primary risk is on the pool which is very well known and diversified in the portfolio of the bank.

Here, cautiousness should be limited to the efficiency of the method of risk reduction.

b) When a bank realises an investment, it is subject to model risk, correlation risk or agency risk because of the asymmetry of information. However, this additional risk is not correctly dealt with the P-Factor now. And it has been reduced by other parts of the regulation (regulation of rating agencies, etc.).

- Quantitative measures of capital allocation should follow its own model (which should lead to a capital neutrality of the formula), and risks linked to this model should be dealt with separately.

- Qualitative measures, such as the STS framework, or the regulation of rating agencies and all measures that increase transparency, are much more appropriate in this regard.

□ Note that the perpetuation and extension of Article 465 CRR (p-factor divided by two) beyond the Output Floor seems to be the minimum recalibration for originators to envisage viable both STS and non-STS transactions under SEC-SA.

To avoid any doubts, in the opinion of the EBF members, there is need for P-Factor reduction for banks in all their roles. Since the 2008 financial crisis there has been a significant number of changes to the structure of the securitisation market that justify more confidence in the quality and resilience of the asset class. These changes contribute to mitigating both agency and model risk.

For example:

- Most of the losses in EU securitisations were outside of ABS and RMBS securitisations and the cumulative level of realised losses was less than 5% for other securitisation asset classes;¹¹
- Significant improvements in the underwriting criteria for exposures including those which form part of securitised pools. For example, the introduction of rules governing how exposures should be originated such as the EU Mortgage Credit Directive introduced in 2014;
- Investors doing better due diligence prior to investing into securitisation positions and ensuring that they receive sufficient information on an ongoing basis to monitor performance of the securitisations that they have invested in. For banking organisations significant amount of new conduct, controls and compensation-based regulation which require organisations and individuals to act responsibly and conduct business with due care; and
- Changes to the securitisation regulation in 2011 that introduced for example the risk retention requirements in Europe.

Introduction of further changes to the securitisation framework in 2018 covering the capital requirements, and due diligence and transparency requirements resulted in more conservative calibration of the risk weights and a higher bar / compliance cost on investing, sponsoring or originating a securitisation (e.g. ESMA templates requirement for private / bi-lateral securitisations).

Whilst the p-factor levels within SEC-IRBA and SEC-SA risk weight formulae were to address structural risks in securitisations such as model risk, agency risk and to some extent correlation as well as cliff effects, they did not take into account the risk mitigating effects of the other positive changes in credit and securitisation markets mentioned above.

Furthermore, third party originators and sponsors are aware of their ability to continue using securitisation as either a funding or risk transfer tool where they structure deals by negative selection which result in higher than expected losses to investors. Therefore, an alignment of interest between an originator / sponsor and an investor in securitisations exists thus minimising any agency risks.

In the context of SEC-SA, model risk is less of a concern as the credit risk standardised approach risk weight whilst generally more conservative than those under the internal ratings-based approach (IRBA) are less dependent on an institution's own estimates. Furthermore, the non-neutrality factor (P-Factor) within the SEC-SA formula results in the total RWA for all the tranches being higher than the total RWA of the securitised pool by that factor. For example, a P-Factor of 1 results in the total RWA of the tranches being twice as much as that of the securitised pool.

¹¹ See for instance Fitch Ratings: "Structured Finance Losses: EMEA 2000-2018 Issuance", May 2019.

This calibration is materially high and overestimates the risks particularly where one considers either investing in or retaining as an originator the senior tranches of a securitisation. **Therefore, reducing the P-Factor by half for non-STS and STS securitisation, on a permanent basis, would better align the risk of such tranches with the RWA under the SEC-SA, before the application of the output floor.**

Importantly, with the introduction of CRR III from 1 January 2025, the revised IRBA together with the SA Output Floor is designed to both reduce variability in RWA across banks but also in reality expected to increase the RWA for a number of banks. When investing into a senior tranche of a securitisation or originating a securitisation and retaining the senior tranche, RWA inflation for securitised portfolios when combined with the non-neutrality P-Factor within the SEC-SA, results in a magnifying effect for securitisation tranches. Therefore, reducing the P-Factor by half for STS and non-STS for securitisations where an institution acts as an investor, sponsor or originator allows for an adjustment to the inflationary effect of CRR III on securitisation positions (e.g. senior tranches). Furthermore, reducing the P-Factor as set out in question 9.23 for SEC-IRBA is important to reduce the inflationary effect of the revised IRBA.

9.22. 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?

- Yes
- No
- No opinion

Please explain your answer

The European Banking Federation (EBF) selected "Yes" based on the understanding that what is being discussed is performing assets and assets originated by the bank itself or through the bank acting as an investor or sponsor in a securitisation, which consequently entails a high-level of expertise and familiarity.

With the current regulation (without transitional measures) the excess capital required, seem to be too high to be able to price the tranches to the market. This is for STS as well as for non-STS.

To avoid competitive disadvantages for banks that apply the SEC-SA and SEC-IRBA for their securitisation positions, the p-factors in the SEC-SA and SEC-IRBA should also be lowered to the same extent as for banks that use internal models irrespective of the application of the output floor. In doing so, capital requirements should not only be lowered for STS securitisations. A reduction only for STS securitisations would have a negative impact on the attractiveness and competitiveness and thus the potential growth of securitisations, particularly for the financing of SMEs, as this would result in higher costs (documentation and IT costs) and in some cases requirements that could not be met by the seller of the receivables. Overall, EBF considers that the current calibration of the P-Factor, is overly conservative, and a reduction in the P-Factor would mean that capitalisation of securitisations still remains at a sufficiently prudent level.

9.23. 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.

- Exposures held by originators versus investors

²⁴ Under SEC-SA, there is a fixed (p) factor of 1 (for non-STS securitisations) and 0.5 (for STS securitisations). Under the SEC- IRBA, banks may calculate their own supervisory parameter based on four risk factors, i.e., the framework (correlation effect), the granularity of the securitised pool for wholesale, the capital charge for the underlying exposures, the average loss given default of the securitised pool, plus one non-risk parameter (tranche maturity MT, capped at 5 years), which is subject to a floor of 0.30. There is no (p) factor in SEC-ERBA where the capital requirements are set out in the look-up tables, to ensure consistency compared with the capital requirements with SEC-SA.

- Exposures in STS versus non-STS securitisations (beyond the differentiation already provided for in Article 260 and in Article 262 CRR)
- Exposures in senior versus non-senior tranches
- Exposures calculated under different capital approaches
- Other criteria

Please explain your answer

CRR III addresses the potential increase in capital requirements caused by the Output Floor (OF) issue through Article 465 (13), acknowledging its potential impact on the capital requirements for securitisation positions held by institutions using the Securitisation Internal Ratings Based Approach (SEC-IRBA) and the Internal Assessment Approach (IAA). The Output Floor could significantly affect the economic viability of securitisation operations by diminishing the prudential benefits of risk transfer.

The current adjustment is a temporary measure lasting until 2032. During this period, institutions using the SEC-IRBA, and the IAA can apply a reduced p-factor (halved) to both STS and non-STS securitisation positions when calculating their output floor.

However, the benefits of this measure are contingent on exceeding the total consolidated OF. Unless such circumstance materialises, it does not result in a reduction of RWAs for securitisations compared to the current treatment.

Against this background, the EBF proposes the **recalibration of the P-Factor, beyond the calculation for the Output Floor, on a permanent basis**, for banks in all their roles (originators, investors, sponsors).

To enable originators to envisage viable both STS and non-STS transactions under SEC-SA, and a better aligned capital requirement to the economic risk of a securitisation for investors in third party securitisations, the EBF proposes in priority to extend Article 465(13) beyond the sole calculation of the output floor, on a permanent basis, and amend Articles 261 and 262 of the CRR by halving the current P-Factor under SEC-SA. The EBF also proposes a decrease of the fixed P-factor values of the p-factor under SEC-IRBA

The proposal could be summarised as following: **SEC-SA (Articles 261-262):**

- **STS:**
 - Current: 0.5
 - Proposed: 0.25
- **non-STS:**
 - Current: 1
 - Proposed: 0.50

SEC-IRBA (Articles 259-260):

- **STS:**
 - Current: 0.3 floor, max 0.75
 - Proposed: 0.1 floor, max 0.3
- **non-STS:**
 - Current: 0.3 floor, max 1.5 (low-risk mortgage pools)
 - Proposed: 0.25 floor, max 0.75

SEC-ERBA¹² should also be recalibrated to ensure consistency with the impact of the lower p and lower floor on the SEC-IRBA and SEC-SA.

Both cash and synthetic non-STS securitisations play a crucial role in financing the EU economy. They

¹² “SEC-ERBA” is the External Ratings Based Approach to calculate the risk-weighted exposure amount for a position in a securitisation.

enhance capital allocation efficiency and diversify funding sources for sectors that cannot access traditional bank lending.

9.24. 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.

As a trade association, the European Banking Federation (EBF) refrains from discussing or consolidating specific cost figures.

9.25. 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).

As a trade association, the European Banking Federation (EBF) refrains from discussing or consolidating specific cost figures.

9.26. 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.

- Yes
- No
- No opinion

Yes, indeed. The current approach to non-neutrality of capital requirements leads to strong overcapitalisation (of both senior and junior/mezzanine securitisation positions).

one looks at average default rates from rating agencies, such as S&P:

- The average cumulative default rates over 3-year horizon for BBB rating (from 1983 to 2022) is 1.4%, which corresponds to approximately 0.5% /year. The mezzanine tranche that receives a risk weight around 260% based on SEC ERBA or that could be even higher using SEC IRBA, is as risky on average over a cycle as the investment on an investment grade corporate. However, a corporate with 0.5% PD would receive around 100% RW under the standard method or that could be around 60% under IRBA. The ratio of overcapitalisation on this mezzanine tranche is between x5 and x2.5.

- For a AAA rating, for example on EU RMBS the average cumulative default rates is 0.12% over a 10-year horizon under S&P historical data. This level of average risk is pretty much in line with the very best corporates and less than 10% of IRB risk weight. The EBF can also compare this risk weight with the usual average IRB risk Weight on French Real Estate, around 12%. However, the current risk weight for a 5-year senior tranche is at least 20% (and could be 70% if the AAA tranche was not senior), even though there is an additional layer of protection. The ratio of overcapitalisation on this AAA RMBS tranche is at least x2.

Even if they are not public, it would be instructing for the European Commission to consult the back-testings that are mandatory run on SRT Issuances losses (that should be available from 2015). They could be explicit proof that senior tranches are unduly overcapitalised in Europe.

9.27. 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.

If one uses the comparison from Question 9.26, based on the average default rate over the cycle, the senior tranches and the mezzanine tranches receive significant overcapitalisation. This is clearly linked to capital non neutrality as illustrates the example of the French RMBS whose pool would be risk weighted at 12%. The proper RW on a AAA senior tranche for a pool having 12% RW should be far below 10%.

With a cumulative average default rate of 0.12% over 10 years, one can expect 1% cumulative loss over 10 years in the extreme loss event that correspond to x8 the average (based on defaults in Europe, knowing that in France it is much lower).

If one looks at 1-year PD from S&P, one has 0.06% and with x8 extreme loss stress it would require 0.5% of capital over the life of the transaction. Therefore, a RW between 6% and 12% would be already conservative rather than the 20% (or 70%) proposed by the regulation.

Similarly, with BBB rating the loss would be consistent with a capital requirement at a x8 stress (assuming 0.5% default/year), one would need between 5% and 10% capital requirement corresponding to 60% to 120% RW, far below the 260% level of the regulation (on 5-year mezzanine tranche).

9.28. **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-neutrality and capital distribution across tranches, address the potential cliff effects more appropriately and achieve prudential objectives?

- Yes
- No
- No opinion

Please explain your answer

An alternative method has been to consider lowering through scaling the capital input (KA). This means that the parameter KA when calculating KSSFA(KA) (Article 261 CRR) would be replaced by the expression $(SF \times KA)$, in which SF represents the scale factor. In this case, the EBF proposes the parametrisation STS: $p = 1$ and $SF = 0.58$ Non-STs: $p = 1$ and $SF = 0.65$ for the SEC-SA.

This parametrisation, when compared to the current provisions, still results in significant, yet appreciably lower over capitalisation of approximately 15% (STS) and approximately 30% (non-STs).

9.29. **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.

The European Banking Federation will respectfully refrain from answering to this question.

²⁵ KA factor as specified in paragraph 2 of Article 261 of the CRR, for the purpose of calculation of the capital charge under the standardised approach (SEC-SA)

Significant risk transfer (SRT)

Questions to stakeholders:

- 9.30.** 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?

- Yes
- **No**
- No opinion

²⁶ [See the EBA calls on the European Commission to harmonise the significant risk transfer assessment in securitisation | European Banking Authority](#)

Please explain your answer

The European Banking Federation (EBF) agrees with those tests (mechanical, first loss, mezzanine) as described in Articles 244 and 245 CRR. Articles 244 and 245 paragraph 2 in CRR require banks to perform two mechanical tests to check whether (a) the risk-weighted exposure amounts of the mezzanine securitisation positions held by the originator do not exceed 50 % of the risk-weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation and (b) the originator does not hold more than 20 % of the exposure value of the first loss tranche.

Where the possible reduction in risk-weighted exposure amounts, which the originator would achieve by the securitisation under points (a) or (b), is not justified by a commensurate transfer of credit risk to third parties, competent authorities may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties.

Concerning the commensurateness of the risk transfer, the level 1 text leaves the decision to the competent authority. Articles 244 and 245 paragraph 3 in CRR propose an alternative to the mechanical tests. By way of derogation from paragraph 2, competent authorities may allow originator institutions to recognise significant credit risk transfer in relation to a securitisation where the originator institution demonstrates in each case that the reduction in own funds requirements which the originator achieves by the securitisation is justified by a commensurate transfer of credit risk to third parties. Permission may only be granted where the institution meets predefined conditions.

However, “commensurate risk transfer” is not defined and leaves too much room to interpretation and supervisory discretion at national level. In practice, the ECB currently systematically requires banks to provide the burden of proof regarding the commensurate transfer of credit risk to third parties (both §2 and § 3 requirements) and uses the EBA 2020 Report on SRT as guidelines-alike, which introduces uncertainty and administrative burden.

In addition, the EBF disagrees with the EBA Guidelines that have been issued which are too restrictive and go beyond the level 1 text. EBA recommendations set out in the EBA Report beyond PBA tests should neither be implemented in a Delegated Regulation nor be imposed by supervisors.

Our experience on this matter shows that the competent authority is willing to see the behaviour of the transaction under a loss scenario coherent with the ICAAP stress, in order to check that the loss is adequately transferred to a third party (i.e. > 50%). This approach is fine, and significantly different from the approach described in the EBA Guidelines (for which the CRT test does not fit any definition in the level 1 text). The EBF does not agree that in the November 2024 “consultation on its approach to options and discretions available in EU law”, the ECB includes the recommendations proposed by the 2020 EBA report. The proposal related to the CRT has not been tested and, in practice, banks experience that its methodology is flawed.

9.31. 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.

The EBF supports the replacement of the current mechanical tests with the PBA test recommended by the EBA Report. Nevertheless, the EBF suggests reviewing the quantification and the allocation of the losses proposed by the EBA Report, as discussed in the SRT Fast-track Project with ECB and EBF. In particular:

- a) As estimating UL based on the initial portfolio is too punitive, especially if they are allocated to the end of the securitisation, the EBF suggests calculating UL based on the actual portfolio at the moment in which they occur.
- b) As allocating UL in one quarter is too punitive and unrealistic, it would be preferable to spread the UL in at least four quarters.
- c) c) The EBF **also suggests reviewing backloaded and adverse scenario assumptions for the**

distribution of losses, for which, in particular, The EBF would suggest: i)

i. For transactions with sequential amortisation and for which only the evenly loaded scenario is applied: i) UL should be calculated proportionally to the amortisation plan, and not based on the initial portfolio amount only, and ii) UL should materialise proportionally, in the cash flow model, during the life of the transaction and not as an add-on to the last payment; iii) it is acceptable to assume that a higher portion of EL should materialise in the last periods of the transaction, however the time allocation of such losses shall always account for underlying portfolio amortisation profile.

ii. For transactions with pro-rata amortisation and for which the back-loaded scenario is applied, the EBF suggests modifying such scenario requiring that 2/3 of LTEL plus UL occurs proportionally in the last 1/3 of the securitisation life, while 1/3 of LTEL plus UL occurs proportionally in the first 2/3 of the securitisation life. Also in this case, such LTEL and UL shall be calibrated during the life of the transaction accounting for the amortisation profile.

One can reasonably contend that the current CRR “mechanical tests” are sufficient to ensure commensurate risk transfer. **If the SRT framework were to be enhanced by replacing the current CRR mechanical tests with the PBA test as proposed by the EBA, the EBF believes it would be all the more unnecessary that JST adds more requirements, such as imposing CRT test.**

Indeed, in its 2020 SRT report, paragraph 214, the EBA states that “consideration should be given to whether the CRT test would still be needed after the eventual implementation of the PBA test in the CRR. The commensurateness of the risk transfer relies on the principle that a capital relief not justified by a commensurate risk transfer would result in a weakening of the capital position of the institution with respect to the non- securitised exposures. Whether this principle remained valid after the PBA was enshrined in Level 1 could be reassessed.”

The EBF proposes to amend articles 244-245 §2 of CRR by deleting the sentence “*Where the possible reduction in risk-weighted exposure amounts, which the originator institution would achieve by the securitisation, is not justified by a commensurate transfer of credit risk to third parties, competent authorities may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties*”.

9.32. Do you consider the process of the SRT supervisory assessments to be efficient and adequate?

- Yes
- **No**
- No opinion

Please explain your answer

The rules for EU SRT transactions go beyond the BCBS ones, and often discourage potential issuers, due to a lack of homogeneity and predictability of the SRT assessment process. Moreover, the SRT tests, according to the EBA Report, can be complex and uneconomical for some transactions. Regarding the SRT notification process to the supervisor, the proposals of the EBA Report may bring additional complexity and operational burden.

The EBF notes that the SRT assessment process remains non-homogeneous and informal across the EU, with different JST teams (even within the same country) often imposing different requirements and restrictions on issuers. This is most notably seen through application of the SRT tests, where there is wide variability between use of the 2017 EBA SRT tests and the 2020 EBA SRT tests, and also variability regarding the implementation of and assumptions used within these tests. Further examples include the data required to be included in notification packages and the different scenarios to be run. It is therefore key that the SRT assessment process be formalised in legislation, and the level of unpredictability be removed.

While the EBA SRT report contains some positive proposals, in our view, it does not fully meet the purpose of facilitating the overall SRT assessment and recognition.

1) Preliminary notification: Feedback from the CAs on the preliminary notification (90-day prior) arrives too late, usually around the freeze period start (30-day prior), requiring banks to answer on the preliminary portfolio data, while preparing the final portfolio.

2) **Changes during the freeze period:** Banks experience too uncertainties / ambiguities regarding the definition of minor/material changes of the portfolio during the structuring period.

3) **Structural features review:** According to the EBA SRT report, where transactions contain either specific structural features without appropriate safeguards, or they contain novel structural features, the NCA can normally require a structural features review for which it can request extending the review by two additional months. The EBF is concerned that any minor deviation/variation in structure from a previously approved structure will determine some regulators to trigger such an additional 2-month review period potentially extending the overall assessment period length up to 5-months. Furthermore, where no structural features review is required, there should be no need for an additional 1-month post-execution assessment period.

4) **For more simple/standardized transactions** (i.e., potentially subject to the fast-track process), the requests from the CA are still too burdensome.

Too uncertainties and ambiguities regarding the definition of granularity of the portfolio (N) and the additional analysis required in case of non-granular portfolios; at the moment the Regulators are requesting additional concentration analysis also for securitisation with $N > 25$ but neither the SECR nor the EBA Report provide a clear definition of scale granularity above 25 and a clear definition of the requested concentration analysis

Independently of the regulatory fixes that might be decided, supervisors have ample margin of manoeuvre to reduce the timeline of the authorisation process for SRT transactions that comply with an agreed set of criteria. This could significantly reduce the time-to-market of a large number of transactions facilitating the participation of investors.

9.33. If you answered no to question 9.32., please provide justifications and suggestions how the SRT assessment process could be improved further.

1. **Preliminary notification:** It would be ideal to receive feedback from the CA within 1 month from the preliminary notification:

2. **Freeze period:** according to the EBA guidance (ref. par. 187 EBA Report 2020/32) by no later than 2 months from the date on which the SRT assessment period commenced, the originator should submit final versions of (i) the SRT test calculations and (ii) the transaction's draft documents. After the start of this 'freeze period', the securitisation structure and draft documents should not undergo any major changes without the CA's prior consent. In our view the legislator should better clarify – by providing more details - what is considered a major change to the portfolio and to the securitisation structure during the freeze period as it would help reducing uncertainties / ambiguities.

9.34. 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?

- Yes
- **No**
- No opinion

Please explain your answer

More specifications on the SRT supervisory assessments at the EU level (e.g., in guidelines, based on a clear mandate in Level 1) will end up in more administrative burden and longer supervisory non-objection response delay. In addition, EBA recommendations set out in the EBA Report beyond PBA tests should neither be implemented in a Delegated Regulation nor be imposed by supervisors.

9.35. If you answered yes to question 9.34., please provide suggestions.

Please see above.

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?

The European Banking Federation (EBF) would respectfully refrain from answering this question.

Transitional measure in Article 465(13) of the CRR

Questions to stakeholders:

9.37. 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?

- Yes
- No
- No opinion

9.38. 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.

The introduction of the "output floor" will further increase the capital requirements for securitisations for banks that use internal models to calculate their capital requirements. From 1 January 2025, these banks would have to hold at least 50% (moving up to 72.5% once the phase-in is finished of the capital requirements in accordance with the standardised approach for securitisations (SEC-SA). As the capital requirements determined using internal models are significantly lower than those determined in accordance with the SEC-SA, this would have resulted in a significant increase in capital. For liquidity facilities provided by sponsors for the securitisation of trade receivables of companies as part of ABCP programmes, for example, the capital requirements would have doubled for some banks.

To reduce this significant increase in capital, the Council and the European Parliament agreed in the negotiations on the EU banking package to halve the P-Factors in the SEC-SA for the purposes of calculating the output floor during a transition phase until the end of 2032. Notwithstanding this, the capital requirements for securitisations will increase significantly because of CRR III.

The European Banking Federation (EBF) believes that it should be avoided at all costs that the capital requirements for the output floor rise again to the originally planned level after the end of the transitional phase in 2032. On the one hand, this would limit the banks' planning security and, on the other, would put a considerable damper on the securitisation market well before the end of the transition period.

EBF's proposal as a potential targeted and limited reduction of the P-Factor is to expand the transitional measure (which halves the P-Factor values) beyond the output floor for securitisation transactions under SEC-SA (cf. Question 9.23).

By construction, transitional measures for the output floor and permanent calibration under SEC-SA will be fully aligned. Transitional measures will remain to apply to SEC-IRBA transactions for the output floor calculation.

9.39. 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?

- Yes
- No
- No opinion

Please explain your answer

N/A.

Liquidity risk treatment in the LCR Delegated Regulation

Questions to stakeholders:

9.40. 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?

- Yes
- No
- No opinion

9.41. 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.

For banks, as investors, eligibility of senior STS and non-STS tranches in the Liquidity Coverage Ratio (LCR) is currently too restrictive and should be reviewed, namely addressing the following issues:

1. Securitisation assets' sound liquidity profiles

The European Banking Federation (EBF) would like to emphasise that classifications contained in LCR Delegated Act do not fully reflect securitisation assets' sound liquidity profiles.

- It should be recalled that, as recent market developments further confirm, securitisations continue to trade actively and maintain relatively stable prices also during increased volatility. This has been the case, for instance, amid high volatility triggered by the UK Liability Driven Investment (LDI) crisis in the pensions industry (as well as the broader economy), following the mini-budget announcements by the UK government in September 2022 and the ensuing "gilt crisis". As an example, examining European CLO Bids Wanted in Competition (BWIC) volumes with CLO spreads on A to AAA rated products clearly demonstrates the strong liquidity of the position during the LDI crisis. In our view, this data supports the argument that securitisations should be granted HQLA 2A status for highly rated tranches due to the fact that under this stress scenario the market was forced to liquidate sizeable positions, yet this did not result in significant price reductions. At the same time, the EBF can also see from the data a tightening of spreads shortly after the crisis illustrating strong demand and liquidity despite a fall in volumes of trades. These observations reinforce the view that securitisations, using primarily floating interest rates, are less exposed to market value fluctuations.

In fact, it should be noted that true sale securitisations incorporate features that help mitigate risk of interconnectedness. These features include:

- originators are not only banks;
- the credit risk investors are exposed to is not the risk related to the (banking or non-banking) originator, but the risk related to the underlying assets;
- when a bank is an originator, the bank is usually the servicer and the swaps counterparty, which diminishes the operational risk.

Against this background, the EBF proposes:

- Allowing AAA to AA- ratings for any senior tranche of ABS with STS certification in level 2A. Note that in CRR3 the CQS 1 was mapped to AAA to AA- ratings, and that AA (from former CQS 1) bucket removal is an intended consequence of the change in the mapping in the 2017/2401 text. As a matter of fact, this point is already recommended by the JC in recognition that earlier amendments to the LCR Delegated Regulation did not intend to limit the eligibility to AAA rating only.

2. Re-introducing non-STS senior tranches back to Level 2B with the criteria as defined in the October 2014 LCR Delegated Act EU 2025/61 for securitisations;

- Further adjustment could extend to the scope of eligibility to any kind of ABS and remove the WAL limitation for the RMBS senior tranches.

The EBF understands it as a protection against a change in market value due to an increase in the interest rates. However this is completely irrelevant for bonds with variable rates, which is very often the case for ABS. Hence, this limitation is not adequate.

3. Haircuts

They should be adapted as well (currently 15% for level 2A and 25%-35% for level 2B), in accordance with current levels by bucket.

Using a recent AFME survey (4 June 2024) on bank treasury function's investment, 80% of responding

banks' treasuries invest in securitisations. The main limitations mentioned with respect to securitisation are the limited market size, the LCR haircuts and the LCR eligibility criteria. Of course, considerations related to the risk of security (in RWA term but also linked to the interest rate risk) and its profitability come just after.

In this survey around half of respondents expressed an interest in investing in ABS from non-eligible sectors, such as Buy to let RMBS and CLO and to a smaller extent CMBS. However, from a financial and operational perspective, the simplification of the due diligence requirements and the improvement of the capital prudential treatment of the securitisation tranches bought will be decisive.

The recognition of EU equivalence of non-EU securitisations would also be of great help. The reduced appetite for senior tranche securitisation specific is largely a consequence of a challenging regulatory landscape, characterized by a combination of factors:

1. substantial capital charges; and
2. an extensive due diligence burden driven by overly broad regulatory requirements that fail to adequately account for the diversity of transactions.

9.42. 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?

- Yes
- No
- No opinion

9.43. 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.

It should be mentioned that liquidity is not a permanent situation. It depends on the number of institutions that are willing to buy a security at a period of time. Increasing the number of potential buyers increases the liquidity of an asset and helps reduce the loss of liquidity during a stress (and the over way around). Europe has experienced the impact of a limitation of this liquidity with CRR III rules, which have reduced the liquidity of the securities that were excluded from those buffers.

It also affects the investors' perception of the EU securitisation market. For example, a (re)insurer is interested in knowing the bank liquidity treatment of a senior tranche, as in the even it needs to liquefy a senior tranche, its price will depend on whether banks can buy it at a fair price, which itself depends on the banks' LCR classification and haircut for that instrument, and potential ECB eligibility and repo-ability.

9.44. 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?

The European Banking Federation will respectfully refrain from answering this question.

9.45. 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?

- Yes
- No
- No opinion

Please explain your answer

The liquidity of STS traditional securitisations is indeed sufficient. Liquidity can be further improved by reducing the regulatory burden. Currently, this reduces active trading volumes for existing investors and potentially deters potential investors from participating. Additionally, negative publicity over the years has further discouraged investor involvement.

9.46. 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.

Evidence from UK post mini-budget?

Recent market developments evidenced that securitisation did trade a lot with comparatively stable price in a context of massive surge of volatility during the UK Liability Driven Investment crisis in the pensions industry and wider economy in the wake of mini-Liz Truss' budget announcements (September 2022) and the Guilt crisis. Indeed, securitisations use floating rates and hence less exposed to market value volatility.

Qualitative description possible

If the EBF comes back to the definition provided by the Basel Committee (Annex 1 Summary description of the LCR, 2013), Level 2 assets may not in aggregate account for more than 40% of a bank's stock of HQLA. Level 2B assets may not account for more than 15% of a bank's total stock of HQLA. Therefore, the highest bucket of rating (AAA to AA-) for STS senior tranche of securitisation should be in level 2A. The inclusion of those ABS assets in the level 2B bucket is not justified, it is merely a consequence of the distrust caused by the subprime crisis.

AAA senior securitisations exhibit a risk profile which is very similar to level 1 assets and should fall at a minimum in the Level 2A category. It should be noticed that European real estate assets exhibit a much lower default rate than US assets, and EU RMBS have not suffered the kind of losses that were seen in the US during the subprime crisis. The level 2B bucket seems to focus on slightly less liquid bonds, hence it could be fit for bonds having non STS validation and similar credit quality (AAA to AA-).

9.47. 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?

The European Banking Federation will respectfully refrain from answering this question.

9.48. 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?

- Yes

- No
- No opinion (TBC)

9.49. 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.

An adjustment of the eligibility rules for the High-Quality Liquid Assets (HQLA) of the LCR for both ABS and Asset-backed commercial paper (ABCP) (ABCP to be moved to Section 12?) should be envisaged to further support the EU securitisation market.

The EBF proposes:

- (i) upgrading to HQLA Level 2 the eligibility of senior tranches of STS securitisations rated above AA
- (ii) maintaining former eligibility for HQLA Level 2B of senior non-STS securitisation tranches rated above AA

Such instruments contribute to the funding of the European real economy (for large corporates and SMEs) and therefore contribute to the stability of the economy.

Currently securitisation can be part of bucket 2B, which is the smallest bucket. It is very restrictive. This is a strong reduction compared to the usage of banks before the introduction of this limit.

10. Prudential treatment of securitisation for insurers

Questions to stakeholders:

10.1. Is there an interest from (re)insurance undertakings to increase their investments in securitisation (whether a senior tranche, mezzanine tranche, or a junior tranche)?

- Yes
- No
- No opinion

10.2. 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.

Insurers will come back to the securitisation market as soon as regulatory obstacles are removed. In the report on insurance by the ESAs Joint Committee (Dec 2022), 37% of respondents express an intention to increase securitisation investments in the next 3 years if regulation is adapted.

European insurers have disappeared from the market as investors because of the calibration of the regulatory requirements, which is too high and insufficiently segmented and risk-adjusted. Holding a senior tranche of a given collateral pool would be more costly than holding a direct exposure on the same pool. It appears that insurers wound down their specialised teams because of the shrinking of the securitisation market, and, caught in a vicious circle, are now no longer able to assess the market and create demand.

As funded investors on the asset side of their balance-sheet, insurers can hold bonds issued by the SPVs in true sale securitisations, and credit linked notes issued by the SPVs or directly by the banks in synthetic on balance-sheet securitisations.

Indeed, from an investor's perspective, structured products are useful assets to improve their Risk/Return ratio compared to a direct investment in the underlying asset portfolio, to diversify or

increase the decorrelation between strategic asset classes by supplementing the whole asset allocation and to improve the convexity of an asset class and/or hedge extreme risks. Insurers and especially life insurers have a significant driver that is the ALM risk, which is the risk of financial loss or of solvency issues resulting from incoherent investment policy on the one hand, underwriting and reinsurance policies on the other hand. Diversification is then key, even more that insurers mainly invest in fixed income assets such as government bonds and corporate bonds. The low rates environment at the end of 2019 showed for example the importance of having a portfolio diversification to mitigate the ALM risk and finally to protect the insured's money.

10.3. Is there anything which in your view prevents an increase in investments in securitisation by (re)insurance undertakings?

- Yes
- No
- No opinion

Please explain your answer. If you mention prudential rules as part of your answer, please provide an estimate of the impact on the level of investments in securitisation, of the reduction of capital requirements for securitisation investments by a given percentage, e.g. 5% or 10%.

In our view, what prevents an increase in investments in securitisation by (re)insurance undertakings are the current calibration of the Solvency II securitisation shocks, under the Standard Approach:

- unjustified gap between STS senior securitisation tranches with bonds & loans
- unjustified gap between STS non-senior securitisation tranches with bonds & loans
- no sensitivity to seniority in non-STs
- unjustified gap between STS and non-STs securitisation tranches
- higher shocks than for equity (for instance, a non-STs AAA securitisation tranche with a 5 year duration will have a 62,5% shock versus a type 2 equity with a 49% shock; an STS non-senior BBB securitisation tranche with a 5 year duration will have a 39,5% shock, which is as much as a standard equity shock (39%).

One of the most critical outcomes of securitisation treatment under Solvency II is that it is more capital efficient to hold a whole pool of loans rather than a senior securitisation tranche of those same assets.

10.4. Is Solvency II providing disincentives to investments in securitisation for insurers which use an internal model?

- Yes
- No
- No opinion

Please explain your answer, being specific in your reply.

N/A.

²⁹ See [Joint Committee advice on the review of the securitisation prudential framework \(Insurance\) - JC-2022/67](#)

10.5. 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?

- Yes
- **No**
- No opinion

Please explain your answer, being specific in your reply, and, where relevant, provide a comparison, including, where appropriate, with internal models and their relative impact on the share of securitisation investments.

If you consider calibrations inappropriate, please indicate what you would consider as ‘appropriate’ calibrations, as well as any data/evidence of historical spread behaviours that would justify your proposal.

The European Banking Federation will respectfully refrain from answering this question.

10.6. 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?

- Yes
- **No**
- No opinion

Please explain your answer, being specific in your reply, and, where relevant, provide a comparison, including, where appropriate, internal models and their relative impact on the share of securitisation investments.

If you consider calibrations inappropriate, please indicate what you would consider as ‘appropriate’ calibrations, as well as any data/evidence of historical spread behaviours that would justify your proposal.

An unjustified gap exists between the calibrations used for Bonds and Loans and those designed for non-senior STS products. For instance, for a modified duration of five years and a rating of AAA, a non-senior STS tranche is currently 3 times more expensive than Bonds and Loans with the same rating.

The EBF believes that prudential requirements for non-senior STS securitisations in Solvency II should be more consistent with prudential requirements for bonds and loans with the same rating.

10.7. Is it desirable that Solvency II standard formula capital requirements for spread risk differentiate between mezzanine and junior tranches of STS securitisations?

- **Yes**
- No
- No opinion

Please explain your answer.

The EBF would propose to enhancing Solvency II and SECR Frameworks to incentivize insurer investments in securitisations, by: (i) eliminating the unjustified gap in Solvency II capital charge stress factors between bonds/loans and senior STS products for insurers as funded investors; (ii) introducing a

distinction based on seniority to differentiate prudential requirements for senior non-STS tranches, which remain a significant part of the European market; and (iii) in SECR, allowing well-capitalized (re)insurance companies to be eligible as protection providers in synthetic STS transactions by adjusting liability-side requirements for insurers providing credit insurance through unfunded protection.

The EBF proposes for insurers providing credit insurance through unfunded protection, on the liability side, to make well-capitalised (re)insurance companies eligible as protection providers in synthetic STS transactions. It is important to re-enforce that insurers could potentially be a key investor to mobilise banks' mortgage portfolios. Allowing unfunded transactions with insurance to be STS could boost mobilisation of mortgage pools. This is due to; 1) Institutional cash investors tend to buy tranches with a WAL equal to or lower than 5 years as opposed to insurers that can buy tranches with a WAL greater than 10 years. WAL of mortgage pools are typically >10 year, 2) expected returns from LPs of Institutional cash investors tend to be higher than insurers' target returns, and 3) There is wide range of insurance companies specialized on underwriting mortgage credit risk.

10.8. 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 behaviours backing such suggestions.

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.

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).

The European Banking Federation will respectfully refrain from answering this question.

10.9. 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?

- Yes
- No
- No opinion

Please explain your answer, being specific in your reply, and, where relevant, provide a comparison, including where appropriate with internal models and their relative impact on the share of securitisation investments.

The European Banking Federation will respectfully refrain from answering this question.

10.10. Is there a specific sub-segment of non-STS securitisation for which evidence would justify lower capital requirements than what is currently applicable?

- Yes
- No
- No opinion

10.11. 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.

The European Banking Federation will respectfully refrain from answering this question.

10.12. Is it desirable that Solvency II standard formula capital requirements for spread risk differentiate between senior and non-senior tranches of non-STS securitisations?

- Yes (TBC)
- No
- No opinion

Please explain your answer, being specific in your reply.

The EBF believes that it is highly desirable that Solvency II standard formula capital requirements for spread risk differentiate between senior and non-senior tranches of non-STS securitisations. Indeed, the recovery rate is not the same between a senior and a non-senior tranche. For instance, for a modified duration of five years and a rating of AAA, a non-STS senior tranche is currently 12.5 times more expensive than an STS senior tranche with the same rating.

In order to recalibrate coherently the capital charges of Securitisation, the EBF supports:

- New Senior STS could be aligned to Bonds & Loans
- New Senior Non-STS shocks could be set at 1.3 times the New Senior STS shocks
- The New Non-Senior shocks could set at 1.5 times the New Senior shocks, and this is applied to both STS and Non-STS

The adaptation of the calibration of securitized products could be done through a Delegated Act, as stated in the Solvency II latest draft agreement in Parliament 23/04/2024 Plenary, recital (105): " It should be ensured that the prudential treatment of investments in securitisation, including simple, transparent and standardised securitisation, appropriately reflects the actual risks, and that capital requirements associated with such investments be risk-oriented. To this end, the Commission should assess the appropriateness of existing calibrations for investments in securitisations that are set out in the delegated acts adopted pursuant to Directive 2009/138/EC, taking into account available market data, and their consistency with capital requirements that are applicable to investments in other fixed-income securities. Based on such assessment, and where appropriate, the Commission should consider

amending the delegated act setting capital requirements applicable to investments in securitisation. Such amendments, which should be risk-based and evidence-based, could consist of introducing a more granular set of risk factors depending on the ranking of the securitisation tranches, or of differentiating different types of non-simple, transparent and standardised securitisation depending on their risks.”

10.13. If you answered no 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.

The European Banking Federation will respectfully refrain from answering this question.

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

Questions to stakeholders:

11.1. For the purpose of this section, please indicate whether you are an IORP, a non-IORP or another type of stakeholder.

- IORP
- Nationally regulated pension fund not regulated by IORP II
- Other

Please elaborate in case you are not an IORP.

The European Banking Federation will respectfully refrain from answering this question.

11.2. 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)?

- Yes
- No
- No opinion

11.3. 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).

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.

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.

The European Banking Federation will respectfully refrain from answering this question.

11.4. Does the IORP II Directive contain provisions which in your view restrict IORPs' ability to invest in securitisation?

- Yes
- No
- No opinion

Please explain your answer.

The European Banking Federation will respectfully refrain from answering this question.

11.5. Are there national legislations or supervisory practices which in your view unduly restrict IORPs' and non-IORPs' ability to invest in securitisation?

- Yes
- No
- No opinion

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.

The European Banking Federation will respectfully refrain from answering this question.

11.6. Are there wider structural barriers preventing IORPs and non-IORPs from participating in this market?

- Yes
- No
- No opinion

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.

The European Banking Federation will respectfully refrain from answering this question.

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.

The European Banking Federation will respectfully refrain from answering this question.

12. Additional questions

This section includes some general questions on the functioning of the securitisation market and on wider aspects that may affect the securitisation activity and various segments of the securitisation market in the EU.

12.1. 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.

- Traditional placed securitisation
- Synthetic securitisation
- SRT securitisation
- ABCP securitisation
- STS securitisation
- Non-STs securitisation
- Securitisation of SME and corporate exposures
- Securitisation of mortgages
- Securitisation of other asset classes
- Other

Please explain your answer.

Also, NPE securitisation can contribute to the CMU objectives and helps EU banks in deleveraging their portfolios. The recent improvement of the NPE prudential framework during the pandemic went in the right direction but needs a further improvement, especially in the category of the UTP (See answer 12.10 for further detail).

12.2. 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.

- Interest rate environment
- Low returns
- Operational costs
- High capital charges
- Difficulty in placing senior tranches
- Significant Risk Transfer process
- Preference for alternative instruments for funding
- Prefer to retain to keep the client relationships

- Prefer to retain to keep the revenue from the underlying assets
- Prefer to retain to access central bank liquidity
- Other

Please explain.

60% of outstanding eligible ABSs is used as a collateral at the ECB.

This is the reflect of a common banks' strategy, consisting in issuing securitisation not for the purpose of placing the tranches in the market, but retaining the tranches and using them as collateral at the European Central Bank.

Prudential regulation has discouraged (re)insurance companies to invest cash in securitisation tranches in their investment portfolios by setting capital charges in Solvency 2 at a higher level for a senior securitisation tranche than for the corresponding loan portfolio, although the latter does not provide any first loss protection. In addition, due diligence requirements on these senior tranches are also very prescriptive, impacting directly the capacity of (re)insurance companies to act in the primary market, and also indirectly as in case (re)insurance companies want to sell those assets (for example to pay new insurance claims (e.g. earthquakes, floods, etc.)), the potential buyer or market maker (if it is itself subject to EU rules) also needs to go through this burdensome due diligence process. The consequence has been that (re)insurance companies have considerably reduced the staff allocated to analyse and manage securitisation portfolios, and in some cases, even totally dismantled their securitisation teams. This explains that today why (re)insurance companies are not active in the discussions around the revision of Solvency II as regards securitisation. It will take time to rebuild capacity in the (re)insurance investment sector, but as explained later the recalibration of Solvency 2 is a pre-requisite to generate appetite.

- Low returns => RMBS
- Operational costs => Due Diligence, reporting
- High capital charges
- Difficulty in placing senior tranches
- Significant Risk Transfer process

The GDPR-regulation, other rules for bank secrecy and collateral does make it difficult to transfer exposure to other entities.

12.3. Please specify which regulatory and non-regulatory measures have the strongest potential to stimulate the issuance of placed traditional securitisation.

Credit Conversion Factors (CCF) limit private securitisation facilities that are needed for warehousing new origination ahead of public ABS issuance. The CCF applied to liquidity facilities and undrawn credit lines granted by banks in private securitisation transactions, defined in Article 248, is too binary: 100% CCF in general or 0% for liquidity facilities that are super senior and cancellable. This binary treatment came as a reaction to the 0% CCF applied under Basel I that proved not appropriate during the financial crisis as it was applied to financing assets not originated by bank's clients.

For ABCP transactions or warehouse lines, the senior financing is typically in the form of a committed facility (not cancellable at any time without conditions nor prior notice, contrary to a unconditionally cancellable commitment (UCC)) which the client can draw subject to the fulfilment of a number of conditions. With current 100% CCF, the committed undrawn part of the facility, which is an accounting off-balance sheet item, attracts same capital as drawn part. However, corporate facilities such as RCFs benefit from a CCF of 40% for undrawn part (under the bucket 3 of annex I for off-balance sheet items under CRR3).

The EBF thinks that this discrepancy is not justified considering:

- The drawing of a committed securitisation facility requires eligible assets sold to the SPV. This requires asset growth for the originator. During Covid, many clients/originators did not draw on their securitisation facilities simply because there was no new asset origination. This is in

sharp contrast to the unsecured corporate RCFs which were often fully drawn during Covid by corporates to ensure liquidity.

- Private securitisation facilities are structured with the borrowing base approach meaning that if the underlying assets deteriorate in credit quality or exceed concentration limits, then the amount of the senior funding that can be drawn automatically reduces.
- Performance triggers such as delinquency or loss triggers would automatically stop the revolving period if hit and thus prevent any further drawing.

Several high-grade corporates, maintain private securitisation facilities as backup liquidity that remain undrawn.

Given the above reasons, it would be fully justified to apply a regulatory credit conversion factor to securitisation facilities as exist already for corporate facilities. **The EBF e therefore proposes a CCF of max 40% for the targeted scope of the senior financing of clients assets, either via ABCP lines or warehousing lines. .**

A discrepancy with the non-securitisation framework stems from the definition of commitment (which includes UCC). Unlike Basel, which limits its application to non-securitisation (the commitment definition is referred in CRE 20.94 in SA, further referred in CRE 32.32 for IRB, but not in the securitisation chapter), EU transposition (CRR3 Art.5) may be literally read as extending the application of the commitment notion to the entire credit risk framework, though the term is not used in securitization framework. Clarification on this point is required. **Either securitisation is not in the scope of the commitment definition as per BCBS or should the deviation on commitment definition from Basel be maintained, an appropriate treatment of UCC in the form of securitization facilities shall be contemplated (CCF 10%, exemptions...).**

- 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)?

The STS criteria of homogeneity which requires that loans originators belong to the same jurisdiction.
In the Nordics – different supervisory processes and requirements.

- 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.

It is key to acknowledge the importance of the position of EU institutional investors in the global securitisation market and avoid penalizing EU investors to invest in international securitisation markets by replacing the current requirement to apply ESMA templates to non-EU transactions, by a framework based on “high level principles”. This is a major stake in terms of competitiveness for Europe. EU actors need to be active on main foreign markets (US, UK) to gain expertise and visibility on this global market.

It is also key that EU should consider the UK STS regime as equivalent to the EU STS framework (the reverse is already in place), in order to facilitate cross-border UK/EU investments.

- 12.6.** Securitisation activity is heavily concentrated in a few Member States – primarily Italy, France, Germany, Netherlands and Spain.

What are the main obstacles to increasing securitisation activity in other Member States?

What measures could make securitisation more attractive in those Member States?

High overall costs, and especially entry-costs in terms of reporting and due diligence.

Unpredictable supervisory process in terms of pillar 2-add-ons as well as time to market (SRT approval process). In some jurisdictions, potential originators are ex ante expected to hold a pillar 2-add-on. There should be a level playing field in EU so national supervisors cannot implement rules that work against the securitisation agenda in EU.

Low institutional capacity for originators as well as supervisors.

The current rules on the SRT assessment contain a significant level of discretion for the national competent authority (NCA). Some NCAs in particular the Nordics have applied this discretion with a view to hinder banks from doing securitisations. Going forward a reform of the EU securitisations framework should focus on achieving a level playing field on securitisation and ensure that national supervisors cannot apply approaches that de facto are stopping banks from doing securitisations.

In Sweden the national supervisor has implemented certain pillar 2 requirements that hinder banks from securitisation. There should be a level playing field in EU so national supervisors cannot implement rules that work against the securitisation agenda in EU.

- 12.7.** Does the EU securitisation framework impact the international competitiveness of EU issuers, sponsors and investors?

- Yes
- No

- No opinion

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 jurisdictions, in comparison to the EU securitisation framework.

Issuer Perspective

Issuers and originators face a limited set of options, as they frequently cannot utilize securitisation as a viable tool for funding and capital relief due to the various reasons outlined previously.

Investor Perspective

On the demand side, investors, including insurance companies (See Section 10 for further detail), encounter significant constraints in their ability to invest in Asset-Backed Securities (ABS) due to stringent capital treatment regulations. This situation places them at a disadvantage compared to their peers in the total capital (TC) market.

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?

Securitisation will ultimately be as green as the projects and investments will be; should it be limited to target predefined pools of financing needs, it will not produce the expected benefits. Securitisation should first develop across the board with no restrictive underlying or use of proceeds criteria. The EBF believes that Securitisation does not need to be targeted as a “green” product to deliver on the objective of contributing to the financing of the transition.

Having said that, while improving the overall SEC-framework is the priority, alignment with the green bonds standard could be beneficial.

The growth of a green securitisations market can play a significant role in the green transition. Yet, European market for green securitisations is largely undeveloped. The new EU Green Bond Standard (EU GBS) Regulation [Reg. EU 2023/2631] which entered into force on December 21, 2023, and will start to apply from December 21, 2024, provides a framework to support the green securitisation market, requiring at least 85% of proceeds to be invested in assets aligned with European Taxonomy. However, a more comprehensive framework is needed, including synthetic securitisations as the EU GBS Regulation currently excludes synthetic securitisations from its scope. The Article 71 of the regulation mandates the European Supervisory Authorities (ESAs) to assess after three years namely by publishing a report by December 21, 2028, on the feasibility of extending the eligibility to use the “EuGB” designation to synthetic securitisations. Based on that report, the European Commission may submit a legislative proposal by December 21, 2029. In our view, the EU Commission should start this review sooner. The EBF recognises the challenges that come with the characteristics of synthetic securitisations where there are no proceeds. Yet, it is important to consider the opportunity to use the capital relief generated by synthetic securitisations to lend to new sustainable projects.

It should be noted however, That the capacity of EUGBS to attract volumes could be hindered in part because by the excessive practical difficulty of meeting the EU Taxonomy criteria, and in part because the universe of Taxonomy eligible assets is for the time being quite narrow, while the EU economy is at the beginning of its path to transition.

12.9. 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?

- Yes
- No
- No opinion

12.10. If you answered yes to question 12.9., please explain your answer.

Article 18 SECR

As the STS criterion of the Article 18 under the EU securitisation regulation requires that the originator, the sponsor and the SSPE be established in the Union, it limits the possibility to structure EU STS transaction in cases where certain of the 3 entities are not based in the Union.

Article 18 “The originator, sponsor and SSPE involved in a securitisation considered STS shall be established in the Union. »

The introduction of some flexibility on the location of certain of these entities could allow additional operations to be STS compliant under EU Securitisation regulation and so a better efficiency for such transactions.

Secondly, the EU securitisation regulation could introduce rules of equivalence for transactions respecting the STS criteria (or STC criteria) in other jurisdictions (for example in the UK) and for which such transactions are publicly notified as STS (or STC) to the relevant regulatory body similarly to the EU securitisation framework.

It would allow for example non-EU affiliate of European entities involved in such non-EU STS compliant transaction to benefit from an EU preferential regulatory framework for EU investors.

NPE securitisation

A clear distinction in prudential regulation between UTP securitisations vs bad loan ones should be introduced, in particular with regard to the non-refundable purchase price discount (“NRPPD”) threshold set to distinguish between “qualifying” and “non qualifying” securitisations as defined under Article 269a of the CRR. Such threshold could be lower than 50% for UTP securitisations considering that non qualifying NPE securitisations cannot benefit from the RW cap of Article 269a (3), but on the other hand have to apply the RW floor as per Article 269a (2). In addition, the provisions of Articles 269a (5) and 269a (6) (i.e., the possibility to take into account the NRPPD for the calculation of the maximum capital requirement and the maximum RW of the senior notes as per Article 268 and Article 267) could be extended also for non-qualifying NPE securitisation and not restricted only to qualifying securitisation as in the current version of Article 269a (5) and 269a (6).

This is considered particularly important in the current environment where Italian banks have disposed large volumes of NPEs in the past years, and such effort should be further supported through an improved regulatory treatment to efficiently derisk their remaining NPE portfolios which are at an early stage, such as loans classified as UTP.

Finally, the SRT process currently requires a 90-day preliminary notification which is followed by the final notification within 15 days after the closing of the transaction. The main hurdle for banks is that in many instances the preliminary notification is done too early in the process and therefore is followed by many clarifications requested by the regulator which can only be answered later down the process, which becomes quite cumbersome to manage both internally and externally. A reduction of the 90-day timeframe (to possibly 60/45-day) for the preliminary notification would help to manage the SRT process more efficiently.

The SRT process also requires the completion of Annex I of the “Public guidance on the recognition of significant credit risk transfer” issued by European Central Bank (ECB) on 24 March 2016, which provides a general framework for SRT securitisation. The EBF believes that a more specific Annex I should be developed with respect to NPE securitisations as much of the information required (e.g., point A4 and D2) is designed for performing securitisations only.