

Brussels, 4 December 2024

MM/FP/MR

EACB response to the European Commission Consultation on The functioning of the EU securitisation framework

4 December 2024

The **European Association of Co-operative Banks** ([EACB](#)) is the voice of the cooperative banks in Europe. It represents, promotes and defends the common interests of its 27 member institutions and of cooperative banks in general. Cooperative banks form decentralised networks which are subject to banking as well as cooperative legislation. Democracy, transparency and proximity are the three key characteristics of the cooperative banks' business model. With 2,500 locally operating banks and 40,000 outlets cooperative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 227 million customers, mainly consumers, retailers and communities. The cooperative banks in Europe represent 90 million members and 737,000 employees and have a total average market share of about 20%.

The voice of 2.400 local and retail banks, 90 million members, 227 million customers in EU

EACB AISBL – Secretariat • Rue de l'Industrie 26-38 • B-1040 Brussels

Tel: (+32 2) 230 11 24 • Fax (+32 2) 230 06 49 • Enterprise 0896.081.149 • lobbying register 4172526951-19
www.eacb.coop • e-mail : secretariat@eacb.coop



General comments

The EACB welcomes the opportunity to comment on the European Commission Consultation on Securitisation. We regard positively the initiative of the EC, in the context of the CMU/SIU discussions, to investigate the functioning of the securitisation framework, which takes account of both high-level (e.g. Eurogroup statement, Noyer Report, Draghi Report, Letta Report) and industry contributions in this sense.

As a matter of fact, securitisation, a key component of a well-functioning capital market, remains underutilised in Europe, for mortgage assets, and even more in the case of SME sector. This is even more significant if we compare the EU and US securitisation market: although being the second largest securitisation market, securitisation in the US is by far more developed. This is due to a series of combined factors, such as the presence of state-sponsored agencies in the US, whose securitisation activities are granted a 'preferential treatment', and stringent prudential requirements at EU level.

Following the Eurogroup's recommendations, we recommend to revisit the EU securitisation framework to create a more supportive environment for EU securitisations and create the appropriate incentives so that also smaller and simpler institutions, including cooperative ones, may approach the securitisation market. For instance, by facilitating securitised products based on SME loans, cooperative banks will have improved access to refinancing, unlocking capital to invest in local economies. This would also act as a bridge to capital markets for SMEs, indirectly responding to calls for new sources of funding. Similarly, the due diligence process is too complex (and leading to uncertainties regarding the award of STS label and thus capital weight) and involve many reporting requirements that can overlap, creating a significant obstacle for the full development of the market. It also deters market actors to resort to such product as investors and issuers face various administrative layers. In addition, this complexity leads to the need of specific skills/expertise and tools that not all market players possess.

Exploring the potential streamlining of the framework for STS securitisations could be a sensible option: in fact, even though the STS standard has been used rather widely, it did not increase the use of securitisation as a financing channel.

Furthermore, the capital requirements for holding securitisations are still particularly high, as recognized also in the Draghi report. The high capital charges stem from the regulatory stance in the aftermath of the 2008 financial crisis, when policy makers saw that risk weights for securitisations ought to be greater than the risks of the underlying securitised assets due to the so-called "agency risk". To counter agency risk, the BCBS (and the CRR in the EU) introduced to the capital requirement formula for securitisations a new supervisory parameter: the p-factor. The p-factor (and the floors on senior tranches) explain the non-neutrality of the capital requirements – i.e. the capital requirements of the securitised assets is a multiple of the capital requirement pre-securitisation.

As also the STS framework has in the meantime addressed agency risk, it would be the right moment to recognise this and reduce the p-factor accordingly, at least for STS issuances.

Moreover, the CRR3 affects capital requirements for securitisations also via the Output Floor. While transitional arrangements that will smoothen the impact of the Output Floor on securitised positions are envisaged in the Regulation, the question remains as to the long-term efficiency of newly issued programs, since those are typically planned to produce effects over several years.

Finally, the liquidity risk treatment of securitization needs to be amended in order to attract more banking investors. Indeed, the current treatment is overly conservative and impacts deeply on the market liquidity of those securities and therefore on their price and issuance volume.



Table of contents

1. Effectiveness of the securitisation framework	3
2. Impact on SMEs	5
3. Scope of application of the Securitisation Regulation	6
4. Due diligence requirements	8
5. Transparency requirements and definition of public securitisation	15
6. Supervision	18
7. STS standard	19
8. Securitisation platform	25
9. Prudential and liquidity risk treatment of securitisation for banks	26
12. Additional questions	41

Answers to selected 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 (due to the use of the term 'revival', not to 'safer'– we would not be consulting on this, and there would not have been so many inputs on reviving securitisation, if the revival occurred with the above regulatory changes)	
2. Improving financing of the EU economy by creating a more balanced and stable funding structure of the EU economy					X (it is our understanding that securitisation is underutilised/underdeveloped in the EU)	
3. Weakening the link between banks' deleveraging needs and credit tightening					X (the lack of an effective market for securitisation implies that leverage limits	



					act as a drag on credit to the real economy)	
4. Reducing investor stigma towards EU securitisations					X (see answers above)	
5. Removing regulatory disadvantages for simple and transparent securitisation products					X (see answers above)	
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 and practices in securitisation markets		X (according to regulation, but not positive for increasing origination)				
8.1 Increasing the degree of standardisation of marketing and reporting material	X					
8.2 Reducing operational costs linked to standardised					X (costs have hugely increased due to the existing securitisation)	



securitisation products					regulatory framework)	
9. Tackling regulatory inconsistencies					X (the regulatory treatment of securitisation vis-à-vis other alternatives makes them unattractive)	

2. Impact on SMEs

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

- Yes X
- No
- No opinion

Please explain.

Based on our members' feedback, the EU lacks a proper market for SME loan securitisations.

On one hand, institutions have issues with regard to the sizes of the portfolios and the relative high burden to implement transactions for smaller portfolios/issuers. This makes it relatively expensive for smaller players to get funding and tap the market. On the other hand, Investors do not have adequate incentives, consequently issuers are not actively pursuing such origination alternatives.

Several obstacles currently prevent the development of securitising SME loans on the cash market:

- *The costs of the transactions, which can be onerous in terms of capital structure and market spreads, as performance is generally more volatile, which makes them less attractive than securitisations backed by other asset classes.*
- *The heterogeneity of SMEs (from very small to large companies), which therefore do not lead to similar operations (i.e. the risk analysis varies according to the size).*
- *The potential legal issues since contractual clauses may prevent the transfer of the loan receivables in cash transactions. This is however not an issue for synthetic securitisation. Practically, legal due diligence cannot be performed on a line-by-line basis to check transferability.*
- *Punitive capital charges for bank financiers (in particular granularity requirements under the CRR), which often make SME securitisation a more expensive option when compared to available alternatives.*
- *Costs and governance required for securitisation remain too high for some issuers, particularly disclosure requirements.*

Lastly, some jurisdictions are more developed than others in terms of SMEs.



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

To relaunch the EU economy, whose fabric is mainly composed by SMEs, it is of the outmost importance not only to provide SMEs with access to EU capital markets, but also strengthening 'traditional' forms of SME funding, such as via banks financing. Banks have a key role in both relaunching CMU and funding the real economy. A way to do it is via securitisation.

Securitisation offers opportunities for investors to invest in consumer and corporate credit exposures that otherwise would not be available to them. It also ensures that credit risk does not solely stay with banks. Moreover, securitisation allows them to free up capital and increases their capacity to extend new funding to SMEs - finally to finance the ESG-transformation of SMEs and support the transition to a more sustainable economy.

SME Securitisation would help originators to access potentially cheaper using a collateral which is not eligible to art.129 eligible covered bonds while SME SRT Securitisation would also facilitate origination thanks to capital freed up.

Banks are also direct lenders to corporates through (private) ABCP trade receivables securitisations, funding their working capital needs hence financing indirectly their SME clients. 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).

Taking into account the degree of development of EU capital markets and their regulation, the ESN, an SME-backed security featured with a dual recourse system, could represent a viable option, alongside securitization, to bridge the current gap in the refinancing market and help channel savings into European capital markets. For these reasons, we also welcome the ongoing work of the EBA investigating on the issue, upon EC request, under the mandate pertaining to the CB Framework review, and we invite the EC to seriously approach this matter.

However, the ESN should not be considered as a substitute for SMEs securitisations. In fact, securitisation remains a viable tool for many cooperative banks for which, due to size and rating restrictions, market access through double recourse instruments would not be feasible. Therefore, we believe that a revision of the securitisation regulation that also includes SMEs loans as underlying assets is crucial. This would enable retail banks to refinance regionally focused SMEs exposures in the global capital markets, thereby improving their ability to finance the local real economy.

3. Scope of application of the Securitisation Regulation

Jurisdictional scope

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 X**
- No opinion

Please explain.

It is not necessary. The jurisdictional scope is well understood.

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-authorized entity(ies) shall be in charge of fulfilling the relevant provisions in the SECR?



- Yes
- No
- No opinion X

Please explain.

Legal definitions

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; X
- No opinion.

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

There is no need to change the definition of securitisation. It should remain the same since it is the definition also used in the prudential framework. Changing the definition would introduce uncertainty and/or would lead to unwarranted changes in the prudential treatment.

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 X
- No opinion

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

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 X

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

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 X
- Other safeguards
- No safeguards are needed

Please explain your answer.



4. Due diligence requirements

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.

Based on the feedback received from our members, a specific cost estimation could not be provided as many of the costs here considered are implicit rather than explicit, demanding substantial time and expertise to comply with these requirements, creating a significant deterrent to investors' appetite. In concrete, the estimate of these costs should take into account the costs for front office and back office systems, personal, as well as the portfolio size of the bank.

That being said, due diligence practices before the SECR were very close to the existing obligations. Therefore, we suppose the latter did not trigger significant increase in costs of implementation.

Additionally, due diligence costs for securitisations are justified as necessary to capture the essential risks of these transactions. Factors that have an impact on those costs are for instance the types of clients, ESG features.

Nonetheless, some redundant regulatory controls, already performed by other regulated entities (originators, sponsors...), entail unwarranted costs and hinder market efficiency, and hence should be removed (please refer to our response to Q4.10).

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.

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; we think that this would facilitate the investor-journey. X**
- 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

A leaner due diligence process would facilitate the issuer and investor journey. While maintaining the need for transparency and disclosure, the amount of information to be provided about the assets is excessive and very granular and currently has to be maintained on an ongoing basis (also implying IT costs), as long as the securitisation is outstanding. Investors, on their end, must not only perform the due diligence but also keep due record of the due diligence and keep performing it even when no adverse event materialised.

In addition, the requirements should be more principles-based, proportionate and less complex.

This is essentially the case for private transactions where due diligence processes have to systematically include all the characteristics/indicators listed in Art. 5 of the Securitisation



Framework, regardless of them being relevant for the particular transaction. This adds a formalism that is not justified in private transactions and hence unwarranted costs and delays. More generally, regardless of a transaction being public or private, some redundant regulatory controls already performed by other regulated entities (originators, sponsors...) entail unwarranted costs and hinder market efficiency, and hence should be removed (please refer to our response to Q4.10).

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 X
- No
- No opinion

Please explain.

We believe that it is crucial that investors are in the position to recognise and evaluate the risks transferred to them by securitised instruments. Hence, we see a value in due diligence's obligations for investors. However, the current regulatory framework in this respect is too prescriptive: the requirements are overly detailed, leading to administrative costs that exceed even those of products with significantly higher risk profiles and, therefore, should be waived. In fact, the legislation provides undue details about the information that investors must consider in order to make their investment decisions. The securitisation regulation also imposes a "one size fits all" approach, while transactions can differ widely in terms of complexity, risk and distribution (private or public).

Furthermore, due diligence is already legislated in pieces of legislation for regulated investors (CRR for the banks). It is duplicative and unnecessary to be prescriptive on that point, specifically in SECR.

Against this background, we believe that moving towards a more principle-based approach with broad rules set in level 1 would be a viable solution to address the above shortcomings. The core of the provision would remain 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.

Furthermore, these requirements should be aligned with the standards in other asset classes, and the comparison should be performed on related types of assets – e.g. AAA senior STS securitisations with other AAA-rated structured finance or collateral backed instruments. Junior ranking non-investment grade rated/complex instruments (e.g. high yield bonds or alternative assets) should be compared also with Non-IG/more complex securitisations. Depending on the relevant sources of risk, structure, asset type, seniority of tranche and other parameters, the content of such a due diligence will vary. Therefore, the obligation should be formulated in a qualitative way without prescribing specific aspects of the due diligence.

More specifically on article 5 of the SECR, we believe that the following provisions should be revised or removed: 5(1) point c, 5(1) point d, 5(1) point e, 5(2), 5(3), 5(3) point c, 5(4) point a sentence 2, 5(4) points b and c, 5(4) point d. Please refer to our response to Q 4.5 for more details.



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

In our view, to implement a principal-based approach for due diligence requirements, Article 5 should be revised. The very detailed one-fits-all-requirements should be deleted and replaced by principle-based wording. We propose the following amendments:

- *5(1) point c 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. It is not necessary to simultaneously burden investors with the obligation to monitor compliance with risk retention.*
- *5(1) point d should be changed: the reference to Article 6 should be deleted. Instead, reference could be made to "equivalent provisions": The proposal still maintains a requirement to assess third country securitizations by requiring that risk retention be met, 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 to Article 6, therefore, represents a significant obstacle for European investors.*
- *5(1) point e should be changed: reference to Article 7 should be replaced with a 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): Verification remains necessary. However, the reference to transparency requirements pursuant to Article 7 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 SECR. European investors are therefore unable to fulfil these requirements and are thus excluded from the non-EU securitisation markets.*
- *5(2) should be changed: Investors do not need to obtain the information pursuant to 5(1) point themselves when investing in ABCP but can delegate this to the sponsor. This should also be possible for the other criteria in 5(1). Furthermore, 5(2) should not only cover fully sponsored ABCP transaction, but also other transactions which are fully sponsored but not necessarily ABCPs are issued. From a risk perspective, there is no difference whether ABCPs are used for refinancing other means.*
- *5(3) 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: 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". This 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.*
- *5(3) point c should be deleted: currently the investor is required to assess the results of the external STS notification. The proposal relies more heavily on the originator and, if applicable, the STS verifier. However, it reduces duplications when verifying whether STS criteria have been met. This will result in a simplification of STS securitisations, which will increase the appeal of this product.*
- *Article 5(4)a §2 shall be removed: We believe that a detailed list of what to include in the procedures is laborious and inexpedient, and not all the characteristics listed are relevant to every securitisation. Complying with this detailed list 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. It should be left to the professional*



judgement of investors to decide the scope of criteria to include and document in their written procedures for monitoring the risk, performance and regulatory compliance of their securitisation positions, depending on the nature of their investments and the types, features and underlying assets of the securitisations.

- *Article 5(4) points b and c: the provisions shall be removed. Detailed provisions on stress testing are not necessary, as the written procedures as per article 5(4)a will include these aspects as the case may be.*

- *5(4) point d should be changed as follows "internal reporting to their management body or an entity designated by the management body, so that they are aware of the material risks arising...": 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.*

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 adoption of a more principles-based approach would allow investors to adjust/differentiate the due diligence process based on the complexity of the structure, the originator, the investment type and the investment horizon and, therefore, has the potential to reduce costs. While at this stage, we cannot provide a precise estimate of the impact of any potential change to Article 5(3), not only could costs be significantly lower (i.e. by 50%), but also entry hurdles for new market participants would decrease. The latter would be a particularly significant benefit.

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

- Yes X
- 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) X
- Due diligence requirements should differ based on the risk of the underlying assets X
- Due diligence requirements should differ based on the STS status of the securitisation (STS vs non-STS) X
- Other

Please explain your answer.

We generally agree with the above options. However, due diligence obligations need to take account of the circumstances. These vary so widely and are based on so many different factors that can change over time that it is not practical or desirable to try to prescribe them in legislation.

Having this in mind, and considering the objective of increasing the number of investors and the demand from investors for securitisations, as well as avoiding more prescriptive regulation, we support a principle-based approach to due diligence requirements that ensures flexibility



and proportionality, allowing investors to perform meaningful risk-adjusted investment decisions within a reasonable period of time and tailored to the specifics of each transaction (e.g. asset type, the positioning in the capital structure...). This would also reduce the costs for analyzing, investing, monitoring and trading securitisations for banks, insurances, asset managers and other investors within the EU without having a negative effect on the individual risk profile or overall financial stability.

It should make a substantial difference if you invest in an Aaa/AAA-rated position compared to investing in a B transaction. Of course, this has an effect on the depth of analysis perceived adequate. In order to get the market going, we will need a lot of providers for the most Senior parts of the capital structures, which would (depending on the underlying assets/structure) be between 90-60% of a transaction.

Furthermore, for private securitisations, we recommend a more flexible due diligence process. This can be ensured by explicitly including a proportionality principle, through Art.5 components applying "where appropriate", in line with recitals 9 and 33 of the SECR. Indeed, for private transactions the due diligence processes lack proportionality, as they apply in full regardless of being relevant for the particular transaction.

For coherence purposes, the originator, sponsor and SSPE of a private securitisation shall provide among the information items listed in Article 7(1)(a) only the ones required by the investor(s) or the sponsor of such securitisation, which are deemed by them necessary to perform the adequate due diligence on the securitisation exposures, proportionate with its risk profile.

For public transactions, the unjustified controls that have already been performed by regulated entities should be removed (e.g. respect of the retention rate, STS characteristics) as they do not bring any additional value in the investment chain but only slow down the investment process and, in fine, weight on the development of the EU secondary securitisation market.

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.

See our response to 4.7 and 4.8

Switching to a "principle based" approach would allow for cost reduction in certain less risky situations which currently tend to be treated in the same way as risky positions. In the event of further fragmentation of the legal framework, the opposite will become true.

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 X
 - No
 - No opinion
- (ii) credit granting criteria requirements,



- Yes X
- No
- No opinion
- (iii) disclosure requirements,
- Yes X
- No
- No opinion
- (iv) STS requirements, where the transaction is notified as STS
- Yes X
- 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.

Removing these requirements would not entail any additional risks since these controls are already performed within regulated entities and are already subject to supervision. Stated differently, they are already framed by all levels of regulatory controls, like the other regulated financial activities and products.

The current additional checks required from investors within the due diligence process do not bring any additional reassurance. Indeed, they unnecessarily slow down the investment process and may lead to missing out investment opportunities. As such, in fine, they penalise the EU securitisation market's efficiency.

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 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. Removing these unnecessary checks would improve the timeliness of the investment process and the ability to seize investment opportunities. As such, the simplification would improve the EU securitisation market efficiency and would increase the appeal of the label. It is not possible to estimate the amount of the impact at the moment.

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

- Yes X
- No
- No opinion

Please explain

Our members expressed mixed opinions: on the one hand, for certain cooperative banks, the complexity and timing (i.e. 5 business days) of the due diligence requirements under Article 5 slows down the transaction process, costing money and requiring additional yield compared with other potential investments. This should be adjusted through a more principle-based approach, as well as in the documentation.

On the other hand, most investors already active in the primary market have all the necessary processes set up to access the secondary market.

Hence, while some checks are unnecessary (see our response to questions 4.3 and 4.10) and removing them/rendering them more flexible would improve the investment process and the



efficiency of the EU securitisation market, participating in the securitisations secondary market is not deterred for all actors.

On a general note, the securitisations prudential treatment for both banks and insurers should be prioritised to support the development of the EU securitisations markets, and the related additional financing capacity of the EU economy.

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 X

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 X

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

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

- Yes
- No
- No opinion X

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?

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 X

Please explain your answer.

We do not have an agreed position on this

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?

We do not have an agreed position on this

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?



As per our previous responses, we would expect this effect to be most pronounced among smaller investors who are most resource constrained and for those players who never came back into the securitisation market after 2008. In fact, if due diligence were to take less time, opportunity costs and entry barriers to the market would be reduced.

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? 13 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 X**
- No opinion

Please explain your answer.

Where the investor has delegated due diligence obligations to an entity that is also subject to the SECR, the latter should be subject to sanctions in case of infringements to Article 5.

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 X
- **the party to which the institutional investor has delegated the due diligence obligations X**
- No opinion

5. Transparency requirements and definition of public securitisation

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 per our previous response (please see response to Q4.1), based on the feedback received from our members, a specific cost estimation could not be provided as many of the costs here considered are implicit rather than explicit, demanding substantial time and expertise to comply with these requirements. This creates a significant deterrent to investors' appetite. Furthermore, in some cases these costs have increased also for the need to hire external verifiers, (e.g. for legal opinions, etc...).

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.

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) X**
- 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 high disclosure costs for securitisation for banks are predominantly due to the complexity of Article 7 and the high level of detail in its provisions, as well as the vast scope of the disclosure required.

Furthermore, there is a disparity in regulatory requirements compared to other capital market instruments with a similar risk profile, especially in terms of trade timing.

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 X
- Moderately different
- Similar

Please explain your answer

According to our members' feedback, the requirements for investors and supervisors information are different. Furthermore, the information needed by investors may vary on a case-by-case basis, especially for private transactions.

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 template 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). X

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.

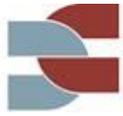
5.6. If you are a supervisor, what impact (in percent or EUR) would you anticipate Option 1 would have on your supervisory costs?

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?

Reducing unnecessary complexities and the burden of regulatory compliance with Article 7 would be a step in the right direction.

It is essential to introduce more proportionality in these obligations. In particular, the regulatory format for private transactions needs to be simplified, as investors currently negotiate their information needs directly with their clients for this type of transaction.

The reporting burden should also be streamlined. This aim could be achieved by leveraging technological advancements in data processing and management (for example, through the use of standardised platforms), while taking into account necessary evaluations to ensure a level playing field, which is essential to prevent distortive use of different types of instruments. Lastly, regarding securitisations that involve multiple issuers within the same group—a common structure in cooperative credit—there is a need to clarify the obligations to be fulfilled by the Holding.



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.

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.

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 X

Please explain your answer.

No agreed opinion on this

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)?

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?

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

We cannot make an estimate at this stage.

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?

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.

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.

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?

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.

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 X
- Granular portfolios of trade receivables X
- Other

If you chose "other", please explain.

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

6. Supervision

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

- Yes X

- No
- No opinion

Please explain and give specific examples.

Based on the experience of some Members, the supervision is partly silo-based and fragmented. An efficient securitisation market requires a consistent supervision and an effective reporting framework. Further improvements might regard the streamline of reporting overlaps between the ECB and ESMA reporting for significant institutes and also the overlaps to the reporting to NCAs, in terms of reporting platforms (e.g. CASPER For ECB and STS REG for ESMA) and templates.

Regarding securitisations that involve multiple issuers within the same group, there is a need to clarify the obligations to be fulfilled by the Holding.

Members have also reported different interpretations on certain SRT features (e.g. how to set the call date) from the national supervisor and limitations on the eligibility for the refinancing operation with ECB of certain securitisations, based on the EU country of origination (eg. leasing securitisation in Austria).



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

- Yes X
- 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 X
- Other (please specify)

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

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 X
- Another arrangement (please specify)

Please explain your answer

Entrusting supervision to national authorities will ensure higher proportionality in the application of the national provisions. It would be important that the process is efficient and establish clear responsibilities.

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.

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

7. STS standard

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 X
- No opinion

Please explain



The STS label has been a positive regulatory evolution. For investors, this label has introduced more transparency and standardisation. For originators it is an important label for selling their transactions to a broader range of investors.

However, since its implementation in the EU 5 years ago the current STS label has not been enough to significantly scale up the EU securitisation market. In comparison, the US market is 5 times bigger than the EU one, which shows that the post-2008 securitisation revival has not taken place in the EU.

The lighter prudential treatment induced by the STS label on eligible securitisations is very much welcomed but is not sufficient to generate a significant market increase. A more preferential treatment is necessary for this standard to be able to significantly scale up the EU securitisation market, especially on prudential aspects (capital requirements and LCR treatment).

We believe that the extension of STS treatment to non-STS transactions, with adjusted calibration, is key to effectively relaunching the securitisation market in Europe. In the current debate to develop the European securitisation market, non-STS securitisations should also be within the scope of prudential improvements, with an appropriate calibration. Non-STS transactions are equally relevant as STS transactions in fostering the CMU and greatly contributing to the very large financing required for the green and digital transitions of the European economy.

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 X**
- Low returns
- **High capital charges X**
- **LCR treatment X**
- **Other X**

Please explain.

This lack of STS demand is mostly due to the high capital charges and the LCR treatment.

In particular, senior STS positions should be upgraded to LCR Level 2A provided they have an ECAI (External Credit Assessment Institutions) credit assessment of at least CQ2. (i.e. low credit risk with good capacity to repay short-term obligations).

STS criteria are overly restrictive. Since the entry into force of SECR in 2019, we have observed that many securitisations, by their very nature, will never meet all 100+ STS criteria despite being safe and useful.

Focusing prudential improvements only on STS will therefore not trigger sufficient impact on the market and will leave entire segments of the potential scope on the sidelines:

- Some portfolios or transactions cannot meet all the STS criteria by nature (for instance the 2% granularity/concentration criteria from Art 243 CRR or the homogeneity criteria – see below for more on Art 243 CRR). These include many trade receivables, mid-sized corporates and SMEs, corporate loans and revolving credit facilities.

- Some originators have structural difficulties with achieving the STS label, e.g. new companies (such as fintechs or solar panels manufacturers) that cannot meet the requirement for 5 years of historical data, or smaller banks that, by construction, handle smaller pools and fail to achieve the granularity or homogeneity criteria.

- Other issuers, such as commercial vehicles or equipment leasing companies, have leases that cannot meet the STS criteria for ABCP (which requires that assets have a residual maturity of less than 6 years and that the assets have a weighted average life of less than 3.5 years)



- Some underlying assets are not eligible for the STS label because of the STS criterion requiring that repayment not rely predominantly on the sale of the assets. This is the case for certain types of real asset financing (e.g., car fleet and car rental deals).

Further, the restrictions imposed by Article 243 of the CRR, while not formally part of the STS criteria, limit the ability of banks to issue STS securitisations.

Both for ABCP and non-ABCP STS transactions, the mere presence of one corporate exposure in the pool that has a standard risk weight above 100% means that the securitisation does not qualify for the STS prudential treatment. 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. The same principle applies to commercial mortgages.

In addition, the maximum risk weights for both residential and commercial mortgages need to be recalibrated to reflect the increases in those risk weights under CRR3.

On a more secondary note, it would be helpful to render transparency obligations more flexible for private STS (see our responses to chapters 4-5 questions).

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

The STS label is well designed and should be expanded to new asset classes. The issue is the prudential treatment of securitisation, notably with regard to the LCR. Also the economics have to be improved to attract more investors. We insist that factors indicated in 7.1, 7.2 and 7.14 are the most important factors at play.

STS criteria

7.4. In the case of an unfunded credit protection agreement where the protection provider provides no collateral to cover his potential future liabilities, should such an agreement be eligible for the STS label, to facilitate on-balance-sheet STS securitisations?

- Yes X
- 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. X
- The provision of unfunded credit protection by the protection provider should not exceed a certain threshold out of their entire business activity.
- Other X

Please explain.

Further safeguards to prevent the build-up of financial stability risk arising from the provision of unfunded credit protection could include credit ratings, along with the following:

- Mechanisms to mitigate counterparty risk (e.g. margin calls);
- Limiting these products to investors that have sufficient capacity to analyse and properly manage the risks of these products, for instance regulated ones such as (re)insurers and asset managers;
- On counterparty risk, it could be used the credit rating of the protection provider;
- Letters of credit could be added in Art. 26e (10) point b of the SECR as an alternative to collateral in the form of cash held with a third-party credit institution.



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?

The allowance of unfunded credit protection to be eligible for STS would considerably increase STS issuances and thus the intended effect of scaling up the EU securitisation market thanks to the widening of the available investor base for STS transactions.

It would further make banks more efficient, reduce risks in banks, free RWA's, which can then again be invested in the economy.

Collateralisation didn't help against failure in financial crisis because insurers have a long-term view rather than a market to market view. Risk diversification due to more eligible unfunded protection provider would support EU financial stability.

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.

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?

Expanding the STS framework to include unfunded credit protection investors would increase and diversify demand in the market, foster competition and eventually lead to larger securitisation volumes.

Some asset classes (e.g. specialized lending, transaction banking) are historically better known by insurers. STS transactions might be originated from these asset classes and distributed to unfunded credit protection providers if such credit protection format became eligible to STS. According to some best-effort estimations of our members, the issued volume could increase of 30%.

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?

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

It will have no negative effect on the EU financial stability if it would be allowed - under Article 26e (10) (b) of the SECR - to provide cash collateral also in the form of a guarantee or letter of credit given by a qualifying third-party credit institution or by the originator. The reference to collateral in the form of "cash held with" a third-party credit institution in Article 26e (10) (b) of the SECR should be interpreted as collateral in the form of an undertaking to pay cash by a third-party credit institution. It should not make a difference if the undertaking of the third-party credit institution which meets the rating requirements to pay cash is established as a result of a cash deposit or otherwise (e.g. under a bank guarantee or letter of credit),



provided that the terms of the undertaking and its treatment in an insolvency or resolution scenario are equivalent.

7.12. Do the homogeneity requirements for STS transactions represent an undue burden for the securitisation of corporate loans, including SMEs? Please explain your answer.

Yes, in particular for smaller banks. In some Member States, the available volume of loans to be securitised after applying the restrictive homogeneity requirements for STS transactions falls quickly below the minimum amount needed to execute an economic feasible transaction given the high absolute amount of fixed cost of setting-up and running the transaction, as well as investor's minimum targeted investment amount.

There should be the possibility of securitisation of cross-border portfolios with SMEs and other types of enterprises. As a supplement, a clarification could be added in the regulatory framework stating that the originator must have suitable and homogeneous risk measurement procedures/internal rating systems in place to appropriately evaluate the quality of cross-border portfolios consisting of SMEs and other businesses in a consistent way. The current homogeneity requirements for this sort of corporate loan securitisations (which are very common for on-balance-sheet securitisations) should be clarified, given the uncertainty in how to interpret these requirements among market players.

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 X

- No
- No opinion

1. Clarify that securitisations can qualify for the STS label even if no SSPE is involved because a direct investment via the bank balance and not via an SSPE does not, per se, have the effect of increasing the risk of the transaction, as long as all other applicable STS criteria are fulfilled. This clarification would enable private securitisations with one bank investor, which are structured in this way, to reach STS compliance and, therefore, provide competitive funding to the real economy.

2. Article 22(1)/Article 24(14)/Article 26d(1) of the SECR: the originator should have the right to choose the type of historical performance data specific to the business and transaction type in order to provide targeted information to the investor. An example would be the provision of rating migration matrices only (and no other loss data) for on-balance-sheet securitisations which would fully meet the market standard and the investors' expectations for this type of transactions. Further, at least for transactions where the default risk is externally covered (e. g. CRR conform credit insurance), it should be left to the originators in the sense of a principal based approach how many additional historical data is needed.

3. Article 24(15) 2nd and 3rd Subparagraph of the SECR: the strict criteria that limit the residual maturity are not suitable and should be removed to avoid discrimination against longer term financing contracts. In particular, the current limits prevent the securitisation of receivables that are financing the dual transition to more digitalised and sustainable, such as solar loans & leases through the private ABCP markets. The argument of a mismatch of asset vs liability maturities is not valid given that ABCP transactions are fully-supported by bank liquidity facilities.



4. *The criterion in Article 21(6) SECR (amortization trigger) should be waived, at the very least for private transactions, as these transactions are characterised by fluctuating portfolio sizes which make this requirement redundant.*

5. *Article 243 (1) (b) and (2) (a) of the CRR (single obligor limit): From a risk perspective, the type of refinancing is irrelevant provided that the portfolio is sufficiently protected through appropriate credit enhancement. The 2% debtor limit should be removed or at least increased if linked to an external public ECAI rating of the debtor. It should be at least clarified that non-ABCP securitisations are also excluded from the rule regarding maximum aggregate exposure if they are fully covered by eligible credit protection (i.e. credit insurance). For on-balance-sheet securitisations involving specialised lending exposures such as project finance/renewables loans, aircraft or shipping loans the 2% single obligor limit is very difficult to comply with, thereby preventing banks that are active in these important market segments to use these loan portfolios for SRT transactions.*

6. *Article 26b (8) of the SECR: Wording should be added to confirm that also undrawn or partially drawn credit facilities fulfill the "defined periodic payment streams" requirement, provided that other payments (e.g. commitment fees) are payable on a periodic basis.*

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.

Given the complexity of the STS framework, TPVs often end up assisting securitisation parties with interpretation issues, ensuring in practice a certain level of homogeneity across the EU.

In principle, it should be relatively easy for Originators to do these checks and do it on their own. However, today, only a few institutions do this without a verification agent.

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 X**
- No opinion

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

TPVs already provide very useful and well formalised verifications, even in the absence of supervision.

They should be supervised only if this is accompanied by a removal of investors' control obligations regarding STS respect of regulatory criteria within their due diligence processes (please refer to our response to question 4.10). It should be noted that, at least in some jurisdictions, they are already submitted to supervision in practice.

Indeed, there is no value added to perform a control that has already been performed both at (i) originator/sponsor's level (3 levels of internal controls as per dedicated regulation + supervision) and (ii) by TPVs. Investors' controls on this matter represent at a minimum a 5th level of control, which no longer brings added assurance, but instead unnecessarily slows down the investment process, and, in fine, the efficiency of the STS market.



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.

Currently, supervision would not materially increase costs as controls are already correctly performed and formalised by TPVs, and they are not numerous. Moreover, at market level, such additional costs linked with supervision at TPVs level should be balanced by the removal of existing unnecessary additional investors-level controls on STS characteristics.

For example, a verification would for typical Auto ABS (~ 500m issuance) would cost 25-30K per transaction. Compared to the overall costs is limited.

However, if STS should be amended to include smaller originators and transactions, these costs will become more important, as it would decrease the efficiency.

8. Securitisation platform

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 X
- 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, defense, etc.)
- Other X

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

Based on inputs received from our members, we would not be against the establishment of a securitisation platform. However, we believe that at present the EU legislator should prioritise the review of the regulatory framework and its simplification. Once this is successfully accomplished, the establishment of a securitisation platform may be explored.

8.2. 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?

We do not believe that a platform would benefit the securitisation market itself but would rather deprive the market from certain categories of assets and investors.



8.3. Should the platform target specific asset classes?

- Yes
- No
- No opinion.

8.4. 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.

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?

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?

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?

As already stated, alleviating the prudential treatment is a priority. Other useful adjustments in the short term would be eliminating redundant, unnecessary controls in investors' due diligence, rendering the securitisation framework for private securitisation transactions more flexible.

Further integration of the CMU, especially focusing on cross-border transfer of receivables, the harmonisation of the bankruptcy remoteness of the transfer of receivables, SSPEs and, more generally, the assets and cash used as collateral, would be useful.

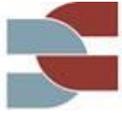
9. Prudential and liquidity risk treatment of securitisation for banks

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?

1. *The LCR treatment – LCR eligibility and haircuts for senior ABS.*

The eligibility and classification of securitisation products within the LCR discourage banks from investing in securitisation. In the CRR, the senior tranches of STS securitisation are classified as Level 2b assets and the non-STS securitisations are not recognised in the ratio.

We propose the following amendments:



- Promote senior tranches of STS securitisation from level 2b to Level 1 or level 2a, for tranches rated AA- or higher
- Classify eligible senior non-STs securitisations at level 2b, rated AA- or higher, with appropriate haircuts. Specifically for non-STs ABCP, we advocate for a promotion in level 2b in the LCR.

2. The capital treatment: the risk-weight floor is currently too high with regard to the risk characteristics. We recommend revising the risk-weight floors across all regulatory methods to set a risk-sensitive floor (7%xRW pool for STS and 12%xRW pool for non-STs (see response to 9.12)

3. The p-factor, which is overly conservative in all methods and increases the non-neutrality. We recommend moving towards capital neutrality by dividing by 2 the p factor in SEC-SA and SEC-IRBA for all roles and beyond the calculation of the output floor, therefore expanding and making permanent the transitional treatment under art. 465 CRR3.

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).

Risk weight closer to capital neutrality on senior tranches:

- securitisation would be more efficient as a tool to redistribute risks (through SRT) on any portfolio (including those attracting lower capital charges).
- portfolios with low risk that cannot currently be used in SRT transactions represent a huge potential pool of assets.

If the LCR is fixed as well, it will support both the primary and the secondary market of ABS in terms of pricing and market liquidity, thanks to a broader and more stable investor base. Moreover, even non-bank investors are valuing LCR eligibility for their investments. Hence, it will help develop the market on non-banks, creating a global and active market ecosystem and increasing all liquidity parameters.

We would like to underline that a risk-sensitive risk weight floor is bound to have a large impact and could easily lead to a doubling in volume through a strong expansion of low-risk portfolios, such as RMBS.

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.

One of the main bottlenecks for the development of new SMEs, especially innovative firms developing new types of products or operating in new segments, is the access to funding. Banks could potentially play an important role in funding these portfolios via senior tranches. The risk of these senior tranches (if structured properly) should be pretty low and be supported with low RWAs under the standardized approach, also considering that the CRR SME supporting factor is closer to low-risk weight pools.



Switching to a risk-sensitive RW floor removes the current disconnection with the RW of the securitized pool. This is beneficial for low-risk pools for the originator (when the senior tranche is retained) and the investor (when the senior tranche is sold).

It would be beneficial for synthetic securitisation, which often uses the first approach: protection on lower tranches and the senior tranche is retained. This type of securitisation is widely used for SME and corporate pools.

In addition, the suggested changes to the LCR (promoting senior tranches of STS securitisation from level 2b level 2a, for tranches rated AA- or higher, classifying eligible senior non-STs securitisations at level 2b, rated AA- or higher with appropriate haircuts) would lead to improvements on the demand side.

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), servicer and investor?

- Yes
- No X
- 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.

There is no reason to differentiate investor and originator/sponsor role:

- originators/sponsors know their portfolio quite well, unlike pure investors, who will have to deal with information asymmetry.

- securitisations are structured with eligibility criteria, some of whom are dictated by STS criteria, others on customer request, that contain the portfolio to its best part (no delinquencies, no restructuring/forbearance, etc.).

These opposite effects are relatively well balanced and there is no reason that one role should benefit from favorable treatment.

In both situations, securitisation should be seen as transforming the risk of the pool, with a small but now well-contained inefficiency, which means that the new capital allocation should be quite close to capital neutrality.

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 X
- No
- No opinion

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

The Art. 243 CRR should be deleted (or strongly amended) to avoid inconsistencies.

The prudential treatment of the retained tranche has a cost on the economic viability of the transaction. That's why the additional limitations imposed for benefiting from the STS prudential treatment, as per Art. 243 CRR may discourage banks from issuing some transactions under the STS standard. Similarly, when a bank provides senior securitisation



funding to clients under the STS format, the prudential benefit of STS for the banks is subject to compliance with Art. 243 CRR – (and balance with related costs).

It should also review the RW floor at 10% or 15% since it can be higher than the RW of the underlying pool, making it inefficient to have SRT securitization with low-risk weight pools.

The treatment of the excess spread in the SRT framework should be reexamined.
Future revenues are simply removed from own funds in the banking framework, which is like a deduction. It should not be included in the ratio used for measuring the transfer of Risk (PBA/CRT) since it can only be more favourable after securitisation.

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 X

- No
- No opinion

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

In general, the regulators try to execute what is set out in the regulations. However, it is possible to observe some cases of gold-plating (i.e. different regulators trying to be even more strict in their interpretation of regulations).

For example, some securitisations are not eligible for the ECB refinancing operation, as the leasing securitisations in Austria. This element reduces the incentive for Austrian banks to engage in these types of instruments compared to other jurisdictions and also affects the market volume.

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.

The banks' released capital and funding via securitisations are flowing back into the EU economy lending. A strong economy requires a robust financial sector, for which well-capitalised banks with high capital ratios are essential. In addition to the capital ratio, listed banks must pursue a clear dividend strategy, as this is an important part of their longer-term attractiveness from an equity investor's perspective (shareholder value) and, thus, also of their ability to finance the real economy.

More specifically, we see three main uses of securitisation for banks:

- *As a funding diversification tool, historically. This made sense, as the investor universe was broader at the time and therefore pricing and liquidity of RMBS/ABS were attractive enough (with limited execution risk).*
- *Nowadays, mainly as a risk transfer instrument. Synthetic securitisation only achieves risk transfer, while full capital stack securitisations can achieve both funding and capital relief.*
- *As a contingent liquidity solution, through retained securitisations that are eligible to repo with central banks or private investors. These transactions have been helpful to support bank liquidity in stressed times (e.g., the 2011 sovereign crisis for Southern Europe)*



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 X**
- No opinion

We do not agree that securitisation entails a higher structural model risk compared to other financial assets (loans, leases, mortgages) due to the inherent tranching. Comparing the historic default rates of securitisations to corporates, the long-term default rate for securitisations for IG and Non-IG transactions is considerably lower compared to similar rated corporates. Also, in 2008, the data reflects the fact that the lending standards in Europe were stricter than those in the US. In addition, the EBA Guidelines on loan origination have been in force in Europe since 2021. They have ensured standardised, high-quality loan procedures throughout Europe. Banks' and investors' losses during the financial crisis were largely caused by the combination of high losses in US (mortgage) portfolios and the leverage of US securitisations from re-securitisations and arbitrage synthetic securitisations, both of which have since been subject to de facto bans. The high losses in the US were also significantly increased by leverage (re-securitisation), which had been banned already with CRD II and III.

The excessive risk weights that were implemented with the new regulation are based on the significantly higher losses in the US in connection with the model risks of securitisation. However, these risks were directly addressed in the new regulation by transparency, risk retention, DD obligations and interest alignment through liability obligations in the regulation.

The high losses in the US were also significantly increased by leverage (re-securitisation), which had been banned already with CRD II and III.

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 X**
- 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.

For the purposes of homogeneity and ensuring a level playing field, the risk weight floors should be adjusted for banks in all roles and be aligned across all the prudential methods, which means that the floors should be the same for the SEC-SA, SEC-IRBA the SEC-ERBA and IAA, and only differentiated by STS and non-STS securitisations.

The reduction proposed by the ESA goes in the right direction, but it will not be efficient for securitisation with low-risk weight.



An alternative approach should be envisaged:

The RW floors should be redesigned as a percentage of the RW of the pool for all methods (SEC-SA, SEC-IRBA, SEC-ERBA and IAA), leading to a Sensitive risk weight floor based on the RW of the pool,

This will be more risk sensitive (lower for low-RW pools, but also higher for high-RW pools). We consider that the floor corresponds to a residual risk on the pool, and as such, it should be proportional to the underlying risk, with a lower level for STS transactions.

The RW Floor should be proportional to the underlying portfolio/pool capital, with the formula:

- RW Floor = 7% × RWpool for STS transaction

- RW Floor = 12 % × RWpool for non-STs transaction

with RWpool = Kpoolx12,5, amortizing during the life of the transaction.

We consider that the floor corresponds to a residual risk on the pool, and as such, it should be proportional to the underlying risk, with a lower level for STS transactions.

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 X**
- No opinion

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.

We suggest keeping it simple and asking for a minimal thickness of a certain percentage of the capital structure. This minimal thickness could simply be based on a minimum percentage depending on the quality of the pool. In addition, it is important to underline that all SRT securitisations in the market have protected tranches which detach above KIRB/KSA because otherwise the resulting risk weight of the senior tranche would be significantly above the floor anyway. Including additional conditions along these lines, therefore, simply complicates the framework without having any real impact on the outcome.

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 X**
- 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.

First, among the safeguards proposed by the ESAs, we do not agree with the granularity safeguard since it is commonly accepted that 30 is the minimum number required for a group of events following the same statistical law to estimate its average value. The proposed value N=200 seems to be slightly overestimated. We favour a return to 50 (like the previous regulation), which brings enough conservatism.



However, if the granularity could define a safeguards, it should be done by increasing the percentage of the risk sensitive floor in order to avoid cliff effects. For example, we propose to have a multiplicative factor to take into account the granularity.

In short, we do not think additional safeguards are necessary, but the risk-sensitive risk weight floor we propose would, in practice, act as a safeguard. A risk-sensitive floor is not necessarily lower, it can be higher depending on the risk weights of the underlying asset. It will serve as incentive for banks to securitise better quality assets and could be seen as a factor towards more financial stability in securitization.

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.

It does not make sense to limit the reduction of the risk weight floor to STS securitisations only since the STS framework is not related to the credit risk of the underlying pool of securitised assets.

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 revision of the securitisation framework must ensure that the instrument can be used when the need arises and with the expected investment volume to implement the transformation. The measures must be suitable for both the demand side and the supply side, as well as for existing and new participants in the market. The measures proposed here in this response are, therefore, helpful because they would make securitisation more attractive for banks as originators and investors.

Our proposal is not only to reduce the risk weight floor but also to make it change according to the risk weights of the pool. It is what we can call a more economically adjusted RW floor. It could unlock significant opportunities for the revival of securitisation market, but not only for STS transactions.

Securitisation RW floors linked to the RW of the pool (our proposal is $70\% \times RW_{pool}$ for STS or $120\% \times RW_{pool}$ for non-STS) would:

- *For the supply side: securitisation could be used to redistribute risk on any kind of portfolio. Banks would be incentivised to remove some of the risk from their balance sheet through SRT to optimise their use of capital. The direct effect would be an increase in supply. Currently, it would not make economic sense for portfolios with very low risk to be included in a SRT securitisation because of the RW floor. Among the low risk portfolios is residential mortgage, which is one of the largest class in European private debt, highlighting the strong potential of increase in supply of such measure.*
- *For the demand side: a more economically adjusted RW floor for investors would also increase the demand on senior tranches, mainly on cash transactions (traditional true sale). The impact on synthetic securitisation would be more limited.*

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 X



- 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).

We recommend moving closer to neutrality for originators (and ABCP sponsors) since there is no asymmetry of information.

When a bank realises a securitisation in order to transfer risk (through SRT), 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.

When a bank realizes 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.).

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 X

- No
- No opinion

Please explain your answer

Yes, decreasing the p-factor would increase securitisation issuance and investment while keeping sufficiently prudent capitalisation of securitisation tranches.

The reduction of risk weights should concern all types of exposure and should not be limited or targeted.

Possible changes in the prudential treatment should apply to banks in all their roles, originators, sponsors and investors. CRR prudential treatment improvements should also apply to banks as investors, in the same way that Solvency II prudential framework should be reviewed to make insurers come back as investors. Neither the criteria Exposures in STS versus non-STS securitisations (beyond the differentiation already provided for in Art. 260 and in Art. 262 CRR) nor the capital approach nor the seniority.

The review of this p-factor is highly required for revival of appetite from investors in priority on Senior tranches (being STS or not).

These quick fix measures might be taken into account by the regulators to revive the securitisation segment:

- in the SEC SA approach, a reduction of the p-factor in all roles (originators, sponsors, and investors):

- at 0.25 for STS securitisation and
- at 0.5 for non-STS



- In the SEC-IRBA calculation, a recalibration of the floors and caps for p-factor with:
 - a floor at 0.2 for STS and 0.3 for non-STS,
 - and a cap at 0.5 for STS and 0.75 for non-STS.
- Beyond the calculation of the sole output floor, article 465 CRR should become permanent.
- While the p factor is instrumental in the non-neutrality of the capital framework, two other key factors that might be targeted are the 1250%RW of the Kirb (or Ksa) first loss tranche and the RW floor.

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
- 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 X**

Please explain your answer

We believe that the reduction of risk weights should be applied to all types of exposures, and should not be limited or targeted. This is justified by the progress made in the last decade regarding the EU Securitisation Framework, which has significantly reduced agency and model risks for securitisations. The reduction of the p-factor should not be subject to additional criteria.

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.

While we cannot offer precise quantitative or qualitative data, we underline that the negative impact of such a reduction would be limited thanks to the progress made in the last decade regarding the EU Securitisation Framework. The agency and model risks for securitisation have significantly decreased.

A reduction of the p-factor is only a means to get closer to a capital-neutral allocation. The cliff effect resulting from the current framework is most of all linked to the overstatement of this risk weight (and not an undercapitalisation).

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).

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. It leads to strong overcapitalisation. If we look at average default rates from rating agencies, such as S&P, the average cumulative default rate over a 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% risk weight under the standardized approach and around 60% under IRBA. The ratio of overcapitalization is between x5 and x2.5

For a AAA rating, for example on EU RMBS, the average cumulative default rate is 0.12% over 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. We 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 5Y 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 is at least x2.

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.

According to S&P data, European CLOs have a much lower default rate compared to European corporates. Most of the defaults occurred in certain subsectors of structured credit, notably collateralized debt obligations (CDOs) backed by other securitizations—predominantly the U.S. RMBS that suffered from severe credit distress during the 2007-2008 financial crisis. Most of these instruments have been banned by regulators, and/or this segment no longer exists. The more traditional European asset-backed securities (ABS), RMBS, and leveraged loan collateralized loan obligation (CLO) sectors have seen lifetime default rates of only 1.0%, 1.5%, and 0.5%, respectively.

Comparing 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 illustrated in the example of the French RMBS, whose pool would be risk weighted at 12%. The proper risk weight on a AAA senior tranche for a pool having 12% risk weight should be far below 10%. With a cumulative average default rate of 0.12% over 10 years, we can expect a 1% cumulative loss over 10 years in the extreme loss event that corresponds to x8 the average (based on defaults in Europe, knowing that in France, it is much lower).

If we look at a 1-year PD from S&P, we have 0.06% and with x8 extreme loss stress, it would require 0.5% of capital over the life of the transaction. Therefore, a risk weight between 6% and 12% would already be conservative compared to 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), we would need between 5% and 10% capital requirement



corresponding to 60% to 120% risk weight, far below the 260% level of the regulation (on 5Y 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 KA 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

The inverted S-curve is the most economic capital allocation. It can be summarized as having a pivot around the attachment point equal to $Kirb$ value, with 625% RWA, and reaching near-0% RWA when the attachment point is $2xKirb$. The SEC ERBA table for mezzanine tranche with 1 Year maturity is relatively in line with this inverted S-curve, except for the upper part.

It is also important to remove discrepancies between regulatory methods, which could be addressed by mapping all methods to a single approach.

The introduction of the scaling parameter on KA (and $Kirb$) could be a solution to reduce this overstatement on mezzanine tranches and be closer to the inverted S-curve, and IAA /SEC ERBA methods should also be adapted.

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.

This alternative design will allow much more assets to be securitized. The reduction of the mezzanine RW will reduce the costs of insurance for SRT trades.

As a result of this double effect, it is expected that the volume of issuance will grow for low-risk assets. This will be all the more necessary since CRR3 significantly increases the RWA on those assets.

However, a large part of the expected potential increase can be obtained with just the evolution of the RW floor.

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

Please explain your answer

We agree with those tests (mechanical, first loss, mezzanine) as described in Art. 244 and 245.



Concerning the commensurateness of the risk transfer, the level 1 text leaves the decision to the competent authority. We would like to stress that we agree with this approach, but we disagree with the EBA GLs that have been issued what are too restrictive and go beyond the level one text. In all the approaches the SRT conditions already guarantee that at least 50% of the risks are transferred to third party, which is more than enough to have a transfer of risk (at this level we can say that the transfer is significant). It should also clarified that these test should be performed at the inception of the transaction.

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.

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

- Yes
- **No X**
- No opinion

Please explain your answer

The process is not clear, each bank refers to the relationship with its competent regulatory authority. The process is too long and lasts several weeks (or months sometimes) for operations that need to be activated quickly. Originators need more visibility on the timeline.

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

We welcome the fast-track SRT working group to normalise the basis of this relationship. SRT assessment should be done:

- *At origination only;*
- *Based on level one text, with a commensurate risk transfer estimated using a ICAAP stress run by the bank on the transaction*

As a simple "tick the box" report based on the requirements of level one text (article 244 & 245) and with estimation of one ratio of transfer under the ICAAP stress estimated by the bank. All that should allow for a quick validation with the competent authority (other indications such as the profitability indicator for the transaction are also of importance in this regard, but do not qualify the transfer of risk).

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 X**
- No opinion

Please explain your answer

The EBA guidelines are too prescriptive, and they introduce unnecessary restrictive conditions. The CRT test defined in those guidelines does not measure the transfer of risk and introduces uncertainty in the structuration of a transaction.



The use of excess spread as a new tranche with 1250% RW after securitisation does not consider the fact that in the banking regulation, on the securitised pool, future revenues are excluded from own funds as well (which is similar to being 1250% Risk Weighted).

Running a loss scenario (under stress consistent with ICAAP) is much more efficient and accurate in order to qualify the transfer of risk. It will also be less time consuming for banks, and it will reduce the execution risk compared to the guidelines.

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

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?

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 X

- 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.

Transitional measures under CRR3 are needed since CRR3 leads to a sudden increase in requirements, and we would welcome making permanent the transitional treatment of securitisation under CRR3 article 465 on the calculation of the floor.

In addition, there should be no set numerical requirements for p-factor values. Instead, the text should read "halve the values listed in Art. 261 and 262 of the CRR". The technical justifications in favour of temporarily halving the p-factor used to calculate the output floor apply permanently. In addition, unified and permanent provisions lower the complexity within the framework and avoid future burdens. Declining to provide a set numerical requirement reduces the need to revise future p-factor amendments in Art. 261 and 262 of the CRR.

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

We do not really see why since the reduction of the p factor is already effective for the calculation of the output floor (Art. 465 CRR3).

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 X

- No
- No opinion



Yes. It strongly impacts the liquidity of those securities, and as a consequence, it impacts their price (and indirectly the cost of issuance) and issuance volumes.

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.

New rules have significantly restricted liquidity coverage ratio (LCR) eligible operations: only AAA senior tranches from STS operations (previously rated at least AA, STS or non-STS) are eligible at level 2B. Today, due to regulatory constraints, the investor base of senior public securitisation tranches has been significantly reduced. Bank treasuries are natural investors for these well-rated floating rate debt instruments (and therefore liquid when needed).

It is critical to change the LCR rules to attract more banking investors to the more secure (non-risky) tranches of European public securitisations; for example, in allowing AA ratings and promoting STS to level 2A. In addition, asset-backed commercial papers (ABCPs) issued through multiseller conduits supported by well-rated banks should also be eligible, which would improve their liquidity and the depth of investment of these papers. It should be remembered that multi-seller conduits contribute to the financing of the real economy (trade receivables, sales financing, etc.)

Current regulation created a negative/vicious feedback loop that increased the liquidity premium and hence the cost for the originator, and that partially hampered the secondary market demand, which in turn leads to less issuances.

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 is difficult to provide estimates since liquidity can vary according to a number of factors, namely how many institutions are willing to buy a security in a given period of time.

However, we can highlight in terms of impact that an increase in the number of buyers would increase the liquidity of assets and, therefore, reduce potential losses in times of stress.

Limitations of the liquidity eligibility also affect investors' perception of the European securitisation market, hence affecting liquidity through the demand factor.

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?

Looking at the size of the bucket Level 2B and 2A, moving from Level 2B to Level 2A with the corresponding change in haircuts we propose, it should have the potential to increase



significantly the HQLA portfolio. Obviously, it also depends on the change in RWA on senior tranches we propose (see 9.23), due to its impact on profitability measures, and the side effects should not be underestimated.

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 inclusion of an asset in a liquidity buffer (or the upgrade to an upper buffer) should have a positive effect on its liquidity. So, the real question is whether a bank would have an interest in investing in such assets for liquidity purposes from a risk/return point of view.

The liquidity of ABS with variable rates has been recently illustrated during the MiniBudget crisis in the UK (Sept 22). Recent market developments evidenced that securitisation did trade a lot with comparatively stable prices in a context of a massive surge of volatility during the UK Liability Driven Investment crisis in the pensions industry and the wider economy in the wake of mini-Liz Truss' budget announcements (September 2022) and the Guilt crisis. Indeed, securitisations frequently use floating rates and hence are less exposed to market value volatility.

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.

If we come back to the definition provided by the Basel Committee (Annex 1 Summary description of the LCR, 2013):

- *Level 1 assets generally include cash, central bank reserves, and certain marketable securities backed by sovereigns and central banks, among others. These assets are typically of the highest quality and the most liquid,*
- *Level 2 assets are comprised of Level 2A and Level 2B assets. Level 2A assets include, for example, certain government securities, covered bonds and corporate debt securities. Level 2B assets include lower rated corporate bonds, residential mortgage backed securities and equities that meet certain conditions.*

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.

While level 1 assets can be considered as near-cash assets that are accepted at central bank facilities, level 2A is composed of assets of similar credit quality less likely to be eligible to central bank. Level 2B assets seem focused on the immediately lower quality.

Therefore, the highest bucket of rating (AAA to AA-) for STS senior tranche of securitisation should be in the level 2A, as is the case for Covered. 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 but are not ECB eligible; hence, they should fall in the Level 2A category. If we look at European AAA RMBS, like AAA covered bonds, they have experienced a low default rate as measured by rating agency (for S&P, the average cumulative defaults over 10year horizon for AAA European RMBS -from 1983 to 2022- is 0.12%) quite comparable to some sovereign risk in the EU. It



should be noticed that European real estate assets exhibit a much lower default rate than US assets even before being securitised into RMBS or covered bonds, 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?

We can expect the volume of securitisation to significantly increase based on two elements :

- *The limit on level 2A (40%) is higher than level 2B (15%)*
- *The regulatory changes in 2019, which restricted the liquidity eligibility criteria led to a division by 3 of the volumes held in the LCR buffer. Expanding the eligibility could, therefore, create the opposite effect and increase by 3 the volumes held.*

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 X
- No
- No opinion

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.

Currently, securitisation can be part of the 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.

We suggest reverting to level 2 A for STS senior securitisations rated AA- to AAA and having non STS senior securitizations rated AA- to AAA eligible to level 2B

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.

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 X
- Synthetic securitisation X
- SRT securitisation X



- ABCP securitisation
- STS securitisation
- Non-STS securitisation X
- Securitisation of SME and corporate exposures
- Securitisation of mortgages
- Securitisation of other asset classes
- Other

Please explain your answer.

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 X
- Operational costs X
- High capital charges X
- Difficulty in placing senior tranches X
- Significant Risk Transfer process X
- 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.

Prudential regulation has discouraged (re) insurance companies to invest in securitisation by setting capital charges in Solvency 2 at a higher level for a senior securitisation tranche than for the corresponding loan portfolio. 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 indirectly, in case (re)insurance companies want to sell those assets, the potential buyer or market maker also needs to go through this burdensome due diligence process.

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

The key topics to be simultaneously implemented that would represent a quick win foster the securitisation market with an immediate impact are:

- *CRR3: sensitive risk weight floor for SEC-SA and SEC-IRBA; extension of the Amendment Boyer halve of p-factor under SEC-SA, beyond the output floor; deletion of article 243; decrease of the credit conversion factor for undrawn liquidity/ credit lines*
- *Simplification and introduction of proportionality in Articles 5, and 7 of SEC-R*
- *Upgrade of senior STS and non-STS securitisation tranches in the LCR HQLA*
- *Recalibration of the shocks in Solvency II for both STS and non-STS securitisations*

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 (Article 18 of SEC Regulation: The originator, sponsor and SSPE involved in a securitisation considered STS shall be established in the Union)

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.

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?

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.

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?

On a general note, securitization will ultimately be as green as the projects and investments will be (in the flow), should it be limited to target predefined pools of financing needs, it will not produce the expected benefits. Securitization should first develop across the board with no restrictive underlying or use of proceeds criteria. In conclusion, it may be cautious that securitization is not targeted as a "green" product to deliver on the objective of contributing to the financing of the transition.

Furthermore, such assets are particularly exposed to risks of greenwashing accusations which do not facilitate their development.

However, to avoid regulatory mismatches in this area, and hence not hinder the efficiency of green/ESG securitisations market, it would be appropriate that ESG securitisations qualification criteria are not treated separately from the rest of ESG financial instruments' regulation, and are included in ongoing regulatory reflections on this matter (e.g. review of SFDR, MIFID ESG, etc.)

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 X
- No
- No opinion

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

As the STS criterion of Art.18 under the EU securitization regulation requires that the originator, the sponsor and the SSPE be established in the Union, it limits the possibility



of structured EU STS transactions in cases where certain of the 3 entities are not based 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, thus, provide better efficiency for such transactions.

Contact:

The EACB trusts that its comments will be taken into account.

For further information or questions on this paper, please contact:

- Mr Marco Mancino, Deputy Head of Department of Department Banking Union, Sustainability Reporting, Taxation, Governance (marco.mancino@eacb.coop)
- Ms Francesca Palladino, Adviser, Financial markets (francesca.palladino@eacb.coop)
- Mr Marco Romeo, Adviser, Prudential & Banking Union (marco.romeo@eacb.coop)