

Madrid, 4th December 2024

TARGETED CONSULTATION ON THE FUNCTIONING OF THE EU SECURITISATION FRAMEWORK

AEB (Spanish Banking Association) appreciates the opportunity to provide comments to European Commission's targeted consultation on the functioning of the EU securitisation.

The present document provides AEB's feedback to this Consultation .

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:

- 1.** Revival of a safer securitisation market **FULLY DISAGREE.**
- 2.** Improving financing of the EU economy by creating a more balanced and stable funding structure of the EU economy **FULLY DISAGREE**
- 3.** Weakening the link between banks' deleveraging needs and credit tightening. **SOMEWHAT DISAGREE**
- 4.** Reducing investor stigma towards EU securitisation. **NEUTRAL**
- 5.** Removing regulatory disadvantages for simple and transparent securitisation products. **NEUTRAL**
- 6.** Reducing/eliminating unduly high operational costs for issuers and investors **FULLY DISAGREE**
- 7.** Differentiating simple, transparent and standardised (STS) securitisation products from more opaque and complex ones **SOMEWHAT AGREE**
 - 7.1. Increasing the price difference between STS vs non-STS products. **FULLY DISAGREE**
 - 7.2 Increasing the growth in issuance of STS vs non-STS products. **SOMEWHAT AGREE**
- 8.** Supporting the standardisation of processes and practices in securitization markets **SOMEWHAT AGREE**
 - 8.1. Increasing the degree of standardisation of marketing and reporting material. **NEUTRAL**
 - 8.2. Reducing operational costs linked to standardised securitisation products. **FULLY DISAGREE**
- 9.** Tackling regulatory inconsistencies. **NEUTRAL**

2. Impact on SMEs

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

NO. In our view, there are no specific impediments for the securitization of SMEs portfolios different for the general impediments for any portfolio that we will explain in detail through the current consultation.

2.2 How can securitisation support access to finance for SMEs?

Securitisation processes are a tool that has traditionally been used by institutions for balance sheet management, in terms of capital and liquidity. However, at present, and due to the positive liquidity situation in the markets, **it is a tool used to a large extent for capital management by transferring credit risk to investors, freeing up capital and allowing the origination of new loans, mainly to households and SMEs.** Capital is one of the most relevant restrictions banks have to manage to increase their capacity to finance the real economy. Securitisation processes help banks to free-up capital and provide more credit to the economy (SMEs, households and corporates).

Introducing the necessary reforms to the regulatory framework in order to promote banks' issuance of securitisations and the development of the market, is a way to support the financing of the economy and, in particular, to support the financing of the SMEs.

3. Scope of application of the Securitisation Regulation

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

No

3.2 If you answered yes to question 3.1, do you think it would be useful to include a specific article that states that SECR applies to any securitisation where at least one party (sell-side or buy-side) is based or authorised in the EU, and to clarify that the EU-based or EU-authorised entity(ies) shall be in charge of fulfilling the relevant provisions in the SECR?

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.

No. It should not be changed.

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?

No

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

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

Yes

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.

- Minimum capital requirements under the AIFMD should be adapted to enable AIFMs, in particular to fulfil the risk retention requirement under SECR
- Other safeguards.

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.

As a general comment, the full cost of compliance with Article 5 and, as a matter of fact with Article 7 too, is very difficult to quantify.

Regulation 2017/2402 establishing a general framework for securitization and creating a specific framework for simple, transparent and standardized securitization establishes a series of requirements for investors in this type of asset class to ensure that they are aware of the general characteristics of the instruments they are acquiring.

Within these requirements, obligations are established to carry out a due diligence process in order to guarantee that the risks derived from all types of securitizations are adequately assessed for the benefit of the final investors and to give confidence to the market. In this sense, they have been obliged to carry out an informed assessment of the credit quality of the securitization instruments.

Article 5 of the Securitization Regulation establishes the due diligence requirements for institutional investors. The performance of these exercises entails costs which, in the most senior tranches, do not justify the returns offered by the securities.

The bureaucratic burden in relation to due diligence obligations imposed on securitizations that do not have to be done for example when buying a bond should be reduced and should be proportional (less requirements if you buy a senior tranche). This requirement can be understood in relation to subordinated tranches, but not for senior tranches with a good rating. The problem with the due diligence requirements lies with the senior tranches, while not with the rest.

There is lack of proportionality in the current rule that applies uniformly to investments in both senior and subordinate tranches, furthering a one-size-

fits-all approach that fails to account for varying risk levels. Moreover, comprehensive requirements, such as verifying risk retention and reassessing STS notifications, increase costs and complexity for investors, create barriers to market entry and pose competitive dis-advantages to European banks. The due diligence requirements should be made easier for investors in senior tranches.

Reforms are, therefore, needed urgently to recalibrate Article 5 of the SECR and, in particular, the requirements associated to senior tranches, by **applying proportionality principles-based on risk profiles**, granularity, or thresholds (e.g., rating classes) to reduce costs, and grant investors greater authority to rely on third-party information to streamline the process. Overall, the underlying idea is to simplify and streamline Article 5 of the SECR.

The primary objective is to increase both the number of investors and their demand for securitisations, and specially their senior tranches (and get back to the market active investors pre-financial crisis). Achieving this requires reducing trading costs for EU-based banks, insurance companies, asset managers, and other investors involved in securitisation. Since investor costs are disproportionately high in the securitisation market, it is essential to streamline regulatory requirements to a more appropriate level. Without these adjustments, investors face an unjustified competitive disadvantage in the securitisation market, especially given the low default rates associated with these assets.

Technical Amendments of Article 5 SECR include:

- **Article 5(1) point c. of the SECR should be deleted** (please see question 4.12).
- **Article 5(1) point d. of the SECR should be changed** (please see question 4.12).
- **Article 5(1) point e. of the SECR should be changed** (please see question 4.12).
- **Article 5(2) of the SECR should be extended** –
- **Article 5(3) of the SECR should be changed** (please see question 4.5).
- **Article 5(3) point c. of the SECR should be deleted** (please see question 4.5).
- **Article 5(4) point a. sentence 2 of the SECR should be deleted** (please see question 4.5).
- **Article 5(4) points b. and c. of the SECR should be deleted in their entirety** (please see question. 4.5).
- **Article 5(4) point d. of the SECR should be changed** (please see question 4.5).

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;**

- ✓ 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

Option 1 is by far the most sensible option on offer, especially in the context of sophisticated professional investors being the only investors permitted to invest in securitisations.

Due diligence is at the very foundation of the business of a professional investor. Legislating in detail what information investors have to consider in making investment decision necessarily involves the legislator (or regulator) substituting its own judgment for that of an investor. This, in turn, leads to inefficient allocations of capital.

The problems in the securitisation markets during the global financial crisis of 2008 have shown us that some measure of legislation around due diligence is sensible, but the current situation is too prescriptive, in the case of investments in the senior tranches, where the problem lies. There is lack of proportionality in the current rule that applies uniformly to investments in both senior and subordinate tranches, furthering a one-size-fits-all approach that fails to account for varying risk levels.

The due diligence requirements should be made easier, specially, for investors in senior tranches. The far better approach would be to set out a series of broad principles for matters institutional investors should be verifying, but leave the detail to the individual investors, who should remain accountable to their national competent authorities for the way they choose to comply with those principles and to their stakeholders for the results of those investments.

As a general matter, investors should not be made to be "proxy regulators". That is to say they should not be required to check compliance by other parties with their legal or regulatory obligations as a condition of investing. We take the view that the UK's changes to the due diligence requirements implemented from 1 November 2024 were a step in the right direction.

We believe the EU should consider taking this approach even farther, e.g. by making clear institutional investors need not verify STS compliance except where they propose to rely on it. Where investors are checking compliance by the sell side, we should take inspiration from the old approach to risk retention in the CRR, where it was sufficient for investors to check the sell side had disclosed it was complying, without having to look behind that disclosure.

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

The biggest issue with Article 5(3) is that it is not expressly subject to the proportionality principle set out in Recitals (9) and (33). It would be helpful for the whole of Article 5 to be made explicitly subject to a proportionality approach. In that context, it may be helpful to redraft Article 5(3) to reflect this simplified, proportionate approach.

In addition, we would urge the elimination of the requirement in 5(3)(c) to verify STS criteria, at least in circumstances where the investor in question is not proposing to rely on the STS status of the transaction

While investors may rely, to an appropriate extent, on the STS notification (per Article 27(1)) and the information provided by the originator, sponsor, and SSPE regarding compliance with STS requirements, they cannot do so in a purely mechanical way. This means that investors must conduct their own assessment and not rely solely on the STS designation, or the information provided.

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

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

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

Technical Amendments of Article 5 SECR should include:

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

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

- **Article 5(4) point a. sentence 2 of the SECR should be deleted:** There

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

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

4.6 Taking into account your answer to 4.4, what would you estimate to be the impact (in percent or EUR) of such a modification in Article 5(3) on your one-off and annual recurring costs for complying with the due diligence requirements under Article 5?

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

Yes

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

- ✓ **Due diligence requirements should differ based on the risk of the position (e.g. senior vs non-senior)**
- ✓ **Due diligence requirements should differ based on the risk of the underlying assets**

✓ **Due diligence requirements should differ based on the STS status of the securitisation (STS vs non-STS)**

✓ **Others**

We recommend redefining the requirements in Article 5 of the SECR to reduce associated costs. For instance, adopting proportionality principles based on risk profiles or thresholds (such as rating classes) could be beneficial.

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

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

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?

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

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

(ii) credit granting criteria requirements,

✓ Yes

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

(iii) disclosure requirements,

✓ Yes

Article 5(1) point e. of the SECR should be changed - the reference to Article 7 of the SECR should be replaced by more generalised wording. For example, the investor could be required to verify whether or not they possess sufficient information in order to carry out the required due diligence pursuant to Article 5(3) of the SECR: Verification remains necessary. However, the reference to transparency requirements pursuant to Article 7 of the SECR makes it practically impossible to invest in third country securitisations. Originators, sponsors or original lenders located outside of the EU are not subject to the requirements of the European Securitisation Regulation. European investors are therefore unable to fulfil these requirements and are thus excluded from the third country securitisation market. The result is that European investors cannot provide as much support to European companies that operate around the world, and the fixed transaction costs (e.g. establishment of a specialised department) cannot be distributed across a larger volume of investments. It also limits opportunities for financing banks and investors in Europe to develop expertise in new asset classes in other regions, such as Solar ABS in the USA 5 to 7 years ago, and then in turn to actively help develop these sectors within the EU. Last but not least, this reinforces the home bias towards the EU, in particular for smaller investors.

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

✓ Yes

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

Concerning the simplifications, the modifications envisaged should be defined as a subset of existing reporting or disclosure requirements, in order to avoid additional development on existing transactions.

Also, conceptually, the STS label was created to give comfort to investors that are investing in a transaction that is deemed to be compliant with certain generally accepted criteria: requiring investors to verify that the STS label was appropriately granted despite the label of its purpose.

4.11 Taking into account your answers to Q.4.10, what would you estimate to be the impact (in percent or EUR) of removing those obligations on your one-off and recurring costs for complying with the due diligence requirements?

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

✓ Yes

Yes, as a result of the article 5 the EU institutional investors are put at a serious competitive disadvantage as compared with investors not subject to Article 5 requirements.

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?

No

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?

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

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?

We consider that there is no need to identify repeat or similar transactions.

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?

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?

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?

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?

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?

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?

5. Transparency requirements and definition of public securitization

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.

The full cost of compliance with Article 7 is as difficult to quantify as the full cost of compliance with Article 5.

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.

At a minimum, set-up costs come up to EUR 250K and ongoing costs come up to around 50-100k. However, these figures escalate exponentially in the case of larger groups, with a broad range of assets to securitise, high number of units or geographical presence, where the cost could easily go over EUR 1 MM.

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?

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

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

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

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

Investors will conduct their assessment depending on some factors including the type of securitisation, the underlying assets (granularity, tenor), the level of seniority of the securitisation position (equity vs senior), the size of the contemplated investment etc. In order to make their investment decision, investors will need some details on

the underlying loans (but generally not on a loan-by-loan basis), details on credit enhancement provided, amortisation & triggers, cash flow models, etc.

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

More specifically, for instance:

- The requirement laid out in the EU Securitisation Regulation (SECR) to report loan level data for public ABS transactions should be removed. Investors and rating agencies do not evaluate a portfolio on loan level, but instead use aggregated data and stratification tables that were created by collating individual data. Supervisors also assess granular portfolios as a whole using stratification tables, so that reporting based on individual receivables does not provide any added value.
- For private ABCP, private non-ABCP, and synthetic securitisations, the above requirement should equally be removed. While supervisors only require transaction-level data, for private investors, loan level reporting does in this context also not provide an added value.

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

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

Option 1:

- **Streamline the current disclosure templates 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). Commission Delegated Regulation (EU) 2024/1224**

We support Option 1 provided the obligation for private securitisations to be reported to repositories is removed and the category of “public securitisation is not to be drawn too broadly. In particular, third country securitisations should be treated as “private” securitisations.

With regards to this sentence in Article 7 (1): *In the case of ABCP, the information described in points (a), (c)(ii) and (e)(i) of the first subparagraph shall be made available in aggregate form to holders of securitisation positions and, upon request, to potential investors. Loan-level data shall be made available to the sponsor and, upon request, to competent authorities.*

While FI clients may be equipped to extract loan-by-loan data on a regular basis, corporate clients are usually much less sophisticated. For volume’s reasons, this is most penalising for corporate clients operating a B2C business, which can imply millions of loans (e.g. utilities, telcos). Not only are banks not using a conduit facing a competitive disadvantage compared to banks funding via an ABCP conduit, because

of the much heavier requirements the former would put on the client for an equivalent structure, but the mere “upon request” criteria can be discouraging enough for many of those corporate clients. All the securitisation industry in the EU suffers the burden incurred by the client to extract such loan-by-loan information.

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?

It depends on the asset class. It is not easy to estimate

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

Increasing notification and reporting obligations does not provide additional information to investors and increases administrative burdens and costs for originators.

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?

No

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?

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?

We advocate for more targeted and efficient securitisation reporting. This includes merging different reporting systems, reducing data volume, aggregating information, and harmonizing terminology. Specifically, amending Article 7 of the SECR to eliminate loan-level reporting for granular portfolios and shifting to aggregated transaction-level reporting would be beneficial. Similar adjustments should apply to private transactions, introducing a dedicated template for private securitisations that meets supervisory needs while easing regulatory burdens.

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

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

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

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

From a trade finance perspective, the preference is for all banks with no ABCP programs to report at aggregated level like ABCP programs can do. Trade receivables, credit card receivables, auto loans, they are funded via conduit and reported at aggregated level.

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**

Yes, there are divergent approaches NCAs take on standardizing the process of verification and registration of brochures. Homogeneous criteria should be applied between the different NCAs (CNMV in Spain) in charge of verifying the prospectuses of the securitization funds, both in terms of required information and deadlines. In addition, there are The divergent approaches NCAs take to reporting securitisations

to them (including some who impose additional burdensome reporting obligations over and above those provided for at European level), for both private and public deals

Whilst significant improvements have been identified in the EU SRT process in recent years, we continue to see a high-level of divergence in the guidance provided from the various JST teams, sometimes even within the same countries. The SRT process remains too informal, and this lack of consistency leads to uncertainty and a lack of a level playing field. Examples include the approach to the regulatory SRT tests, as well as the information to be provided and the different loss scenarios to be run.

In order to improve the uniformity of the SRT process across the EU, the EBA should be mandated to run a formal consultation on the SRT process (including the tests), building on the report they issued in 2020 (which went through no formal consultation at the time).

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

✓ **Yes**

Although the ECB guidelines detail the process, as well as the documentation to be submitted, we note that the criteria for receiving a positive assessment of significant risk transfer are unclear and potentially may not be homogeneous across entities to the extent that they depend in part on the supervisory judgment of the JSTs.

We advocate for greater transparency regarding the requirements needed to obtain a positive assessment of significant risk transfer. SSM and JSTs should work towards harmonize and speed-up authorization of the SRT processes.

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

✓ **All securitisations**

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**

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

✓ **Having one national authority as lead coordinator in the case of one issuance involving multiple supervisors**

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

✓ **Some**

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

Same criteria as the criteria used to select the supervisory colleges.

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?

No

The STS label has existed now for over five years and has not achieved this outcome. While we fully support the STS framework, the label did not bring the hoped-for new originators or investors to the market. Figures provided by the EBA and by AEB evidence that the STS market share is quite low in Europe (around 35% of the total issuances) and that the STS issuance amounts placed in the market are disappointing

We believe the STS label is far more complex than needed to achieve its objects, particularly with the risk/reward ratio it currently carries. Overall, the differences in regulatory treatment between STS and non-STS are not sufficient to outweigh the additional work and risk of ensuring compliance with the criteria, as evidenced by the fact that STS deals do not consistently price more advantageously for issuers than non-STS deals with equivalent ratings.

7.2. Which of the below factors, if any, do you consider as holding back the expansion of the STS standard in the EU? You may select more than one option.

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

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

- Simplification / Calibration of certain STS eligibility criteria;
- Better regulatory calibration for both STS and non-STS
 - Better capital requirements calibration in CRR3
 - Better treatment for all investment products under Solvency II,
 - Recognition in SEC-R of guarantees provided by insurers in the STS label
- More proportionality in due diligence processes for all transactions.
- Addressing underestimated additional constraints.
- Increase the LCR benefit for STS.

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

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

Yes, it is very important that unfunded credit protection agreements, where the protection provider provides no collateral to cover his potential future liabilities, are eligible for the STS label. The current status is that these agreements are eligible when the protection provider is a Multilateral, but it is necessary to expand this to insurers and reinsurers. These types of investors are key to mobilise assets where institutional investors have less appetite. Institutional investors typically invest at WAL of 5 years, while insurance/re-insurance are capable to invest at longer maturities. As an example, residential mortgages is a very difficult asset class to mobilise through SRT due to the long portfolio WAL (10 to 15 years) and relatively low risk weights. We believe insurance/re-insurance can play a key role to mobilise these assets

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?

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)?

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?

If unfunded credit protection become eligible for the STS label, this will unlock mobilization of asset classes such as residential mortgage portfolios. Some asset classes (e.g. specialized lending, transaction banking, residential mortgages portfolio) are historically better known by or better fit insurers due to their longer maturities. Accordingly, at least in the first few years, we would expect STS transactions to be originated from these asset classes and distributed to unfunded credit protection providers if such credit protection format became eligible to STS.

This combined with the proposal to reduce output floor and reduction of p- factor under STS, it will certainly increase significantly issuance of unfunded transactions.

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

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

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

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

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

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

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

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.

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

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.

5. Very high added value

Given the previous question (7.14) does not allow to introduce an explanation, we would like to include it here:

The Securitisation Regulation establishes as optional the use of an authorized third party to attest the satisfaction of the STS criteria.

Depending on the type of transaction, some investors and/or issuers may see value in having a TPV, while others may not find it necessary.

For instance, we see value in the case of the traditional securitisation market (funding and capital relief ABS transactions). For this type of transactions, the TPV provides credibility to the securitisation market, in particular, for senior bond investors. The absence of TPV could create inconsistencies across transaction and lower investors' credibility of the STS label. Many senior bond investors required STS TPV to be complete in order for them to buy the paper. Therefore, for these types of transactions, TPVs are very important (rating 5).

However, at the same time, TPVs are not considered necessary for other tranches/ investors (eg. the equity tranches). For these transactions, having a TPV would mean adding an additional layer of bureaucracy and costs, without providing value (in this case, the rating would be 0).

Alternatively, however, whilst investors in junior/equity tranches may not necessarily see the value of a PTV/STS label, in SRT transactions there can of course be significant value to the originator bank to have an external assessment which confirms the applicability of with regards the preferential capital treatment on the retained tranches.

Therefore, we consider that the current status of optionality is the correct one and should be maintained.

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?

No. TPVs should not require to be supervised for the following 2 reasons:

- 1) The liability for the STS label mainly lies on the originator rather than on the TPVs. Their supervision, therefore, does not seem necessary; and
- 2) Supervision would only further expand an already lengthy process and increase costs.

In our view, the key question lies not on whether the TPV should be supervised or not, but in the need to simplify the STS criteria, which is currently too burdensome and complex. The simplification of this criteria will facilitate the TPVs' task.

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

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?

No

Structural projects, such as the European securitisation platform or public guarantees, could be addressed at a later stage and should not delay the short-term priorities, i.e. addressing all regulatory (SECR) and prudential (CRR3, Solvency II and LCR Delegated Act) barriers".

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

8.3. If you answered yes to question 8.1., how would access to a pan-European securitisation platform increase the use and attractiveness of securitisation in the EU?

8.4. Should the platform target specific asset classes?

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

8.6. Are guarantees necessary?

Structural projects, such as the European securitisation platform or public guarantees, could be addressed at a later stage and should not delay the short-term priorities, i.e. addressing all regulatory (SECR) and prudential (CRR3, Solvency II and LCR Delegated Act) barriers”.

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?

ICO (Spanish Instituto de Crédito Oficial)

- Provide ICO with the necessary budget and resources to be able to carry out larger investments in securitisations and provide support to banks (eg. increase their ability to invest in consumer unsecured ABS, or in synthetic mezzanine).

It will be relevant to broaden the scope of investment of ICO to mezzanine tranches on SME Synthetic securitizations. This would certainly help to increase deployment of capital into SME lending in the geography

EIB EIF (European Investment Fund)

- One of the challenges the Draghi report highlights is the need to build new infrastructures: complex and sophisticated projects for the green and digital world. For this type of investments/asset class, you need the support of an entity that can assume a large amount of risk, particularly in that phase of the project (eg. construction phase), for which it is difficult to find investors.
- The EIB’s European Investment Fund (EIB EIF) can play a key role in these infrastructure investments. However, under their current mandate is very limited, their budget gets depleted very quickly and there is very little they can do with it.

- It would be necessary to provide the EIB EIF with a bigger budget, resources and capabilities so that they can support banks in different ways, among which, infrastructure investments.

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?

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

- **Risk-Weight Floors:** AEB notes that the risk-weight floors for senior tranches in securitisation transactions are often set disproportionately high relative to the actual risk. Risk-weight floor for senior tranches, currently set at 10% for STS and 15% for non-STS, should be recalibrated. Senior tranches, while attracting between c. 25% to 50% of the total risk weight of a securitisation transaction, bear minimal risk due to their protective position. Therefore, they should not carry such high-risk weights.
- **P-Factor Adjustments:** The p-factor parameter in both the SEC-SA (Standardised Approach) and SEC-IRBA (Internal Ratings-Based Approach) formulas imposes excessive additional capital requirements on securitised positions that hamper the economic viability of many securitisation transactions. This is a critical concern as the securitisation market is central to the Capital Markets Union (CMU, recently rebranded as Savings and Investment Union) Action Plan and as institutions may increasingly rely on securitisation to manage their portfolios effectively. **The P-Factor should be recalibrated both under SEC-SA and SEC-IRBA, both for originator positions and for investor positions. See 9.5, 9.22 and 9.23.**
- The current output floor adjustment is a temporary measure lasting until 2032. During this period, institutions using the SEC-IRBA and the IAA can apply a reduced p-factor (halved) to both STS and non-STS securitisation positions when calculating their output floor. However, the benefits of this measure are contingent on exceeding the total consolidated Output Floor (OF). Unless such circumstance materialises, it does not result in a reduction of RWAs for securitisations compared to the current treatment.
- **Significant Risk Transfer (SRT) Criteria:** The CRR's stringent criteria for SRT present operational challenges and uncertainties for banks, making it difficult to obtain regulatory approval. The complex approval process and stringent quantitative tests required for SRT make it less attractive for banks to issue securitisations aimed at reducing risk on their balance sheets.
- **Liquidity Coverage Ratio (LCR) Treatment:** Under the CRR, senior tranches of securitisations are restricted to Level 2B assets within the Liquidity Coverage Ratio framework, with a high haircut low share and 5-year WAM restriction. This limits the attractiveness of these tranches for investors.

In addition, we recall that the current eligibility for the LCR requirements hampers the inclusion of transactions which are penalised only because of the existing country ceiling criteria being applied to originators of certain Member States, irrespective of the soundness of the securitisation transaction itself. Such criteria adopted by the rating agencies do not allow many transactions to achieve the highest ratings obtainable only because of the issuing Member State, therefore a relaxation of the LCR criteria to allow lower rated senior tranches is warranted.

9.2. Please explain how possible changes in the prudential treatment would change the volume of the securitisation that you issue, or invest in (for the latter, split the rationale and volumes for different tranches).

Changes that adjust RW density of the senior tranche of risk in a risk sensitive manner will change:

- 1) Volumes of SRT issuance because we would have more bank investors.
- 2) Volumes of senior tranches because we will incorporate banks as investors.
- 3) Volumes of non-senior tranches because they are always issued together with the senior ones. This will attract other investors.

The bonds will become more liquid in the secondary market.

One significant factor which limits the attractiveness of securitisations as an investment for banks is the classification of securitisation positions as Level 2B assets for LCR purposes, together with the cap of 15% which applies the proportion of a bank's liquidity buffer which can be comprised of Level 2B assets. Reclassification of the senior tranche(s) of securitisations as Level 2A assets (and applying the same haircut as for other Level 2A assets) would make it possible for banks to be more active investors in securitisations.

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.

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 Regulation²¹), servicer and investor? No

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.

We think there should be improvements for all roles but, at least, there should be improvements for originators that retain senior tranches of their own securitisation.

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?

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

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

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

National legislations are still too far apart on the default area.

In the EU the default regulation is very cumbersome depending on the country. If we want securitisations to grow in a serious way we need to harmonise the default regulation.

9.10. How do banks use the capital and funding released through securitisation?

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

Risk weight floors

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.

No

AEB members disagree that the process of securitisation itself changes the risk associated with the securitised exposures.

While securitisation involves tranching, which could introduce complexity, this does not inherently increase model risk when the securitisation structure is well-managed and the underlying assets are transparent and of high quality. The tranching redistributes the risks differently, with a dedicated priority of payments, but there is no additional source of risk.

That risk is unchanged, and therefore the total losses which could be incurred across the entire securitised portfolio is unchanged. This is the capital charge reflected in K_{IRB}/K_{SA} which is then distributed across the tranches.

European securitisation markets demonstrated resilience during the Global Financial Crisis (GFC), with low default rates across various asset classes. The risk profile of securitised assets is largely driven by the quality and predictability of the underlying asset pool, and well-established securitisation practices in Europe, such as the STS (Simple, Transparent, and Standardised) framework, help transparency on model risk.

Model risks associated with securitisation can be effectively managed through robust due diligence, transparency, and regulatory safeguards, making the model risk comparable to or even lower than other complex financial assets. Thus, with proper structuring and regulation, securitisation does not inherently carry a higher structural model risk than other financial instruments.

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?

We support the review of the RWs floor. This could be done through two alternatives:

- 1) Lower the RW floors for STS from 10% to 7% and for non-STs from 15% to 12%A formula with a risk sensitive approach for the RW floors.

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?

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?

No

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.

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?

No

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.

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.

No, the reduction is needed for both, STS and non-STs.

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

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

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

From an originator perspective, we could double the amount on the origination front. Please note that the lower RWs are not currently being securitised.

From the demand side, investors would have more underlying to choose from, increasing the demand.

The (p) factor

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?

No

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.

In a context in which capital requirements are increasingly higher (implementation of Basel III, activation of macroprudential capital buffers in many countries, review of internal models by supervisors -TRIM or IRB repair program-, etc.), we believe that it is necessary to review the securitisation framework in the European Union to provide institutions with a tool that allows efficient capital management

These reforms should cover:

Revision of the capital requirements for securitisation securities retained by originators and the requirement for securities in which institutions invest. This would entail the revision of Regulation 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending the CRR on prudential requirements for credit institutions.

In this sense, we believe it is necessary and urgent to review the prudential framework for securitization positions:

- i) SEC-SA:
 - o STS: Lower the p-factor from 0.5 to 0.25
 - o Non-STs: Lower the p-factor from 1.0 to 0.5
- ii) SEC-IRBA:
 - o STS: Lower the p-factor floor to 0.1 and set a cap at 0.3; (from 0.3 floor and cap of 0.75)

Non-STs: Lower the p-factor floor to 0.25 and cap at 0.75 (from 0.3 cap of 1.5 for low-risk mortgage pools)

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

We consider that the current calibration of the Securitisation Framework, including the p-factor, is overly conservative, such that a reduction in the p-factor would be mean that capitalisation of securitisations remains at a sufficiently prudent level.

In our view, the situation on the securitisation market demand side is as follows:

The traditional investors for this type of product have been:

- **Institutional investors:** Within this group we include global investors who have a strong appetite, mainly for the most subordinated tranches of synthetic and traditional securitizations. Within this group we must distinguish between private investors **based in Europe and those based in third countries, mainly the UK and the USA.** This distinction is very significant since following the entry into force of Regulation 2017/2402 investors based in Europe are obliged to significant due diligence (DD) requirements which substantially discourages investment in this type of products since these DD processes have high costs associated with them.

THEREFORE: Investors based in third countries (UK and USA) are active in the subordinated equity and mezzanine tranches of synthetic and traditional securitizations.

- **Pension funds and investment funds, including money market funds:** Money market funds were among the demand for senior tranches prior to the financial crisis. Today, while there are some investors in Europe buying senior tranches, the number of players and the total volume of demand has been reduced due to current regulation (including due diligence requirements).

THEREFORE: They are active investors in senior tranches, but their demand is limited.

- **Credit institutions:** Credit institutions have also been a traditional investor in senior asset-backed securities issued by other institutions prior to the financial crisis. However, with the entry into force of Regulation 2017/2401 governing the prudential treatment of securitizations, they have lost their appetite to participate as investors in this market. In addition, the treatment for LCR compliance purposes is also a clear disincentive to invest in these products.

THEREFORE: Limited demand for senior paper by banks due to the penalizing capital and liquidity treatment.

- **Insurance companies:** Like credit institutions, insurance companies have traditionally participated in the securitization market prior to the financial crisis. However, the entry into force of the Solvency II framework, with a more demanding solvency treatment for this type of instrument, makes it more difficult for them to participate actively in this market.

THEREFORE: The demand from European insurers is much more limited than in the USA, mainly due to Solvency II, although it does exist, mainly in securitizations without SRT funding.

- **European Central Bank:** The change in monetary policy stance, the ECB has lowered the level of acquisition of this type of assets.

THEREFORE: They are not active investors in the securitization market (neither in subordinated tranches nor in senior tranches).

Once said that, in our view, a large portion of these traditional investors for the securitisation market such as the credit institutions would come back to the market if the prudential framework would improve.

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

Preference is for all deals but, at least, for retained tranches of SRT transactions. Agency and model risk do not exist with own securitisations.

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.

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).

To the extent you have a lower p-factor, you have a lower consumption.

The implementation could potentially lead to positive outcomes, specifically in the context of executing operational transactions, without differentiating between synthetic and traditional methodologies.

From the demand side, investors would have more underlying to choose from, increasing the demand.

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.

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.

9.28. Based on your answer to 9.26., do you consider that alternative designs of the risk weight functions, such as an inverted S-curve, or introducing a scaling parameter to scale the KA25 downwards, within the current halfpipe design, as investigated in the Section 3.3.2 of the EBA report, have potential to achieve more proportionate levels of capital non-neutrality and capital distribution across tranches, address the potential cliff effects more appropriately and achieve prudential objectives?

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.

Significant risk transfer (SRT)

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

We would like to emphasise the fact that according to our experience it has been observed that the approach of the JST in applying the current framework is not always uniform, therefore more harmonisation from the JST is warranted.

The EC should give a mandate to EBA so that there is a formal consultation on the SRT test, and it becomes a formal piece of regulation.

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 has not been formally consulted on. There would also need to be a consultation on this test so that it becomes a formal piece of regulation.

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

No. We are of the view that the SRT assessment should be streamlined, where the SRT fast track should cover all STS and non-STS securitisations. The SRT process has not been formally consulted. It should be consulted so that it becomes a formal piece of regulation.

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

Securitisation processes **allow the reduction of the denominator of the capital ratio through the transfer of credit risk** (reduction of risk-weighted assets, RWAs) and can be executed through two structures: (i) traditional (cash) securitisations, which involve the transfer of ownership of the assets being securitised to a special purpose vehicle and; (ii) synthetic securitisations, where the credit risk of the securitised assets is transferred through a credit derivative or a financial guarantee or insurance contract.

To achieve the objective of reducing the denominator of the capital ratio, institutions **must give at least three months' notice of their intention to carry out a securitisation with the aim of achieving a "Significant Risk Transfer" (SRT)**. The supervisor, after a period of analysis of three months from the institution's notification (although it does not always provide a positive assessment of whether there is a significant risk transfer), and therefore, in general, and unless otherwise notified by the supervisor, the institution may reduce the RWAs associated with the securitised portfolio.

We are of the view that this period is very long, taking into account that in many cases, the schemes are very similar to previous schemes. For that reason, we propose to reduce the deadlines for the recognition of significant risk transfer (SRT) for all STS and non-STs.

We agree with the SRT supervisory assessment to be further specified at the EU level. The SRT process has not been formally consulted. It should be consulted so that it becomes a formal piece of regulation. We disagree that it should left entirely to the competent authority to set out their own process.

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

We agree with the SRT supervisory assessment to be further specified at the EU level. The SRT process has not been formally consulted. It should be consulted so that it becomes a formal piece of regulation. We disagree that it should left entirely to the competent authority to set out their own process.

The ECB has a period of 3 months to authorize a securitization scheme (it also requires one month's notice); this period can be extended if the ECB makes any additional information request; the CNMV has 1 month to approve the issue. These deadlines give entities very little margin to manage.

The guidelines published by the ECB "Public guidance on the recognition of significant credit risk transfer" detail the process for obtaining significant risk transfer validation, as well as the information package that institutions have to submit to their inspection teams (JSTs).

Although all the guidelines published by the supervisor are welcome as they provide visibility on the course of the authorization process, we believe that these deadlines

are too long considering that the schemes used by institutions to securitize portfolios are characterized by their recurrent standardization.

The supervisory review process is very complex and time consuming. In this sense, we believe that it is necessary to create faster procedures (1 month fast-track) that can be applicable to securitization schemes similar to other processes that have been previously authorized.

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?

Transitional measure in Article 465(13) of the CRR

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

Our proposal is to expand the output floor reduction of the P-Factor beyond the output floor for securitisation transactions under SEC-SA (cf. Question 9.23).

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.

Our proposal is to expand the output floor reduction of the P-Factor beyond the output floor for securitisation transactions under SEC-SA (cf. Question 9.23).

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?

Liquidity risk treatment in the LCR Delegated Regulation

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

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.

Credit institutions have been a traditional investor in senior asset-backed securities issued by other institutions prior to the financial crisis. However, with the entry into force of Regulation 2017/2401 governing the prudential treatment of securitizations, they have lost their appetite to participate as investors in this market. In addition, the treatment for LCR compliance purposes is also a clear disincentive to invest in these products.

THEREFORE: Limited demand for senior paper by banks due to the penalizing capital and liquidity treatment.

For this reason, we support the Review of the treatment of these securities for the purposes of compliance with liquidity requirements (LCR).

One significant factor which limits the attractiveness of securitisations as an investment for banks is the classification of securitisation positions as Level 2B assets for LCR purposes, together with the cap of 15% which applies the proportion of a bank's liquidity buffer which can be comprised of Level 2B assets. Reclassification of the senior tranche(s) of securitisations as Level 2A assets (and applying the same haircut as for other Level 2A assets) would make it possible for banks to be more active investors in securitisations.

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?

No

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.

We are of the view that the current prudential treatment for securitization securities is really demanding compared to similar instruments (similar in terms of treatment for the monetary policy). Haircuts set by the ECB for the Covered bonds in the monetary policy context are the same as those applied for the securitisation securities. Therefore, in our view, their prudential treatment for the LCR should be similar.

The regulatory treatment of liquid assets for LCR purposes is defined in Delegated Regulation 2015/61. Level 1 assets are defined in Article 10. Unlike other instruments such as bonds/mortgage covered bonds that meet a series of requirements, holdings of securitization instruments issued by other entities are not admissible as Level 1 assets for the LCR but are instead considered as Level 2B assets.

The eligibility of securitizations for LCR purposes is limited to AAA-rated bonds only. It is important to note that in some countries, such as Spain or Italy, there are some rating agencies that still maintain a rating ceiling at AA, which prevents certain peripheral countries from having their securitization bonds eligible for LCR purposes.

Despite the fact that the demand in the market and with the current prudential treatment is not the same as other instruments included in the LCR level 1 assets, such as covered bonds that meet a series of conditions in terms of liquidity and credit quality, the discount that the ECB would apply in the liquidity window would be the same, therefore, in a stress scenario, the liquidity obtained in the ECB for these securities would be equivalent to many of the assets included in the LCR level 1. This circumstance invites to review the treatment of these instruments (even if only a subset that meets some conditions) for the purpose of their computation in the LCR.

Additionally, it would be necessary to raise the consideration of securitizations from 2B to 2A in the LCR.

9.44. With a change in the CQs, 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?

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

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.

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?

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?

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.

10. Prudential treatment of securitisation for insurers

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

Yes

10.2. If you answered yes to question 10.1., please specify the segments of securitisations in which (re)insurers would be willing to invest more (in terms of seniority, true sale or synthetic nature, type of underlying assets, etc.) and describe the potential for increase in the share of securitisation investments in (re)insurers' balance sheet.

In the case of Mezzanine/Junior tranches. From the originators' point of view, we welcome (re)insurers to participate in SRT securitisations. They could play a key role to mobilize portfolios with a longer weighted average life such as mortgages, where there are no other clear alternative investors that could play this role. Moreover, they could also look at asset classes such as SMEs, dealer floor plan loans, auto loans, consumer loans. Finally, **it is important that the Unfunded Synthetic SRT transactions with (re)insurers qualify as STS.**

In the case of Senior tranches. It would be important to reduce Solvency II capital charges to incentivise these investors to enter into the senior ABS primary market, where they used to be a key investor before the financial crisis, but to which they have not returned with the same relevance since then.

From an originator's point of view, we would welcome (re)insurers to invest:

- In the mezzanine of synthetic securitisations on asset classes such as SMEs, mortgages, dealer floor plan loans, auto loans, consumer loans....
- In the senior tranches of the ABS primary market.

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

Yes

From an originator's point of view, the necessary changes would need to be:

- Improvements in the prudential treatment for banks (see Section 9), that will help banks to offer these type investments asset classes difficult to mobilize such as mortgages.
- Improvements in Solvency II to, for instance, promote the investment of (re)insurers in senior tranches.

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

Yes

From an originator's point of view, it will be important to lower capital charges in Solvency II to allow insurance companies to invest in senior tranches. Insurance companies used to be a key investor in senior tranches prior to the financial crisis and have not returned to the market with this relevance since then.

10.5. Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for the senior tranches of STS securitisations proportionate and commensurate with their risk?

10.6. Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for the non-senior

tranches of STS securitisations proportionate and commensurate with their risk?

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

10.8. If you answered yes to question 10.7., please provide suggestions for calibrations of capital requirements for such mezzanine and junior tranches, including the data/evidence of historical spread behaviours backing such suggestions.

10.9. Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for non-STS securitisations proportionate and commensurate with their risk, taking into account?

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

10.11. If you answered yes to question 10.10., please specify the sub-segment of non-STS securitisations that you have in mind as well as its related capital requirement, including any evidence/data of historical spreads supporting your proposal.

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

10.13. If you answered no to question 10.12., please provide suggestions for calibrations of capital requirements for such senior and non-senior tranches, including the data/evidence backing such suggestions. Please also indicate whether you target a specific segment of non-STS securitisation.

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

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

11.2. Is there an interest from IORPs and/or non-IORPs to increase their investments in securitisation (whether a senior tranche, mezzanine tranche, or a junior tranche)?

11.3. Please clarify whether your answer to question 11.2. concerns your own situation, or whether it is an assessment of a given national market (in which you operate for instance).

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

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

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

11.7. If you answered yes to question 11.6., please explain how these barriers should be tackled?

12. Additional questions

12.1. What segments of the securitisation market have the strongest potential to contribute to the CMU objectives, and that should be the focus of any potential regulatory review? You may select more than one option.

- Traditional placed securitisation
- Synthetic securitisation
- SRT securitisation
- STS securitisation
- Non-STS securitisation
- Securitisation of SME and corporate exposures
- Securitisation of mortgages

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)?

- Interest rate environment
- Low returns
- Operational costs
- High capital charges
- Difficulty in placing senior tranches
- Significant Risk Transfer process
- Preference for alternative instruments for funding
- Other

Other refers to liquidity treatment and due diligence requirement.

The “Difficulty in placing senior tranches” and the lack of sufficient senior investors, should be highlighted as the main reason for the slow growth of this type of securitisations. As mentioned in this consultation, regulatory amendments (prudential, due diligence, etc) would need to be made to bring back investors that were in the market before the financial crisis (banks, insurance companies, funds...) and also in order to make these tranches more investable.

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

The measures which have the strongest potential to stimulate placed traditional securitisation includes:

- Review the CRR: reduce the p-factors and RW floors.
- Simplify due diligence and transparency requirements, and introducing proportionality in Articles 5 and 7 of SECR
- Upgrading the HQLA treatment of senior STS and non-STs tranches in LCR
- Harmonize and simplify the approval processes by the National Competent Authorities (at least in Spain, this is an important point), in particular for all STS and non-STs.
- Recalibration of Solvency II

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 EU's capital market union remains underdeveloped, preventing the creation of a securitisation market. Persisting market fragmentation, due to the lack of convergence of insolvency rules among other issues, hampers cross-border investment within the EU and dampens funding from outside.

12.5. What measures could be taken to stimulate cross-border securitisation in the EU?

Addressing the issues mentioned in the answer to question 12.4.

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

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

Yes

Banks: Securitisation processes are a tool that is traditionally used by institutions (issuers and sponsors) for balance sheet management, in terms of capital and liquidity. As a consequence of that, a proper securitisation framework helps institutions for their competitiveness.

Non-banks: Moreover, non-banking financial institutions, which are not able to issue covered bonds, can use securitisations as a powerful to obtain funding and support the real economy. Examples: many fintechs, which finance start-ups and SMEs.

12.8. How could securitisation for green transition financing be further improved?

To develop capital and fiscal incentives to support both originators and investors would be welcome.

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. We find additional barriers at local level.

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

A burden that increases the process of setting up Securitization Funds in Spain is the obligation imposed by regional regulations in the field of consumers and users on credit institutions to communicate the assignments of loans to securitization funds within very short deadlines, even though the securitization of a loan does not represent any change in the loan conditions, with the rights and obligations of the debtor remaining unchanged. Under these regional regulations, credit institutions are required to send thousands of letters to debtors and, if applicable, guarantors of the loans, to avoid sanctions, which entails a high cost in generating the letters through systems, layout, sending, etc. To avoid burdens that increase the process, it would be advisable to promote the unconstitutionality of these regional regulations or to include an explicit mention in the national securitization regulations regarding the unnecessary need to make such communications when the rights and obligations of the debtor remain unchanged or limiting such communication to when there is a change in the loan administrator.

This communication process seems redundant and very burdensome for the institutions, taking into account that, for the debtor's practical purposes, the contractual conditions of the securitized loan do not change, and the rights and duties of the counterparty remain intact, with the institutions retaining, in most cases, the collection management of the exposures.