



Brussels,
D(2015)

Opinion

Title

**DG FISMA - Impact Assessment on a proposal for a
Regulation on Securitisation**

(draft version of 15 July 2015)*

(A) Context

Securitisation, a mechanism by which credit institutions package loans they have granted into a security and sell this to investors, is a tool helping banks to transfer risk to other institutions and free up resources for lending to businesses and consumers. Securitisation played an important role in the 2007-08 financial crisis and its reputation was severely tarnished by practices and events taking place in the US, although the EU securitisation market performed well. This stigma and the unfavourable regulatory treatment of securitisation that follows, has led to a stalling of the securitisation market, limiting banks' ability to reduce their credit exposure.

The objective of the initiative is to revive a safe securitisation market by differentiating simple, transparent and standardised securitisation (STS) products from more opaque and complex ones and to revive the securitisation market as a financing tool for the EU economy.

(B) Overall opinion: POSITIVE

The Board recommends that the IA report be improved, with special attention to the following aspects:

- 1) The report should go beyond the EU level to also explain the situation in the Member States. In particular, it should provide an overview of the situation of loan and securitisation markets across Member States and their likely evolution in the absence of EU intervention. Moreover, it should show the differentiated impact of the policy options in Member States.**
- 2) The report should clearly link the objectives of the initiative with the identified problems. To this end, the report should describe the larger macroeconomic context and indicate the relative importance of a revival of the securitisation market as one of the instruments to improve the situation of the banking sector, increase the provision of bank credit and prop-up economic activity.**
- 3) The analysis of the impacts should provide a balanced overview of the pros and cons of each policy option and discuss possible risks that may prevent the attainment of the objectives. It should also describe existing and future risk mitigation instruments.**

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

1) **Problem definition:** The report should describe the broader context of the initiative, by indicating what problems can realistically be addressed by the proposal and what other factors, besides the subdued securitisation market, contribute to the insufficient lending to businesses, their relative importance and how these other factors are likely to evolve (e.g. lack of credit demand, monetary policy, etc.). It should highlight the role of securitisation in deleveraging the banking sector and reviving loan activity. It should provide information on whether and how the availability of bank loans and the situation of the securitisation market differ across Member States. Furthermore, it should inform about the situation of the securitisation market in the US, what measures have been taken by US authorities and in how far such measures could or could not be envisaged in the EU.

2) **Policy options:** The report should establish a clearer baseline scenario, i.e. a more robust forward looking scenario of the likely evolution of problems in the absence of further EU action (including a clear description of market developments towards STS differentiation and showing differences between Member States). And it should more clearly distinguish between this baseline and the policy options. Stakeholder views on the policy options need to be presented more prominently, specifically when policy options are included following demands from stakeholders. Furthermore, the report should clarify in how far the options follow or not the recommendations by international or European organisations (Basel committee, EBA).

3) **Impact analysis:** The report should provide a balanced analysis of the impacts of the various options, weighing all advantages and disadvantages for each option. In this context, it should also highlight possible risks that options will not materialise as intended or that negative side effects will be triggered, and explain the risk mitigating instruments that are or will be in place. In particular the report should explain how risks associated with the treatment of senior tranches and the self-attestation are dealt with as the report considers self-attestation as more effective than third party verification. In addition the report should also better clarify the complementarity of the proposal with other legislative and regulatory instruments available (i.e. macro-prudential regulation). The impact analysis should also clarify the likely impact of the policy options on the diverse situations of securitisation markets and loan markets across Member States.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

Where data are presented, the (limited) availability of time series should be clearly mentioned and the period covered by tables and graphs needs to be shown at all times. Stakeholder views should be shown throughout the report and possible criticism or mentioned risks in the public consultation should be clearly indicated.

(E) RSB scrutiny process

Reference number	2015/FISMA/064
External expertise used	No
Date of RSB meeting	15 July 2015