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*16th September 2021*

**FBF RESPONSE TO THE**

**TARGETED CONSULTATION ON THE**

**FUNCTIONING OF THE EU SECURITSATION FRAMEWORK**

*Below are some key preliminary remarks made by the French Banking Federation in relation to the above-mentioned consultation. The FBF will provide a more detailed answer by the end of September, according to the timetable granted by the European Commission.*

The French Banking Federation welcomes the opportunity to provide the European Commission with its views on the functioning of the EU securitisation framework and on the required adjustments to upgrade the current relevant regulations.

It is of the utmost importance to strongly develop securitisation in Europe in order to get a well-functioning market that can efficiently support bank capital relief which can then be used not only to fund the post-covid recovery but also to contribute significantly to its twin digital and green transition for the next decades to come.

The initial comments and views of the French banking industry are as follows:

* Current regulations have fallen short of initial expectations on a number of fronts, including facilitating access to finance for SMEs, broadening the issuer and investor base and creating an integrated European market.
* For private securitisations, current regulations should aim at providing investors and supervisors with a sufficient and proportionate level of information. Thus, it is unnecessary and too burdensome to impose disclosure requirements in a standardised format (similar to the one applicable to public securitisations).

In this context, we would recommend a few key measures, related to topics mentioned in the consultation. At a time when most stakeholders support a real development of the securitisation market in Europe, we believe these are critical to reach this objective.

**Recalibrate the capital charges applied to senior tranches of securitisations**

The current capital treatment of senior tranches is extremely punitive, in a way which is not commensurate with the actual risk. It considerably increases the capital charge after securitisation compared to the capital charge of the receivable pool before securitisation for originating and sponsor banks. It is due to two specific features: (i) the p-factor, a non-neutrality correction factor, and (ii) the RW floor of 15% (non-STS) or 10% (STS) applicable to senior tranches (vs. 7% before the implementation of STS Regulation), both of which are calibrated in a way that is decorrelated from actual risk. We suggest at a minimum, for those originating and sponsor banks, to halve the p-factor for both SEC IRBA and SEC SA and returning to a 7% floor for the senior tranches RW for both STS and non-STS senior tranches. These adjustments would not be sufficient considering the forthcoming output-floor to be implemented with the finalisation of Basel III, so that they actually translate into decreases in capital requirements.

**Simplify disclosure and due diligence requirements, notably for private securitisations**

Current transparency requirements are burdensome, costly and, in some cases, unnecessary or inappropriate to enhance investor protection. This is particularly true in the case of private securitisations, where they are on top of the bespoke disclosure materials and reporting agreed upon between the parties involved. These requirements increase both operational and IT costs for no additional benefit to the final investors, which adds to inefficiency and risk, while more targeted and proportionate disclosure requirements would incentivise the development of securitisations.

**Improve the treatment of securitisations (including asset-backed commercial papers (ABCPs)) for the liquidity coverage ratio**

The current classification of Senior STS tranches as Level 2b assets, and the full disallowance from LCR of non-STS positions, obviously disincentivise banks to invest in these positions. A concrete remedy to this issue would be to promote AA rated (or more) STS senior tranches to Level 1 (for residential and auto loans, which are the most liquid types of securitisations) and Level 2a (SME loans and other consumer loans) under LCR, and to allow non-STS securitisations in Level 2b, with haircuts aligned to those applying to covered bonds.

**Simplify and shorten the Significant Risk Transfer Assessment process**

The process of the Significant Risk Transfer (“SRT”) approval by the ECB is deemed lengthy and unpredictable, due to the systematic use of additional tests, not specified in the CRR. The recent EBA proposals to harmonise the assessment process in this regard do not appear satisfactory to the industry, as they would (i) introduce SRT tests (the PBA and CRT) that are both unduly penalising and unclear in their concrete application and (ii) significantly lengthen the process with a majority of transactions not eligible to the fast track. We therefore suggest to significantly revise the PBA and CRT tests and, were the EBA recommendations on the SRT assessment process to be implemented, to clearly define the criteria leading to the fast track.

**Recalibrate the capital treatment of securitisation under Solvency II**

The penalising capital treatment of securitisation exposures under Solvency II, in comparison with the ones for similar exposures or relative to US NAIC’s capital charges, may explain why structured assets account for not more than 2% of the overall insurers’ investment mix. More risk-sensitive capital charges are needed: for senior tranches, the calibration may benefit from a revision to align their credit spread shocks with those for bonds and loans for all credit rating levels. Non-STS securitisations remain significantly penalised, without this being justified by historical performance data: non-STS tranches, when benefiting from an identical rating to STS tranches, should be treated in a similar way, and in any case should not have a capital charge more than 10 times higher.

**Mitigate undue side effects on non-EU securitisation**

The undifferentiated application of EU SECR to any securitisation transactions as soon as EU entities are involved could prevent EU actors from participating in international markets. In practice it is very unlikely that non-EU originators would accept to comply with detailed prescriptive EU rules (such as data templates): in this circumstance they would most likely prefer to engage with non-EU service providers or investors that would not impose such regulatory constraints. This would prevent EU service providers and investors, including EU banks, from being active as global market players. Clarification of territoriality rules in a pragmatic fashion would be welcome.