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AFG ANSWER : TARGETED CONSULTATION OF THE EU COMMISSION ON THE FUNCTIONING OF THE EU SECURITISATION FRAMEWORK

The Association Française de la Gestion Financière (AFG) represents and advocates for the role of asset management in shaping the French economy. It counts over 440 members, including 340 asset management companies, which collectively manage 90% of assets under management in France.

AFG actively supports the growth of the French asset management industry for the benefit of savers, investors, and businesses.

AFG is dedicated to promoting stable, efficient, and competitive regulation, with a strong focus on helping individuals finance their life goals while channelling private savings towards businesses in transition.

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CONSULTATION QUESTIONS

1. Effectiveness of the securitisation framework

The EU securitisation framework has been in application since January 2019. The framework consists of the Securitisation Regulation (SECR), which sets out a general framework for all securitisations in the EU, including increased transparency, due diligence, risk retention and other requirements, and a specific framework for simple, transparent, and standardised (STS) securitisations, as well as prudential requirements for securitisation positions in the Capital Requirements Regulation and in Solvency II Delegated Act, and liquidity requirements for credit institutions in the Liquidity Coverage Ratio Delegated Act.

The framework was complemented on 6 April 2021 in the context of post-COVID-19 economic recovery efforts by extending the scope of the STS label to on-balance-sheet synthetic securitisations and by addressing regulatory obstacles to securitising non-performing exposures.

The general objective of the securitisation framework was the revival of a safe securitisation market that would improve the financing of the EU economy[10]. In the short run, it envisaged a weakening of the link between banks' deleveraging needs and credit tightening. In the long run, the aim was the creation of a more balanced and stable funding structure of the EU economy, for the overall benefit of households, SMEs, and larger corporations. Specific policy objectives included the destigmatisation of European securitisation in the wake of the global financial crisis, an appropriate risk-sensitive regulatory capital treatment, and the reduction/elimination of unduly high operational costs for issuers and investors. To achieve these specific policy objectives, two operational objectives were identified: differentiating STS securitisation products from more opaque and complex ones and supporting the standardisation of processes and practices in securitisation markets and tackling regulatory inconsistencies.

The 2022 review of the functioning of the SECR, which resulted in the publication of the Commission report on the Functioning of the Securitisation Regulation in December 2022 (later referred to as 'the Commission 2022 report'),[11] looked at the impact of the SECR on the functioning of the EU securitisation market. A majority agreed that the SECR provided a high level of investor protection, and it was generally acknowledged that the SECR had facilitated further integration of the EU securitisation market. At the same time, respondents underlined the need to improve certain parts of the framework, such as due diligence and transparency requirements, to increase proportionality and reduce compliance costs for market participants. Considering that the securitisation framework was amended in April 2021 in response to the unprecedented exogenous factors related to COVID-19, and that the complete application of the framework was yet to be fully realised at the time of writing of the Commission 2022 report, the Commission decided that more time was needed to fully assess the impact and effectiveness of the framework.

Looking to the post-2019 evolution of the EU securitisation market, it is appropriate to consider whether the original policy objectives have been achieved, in full or in part, before proceeding to examine the necessity of any future adjustments to the regulatory framework.

This section of the questionnaire looks into the impact of the securitisation framework on the market and the policy goals of the capital markets union, including improving access to finance and supporting the EU's competitiveness.

1.1. Do you agree that the securitisation framework (including the Securitisation Regulation and

relevant applicable provisions of the CRR, Solvency II and LCR) has been successful in, or has contributed to, achieving the following objectives:

	Fully agree	Somewhat agree	Neutral	Somewhat disagree	Fully disagree	No opinion
1. Revival of a safer securitisation market					X	
2. Improving financing of the EU economy by creating a more balanced and stable funding structure of the EU economy					X	
3. Weakening the link between banks' deleveraging needs and credit tightening					X	
4. Reducing investor stigma towards EU securitisations					X	
5. Removing regulatory disadvantages for simple and transparent securitisation products					X	
6. Reducing/eliminating unduly high operational costs for issuers and investors				X		
7. Differentiating simple, transparent and standardised (STS) securitisation products from more opaque and complex ones				X		
7.1 Increasing the price difference between STS vs non-STS products		X				
7.2 Increasing the growth in issuance of STS vs non-STS products				X		
8. Supporting the standardisation of processes and practices in securitisation markets		X				
8.1 Increasing the degree of standardisation of marketing and reporting material		X				
8.2 Reducing operational costs linked to standardised securitisation products			X			

9. Tackling regulatory inconsistencies					X	

2. Impact on SMEs

Exposures to SMEs, in the form of direct lending, trade receivables, auto loans / leasing, mortgage lending, or other commercial credit, are categories of assets that can readily lend themselves to be securitised. Access to securitisation and its economic efficiency for originators can therefore have an impact on the availability of credit for SMEs and its cost. This section aims to gather insights into the impact of the securitisation framework on SME financing.

Questions to stakeholders:

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

- Yes
- No
- No opinion Please

explain.

For ABS SME cash securitisation, the market is too small with lack of offer. Very few transactions exist. On French Market, most of them are self-subscribed except when the securised loans are subject to state guarantee.
The combination of higher risks underlying Exposure and high, non-neutral, prudential cost doesn't allow the initiator to propose financially interesting operations.

Contrary to true sale ABS SME for which the goal is to refinance the originator of the loans, the purpose of a synthetic securitisation is to limit the capital needs for the initiator. The investors of mezzanine tranches issued become guarantor on the corporate loan portfolio in case of loss. The capital available liberated by the securitisation transaction is less important than for true sale ABS and the portfolios concerned are oriented towards medium size corporates and big corporates.

Securitization via CLO is also more focused on big corporates with an important proportion of syndicated loans.

2.2. How can securitisation support access to finance for SMEs? (3000 caractères)

Securitization is an appropriate solution to accompany the financing of SMEs: small amounts, some granularity, higher yield. ABS SMEs lack of development cannot ensure the same level of investment than what CLO offers, in direct or as relay from banks, to big corporates.

As in the US, Middle Market CLOs could be a solution to provide funding to medium size corporates, should the economic conditions be satisfied for all parties, especially regarding investor capital charges.

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Some adjustments on regulation are necessary regarding true sale securitization using SME loans: the class is less homogeneous in term of debtors and contracts are less standardized comparatively to personal loans family (residential mortgages, auto loans or consumer loans). It implies STS label is quite impossible to obtain for ABS SME with some volumes; and, if the initiator applies more selective criteria to ensure required homogeneity, the transaction size is too small for a viable securitization.

3. Scope of application of the Securitisation Regulation

Jurisdictional scope

In 2021, the Joint Committee ("JC") of the ESAs published an Opinion to the European Commission on the Jurisdictional Scope of Application of the SECR[12]. The opinion was divided in two parts: (1) the application to third country-based entities of Article 5 to 7 and 9 of the SECR, and (2) the application of the SECR to investment fund managers. Both issues were subsequently clarified by the Commission in the 2022 report from the Commission to the European Parliament and the Council on the functioning of the Securitisation Regulation. Despite these clarifications, some market participants point out that the SECR does not clearly set out its jurisdictional scope, creating considerable legal uncertainty in cases where not all parties to the securitisation are located in the EU.

Questions to stakeholders:

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

- Yes
- No
- No opinion Please

explain.

The definition of a securitization in the current EU regulation covers an adequate scope.

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

- Yes
- No
- No opinion Please

explain.

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Legal definitions

The SECR defines the key concepts in the securitisation market to appropriately delineate the legal scope of the Regulation. The definitions seek to align as far as possible with pre-existing legal concepts in EU legislation (i.e. existing definitions in the CRR), and with international standards.

Certain stakeholders have raised concerns that the legal definitions result in a potentially too broad or too narrow scope of application. For instance, a too broad scope might impose an undue regulatory burden in terms of higher standards for disclosure, due diligence, etc. Conversely, too narrow a scope may pose risks to financial stability, resulting from the non-application of the safeguards in the securitisation framework to certain transactions or vehicles that could be considered securitisations from an economic perspective. For example, the categorisation of a given transaction under the definition of a "securitisation transaction" might be contested on the basis of whether a transaction involves tranching of credit risk, considering the economic purpose of the transaction. In addition, the definition of a sponsor is limited to credit institutions, whether located in the Union or not, and to EU investment firms, which could limit the ability of the market to structure securitisation in an economically efficient way by limiting the pool of eligible sponsors.

Questions to stakeholders:

Definition of a securitisation

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

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

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

There is no need to change the definition of a securitisation transaction, all the more so as this definition is also used in the prudential framework. Therefore, changing the definition would lead to unwarranted changes in the prudential treatment of some transactions, or at least introduce unnecessary regulatory uncertainty.

3.4. Should the definition of a securitisation exclude transactions or vehicles that are derisked (e.g. by providing junior equity tranche) by an EU-level or national institution (e.g. a promotional bank) with a view to crowding-in private investors towards public policy objectives?

- Yes
- No
- No opinion

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

Definition of a sponsor

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

- Yes
- No
- No opinion

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

Given the current provisions of SECREG, its related level 2 regulations (e.g. Retention RTS), and the wide-ranging implications of the qualification as Sponsor under SECREG, notably in terms of support and guarantees requirements (e.g. for ABCP securitisations), we believe there is no need for EU AIFMs to be included in the definition of Sponsor under SECREG.
Also, we note that AIFMD II has further clarified that EU AIFMs can perform loan origination activities and as such, can act as retention holders under SECREG and its level 2 regulations.

3.7. **If you answered yes to question 3.6.**, are any specific adaptions or safeguards necessary in the Alternative Investment Firms Directive (AIFMD[13]), taking into account the originate-to-distribute prohibition in the AIFMD, to enable AIFMs to fulfil the functions of a sponsor in a securitisation transaction, as stipulated in the SECR? You may select more than one option.

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

explain your answer.

4. Due diligence requirements

A thorough due diligence process is key to ensure that investors are aware of what they are buying and appropriately assess the risks of their investments[14]. Article 5 of the Securitisation Regulation imposes due diligence requirements on EU investors both prior to investing and while holding the securitisation position. While due diligence is an integral part of the risk assessment process, feedback gathered by Commission services since the entry into force of the Securitisation Regulation in 2019 suggests that due diligence requirements under Article 5 might be disproportionate. Stakeholders highlight that the legal

text is mostly interpreted in a way that (1) subjects all institutional investors to the same due diligence requirements regardless of the type of securitisation that they invest in, and (2) applies stricter and more prescriptive due diligence requirements than those that apply to other financial instruments with similar risk characteristics. As a result, smaller players might not be able to enter the securitisation market, because they lack the resources and/or necessary infrastructure to comply with the due diligence requirements. Due diligence requirements that do not properly take account of the mitigated agency and operational risk characteristics of STS transactions might also be hampering the growth of the STS market.

Questions to stakeholders:

4.1. Please provide an estimate of the total annual recurring costs and/or the average cost per transaction (in EUR) of complying with the due diligence requirements under Article 5.

Please differentiate between costs that are only due to Article 5 and the costs that you would incur during your regular due diligence process regardless of Article 5.

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

The due diligence required in the Securitisation Framework is performed through existing teams and processes and did not require specific organisational adjustments (i.e. no new teams or new tools). Due diligence costs for securitisations are not higher than those necessary to apprehend the essential risks of these transactions.
Nonetheless, some regulatory controls performed by initiators or sponsors, which are mostly supervised entities, are redundant and hence unwarranted. They have a diffused and increased cost for the market globally (see Q4.10).

4.2. If possible, please estimate the total one-off costs you incurred (in EUR) to set up the necessary procedures to comply with Article 5 of SECR.

Regarding article 5 and the due diligence related to risk and structural features described in points 3 & 4, there is no additional cost for investors (no additional analysts, no additional tools). Nonetheless, while individually (by transaction and investor), the due diligence cost is manageable, some redundant controls (see Q4.10) cumulated at market level render the investment process slower and unduly costly, penalizing the EU seuritization market .

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

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

Due diligence requirements prior to holding a securitisation position

4.4. Should the text of Article 5(3) be simplified to mandate investors to assess at minimum the risk characteristics and the structural features of the securitisation?

- Yes
- No
- No opinion

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

As stated in our responses to the previous questions, article 5 parts (3)(a) and (b) are in adequation with required economic analyses for all investment (i.e. risk characteristics and structural features).
Article 5(3)(c) requires redundant controls on the compliance of STS operations with their specific regulatory constraints. Investors in STS securitization should not be required to also perform such controls that have already been performed by the Initiator, the sponsor or SSPE that are regulated entities, and also subjects to specific legal obligations. Moreover, Third-Party Verifiers, which are regulated and de facto supervised, also control the respect of STS regulatory criteria. Please refer to Q4.10 related to this topics.

A more principle-based due diligence, especially for private transactions, would render the process more fluid, but this should not be considered as the top priority to revive securitisation. It would be better to approach the due diligence with a global view on exiting framework of regulation, considering the adequate level of principle-based requirements, given the fact that most actors and activities are regulated and supervised.

Currently the main drawback is the heavy prudential requirements for securitisations, which dried up this segment, rendering it less interesting for investors. Less penalising prudential requirements for issuers and investors are of the essence to relaunch the EU securitisation market

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?

It is impossible to answer in percentage or in EUR, the simplification to avoid the duplication of controls linked to article 5.3(c) is estimated to an average of 2 man.days by transaction & for each concerned entity.

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

- Yes
- No
- No opinion

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

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

Please explain your answer.

The question is about timing and frequency of the due diligence, the riskier the position or the underlying exposure, the deeper and frequent the controls are. The current due diligence requirements imposed to all transactions is calibrated for the riskier investment and can prove too extensive for certain transactions, e.g. senior STS ones.
Please consider also the removal of redundant controls (cf. Q4.10).

4.9. **Taking into account your answers to 4.7 and 4.8**, what would you estimate to be the impact (in percent or EUR) of differentiating due diligence requirements on your one-off and annual recurring costs for complying with the due diligence requirements under Article 5?

Please explain your answer.

It is impossible to answer in percentage or in EUR, the simplification to avoid the duplication of controls linked to article 5.3(c) is estimated to an average of at least 2 man.days by transaction & each concerned entity.
The recurring due diligences described in article 5.4 are not subject to amendment nor cost reduction.

4.10. For EU investors investing in securitisations where the originator, sponsor or original lender is established in the Union and is the responsible entity for complying with those requirements, should certain due diligence verification requirements be removed as the compliance with these requirements is already subject to supervision elsewhere? This could apply to the requirements for investors to check whether the originator, sponsor or original lender complied with:

- (i) risk retention requirements,
  - Yes
  - No
  - No opinion
- (ii) credit granting criteria requirements,
  - Yes
  - No
  - No opinion
- (iii) disclosure requirements,
  - Yes

- No
- No opinion

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

- Yes
- No
- No opinion

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

These redundant controls do not tackle any residual risks as they have already been performed by regulated entities (i.e. issuer, sponsor, etc.), subject to supervision.

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?

This is about controls on already regulated, supervised controlled entities

Removing such unwarranted controls would improve the efficiency of the EU securitisation markets, without any impact in terms of operational risks.

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

- Yes
- No
- No opinion

Please explain

While some controls are redundant and unwarranted, as explained previously, and their removal would improve the efficiency of the EU securitisation market, AFG members would still continue to invest even in a less efficient securitisation secondary market. Please note that said redundant controls (cf. Q4.10) are by construction even more redundant for secondary market that for primary one.
The main regulatory measure to accelerate the development of the EU securitisation market is alleviating prudential measures for banks and insurers. Without this development, the secondary market is fading to nothing for public transaction. There is no secondary market for private securitisation.

4.13. If you answered yes to question 4.12., should investors be provided with a defined period of time after the investment to document compliance with the verification requirements as part of the due diligence requirements under Article 5?

- Yes
- No

- No opinion

4.14. **If you answered yes to question 4.13.**, how many days should be given to investors to demonstrate compliance with their verification requirements as part of the due diligence requirements under Article 5?

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

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

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

- Yes
- No
- No opinion

4.17. **If you answered yes to question 4.16.**, how should repeat or similar transactions be identified in the legal text and how should the respective due diligence requirements be amended?

4.18. Should Article 32(1) be amended to require Member States to lay down rules establishing appropriate administrative sanctions, in the case of negligence or intentional infringement, and remedial measures in case institutional investors fail to meet the requirements provided for in Article 5?

- Yes
- No
- No opinion

Please explain your answer.

The current framework is sufficient.

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?

The present requirements and related supervision are sufficient. Indeed, European market participants are already very heavily regulated. There have been no risk occurrences in the EU, all the more so since the 2017 regulations, that would justify the need for a strengthening of due diligence requirements.

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?

It's impossible to give a figure, it will depend on the effective revival of the securitization market.

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?

Delegation of due diligence

4.22. Should the National Competent Authorities (NCAs) continue to have the possibility to apply administrative sanctions under Article 32 and 33 of SECR in case of infringements of the requirements of Article 5 SECR to either the institutional investor or the party to which the institutional investor has delegated the due diligence obligations?

- Yes
- No
- No opinion

Please explain your answer.

The answer is No, assuming the following understanding of the question. Thus, the answer to question 4.23 implicitly refers only to delegation to a SEC-regulated institutional investor.

In case the due diligence delegation is made to a SEC regulated institutional investor, such institutional investor should be the sole sanctioned in case of infringement of the due diligence requirements per Article 5 SECR.

The idea is to leverage the existing supervision of the delegee (as a SEC-regulated institutional investor), and thus to avoid a "double-layer" of responsibility (i.e., with that of the delegating institutional investor).

An "inspiring" situation can be found with the delegation of investment management between 2 AIFMs, for the remuneration policy requirements. AIFMD remuneration guidelines provide that the AIFM delegating the investment management does not need to request contractually that its own remuneration policy applies to the delegee, and such delegating AIFM can rest on the fact that the delegee is AIFM-licenced. However, if the delegee is not AIFM-(or UCITS-) licenced, the delegating AIFM must ensure via specific contractual clauses, that the remuneration policy of the delegee matches the regulatory requirements on remuneration policy.

In case the due diligence delegation is made to a third party which is not a SEC-regulated institutional investor, the responsibility should rest solely with the delegating institutional investor, in case of infringement of the due diligence requirements per Article 5 SECR.

We believe that under this approach, the transfer of responsibility between two institutional investors in case of delegation of due diligence obligations seems more efficient for securitization revival, given the relatively high cost of expertise which must be acquired to enter the market.

4.23. If you answered no to question 4.22, which party should be subject to administrative sanctions in case of infringement of the due diligence requirements?

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

5. Transparency requirements and definition of public securitisation

Public interventions after the GFC significantly improved the level of transparency in the EU securitisation market starting with the introduction of loan level templates by the European Central Bank. The current transparency regime enshrined in Article 7 of the SECR aims to ensure that investors in a securitisation have all the necessary information for their due diligence needs. In addition, National Competent Authorities (NCAs) should have access to sufficient information to properly supervise the participants in the securitisation market.

However, the application of some legal provisions of the transparency regime have nonetheless shown some gaps and inefficiencies. For instance, the disclosure requirements are seen by stakeholders as overly prescriptive and insufficiently adapted to the actual needs of investors into the various types of securitisations. This limits the usefulness of certain disclosures, i.e. investors/NCAs may not use all the information disclosed under Article 7, because it might not be tailored to their specific information needs.

Under the SECR, public securitisations are those that require publishing a prospectus, and yet this captures only a subset of what the market would consider as public securitisations from an economic perspective. Consequently, only a subset of the 'truly' public market is obliged to report to securitisation repositories. However, a separate significant part of the market, in particular many collateralised loan obligations (CLOs), is public in nature but is not classified as such under the SECR and therefore it does not report to the securitisation repositories ("SRs"). This curtails supervisors' ability to adequately analyse and supervise cross-border markets and might limit overall market transparency.

On the other hand, bespoke transactions or intra-group securitisations (i.e. ones without an external investor) might be subject to unduly high transparency requirements because they have to report using the same disclosure templates as public transactions, which might not be fit for purpose.

Feedback gathered during the preparation of the Commission's report on the functioning of the Securitisation Regulation showed wide support for amending the definition of private securitisations to focus on truly bespoke transactions, while at the same time reducing the mandatory transparency requirements for these types of transactions. The Joint Committee report[15] also favoured amending the definition of private securitisations to make it more precise and to exempt from all transparency

requirements a sub-set of transactions that are private in nature. At the same time, the Commission report also highlighted that a better definition of private securitisation would be difficult to find. For this reason, it is worth considering whether amending (i.e. widening) the definition of public securitisations would be useful instead. This would have the dual benefit of (i) reducing the reporting burden for truly private transactions should transparency requirements be simultaneously amended, and (ii) ensuring that transactions that are public in nature but currently considered private because they do not have a prospectus (such as CLOs), would be categorised as public, thereby entailing direct reporting to repositories, and enhancing market transparency.

Questions to stakeholders:

5.1. Please provide an estimate of the total annual recurring costs and/or the average cost per transaction (in EUR) of complying with the transparency regime under Article 7.

Please differentiate between costs that are only due to Article 7 and costs that you would incur during your regular course of business regardless of Article 7.

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

No cost from investor perspective but gains from transparency for risk analysis.

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.

No cost from investor perspective but gains from transparency for risk analysis.

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

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

Please explain your answer.

No cost from investor perspective but gains from transparency for risk analysis.

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

- Significantly different
- Moderately different
- Similar

Please explain your answer.

The information is similar, and no additional elements are needed to be included in current regulations.

Nonetheless, cf. Q 4.10, some unnecessary controls currently required from investors should be removed. The analogous controls would remain submitted to supervision on the originator/sponsor/initial lender side.

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[16] for public securitisations
  - Introduce a simplified template for private securitisations and require private securitisations to report to securitisation repositories (this reporting will not be public).
- Option 2:
  - Remove the distinction between public and private securitisations.
  - Introduce principles-based disclosure for investors without a prescribed template.
  - Replace the current disclosure templates with a simplified prescribed template that fits the needs of competent authorities with a reduced scope/reduced number of fields than the current templates.
- Option 3: No change to the existing regime under Article 7.

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

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?

Answer :

Transparency is a core characteristic of securitisation and must be preserved. Having detailed and non-aggregated data is very important from a client (investor) perspective and differentiates this asset class from others, allowing risk-based simulations on the portfolio.

While some flexibility would improve operational processes, they are not material for conditioning the participation in the securitisation market.
The main regulatory measure to actually accelerate the development of the EU securitisation market is alleviating prudential measures for banks and insurers.

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.

It's impossible to give a figure, it will depend on the effective revival of the securitization market that depend mostly of the reduction of the prudential cost.

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

- Yes
- No
- No opinion

Please explain your answer.

Private transactions are mostly club deal of fully bank supported, so it wouldn't be an incentive to enter this market.
For each securitisation transaction, including private ones, a full reporting to ECB is already mandatory for eurozone securitisation, and so supervision of private transactions does not need reports to securitisation repositories for Eurozone.

5.10. Under Option 1, should the current definition of a public securitisation be expanded to a securitisation fulfilling any of the following criteria: (1) a prospectus has been drawn up in compliance with the EU Prospectus Regulation; or (2) notes were admitted a trading venue; or (3) it was marketed (to a broad range/audience of investors) and the relevant terms and conditions are non-negotiable among the parties?

- Yes
- No
- No opinion

Please explain your answer.

There is no need to extend the definition. The proposed criteria (1) and (2) would be an excessive expansion of the definition.

5.11. **If you answered yes to question 5.10.,** what criteria should be used to assess point (3) in the definition above (i.e. a securitisation marketed (to a broad range/audience of investors) and the relevant terms and conditions are non-negotiable among the parties)?

5.12. If the definition of a public securitisation is expanded (for example, to encompass securitisations fulfilling the criteria set out in question 5.10), what share of your existing private transactions would now fall under this newly-expanded public definition?

5.13. Under Option 1, what would you estimate to be the impact (in percent or EUR) of changing the definition of public securitisation on your one-off and annual recurring costs for complying with Article 7?

Please explain your answer.

It is impossible to answer in percentage or in EUR, the simplification is estimated to an average of 2 man.days by transaction & for each concerned entity.

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

5.15. What impact (in percent or EUR) would you anticipate Option 2 would have on one-off and annual recurring costs for complying with the transparency requirements in Article 7? Please explain your answer.

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

How should investors access this information?

Please explain your answer, listing all relevant information that you think investors need to do proper due diligence that could be common across all securitisations.

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

- Yes
- No
- No opinion

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

5.18. Under Option 2, what would be the impact (in percent or EUR) on your one-off and annual recurring costs for complying with the transparency requirements of excluding intra-group transactions and securitisations below a certain threshold from the reporting requirements in Article 7? Please explain your answer.

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

- Yes
- No
- No opinion

5.20. **If you answered yes to question 5.19.,** which categories of transactions should be allowed to

provide reporting only at aggregated level? You may select more than one option.

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

If you chose "other", please explain.

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

6. Supervision

Securitisation entails many actors, in some cases also based in different jurisdictions. This can result in several national competent authorities being involved in the supervision of one transaction. Market participants cite that differences in the supervisory approaches of Member States create uncertainty. This has been raised in the Joint Committee of the ESAs' report on the implementation and functioning of the securitisation framework[17] and in the Commission 2022 securitisation review report. Diverging supervisory practices create resource and cost inefficiencies due to the multiplication of common functions across many Member States. Divergence and ensuing legal uncertainty can create an unlevel playing field and are detrimental to the growth of the securitisation market and its proper functioning. In addition, fragmented responsibility and access to data can create loopholes and potentially lead to the emergence of risks. For these reasons, it is important to consider how to streamline and improve supervision in the EU to ensure consistency, better coordination, and a proportionate approach to avoiding divergent practices. This could be achieved through a more efficient and effective use of the existing powers which are allocated to the ESAs and competent authorities.

Ideas for improvement include the creation of supervisory hubs, building on the model of the SSM securitisation hub. In the case of cross-border transactions, a lead coordinator could be appointed under the joint oversight of the ESAs. NCAs' participation could be mandatory, requiring all or some NCAs to participate based on a set of relevant criteria. Alternatively, participation could also be voluntary so only interested NCAs join the new supervisory structure. This would, however, limit the degree of supervisory convergence that can be achieved. This section seeks to gather feedback in relation to these ideas.

Questions to stakeholders:

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

- Yes
- No
- No opinion

Please explain and give specific examples.

There are no material discrepancies in supervisory practices for securitisation.

To be noted that a lot of information is made available by securitisation transactions to different supervisors and increased coordination between supervisors would allow to optimise the usefulness of these existing transparency frameworks/reportings.

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

- Yes
- No
- No opinion

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

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

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

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

6.5. **If you answered yes to question 6**.2., which model would you prefer?

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

Please explain your answer

Rather than a supervisory hub, that can imply additional burden, we suggest an increased collaboration between supervisors and central banks at both at European and national levels to allow for a holistic vision.

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

- All
- Some
- No opinion

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

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

7. STS standard

The STS standard identifies criteria for simplicity, standardisation and transparency designed to address those aspects of the securitisation practice that had proven problematic during the global financial crisis. It aims to address and mitigate major drivers of operational and agency risks arising in securitisation, by enabling investors to differentiate STS-designated products from more opaque and complex ones.

In recognition of their less complex structure, STS positions entail lower capital requirements than non- STS in the banking and insurance prudential regulations. It was expected that the introduction of the STS standard in the EU would have a significant positive impact on the scaling up of the EU securitisation market, by incentivising standardisation of the securitisation transactions across the EU and attracting new issuers and investors to the market. Stakeholders have flagged some of the STS criteria as burdensome to comply with or otherwise constraining further development of the STS market. Such criteria include the homogeneity of underlying assets, the collateral requirement for on-balance-sheet securitisations, the ban on including exposures to credit impaired obligors, the information to be provided prior to pricing and/or closing, and others.

In order to protect the integrity of the STS standard, it is important to ensure that a transaction that is notified as STS really complies with the criteria. Third-party verifiers (TPVs) are a voluntary, but important link in the chain of verifying that a securitisation complies with the STS criteria, alongside originators, sponsors, national competent authorities and investors. However, in the current text of the SECR, TPVs are authorised at national level but are not supervised after authorisation, and they do not lift the ultimate responsibility from the originator and sponsor for ensuring compliance with the STS criteria.

Some indications suggest that the STS label has been successful – the label is used by the market and recognised by investors. Moreover, some transactions appear to be structured almost exclusively to be STS-compliant, such as prime residential mortgage-backed securities (RMBSs) and auto-loans asset backed securities (ABSs). On the other hand, the size of the securitisation market in general has not shown significant recovery since the introduction of the STS label, and STS-compliant transactions amount to less than half of the public securitisation market, which in itself represents a declining portion of the overall securitisation market. This section seeks stakeholders' feedback on the use of the STS label, including how to increase its attractiveness for both originators and investors.

Questions to stakeholders:

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

- Yes
- No
- No opinion Please

explain.

The STS securitisation regulation has been positive, and the STS label has the potential to scale up to some extent the securitisation market.
Currently the STS label is not sufficient to significantly scale up the EU securitisation market because of its intrinsic selection criteria and limitations: on the nature of assets, or for new actors without sufficient historical data, and the need to analyse the numerous criteria for initiators.

The only measure that would have a significant impact on the securitisation market involves alleviating the prudential requirements.

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

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

explain.

The high capital charges and restrictions on the use of securitisations for LCR purposes are the main factors holding back the expansion of the STS standard.
The LCR treatment is especially key, and in particular the senior STS positions should be upgraded to LCR Level 2A provided they have an external credit rating reflecting a low credit risk with good capacity to repay short-term obligations.
The STS criteria are too restrictive to allow a development of some products, particularly ABS SME as described in Q2.

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

While the STS criteria successfully reflect the high quality of the labelled transactions, the attractiveness of the STS label is however hindered by its prudential treatment, which needs to be further alleviated, notably regarding the LCR (see Q7.2), but also in terms of capital costs.
Another point is to ensure the mutual equivalence between jurisdictions that use similar regulation and label.

STS criteria

7.4. In the case of an unfunded credit protection agreement[18] agreement where the protection provider provides no collateral to cover his potential future liabilities, should such an agreement

be eligible for the STS label, to facilitate on-balance-sheet STS securitisations?

- Yes
- No
- No opinion

7.5. **If you answered yes to question 7.4.,** what safeguards should be put in place to prevent the build-up of financial stability risks arising from the provision of unfunded credit protection?

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

Please explain.

In addition to minimum credit rating criteria, other mechanisms to mitigate counterparty risk could be envisaged (e.g. margin calls).

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?

With a mechanism of margin call, there would be no impact on stability.
Such transactions can improve capital allocation efficiency by sharing the credit risk among investors having the corresponding capacity.

7.7. How would allowing unfunded credit protection to be eligible for the STS label and the associated preferential capital treatment impact EU insurers' business model of providing credit protection via synthetic securitisation (for example, would EU insurers account such transactions as assets or as liabilities)?

Please explain your answer.

As the credit insurance arm of multiline (well diversified) non-life (re)insurers can sell unfunded credit protection from the liability side of their balance sheets, and cover credit losses in specific tranches of securitisations. Contracts can take the form of credit insurance policies, non-payment insurance, risk participation agreements or guarantees.
Because (re)insurers are playing an increasingly important role in the protection of mezzanine tranches of SRT transactions which is expected to be growing further in the frame of the CRR regulation with thicker mezzanine size, we support adding a new point (d) in Article 26e(8) of SEC-R to explicitly say that highly regulated and well-capitalised (re)insurers (under Solvency II or equivalent) can provide banks with unfunded credit protections guarantees which can be eligible to the STS label.

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?

7.9. **If you answered no to question 7.4.**, do you see merit in expanding the list of eligible high-quality collateral instruments in Article 26e(10) to facilitate on-balance-sheet STS securitisations?

- Yes
- No
- No opinion

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

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

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

The difficulty regarding the STS homogeneity requirement is related to the provision of the evidence that the criteria is met. The difficulty to prove that a portfolio of leasing with different counterparts (corporates, SMEs, retail) meet the criteria may be a barrier for the originator.

Other STS criteria may also be difficult to meet (cf. question 2.1), such as the one related to the “underwriting” that requires that loans « are underwritten in accordance with standards that apply similar approaches for assessing associated credit risk »), which may be difficult when the originator needs to use different approaches (for instance a retail model for micro SMEs and a corporate approach for mid-caps).

7.13. Should the STS criteria (for traditional, asset backed commercial paper (ABCP) or on-balance sheet securitisation) be further simplified or amended? Please explain your answer and provide suggestions.

- Yes
- No
- No opinion

In line with our previous responses, the STS criteria already render it a high-quality label, but its attractiveness is hindered by its prudential treatment, which needs to be further alleviated, notably with regard to the LCR (see Q7.2), but also in terms of capital costs.

Third-Party Verifiers (TPVs)

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

1 / 2 / 3 / 4 / 5

Please explain.

The added value of TPVs in the STS securitisation market is very high for a new securitisation, or a new type of assets. However, there is less added value in case of repeat deals.

As the TPV are already de facto supervised locally, after being subject to a specific agreement, their controls would have an increased value if investors are allowed to fully rely on them and the redundant controls at investors levels are removed (see Q4.10).

7.15. **If you answered yes to question 4.10.(iv)**, should the TPVs be supervised to ensure that the integrity of the STS standard is upheld?

- Yes
- No
- No opinion

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

TPV are subject to agreement obtention by local supervisor and are already supervised in said jurisdiction in practice.

We recommend that the said supervision further support removing investors' unnecessary controls of STS compliance with regulatory criteria within their due diligence processes (cf. Q4.10).
Indeed, these controls are unduly required from all investors, in addition to those already performed at originator/sponsor's level (3 level of internal controls as per existing regulation + supervision) and by TPVs. They do not mitigate any residual risk, and unduly burden the investment process.

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

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

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

If done correctly – their role would not be changed. So wouldn't generate additional costs.

8. Securitisation platform

One issue which is mentioned in the public debate is the possibility of setting up a securitisation platform, with various ideas being put forward on the possible characteristics and functions of such a platform. One of the proposals (see Noyer report[19]), inspired by the US model, envisages the use of public guarantees both at national and EU-level to scale up the market and create a new common 'safe asset' across the EU. Other suggested designs are more circumspect (for example see TSI report[20]) and entail the pooling of resources and information to reduce issuance costs and encourage standardisation.

In its statement of 7 March 2024, the ECB Governing Council highlighted the need to explore 'whether public guarantees and further standardisation through pan-EU issuances could support targeted segments of securitisation, such as green securitisations to support the climate transition'.

Questions to stakeholders:

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

- Yes
- No
- No opinion

8.2. **If you answered yes to question 8.1**., which of the following objectives should be main objective(s) of the platform? You may select more than one option

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

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

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?

- Yes
- No
- No opinion

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

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

8.6. Are guarantees necessary?

- Yes
- No
- No opinion

8.7. **If you answered yes to question 8.6.,** please explain who (private or public) would provide it and how you would design such a guarantee.

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?

This is not a priority for securitization. Such platform seems costly and long to develop and should be considered outside the present review of the regulation. The priority in the short term is prudential measures to alleviate the capital charges and improve the LCR treatment.

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?

One of the themes of the CMU is the question of the invocation of assignment against third parties (possible holders of rights which may be assigned to the original assignor/creditor). The current situation with the divergences encountered by jurisdiction implies high risks regarding the cross-border securitisation transactions and high costs for legal advice. Please, consider that this improvement is also relevant for ELTIF AIF.

A similar topic concerns the harmonization of the bankruptcy between jurisdiction inside European Union.

Both harmonizations are particularly important for SME ABS and the respect of both homogeneity and granularity for portfolio has cross boarder transaction may be the factor to obtain the critical size necessary to

make the transaction viable.

9. Prudential and liquidity risk treatment of securitisation for banks

Banks are central players in the EU securitisation market. On the issuer side, securitisation is a useful tool in banks' toolkit for diversifying funding sources, and for balance sheet and credit risk management purposes. On the demand side, while banks hold significant exposures towards EU securitisation transactions and in particular to senior tranches, most are in the form of retained securitisations, including asset-backed securities (ABS) that are used as collateral for central bank operations to obtain liquidity. Exposures to other banks' securitisations are overall limited. The high percentage of retained securitisations limits the depth and liquidity of the securitisation market in the EU.

The prudential treatment of securitisation is set out in Regulation (EU) No 575/2013 (Capital Requirements Regulation - CRR). It specifies requirements for the prudential treatment of securitisation exposures by banks, acting as originators, investors and sponsors in securitisation. The main features of the prudential treatment are defined in the Part Three, Title II, Chapter 5 of the CRR, which sets out the regulatory capital calculation approaches, a specific risk-sensitive treatment for STS securitisations and additional criteria for the STS securitisations to be eligible for that treatment, the framework for the significant risk transfer (SRT), specific treatment for securitisation of non-performing exposures and other specific requirements. Besides, the prudential treatment under the CRR, the liquidity risk treatment of the securitisation exposures under the LCR Delegated Regulation (Delegated Regulation (EU) 2015/61 on liquidity coverage requirements for credit institutions) is also relevant for banks.

In their advice from December 2022, the European Supervisory Authorities (ESAs) concluded that the prudential and the liquidity treatment of securitisation is not the key obstacle to the revival of the securitisation market, and that the subdued status of the securitisation market is rather the result of a series of factors, including the interplay between low supply and low demand. At the same time, the ESAs also recognised in their report that it is possible to increase the risk sensitivity of the prudential framework. Many stakeholders consider the prudential and liquidity treatment as having a decisive impact on the attractiveness of the securitisation instrument for banks and in addition point out in particular to a relative disadvantage of the prudential treatment for some types of securitisations in comparison with other financial instruments.

Questions to stakeholders:

9.1. What concrete prudential provisions in the CRR have the strongest influence on the banks' issuance of and demand for those types of traditional, i.e. true sale, securitisation which involve the senior tranche being sold to external investors and not retained by the originator?

We believe that the prudential provisions in CRR related to the P-factor under SEC-SA, the RW floor for senior tranches, the LCR HQLA, the criteria for STS securitisations qualifying for differentiated capital treatment have the strongest influence on the banks' issuance of and demand of both "cash" and "synthetic" senior tranches.

There are several prudential and regulatory issues that need to be addressed in the CRR, in Solvency II and in SECR that affect the issuance and demand of traditional securitisations. Within the limited remit of question 9.1, AFG can cite three concrete provisions: 1) the fixed value risk weight floor that favours arbitrarily sectors of

the economy over others without any rationale, 2) a flawed design in the securitisation capital formula that departs absurdly from the neutrality principle, and 3) the liquidity coverage ratio eligibility and haircuts applied to senior tranches of securitisations.

On the first provision, the revision of the risk weight (RW) floor on all regulatory methods, i.e., IAA, SEC ERBA, SEC SA, SEC IRBA, is the simplest and the most impactful measure. It should be based on a fraction of the risk weight of the underlying pool (RW_{Pool}). A distinction between STS and Non-STS could be made so that for STS, such that RW Floor equals 7% of RW_{Pool}, and for Non-STS, RW Floor equals to 12% of RW_{Pool}.

On the second provision, the capital formula needs to depart sensibly, not unreasonably, from capital neutrality. This can be achieved by extending Article 465, which is a transitional approach with reduced p-factor on the standard measure used for the calculation of the floor, so that it applicale to the SEC-SA approach, before the output floor calculation.
Scaling Inputs to Capital Formulae could also be considered as an alternative.

On the third provision, the revision of LCR eligibility and haircuts for senior ABS is required to make them consistent with alternative fixed income instruments. This should lead to the promotion of senior STS of rating AA- to AAA to Level 2A, (based on CQS1 definition prior to the unintended removal of AA rating from the bucket) [or level 1 when issuance size is jumbo (above €500m)], the inclusion of AAA to AA- Non-STS senior tranche of securitisation to Level 2B. Further adjustment could extend to the scope of eligibility to any kind of ABS and multiseller ABCP and remove the WAL limitation for the RMBS senior tranches.

This enlargement of the eligibility of securitisation in the LCR is necessary to support the liquidity of the assets for all investors. Bank treasuries play a role that is complementary to the ECB repo eligibility. Both actors are necessary in order to have more investors, even when they do not invest directly in the securities, because they are able to bring liquidity in case of need.

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).

As stated in the Risk Control paper on European Competitiveness and Securitisation Regulations, European policymakers have argued that Europe needs “massive private investments” to advance the climate agenda and generate higher productivity and competitiveness. While equity markets can provide EU corporates with some risk capacity to invest more, it will be for debt markets to finance the bulk of the needed investment. European banks, as key intermediators of surplus funds from European and international savers, could alleviate this pressure if they were able to create more lending headroom by transferring risks through securitisation. By doing this, they would generate ‘capital velocity’, by which securitisation permits a bank to deploy its risk capacity more than once, having reduced prior its risk by more than the capital freed up. Covered Bonds (CBs) are no substitute for securitisation in this regard because the credit risk of the loan pool covered by a CB remains on the issuing bank’s balance sheet and, hence, no additional capacity to make new loans is generated. Boosting securitisation would require some relatively small, though judiciously chosen, adjustments, aimed at aligning regulatory rules with actual risk.

Changes in the prudential treatment would indeed change the volume of the securitization issued and would enable similar volume of new lending.

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 Regulation[21]), servicer and investor?

- Yes
- No
- No opinion

9.5. **If you answered no to question 9.4.,** please explain and provide suggestions for targeted amendments to more appropriately reflect the different roles of banks as originator, investor, and servicer.

9.6. Have you identified any areas of technical inconsistencies or ambiguities in the prudential treatment of securitisation in the CRR (other than the 'quick fixes' identified by the ESAs in the report JC/2022/66) that could benefit from further clarification?

- Yes
- No
- No opinion

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

9.8. Are there national legislations or supervisory practices which in your view unduly restrict banks in their potential role as investor, originator, servicer or sponsor of securitisation transactions?

- Yes
- No
- No opinion

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

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

Please explain your answer and if possible, quantify how much of the released capital and funding is used for further lending to the EU economy.

Risk weight floors

The risk weight floors, the p-factor and the requirement of risk weighting at 1250% for the securitisation

-

positions up to K_{IRB}/K_{SA} are key measures, ensuring the non-neutrality of the securitisation capital framework.

The main objective of non-neutrality is to protect against certain structural risks, including agency and model risks, that are more prevalent for securitisations than for other financial assets and give rise to some degree of uncertainty in the calculation of capital requirements for securitisations, even after all appropriate risk drivers have been taken into account. To capture those risks adequately, the CRR sets out a 15% risk-weight floor for non-STS securitisation positions and a 10% risk-weight floor for STS securitisation positions[22], irrespective of the approach for calculation of capital requirements and the role of the bank in the securitisation (originator or investor with respect to the securitisation position).

ESAs contend that originators, unlike the investors, are subject to reduced model and agency risk in relation to their own originated securitisation. The ESAs found that the current risk-weight floors on retained tranches are unjustifiably high and operate to dissuade banks from originating a larger volume of SRT trades. Accordingly, the ESAs recommend lowering the risk weight floors for originators being the original lenders[23] (in STS deals, under SEC-IRBA, from 10% to 7%, and under non-STS for all approaches, from 15% to 12%), subject to safeguards. These safeguards would seek to ensure an adequate reduction in the credit risk of the underlying exposures retained by the originator and prevent undercapitalisation of the underlying risk of the respective securitisation positions retained by the originator (criteria in relation to the thickness of the sold non-senior tranches, amortisation structure, granularity and, for synthetic securitisations only, counterparty credit risk).

While the safeguards aim to ensure the resilience of the transactions, they have been conceived for future issuances, rather than for existing trades (indeed only a minority of the existing transactions would pass the criteria). The criterion on the thickness of the non-senior tranche has been perceived by various stakeholders as particularly conservative and prescriptive.

Questions to stakeholders:

9.11. Do you agree that securitisation entails a higher structural model risk compared to other financial assets (loans, leases, mortgages) due to, for example, the inherent tranching? Please explain your answer.

- Yes
- No
- No opinion

There is no inherent higher model risk to securitization. On the market scale, the underlying is not increased by the use of tranches and there should not be additional capital requirements.
The tranching redistributes the risks differently, with a dedicated priority of payments, but there is no additional source of risk.

9.12. Do you consider that scope and the size of the reduction of the risk weight floors, as proposed by the ESAs, is proportionate and adequate to reflect the limited model and agency risks of originators and improve the risk sensitivity in the securitisation framework, taking into account the capital requirements for other financial instruments?

- Yes
- No
- No opinion

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

For example, should it be extended to investors in a targeted manner (such as, for example, to investors in STS securitisations and under SEC-IRBA approaches only, to prevent discrepancies with the prudential treatment of covered bonds under the SA approach)?

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

Please justify your reasoning.

Both the scope and the size of the risk weight (RW) floor (rather than the size of the reduction as stated in question 9.13) need to be amended.
By imposing an arbitrary minimum risk weight on securitisation tranche capital, the RW floor strongly affects which type of assets can be securitised. If the RW floor is high, then the retained senior tranche in typical synthetic securitisations becomes too costly in capital terms for the issuer. This is especially true when the underlying assets are low risk.

The primary problem that needs to be addressed in the design of the RW floor is this notion that a floor needs to be a fixed value. Any fixed value is not risk-sensitive. The absolute level of the fixed value can be assessed as a relative proportion of the underlying pool risk weight.

9.14. Do you consider that the ESAs' proposed accompanying safeguard, with respect to the thickness of the sold non-senior tranches, is proportionate and adequate in terms of ensuring the resilience of the transactions?

- Yes
- No
- No opinion

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?

- Yes
- No
- No opinion

9.17. **If you answered no to question 9.16.**, please provide and explain alternative proposals for safeguards that would effectively ensure the resilience of the transaction and would justify the

reduction of risk-weight floors.

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.

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

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

The (p) factor

The (p) factor is the main parameter of non-neutrality in the securitisation framework. Besides incorporating the capital non-neutrality, it also serves as a smoothing parameter to mitigate the so-called
'cliff effects' that arise when small changes in input parameters under the current risk weight functions result in comparably large changes in risk weights (the lower the (p) factor, the higher the cliff effect). The (p) factor aims to capture the structural risks of securitisation[24] in particular agency and model risks, and to some extent correlation (risk of correlated defaults, particularly present in non-granular pools). A p-factor of "1" means that for the whole securitisation structure (i.e., all the tranches) there is 100% more capital required (doubling the capital required) compared to the requirement that applies to the underlying portfolio of assets.

In their 2022 advice, the ESAs did not support the reduction of the (p) factor. In particular, they considered that lowering the (p) factor, without making other changes to the risk-weight function underpinning the SEC-IRBA and the SEC-SA formulae, might increase the risk of cliff effects and of undercapitalisation of the mezzanine (non-senior) tranches. Overall, the reduction of the (p) factor seems to have the most significant impact on the capital treatment of the mezzanine tranches, where more bank investments may not be desirable, and a less significant impact on the capital treatment of senior tranches, where the risk weight floor has a more significant impact.

The issue is whether the (p) factor could potentially be reduced, in a targeted manner and on a limited basis only (equivalent to, for example, a [x%] reduction, compared to the existing treatment), to improve the coherence between the actual risks and the capital treatment, while avoiding the unwarranted risk of increased cliff effects and undercapitalisation of the mezzanine tranches in particular. Possible targeted reductions could focus on originators, STS transactions, or senior tranches.

Questions to stakeholders:

9.20. Do you consider that the current levels of the (p) factor adequately address structural risks embedded in securitisation, such as model risk, agency risk and to some extent correlation, as well as the cliff effects?

- Yes
- No
- No opinion

9.21. If you answered no to question 9.20., please provide the justification, and provide quantitative and qualitative data, for whether and how the (p) factor overestimates the risks and inappropriately mitigates the cliff-effects, for specific types of securitisation exposures.

9.22. Do you consider that potential targeted and limited reductions to the (p) factor may increase securitisation issuance and investment in the EU, while at the same time keeping the capitalisation of the securitisation tranches at a sufficiently prudent level?

- Yes
- No
- No opinion

Please explain your answer

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

Please explain your answer

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).

9.26. Do you consider that the current approach to non-neutrality of capital requirements as one of core elements of the securitisation prudential framework, leads to undue overcapitalisation (or undercapitalisation) of the securitisation exposures, in particular when compared to the realised losses and distribution of the losses across the capital structure (different tranches of securitisation) over a full economic cycle? Please explain your answer.

- Yes
- No
- No opinion

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 KA[25] downwards, within the current halfpipe design, as investigated in the Section 3.3.2 of the EBA report, have potential to achieve more proportionate levels of capital non-neutrality and capital distribution across tranches, address the potential cliff effects more appropriately and achieve prudential objectives?

- Yes
- No
- No opinion

Please explain your answer

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)

The concept of significant risk transfer ('SRT'), i.e. transfer of a sufficient quantum of credit risk from the bank's balance sheet to a third party, is a crucial regulatory and supervisory concept in the EU securitisation framework. It is a precondition for a bank originator to benefit from capital relief from securitisation, and therefore one of the critical considerations for a bank originator when structuring a securitisation transaction. Achieving SRT requires complying with various quantitative and qualitative tests that are defined in high level terms in the CRR. The current framework provides for two 'mechanical' tests (the 'mezzanine' and 'first loss' tests), which the competent authority supplements with a case-by-case assessment, as to whether the originator has transferred an amount of credit risk which is 'commensurate' to the capital relief. The 'permission-based' approach is an alternative to the existing mechanical tests and may ensure that a commensurate transfer of risks is achieved. The originator has an interest in receiving the assessment of compliance with those tests by the Competent Authorities for reasons of legal certainty, and the Competent Authorities' decision on SRT is consequential for the economic viability and ultimate structure of a securitisation executed with a capital relief intent.

In its report published in 2020[26], the EBA identified a series of structural limitations of the existing SRT regulatory framework in the CRR and it proposed a set of recommendations to enhance the efficiency and robustness of the SRT framework and strengthen the consistency in the SRT outcomes (in particular in three areas: in relation to the SRT tests, the process applied by the competent authorities to assess the SRT, and the structural features of securitisation transactions which may affect the effectiveness of the risk transfer).

As one of the recommendations, the EBA recommends replacing the mechanical tests with a single

comprehensive test based on the principle-based approach (PBA) test which aims to make the SRT framework less complex and more flexible. Under the PBA test, the SRT can be achieved in case at least 50% of the unexpected losses (UL) are transferred to third parties. The EBA also provides recommendations with respect to the allocation of the lifetime expected losses (LTEL) and unexpected losses to the tranches for the purposes of the PBA test. Those recommendations have received only limited support from stakeholders, given the alleged conservativeness of the proposals as regards the suggested back-loading of UL in a stressed scenario.

Recently, improvements have been achieved in both the convergence of assessment and the process of the SRT assessments. The recent market data confirm a considerable increase of SRT securitisation transactions. Generally, the SRT market continues to grow as these transactions allow banks, that operate in an environment with capital pressure, to benefit from a capital relief. Synthetic transactions continue to dominate the SRT segment, with a share of more than 85% in the overall notional.

Questions to stakeholders:

9.30. Do you agree with the conditions to be met for SRT tests as framed in the CRR (i.e. the mechanical tests - first loss and mezzanine tests, and the supervisory competence to assess the commensurateness of the risk transfer, as set out in Articles 244 and 245 of the CRR)?

Are the SRT conditions effective in ensuring a robustness and consistency of the 'significant risk transfer' from an economic perspective?

- Yes
- No
- No opinion

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?

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

- Yes
- No
- No opinion

Please explain your answer

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

9.34. Should the process of the SRT supervisory assessments be further specified at the EU level (e.g., in guidelines, based on a clear mandate in Level 1), or should it be rather left entirely to the competent authorities to set out their own process?

- Yes

- No
- No opinion

Please explain your answer

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

The transitional measure in Article 465(13) of the CRR as amended by Regulation (EU) 2024/1623 aims to mitigate possible unintended consequences of the introduction of the output floor on the calculation of capital requirements for securitisation exposures. It introduces a targeted relief for exposures risk-weighted under the SEC-IRBA and internal assessment approach (IAA) by halving the (p) factor in the calculation of the output floor for those IRB securitisation positions (i.e. the (p) factor is halved to 0.25 for the STS securitisation positions eligible for the preferential capital treatment under the CRR, and to 0.5 for all other securitisation positions). The introduction of this targeted relief acknowledges the fact that the (p) factor levels embedded in the securitisation standardised approach formula (SEC-SA) when used in the context of the output floor would produce unduly punitive results for securitisations structured based on the SEC-IRBA by banks using internal models. The transitional measure will be in application from 1 January 2025 until 31 December 2032.

Questions to stakeholders:

9.37. Do you consider that the transitional measure will remain necessary and should be maintained, in case of introduction of other changes to the prudential framework?

- Yes
- No
- No opinion

9.38. **If you answered yes to question 9.37.**, please explain why and whether there are any alternative measures that could be more appropriate to achieve the original objective of the transitional measure.

9.39. **If you answered yes to question 9.37,** do you consider that a potential targeted and limited reduction of the p-factor might affect the effectiveness of the transitional measure under the output floor?

- Yes
- No
- No opinion

Please explain your answer

AFG ANSWER : EU COM TARGETED CONSULTATION ON THE FUNCTIONING OF THE EU SECURITISATION FRAMEWORK

Liquidity risk treatment in the LCR Delegated Regulation

The liquidity coverage ratio (LCR), transposed in the LCR Delegated Regulation (Delegated Regulation (EU) 2015/61 on liquidity coverage requirements for credit institutions), seeks to ensure that banks maintain a liquidity buffer to meet net outflows under severe idiosyncratic and market wide stress conditions. The LCR Delegated Regulation allows senior tranches of STS traditional securitisations to be included as level 2B high quality liquid assets (HQLA), capped at 15% of the liquidity buffer. Non-senior tranches of STS traditional securitisation, non-STS traditional securitisations, synthetic securitisation and resecuritisations are ineligible for inclusion in the HQLA.

In terms of eligible asset classes, in addition to securitisations with underlying mortgages (RMBS) in line with the Basel Standards, the EU transposition allows inclusion of securitisations with underlying auto-loans, consumer-loans and SME-loans, subject to different haircuts, credit quality steps (CQSs) and other requirements[27]. This expansion of eligible securities in the EU was motivated by the expectation that it would increase diversification of banks' liquid assets.

Some consider that the liquidity treatment of securitisations in the LCR Delegated Regulation has a major impact on banks' investments in STS securitisations and issuance thereof and have advocated for the relaxation of eligibility conditions for securitisations in the LCR.

Currently, banks make only negligible use of the capacity of their liquidity buffers to invest in securitisations as level 2B HQLA, with the share of securitisations in banks' liquid assets ranging from 0.2% to 0.7%. This may suggest that most banks do not consider securitisations to be effectively liquid and marketable during stress. It also shows a minimal impact of securitisations on the liquid assets' diversification in the LCR buffers – the diversification being one of the primary motivations for the expansion of eligible securitisations in the EU beyond Basel.

On a more technical aspect, several stakeholders propose to introduce an amendment to the LCR Delegated Regulation, with the aim to reflect the increased granularity of CQSs under the amended CRR and the related amendment to the Implementing Regulation on the mapping of credit assessments for securitisation positions by external credit assessment institutions' (ECAIs)[28]. They recommend modifying the reference from CQS 1, to CQS 1 to 4, in the Article 13(2) of the LCR Delegated Regulation regarding the long-term rating. In the absence of the updated reference, the STS securitisation tranches with ratings between AA+ and Aa- would unintentionally not be eligible as Level 2B securitisations and the eligibility would be limited to tranches with AAA rating.

Questions to stakeholders:

9.40. Does the liquidity risk treatment of the securitisation exposures under the LCR Delegated Regulation have a significant impact on banks' securitisation issuance and investment activities and on the liquidity of the securitisation market in the EU?

- Yes
- No
- No opinion

9.41. **As regard to your answer to 9.40.,** please explain the impact on banks' issuance of securitisation, investment in securitisation, and relative importance of the liquidity treatment

under the LCR in the activity of the primary and secondary securitisation markets.

The current liquidity treatment has disincentivized banks to hold Senior tranches in their HQLA. It has contributed, in addition to insurers disappearance as investors because of Solvency II rules, to the fact that senior tranches are now the hardest tranches to sell for distributed true sale transactions.

Hence, we fully support that the LCR Delegated Act should be amended to better recognize senior tranches in the HQLA.

However, it is important to underline that, from a financial and operational perspective, improved HQLA treatment is not enough to incentivise the investment in securitisation senior tranches. The improvement of the capital prudential treatment of the securitisation tranches bought will also be decisive.

9.42. Do you consider that the existing liquidity risk treatment of securitisation, in particular in terms of credit quality steps (CQSs) and haircuts applied to securitisations eligible for Level 2B HQLA, are adequately reflecting the liquidity and stress performance of securitisations, across the full economic cycle, including in crisis conditions, and in comparison, with the treatment of other comparable financial instruments?

- Yes
- No
- No opinion

9.43. **If you answered no to question 9.42.**, please justify your reasoning, providing quantitative and qualitative data on the impact, and provide suggestions for what you would consider as appropriate and justified treatment in terms of CQSs, haircuts and other relevant requirements, without endangering financial stability.

9.44. With a change in the CQSs, haircuts and other relevant eligibility conditions to the Level 2B liquidity buffer, by how much would the volume of securitisations that you invest in, change?

9.45. Have the senior tranches of the STS traditional securitisations reached a sufficient level of market liquidity and stress resilience based on historical data covering a full economic cycle, including crisis conditions, and are there any additional solid arguments that could justify their potential upgrade from the Level 2B to Level 2A HQLA?

- Yes
- No
- No opinion

Please explain your answer

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?

- Yes
- No
- No opinion

9.49. **If you answered yes to question 9.48**, please specify what are the impediments and provide suggestions for targeted amendments to make the liquidity treatment more proportionate, without endangering financial stability.

Provide estimates of the potential additional volumes of securitisations that could be included in banks' liquidity buffers.

10. Prudential treatment of securitisation for insurers

Insurance companies allocate 0.33% of their investment assets to securitisation positions[29]. The Commission would like to know whether Solvency II standard formula capital requirements as currently applicable, also taking into account the forthcoming amendments to the Solvency II Directive that were approved by co-legislators, or other factors cause limited demand by insurance companies.

Questions to stakeholders:

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

- Yes
- No
- No opinion

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

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

European insurers have disappeared from the market as investors because of the calibration of the regulatory requirements, which is too high and insufficiently segmented and risk-adjusted. Holding a senior tranche of a given collateral pool would be more costly than holding a direct exposure on the same pool.

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

sheet securitisations.

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

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

- Yes
- No
- No opinion

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

In our view, what prevents an increase in investments in securitisation by (re)insurance undertakings is the current calibration of the Solvency II securitisation shocks, under the Standard Approach:
- unjustified gap between STS senior securitisation tranches with bonds & loans
- unjustified gap between STS non-senior securitisation tranches with bonds & loans
- no sensitivity to seniority in non-STS
- unjustified gap between STS and non-STS securitisation tranches
- higher shocks than for equity (for instance, a non-STS AAA securitisation tranche with a 5 year duration will have a 62,5% shock versus a type 2 equity with a 49% shock; an STS non-senior BBB securitisation tranche with a 5 year duration will have a 39,5% shoch, which is as much as a standard equity shock (39%).

One of the most critical outcomes of securitisation treatment under Solvency II is that it is more capital efficient to hold a whole pool of loans rather than a senior securitisation tranche of those same assets. For example, a 5-year AAA-rated STS RMBS will incur a capital charge of around 5% for the senior tranche, and 14% for a non-senior tranche. This compares to a spread charge of ca. 3% for instance for a pool of 30-year mortgages with an 80% loan-to-value (LTV), where the investor is exposed to far greater risk of loss.

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

- Yes
- No
- No opinion

Please explain your answer, being specific in your reply.

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

- Yes
- No
- No opinion

Please explain your answer, being specific in your reply, and, where relevant, provide a comparison, including, where appropriate, with internal models and their relative impact on the share of securitisation investments.
If you consider calibrations inappropriate, please indicate what you would consider as 'appropriate' calibrations, as well as any data/evidence of historical spread behaviours that would justify your proposal.

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

- Yes
- No
- No opinion

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

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

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

- Yes
- No
- No opinion

Please explain your answer.

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 behaviors backing such suggestions.

Please indicate how you would define the mezzanine tranche as well as the assumption (e.g. of thickness of the tranche) underlying your proposed calibration.

Please also indicate whether and why such introduction of a mezzanine calibration would be needed in Solvency II, even if no dedicated treatment for mezzanine tranches is introduced in

EU banking regulation (CRR).

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

- Yes
- No
- No opinion

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

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

- Yes
- No
- No opinion

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

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

- Yes
- No
- No opinion

Please explain your answer, being specific in your reply.

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

This section aims to gather information on both IORPs and 'non-IORPs' (i.e. nationally regulated pension funds that are not regulated by the IORP II Directive). Information on non-IORPs is particularly encouraged for Member States with limited or no IORPs activity. When providing information also on non-IORPs, please clearly indicate whether the information provided refers to IORPs, non-IORPs, or both.

Questions to stakeholders:

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

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

Please elaborate in case you are not an IORP.

AIFM acting for IORP.

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

- Yes
- No
- No opinion

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

If you answered yes to question 11.2., please specify the segments of securitisations in which IORPs and/or non-IORPs would be willing to invest more (in terms of seniority, type of underlying assets, etc.) and describe the potential for increase in the share of securitisation investments in their balance sheet.

In addition, if your reply concerns or encompasses non-IORPs, please indicate i/ the number of non-IORP in your jurisdiction, ii/ the amount of assets under management and iii/ the type of pension business concerned, for which investment in securitisation would be interesting.

IORP will be willing to invest more in securitization for diversification of portfolio and the search for interesting performance versus risk profile. A deeper and more liquid market, with high quality securitisations, would entail further investment opportunities and render securitisations more attractive for these investors.

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

- Yes
- No
- No opinion

Please explain your answer.

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

- Yes
- No
- No opinion

Please explain your answer, as well as whether it applies to IORPs, non-IORPs, or both. Please be specific in particular where you refer to non-IORPs.

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

- Yes
- No
- No opinion

Please explain your answer, as well as whether it applies to IORPs, non-IORPs, or both. Please

be specific in particular where you refer to non-IORPs.

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

Please explain your answer, as well as whether it applies to IORPs, non-IORPs, or both. Please

be specific in particular where you refer to non-IORPs.

12. Additional questions

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

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

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

- Securitisation of other asset classes
- Other

Please explain your answer.

All of the above. As AFG, we strongly believe that holistic approach is needed to take into consideration all securitization universe and give the market a great diversity of possibilities.
Effects are too limited when the regulation targets a too specific part of the market. The best example is the label STS on SRT which is a success for specific niche but that has only marginally impacted in volume the European securitization market.

12.2. What are the principal reasons for the slow growth of the placed traditional securitisation (where the senior tranche is not retained, but placed with the market)?

Why do banks choose not to issue traditional securitisation for both funding and capital relief? You may select more than one option.

- Interest rate environment
- Low returns
- Operational costs
- High capital charges
- Difficulty in placing senior tranches
- Significant Risk Transfer process
- Preference for alternative instruments for funding
- Prefer to retain to keep the client relationships
- Prefer to retain to keep the revenue from the underlying assets
- Prefer to retain to access central bank liquidity
- Other Please

explain.

As AFG, we strongly believe that the prudential cost is the main factor of the current shrunken market.

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

As previously stated, as AFG, we strongly believe that the revision of prudential impact is the main obstacle. Please note that the capital cost for a senior tranche of a true sale securitisation is higher than holding the loan directly for the originating entity.

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)?

As AFG, we consider there exists too many divergences regarding the transfer of property of loans, receivables, or other debt portfolio between jurisdiction and so a too high risk of resources and associated legal costs. The market requires a simplification of enforceability of such transfer of property.

Similarly, there is too much disparities between legislations regarding Insolvency regime.
At last, fiscal risks is also important because of fragmented legislation and regulatory burden linked to DAC 6 legislation.

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

Please substantiate your answer for traditional and synthetic securitisation respectively.

Reduce the fragmentation inside UE on topics listed 12.4 (cf. capital market union).

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

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

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

Entry barrier for primo initiator and for primo investor is quite high in costs (regulatory complexity and skills/expertise to acquire) and associated with high prudential cost.

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

- Yes
- No
- No opinion

Please explain your answer and where possible elaborate on the difference in regulatory costs stemming from the prudential, due diligence and transparency requirements in non-EU jurisdictions, in comparison to the EU securitisation framework.

Very severe limitations on bank balance sheet constrain the whole EU financing ecosystem as opposed to the US for instance.

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

What initiative could be taken in the industry or in the regulatory field?

As AFG, we consider important that securitisation transactions are integrated in common framework, as it is the case for the existing regulation EU 2023/2631 called "green bonds".

It is important to include securitisations in the overall review of ESG regulation (including SFDR, MIFID ESG, etc.), and not treat them separately, to avoid inconsistencies.

It could also be considered that ELTIF be allowed to increase the cap on green securitizations.

12.9. Are there any other relevant issues (outside of those addressed in the specific sections of the consultation paper above) that affect securitisation issuance and investments that you consider should be addressed?

- Yes
- No
- No opinion

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

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41 rue de la Bienfaisance · 75008 Paris · +33 (0)1 44 94 94 00 ▪ avenue des Arts 44 · 1000 Bruxelles ▪ www.afg.asso.fr