RESPONSE OF BNP PARIBAS TO THE TARGETED CONSULTATION ON THE FUNCTIONING OF THE EU SECURITISATION FRAMEWORK

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This response is based on the information available at the time of consultation. Please note that questions to which BNP Paribas did not provide a response are not included in this communication

CONSULTATION QUESTIONS

1. Effectiveness of the securitisation framework

1.1. Do you agree that the securitisation framework (including the Securitisation Regulation and relevant applicable provisions of the CRR, Solvency II and LCR) has been successful in, or has contributed to, achieving the following objectives:

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

2. Impact on SMEs

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

- **Yes**
- No
- No

Please explain.

There are no specific regulatory impediments to securitise SME loans or to invest in SME loan securitisations.

However, Some STS criteria may be more difficult to meet, such as the one related to "underwriting" that requires loans to be « underwritten in accordance with standards that apply similar approaches for assessing associated credit risk », which may be difficult when the originator uses segmented approaches (for instance a retail model for micro-SMEs and a corporate approach for mid-caps). Moreover, some STS criteria may be especially difficult to verify for highly granular SME portfolios, notably the verification of "first payment", which according to recent EBA guidelines, must be performed not at client level but at securitized loan-level. This requirement results in a significant loss of "eligible perimeter" i.e. SMEs loans that could be securitized but are excluded from STS transactions because we do not have data evidencing payment at loan level.
On the prudential front, article 243 of CRR (which deprives from the STS specific prudential treatment securitisations with an underlying portfolio of corporate loans bearing a risk weight above 100% under Standardised Approach), may disincentivize securitisations of SMEs loans. Indeed, even if a majority of SMEs have a risk weight of around 85%, one single loan with a risk weight over 100% or rated B, is enough to penalize the whole securitisation (Re. answer to Chapter 7 questions).

From an operational perspective, issuers also face some difficulties, more specifically for traditional securitisations, which require the physical transfer of the loans to an SPV, due to the non-standardisation of the SME loans.

From the investor side, SME loans are too small for a detailed diligence on each individual loan (SME pools are complex to analyze as they are less granular than retail pools (such as mortgages or consumer finance) that allow a statistical approach, but more granular than corporate loans where large corporates typically offer public information and external ratings to rely on. In the case of SME securitisation, investors must rely on the banks sound credit origination practices, based on extensive due diligence (see EIF policies as an example of such due diligence).

There are also more structural impediments linked to the credit market, in particular the relatively low interest margins on SME loans.

Finally, in the Eurozone, it is common market practice for cash securitizations to be recognized as eligible to Eurosystem collateral. However, the EU collateral framework includes restrictions for eligibility of securitised assets which limit the scope of loans that can be contemplated for a cash securitization. The main issue lies in the acceptance of SME loans only, based on an SME definition which is unchanged since 2003 despite inflation. This deters originators from securitizing a significant part of their mid-sized corporate loans portfolio.

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

We propose to amend or delete article 243 of the CRR, which is a significant barrier for securitisation of assets with a risk weight above 100%. Please, see our answer to the questions of Chapter 7.

3. Scope of application of the Securitisation Regulation

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

- Yes
- **No**
- No opinion

Legal definitions

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.

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

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 SECR and its set of level 2 regulations (e.g. Retention RTS), and the wide-ranging implications of the qualification as Sponsor under SECR, notably in terms of support and guarantee requirements (e.g. for ABCP securitisations), we strongly believe it is not appropriate for EU AIFMs to be included in the definition of Sponsor under SECR.

Also, we note that AIFMD II has further clarified that EU AIFMs as originators can perform loan origination activities and as such, can act as retention holders under SECR and its level 2 regulations.

4. Due diligence requirements

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

Please differentiate between costs that are only due to Article 5 and the costs that you would incur during your regular due diligence process regardless of Article 5. Please compare the total due diligence costs for securitisations with the total due diligence costs of other instruments with similar risk characteristics.

Beyond direct costs, we would also like to highlight a negative effect linked to due diligence requirements under Article 5. When participating in transactions from non-EU originators, EU investors are subject to regulatory limitations imposed by Article 5(1)(e). This matters a great deal for the capacity of EU market participants to develop and be competitive players on both the EU and international scene, as indeed the securitisation market is global. Growth of the Saving and Investment Union will only be achieved if global EU players emerge. This applies to originators, as well as to sell-side and buy-side market participants. EU actors need to be active on main foreign markets (US, UK, China) to gain expertise and visibility regarding this global market and bring innovative ideas to the EU (such as securitisation of solar panel financing that originated in the US 10 years ago and is now coming to the EU). In addition, EU banks need to serve their customers which are global and active in different jurisdictions. For example, large automotive manufacturers use securitisation as a funding tool in the US, EU and Asia.

The issue is that US and other third country originators continue to be reluctant to provide full Article 7 information, since reporting entities need to make substantial and costly adjustments to their reporting systems in order to comply with the Article 7 templates. If an EU investor is forced to require full Article 7 templates, then the non-EU originator is likely to prefer non-EU investors. This loss of investment opportunity creates costs for European stakeholders of all kinds.

As the Commission acknowledged in the SECR Report, the current interpretation of Article 5(1)(e) "de facto excludes EU institutional investors from investing in certain third-country securitisations". This is not a question of the cost to EU banks of complying with the EU transparency requirements (since the reporting costs are borne by the issuers), but a question of access by EU banks to US and other third country securitisation markets.

The SECR Report made clear that it was the Commission's policy intention that the resulting competitive disadvantage imposed on EU institutional investors should be addressed by the introduction of a new private securitisation template that all private securitisations would use, whether EU or third country (see on this topic our answer to question 5.2).

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.**

Prior to holding a securitisation position, an institutional investor, other than the originator, sponsor or original lender, shall carry out a due-diligence assessment. Such assessment shall consider, in a proportionate manner under all circumstances, the risks of the investment arising both from the underlying exposures and the from structure of the transaction.

We especially highlight the need to delete article 5(3)(c) of SECR. Indeed, this article requires redundant controls on the compliance of STS operations with their specific regulatory criteria. Investors in STS securitization should not be required to reperform such controls that have already been fulfilled by the originator, the sponsor or SSPE that are regulated entities subject to specific legal obligations (cf. Q4.10).

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

Please explain.

On the basis that the proposed modification does not resolve the issue of proportionality, it would not produce significant savings. However, the adoption of a more principle-based approach which would allow investors to adjust / differentiate the due diligence process based on the complexity of the structure, the originator, the investment type and the investment horizon could reduce costs by approximately [30%].

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

Stakeholders have consistently highlighted due diligence requirements under Article 5 as disproportionate. Requirements apply equally to all types of securitisation and are more onerous than those that apply to other financial instruments with similar risk characteristics.
For Due Diligence requirement, 'One size fits all' approach is not appropriate. More proportionality should be introduced, taking into account the different categories of investors, risk characteristics (senior, junior…), time horizons or types of placement (private/ public).
A clear distinction should also be introduced according to the role of the investor: long term investor vs market maker or hedge provider.

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?

Please explain.

Removing these controls would improve the efficiency of the EU securitisation market, without any negative impact in terms of operational risk. The cost savings can be estimated at least at €15k per transaction.

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

- Yes
- **No**
- No opinion

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

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

- Yes

- **No**
- No opinion

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 actual framework is quite 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?

We do not think further safeguards in Article 5 would be meaningful as regards the build-up of financial stability risks. The present requirements and associated 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.

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.

In case the due diligence delegation is made to an investor regulated by the EU Securitisation Regulation (SECR), 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 an institutional investor regulated by SECR), 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-licensed. However, if the delegee is not AIFM (or UCITS) licensed, 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 an institutional investor regulated by SECR, the responsibility should rest solely with the delegating institutional investor, in case of infringement of the due diligence requirements as 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 could usefully support the securitization revival, given the relatively high cost and the technical expertise required 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

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

Please explain your answer.

From an originator perspective, the costs are significantly higher than for other instruments with similar risk characteristics (debt, covered bonds).

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.

We believe that ESMA should swiftly and decisively pursue its work on improving reporting templates. We welcome ESMA efforts to consult twice on the securitisation disclosure templates under Article 7 of the Securitisation Regulation. However, at this stage, ESMA has neither provided its feedback following the March 2024 consultation nor chosen the best way forward for the revision of the disclosure framework in line with the requirements of the SECR.

As a matter of example, we would like to raise the issue that ESMA Annex 3 for exposures to commercial real estate requires the reporting of data that are not collected according to market practice (e.g., tenant, occupancy as of date, vacant possession value at securitization date, etc), especially for smaller credit clients which are good candidates for securitization (granular portfolios). It thus makes it impossible to transfer the risk of these exposures as long as the reporting of these fields is mandatory.

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

- **Option 1:**
  - **Streamline the current disclosure templates for public securitisations**
  - **Introduce a simplified template for private securitisations and require private securitisations to report to securitisation repositories (this reporting will not be public).**

- 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.

5.9. 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.

Regarding the transparency requirements as defined in Article 7 of SECR, option 1 is the closest to being appropriate. We support the idea of streamlining the current disclosure templates for public securitisations.

We also support the introduction of simplified templates for private securitisations, assuming the intention here would be to have "private" templates designed solely to provide supervisors with the information they require to adequately supervise the market.

However, requiring private securitisations to report to repositories would represent a significant additional burden. It would not be consistent with the global objective to simplify reporting for private deals. Besides, as there are several other existing channels for reporting, using a repository will add unnecessary costs. This could also breach confidentiality duties with respect to the underlying assets, the structure of the securitisation transaction and/or the funding sources and risk management of the originator, as well as the client relationship between the originator and the arranger, sponsor and/or investor.

Finally, for your information, the cost of a data repository is about €20k over two years for a transaction. For emerging originators, financed through multiple private warehouse lines, and with limited financial resources, this represents a significant cost hurdle.

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 aconditions are non-negotiable among the parties?

- Yes
- **No**
- No opinion

Please explain your answer.

This suggestion moves in the right direction but requires a modification in order to be workable. In particular, it is critical that not all transactions admitted to just any trading venue be captured by the concept of "public".

It is necessary to keep reference to the prospectus as proposed. This is important, among other reasons, to ensure that retained deals using a prospectus can continue to be considered public. It might also be wise to consider an option to allow a deal to "opt in" to being treated as public if the originator/sponsor so wishes.

Criteria (2) as suggested is more problematic. The admission of any notes to any trading venue is far too broad and will end up capturing a large number of genuinely private transactions. A listing-based criterion is not an unreasonable proxy for this, but, if used, it must be limited to listings intended to achieve broad distribution and ongoing liquidity of the securitisation exposures. This is as opposed to listings of genuinely private transactions made for the purposes of withholding tax exemptions, satisfying investor investment criteria, etc. without meaningfully leading to broader distribution or later liquidity of the securitisation exposures.

An appropriate outcome might be reached by significantly narrowing down the listings that would be treated as public to those known, from time-to-time, to provide broader distribution and/or ongoing liquidity.

In particular, third country securitisations should be treated as "private" securitisations. It will act as a serious disincentive to cross-border capital flows if third country securitisations are captured by even a streamlined version of the current templates (see our answer to question 4.8 on this topic).
The requirement to fill in templates should be able to be met by investors if they wish. This is critical in order to permit European institutions to be competitive in third country markets. For example, if an EU bank is providing an asset-backed lending facility (which may qualify as a securitisation under SECR) to an American corporate client, the EU bank should be in a position to compete on a level playing field with third country banks for that corporate's business. This will only be possible if the arrangement in question is both treated as "private" (meaning that the bank is likely to collect the necessary information to fill in the template in the normal course anyway) and the bank can fill in any required templates on the corporate's behalf.

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)?

As we understand it, this category is really meant to capture transactions in the EU only that have been the subject of a public "bookbuilding" or “auctions”. Accordingly, the criteria should require all of the following:

1) An announcement made via a channel that could reasonably be expected to reach a broad range of investors in the relevant market.
2) Following the announcement in (1), interested investors are invited to submit orders on the basis of fixed transaction terms in which investors specify price (coupon or margin over a reference rate) and order size, but the other material terms of the transaction are non-negotiable (the "bookbuild").
3) Following the submission of orders, the transaction is completed on the basis of the pre-determined terms, with the size and price determined by the outcome of the bookbuilding process.

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.

We recognize that investors, such as asset managers, need to run their risk analysis on the loan-by-loan ESMA reporting templates (including for granular portfolios of credit card receivables and granular portfolios of trade receivables) for public securitisations they invest in.

However, in the case of private securitisations not distributed to institutional investors, such as warehousing lines, issuers should be allowed to provide the ESMA reporting at aggregate level, in the same way as SECR allows ABCPs to provide ESMA reporting at aggregate level. This reporting can be complemented with a loan-by-loan reporting if requested by the investor.

Indeed, pursuant to Article 7(1) (a) and subparagraph 4 of Article 7(1) of SECR, ESMA reports must currently be generated at individual loan level. This also applies to private securitisations not distributed to institutional investors, such as ABCP transactions or warehousing lines. It creates unnecessary costs and efforts when collecting and processing data in the ESMA template format, while the investors already negotiate ad hoc reporting templates suited to their own needs directly with the issuer.

The mandatory requirement to create loan level reports should be removed for private securitisations where banks are providing the senior securitisation financing and that are not distributed to institutional investors.

Indeed, for such private securitisations, the reporting used by banks acting as investors is not just for risk evaluation but also for the active determination of the borrowing base/ utilisation of the transaction. It therefore requires specific information, tests on eligible assets, concentration limits and dynamic calculations that are not part of the ESMA templates and require tailor-made templates. Such bespoke templates are contractually agreed between the banks and the issuers and are the ones that banks use for monitoring the transactions. Hence the obligation to provide in addition ESMA templates for loan by loan and investor reports creates unnecessary costs and burden.

Such private transactions are typically not ECB eligible and not rated by the rating agencies. In this context, there is no reason to provide detailed line-by-line information in a securitisation repository. The level of disclosure should be negotiated on a bilateral basis between the seller and the involved investors, it being specified that the investors shall in all circumstances be able to conduct a proper due diligence.

6. Supervision

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.

Overall, from an originator perspective and as regards the SRT recognition process, we have developed an efficient dialogue with the JST, usually resulting in timely "non-objections" to transactions. This being said, the supervisory process could be further streamlined, especially for "repeat" deals (an ECB-led initiative is on-going on this front).

A more serious cause of concern is the regulatory uncertainty resulting from the publication 2020 EBA Report on SRT: although not binding (EBA's recommendations technically have no legal force until they are translated in EU law), numerous "recommendations" have *de facto* become mandatory. This situation is all the more unsatisfactory that several recommendations are vague, questionable and sometimes hardly applicable in real life, as explained in previous public consultations.

We see important merit in streamlining supervision to ensure more coordination and supervisory convergence, as far as this coordination is not detrimental to the "time to market" feature of securitisation transactions. This could be easily achieved through permanent sharing and updating securitisation related technical expertise among supervisors.

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

- **Yes**
- No
- No opinion (AFG)

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)

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

- **All**
- Some
- No opinion

7. STS standard

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

- Yes
- **No**
- No opinion

Please explain.

We believe the STS label in its current form has not the potential to significantly scale up the EU securitisation market. In the current debate to develop the European securitisation market, non-STS securitizations should also be within the scope of prudential improvements, with an appropriate calibration. Non-STS transactions are equally relevant as STS transactions to foster the CMU and greatly contribute to the very large financing needs required for the green and digital transitions of the European economy.

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

According to the AFME Securitisation Data Report Q2 2024, EUR 66.6 bn of securitised product were issued in Q2 2024 in Europe, of which EUR 45.4 bn were placed in the market among investors, representing 68.2% of the total.

Placed STS Securitisation issuance, as a proportion of total placed issuance (STS+non-STS), increased to 45% during Q2 2024. As a reminder, retained (non-placed) securitisations remain in the originator's balance sheet, mainly for Central Bank liquidity purposes.

For the whole year 2023, the total amount of public issuance in Europe was € 213 bn, of which € 95 bn placed in the market among investors.

The total amount of STS issuance in 2023 in Europe was € 76 bn, with only € 44 bn placed in the market. This is not commensurate with the expected contribution of securitisation to the Euopean economy financing needs.

Since the entry into force of the SECR in 2019, we observe that despite being safe and fit for purpose, many securitisations, by construction, will never meet all the 100+ STS criteria. Focusing prudential improvements only on STS will not trigger sufficient impact on the market and will leave entire segments of the potential scope on the sidelines.

Practitioners and investors are fully convinced that both cash and synthetic non-STS securitisations add value in financing the European economy both by enhancing capital allocation efficiency and by diversifying funding sources for segments of retail and non-retail markets that otherwise are not able to access traditional bank lending:

- Some portfolios or transactions cannot meet all the STS criteria by nature (for instance the 2% granularity/concentration criteria (e.g. 50 names minimum) or the homogeneity criteria (both same type of obligor and obligors with residence in the same jurisdiction …): trade receivables, mid-sized corporates and SMEs, corporate loans or revolving credit facilities, most specialised lending (infrastructure financing and energy-based financing that are critical to the green energy transition agenda, , aviation and ship

financing, mixed or cross-border commercial loans …)
- Some issuers have structural difficulties to achieve the STS label, e.g. new companies (such as Fintechs or solar panels manufacturers) that cannot meet the 5 years historic data requirement, or smaller banks that, by construction, handle smaller pools and fail to achieve the granularity or homogeneity criteria.
- Other issuers, such as commercial vehicles or equipment leasing companies, have leases that cannot meet the STS criteria for ABCP (assets residual maturity less than 6 years and the weighted average life of the assets less than 3.5 years)
- Some underlying assets are not eligible to STS label because of the STS criteria "repayment not predominantly based on sale of assets"; this is the case for the certain types of real asset financing (e.g., car fleet and car rental deals).
Administrative sanctions by Competent Authorities and criminal sanctions by Member States (respectively articles 32 and 34 of SEC-R) may also be a deterrent.

In addition, some securitization structures may not meet the STS criteria, while contributing to the efficient financing of the economy:
- initial warehouse financing to third party non-bank lenders which are keen to develop their ability to further issue STS labelled securitisations through the capital markets;
- SRT securitisations tailored to specific investors constraints and needs, such as synthetic unfunded securitizations directly protected by Solvency 2 regulated insurers; indeed, as per SEC-R (re)insurance companies are not eligible as unfunded protection providers in synthetic STS transactions.

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.

In order to benefit from the STS prudential framework, banks also need to meet the CRR Art.243 "Criteria for STS securitisations qualifying for differentiated capital treatment".

When banks issue securitisations, they always need to retain a portion of the transaction in their balance sheet. The prudential treatment of the retained tranche has an impact on the economic viability of the transaction. That's why the additional limitations imposed for benefiting from the STS prudential treatment, as per Article 243 of CRR, may deter banks from issuing some transactions under the STS label as no prudential credit would be recognized for it. Similarly, when bank provide senior Securitisation funding to clients, under STS format, the prudential benefit of STS for the banks is subject to compliance with Article 243; this rules out a number of transactions that, despite meeting all SECR STS criteria, are not recognized the STS prudential benefit due to the risk profile of the underlying portfolio.

Under Article 243 (1) (a) of the CRR, positions in an ABCP programme or transaction that qualify as STS shall be eligible for the STS related prudential treatment (Articles 260, 262 and 264) if the underlying exposures meet, under the Standardised Approach, a risk weight equal to or smaller than 75 % on an individual exposure basis where the exposure is a retail exposure or 100 % for any other exposures. This excludes any corporate loans with external rating of B+ or below and risk weight of 150%, for instance portfolios of leasing, trade receivables or SMEs. The derogation, provided the risk weight of the liquidity facility is below 100%, is limited to institutions applying Internal Assessment Approach (IAA), and unduly excludes those under SEC-IRBA, SEC-SA or SEC-ERBA.

Under Article 243 (2) of the CRR, positions in a securitisation, other than an ABCP programme or transaction, that qualify as STS, shall be eligible for the STS prudential treatment (Articles 260, 262 and 264) only if the underlying exposures meet, under the Standardised Approach, a risk weight equal to or smaller than: (i) 40 % on an exposure value-weighted average basis for the portfolio where the exposures are loans secured by residential mortgages or fully guaranteed residential loans with the additional constraint that no loan in the pool of underlying exposures shall have a loan-to-value ratio higher than 100 % ; (ii) 50 % on an individual exposure basis where the exposure is a loan secured by a commercial mortgage; (iii) 75 % on an individual exposure basis where the exposure is a retail exposure; (iv) for any other exposures, 100 % on an individual exposure basis. This last point (iv) excludes any corporate loans with risk weights above 100%, for instance corporate loans with external rating of B+ or below and standard risk weight of 150%, which can be present in portfolios of leasing, trade receivables or SMEs.

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

Firstly, we believe that Article 243 should be deleted, or at minimum be significantly amended. Regarding Article 243 (1)(a), the derogation should apply to all approaches. Both for ABCP and non-ABCP STS transactions, the mere presence of one corporate in the pool that has a standard risk weight above 100% leads to no STS prudential benefit; it is therefore necessary either to increase the risk weight cap from 100% to 150% or to review Article 243 of CRR to introduce a materiality threshold above which the STS benefit is no longer applicable. This is also needed for residential and commercial mortgages especially as the 40% and 50% risk weight criteria were calibrated in CRR2 and must be recalibrated in line with the changes of standard risk weight in CRR3.

Secondly, only very few countries (EU, UK, Canada, South Africa, China except for ABCP…) have onboarded the ‘optional’ Basel STC label. However, it is key that Europe set up an equivalence regime between the EU STS framework and the UK STS framework, otherwise this will restrict investment options for the EU investor base. Three jurisdictions (US, China, Turkey) do not still even apply the Basel III securitisation framework. Incentivizing only STS transactions /disincentivizing non-STS ones would create a competitive disadvantage for the EU by constraining the range of securitization options available to market stakeholders.

Thirdly, a prudential recalibration for both STS and non-STS securitisations, as proposed in section 9 for banks and section 10 for insurers, is absolutely necessary to increase the amount of transactions in Europe.

Finally, (re)insurance companies should be recognized as eligible as unfunded protection providers in synthetic STS transactions in SEC-R, as detailed in questions 7.4 to 7.11.

STS criteria

7.4. In the case of an unfunded credit protection agreement 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

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.
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, 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. EU insurers would treat such transactions as liabilities.

7.8. If you are an originator, what impact on the volume of on-balance-sheet securitisations that you issue do you expect to see if unfunded credit protection becomes eligible for the STS label and the associated preferential capital treatment?

Opening STS eligibility to unfunded credit protection would definitely increase and diversify demand in the market, foster competition and eventually lead to larger securitisation volumes. Also, some asset classes (e.g. specialized lending, transaction banking) are historically better known by insurers: at least in the first few years, we would expect STS transactions to be originated from these asset classes and distributed to unfunded credit protection providers if such credit protection format became eligible to STS.

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?

SECR Article 26e10 should be deleted: the requirements it sets out on collateral management are too complex. This article could even have negative consequences for financial stability, as a downgrade of the credit protection beneficiary could lead to mandatory transfer of cash collateral, which would cause SRT to end and RWAs to go back to originators' balance sheet.

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. For instance, it is challenging to prove that a portfolio of leasing loans with different counterparts (corporates, SMEs, retail) meet the criteria, and this difficulty 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 uses segmented approaches (for instance a retail model for micro SMEs and a corporate approach for mid-caps).
In addition, the verification of "first payment", which according to recent EBA Guidelines must be performed not at client level but at securitized loan-level, is also an impediment, as this information is often missing. We propose that the verification of "first payment" should be done at the client level, as the information is available, including initial test payments.

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

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 (scale of 4) 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 subject to a regulatory authorization and locally supervised, they could have more added value if they could concentrate all the controls related to the STS label mentioned in Q4.10 for the benefice of all investors.

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.

In the case of Paris-based Prime Collateralised Securities (PCS), a Third-Party Verifier (TPV), it is already supervised by the AMF, the French National Competent Authority. For its UK-related activities, it is also supervised by the FCA. In both cases, after having gone through a mandatory authorization process, PCS is regularly subject to supervisory requests, as supervisors monitor its ongoing activity.

Considering the existing supervision set-up, we recommend that compliance with STS criteria be removed from investors' controls of 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 levels 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. This would not generate additional costs.

8. Securitisation platform

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

- **Yes**
- 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 (FBF)

- **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

8.4. Should the platform target specific asset classes?

- Yes
- No
- **No opinion**

8.6. Are guarantees necessary?

- Yes (FBF)
- No
- **No opinion**

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?

Structural projects such as the European securitisation platform and/or public guarantees could be addressed at a later stage and should not delay the immediate priorities to address all regulatory (SEC-R) and prudential (CRR3, Solvency II and LCR Delegated Act) barriers. However, it is possible that amendments to the regulations and progress in terms of the Capital Market Union could lead, over the mediumor long-term, to a different conclusion. An improved regulatory environment and better integration of the European capital markets could create the conditions for successfully implementing a securitisation platform.

An initiative such as the one explored by the European Investment Bank to design an EU platform, with optional guarantees, for securitisations of SMEs or consumers loans is certainly worth considering.

9. Prudential and liquidity risk treatment of securitisation for banks

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

NB: the acronyms "RW" and "RWA" used in responses to Part 9 respectively mean "risk weight" and "risk weighted assets".

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, and the criteria for STS securitisations qualifying for differentiated capital treatment have the strongest influence.

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).

Regarding synthetic securitisations ("mezzanine" or "first-loss tranches" tranches transferred to market participants with referenced assets remain in the bank's balance sheet), a downward calibration of the p-factor and RW floors would (1) improve the efficiency of transactions that are already economically viable and (2) make more transactions economically viable. In the first case, lower capital requirements on retained senior tranches would give more flexibility regarding deal structuring. In the second case, assets that attract lower RW and cannot currently be securitized in economically viable transactions would become candidates to economically viable SRT transactions. Volumes will also depend on the extent of RW floors reduction: if such floors become proportional to the RW of underlying portfolios (our preferred option), then entire asset classes could become eligible to synthetic securitisation (as the RW on the retained senior tranche would better reflect their low credit risk).
Changes in the prudential treatment (risk sensitive risk weight floors associated with a lower p-factor) would indeed change the volume of the securitisation that we issue.

Regarding true sale securitisations, changes in the prudential treatment would bring capital requirements for senior securitisation tranches more in line with the risk, namely the introduction of a sensitive risk weight floor and decreased p-factors combined with the upgrade of senior tranches in the HQLA of the LCR.
If securitisation risk weights become closer to capital neutrality on senior tranches, the volume of securitisations issued (with banks own loans) or arranged by banks will increase, as potential pool of assets (including low risk assets currently discarded by the existing 10% and 15% risk weight floors) will increase and the economic viability of the transaction will be strengthened.
The upgrade of senior tranches in the HQLA of the LCR will support both the primary and the secondary market of ABS in terms of pricing and market liquidity, thanks to a broader and more stable investor base. Moreover, even non-bank investors are valuing LCR eligibility for their investments, hence it will help develop the market for non-banks, creating a global positive and active market ecosystem, increasing all liquidity parameters.

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.

Cf. our response to question 2.2

9.4. Does the prudential treatment of securitisation in the CRR appropriately reflect the different roles a bank can play in the securitisation chain, concretely the roles of originator (limb 'a' and limb 'b' of the definition of the originator in the Securitisation Regulation), servicer and investor?

- Yes
- **No**
- 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.

The possible changes in the prudential treatment should apply to banks in all their roles, originators, sponsors and investors. Indeed, CRR prudential treatment improvements should apply to banks also as investors, in the same way that Solvency II prudential framework should be reviewed to make insurers come back as investors on the securitisation market.

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.

Credit Conversion Factors (CCF) limit private securitisation facilities that are needed for warehousing new origination ahead of public ABS issuance. The CCF applied to liquidity facilities and undrawn credit lines granted by banks in private securitisation transactions, defined in Article 248, is too binary: 100% CCF in general or 0% for liquidity facilities that are super senior and cancellable. This binary treatment came as a reaction to the 0% CCF applied under Basel I that proved not appropriate during the financial crisis as it was applied to the financing of assets not initially originated by the banks.

For ABCP transactions or warehousing lines, the senior financing is typically in the form of a committed facility (not cancellable at any time without conditions nor prior notice, contrary to an unconditionally cancellable commitment (UCC)) which the client can draw subject to the fulfillment of a number of conditions. With the current 100% CCF, the committed undrawn part of the facility, which is an off-balance sheet item accounting wise, attracts the same capital as the drawn part. On the other hand, corporate facilities such as RCFs benefit from a CCF of 40% for undrawn part (under the bucket 3 of annex I for off-balance sheet items under CRR3).

We think that this discrepancy is not justified considering:

- The drawing of a committed securitisation facility requires eligible assets sold to the SPV. This requires asset growth from the originator. During Covid, many clients/originators did not draw on their securitisation facilities simply because there was no new asset origination. This is in sharp contrast to the unsecured corporate RCFs which were often fully drawn during Covid by corporates to ensure liquidity
- Private securitisation facilities are structured with the borrowing base approach meaning that if the underlying assets deteriorate in credit quality or exceed concentration limits, then the amount of the senior funding that can be drawn automatically reduces
- Performance triggers such as delinquency rate or loss triggers would automatically stop the revolving period if hit and thus prevent any further drawing
- Several high-grade corporates maintain private securitisation facilities as backup liquidity that remain undrawn

Given the above, it would be fully justified to apply a regulatory CCF to securitisation facilities similar to the one applicable to corporate facilities. We therefore propose a CCF of max 40% for the targeted scope of the senior financing of client assets, either via ABCP lines or warehousing lines.

A discrepancy with the EU non-securitisation framework stems from the definition of a commitment (which includes UCC). Unlike the Basel framework, which limits its application to non securitisation (the commitment definition is referred in CRE 20.94 in SA, further referred in CRE 32.32 for IRB, but not in the securitisation chapter), EU transposition (CRR3 Art.5) may be literally read as extending the application of the commitment notion to the entire credit risk framework, though the term is not used in securitization framework. Clarification on this point is required. Either securitisation is not in the scope of the commitment definition, as per BCBS, or should the deviation from the Basel commitment definition be maintained, an appropriate treatment of UCC in the form of securitization facilities shall be contemplated (CCF 10%, exemptions…).

Secondly, the LGD calibration for SEC-IRBA limits the emergence in Europe of loan-on-loan private securitisation for real assets and their refinancing into public ABS markets. These asset classes such as aircraft ABS, project finance CLO, data center CMBS, are well developed in the US and are needed in Europe to finance the energy transition outside banks' balance sheets and through the capital markets. Regarding the EBA Kirb RTS on Kirb calculations, that became effective in Q3 2023, there is an issue on the LGD calibration. In brief, when banks as investors in the senior tranche are using SEC-IRBA for the pools originated or serviced by clients, EBA accepts that the PD derived from banks' internal models can be used for the PD but not the LGD. For pools originated and serviced by banks' clients, banks must use flat LGD of 50% for senior exposure and 100% for sub exposures.

This creates two issues: no differentiation between senior unsecured exposures and senior secured exposures; no LGD benefit from security which exists under the foundation approach where the LGD is reduced to 25%; for subordinated exposures, where the 100% LGD is too harsh compared to the foundation calibration of 75% LGD. Our proposal is to modify the EBA RTS on Kirb calculations in line with the Foundation Approach (25% LGD for secured, 40% for senior unsecured and 75% for subordinated).

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.

The EBA guidelines for SRT introduce some ratios (especially the CRT ratio) that are not economically linked to the transfer of risk or that are too prescriptive. (See SRT dedicated part).

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.

When assets are securitized and significant risk transfer (SRT) is a feature of the transaction, securitisation shifts risks off the issuing bank's balance sheet. The issuing bank can recycle the corresponding risk bearing capacity by making new loans. One may refer to this feature of securitisation (not shared by covered bonds) as 'capital velocity', capturing the notion that securitisation allows a bank to deploy its risk capacity (as represented by its regulatory capital) more than once.
On the funding side, having alternative channels for secured refinancing is important in securing robust funding sources without relying only on intermediation by central banks. In this perspective, Securitisation is a complementary tool to Covered Bonds. Indeed, the asset classes used as collateral for securitisations are more diverse than the ones used for covered bonds (in general limited to mortgages).
Real economy investment in Europe would increase if banks were able to optimise their balance sheets more effectively. Over the last decade, European regulators have made multiple attempts to adjust securitisation regulations to achieve a smooth functioning and financially stable market. Success has been limited. The solution is to keep improving the regulatory framework that has been developed so far by making a series of selected adjustments, better aligning regulatory rules with actual risk, and taking into consideration the way banks use securitisation.

Risk weight floors

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

- Yes
- **No**
- No opinion

Please explain your answer

From an issuer perspective, we do not agree that securitisation entails a higher structural model risk compared to other financial assets (loans, leases, mortgages) due to the inherent tranching. The tranching redistributes the risks differently, with a dedicated priority of payments, but there is no additional source of risk.

For cash / funding transactions, we believe that the risk comes from the underlying assets but not from tranching technique; there is no 'structural' risk specific to securitisation, versus other financial assets (loans, leases, mortgages).

In case of on-balance sheet (synthetic) securitisations, from a risk/prudential perspective, an issuer (for instance a bank acting as originator) is always better-off after SRT than before. This is due to the fact that before securitisation, the bank holds capital up to Kirb/Ksa of the pool, while after SRT, it holds capital up to the attachment point of the mezzanine tranche, then is protected at least up to Kirb/Ksa (in practice, a bit higher), and holds additional capital on retained senior tranches. In other words, at long as retained first loss tranches are deducted from capital and mezzanine tranches detach at least at Kirb/Ksa, securitisation does not entail any additional risk compared to no-securitisation.

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?

ESA's proposal to recalibrate the fixed RW floor in STS deals, from 10% to 7%, and non-STS from 15% to 12%under all approaches, would be a step in the right direction. It would reduce the non-neutrality feature of the securitisation prudential treatment. However, this approach would not differentiate the underlying credit risk of retained senior tranches, because fixed risk weights (7%, 12%) would apply for any type of securitised portfolio.

The risk-based approach proposed in Paris Europlace July 2024 paper is in our view a good solution, with robust mathematical grounds. bas. The RW Floor could be proportional to the underlying portfolio/pool capital (KIRB or KSA), with the formula RW Floor = 10% × KPool × 12.5, with KPool amortizing during the life of the transaction. A risk-sensitive approach would mean, for higher risk portfolios, that the risk weight floor would remain in the 10-15% range (based on underlying RW of 100% - 150% respectively), while for low-risk portfolios the risk weight floor could be lowered to better reflect the quality of the underlying portfolio. Consequently, the capital saving for such transactions would be more commensurate to the risk, thus increasing the attractiveness of securitisation transactions.
However, elaborating further on this risk-based approach, we support an alternative where the 10% factor of proportionality could be replaced by 7% and 12%, respectively, for STS and non-STS securitisations (also proposed in the Risk Control analysis paper).

Since the asymmetry of information is different between an (external) investor and an originator, the floor for an investor could be based on Standard Risk Weights, whereas for an originator it could follow its own method (resp. IRB, SA or other). Rather than having a different approach for investors, we propose to allow the standard approach only, in order to estimate the RW of the pool.

In a nutshell, we recommend the following formulas:
Senior RW Floor = 7 % × Kpool × 12.5 for STS transactions and
Senior RW Floor = 12 % × Kpool × 12.5 for non-STS transactions
Whereby Kpool = KIRB and/or KSA related to the underlying exposures pursuant to Article 255 of the CRR for originators and
Kpool = KSA for investors (including banks ABCP conduit acting as investors in ABCP transactions).

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)?

The reduction of the risk weight floors should be extended to investors irrespective of the types of transactions (both STS and non-STS) and of the approaches (SEC-SA and SEC-IRBA).

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

The scope of the reduction of the risk weight floors should not be limited to originators who are servicing the underlying exposures.

From an issuer perspective, the only relevant approach is to calibrate the RW floor as a percentage of the Kirb/Ksa of the underlying pool.

The credit risk borne by originators on retained senior tranches is residual; one condition for supervisory non-objection to the recognition of significant risk transfer (SRT) is that the senior tranche is not hit by losses, even under adverse stress test scenarios. Also, as a reminder, before securitisation, originating banks do not hold capital to absorb losses that would correspond to a senior tranche post-SRT since by definition, they hold capital up to Kirb/Ksa, and senior tranche attach beyond Kirb/Ksa: this is why as long as RW on retained senior tranches are greater than 0%, issuing banks are more protected after securitisation than before securitisation.

In order to determine an appropriate factor for the calculation of RW floors, we propose to leverage on ESA's proposal of 7% for STS and 12% for non-STS transactions, and to multiply it by underlying pools' Kirb (when pools are rated under internal models) or Ksa (when pools are rated under the standard approach) and by 12.5. For the avoidance of doubt, the Kirb used for the calculation of the RW floor would be refreshed at each period: as Kirb decreases due to time decay, so would the RW floor on the retained senior tranches.

The risk-sensitive floor for an investor could be based on Standard RW, as it is in practice easier and safer to handle than the potential use of Kirb.

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.

As per EBA's proposed accompanying safeguard the thickness of the sold non-senior tranche is to be determined by the level of RW assigned to the senior tranches according to the formulas (i.e. before application of the RW floor), where such RW should be below 50% of the RW floor levels (i.e. the RW on senior tranches must be below 5% for STS transactions and below 7.5% for non-STS transactions).

This proposal is neither proportionate nor adequate for on-balance sheet securitisations. Under the current framework, sold non-senior tranches have to detach above pool's Kirb/Ksa, otherwise the transaction is not efficient and does not provide "commensurate risk transfer" (hence supervisors would object to it). By definition, all live transactions feature "sold non-senior tranches" that are thick enough. As a reminder, before securitisation, originators/banks hold capital up to Kirb/Ksa, so they are at most as protected as after securitisation: in most, if not all cases, originators/banks are better-off after securitisations. Similarly, the proposal is not adequate either for cash / traditional securitisations.

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.

The current SRT framework is already very demanding for both significant and commensurate risk transfer. There is no justification for so-called additional "safeguards" since by construction, securitisation transactions effectively transfer risk to investors and since banks, from a risk perspective, are always better-off after securitisation than before securitisation.

The EBA made a simulation, in its December 2022 report, on a sample of 261 own account securitisations. 146 transactions were subject to the floor and only 14 structures would ultimately have benefited of the proposal of a lower RW floor; the others were not eligible because of the cumulative criteria of the safeguards.

We believe that the risk sensitive approach of the risk weight floor would be a safeguard *per se* (see answer to question 9.13).

In addition, the CRR, in article 254 "Hierarchy of methods", also already embeds effective safeguards.

However, should additional safeguards be ultimately recommended as a condition to achieve a reduction of the RW floors, we think the safeguard related to granularity could be maintained, provided the 0.5% granularity requirement would be changed into a 2% requirement (aligned to the STS label requirements).

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?

No. It does not make sense to limit the reduction of the risk-weight floor to STS securitisations only, since the STS framework is not related to the credit risk of the underlying pool of securitized assets.

The risk-weight floor should be set at the level under which banks would be considered as not holding enough capital on retained tranches to absorb losses that could impact these positions: whether securitisations comply with STS criteria or not is not relevant here. Banks' originated SRT securitisations are always structured in such a way that regulatory expected and unexpected losses are covered by capital and/or credit protection (otherwise, there would be no "significant" or "commensurate" risk transfer, and they would not take place).

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.

If the RW floor on the retained tranches become proportional to the RW of the underlying pool, this could unlock significant opportunities: it would enable originators to tap larger portfolios (hence bigger volumes of transferred tranches) and to securitize assets whose RW is currently too low compared to fixed RW floors on senior tranches. Currently, highly secured assets with a structurally low RW density do not justify the protection premia payable to reduce their capital footprint; for assets such as prime mortgages, a reduction of the floor could be a game changer.
On the demand side, the lowering of the risk-weight floor for investors will also improve the demand for senior tranches, essentially on cash transactions.

The (p) factor

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

- 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.

The current levels of the (p) factor overestimates the risks and inappropriately mitigates the cliff-effects, for the majority of securitisation exposures. Indeed, they have been calibrated at international level in an overly conservative manner as a reaction to the GFC, based on the US experience, rather than on an effective risk-based analysis.
The rationale for this harsh approach to securitisation was indeed not fully relevant in Europe, as originators' and securitisation investors' interests were in most cases aligned. The paradox is that the EU implemented post-crisis Basel framework in an extremely stringent way, even though EU securitisations were the least exposed to the agency and model risks the framework intended to address.
Practitioners experience that, when the p-factor increases beyond a ~ 0.5 level, which is the case for STS transactions, the calibration of the senior tranche becomes too insensitive to credit enhancement, i.e the resulting RW on the retained senior tranche becomes disconnected to the underlying credit risk. In other words, even if the senior tranche attaches well above KSA, the risk weight remains disconnected from the low residual credit risk of the senior tranche.

The non-STS SEC-SA transactions (with a p-factor equal to 1) are in most cases not viable: even with a very significant credit enhancement, the RW of the retained senior tranche is still over 50% of the underlying pool RW, which makes no sense from a risk perspective.

In order to enable originators to envisage viable STS and non-STS transactions under SEC-SA, we propose to modify in priority Article 465(13) beyond the sole calculation of the output floor and on a permanent basis, as well as Articles 261 and 262 of the CRR, by halving the current p-factor under SEC-SA:

- from 0.5 to 0.25 for STS securitisations
- from 1 to 0.5 for non-STS securitisations

This proposal has the merit of the simplicity.

We also propose a decrease of the p-factor values under SEC-IRBA as follows:

- Floor: 0.1 (STS) and 0.25 (non-STS)
- Cap: 0.3 (STS) and 0.75 (non-STS)

The decrease of the p-factor for STS transactions was suggested by the EC during the negotiation on CRR3 but failed to get support among Member States (Re. EBGPI non paper dated 16 Feb 2023).

We do not believe that low fixed p-factors for SEC-IRBA transactions could generate perilous cliff effects and hence instability as regards the risk weight of some mezzanine tranches or cause issues with the smoothing function played by the p factor:

- the p-factor role should not be analysed in isolation, but in a holistic context , taking into account all the capital layers that apply to securitisation transactions (input floors in PDs and LGDs of underlying assets, p-factor, risk weight floors for senior tranches, IRB repair for securitisations in SEC-IRBA, supervisory add-ons, margins of conservatism embedded in the internal models, Article 243 CRR constraints for STS transactions to benefit from the STS prudential treatment…)
- the "cliff effect" management should be left in the hands of issuing banks (as for the choice between SEC-SA and SEC-IRBA), with the possibility for supervisors to require specific assurance, through stress tests for instance.

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.

In order to increase securitisation issuance and investment in the EU, potential targeted and limited reductions to the p-factor should apply irrespective of the role played by the bank (originator, sponsor or investor), for both STS and non-STS transactions and for all tranches.

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.

The possible changes in the prudential treatment should apply to banks in all their roles, originators, sponsors and investors. Indeed, CRR prudential treatment improvements should also apply to banks as investors, in the same way that Solvency II prudential framework should be reviewed to make insurers come back as investors.

The criteria "Exposures in STS versus non-STS securitisations (beyond the differentiation already provided for in Article 260 and in Article 262 CRR)" should not be considered when defining targeted reduction of the p-factor, as the STS label does not embed any credit risk feature. In addition, in order to relaunch the EU securitisation market, it is also key to support non-STS securitisations (Re. our answer to question 7.1).

All tranches should benefit from appropriate recalibration as banks need to offer both senior and mezzanine tranches to a wide range of investors with different needs. However, if we have to consider one criteria for a targeted reduction of the p-factor, the most relevant would be "Exposures in senior versus non-senior tranches" in order to incentivise the distribution of and investment in senior 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).

N/A

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.

The excessive non-neutrality constraint for securitisations is an example of the "cure a disease and kill a patient" principle. Indeed, it was based on a misdiagnosis, which ignored that, from mid-2007 to the end of 2010, only 0.95% of all European securitisations issues (ABS, CMBS, RMBS and Structured Credit) defaulted, compared to 7.7% of all US securitisation issues, and 6.3% among the universe of global corporate bonds (as pointed out in the 2011 OECD Outlook for the Securitisation Market). It led to an unprecedented punitive regulatory treatment.

It makes little sense to calibrate the international rules solely on the basis of US experience. It would be like "calibrating the price of flood insurance for Madrid on the experience of New Orleans" (Yves Mersch (ECB) speech at the Joint EIB-IMF High Level Workshop, 2014).

The current capital framework entails significant overcapitalisation of senior securitisation positions. As a reminder, Kirb/Ksa are meant to cover "unexpected loss" (on top of "expected losses" covered by provisions) and are already set at conservative levels (reviewed/monitored by supervisors). Senior securitisation tranches attach above Kirb/Ksa, which means that their credit risk is only residual, while they bear an excessive 10% (STS) or 15% (non-STS) RW floor.

Also, as a reminder, SRT transactions undergo stress tests to ensure that the senior tranche is not hit by losses under adverse circumstances, which provides an additional safeguard to senior tranches attaching above Kirb/Ksa.

Backtesting of past and existing on-balance sheet SRT transactions are not public, yet EU regulators and supervisors have access to data on SRT performances. We are confident that over the past ten years (2015 being the starting point of on-balance sheet SRT revival) which cover a full economic cycle, such data evidence that senior tranches have been significantly overcapitalised.

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

- **Yes**
- No
- No opinion

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.

We recognize that the alternative of introducing a scaling parameter to scale downwards the KA factor within the current halfpipe design, would have some potential to achieve proportionate levels of capital non-neutrality and capital distribution across tranches, address the potential cliff effects more appropriately and achieve prudential objectives. However, this solution is much more complex to implement than the solutions we advocate in priority for in Q.21 (division by two of the fixed p-factor values for SEC-SA and decrease of the fixed p-factor values for SEC-IRBA transactions).

Regarding the "inverted S-curve" alternative, we think that this proposal should be further refined and improved, in a medium or long term perspective. Indeed, while this S-curve as illustrated in the EBA report has the merit to soften the cliff effect, it also raises some concerns. If it proposes a more appropriate and progressively decreasing capital allocation of the low mezzanine, the shape of the curve also expands the capital zone between 1250% and the RW floor on the higher side of the capital structure, making it more difficult to reach the RW floor. Because banks exposure to securitisation are massively concentrated on the senior tranche, the benefit for banks (only users of the SEC RW formula) would be limited and in practice benefit only to the riskiest exposures.

Significant risk transfer (SRT)

9.30. Do you agree with the conditions to be met for SRT tests as framed in the CRR (i.e. the mechanical tests - first loss and mezzanine tests, and the supervisory competence to assess the commensurateness of the risk transfer, as set out in Articles 244 and 245 of the CRR)? Are the SRT conditions effective in ensuring a robustness and consistency of the 'significant risk transfer' from an economic perspective?

- Yes
- **No**

- No opinion

Please explain your answer.

Articles 244 and 245 paragraph 2 in CRR require banks to perform two mechanical tests to check whether (a) the risk-weighted exposure amounts of the mezzanine securitisation positions held by the originator do not exceed 50 % of the risk-weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation and (b) the originator does not hold more than 20 % of the exposure value of the first loss tranche.
Where the possible reduction in RWAs which the originator would achieve by the securitisation under points (a) or (b), is not justified by a "commensurate transfer of credit risk" to third parties, competent authorities may decide on a case-by-case basis that significant credit risk transfer to third parties is not achieved (re. articles 244 and 245(3) CRR).
We 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). However, "commensurate risk transfer" is not defined and leaves to much room for interpretation and for supervisory discretion.

In practice, the European supervisor currently systematically tasks banks with the burden of proof regarding the commensurate transfer of credit risk to third parties, using the EBA 2020 Report on SRT as guidelines. This introduces uncertainty and further administrative burden.

9.31. If you answered no to question 9.30, do you consider that the robustness and efficiency of the SRT framework could be enhanced by replacing the current mechanical tests with the PBA test? The PBA test could be based on the recommendations in the EBA report, while the recommendations on the allocation of losses to the tranches could be reconsidered.

One can reasonably contend that the current CRR "mechanical tests" are sufficient to ensure commensurate risk transfer.
If the SRT criteria were to be enhanced by replacing the current CRR mechanical tests with the PBA test ("Principle Based Approach") as proposed by the EBA, we believe it would be unnecessary that the supervisor imposes more requirements, such as a CRT test. Indeed, in its 2020 SRT report, paragraph 214, the EBA states that "*consideration should be given to whether the CRT test would still be needed after the eventual implementation of the PBA test in the CRR. The commensurateness of the risk transfer relies on the principle that a capital relief not justified by a commensurate risk transfer would result in a weakening of the capital position of the institution with respect to the non- securitised exposures. Whether this principle remained valid after the PBA was enshrined in Level 1 could be reassessed.*"
In that case, we would propose to amend articles 244 /245 §2 of CRR in order to delete the paragraph "Where the possible reduction in risk-weighted exposure amounts, which the originator institution would achieve by the securitisation, is not justified by a commensurate transfer of credit risk to third parties, competent authorities may decide on a case-by-case basis that significant credit risk shall not be considered as transferred to third parties. "

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

- Yes
- **No**
- No opinion

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

Overall, the supervisory assessment has become more fluid over the years and our SRT transactions have received a non-objection in due time. We cannot say, however, that the process is "efficient and adequate" for at least two reasons.
First, the templates proposed by the EBA SRT guidelines (2014) used to inform supervisors of a new transaction are too burdensome (same information provided several times under different formats), especially for "repeat deals", for which initial notification could be streamlined.
Secondly, the EBA 2020 Report on SRT is used in practice by the ECB as guidelines, introducing additional requirements to the existing regulatory ones. The recommendations set out in this report are legally non-binding but some of them have gradually become mandatory in practice. Originators cannot have a clear view of which EBA recommendations will *de facto* be binding and under which conditions (because most recommendations are vague and/or impractical as worded in the EBA Report). This regulatory "grey area" is deeply regrettable in the context of a highly regulated activity.
EBA recommendations set out in the EBA Report beyond PBA tests should neither be implemented in a Delegated Regulation nor be imposed by supervisors.

We are opposed to the direction that the ECB has taken in its November 2024 consultation on "approach to options and discretions available in EU law", which onboards the recommendations of the 2020 EBA report. The proposal related to the CRT has not been tested and, in practice, banks' experience is that this methodology is flawed**.**

Overall, we regret that the supervisory framework of SRT transactions is becoming increasingly mechanistic and rigid, based on assessment approaches that have not been sufficiently tested and that prove unfit for some types of transactions. The creation of an SSM "horizontal team", while aiming for more coordination across JSTs, is actually degrading the dialogue with banks, since the decision is ultimately made by the central team, which has no interaction with banks and often does not provide feedback in due time. This increasing disconnect between market constraints and supervisory assessment is worrying in a context where the EU intends to scale up the securitisation market.

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.

We believe that the process of the SRT supervisory assessments should not be further specified at the EU level (e.g., in guidelines).

Transitional measure in Article 465(13) of the CRR

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

- **Yes**
- No
- No opinion

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.

Our proposal as a potential targeted and limited reduction of the p-factor is to expand the transitional measure (which halves the p-factor values) beyond the output floor for securitisation transactions under SEC-SA (cf. question Q9.23).
As such, transitional measures for the output floor and permanent calibration under SEC-SA would be fully aligned. Transitional measures will remain to apply to SEC-IRBA transactions for the output floor calculation but would ultimately become unnecessary provided be the SEC-SA is calibrated on the same terms.

Liquidity risk treatment in the LCR Delegated Regulation

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

- **Yes**
- 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 under Commission Delegated Regulation 2015/61 has disincentivized banks to hold Senior tranches in their liquidity buffer. In addition to insurers disappearance as investors because of Solvency II rules, it has contributed to the fact that securitisation senior tranches are now the hardest tranches to sell for distributed cash transactions. BNP Paribas currently holds no securitisation assets in its liquidity buffer.

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

However, it is important to underline that, from a financial and operational perspective, improved HQLA treatment is not enough to incentivise the investment by banks in senior securitisation tranches. The simplification of the due diligence requirements and the improvement of the prudential capital treatment of securitisation tranches will also be decisive. The recognition of EU equivalence of non-EU securitisations would also be of great help. Indeed, the reduced appetite for senior securitisation tranches in banks HQLA results from a triple regulatory curse: liquidity treatment (penalizing HQLA haircuts), excessive capital charge and due diligence burden (in comparison with other financial instruments).

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.

The new 2018 Delegated Act restricted the eligibility of securitisation assets in the liquidity buffer.

Senior securitisation tranches subject to specific criteria (rating, asset class (RMBS, auto loans, SMEs, consumer loans …)) were eligible as HQLA since LCR implementation in

2014. Unfortunately, on 13 July 2018, the Commission published the final text of revisions to the LCR Delegated Regulation (applicable as of April 30, 2020) which has fallen short of improving the treatment of senior STS tranches of securitisations. These remain classified as Level 2B assets, with an associated 25% haircut for RMBS and auto loans & leases, and 35% haircut for SME & consumer loans.

In addition, as pointed by the ESAs Joint Committee in December 2022 (JC/2022/66, recommendation 8 pages 93 and 94), the rating requirement has been unduly limited to CSQ1/AAA (versus AA- in the 2014 Delegated Act). This change was an unintended consequence of recent changes in increased granularity of credit quality steps ("CQS") as the 2019 LCR amendment did not update the securitisation specific rating scale.

Finally, non-STS positions were fully disallowed from Level 2B, creating (i) a cliff effect for positions previously held in bank treasuries, as the HQLA eligible basket did shrink overnight, and (ii) a failure to promote STS transaction to higher HQLA level, which could have been expected as STS framework was born years after original Basel framework and EU transpositions.

At this point, we support the following amendments to the LCR Delegated Regulation as regards CQSs, haircuts and other relevant requirements:
- Senior Non-STS securitisations tranches rated AA- or more should be re-introduced in HQLA Level 2B, with the same criteria as the Delegated Regulation on LCR of 2014
- Senior STS securitisations tranches rated AA- or more should be upgraded in HQLA Level 2A with 15% haircut, with no collateral differentiation.

We consider that this treatment would be appropriate and proportionate and would not raise financial stability issues.

A slightly more ambitious proposal would consist in also lowering the L2A rating floor down to single A minus:
- which would match the floor applicable to EU covered bonds
- which would not rule out senior tranches constrained by the rating cap determined by the sovereign rating

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?

It is challenging to estimate the impacts of a change in the CQSs, haircuts and other relevant eligibility conditions to the liquidity buffer on the volume of securitisations banks invest in, especially for banks that have so far discarded this asset class. Implementation of other regulatory changes should also be taken into account, in addition to constraints linked to internal operational developments required to on-board this asset class in the Liquidity the Buffer when banks start from scratch.

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.

Beyond measures for reducing high implementation costs and disproportionately high capital requirements, securitisation positions will become more appealing to banks as investors if they qualify appropriately as HQLA and if appropriate haircuts are applied. This will contribute to market liquidity, in particular for public ABS senior tranches. First, this will increase the diversification of the assets in the HQLA. Second, it will help the placement of senior tranches of public ABS that issuers currently struggle to sell. Third, this will contribute to depth of the secondary market with banks able to play a bigger role as investors.

There is empirical evidence that the senior tranches of STS traditional securitisations reached a sufficient level of market liquidity and stress resilience that could justify their upgrade from the Level 2B to Level 2A.

During the UK Liability Driven Investment crisis in the wake of mini-Liz Truss' budget announcements (September 2022) and the ensuing Guilt crisis, securitisation remained actively traded with comparatively stable price in a context of massive surge of volatility.

Comparatively stable price is explained by the floating index used as a reference for coupon purposes (prior to adding a contractual fixed margin) as opposed to the fixed income nature of most other debt securities eligible to the HQLA buffer.

The secondary liquidity Repo market on senior tranches, especially when eligible to ECB open market operations, has been alive and well for decades.

Besides, thanks to their "pass-through" characteristics, securitisation assets embed a structural liquidity feature whereby periodic contractual monetisation in the form of amortisation is added to contingent monetisation in the form of outright sale or repo. Indeed, the amortising nature of nearly all HQLA eligible senior tranches implies a partial principal payment added to coupon payment at every given coupon payment date (i.e. every three months in most cases). By contrast, debt instruments under bullet format have their principal paid in one single flow at maturity date (or option exercise day if/when applicable) so that monetisation prior to legal maturity is contingent only (the only contractual intermediary flows being interest income).

Last, assuming that some bond holders may be more willing to monetise assets priced close to par rather the heavily discounted ones, the structural low interest rate risk of floating rate notes in general and securitisation tranches in particular may be seen as another liquidity characteristic: as most securitisation tranches have a coupon margin indexed on a floating rate index, the low interest rate risk of such assets implies a lower price volatility (lesser price sensitivity to a change of risk free rates), especially when compared with fixed coupon instrument of same maturity.

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.

As neither the quality nor the liquidity of securitisation tranches eligible to HQLA qualification did deteriorate between 2014 and 2019, we believe that it is justified to re-introduce the criteria as defined in Article 13 of October 2014 LCR Delegated Act EU 2025/61 for securitisations (senior tranches rates AA- and above, issuance amount of € 100mn or more; weighted average life below 5 years and haircuts of 25% or 35% depending whether the underlying collateral is residential and auto loans or SMEs and consumer loans).

Keeping the 2014 criteria in place would open the door for an upgrade the Senior STS tranches to Level 2A rated AA- or above, for all types of eligible collaterals. Such an up move would be justified as

- STS transactions were not created when neither BCBS framework nor initial LCR transposition were written.
- Level 2A upgrade would put STS senior tranches on par with corporate and non-EU covered bonds:
  - Double A minus rating floor requirements for STS senior tranches would match the one applicable to all corporate bonds, i.e. three notches higher than the one applied to EU covered bonds [single A minus in that case].
  - Same 250mn issuance floor would apply (same as the one required for covered bonds and corporate bond)
  - Capping the Weighted Average Life at 10 years would match the 10-year cap applicable to corporate bonds (no maturity limit applies to covered bonds)
  - The same L2A specific 15% haircut would apply to L2A eligible tranches, regardless of the eligible collateral (same collateral types as the ones required for L2B purposes).

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.

Other impediments would include, among others:

1. new set-up to be established for banks newly considering to include securitisation senior tranches in their liquidity buffer
2. burdensome non-risk-based due diligence
3. the prudential treatment of the securitisations held in banks' balance sheet
4. the non-ECB eligibility when the collateral of the securitisation is composed of corporate loans (ECB accepts in the Eurosystem's collateral framework ABS using mortgages, SMEs and consumer loans, but not midsize and large corporates loans).

Recommendations made in other parts of this consultation document would help alleviate items 2 and 3.

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?

- **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

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 afme
- 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.

ECB non eligibility when the collateral is corporate loans is also an explanation (See Q9.49).

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

In CRR3, the regulatory measures which would have the strongest potential to stimulate the issuance of placed traditional securitisation are, in our perspective :

1. the introduction of a risk sensitive risk weight floor formula under SEC-SA and SEC-IRBA
2. the extension of the temporary measure halving the p-factor under SEC-SA, beyond the output floor and on a permanent basis
3. the deletion or amendment of article 243
4. the decrease of the credit conversion factor for undrawn liquidity/ credit lines and the modification of the EBA RTS on Kirb (LGD recalibration).

In the LCR Delegated Act, the upgrade of senior STS and non-STS in the LCR HQLA is crucial to improve the market liquidity of the securitisations, which is a key feature for investors.

The recalibration of the market shocks in the capital calculations under Standard Approach of Solvency II is vital for the comeback of insurers as investors in placed traditional securitisation.

Finally, the simplification and introduction of proportionality in Articles 5 and 7 of SEC-R will be strong facilitators for both issuers and investors.

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)?

One main obstacle for cross-border securitisations is the STS homogeneity criteria which requires that loan originators belong to the same jurisdiction.
Another obstacle is market practice; investors may be reluctant to invest in a blended securitisation and may prefer, in order to diversify their country risk, to invest in different securitisations from different jurisdictions.

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.

It is key to acknowledge the importance of EU institutional investors' status in the global securitisation market and avoid penalizing EU investors when they invest in international securitisation markets. This is a major stake in terms of competitiveness for Europe. EU actors need to be active on main foreign markets (US, UK) to gain expertise and influence on the international scene. (See response to Question 4.1)

It is also key that EU should treat the UK STS regime as equivalent to the EU STS framework (the reverse being already in place), in order to facilitate cross-border UK/EU investments.

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.

Allowing EU banks to make a broader use of Securitisation as originators would provide them with more solutions to manage their balance-sheet; this would be helpful in terms of competitiveness and capacity to finance the economy, at a time where the capital impact of Basel 3 / CRR3 reforms will start to weight on European banks.

In addition, all measures releasing the excessive constraints on securitisation will improve the capacity of EU banks to offer their corporate clients competitive financing solutions through securitisation structures. This would help EU banks to gain market shares on this market vis-à-vis third country CIB banks.

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?

Securitisation will ultimately be as green as activities, projects and investments will be; should improvements be targeted to favor predefined pools of underlying assets, they will not produce the expected benefits. Securitisation should first develop across the board with no restriction on underlying assets and no use of proceeds criteria. The so-called “EU green bond standard” , which can also be applied to securitisation transactions if the use of proceeds is aligned with the EU Taxonomy, will probably generate little volumes; in part because it is strictly linked to the EU Taxonomy whose criteria are in practice excessively difficult to fulfill, and in part because the universe of Taxonomy eligible assets is for the time being quite narrow, while the EU economy is at the beginning of its path to transition. We believe that Securitisation does not need to be targeted as a “green” product to deliver on the objective of contributing to the financing of the transition.