International
Capital
Market
Association

ICMA

ASSET MANAGEMENT AND INVESTORS COUNCIL

AMIC response to European Commission CONSULTATION DOCUMENT: An EU framework for simple, transparent and standardised securitisation (18 February 2015)

Introductory comments

The International Capital Market Association's (ICMA) Asset Management and Investors' Council (AMIC) is pleased to respond to the European Commission services consultation on securitisation.

AMIC was established in March 2008 to represent the buy-side members of the ICMA membership. ICMA is one of the few trade associations with a European focus having both buy-side and sell-side representation.

The AMIC composition embraces the diversification and the current dynamics of the industry – representing the full array of buy side interests both by type and geography. The AMIC's focus is on issues which are of concern to its broad membership, rather than having a specific product focus.

Comments on Section 1 - Introduction

We are pleased that the European Commission is consulting on the market for securitisation in Europe and hope that this leads to a coordinated, harmonised and consistent approach to the regulation of securitisation in the EU and preferably globally.

The document consists of a general discussion, certain statements and specific questions to be asked of respondents. We have chosen to respond to the general discussion in Section 1, followed by answers to the specific questions at the end of our response.

In the Introduction section of the Document one of the first statements made in the Document is that "a high quality EU securitisation framework will promote further integration of EU financial markets, help diversify funding sources and unlock capital, making it easier for banks to lend to households and businesses." We believe the truth of this statement is wholly dependent on the way in which such a framework is designed, allowing (amongst other things) for the differentiation between the risk inherent in the underlying assets and quality of the process of securitising those assets.

The Document goes on to say that '…securitisation can be an important channel for diversifying funding sources and allocating risk more efficiently within the EU financial system.' We believe this risk allocation will be enhanced if regulators separate what constitutes a high quality securitisation from the investment risk of different tranches of such a securitisation. In other words we believe there should be a single methodology for determining if a securitisation is high quality that is at the deal level and not focused on individual tranches in a deal. If the banks are to be able to use securitisation to free up capital and allow to lend more into the real economy, they need to be able to do more than just raise funding through the most senior tranche of a mortgage backed security –

they need to be able to sell more junior tranches to free up true risk capital for growing their lending into the economy (the recent Warwick Finance transaction for the Co-Operative Bank is an example of how this can work). Likewise investors need to be able to choose the level of risk they take with respect to any particular pool of collateral. It is important to understand that the primary investors in European asset backed securities (ABS) are professional institutional investors, they are not retail investors.

The document then mentions that post the US sub-prime crisis in 2007-8 authorities took steps to make securitisation safer, and simpler and remove the "prevalence" of the originate-to-distribute model in the run-up to the crisis. While we strongly agree that an originator with no incentive to ensure a high quality origination process constitutes a risk and did indeed cause problems, it is not clear that such originators were more than a minority within the global ABS markets. We agree that all securitisations in Europe are now strictly regulated but we suggest that this is probably a significant cause for the depressed market activity (as suggested by the joint European Central Bank (ECB) and Bank of England paper "the impaired EU securitisation market: causes, roadblocks and how to deal with them").

When comparing the European and US securitisation markets it is important to understand the fundamental differences between the residential mortgage markets. It is reasonable to expect much higher losses on US mortgages than European ones because of the non-recourse nature of US mortgage loans. We refer to the Fitch study on US vs European ABS losses 5 years on[1] for a researched analysis of the different performance of the ABS markets. The European CMBS market for example, performed much worse than its US counterpart. Also when comparing the US and European markets the government sponsored enterprises (GSE) mortgage market is not relevant. The private label market in the US (more comparable to Europe) has indeed enjoyed considerable growth since the crisis, and on its own is substantially larger than the European market, making it a suitable example. While small, the Australian securitisation market has also enjoyed growth since the crisis and strong credit performance, serving as another example of "success".

The introduction mentions investor preference for covered bonds, and suggests that the well-developed national frameworks and the dual recourse nature are responsible for this. We believe that a significant cause for the appeal of covered bonds to investors has been the low capital charges and a clear signal of the regulatory intent to continue to allocate low capital charges to covered bonds. The regulatory and capital treatment of securitisations was in contrast, uncertain and signalled to be penal in the future. Covered bonds have a lower disclosure requirement than RMBS in most jurisdictions and each legal framework is different. In some jurisdictions, for example, if a bank issuer of a covered bond defaults, and there is insufficient principal accumulated in the covered bond structure to meet a bullet payment on a covered bond, the portfolio has to be liquidated in a fire sale. This has yet to be tested but structurally exposes investors to the risks of a dislocated market much more severely than in a traditional European RMBS structure. In an RMBS there is never a fire sale of the underlying loans, instead the loan cash flows are relied on to eventually pay off the bonds.

In the section on policy initiatives to re-start securitisation markets we particularly welcome the attention given to the European market from many different authorities and regulators. We note that the general objectives seem to be very similar, and wish to see a much higher level of co-ordination across the various players to create a clearer message to investors and originators on how securitisation will be affected. A single definition of what constitutes a "high quality" securitisation would remove a significant amount of the uncertainty currently preventing the market from developing. We particularly would welcome a true calibration of securitisation instrument

[1] Global Structured Finance Losses, Fitch Ratings, October 22, 2012

capital requirements, taking into account actual credit performance within wider fixed-income alternatives.

We strongly agree that nothing can replace the need for investor due diligence and would caution against approaches that signify regulatory “approval” of the credit quality of any given investment.

In response to the section on an EU framework for high quality securitisation, we would make some further comments. Firstly, making changes to what has already been done may actually be required once sufficient experience and understanding is available on the subject. This should lead to a calibrated way of allocating capital to risk once a definition of high-quality has been adopted. For example Solvency II will shortly come into force with its own definition of high quality securitisation that will be inconsistent with anything now developed by the European Commission. The involvement of insurance companies as investors in the securitisation markets has all but disappeared since the onset of Solvency II.

Risk retention requirements should be reviewed in the light of experience in how they are applied. It does not make sense on a UK prime mortgage securitisation to require a 5% retention when historical losses for the past ten years have been on average around 0.06% per annum and the average excess spread in UK prime securitisations is around 0.80% per annum. Retaining 5% in this case represents no incentive to the originator to keep his lending quality up. Similarly, if the originator of a CLO transaction with underlying loans with interest rates of over 10% is only required to retain 5% that would be less than they would expect to lose anyway and so again gives no incentive to them. Allowing originators to choose how they take risk retention allows them to game the system too.

As mentioned earlier, we believe that to allow for risk transfer to a broad set of investors will require that any particular transaction is qualified as high quality and tranches within that transaction should attract capital charges commensurate with the risk. This will be essential if non-banks are to be attracted to originating loans and using securitisation as a funding and capital-raising tool.

Section 2 – Questions for review

2.1 Identification criteria for qualifying securitisation instruments

Question 1A:
Do the identification criteria need further refinements to reflect developments taking place at EU and international levels? If so, what adjustments need to be made?

The Commission’s proposed identification criteria are fine as a starting point to the debate. The most important thing is for the Commission to make sure that the criteria used for whatever will be “qualifying” securitisations are the same in all EU legislations, and preferably harmonised with the global definition being developed by the BCBS and IOSCO.

This means re-opening the LCR and Solvency II legislations to ensure harmonised criteria.

Question 1B: What criteria should apply for all qualifying securitisations ('foundation criteria')?

Further to our previous answer, the Commission should aim for one set of harmonised criteria. We suggest that the BCBS/IOSCO criteria should act as a useful starting point. The international criteria benefit from being simpler than the EBA criteria developed in discussion paper 2014/02. While a simpler approach is preferred, the approach should not be too broad which could be subject to abusive arbitrage. The criteria should, in other words, be wide-ranging and allow some flexibility to limit the cliff effects of an instrument unwittingly falling outside the criteria.

Looking at the collected criteria identified by the Commission from the current LCR and Solvency II legislation (page 7), AMIC agrees that the four criteria should be "foundation criteria", but we have some specific additional comments to make.

We believe that synthetic securitisations should, at a later stage, be allowed to be qualifying securitisations, but only on the strict conditions that the rights of investors are replicated from the equivalent physical securitisation. For the immediate future, given the complexity of developing an appropriate set of criteria for synthetic securitisations it might be better delaying this process. The immediate focus should be on the introduction of more appropriate capital treatment for physical qualifying securitisations.

Furthermore, AMIC supports the modular approach proposed by the Commission, of having universal foundation criteria followed by additional risk factors depending on the type of investor (i.e. an insurer or bank).

Finally, as we have pointed out in our introductory comments, it is essential that the concept of qualifying securitisation is used for the whole vehicle and not only to senior tranches.

2.2 Identification criteria for short term instruments

Question 2A: To what extent should criteria identifying simple, transparent, and standardised short-term securitisation instruments be developed? What criteria would be relevant?

We think that criteria identifying qualifying securitisations should, at a later stage, be extended to also cover short-term securitisations, like asset-backed commercial paper (ABCP). Due to the different nature of short-term securitisations, a different set of criteria should be developed for this important market at a second stage, alongside work on synthetic securitisations. The Commission should start addressing this second stage as soon as possible.

Question 2B: Are there any additional considerations that should be taken into account for short-term securitisations?

Given the experience in the last crisis, care should be taken not to encourage arbitrage conduits. One way to do this would be align the underlying credit with the life of the assets.

2.3 Risk retention requirements for qualifying securitisation

Question 3A: Are there elements of the current rules on risk retention that should be adjusted for qualifying instruments?

The 5% risk retention tool has now been in place for a number of years. It has proven a blunt tool, as the 5% requirement applies notwithstanding the underlying asset. E.g. a prime RMBS vehicle has the same as a leveraged loan CLO. There have already been examples of issuers structuring the 5% requirement in a way regulators never intended. There has been insufficient supervision of the enforcement of the retention in a consistent manner. All the investor can do is check that the basic requirement is met, not the way in which it is met. The current flexibility in how the retention is structured means that alignment of interest may exist for investors in certain classes of a transaction but not with others. Policing of elements like “representative sample” has not been implemented. In practice, leaving the retention policing to investors is inadequate. As it currently stands, investors are being held to account for ensuring that originators satisfy the retention requirements, yet they have no obvious means to control the originators actions over the life of the transaction.

Furthermore, there have been a number of cases where issuers have circumvented the requirement by not marketing to EU-based investors, so not requiring holding the 5% risk at all. This has excluded EU based investors from a number of vehicles they have been interested in.

Finally, we agree with the concern raised by the ECB and Bank of England on page four of their response to this consultation, which notes that originators are using a loophole in the definition of “originator”.

We recommend that the onus should only be on originators of a securitisation to verify their risk retention requirement. This should be a requirement of listing the security and should be disclosed throughout the life of the transaction in quarterly investor reports in a comparable manner.

One suggestion to help implement such a change where banks are originators is the idea of restricted notes. To ensure compliance with the risk retention requirement throughout the life of the transaction, originators should be required to retain credit risk of the securitised assets in the form of restricted notes. This is irrespective of whether they are retaining a vertical or horizontal interest or a combination of the two. These restricted notes would only pay a coupon to the originator in the event that they continue to be the beneficial recipient of the interest. If the originator sells on their holdings then the coupon payment would stop. As a result these notes would only have value if the originator is holding them and confer no economic benefit to a potential purchaser.

Question 3B: For qualifying securitisation instruments, should responsibility for verifying risk retention requirements remain with investors (i.e. taking an "indirect approach")? Should the onus only be on originators? If so, how can it be ensured that investors continue to exercise proper due diligence?

We believe that the development of criteria to identify qualifying instruments is a useful opportunity to revisit the indirect approach where the responsibility for ensuring a vehicle’s issuer has retained risk is the investor’s.

We believe that the responsibility for ensuring risk retention <u>in qualifying instruments</u> should be moved to the originator. The originator’s compliance should be more closely monitored by the national competent authority of the originator. Investors should continuously make sure that the originator validates that risk retention requirement is being complied with, for example through investor reports.

Should the national competent authority find it onerous to ensure compliance, another possibility could be to use a third party certification body. As we will point out in our answers to the questions below, a third party certification body might be the best way to certify qualifying securitisations, part of this certification might be the on-going compliance with the risk retention requirement.

2.4 Compliance with criteria for qualifying securitisation

Question 4A: How can proper implementation and enforcement of EU criteria for qualifying instruments be ensured?

Implementation and enforcement of EU criteria for qualifying instruments will be important for investors to trust the new instruments. Investors will need certainty over the labelling process with a robust certification system. The certification should be made at the time of issue. It would be better if the certification and on-going compliance was for every issuance, which would enable investors to trust that e.g. risk retention is continually complied with, and how it is complied with, in every instrument.

Self-certification is <u>not</u> sufficient to give investors confidence about compliance with the criteria.

Question 4B: How could the procedures be defined in terms of scope and process?

We believe that the best option for such a certification system would be a licensing requirement imposed by the national competent authority (i.e. the regulator). However, national regulators may find the need to certify and ensure on-going compliance with the criteria onerous. Therefore, a third party body may be considered, perhaps using the existing expertise and structures available in the Prime Collateralised Securities (PCS) or, in Germany, the True Sale Initiative (TSI) initiatives.

In practical terms, we favour a process that is essentially a set of criteria that the certifying body would confirm with the issuer. The body would then maintain an up-to-date list of complying instruments.

We recognise that there is a cost element to initial certification and on-going compliance monitoring. We note that currently the cost of PCS certification is €9,000 (plus VAT), although PCS receives funding through its membership structure. It is also our understanding that the majority of the cost of certification is up-front rather than on-going.

Question 4C: To what extent should risk features be part of this compliance monitoring?

AMIC thinks that risk features should <u>not</u> be part of the compliance monitoring process by the national regulator or a third party licensing body. It must remain the responsibility of the investor to judge the risk of the underlying assets in a securitisation vehicle. The qualifying criteria should move away from credit quality assessment.

2.5 Elements for a harmonised EU securitisation structure

Question 5A: What impact would further standardisation in the structuring process have on the development of EU securitisation markets?

Greater standardisation in the structuring process would have a beneficial process on the development of EU securitisation markets, because consistent transparency levels would give investors greater certainty about structural elements of securitisation vehicles.

Given the options provided in this consultation paper, we would prefer an optional EU-wide regime for qualifying instruments rather than a harmonised single regime.

Question 5B: Would a harmonised and/or optional EU-wide initiative provide more legal clarity and comparability for investors? What would be the benefits of such an initiative for originators?

The benefits for AMIC members as investors would depend on what is covered in the initiative. If a robust set of criteria can be found that cover investor concerns such as the rights of noteholders, then the initiative can boost investor demand for asset-backed instruments.

Question 5C: If pursued, what aspects should be covered by this initiative (e.g. the legal form of securitisation vehicles; the modalities to transfer assets; the rights and subordination rules for noteholders)?

We want the elements of an EU regime to have a consistent and robust set of criteria in rights of investors in vehicles. However, it would go too far if the initiative would try to harmonise local risk transfer rules, i.e. the true sale rules. These rules are often analogous in many countries, but they look different.

Synthetic vehicles should replicate rights of investors of a physical equivalent, including recourse to underlying assets.

Ideally an EU regime should be principles based to allow local issuers to comply while staying within existing national rules. Principles should include the appointment of independent auditors and a trustee. Also the issuer should not be allowed to change the deal without note-holder consent if that change is harmful to investors.

The European Commission should avoid too much harmonisation which could hamper issuance. Examples here include local tax or insolvency rules. Furthermore, bespoke elements like the exact waterfall of loss distribution cannot be harmonised.

Question 5D: If created, should this structure act as a necessary condition within the eligibility criteria for qualifying securitisations?

No, this structure if created should not limit qualifying securitisations. There should be scope to replicate the criteria outside the EU structure but still deliver the same consistent transparency and structural certainty to investors.

Should the EU structure be made a necessary condition this could harm helpful innovation in the securitisation sector.

2.6. Standardisation, transparency and information disclosure

Question 6A: For qualifying securitisations, what is the right balance between investors receiving the optimal amount and quality of information (in terms of comparability, reliability, and timeliness), and streamlining disclosure obligations for issuers/originators?

We do not necessarily agree that there is a trade-off in this question. Requiring issuers to supply comparable, reliable and timely information should be a given. In terms of what information is given, a good starting point for investors would be the information that the issuer gives to rating agencies.

So the transaction documents as required by the CRA Delegated Regulation (Commission Delegated Regulation (EU) 2015/3) should be made publically available and at no cost to the investor or prospective investors either on the issuer’s website or on a central database at national level immediately after the initial offering is concluded.

Question 6B: What areas would benefit from further standardisation and transparency, and how can the existing disclosure obligations be improved?

The greatest benefit would be an accurate and reliable definition of delinquencies and charge-offs in the underlying pool of assets.

Investors would also benefit from greater awareness of the liability cash flow model. Originators or sponsors should make available to investors the liability cash flow model and information on the cash flow provisions allowing appropriate modelling of the securitisation cash flow waterfall.

Question 6C: To what extent should disclosure requirements be adjusted – especially for loan-level data – to reflect differences and specificities across asset classes, while still preserving adequate transparency for investors to be able to make their own credit assessments?

Disclosure requirements should definitely be adjusted to reflect the underlying asset class. But if an investor wants loan level data then the investor does not care whether the underlying is a static or revolving loan pool. However, where there is a risk of style drift from one type of underlying asset to another, e.g. from RMBS to CMBS in a mixed pool this loan-level data is important.

Question 7A: What alternatives to credit ratings could be used, in order to mitigate the impact of the country ceilings employed in rating methodologies and to allow investors to make their own assessments of creditworthiness?

Investors must always make their own assessments of creditworthiness and country risk is one risk element that must be taken into account. However, in some cases measures like over-collateralisation can be undertaken by the issuer to overcome the country cap and this should be reflected in the investor's assessment of the vehicle.

Question 7B: Would the publication by credit rating agencies of uncapped ratings (for securitisation instruments subject to sovereign ceilings) improve clarity for investors?

Yes, the publication of uncapped ratings, where there are sovereign caps in place, would be helpful for investors, who must nevertheless always make their own judgement of credit risk of any issue or issuer.

2.7 Secondary markets, infrastructures and ancillary services

Question 8A: For qualifying securitisations, is there a need to further develop market infrastructure?

We accept that one of the benefits of an EU regime for criteria to identify qualifying securitisations is to minimise packaging risk by for example using derivatives. However, derivatives can be essential where cash storage is involved to provide liquidity in case of delinquencies.

We do not believe that exchange trading needs to be further developed for two reasons.

Firstly, ABS is an inherently illiquid product, usually bought and held rather than traded. If they are traded, it is OTC because demand is low. The process of buying in the secondary market can take almost as long as buying in the primary market.

Secondly, the secondary market dealer community does not provide the kind of market making capacity that it did previously, due to regulatory changes in CRD IV, MiFID II and CSDR.

Question 8B: What should be done to support ancillary services? Should the swaps collateralisation requirements be adjusted for securitisation vehicles issuing qualifying securitisation instruments?

We agree with the ECB and Bank of England response that derivatives are an important ancillary service for securitisation vehicles, and should benefit from similar treatment as that given to covered bond issuers in EU legislation. Most importantly, securitisation SPVs should be given the same exemption from the need to provide derivative collateral that covered bond issuers benefit from.

Question 8C: What else could be done to support the functioning of the secondary market?

In general, reducing the capital charges for liquidity providing dealers holding ABS as part of market making activity should have a knock-on benefit on liquidity.

We do not believe that a central documentation repository would have any benefit to investors. It would be more helpful for investors if regulators and regulation focused on enhancing the quality and availability of investor reports.

2.8. Prudential treatment for banks and investment firms

<u>A. General framework for banks' and investment firms' exposures to securitisations</u>

Question 9: With regard to the capital requirements for banks and investment firms, do you think that the existing provisions in the Capital Requirements Regulation adequately reflect the risks attached to securitised instruments?

We do not agree that the existing CRR or the BCBS proposed framework published in December 2014 adequately reflect the risk attached to securitised instruments. Both the CRR and the BCBS framework propose capital requirements that are too high as evidenced in the post-crisis study by Fitch Ratings on Global Structured Finance Losses.

Question 10: If changes to EU bank capital requirements were made, do you think that the recent BCBS recommendations on the review of the securitisation framework constitute a good baseline? What would be the potential impacts on EU securitisation markets?

The BCBS December 2014 suggestion to revise the standardised approach and the floors for IRB is very unhelpful. The result would be that the risk weighted assets for corporate exposure under the standardised approach might become substantially higher from 60% to 300% as opposed to 20% to 150% as it is currently.

If the changes introduced by the BCBS securitisation framework are moderated and supplemented by the BCBS-IOSCO criteria for the identification of simple, transparent and comparable securitisations, and the EBA criteria for simple, standard and transparent securitisations, we believe that the Commission will have developed a framework to identify securitisations with improved risk profiles that would warrant different capital treatments for those that do not meet these criteria.

B. Specific framework for banks' and investment firms' exposures to qualifying securitisations

Question 11: How should rules on capital requirements for securitisation exposures differentiate between qualifying securitisations and other securitisation instruments?

Lessons should be learned from the current Solvency II proposed-approach, which pushes vehicles who are not qualifying off a cliff in terms of capital requirements. The rules should be calibrated so that there is more of a continuum than a cliff. It is important not to over-stigmatise non-qualifying securitised instruments. Just because an instrument is non-qualifying does not mean that it is inherently riskier or more dangerous.

Over-capitalisation of non-qualifying vehicles could have the negative effect of "freezing" the market to include only qualifying securitisations.

Question 12: Given the particular circumstances of the EU markets, could there be merit in advancing work at the EU level alongside international work?

We strongly support coordination of work at the international level and sequencing the EU work alongside the international work. Many elements of Australia's APS 120 produced by APRA, for example, have helped to maintain a robust securitisation market in that jurisdiction.

2. 9. Prudential treatment of non-bank investors

Question 13: Are there wider structural barriers preventing long-term institutional investors from participating in this market? If so, how should these be tackled?

No, the biggest inhibitors to greater participation by long-term institutional investors are the stigmatisation of the industry (aided and abetted by regulation), and inappropriate capital requirements in Solvency II. As Solvency II is now being finalised, institutional investors will not be attracted to this asset class. It is essential that it is re-opened.

A. Insurance

Question 14A: For insurers investing in qualifying securitised products, how could the regulatory treatment of securitisation be refined to improve risk sensitivity? For example, should capital requirements increase less sharply with duration?

There is no doubt that the regulatory treatment of securitisation needs further refinement. Despite the work by EIOPA in its 2013 long-term investment package, the final levels in the Solvency II Delegated Act are still too high to pull investors back into the asset class. Capital requirements should certainly increase less sharply with duration, as the biggest risk to long-term buy-and-hold investors is default risk, not volatility risk.

But that is not enough. Overall levels must come down as well for qualifying securitisations. Default risk in many securitisations are extremely low (refer "Global Structured Finance Losses" Fitch

Ratings, October 22, 2010) and the spread risk capital levels must reflect this. It cannot be right that it is cheaper to invest in an entire pool of underlying securities than in a pooled instrument for them.

Also, while lowering the requirements for qualifying securitisations is essential, it is also important to reduce the "cliff effect" between qualifying and non-qualifying securitisations. The transition from one to the other should not result in a massive one-off sudden jump in the capital required to be held against such an instrument.

Question 14B: Should there be specific treatment for investments in non-senior tranches of qualifying securitisation transactions versus non-qualifying transactions?

No, treatment of investments should be on a deal by deal basis, not tranche by tranche basis. Non-senior tranches in a qualifying vehicle should be treated better than similar tranches in a non-qualifying vehicle, but only by virtue of each vehicle being treated differently as a whole.

As a principle the capital treatment of qualifying securitisations should benefit the whole vehicle, not only senior tranches. There should be differences between a qualifying and a non-qualifying instrument as a whole, while avoiding unnecessary cliff effects, which should reflect in the capital treatment of holding tranches, be they senior or non-senior, in either type of vehicle.

B. Other investors

Question 15A: How could the institutional investor base for EU securitisation be expanded?

The most important action the Commission can take to expand the institutional investor base is firstly to get Solvency II amended to draw the insurance investors back in. If insurers allocate more assets to securitisation, other institutional investors will likely follow.

Also, the Commission must resist further tinkering with legislation, as continuing regulatory uncertainty acts as a deterrent to investors and helps to entrench the stigmatisation of the asset class.

Question 15B: To support qualifying securitisations, are adjustments needed to other EU regulatory frameworks (e.g. UCITS, AIFMD)? If yes, please specify.

Referring to our previous response on risk retention, this is an area that should be fixed in other EU regulatory frameworks. We argue that the responsibility for enforcing compliance with the risk retention requirements should no longer lie with the investor.

Therefore, AIFMD and UCITS, in addition to CRR and Solvency II, should be amended to specify that the investment restriction on securitisations where the issuer has retained 5% of the risk should only apply to non-qualifying securitisations. Correspondingly, CRR should be amended to require the originator/issuer to hold the 5% risk retention, and not only to bar banks (as investors) from buying vehicles where the issuer does not hold 5%.

2.10. Role of securitisation for SMEs

Question 16A: What additional steps could be taken to specifically develop SME securitisation?

Investors would benefit from greater access to loan-level data in the underlying pool.

More broadly, much of the benefit for SMEs from the revival of securitisation may in fact come indirectly, i.e. where banks create increased balance sheet capacity by being able to better securitise non-SME assets and hence are better positioned to offer balance sheet (bank lending) to SMEs. With this in mind, the recent paper by the BCBS is very unhelpful as it would make corporate exposure more risky for banks.

Question 16B: Have there been unaddressed market failures surrounding SME securitisation, and how best could these be tackled?

No, we have not found unaddressed market failures surrounding SME securitisation in Europe.

Question 16C: How can further standardisation of underlying assets/loans and securitisation structures be achieved, in order to reduce the costs of issuance and investment?

Standardisation at the underwriting level should include harmonisation of the loan recording process and information about the quality of security taken.

Question 16D: Would more standardisation of loan level information, collection and dissemination of comparable credit information on SMEs promote further investment in these instruments?

The European Commission must focus on making securitisation a more attractive asset class, most importantly through recognising low default rates in capital requirements, but also by making information more accessible.

However, everyone should also have appropriate expectations when it comes to SME lending. There is also a demand question in addition to improving supply. Just because there are more investors looking to allocate assets to SME ABS does not lead to SMEs applying for more loans. Economic fundamentals also have to improve before more SMEs will look for credit. Once such fundamentals do improve, it is right that both the official sector and the private sector have done what they could to improve the financing arrangements to allow the demand for credit to be met from sources other than traditional bank balance sheet lending.

2.11. Miscellaneous

Question 17: To what extent would a single EU securitisation instrument applicable to all financial sectors (insurance, asset management, banks) contribute to the development of the EU's securitisation markets? Which issues should be covered in such an instrument?

Although superficially attractive, we caution against a single EU instrument for securitisation. There has been too much legislative change in the preceding years, which has significantly contributed to stigmatising securitisation, and so driving investors away.

Question 18A: For qualifying securitisation, what else could be done to encourage the further development of sustainable EU securitisation markets?

In addition to the issues raised in this consultation, the European Commission should refrain from interfering further in the securitisation market.

Question 18B: In relation to the table in Annex 2 are there any other changes to securitisation requirements across the various aspects of EU legislation that would increase their effectiveness or consistency?

No.

ENDS