

Europäische Kommission
Generaldirektion Finanzstabilität,
Finanzdienstleistungen und Kapitalmarktunion

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Via E-Mail an:
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BEREICH Integrierte Aufsicht
GZ FMA-LE0001.230/0008-INT/2021
(bitte immer anführen!)

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WIEN, AM 17.09.2021

EK-Konsultation: Targeted consultation on the functioning of the EU securitisation framework

Sehr geehrte Damen und Herren,

bezugnehmend auf die öffentliche Konsultation der Europäischen Kommission

„*Targeted consultation on the functioning of the EU securitisation framework*“

erlauben wir uns Ihnen anbei die offizielle Stellungnahme der Österreichischen Finanzmarktaufsichtsbehörde (FMA) zukommen zu lassen.

Die Stellungnahme wurde zur leichteren Auswertung auch in das ECAS-EU-Survey-Tool unter Verwendung des Links auf der Seite <https://ec.europa.eu/info/consultations/finance-2021-eu-securitisation-framework_en> eingegeben.

Wir ersuchen höflich um Berücksichtigung unserer Anregungen und stehen für Rückfragen sehr gerne zur Verfügung.

Finanzmarktaufsichtsbehörde
Bereich Integrierte Aufsicht

Für den Vorstand

Dr. Christoph Kapfer, LL.M. MBA
Abteilungsleiter

Dr. Christoph Seggermann

elektronisch gefertigt

Signaturwert	KONKT7cx2NC0CvW0Q001FIpwnJRzQqdJDVVx5MZEHbphwzuzjzvAcyjFWvPX/h/ch9DJc jPcuPINcPxi76KTn9FCK4biE1plwEwIaf8kJMERDB12DbHVqal9uowjXeCj1Ed8Lp0m08WeGF2+p9KDmx2df3JvVziAZ96WJ7byFTSeQxRBtr9CYnNlw83PrA+q1FtmW3NsEv05BPwB7h0zyk13AYJvnkGMXTOH3AE/ToNg+bEKwI IHfhKZn0jF+gxJXut jETovhDY5ieuI6QiJQ1SgEyeFor+skD9rrvcUE6NXvjTNPhT4FtCNZ3Mwb40k kiFE4HtZe9u5FUSFIqwNcg==	
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	Aussteller-Zertifikat	CN=a-sign-corporate-light-02,OU=a-sign-corporate-light-02,O=A-Trust Ges. f. Sicherheitssysteme im elektr. Datenverkehr GmbH,C=AT
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General affairs
Policy definition and coordination

EUROPEAN COMMISSION
Directorate-General for Financial Stability, Financial
Services and Capital Markets Union

CONSULTATION DOCUMENT

**TARGETED CONSULTATION ON THE FUNCTIONING
OF THE EU SECURITISATION FRAMEWORK**

Disclaimer

This document is a working document of the Commission services for consultation and does not prejudice the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

The responses to this consultation paper will provide important guidance to the Commission when preparing, if considered appropriate, a formal Commission proposal.

You are invited to reply **by 17 September 2021** at the latest to the **online questionnaire** available on the following webpage:

https://ec.europa.eu/info/publications/finance-consultations-2021-eu-securitisation-framework_en

Please note that in order to ensure a fair and transparent consultation process **only responses received through the online questionnaire will be taken into account and included in the report summarising the responses.**

Please explain your responses and, as far as possible, illustrate them with concrete examples and substantiate them with supporting data. Where appropriate, provide specific operational suggestions to questions raised. Replies limited to “yes” or “no” will not be sufficient for further analytical elaboration.

This consultation follows the normal rules of the European Commission for public consultations. Responses will be published in accordance with the privacy options respondents will have opted for in the online questionnaire.

Responses authorised for publication will be published on the following webpage: https://ec.europa.eu/info/publications/finance-consultations-2021-eu-securitisation-framework_en

Any question on this consultation or issue encountered with the online questionnaire can be raised via email at fisma-securitisation-review@ec.europa.eu.

INTRODUCTION

In the wake of the global financial crisis engagement in the EU securitisation market has shrunk significantly both on the demand and the supply side. When soundly structured, securitisation can play a positive role in deepening capital markets and freeing up bank balance sheets. In particular, by transforming illiquid assets into tradable securities, securitisation can release bank capital for further lending. It is an important building block of the capital markets union (CMU) as it enables risk transfers to a broad set of institutional

investors, allowing them indirectly to finance economic activities, and opens up new investment opportunities.

By enhancing legal clarity via codifying the sectoral rules governing the EU securitisation market in a single regulation, increasing market transparency and putting in place provisions that prevent the re-emergence of the harmful market practices that led to the global financial crisis, the EU aims to revive the EU securitisation market on a more sustainable basis. Furthermore, the introduction of a label for securitisations that are simple, transparent and standardised (STS) helps investors identify high-quality securitisation structures and thus contributes to overcome the stigma that had been attached to the securitisation market.

The EU securitisation framework is applicable since January 2019. The framework consists of the [Securitisation Regulation](#) which sets out a general framework for all securitisations in the EU and a specific framework for simple, transparent, and standardised (STS) securitisations as well as prudential requirements for securitisation positions in the [Capital Requirements Regulation](#) and in [Solvency II](#).

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

In its [capital markets union \(CMU\) action plan](#) published on 24 September 2020 the Commission has committed to review the current regulatory framework for securitisation to enhance banks' credit provision to EU companies, in particular SMEs, to scale-up the securitisation market in the EU. This commitment was echoed in the [European Parliament's own initiative report on the CMU, adopted in October 2020](#), and endorsed by the Council conclusions of December 2020 on the Commission's CMU action plan.

This coincides with the Commission's legal obligation under Article 46 of the Securitisation Regulation to submit a report on the functioning of the Regulation to the European Parliament and to the Council by 1 January 2022. Article 46 lists a number of topics that shall be covered. In addition, the report shall take into account the findings of the [report on the functioning and implementation of the regulation by the Joint Committee of the European Supervisory Agencies \(ESAs\)](#).

In order to deliver on the Commission's commitment in the CMU action plan and in order to prepare the mandated report, this targeted consultation seeks stakeholders' feedback on a broad range of issues. It covers the areas mandated by Article 46 of the Securitisation Regulation, namely

- the effects of the regulation (Section 1)
- private securitisations (Section 2)
- the need for an equivalence regime in the area of STS securitisations (Section 5)
- disclosure of information on environmental performance and sustainability (Section 6) and
- the need for establishing a system of limited licensed banks performing the functions of SSPEs - securitisation special purpose entities (Section 7)

In addition, the questionnaire seeks feedback on a number of additional issues that have been identified and raised by stakeholders and by the [Joint Committee of the ESAs](#) as having an impact on the functioning of the securitisation framework. This questionnaire will be followed by a call for advice to the Joint Committee of the ESAs on the appropriateness of the prudential treatment of securitisations.

In view of the technical nature of the issues, the questionnaire is targeted to market participants, including data repositories and rating agencies, industry associations and supervisors. While some questions are general, others are directed towards particular participants in the securitisation market, i.e. issuers or investors, or towards supervisors. Please note that not all questions are relevant for all stakeholders and that you are not expected to reply to every question.

The targeted consultation is available in English only and will be open for **8 weeks and will close on 17 September 2021**.

The consultation will be followed by a roundtable event for which a separate invitation will be issued in due time. The contact details provided in replying to this consultation will be used to send out the invitations to the roundtable.

CONSULTATION QUESTIONS

1. Effects of the regulation

Question 1.1. Has the Securitisation Regulation (SECR) been successful in achieving the following objectives:

	Fully agree	Somewhat agree	Neutral	Somewhat Disagree	Fully disagree	No opinion
Improving access to credit for the real economy, in particular for SMEs						
Widening the investor base for securitization products in the EU						
Widening the issuer base for securitisation products						
Providing a clear legal framework for the EU securitisation market						
Facilitating the monitoring of possible risks						
Providing a high level of investor protection						
Emergence of an integrated EU securitisation market						

Question 1.2. If you answered 'somewhat disagree' or 'fully disagree' to any of the objectives listed in the previous question, please specify the main obstacles you see to the achievement

of that objective.

Question 1.3. What has been the impact of the SECR on the cost of issuing / investing in securitisation products (both STS and non-STS)? Can you identify the biggest drivers of the cost change? Please be specific.

2. Private securitisations

The legal framework acknowledges the bilateral and bespoke nature of so-called private securitisations and does not require them to disclose detailed information about the transaction to potential investors in the same way that it does for public securitisations. However, this needs to be balanced against the need to ensure adequate supervision of private transactions, which requires access to sufficient information on the part of supervisors. As a result, the current legal framework requires private securitisations to fill in the same data templates as public securitisations.

Question 2.1. Are you issuing more private securitisations since the entering into application of the EU securitisation framework?

- Yes, significantly
- Yes, slightly
- No change
- No, it has decreased

Question 2.2. What are the reasons for this development (please explain your answer)?

Question 2.3. Do the current rules enable supervisors to get the necessary information to carry out their supervisory duties for the private securitisation market?

- Yes
- No**
- No opinion

Please explain your answer.

As supervisors, in our experience further harmonisation of reporting standards would be necessary. Please also refer to section 5.5 of the Joint Committee Report JC 2021 31¹.

¹ <https://www.esma.europa.eu/press-news/esma-news/esas%E2%80%99-report-implementation-and-functioning-securitisation-regulation>

Currently there is neither a uniform database nor a uniform reporting standard for private securitisations. Furthermore, notification requirements under Article 7.1 of the STS Regulation are not consistently applied by all private securitisations. A clarification of the level 1 text would be very helpful in this regard (please also refer to our remarks to question 8.4).

Question 2.4. Do investors in private securitisations get sufficient information to fulfil their due diligence requirements?

- Yes
- No
- No opinion

Please explain your answer.

Question 2.5. Do you find useful to have information provided in standard templates, as it is currently necessary according to the transparency requirements of Article 7 and the associated regulatory and implementing technical standards?

- Yes
- No
- No opinion

Please explain your answer.

Question 2.6. Does the definition of private securitisation need adjustments?

- Yes**
- No
- No opinion

If you answered 'yes' to question 2.6, please explain why and how should the definition of private securitisations be adjusted.

Please refer to section 5.5 of the Joint Committee Report JC 2021 31², which is fully supported by the Austrian FMA.

² <https://www.esma.europa.eu/press-news/esma-news/esas%E2%80%99-report-implementation-and-functioning-securitisation-regulation>

3. Due diligence

The transparency regime in the SECR requires that the originator, sponsor and SSPE of a securitisation make a range of information available to the holders of the position, to competent authorities and, upon request, to potential investors. The information is provided via templates and is intended to enhance the transparency of the securitisation market as well as to facilitate investors' due diligence and the supervision of the market. The following questions aim to find out whether the information that is currently provided to investors is appropriate, sufficient and proportionate for their due diligence purposes and whether any improvements can be made.

Question 3.1. Do you consider the current due diligence and transparency regime proportionate?

- Yes
- No
- No opinion

Please explain your answer.

Question 3.2. What information do investors need? How do investors carry out due diligence before taking up a securitisation position?

Question 3.3. Is loan-by-loan information disclosure useful for all asset classes?

Yes - please specify (multiple choice accepted)

- Auto-loans/leases
- Trade receivables
- Residential mortgages (RMBS)
- SME loans
- Corporate loans
- Leases
- Consumer loans
- Credit-card receivables
- Other - please specify

- No
- No opinion

Please explain your answer.

Question 3.4. Is loan-by-loan information disclosure useful for all maturities?

- Yes
- No
- No opinion

Please explain your answer.

Question 3.5. Does the level of due diligence and, consequently, the type of information needed depend on the tranche the investor is investing in?

- Yes
- No
- No opinion

Please explain your answer.

Question 3.6. Does the level of due diligence and, consequently, the type of information needed depend on whether the securitisation is a synthetic or a true-sale one?

- Yes
- No
- No opinion

Please explain your answer.

Question 3.7. Are disclosures under Article 7 sufficient for investors?

- Yes
- No
- No opinion

Please explain your answer.

If you answered 'no' to question 3.7, please specify what is missing?

Question 3.8. Do you find that there are any unnecessary elements in the information that is disclosed?

- Yes
- No
- No opinion

Please explain your answer.

Question 3.9. Can you identify data fields in the current disclosure templates that are not useful? Please explain your answer.

Question 3.10. Can the disclosure regime be simplified without endangering the objective of protecting EU institutional investors and of facilitating supervision of the market in the public interest?

- Yes
- No
- No opinion

Please explain your answer.

4. Jurisdictional scope

The [Joint Committee of the ESAs issued an opinion to the Commission on the jurisdictional scope of the Securitisation Regulation](#), identifying some elements of the legal text that require clarification. This section of the questionnaire seek feedback on the issues identified by the Joint Committee.

Question 4.1. Have you experienced problems related to a lack of clarity of the Securitisation Regulation pertaining to its jurisdictional scope?

- Yes
- No

No opinion

Please explain your answer.

Question 4.2. Where non-EU entities are involved, should additional requirements (such as EU establishment/presence) for those entities be introduced to facilitate the supervision of the transaction?

- Yes
- No
- No opinion

Please explain your answer.

Question 4.3. In transactions where at least one, but not all sell-side entities (original lender, originator, sponsor or SSPE), is established in the EU:

A. Should only entities established in the EU be eligible (or solely responsible) to fulfil the risk retention requirement under Article 6?

- Yes
- No
- No opinion

Please explain your answer.

B. Should the main obligation of making disclosures under Article 7 be carried out by one of the sell-side parties in the EU? In this case, should the sell-side party(ies) located in a third country be subject to explicit obligations under the securitisation contractual arrangements to provide the necessary information and documents to the party responsible for making disclosures?

- Yes
- No
- No opinion

Please explain your answer.

C. Should the party or parties located in the EU be solely responsible for ensuring that the “exposures to be securitised” apply the same credit-granting criteria and are subject to the same processes for approving and renewing credits as non-securitised exposures in accordance with Article 9?

- Yes
- No
- No opinion

Please explain your answer.

D. Should a reference to sponsors located in a third country be included in the due diligence requirements Article 5(1)(b) of the SECR? How could their adequate supervision be ensured?

- Yes
- No
- No opinion

Please explain your answer.

Question 4.4. Should the current verification duty for institutional investors laid out in Article 5(1)(e) of the SECR be revised to add more flexibility the framework?

- Yes
- No
- No opinion

Please explain your answer.

If you answered ‘Yes’ to question 4.4, how can it be ensured that the ultimate objective of protecting EU institutional investors remains intact?

Question 4.5. Should the SECR and the Alternative Investment Fund Managers Directive

(AIFMD) be amended to clarify that non-EU AIFMs should comply with the due diligence obligations set out in Article 17 of the AIFMD and Article 5 of the SECR with respect to those AIFs that they manage and/or market in the Union?

- Yes
- No
- No opinion

Please explain your answer.

Question 4.6. Should the SECR be amended to clarify that sub-thresholds AIFMs fall within the definition of institutional investor thereby requiring them to comply with the due diligence requirements under Article 5 of the SECR?

- Yes
- No
- No opinion

Please explain your answer.

5. Equivalence

The SECR does not include an equivalence regime and Article 18 of SECR requires that originators, sponsors and SSPE of an STS securitisations are established in the EU. The Commission is tasked to investigate whether an equivalence regime for STS securitisations should be introduced.

Question 5.1. Has the lack of recognition of non-EU STS securitisation impacted your company?

- Yes
- No
- No opinion

If you answered yes, please provide a brief explanation how was your company affected.

Question 5.2. Should non-EU entities be allowed to issue an STS securitisation?

- Yes
- No

No opinion

Please explain your answer. If you answered yes, how should the second sub-paragraph of Article 18, that requires that the originator, sponsor and SSPE involved in a securitisation considered STS shall be established in the Union, be revised?

Question 5.3. Should securitisations issued by non-EU entities be able to acquire the STS label under EU law?

Yes, in case the securitisation is issued in a jurisdiction that has a regime declared to be equivalent to the EU STS regime;

Yes, in another way, for example by other mechanisms used in financial services legislation like recognition or endorsement;

No

No opinion.

Please explain your answer.

Question 5.4. Which considerations could be relevant to introducing any of the above mechanisms (e.g. equivalence/recognition/endorsement/other) and which could be the conditions attached to such mechanisms?

6. Sustainability disclosure

SECR requires that where the underlying loans are residential mortgages or auto loans/leases the available information related to the environmental performance” of the underlying assets is published for STS securitisation. This obligation was amended with the [capital markets recovery package](#) by including a derogation, whereby originators may, instead, choose to publish “the available information related to the principal adverse impacts of the assets financed by underlying exposures on sustainability factors”. The Commission is asked to investigate whether the requirements in Articles 22(4) [term STS] and 26d(4) [on-balance-sheet STS] about publishing the available information related to the environmental performance of the assets should be extended to securitisation where the underlying exposures are not residential loans or auto loans or leases, with a view to mainstreaming environmental, social and governance disclosure.

Question 6.1. Are there sufficiently clear parameters to assess the environmental performance

of assets other than auto loans or mortgages?

- Yes, for all asset classes
- Yes, but only for some asset classes (please specify)
- No
- No opinion

Please explain your answer.

Question 6.2. Should publishing information on the environmental performance of the assets financed by residential loans and auto loans and leases be mandatory?

- Yes, the information is currently available
- Yes, but with a transitional period to ensure the availability of information
- Yes, with a grandfathering arrangement for existing deals
- No
- No opinion

Please explain your answer.

Question 6.3. As an investor, do you find the information on environmental performance of assets valuable?

- Yes
- No
- No opinion

Describe the use you have made of it?

Question 6.4. Do you think it is more useful to publish information on environmental performance or on adverse impact and why?

Question 6.5. a) Do you agree that these asset specific disclosures should become part of a general sustainability disclosures regime as EBA is developing?

- Yes

- No
- No opinion

Please explain your answer.

Question 6.5. b) Should ESG disclosures be mandatory for (multiple choice accepted):

- Securitisation that complies with the EU green bond standard;
- RMBS;
- Auto loans/leases ABS;

Please explain your answer.

Question 6.6. Have you issued or invested in a green or sustainable securitisation? If yes, how was the green/sustainability dimension reflected in the securitisation? (multiple choice accepted)

- Green or sustainable underlying assets
- Use of proceeds for green/sustainable projects. If so, please describe how the use of proceeds principle is applied
- Green/sustainable collateral AND use of proceeds for green/sustainable projects. If so, please describe how the use of proceeds principle is applied
- Other (please describe)

Please explain your answer.

Question 6.6. According to the [Commission proposal for a European green bond standard](#), a securitisation bond may qualify as EU green bond if the proceeds of the securitisation are used by the issuing special purpose vehicle to purchase the underlying portfolio of Taxonomy-aligned assets. Is there a need to adjust this EuGB approach to better accommodate sustainable securitisations or is there a need for a separate sustainable securitisation standard?

- Yes
- No
- No opinion

[If so, what should be the requirements for a securitisation standard?] Please explain your answer.

7. A system of limited-licensed banks to perform the functions of SSPEs

SECR text has tasked the Commission to investigate if there is there a need to complement the framework on securitisation by establishing a system of limited licensed banks, performing the functions of SSPEs and having the exclusive right to purchase exposures from originators and sell claims backed by the purchased exposures to investors.

Question 7.1. Would developing a system of limited-licensed banks to perform the functions of SSPEs bring added value to the securitisation framework?

- Yes
- No
- No opinion

Please explain your answer.

Question 7.2. If you answered 'yes' to question 7.1, please specify what elements should such a system include?

Please explain your answer.

8. Supervision

The [Joint Committee of the ESAs' report on the implementation and functioning of the securitisation framework](#) noted some possible shortcomings in the supervision of the market. This section seeks to gather additional feedback in the areas identified by the Joint Committee.

Question 8.1. Are emerging supervisory practices for securitisation adequate?

- Yes
- No
- No opinion

Please explain your answer.

Question 8.2. Have you observed any divergences in supervisory practices for securitisation?

- Yes
- No
- No opinion

Question 8.3. If you answered 'yes' to question 8.2, please explain your answer.

Question 8.4. Should the Joint Committee develop detailed guidance (guidelines or regulatory technical standards) for competent authorities on the supervision of any of the following areas.

A. the due diligence requirements for institutional investors (Art 5)

- Yes**
- No
- No opinion

Please explain your answer.

Proportionality aspects of due diligence requirements require further guidance.

B. risk retention requirements (Art 6)

- Yes
- No
- No opinion**

Please explain your answer.

C. transparency requirements (Art 7)

- Yes**
- No
- No opinion

Please explain your answer.

Not all market participants interpret article 7.1 of the STS Regulation in a consistent way. In private securitisations competent authorities are not always automatically notified, which is essential for a functioning market.

D. credit granting standards (Art 9)

Yes

No

No opinion

Please explain your answer.

E. private securitisations

Yes

No

No opinion

Please explain your answer.

See remarks to questions 2.3 and 2.6

F. STS requirements (Articles 18 - 26e)

Yes

No

No opinion

Please explain your answer.

Question 8.4. Are any additional measures necessary to make sure that competent authorities are sufficiently equipped to supervise the market?

Yes

No

No opinion

Please explain your answer.

Question 8.5. Do supervisors consider the disclosure requirements (both the content and

format) for public securitisations sufficiently useful?

- Yes
- No
- No opinion

Please explain your answer. In particular, if you answered 'no', how could they be improved?

Question 8.6. Do supervisors consider the disclosure requirements (both the content and format) for private securitisations sufficiently useful? If not, how could they be improved?

- Yes
- No
- No opinion

Please explain your answer. In particular, if you answered 'no', how could they be improved?

9. Assessment of non-neutrality correction factors impact

The current regulatory capital framework for securitisations is built on non-neutrality correction factors to capture the agency and model risks prevalent in securitisations. These include

- I. the (p) factor, a capital surcharge on the tranches relative to the underlying pool's capital set at a minimum of 0.3 (30% capital surcharge) for SEC-IRBA (Article 259(1) of the CRR) and at 1 for SEC-SA (Article 261(1) of the CRR) (100% capital surcharge)
- II. the capital floors, whereby the lowest risk weight that may be assigned to the senior securitisation tranche may not be less than 15% (10% in the case of a simple, transparent and standardised -"STS"- securitisation)

Question 9.1 a) In your view, is the capital impact of the current levels of the (p) factor proportionate, having regard to the relative riskiness of each of the tranches in the waterfall, and adequate to capture securitisations' agency and modelling risks?

- Yes
- No
- No opinion

Question 9.1 b) If you would favour reassessing the current (p) factor levels, please explain

why and what alternative levels for (p) you would suggest instead.

Question 9.2 Are current capital floor levels for the most senior tranches of STS and non-STS securitisations proportionate and adequate, taking into account the capital requirements of comparable capital instruments?

- Yes
- No
- No opinion

Please explain your answer.

Question 9.3 Are there any alternative methods to the (p) factors and the capital floors to capture agency and modelling risk of securitisations that could be regarded as more proportionate?

Please provide evidence to support your responses to the above questions.

10. Maturity

With reference to question 9, the level of the maturity of the tranche has an important impact on the calculation of the (p) factor in SEC-IRBA, the look-up table of SEC-ERBA, and indirectly in the calibration of the (p) factor in SEC-SA in order to keep the relative capital charges under the hierarchy of approaches. EBA Guidelines on the determination of the weighted average maturity of the contractual payments due under the tranche have provided a methodology to calculate the maturity of a tranche in a more accurate way, helping to mitigate that impact.

Question 10.1. Do you think that the impact of the maturity of the tranche is adequate under the current framework?

- Yes
- No
- No opinion

Please explain your answer.

Question 10.2. Is there an alternative way of considering the maturity of the tranche within the securitisation framework?

- Yes
- No
- No opinion

Please explain your answer.

11. Treatment of STS securitisations and asset-backed commercial papers (ABCPs) for the liquidity coverage ratio (LCR)

STS securitisations currently qualify as level 2B assets under the [LCR delegated act](#), subject to certain additional requirements laid out therein. If STS securitisations were reclassified as level 2A, up to 40% of a credit institution's liquidity buffer could be made up of STS securitisations.

ABCPs may qualify as STS securitisations but do not meet the necessary requirements to qualify as liquid assets for LCR-purposes.

Question 11.1 a) Should STS securitisations be upgraded to level 2A for LCR purposes?

- Yes
- No
- No opinion

Please explain your answer.

Question 11.1 b) If you answered 'yes' to question 11.1(a), should specific conditions apply to STS securitisations as Level 2A assets to mitigate a potential concentration risk of this type of assets in the liquidity buffer.

Please support your arguments with evidence on the liquidity performance of STS securitisations or parts of the market thereof, providing in particular evidence of the liquidity of the asset in crisis times such as March 2020.

Question 11.2 a) Should ABCPs qualify as level 2B assets for LCR purposes?

- Yes
- No

No opinion

Please explain your answer.

Question 11.2 b) Should specific conditions apply to ABCPs as level 2B assets for LCR purposes.

Please support your arguments with evidence on the liquidity performance of ABCPs, providing in particular evidence of the liquidity of the asset in crisis times such as March 2020.

12. SRT tests

The recent [EBA report on significant risk transfer \(SRT\)](#) recommended improving the current SRT tests, the specification of the test on the commensurate transfer of risk (CRT test) and the implementation of a new principle-based approach test (PBA test).

The allocation of the lifetime expected losses (LTEL) and the unexpected losses (UL) of the underlying portfolio plays a fundamental role in those tests. In synthetic securitisations in particular, the consideration of optional calls and the application of Article 252 of the CRR on maturity mismatches affect the outcome of the tests. Optional calls shorten the expected life of the deal, reduce the LTEL as a result, and favour the allocation of the UL to the tranches that provide credit enhancement, while, at the same time, such calls may trigger the application of Art. 252 on maturity mismatches, thus increasing the capital charge on the tranches retained by the originator.

Question 12.1. Do you agree with the allocation of the LTEL and UL to the tranches for the purposes of the SRT, CRT and PBA tests, as recommended in the EBA report?

Yes

No

No opinion

Please explain your answer.

The EBA report was fully supported by the Austrian FMA.

Question 12.2. What are your views on the application of Art. 252 of the CRR on maturity mismatches when a time call, or similar optional feature, is expected to happen during the life of the transaction?

13. SRT assessment process

Section 5 of the [EBA report on SRT](#) laid out a series of recommendations on a suggested process for assessing SRT and standard documentation to be submitted to the originator's competent authority.

	Yes	No	No opinion
Question 13.1. What are your views on the EBA-recommended process for the assessment of SRT as fully set out in Section 5 of the EBA report on SRT?	✓		
Question 13.2. Do you agree with the standardised list of documents that the EBA report on SRT recommended for submission to the competent authority for SRT assessment purposes?	✓		
Question 13.3. Once it has been established that the regulatory quantitative and qualitative criteria are met and transactions are in line with standard market practices, should a systematic ex-ante review be necessary?			✓

Please explain your answer.

The EBA report was fully supported by the Austrian FMA.

Question 13.4 Should the ex-ante assessment by the Competent Authority be limited to complex transactions?

Yes

No

No opinion

Please explain your answer.

14. Amendments to CRR

Section 6 of the [EBA report on SRT](#) recommended a set of amendments of the CRR to simplify and improve the current SRT tests.

Question 14.1 Do you agree with the recommendations on amendments of the CRR as fully laid out in Section 6 of the EBA report on SRT?

Yes

No

No opinion

Please explain your answer.

The EBA report was fully supported by the Austrian FMA.

15. Solvency II

Insurance companies allocate only a small portion of their investments to securitisation positions. The Commission would like to know whether Solvency II standard formula capital requirements or other factors cause limited demand by insurance companies.

Question 15.1. Is there an appetite from insurers to increase their investments in securitisation (whether a senior tranche, mezzanine tranche, or a junior tranche)?

Yes

No

No opinion

Please explain your answer.

Question 15.2. Is there anything preventing an increase in investments in securitisation by insurance companies?

Yes

No

No opinion

Please explain your answer.

Question 15.3. Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for the senior tranches of STS securitisations proportionate and commensurate with their risk, taking into account the capital requirements for assets with similar risk characteristics?

Yes

No

No opinion

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

Question 15.4. Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for the non-senior tranches of STS securitisations proportionate and commensurate with their risk, taking into account the capital requirements for assets with similar risk characteristics?

Yes

No

No opinion

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

Question 15.5. Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for non-STS securitisations proportionate and commensurate with their risk, taking into account the capital requirements for assets with similar risk characteristics?

Yes

No

No opinion

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

Question 15.6. Should Solvency II standard formula capital requirements for spread risk differentiate between mezzanine and junior tranches of STS securitisations?

Yes

No

No opinion

Please explain your answer.

Question 15.7. Should Solvency II standard formula capital requirements for spread risk differentiate between senior and non-senior tranches of non-STS securitisations? Please explain your answer.

Yes

No

No opinion

Please explain your answer.