Update to the IOSCO Peer Review of Implementation of Incentive Alignment Recommendations for Securitisation

The Board
of the
International Organization of Securities Commissions

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1. Executive Summary

This report (**Report**) sets out the findings of a limited-scope review (**Update Review**) conducted in 2018 by the International Organization of Securities Commissions (**IOSCO**) to identify progress by IOSCO member jurisdictions in implementing IOSCO recommendations on incentive alignment for securitisations.

In September 2015, IOSCO published *Peer Review of Implementation of Incentive Alignment Recommendations for Securitisation: Final Report* (**2015 Report**).[1] The 2015 Report set out findings of a thematic review conducted by the IOSCO Assessment Committee (**2015 Peer Review**) of the progress of 25 jurisdictions in adopting legislation, regulation or policy guidance in relation to incentive alignment recommendations contained in IOSCO's November 2012 Report *Global Developments in Securitisation Regulation*.[2]

Key findings from the 2015 Peer Review were provided to the Financial Stability Board (**FSB**) for inclusion in their report to the G20 in 2015, titled *Implementation and the effects of the G20 financial regulatory reforms*.[3] This was published in November 2015 and focused on the progress of implementation of reforms in 24 FSB member jurisdictions in two Reform Areas (**Reviewed Reform Areas**):

i. Evaluate incentives across the securitisation value chain, formulate and implement approaches to incentive alignment (Reform Area 1); and

ii. Set out the elements of the incentive alignment approach, including risk retention (Reform Area 2).

In November 2017, IOSCO published a report setting out the findings of Update Reviews conducted in 2016 and 2017.[4] The report covered progress made by jurisdictions in implementing reforms in the three areas mentioned above with the main findings of the Update Reviews being reported to the FSB and included in the Second[5] and Third[6] Annual Reports on

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1 Available at: http://www.iosco.org/library/pubdocs/pdf/IOSCOPD504.pdf.

2 IOSCO published three incentive alignment recommendations in *Global Developments in Securitisation Regulation* (November 2012) available at: http://www.iosco.org/library/pubdocs/pdf/IOSCOPD394.pdf. The 2015 Peer Review was a Level 1 or Adoption Monitoring review to measure implementation progress of participating jurisdictions with the incentive alignment recommendations. Measures in respect of the third recommendation (Recommendation 3 — Seek to minimise the potentially adverse effects to cross-border securitisation transactions resulting from differences in approaches to incentive alignment and risk retention) were not reported as part of the 2015 Peer Review.

3 Available at: http://www.fsb.org/wp-content/uploads/Report-on-implementation-and-effects-of-reforms-final.pdf.

4 Available at: http://www.iosco.org/library/pubdocs/pdf/IOSCOPD584.pdf.

5 Available at: http://www.fsb.org/2016/08/implementation-and-effects-of-the-g20-financial-regulatory-reforms-2/.

6 Available at: http://www.fsb.org/2017/07/implementation-and-effects-of-the-g20-financial-regulatory-reforms-third-annual-report/.

Implementation and Effects of the G20 Financial Regulatory Reforms, published on 31 August 2016 and 3 July 2017, respectively.

This report will set out the findings of the 2018 Update Review, where IOSCO members from 24 participating FSB member jurisdictions (**Participating Jurisdictions**) were asked to provide information on any regulatory developments in these areas as of **30 August 2018**.

In 2018, it was found that changes in implementation status were warranted for EU member jurisdictions[7] (France, Italy, the Netherlands, Spain, and the United Kingdom) in both Reform Areas. The Update Review also found that reforms were underway in Argentina, Australia, Brazil, China, Indonesia, Russia and Saudi Arabia, however, these did not warrant a change in implementation status. Of note, is Brazil, which reports implementing its first risk retention requirements (previously relying on disclosure only as an incentive alignment measure) for one sector of its market, with plans to expand these to other sectors in the future.

Of the three Participating Jurisdictions which reported completed reforms in the two Reform Areas since 2016, two jurisdictions (United States and Republic of Korea) account for approximately 79% of the global market.[8]

Overall, progress remains mixed across Participating Jurisdictions in implementing the recommendations for incentive alignment for securitisation. Only half the Participating Jurisdictions have final adoption measures in place for incentive alignment (Reform Area 1), and less than half for disclosure (Reform Area 2).

As of **30 August 2018**:

i. Twelve jurisdictions had final adoption measures in force for Reform Area 1 on implementation of incentive alignment regimes (unchanged since 2017);

ii. Ten jurisdictions had final adoption measures in force for Reform Area 2 on disclosure requirements for issuers (unchanged since 2017); and

iii. Five EU jurisdictions had final adoption measures published but not taken or in force (improvement from 2017).

Part 2 of the Report provides some background and Part 3 sets out the methodology used in the two Update Reviews. Part 4 of the Report analyses in detail the substance of the changes jurisdictions have undertaken in adopting legislation, regulation and other policies. Finally,

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7 In 2015, Germany's status for the banking AIFMs and UCITs sector was rated as "Final adoption measures taken and in force" on the basis of domestic regulation. Then in 2016, as a result of the Solvency II Directive being transposed in Germany, the remaining insurance sector also became rated as such. While the EU Securitisation Regulation impacts Germany, no changes are warranted to implementation status.

8 Market size based on value of securitisation issuance (CDOs, MBS, ABS) in FSB jurisdiction during 2014. Based on this data, securitisation market is concentrated (76.37%) in US while some jurisdictions including Switzerland, Hong Kong and Singapore have no or no material securitisation markets. See the 2015 Report, available at: http://www.iosco.org/library/pubdocs/pdf/IOSCOPD504.pdf.

Part 5 contains updated tables summarising the implementation status of each Participating Jurisdiction in areas covered by the Update Reviews.

2. Background

2.1. 2015 Peer Review

The 2015 Peer Review undertaken by the Assessment Committee was a Level 1 or "Adoption Monitoring" Review. It measured progress in implementation only and did not consider the consistency of Adoption Measures with the underlying incentive alignment recommendations. Further detail on the substance of the incentive alignment recommendations can be found in **Appendix I**.

The 2015 Peer Review reported progress only in relation to implementation of parts of Recommendations 1 and 2 (being Reform Areas 1 and 2 respectively). A review of implementation of Recommendation 3 was seen to be premature. This was because many jurisdictions were in the process of implementing requirements or were yet to commence doing so. It was decided that an assessment of efforts to minimise cross border impacts would be more meaningful once requirements have been fully implemented.

2.2. 2015 Peer Review Findings

The 2015 Peer Review found that there had been significant but mixed progress in implementing the incentive alignment recommendations.

Of the respondents, five[9] reported having completed implementation of all measures to implement incentive alignment recommendations covered in the 2015 Report (**Adoption Measures**)[10] in respect of the whole securitisation market.

The 2015 Report also reported that, in 11 jurisdictions,[11] steps had been taken to implement all Adoption Measures, but those steps were either not yet complete or were not yet fully in force across the whole securitisation market.

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9 China, India, Indonesia, Japan and Turkey.

10 The recommendations covered are Recommendation 1 and 2. Adoption Measures comprise a number of actions. They include the assessment by jurisdictions of the nature of the incentives of issuers and investors in the securitisation value chain; the development of approaches to align incentives in the securitisation market; and the implementation of these approaches to align incentives.

11 Argentina, Brazil, France, Germany, Ireland (which is not an FSB member and therefore not included in this Report), Italy, Netherlands, Russia, Spain, United Kingdom and United States.

In two jurisdictions, draft or final Adoption Measures had been published but did not apply to at least one part of the securitisation market.[12] In one jurisdiction,[13] measures reported as implementing IOSCO's Recommendations were not regarded as incentive alignment measures.

In six[14] jurisdictions, draft Adoption Measures had not been published in relation to any incentive alignment recommendation covered by the Peer Review.

3. Update Review Methodology

The Methodology used for the 2018 Update Reviews is set out below. This is the same methodology used in 2016 and 2017.

3.1. Objectives and Scope

This report presents the progress of implementation in the Reviewed Reform Areas for 24 FSB jurisdictions. A full list of Participating Jurisdictions for the Update Reviews is set out in **Appendix II**.

Participating Jurisdictions were asked to identify progress in adopting legislation, regulation and other policies in relation to securitisation regulation in the Reviewed Reform Areas.

For the purposes of the two Update Reviews, the cut-off date for reporting implementation progress was **30 August 2018** (**Reporting Date**).

3.2. Review Team

The Update Review in 2018 was conducted by a team comprised of staff from the IOSCO General Secretariat and the Securities and Exchange Board of India (**Review Team**).

3.3. Review Process

The Update Reviews were desk-based exercises. Participating Jurisdictions were asked to identify whether there had been any legislative or regulatory changes relating to the Reviewed Reform Areas and if so, whether these changes would require a revision to the implementation status reported in the 2015 Report.

Where changes were reported, the Review Team applied the original Methodology developed for the 2015 Peer Review to verify and assess the self-reporting to ensure the key elements that formed the basis of the 2015 Peer Review were applied in a consistent manner.

The original reporting scale, as shown in **Table 1** below, was used by the Review Team to indicate the status of reform activity since the 2015 Peer Review.

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12 Australia and Mexico.

13 Canada.

14 Hong Kong, Republic of Korea, Saudi Arabia, Singapore, South Africa and Switzerland.

Table 1 — Reporting Scale used for Peer Review

	Final adoption measures taken (and in force, where relevant)
	Final adoption measures published but not taken or in force
	Draft adoption measures published
	Draft adoption measures not published
	Not applicable

Note that a triangle (Δ) symbol has been used to denote instances where the implementation of incentive alignment approaches is more advanced in one or more sectors of the market than the overall rating. As explained below, jurisdictions have been rated based on the least advanced market segment in terms of incentive alignment implementation.

Where Adoption Measures were being implemented sector-by-sector, or where requirements applied only to specific sectors — such as banks — **the summary or "overall" ratings in the tables below have been applied to the least advanced sector**. These cases have been distinguished in the overall rating rows with a triangle.

It should be noted that the findings of the Update Reviews are based on information provided by the Participating Jurisdictions. This includes copies of relevant legislation, regulations or guidance. Where necessary, the Review Team has sought to clarify and verify the statements made by Participating Jurisdictions in their submissions. However, the Review Team has not sought independent confirmation of the matters reported by Participating Jurisdictions in their submissions for the Update Reviews.

4. Key Findings

4.1. Overview

4.1.1. 2018

In 2018, changes in implementation status were warranted for five jurisdictions, all EU member states as a result of the EU Securitisation Regulation and CRR Amendments coming into force in 2018 (to be entered into application in 2019). This regulation lays down a general framework for all securitisations and provides an incentive alignment regime that covers all sectors. This introduced requirements for the Undertakings for Collective Investments in Transferable Securities Directive (UCITS) sector which until now was not regulated by the existing EU

sectoral regulation. As a result, the overall implementation status changed from "Draft adoption measures published" to "Final adoption measures published but not taken or in force".[15]

Four jurisdictions (Brazil, China, Indonesia, Russia) reported reforms which supported existing regulation and did not change Reviewed Reform Areas that were already rated as "Final adoption measures taken and in force". Of note, is Brazil, which reports implementing its first risk retention requirements (previously relying on disclosure only as an incentive alignment measure) for one sector of its market, with plans to expand these to other sectors in the future.

Two jurisdictions (Argentina and Saudi Arabia) reported significant reforms, however these did not warrant a change to the Reviewed Reform Areas. Argentina reported reforms for disclosure relating to Securitisation, however as this did not relate to the disclosure of the incentive alignment method, no changes were warranted to Reform Area 2. Saudi Arabia reported new rules regulating Special Purpose Entities (SPEs), however these did not appear to constitute an incentive alignment method under Reform Area 1.

Additionally, Australia reported that no proposals have or were made since abandoning an earlier proposal for incentive alignments in 2016.

Canada, Hong Kong, India, Japan, Mexico, Republic of Korea, Singapore, South Africa, Switzerland, Turkey and the United States reported no legislative or regulatory changes since last year's update.

4.2. Changes in Reported Implementation Status in 2018

4.2.2. European Union

In 2016, EU member jurisdictions reported Solvency II Directive came into force on 1 January 2016. However, the relevant legislation/regulation for UCITS has not changed since the 2015 Peer Review.

Article 135 of the Solvency II Directive directly delegates the European Commission to adopt measures laying down the requirements to be met by the originators or sponsors for an insurance or reinsurance undertaking to be allowed to invest in securitisation securities or instruments. Detailed provisions on incentive alignment and related disclosure requirements for the insurance sector are set forth under Article 254 and following of the Commission Delegated Regulation No. 2015/35 of 10 October 2014.

In respect of UCITS, the 2015 Peer Review reported that a Delegated Act which empowers the European Commission to specify retention rules was pending. This would have the effect of introducing risk retention requirements for UCITS fund managers across all EU nations, without the need for national-level legislation to be formed. As of 6 May 2016, the Delegated Act remained pending, so no changes in implementation status was required for UCITS.

[15] As is explained later in this Report, where implementation has been undertaken by sector, the overall or headline rating is based on the least advanced sector.

Additionally, EU jurisdictions reported that as part of the Capital Markets Union project, European Institutions were considering a package of legislative reforms for securitisation. The proposed Securitisation Regulation would also introduce requirements for UCITS.

A new European securitisation legislative package entered into force on 17 January 2018 and will be directly applicable in EU member states as of 1 January 2019. The package which contains two pieces of legislation:

- Securitisation Regulation[16] laying down a general framework that will apply to all securitisations and creating a specific framework for simple, transparent and standardised (STS) securitisation. The STS criteria are in line with the criteria to identify simple, transparent and comparable securitisations that were developed by the BCBS-IOSCO Task Force for Securitisation Markets in July 2015. [17]
- Amendment to the Capital Requirement Regulation (CRR Amendment) [18] which provides preferential capital treatment for firms investing in STS securitisation. The CRR Amendments also make the capital treatment of securitisation for banks and investment firms more risk-sensitive and able to reflect properly the specific features of STS securitisation.

Regulatory Technical Standards are still being developed by the European Supervisory Authorities (EBA and ESMA).

In particular, the Securitisation Regulation addresses both Reform Areas as follows:

- Article 6 sets a broad obligation of 5% retention of material net economic interest by the originator, sponsor or original lender of any securitisation in the scope of the regulation (applies if institutional investors, originator, sponsor, original lender or securitisation special purpose entity is European. In this context, institutional investors refer to banks, insurance companies or asset managers – UCITS and AIFM). This is a new direct obligation.
- Article 5(1)(c) and (1)(d) requires institutional investors to check retention when investing in securitisation. This is an indirect obligation.
- Article 7 'Transparency requirements' describes the information that should be made available to holders of securitisation positions, to the competent authorities and upon request to potential investors. Including, Article 7(1)(e), which states: "quarterly investor reports, or, in the case of ABCP (asset-backed commercial paper), monthly

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16 Regulation (EU) 2017/2402 of 12 December 2017 amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2402&from=EN .

17 Criteria for identifying simple, transparent and comparable securitisations published 23 July 2015 available at http://www.iosco.org/library/pubdocs/pdf/IOSCOPD494.pdf.

18 Regulation (EU) 2017/2401 of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528876679726&uri=CELEX:32017R2401

investor reports, containing … (iii) information about the risk retained…in accordance with Article 6".

The Regulation will apply to UCITS management companies since they qualify as institutional investors under Article 2(12) (d) and (e) and will be subject, among other requirements and along with other entities, to Articles 6 and 5 which appear to satisfy risk retention requirements in Reform Area 1; as well as the Article 7 which appears to satisfy disclosure requirements under Reform Area 2. In addition, UCITS management companies will have to establish reliable ongoing monitoring procedures.

Based on the above, the implementation status of UCITS in EU jurisdictions should be changed to "Final adoption measures published but not taken or in force". As a result, the status for those EU jurisdictions which were rated "Draft adoption measures published" because of the least implemented rating in the UCITS sector will now be changed to "Final adoption measures published but not taken or in force".

4.2.2.1. France

The 2015 Peer Review indicated that France had "Final adoption measures taken and in force" in respect of banks and Alternative Investment Fund Managers (**AIFMs**). In respect of UCITS, implementation status was "Draft adoption measures published" and in respect of insurance, "Final adoption measures published but not taken or in force". This applied to both the implementation of an incentives alignment regime (Reform Area 1) and disclosure requirements (Reform Area 2). The overall rating for France was "Draft adoption measures published" with a Δ symbol.

In 2016, the French authorities reported that the European Solvency II Directive (Directive 2009/138/EC) came into force in France in April 2015 through Ordinance No. 2015-378. The Review Team accepted that the implementation status for the insurance sector should be changed to "Final adoption measures taken and in force" for both Reviewed Reform Areas in 2016.

In 2018, the French authorities confirmed that the Securitisation Regulation will apply directly in France as of 1 January 2019. The Review Team accepted that the implementation status for the UCITS sector should be changed to "Final adoption measures published but not taken or in force".

The overall rating is now changed to "Final adoption measures published but not taken or in force" reflecting that of the least advanced UCITS sector.

4.2.2.2. Germany

The 2015 Peer Review reported Germany's implementation status as "Final adoption measures published but not taken or in force" for both Reviewed Reform Areas. The Δ symbol in the 2015 Report reflected the fact that securitisation incentive alignments and disclosure

requirements were not in force for insurers, although final adoption measures had been published.

Unlike other EU jurisdictions, in the 2015 Peer Review Germany demonstrated that the elements of the risk retention requirements and disclosure requirements for UCITS had been applied at the national level.

In 2016, the German authorities have reported that the law transposing the Solvency II Directive came into force in Germany on 1 January 2016, introducing risk retention and disclosure requirements for insurance and re-insurance undertakings. The transposition in Germany took place through the Gesetz zur Modernisierung der Finanzaufsicht über Versicherungen (the Law for the modernisation of the financial supervision of insurance).

Consequently, the implementation status for the insurance sector and the overall status have been changed to "Final adoption measures taken and in force" for both Reviewed Areas. This status is unchanged in 2017.

The Securitisation Regulation applies directly in Germany as of 1 January 2019. However, due to the already existing national level laws and EU regulations, Germany's overall implementation status remains unchanged since 2016.

4.2.2.3. Italy

The 2015 Peer Review reported that Italy had "Final adoption measures taken and in force" in respect of banks and AIFMs. In respect of UCITS, implementation status was "Draft adoption measures published" and in respect of insurance, "Final adoption measures published but not taken or in force". This applied to both the implementation of an incentives alignment regime (Reform Area 1) and disclosure requirements (Reform Area 2). The overall implementation status was "Draft adoption measures published" for both Reviewed Reform Areas.

In 2016, the Italian authorities reported that the Solvency II Directive came into force from 1 January 2016. The Solvency II Directive was transposed under the Italian Code of Private Insurance, as amended by Legislative Decree no. 74 of May 12, 2015, and its implementing provisions (IVASS: Istituto per la vigilanza sulle assicurazioni — in English, this means the Italian Insurance Supervisory Authority, Regulation no. 24 of June 6, 2016, providing rules on investment). The Review Team accepted that the implementation status for the insurance sector should be changed to "Final adoption measures taken and in force" for both Reviewed Reform Areas in 2016.

The Securitisation Regulation will apply directly in Italy as of 1 January 2019. The Review Team accepted that the implementation status for the UCITS sector should be changed to "Final adoption measures published but not taken or in force".

The overall rating is now changed to "Final adoption measures published but not taken or in force" reflecting that of the least advanced UCITS sector.

4.2.2.4. The Netherlands

The 2015 Peer Review indicated that the Netherlands had "Final adoption measures taken and in force" in respect of banks and AIFMs. In respect of UCITS, the Netherlands implementation status was "Draft adoption measures published" and in respect of insurance, it was "Final adoption measures published but not taken or in force". This applied to both the implementation of an incentives alignment regime (Reform Area 1) and disclosure requirements (Reform Area 2). The Netherlands' overall rating was "Draft adoption measures published" with a Δ symbol.

In 2016, the Dutch authorities reported that the Solvency II Directive has come into force by Law of 13 December 2012 (Act implementing the Solvency II Directive or the *Implementatiewet richtlijn Solvabiliteit II*), which amended the Act on Financial Supervision and the Decree implementing the Solvency II Directive and Regulation (*Implementatiebesluit richtlijn en verordening Solvabiliteit II*) on 10 July 2015. The Review Team accepted that the implementation status for the insurance sector should be changed to "Final adoption measures taken and in force" for both Reviewed Reform Areas in 2016.

The Securitisation Regulation will apply directly in the Netherlands as of 1 January 2019. The Review Team accepted that the implementation status for the UCITS sector should be changed to "Final adoption measures published but not taken or in force".

The overall rating is now changed to "Final adoption measures published but not taken or in force" reflecting that of the least advanced UCITS sector.

4.2.2.5. Spain

In the 2015 Peer Review, Spain's implementation status was "Final adoption measures taken and in force" for banks and AIFMs, "Draft adoption measures published" for UCITS and "Final adoption measures published but not taken or in force" in respect of the insurance sector. This applied to both the implementation of an incentives alignment regime (Reform Area 1) and disclosure requirements (Reform Area 2). The overall rating for Spain was "Draft adoption measures published" with a Δ symbol to reflect ongoing reforms, based on the UCITS status.

In 2016, the Spanish authorities reported that the Solvency II directive has come into force in Spain. This includes the incentives alignment regime and corresponding disclosure requirements.[19] The implementation took place on 14 July 2015 through Law 20/2015, of 14 July, on the Management, Supervision and Solvency of Insurers and Reinsurers. The Review Team accepted that the implementation status for the insurance sector should be changed to "Final adoption measures taken and in force" for both Reviewed Reform Areas in 2016.

[19] Spain also reported passing legislation which has increased transparency requirements on securitisation vehicles, securitised assets and issued securities (Law 5/2015). However, the measures contained in Law 5/2015 do not address the Reviewed Reform Areas and therefore did not necessitate any change in implementation status.

In 2017, the Spanish authority additionally reported that it has strengthened its disclosure regime requirements via Circular 2/2016 issued on 30 April 2016,[20] which includes some (but not significant) changes to financial information requirements mainly on disclosures. The most significant changes to interim periodic financial reports are changes in the frequency becoming required on a quarterly rather than a half-yearly basis and a new asset and risk management policies report is required for those entities with assets actively managed. As this regulation augments existing disclosure requirements, no change to the overall implementation status is warranted in 2017.

The Securitisation Regulation will apply directly in Spain as of 1 January 2019. The Review Team accepted that the implementation status for the UCITS sector should be changed to "Final adoption measures published but not taken or in force".

The overall rating is now changed to "Final adoption measures published but not taken or in force" reflecting that of the least advanced UCITS sector.

4.2.2.6. United Kingdom

The 2015 Peer Review reported the UK's overall implementation status as "Draft adoption measures published" with a Δ symbol to reflect the fact that reforms were ongoing. "Final adoption measures were taken and were in force" in respect of banks and AIFMs, and "Draft adoption measures were published" for UCITS. This applied to both the implementation of an incentives alignment regime (Reform Area 1) and disclosure requirements (Reform Area 2).

In 2016, the UK authorities reported that the incentive alignment regime and disclosure requirements in the Solvency II Directive have come into force in the UK, being transposed into national legislation. Statutory Instrument 2015 No. 755, 'The Solvency 2 Regulations 2015' was made on 6 March 2015, put before UK Parliament on 9 March 2015 and came in to force on 1 January 2016. The Prudential Regulation Authority (**PRA**) also published Policy Statement PS2/15, containing the final rules and supervisory statements to implement Solvency II, in March 2015.

The Review Team accepted that the implementation status for the insurance sector should be changed to "Final adoption measures taken and in force" for both Reviewed Reform Areas. However, the overall rating, which reflects the lack of implementation for UCITS, remains unchanged for 2016 and 2017.

The Securitisation Regulation will apply directly in the United Kingdom as of 1 January 2019. The Review Team accepted that the implementation status for the UCITS sector should be changed to "Final adoption measures published but not taken or in force".

The overall rating is now changed to "Final adoption measures published but not taken or in force" reflecting that of the least advanced UCITS sector.

[20] Available at: http://www.boe.es/boe/dias/2016/04/30/pdfs/BOE-A-2016-4141.pdf.

4.5. Other Reforms Not Affecting Implementation Status

In 2018, respondents also noted additional reform progress, which are either planned or did not materially change the implementation of the reforms already in place. As such the Review Team determined that these did not require any revision to previous years' implementation status.

4.5.1. Argentina

The 2015 Peer Review reported Argentina's implementation status as "Final adoption measures taken and in force" for implementing incentive alignment measures (Reform Area 1) and "Draft adoption measures not published" in relation to disclosure requirements for issuers (Reform Area 2).

On 16 July 2018, the Comisión Nacional de Valores (**CNV**) issued the final General Resolution Nº 752 to modify the articles corresponding to securitisation (financial trust). This followed a period of public consultation between 1-22 June 2018 (inclusive). The regulation sets out additional requirements around disclosure, namely:

- Standardisation of the structure of the prospectuses, including the reordering of the sections using the same basic structure, in order to provide better quality information with a uniform language. This was thought to make it easier for investors the search of information and to help them to compare different transactions.

- Precise transparency requirements, including specific warnings of relevance to the investor, based on the risks inherent to the underlying asset or other risks arising from the financial and economic situation of the originator. Comparative information related to the levels of default, inability to collect and prepayments regarding the evolution of the last three (3) transactions, in the cases of issuances made that meet the same characteristics and the parties concur.

- A detail description of the cash flow analysis, specifying expected cash flows, which must contain in a mandatory manner the level of default, collectability, prepayments, expenses, taxes, fees, and any "stress" factor that affects the portfolio, as well as other variables weighted for its elaboration and the forecasts for the transitory investment of surplus funds.

- Standard monthly investor reports on an ongoing basis throughout the transaction life, it is mandatory to publish on the website of the issuer (trustee) – free access – a monthly report prepared by an independent public accountant, which must contain the following information:

    - Control of cash flows and verification of compliance with the terms provided by regulations.

    - Control of default levels, collection levels and any other financial economic parameter that is established in the operation.

- Comparative analysis of the theoretical cash flow of the assets related to the real flow and their impact on the payment of services.
- Control of income paying compare with theoretical information included in the prospectuses.
- Control and review of flow incomes received and their application.

However, because Recommendation 2 states that the incentive alignment **method** should be disclosed, jurisdictions which used disclosure-based models of incentive alignment were rated "Draft adoption measures not published". Consequently, no change is warranted to Argentina's implementation status.

4.5.2. Australia

In the 2015 Final Report, Australia received two ratings, one for authorised deposit-taking institutions (ADIs) and for non-ADIs. Implementation measures were rated as "Draft Adoption Measures published" for ADIs (with the addition of the "Δ" symbol to reflect change in progress), and "Draft Adoption Measures not published" for non-ADIs. The rating for non-ADIs was also a headline rating, based on the principle that the headline reported status would be based on the least advanced sector.

In 2015, the Australian Prudential Regulatory Authority (**APRA**) – which regulates ADIs – had proposed the introduction of an incentives alignment regime for ADIs that issue securitised products.

In 2016, APRA's proposal was subsequently abandoned. As a result, Australia's implementation status was downgraded to "Draft Adoption Measures not published" for ADIs on the basis that the abandonment of the published measures had the effect of leaving regulation unchanged.

In 2018, the Australian Securities and Investments Commission (**ASIC**) confirms that no proposals were, or have been, made in respect of introducing an incentives alignment regime for ADIs or non-ADIs. Consequently, the implementation status remains "Draft adoption measures not published" for both Reviewed Reform Areas.

4.5.3. Brazil

The 2015 Peer Review reported Brazil as having completed implementation of incentive alignment recommendations in Reform Area 1 but not relation to Reform Area 2.

In 2018, Brazil reported a new regulation CMV Instruction 600 which will apply to CRA (agri-business rights-linked securities) which are offered to non-qualified investors (retail distributions).[21] The regulation will enter into effect 90 days from 1 August 2018. Under this regulation, substantial risk retention is required by originators or third parties for retail

[21] Available at: http://www.cvm.gov.br/export/sites/cvm/legislacao/instrucoes/anexos/600/inst600.pdf

distributions offered to non-qualified investors, in accordance with accounting standards issued by the CVM (CPC 48 which was elaborated from IFRS 9 – Financial Instruments). The risk retention will be made through (i) subordinated asset class, (ii) recourse against originators or third parties and (iii) credit insurance. CVM intends to replicate this mechanism to other securitisation products offered to retail investors such as CRI (real estate receivable certificates) and FDIC (credit rights investment funds). Under this rule, the CVM will establish a new informational regime, conduct rules and diligence to the securitisation companies and, some fences and restrictions in order to enable a better management of conflicts of interest. Furthermore, the CVM reports that disclosure of the risk retention requirement to the public will happen through monthly reports to be provided by originators or third parties.

Brazil's implementation is already rated as "Final adoption measures taken and in force" for Reform Areas 1 on the basis that disclosure (in combination with prevailing market practices, characteristics and governance requirements), is a suitable incentive alignment strategy. However, CVM Instruction 600 (and the planned further reforms) is significant because it will directly require risk retention as a form of incentive alignment. The regulation and surrounding requirements also appear to address the disclosure of the risk-retention method under Reform Area 2.

Consequently, a new sector will be created for Brazil for CRA (agri-business rights-linked securities). The status for both Reform Area 1 and 2 will change to "Final adoption measures published but not taken or in force" with the addition of the Δ symbol to reflect change in progress. However, as the methodology requires the rating to reflect that of the least advanced sector, there are no changes to the overall status of implementation besides the addition of the Δ symbol to reflect reforms underway.

4.5.4. China

The 2015 Peer Review indicated that China had "Final adoption measures taken and in force" for both Reform Areas. In 2018, the China Securities Regulatory Commission (**CSRC**) advised that regulatory changes have taken place since February 2017 as follows:

- The Shanghai Stock Exchange, the Shenzhen Stock Exchange, and the China Securities Internet System all issued
    - *Guidelines for Disclosure of Asset-backed Securities for Public-Private Partnership (PPP) Projects and Guidelines for Trading Requirements of Asset-backed Securities for Public-Private Partnership (PPP) Projects* on 19 October 2017.
    - *Guidelines for Disclosure of Asset-backed Securities for Enterprise Accounts Receivable and Guidelines for Trading Requirements of Asset-backed Securities for Enterprise Accounts Receivable* on 15 December 2017.

- *Guidelines for Disclosure of Financing Lease Asset-backed Securities and Guidelines for Trading Requirements of Financing Lease Asset-backed Securities* on 9 February 2018.
- *Guidelines for Periodic Reporting Content and Format of Asset-backed Securities and Guidelines for Credit Risk Management in Duration of Asset-backed Securities (for Trial Implementation)* on 11 May 2018.
- *Guidelines for Disclosure of Infrastructure Asset-backed Securities and Guidelines for Trading Requirements of Infrastructure Asset-backed Securities* on 8 June 2018.

China's implementation is already rated as "Final adoption measures taken and in force" for both Reviewed Reform Areas and the additional Guidelines appear to support the existing regulation. Consequently, no changes are warranted.

4.5.5. Indonesia

The 2015 Peer Review reported Indonesia as having completed implementation of all measures to implement incentive alignment recommendations covered by the 2015 Report.

In 2017, the Indonesian authorities reported reforms for mortgage-backed schemes have been drafted and will soon be implemented to allow for greater risk retention by the secondary mortgage sponsor.

In 2018, the Indonesian authorities confirmed that on 22 June 2017 a new regulation was passed (POJK 20/POJK.04/2017) revising the existing stipulations of the Mortgage Backed Securities regulation (POJK 23/POJK.04/2014) to allow the secondary mortgage sponsor company to hold more than 10% of the MBS's issue size in the case of an undersubscribed initial offering of the MBS. This allows greater risk retention by the secondary mortgage sponsor.

The Indonesian authorities also confirmed that OJK Regulation 65/POJK.04/2017 was passed revising ABS in collective investment scheme regulation (Bapepam-LK Regulation IX.K.1 in 2009). The revision includes enhancing financial assets that can be securitised, true-sale criteria, simplifying product registration documents, and enhancing ABS's channel distribution through selling agent.

Indonesia's implementation is already rated as "Final adoption measures taken and in force" in both Reviewed Reform Areas. As the above reforms appears to revise the risk retention requirements, the status for Reform Area 1 will remain "Final adoption measures taken and in force" with the addition of the Δ symbol to reflect change in progress.

4.5.6. Russia

The 2015 Peer Review reported Russia's implementation status as "Final adoption measures taken and in force" for implementing incentive alignment measures (Reform Area 1) and "Draft

adoption measures not published" in relation to disclosure requirements for issuers (Reform Area 2).

In 2016, the Russian authorities reported that an annex has been introduced into the relevant regulation that requires specific information to be disclosed by issuers.[22] This includes information regarding the form, method of acceptance and scope of risk assumed by the originator or sponsor, which must be disclosed in the prospectus for the securitisation. In 2016, the Review Team has accepted that the implementation status for disclosure (Reform Area 2) should be changed to "Final adoption measures taken and in force". In 2017, the Bank of Russia issued Direction No. 4482-U of 7 August 2017 "On the Forms and Procedure for Disclosure by a Credit Institution (Parent Credit Institution of a Banking Group) of Information on Risks Accepted, Procedures for Their Assessment, and Management of Risk and Capital", which requires credit institutions to disclose information on the structure of own capital, sufficiency of own capital, conditions and terms of issuance (borrowing) of instruments of the own capital, including risk-weighted securitisation claims (obligations) for shareholders, investors, clients and other interested parties. This Direction appears to augment the existing regulation and as a result the status for Reform Area 2 is unchanged, remaining "Final adoption measures taken and in force".

In 2018, the Bank of Russia confirmed the above regulatory framework remains applicable[23] and further reported that it is developing a new draft Order "On Calculation of Market Risk from Securitisation Transactions by Credit Organisations". The new regulations establish the procedure for the calculation of the capital adequacy ratio by credit organisation. This procedure sets simplified requirements for simple, transparent and standardised (STS) securitisations. The CBR expects to publish the draft Order by end-2018.

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22 The Central Bank of Russia advises that the legislation containing the disclosure provisions is the new Bank of Russia legal act. The new act came into force on 30 December 2014 and is entitled "Regulation of the BoR № 454-P of December 30, 2014 On Disclosing Information by the Issuers of Issue-Grade Securities".

23 The CBR confirmed the regulations in place since 2017 as being: Federal law No 39-FZ of 22 April 1996, On Securities Market (Chapter 3.1., Articles 27.5-6, 46 sections 26-27); Federal law No 152-FZ of 11 November 2003, On Mortgage backed securities; Federal Financial Markets Service Order No 05-59/pz-n of 1 November 2005, On Adoption of the Procedure of Mortgage Collateral Determination; The Bank of Russia Instruction No№ 3309-У U of 7 July 2014, On Credit risk retention rules; The Bank of Russia Order No 3289-U of 20 June 2014, On the requirements for accounting treatment of cash requirements, which are the subject of collateral the bonds and cash amounts credited to an collateral/escrow account; The Bank of Russia Order No 454-P of 30 December 2014, On the disclosure of information by issuers of securities; The Bank of Russia Order No 509-P of 3 December 2015, On calculating the amount of own funds (capital), mandatory standards and sizes (limits) of open currency positions groups of banks; The Bank of Russia Order No 428-P of 11 August 2014, On standards of securities issues the procedure of state registration of issues (additional issues) of securities state registration of reports on the issues (additional issues) of securities and registration of securities prospectus; The Bank of Russia Order No 511-P of 3 December 2015, On the Procedure for Calculation of Market Risk by the Credit Institutions.

Russia's implementation is already rated as "Final adoption measures taken and in force" for both Reviewed Reform Areas and the additional reforms appear to support the existing regulation. Consequently, no changes are warranted.

4.5.7. Saudi Arabia

The 2015 Peer Review reported Saudi Arabia's overall implementation status as "Draft adoption measures not published" for both Reviewed Reform Areas.

In 2018, the Saudi authorities reported that on 27 December 2017, the Capital Market Authority (**CMA**) Board issued a resolution approving the Rules and By-laws for Special Purposes Entities. The SPE Rules and SPE By-laws entered into force on 1 April 2018.

The rules are intended to regulate Special Purpose Entities, including establishment, licensing, registration, offering, management and associated activities in the Kingdom of Saudi Arabia. And, also, to define the related monitoring and supervisory rules.

The Rules and by-laws include detailed and specific obligations and requirements on various parties involved in the securitisation issuance, including shareholders, sponsor, directors and custodian, in order to ensure (among other objectives) the alignment of incentives, transparency and standardisation.

Additionally, the CMA Board resolution to adopt the SPE Rules was issued in conjunction with Board resolution to approve the Rules on the Offer of Securities and Continuing Obligations and to approve the Listing Rules, which contains provisions regulating the offering/listing and trading of securities through a Special Purpose Entity.

The above rules, in conjunction with existing Authorised Person Regulations, Prudential Rules, Securities Business Regulations, Offers of Securities Regulations and Listing Rules, together offer a comprehensive framework for securitisation. However, the SPE Rules and by-laws do not contain any risk retention requirements. While the 2012 recommendations contemplated risk retention as only one means of incentive alignment, it was the only example provided. Even disclosure-only approaches were only considered sufficient if they were found in combination with prevailing market practice of risk retention. As a limited Update Review, which adopts the Methodology used in the 2015 Peer Review, the Review Team was unable to find sufficient grounds to accept the Saudi framework as a suitable Adoption Measure. Consequently, the implementation status remains "Draft adoption measures not published" for both Reviewed Reform Areas.

4.6. Jurisdictions with No or No Material Securitisation Markets

In the 2015 Peer Review, Switzerland did not participate or submit a self-assessment due to the lack of active domestic securitisation market and no implementation measures deemed necessary by the Swiss authorities. The 2015 Report also recognises that Switzerland is included in a category of countries with outstanding securities that are too small to be displayed.

Switzerland has nonetheless been included for completeness of reporting to the FSB/G20.

5. Summary of Implementation Status

5.1. Update of Implementation Progress

The table below sets out implementation status in detail by providing both the headline rating for each jurisdiction and the rating for each sector of the market. This distinction is relevant to Australia and the EU jurisdictions.

The table uses terminology to denote relevant sectors based on the regulatory framework in the jurisdictions. These terms are defined as follows:

- **ADIs** means *authorised deposit-taking institutions*. These are regulated in Australia by the Australian Prudential Regulation Authority (**APRA**) and include banks, building societies and credit unions. The Discussion Paper on incentive alignment published by APRA in 29 April 2014, which has since been retracted, applied only to proposals covering ADIs.
- **AIFMs** means *alternative investment fund managers.* These institutions are subject to incentive alignment requirements under a delegated EU regulation.
- **UCITS** means *undertakings for the collective investment in transferable securities*. These fund management institutions are not subject to incentive alignment requirements at the EU level, as relevant delegated regulations have not yet been put in place.

The table sets out implementation status as of the following Reporting Dates:

- **30 April 2015**
- **6 May 2016**
- **7 February 2017**
- **30 August 2018**

Table 2 — Implementation Status by Reform Area and Year

Jurisdiction	Implementation status change	Implementation of incentive alignment regime (Reform Area 1 – Section A Q3(i))				Disclosure requirements for issuers (Reform Area 2 – Section B Q4(i))			
		2015	2016	2017	2018	2015	2016	2017	2018
Argentina	No change								
Australia	No change – Reforms abandoned	Δ							
ADIs									
Non-ADIs									
Brazil	No change – not all sectors covered				Δ				Δ
CRA (agri-business rights-	Final rules published				Δ				Δ

Jurisdiction	Implementation status change	Implementation of incentive alignment regime (Reform Area 1 – Section A Q3(i))				Disclosure requirements for issuers (Reform Area 2 – Section B Q4(i))			
		2015	2016	2017	2018	2015	2016	2017	2018
linked securities)									
Other securitisations	No change								
Canada (Ontario and Quebec)	No change								
China	No change								
France	Final rules published – covering all sectors	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Banks									
AIFMs									
UCITS									
Insurance									
Germany	No change	Δ				Δ			
Banks									
AIFMs									
UCITS									
Insurance									
Hong Kong	No change								
India	No change								
Indonesia	No change				Δ				
Italy	Final rules published – covering all sectors	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Banks									
AIFMs									
UCITS									
Insurance									
Japan	No change								
Mexico	No change	Δ	Δ	Δ		Δ	Δ	Δ	
Banks									
Non-banks									
Netherlands	Final rules published – covering all sectors	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Banks									
AIFMs									
UCITS									
Insurance									
Republic of Korea	No change								
Russia	No change – Other reforms								

Jurisdiction	Implementation status change	Implementation of incentive alignment regime (Reform Area 1 – Section A Q3(i))				Disclosure requirements for issuers (Reform Area 2 – Section B Q4(i))			
		2015	2016	2017	2018	2015	2016	2017	2018
Saudi Arabia	**No change – Reforms completed**								
Singapore	**No change**								
South Africa	**No change**								
Spain	**Final rules published – covering all sectors**	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Banks									
AIFMs									
UCITS									
Insurance									
Switzerland[24]	**No change**								
Turkey	**No change**								
United Kingdom	**Final rules published – covering all sectors**	Δ	Δ	Δ	Δ	Δ	Δ	Δ	Δ
Banks									
AIFMs									
UCITS									
Insurance									
United States	**No change**								

[24] Jurisdictions have no or no material domestic securitisation market.

Legend

	Final adoption measures taken (and in force, where relevant)
	Final adoption measures published but not taken or in force
	Draft adoption measures published
	Draft adoption measures not published
	Not applicable

Note that a triangle (Δ) symbol has been used to denote instances where the implementation of incentive alignment approaches is more advanced in one or more sectors of the market than the overall rating. As explained above, jurisdictions have been rated based on the least advanced market segment in terms of incentive alignment implementation.

Appendix I – IOSCO recommendations for incentive alignment in securitisation

In July 2011, the Financial Stability Board (**FSB**), through its Standing Committee on Supervisory Regulation and Co-operation (**FSB SRC**) requested that IOSCO, in coordination with the Basel Committee on Banking Supervision, conduct a stock-taking exercise to review current national and international regulatory initiatives on risk retention, transparency and standardisation of securitisation, and develop policy recommendations as necessary.

In response to this request, IOSCO, through its Taskforce on Unregulated Markets and Products (**TFUMP**), undertook a project to describe and analyse global regulatory and industry initiatives on risk retention, transparency and disclosure standardisation, and develop a series of recommendations.

The project involved a survey of IOSCO members, a public consultation paper and an industry roundtable. The IOSCO report *Global Developments in Securitisation Regulation* was published in November 2012 and, as requested, made a number of recommendations regarding risk retention, transparency and standardisation, and also in relation to further issues for consideration.

Summaries of the recommendations, which pertain to incentive alignment, are set out below:

Recommendation 1: Evaluation, Formulation and Implementation Deadline of Approaches to Align Incentives, including Risk Retention Requirements

Jurisdictions should evaluate and formulate approaches to aligning incentives of investors and securitisers in the securitisation value chain, including where appropriate, through mandating retention of risk in securitisation products. Any exemptions to the risk retention requirements should be limited and warranted.

They should endeavour to take any necessary steps to implement such approaches to comply with the elements set out in Recommendation 2 by mid-2014.

Recommendation 2: Elements of the Incentive Alignment Approach and Risk Retention Requirements

Jurisdictions should clearly set out the elements of their incentive alignment approach with risk retention being the preferred approach. Where risk retention is mandated, the applicable legislation, regulation and/or policy guidance should address the following elements:

- The party on which obligations are imposed (i.e. direct and/or indirect regime, based on an assessment of the most efficient and effective way of achieving risk retention);
- Permitted forms of risk retention requirements (e.g. vertical, horizontal, etc.);
- Exceptions or exemptions from the risk retention requirements. (These exemptions should be consistent with the objectives of incentive alignment.)

All jurisdictions should ensure that domestic legislation, regulation and policy guidance require that the method chosen for compliance with the incentive alignment approach be disclosed.

Recommendation 3: Harmonised Alignment of Incentive and Risk Retention Approaches

Regulators should seek to minimise the potentially adverse effects to cross border securitisation transactions resulting from differences in approaches to incentive alignment and risk retention.

In addition, Recommendation 3 provided that the AC would:

- Conduct a peer review to assess implementation of incentive alignment approaches, including risk retention requirements in line with Recommendation 2 of the IOSCO report and the three elements that it sets out; and
- Make recommendations to address any difference in approach that may cause material adverse effects to cross-border transactions and to ensure convergence and harmonisation and monitor implementation of the recommendations.

Appendix II – List of Participating Jurisdictions in the Update Reviews

1. Argentina (Comisión Nacional de Valores);
2. Australia (Australian Securities and Investments Commission);
3. Brazil (Comissão de Valores Mobiliários);
4. Canada (Ontario Securities Commission and Quebec Autorité des marchés financiers);
5. China (China Securities Regulatory Commission);
6. France (Autorité des marchés financiers);
7. Germany (Federal Financial Supervisory Authority);
8. Hong Kong SAR (Securities and Futures Commission);
9. India (Securities and Exchange Board of India);
10. Indonesia (Indonesia Financial Services Authority (OJK));
11. Italy (Commissione Nazionale per le Società e la Borsa);
12. Japan (Financial Services Agency);
13. Mexico (Comisión Nacional Bancaria y de Valores);
14. The Netherlands (Netherlands Authority for the Financial Markets);
15. Republic of Korea (Financial Services Commission/Financial Supervisory Service);
16. Russia (The Bank of Russia);
17. Saudi Arabia (Capital Markets Authority);
18. Singapore (Monetary Authority of Singapore);
19. South Africa (Financial Sector Conduct Authority);
20. Spain (Comisión Nacional del Mercado de Valores);
21. Switzerland (Swiss Financial Market Supervisory Authority);[*]
22. Turkey (Capital Markets Board);
23. United Kingdom (Financial Conduct Authority); and
24. United States of America (Securities and Exchange Commission).

[*] Switzerland did not participate in the 2015 Peer Review due to the lack of an active domestic securitisation market and no implementation measures were deemed necessary by the Swiss authorities. Switzerland has nonetheless been included for completeness of reporting to the FSB/G20.