

EFAMA's comments on BCBS/IOSCO Consultative Document on criteria for identifying simple, transparent and comparable securitisations

EFAMA¹ welcomes the opportunity to present its views on BCBS/IOSCO's proposals for setting criteria which will facilitate the analysis of each securitised instrument by financial market participants in identifying securitisation structures of greater transparency.

GENERAL COMMENTS:

The envisaged standardisation of securitisation structures plays a particularly crucial role in eliminating unintended structural risks and strengthening investor confidence in securitisation products.

EFAMA welcomes initiatives towards high quality standards for securitisation transactions. When recognised as high quality investments, they become safer instruments to invest investors' money.

We are in favour of high quality securitisation as it improves returns towards investors in a risk controlled way particularly as a complement to portfolios of traditional equity and fixed-income.

We also would like to remind that, by buying securitised instruments, asset managers are indirectly financing the real economy as they act as buyers of part of the debts that individuals created to finance their consumption needs or long term project, such as financing studies for them or their children for instance.

DETAILED COMMENTS:

1. Do respondents agree that the criteria achieve the goals they aim to achieve? In particular, do respondents believe that the criteria could help investors to identify "simple", "transparent" and "comparable" securitisations?

We agree with the proposed criteria. We believe that they would facilitate the identification of "simple", "transparent" and "comparable" securitisations.

¹ EFAMA is the representative association for the European investment management industry. EFAMA represents through its 26 member associations and 61 corporate members almost EUR 17 trillion in assets under management of which EUR 11 trillion managed by 55,000 investment funds at end September 2014. Just under 36,000 of these funds were UCITS (Undertakings for Collective Investments in Transferable Securities) funds. For more information about EFAMA, please visit www.efama.org

However, we believe that these criteria are not sufficient to restore confidence and invest into securitised instruments.

Several other elements should also be taken into account:

- The stability of the criteria and the stability of the values all along the life of the securitised instrument;
- The need to standardize further regulations in order to reduce the regulatory obstacles to securitised products or to align their requirements with those applied to other asset classes like, for example, covered bonds;
- The alignment of legislative requirements (e.g. some securitised instruments are allowed in UCITS but not in AIFMD) and the treatment of securitised instruments in the calculation of regulatory capital requirements for securitisation positions which are significantly stricter.

2. Do respondents agree with the STC criteria set out in the annex of this paper? In particular, are they clear enough to allow for the development by the financial sector of simple, transparent and comparable securitisations? Or do respondents think they are too detailed as globally applicable criteria? The annex provides guidance on each criterion. Which additional criteria would respondents consider necessary, if any, and what additional provisions would be useful or necessary to support the use of the criteria? What are respondents' views on the "additional considerations" set out under some criteria in the annex? Should they become part of the criteria? Are there particular criteria that could hinder the development of sustainable securitisation markets due, for example, to the costliness of their implementation?

Overall EFAMA agrees with the proposed criteria.

We would, however, have some comments on:

Point 5 – Asset selection and transfer: We believe that the exclusion of actively managed assets is not appropriate. In our view, the proposed exclusion of actively managed assets or selected on a discretionary basis is not appropriate for the purpose of identifying STC securitisations.

A portfolio which is actively managed by a regulated manager having a good track record is, from various perspectives, similar to a non-actively managed portfolio made of assets having good performance history.

Point 14 – Transparency to investors: In addition to the proposed requirements, the main duties and responsibilities of the key parties to the securitisation (i.e. originator, sponsor, servicer and trustee) as well as provisions regarding replacement of transactions parties should be outlined in the prospectus or investor report. Otherwise, the documentation standard suggested under criterion 14 would remain unknown to the investor who is not a party to the relevant transaction documents and would not provide sufficient confidence for asset managers to insert them in the portfolios or funds that they manage.

3. What are respondents' views on the state of short-term securitisation markets and the need for initiatives with involvement from public authorities? Do respondents consider useful the development of differentiating criteria for ABCP, in a manner similar to that of term securitisations? The BCBS and IOSCO would particularly welcome any data and descriptions illustrating the state of short-term securitisation markets by jurisdiction and the views of respondents on concrete comparable criteria that could be applied to short-term securitisations.

In our view, the regulatory capital treatment for securitisation positions put ABS bonds at a disadvantage compared to other asset classes like, for example, covered bonds and hence forms a major obstacle for the development of short-term securitisation markets (see also our comment to question 1).

4. What are respondents' views on the level of standardisation of securitisation transactions' documentation? Would some minimum level of standardisation of prospectuses, investor reports and key transaction terms be beneficial? Do respondents think there are other areas that could benefit from more standardisation? Would a standardised template including where to find the relevant information in the prospectus be helpful? The BCBS and IOSCO would particularly welcome a description, by jurisdiction, of the extent to which different elements of initial documentation are standardised.

As expressed in our general comments, it is very important for asset managers to obtain:

- A high level of level of standardisation of securitisation transactions' documentation in order to facilitate analysis and explanation to underlying retail clients;
- Some minimum level of standardisation of prospectuses, investor reports and key transaction terms are also important to guarantee homogeneous understanding of the instrument and ensure comparability;
- Those key criteria and levels should be complemented by ratio of allowed changes in the credit assessment of the instrument or of a pre-determined part of its underlying "debtors". This means that the level of risk of the securitised assets should automatically vary if the credit risk increases either if the credit robustness of the underlying dips down or if the credit robustness of a fixed percentage of its underlying reduces in a pre-defined manner. Those elements would also have to be available in the securitised instrument's prospectus.

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