association française
des investisseurs
institutionnels

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Global Developments in Securitization Regulation

The *Association Française des Investisseurs Institutionnels (Af2i*) answer to IOSCO consultation

Af2i welcomes the opportunity provided by IOSCO through the present consultation to express views on "global developments in securitization regulation". AF2i is the French association of institutional investors, created in 2002 to represent the different families of Institutional Investors (insurance companies, pension institutions, foundations, corporate, special institutions (Caisse des Dépôts; FRR; EDF, etc.) and to defend their interests in asset management issues, in France and in Europe. Af2i gather 76 major Institutional Investors as Members representing more than 1.6 trillion € of assets under management and 60 asset management companies or providers as Associate Members.

Af2i welcomes this consultation paper as it comes in a very relevant time when the G20, the FSB and a great deal of public authorities are trying to evaluate and assess the main consequences of the today financial crisis in a Basle III atmosphere

First of all, Af2i shares the views and ways the IOSCO organization address the global issues about the securitization activities, the differences between the US and the EU ways and their approach of a regulation.

Af2i welcomes also the recent initiatives leading to a label for securitization deals in a vision of simplicity, transparency and standardization.

Of course, these positive initiatives may help the securitization markets to develop again, but we do not think that trying to refurbish and make up a very weak body which has undergone series of very violent deceases and aggressions will do the job. The situation of the economy and its financing activities is so difficult, the Basle III provisions are so tight for the banks and the securitization activities are at so low volumes in Europe, generally speaking there is such a lack of confidence, that we certainly have to imagine a different approach :

- For the organization of the financing of the economy
- For the management of crisis times

Af2i members are institutional investors including a number of insurers and pension institutions. In the insurance activities, the actors have very soon had to share their risks takings laterally through co-insurance and then vertically through re-insurance.

In the re-insurance business, there are two main ways : non proportional re-insurance for excess risks or excess loss and proportional re-insurance which has been created to help the direct insurance business to develop in accordance with the regulation ratios and its capital requirements.

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We think that a great proportion of the banking industry is in the period of time when it deals with co-financing but it has no re-financing except in its relation with the central banks.

To-day, the re-insurance business is worldwide, efficient, useful and a profitable market allowing all the direct insurance actors of every kind in the world to cover their excess of risks and development.

This remarkable success relies upon two main issues:

1. Confidence between partners for long lasting relationships ;
2. The so called “Suivi du sort” reinsurance term and technique which is a much stronger notion than “incentive”.

Both of these issues urge to imagine the necessary recovery of the securitization markets by changing the rules in depth in the creation of a preliminary period of some years when:

- The risk retention is far above the 5%, 20% might be more appropriate, but on wider portfolios of loans ;
- A much more intensive “suivi du sort” allows a much easier transparency without any bias ;
- No exemption in this period of time.
- Building of a “third pillar” of the financing activities with the support of institutional investors

This special regime might be implemented for a 3 to 5 years period and a new “rendez-vous” would be set in order to establish a bunch of new rules for the following period in accordance with the results of the first period and the characteristics of the new situation of the financing of the economy.

The change come from the deeply felt drawbacks of **“originate to distribute”** to the new approach of **“originate and share”** where we can find confidence and efficiency.

Furthermore, as institutional investors association, we are very concerned by the “shape” of the different vehicles used in European securitization programs. As you indicate on page 7, SPV are mostly offshore incorporated entities (Jersey or Guernsey) or regulated by Luxemburg or Irish laws. The great inconvenient is that these entities and their bond issuances are not considered as eligible assets or are restricted by internal regulations.

We consider that the best solution should be to create a unique European scheme, regulated by the European law, or to suggest to all European regulators to create a local scheme with common provisions. In this last case, these entities should be AIFM compliant. Distribution in European market could be facilitated.

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