EACB Comments

BCBS consultative paper on Capital treatment for "simple, transparent and comparable" securitisations

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The **European Association of Co-operative Banks** (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 31 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4.200 locally operating banks and 68.000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 205 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 78 million members and 860.000 employees and have a total average market share of about 20%.

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Introduction

The members of the EACB welcome the opportunity to comment on the BCBS consultative paper on the capital treatment for "simple, transparent and comparable" securitisations.

Answers to selected questions

> Q.1 Do respondents agree with the rationale for introducing STC criteria into the capital framework? Are there any other aspects that the Committee should consider before introducing STC criteria into the capital framework that are not already reflected in the rationale above?

While we generally agree that simple and transparent securitisation need a dedicated capital framework, we regret that the Committee has not contemplated a more ambitious capital relief for these securitisations deemed of high quality. It is worth reminding that banks are important actors of the securitisation market, as originators, sponsors and as well as investors, it is therefore essential that banks are not excessively penalised in terms of capital requirements for securitisation they hold in their banking book (and by the way in the trading book) when STC criteria compliant. In many instances securitisations on high quality pools of loans (e.g. for RMBSs) is done only for liquidity management purposes (rather than capital relief).

An improvement in the prudential treatment of STC securitisations would be to increase flexibility in the application of the new BCBS hierarchy of approaches. Furthermore, the calibration of capital requirements for STC securitisations is expected to be above current CRR levels in Europe and also and above what is being currently proposed by the Commission in its proposed amendment to CRR (by 20% on average). The Committee should be aware of such debate at the European level and avoid calibration proposals that are too distant.

Synthetic transactions

Synthetic transactions, these should not be a priori excluded from the framework for simple, transparent and comparable securitisations. Synthetic transactions are often the only way to manage risks arising from certain off-balance sheet exposures, e.g. letters of credit or guarantees provided to bank's customers, or certain on-balance sheet exposures, such as until-further-notice overdraft facilities. These structures support real economy SME transactions by enabling banks to transfer the risks of various lending products as well as taking care of bank client concerns such as data secrecy or the causeless but widely spread threat of a sale of the relationship to third parties like hedge funds. Synthetic transactions also support risk-sharing in the financial system. Synthetic transactions show also other advantages. Since the securitised assets will not be sold to the SPV, risks such as legal validity of the receivables, commingling risk, settlement risk and collection risk will not be present. This implies that the investor does not suffer any losses arising from such risks, since they are not credit default risk. Moreover, if the originator bank defaults, the guarantee or credit default swap will be terminated and the investor gets back the provided cash (from purchased CLN) over and above any occurred credit events in the underlying portfolio (in contrast to selling the securitised assets or awaiting any scheduled repayments in the portfolio). This is of particular interest to investors who want to buy certain credit risk, but not buy the actual underlyings (and potentially therefore wait for their cash back until all assets are sold). Synthetic transactions can be structured in a simple and transparent way, and are often associated with documentation that is less complex for both issuer and investor, as it does not involve the sale of assets. A synthetic transaction could therefore be considered simple, transparent and comparable, under almost the same conditions/criteria proposed for a true sale securitisation.

Q.2 Do respondents agree that, for the purpose of alternative capital treatment, additional criteria are required? What are respondents' views regarding the additional criteria presented in Annex 1?

Eligibility criteria for STC securitisation should be formulated so that they are workable and do not allow misinterpretation. This is a key point both for issuers, especially given the risk of sanction in case of mistaken interpretation, and for investors, for which the risk or requalification can be totally dissuasive.

We acknowledge that both pool homogeneity and geographical diversity are important criteria; however if too restrictively stated, they could drive some issuers out of the market. For instance a mix of amortizing and bullet auto loans should be considered sufficiently homogeneous; or a pool of home loans sufficiently granular originated in a single region or (large) metropolitan area should be considered as sufficiently geographically diverse. Would these criteria be too restrictive, issuers with restricted or smaller balance sheets may not reach the critical pool size for their issues to qualify.

Moreover, according to the consultative document these revisions affect neither ABCP programmes nor synthetic securitisations. However we take note that the Basel Committee and IOSCO are currently considering whether and how STC criteria for ABCP programmes should also be issued, and if appropriate how to incorporate them in the revised securitisation framework. Therefore we encourage BCBS and IOSCO to go in this direction, and to take into account of what is being currently developed for ABCP at the European Union level.

Multi-seller conduits and ABCPs

Multi-seller conduits are platforms that purchase predominantly trade, consumer or leasing receivables from corporations, leasing companies or Auto-Asset Backed Securities. The purchase is funded by issuing short-term commercial paper (ABCP). The sponsor bank which is running the conduit provides liquidity lines that can be drawn if the ABCP cannot be sold to the market or losses in the securitized receivables occur. In many cases the ABCP are "fully supported". This means that any losses of the investors are borne by the provider of the liquidity facility. ABCP conduits play an important role in the financing of businesses. They are advantageous for corporates as well as for banks. Corporates can use the sale of own receivables as a substitute for other forms of funding (especially bonds or bank loans). Furthermore, for small and medium sized companies they are an equivalent to the use of ABS by large corporates as an alternative funding source. From a bank's perspective, providing a liquidity line to an ABCP is typically less risky. This is predominantly due to the fact that the main driver of credit risk is not the corporate, but a diversified portfolio of independent debtors with a high granularity. Moreover, the eligibility criteria of the transactions often exclude higher-risk exposures. In addition, the monthly reporting obligations for the securitised portfolio give the bank more timely information than typically obtained in a traditional credit relation. Especially for smaller corporates, the process of structuring an ABCP transaction - including strictly defining relevant processes (e.g. credit and collection policy) - is not only beneficial for the bank, but also for the corporate.

Multi-seller ABCP issues show a strong performance. They have experienced stable and sound development even through the financial and economic crises and subsequent years. They might be negatively affected by the new framework for securitisations that will come into effect in 2018. In this context, two roles have to be distinguished that banks can play in an ABCP multi-seller conduit transaction: investor, and sponsor bank. As ABCP cannot be issued without a sponsor bank to provide the liquidity facility, the treatment of these facilities in the capital requirements regime is of utmost importance. Capital requirements for liquidity could triple or quadruple compared to the current framework and even exceed those for senior unsecured corporate loans. ABCP financing will become unattractive for sponsors, and very expensive for sellers.

Q.3 What are respondents' views on the compliance mechanism and the supervision of compliance presented in this consultative document?

Q.4 What are respondents' views on the alternative capital requirements for STC securitisation presented in this consultative document?

In general the risk weights proposed in Section 4 of the consultative document go in the right direction. However, to ensure that STC-securitisations will be attractive as a financial instrument for all potential investors, risk weights need further reduction. This would also be in line with analogous initiatives in jurisdictions such as the EU, to revive the securitisation market in the context of establishing a Capital Market Union.