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Finance for Europe

Association for Financial Markets in Europe

Position Paper

AFME comments on the European Commission's package of securitisation reforms adopted on 17 June 2025

18 July 2025

Introduction

The Association for Financial Markets in Europe (AFME) welcomes the Commission's package of securitisation regulatory reforms adopted on 17 June 2025. We are encouraged by these proposals and view them as a promising first step in the direction of making the conduct rules more proportionate and the capital treatment more in line with the underlying risks. This, in turn, will be one of the developments needed to prudently revive the securitisation markets in Europe. We look forward to cooperating with the Commission and the co-legislators to further improve these proposals and give them the best chance of achieving the shared goal of making securitisation a key tool in meeting Europe's large and growing funding needs, including those associated with the green and digital transitions. In that spirit, we have the following comments on the proposals, first in relation to the Securitisation Regulation ("SECR") (**Section A**) and second in relation to the bank prudential framework, namely the Capital Requirements Regulation ("CRR") and the Liquidity Coverage Ratio ("LCR") (**Section B**). We also highlight the importance of including transitional provisions in the package (**Section C**) and draw attention to four additional policy areas – currently excluded from the legislative proposal – which, if addressed, could further enhance market development (**Section D**).

Briefly, some of the areas for improvement are:

In respect of SECR:

- The problematic proposal to impose additional and disproportionate penalties on institutional investors
- The difficulties imposed on EU institutional investors trying to produce returns for EU stakeholders by limiting their ability to invest in third country securitisations
- The overbroad proposal for the definition of "public securitisation"
- The additional friction and confidentiality concerns raised by requiring all securitisations to report to repositories

In respect of CRR:

- The difficulties caused by the minimum thickness requirement in the new definition of "senior tranche"
- Refinements to the definition of "resilient" securitisations, including fixing the inappropriate use of K_A to measure tranche thickness, the overly conservative 1.5x multiplier used for that purpose, and the unjustified differentiation between investor vs originator/sponsor positions
- Refinements to the risk-weight floor proposals, including the inappropriate use of K_A to calculate this, and to ensure that the reforms don't result in an increased risk-weight floor for certain asset classes such as project finance, development loans and leveraged loans.

In respect of both SECR and CRR:

- The need to introduce appropriate delayed application and transitional provisions to make any eventual changes practical to implement

Analysis of the Commission's proposals

(A) In respect of SECR:

Firstly, it is important to note that the Commission's package of measures leaves Articles 8, 9, and (for the most part) 6 of the SECR unchanged. These articles establish, respectively, a prohibition on resecuritisation, credit granting standards and risk retention obligations. It has been AFME's long held position that the principles embodied in these provisions are essential safeguards within the framework, playing a fundamental role in ensuring that securitisation is used to support the real economy. In effect, the combined impact of these three articles is to prevent the types of practices observed in the run up to the Global Financial Crisis, even where AFME members might approach some of the details differently.

Regarding the proposed reforms, it is equally reassuring that the legislative proposal has addressed long-standing issues pertaining to due diligence and disclosure requirements. Our analysis is further developed below.

1. **Due diligence (Article 5)**

The proposed simplification of due diligence requirements is a positive and welcome step. AFME members applaud the Commission for responding to requests from industry since the introduction of the SECR to move in this direction. In particular, removal of the requirement to check compliance with STS, risk retention and disclosure rules in respect of EU deals are all encouraging developments that AFME members support. The move towards more principles-based diligence is also particularly welcome along with the Commission's emphasis on the concept of proportionate diligence, although this should be moved to an operative provision to make it clearer.

That said, we have some concerns about the Commission's proposal. **The most serious of these concerns is the imposition of administrative sanctions under the SECR for institutional investors in addition to sanctions already available under existing sectoral regulatory regimes.** Indeed, it concerns us that the Explanatory Memorandum published with the proposed amendment to the Securitisation Regulation expresses this change as being made "[t]o enable supervisors to enforce the due diligence requirements". Supervisors very much can already enforce these due diligence requirements, it is just that this is done under the relevant sectoral regulatory regime for the particular institutional investor (e.g. the CRR,[1] AIFMD,[2] Solvency II,[3] etc.). For this reason, we find this proposal disproportionate. It sends the wrong message and **it is likely to discourage new investors from entering the market**. When combined with the removal of the ability to delegate primary regulatory responsibility to an asset manager (provided the asset manager is itself an institutional investor), **it is probable that some current investors (as opposed to asset managers, who we think are unlikely to be affected so severely) will actually pull out of the market**, since they can no longer offer their boards and compliance functions the reassurance of delegating primary regulatory responsibility along with investment management authority. In order to address these concerns, we would recommend eliminating the addition of Article 5 to the list of provisions a breach of which is sanctionable under Article 32.

[1] See Article 270a of CRR.
[2] See Articles 17 and 48 of AIFMD, which must be read with Articles 50-54 of AIFMR.
[3] See Article 257 of the Solvency II Delegated Act.

We would also recommend adjusting Article 5(5) so the delegation of primary regulatory responsibility to a delegate becomes a matter of contractual choice between the principal and their delegate. This would be a practical solution for the situation where the asset managers delegate considers their in-house investment research and analysis to be proprietary and not able to be shared with clients. In this situation, the practical solution is for the asset manager delegate to be the entity with primary regulatory responsibility for compliance with regulatory due diligence obligations, since they are not in a position to share the relevant information for completing the diligence with their investor client. Notwithstanding, delegation as a function of contractual choice is the most pragmatic option, acknowledging that the landscape of asset management embodies a variety of business models from which arise an array of preference.

Secondly, we think the proposals could be further refined in order to address other key concerns. In particular, **the requirement on EU investors to obtain EU-style disclosures in respect of third country transactions imposes a competitive disadvantage on European investors** in that it continues (indeed, doubles down on) the current significant limitation on European investors' ability to invest in non-EU securitisations. It is the job of EU institutional investors to build diversified, well-balanced portfolios that will produce attractive risk-adjusted returns. The effective exclusion of most third-country securitisations from EU investor portfolios by this requirement makes that job more difficult. While we understand the desire to ensure that European capital is used to fund European priorities, **the effect of this approach to third-country securitisations is likely to be that European stakeholders will be disadvantaged because the flexibility of institutional investors to build geographically diversified portfolios will continue to remain restricted.** We, therefore, consider that a more principles-based approach would be welcome, such as the one proposed by the Joint Committee Report on the implementation and functioning of the Securitisation Regulation (Article 44) published on 31 March 2025.[4]

Thirdly, the concept of proportionality is helpful to make due diligence obligations more workable, but this needs to be included in the operative text, not just the recitals. In addition, the concept of proportionate diligence should ideally be articulated as diligence proportionate to the situation rather than to the "risk of the securitisation" – a concept that may lack clear meaning. For example, if the institutional investor has bought a securitisation position, but has a binding arrangement to sell it at a fixed price the next day, the risk to the institutional investor is very low, regardless of any inherent risk in the securitisation. Likewise, if a senior, performing securitisation position is acquired at one cent in the euro because of a market anomaly, the risk to the investor is likewise very low, regardless of any inherent risk of the securitisation.

Fourthly, the proposal to allow 15 days to complete documentation for due diligence in secondary trades could benefit from further clarification. Our understanding is that in practice the rate-limiting step is the process of actually doing the verifications required to fulfil the due diligence requirements, not the documentation of those verifications. While we appreciate the intent behind the proposal, we are concerned that this change will make the regulatory scheme unnecessarily complex and introduce what appears to be an independent obligation to document the due diligence done, which we find unhelpful. On balance, AFME members would suggest reconsidering this measure and recommend its removal from the proposed SECR amendments.

Finally, and as a more general matter, **we would note that we are not aware of any other product with specific due diligence requirements of the type imposed in respect of securitisation, nor are we aware of any other product where *additional* penalties are imposed on investors over and above those available to relevant competent authorities under the sectoral regulatory frameworks of the relevant**

[4] Paragraphs 75 *et seq.* of the Joint Committee Report on the implementation and functioning of the Securitisation Regulation (Article 44) (here).

investors. In addition, we are not aware of any other significant securitisation market that has rules equivalent to the due diligence requirements imposed under Article 5 SECR. Taken together, **the proposed approach – while it represents a move in the right direction – falls short of what would be required to produce a level playing field for securitisation** within the EU or for EU institutional investors as compared to their international competitors.

2. **Disclosure (Article 7)**

(a) Definition of "public securitisation"

AFME members understand the Commission's concern that the current definition of "public securitisation" is underinclusive, but we are very concerned that the newly expanded definition significantly overcorrects. Indeed, the proposed definition is both significantly overbroad and, in its third limb, much too vague to be workable. As a result, **we are concerned the broad definition of public securitisation might serve to undermine many of the otherwise positive developments in the disclosure framework proposed by the Commission**. In particular:

- Limb (b) of the definition of "public securitisation" captures any securitisation where notes are admitted to trading on a trading venue in the Union. This criterion ignores the fact that admission to trading on a trading venue is frequently sought for reasons unrelated to achieving wide distribution of the notes or a liquid trading market for them. The two most common reasons a private transaction is admitted to trading are: (i) to meet internal investor requirements for instruments they are permitted to invest in; and (ii) to ensure appropriate withholding tax treatment for interest payments that would be on par with the treatment of a loan. Many transaction parties currently choose to seek admission to trading within the EU on trading venues designed to meet these needs while maintaining privacy, such as the Vienna MTF. **The effect of extending the definition of "public securitisation" to include all EU admissions to trading will simply be to drive such applications for admission to trading outside the EU**, to venues such as The International Stock Exchange or similar – leading to reduced flow of information to EU supervisors about the distribution and liquidity of these transactions and reduced business for EU exchanges. AFME looks forward to engaging on alternative solutions that best match the listing landscape. **If any "admission to trading" type criterion is retained, it must be clear that only admission to trading requested by the originator, sponsor or SSPE would have the effect of making a transaction public.** Otherwise, the proposal may have unintended consequences and capture as "public" securitisation instruments that appear on an EU trading venue by virtue of being onboarded by an investor or an MTF without knowledge or approval of the securitisation sell-side parties, such as originator, sponsor or SSPE.

- AFME members are also very concerned about Limb (c) of the definition of "public securitisation". We understand that this framing is intended to capture the classic "bookbuild" process used to find investors and price transactions in public securities issuances more generally, but unfortunately the reality is much more nuanced than this, and the wording proposed would lead inevitably to significant legal uncertainty. Since a great deal turns on the correct "public" or "private" categorisation of a transaction, including the ability of the parties to comply with their regulatory obligations, a high degree of certainty about that categorisation must be present on every transaction. Finally in this respect, we note that – unlike the other two limbs of the definition – limb (c) has no geographic limitation. The effect of this is that many third country transactions would need to complete the much more onerous public templates in order to be offered into the EU. AFME members would strongly recommend the deletion of limb (c) of the proposed definition of "public securitisation". If limb (c) is

retained, then we would recommend that it be amended to only apply where at least one of the originator, sponsor or SSPE is established in the Union.

(b) Disclosure templates

AFME members welcome the principle of simplification of disclosure requirements and applaud the Commission for proposing a way forward on this subject. Both the ideas of reducing the number of fields for public transactions by 35% or more and of introducing a much lighter disclosure template for private transactions are positive developments strongly supported by AFME members. Likewise, the elimination of the need for loan-by-loan data for securitisations of highly granular, short-term asset assets is a wise and proportionate change to the framework. The effectiveness of these measures, however, will be determined in large part by the details of their implementation. In particular:

- AFME members look forward to understanding the specific changes to the public disclosure templates, with an emphasis on introducing the maximum possible level of flexibility in disclosure so as to provide investors with useful information while avoiding the need for originators to make fine judgments about the best way to fill in a disclosure field when it is clearly not helpful or meaningful to do so.

- In its Explanatory Memorandum, the Commission suggests the private securitisation disclosure form should "follow closely existing notification templates, in particular the guide on the notification of securitisation transactions by the Single Supervisory Mechanism". The SSM template to which this refers is, of course, a one-time disclosure template, submitted when a transaction is first established. Since the purpose of the private template is only to provide high-level information to supervisors, we would suggest that this principle be followed and that appropriate **changes be made to SECR to reflect a requirement to complete the private template only once**, at the outset of the transaction, rather than having it be a regular disclosure template that needs to be submitted. As to the substance, however, we would caution that the SSM template should be used only as a broad guide to the right starting point. Only systemically significant EU banks are already familiar with the SSM template. Since the SECR private template will also need to be completed by both EU non-bank originators and (potentially) third country originators and sponsors, it will be important to ensure the template is workable for them as well.

- In relation to the elimination of loan-by-loan disclosure for securitisations of highly granular, short-term assets, AFME members are keen to understand what asset classes this is likely to include. We understand that credit card receivables are intended to be included, but we are unclear what is meant by the reference to "certain consumer loans" in this respect. We would also have expected trade receivables to have been included in the list of asset classes where loan-by-loan information is not required.

- Finally, as the Commission has emphasised, the reform measures should be thought of as a package. In order to have the desired effect, it is important that the relevant level 2 measures be delivered expeditiously. It would therefore be desirable to have the ESAs begin work on the relevant level 2 legislation as soon as the level 1 amendments are sufficiently certain to make this practical so as to minimise the time between the level 1 amendments coming into force and the level 2 implementing measures taking effect. Practically, this would involve them starting work at the end of the trilogues and in parallel with the final stages of formal approval and publication in the Official Journal.

(c) Repository reporting

AFME members also have concerns about the proposed requirement that all transactions should be reported to securitisation repositories. **Requiring the reporting of private transactions to repositories will add unnecessary friction and costs to those transactions, as well as raising additional confidentiality concerns.**

Given that the definition of securitisation covers such a broad range of transactions, some of which are relatively small scale, the addition of **this type of friction and cost is likely to be a material concern at the margins, reducing the utility of securitisation as a tool for providing e.g., low-cost trade finance to SMEs.**

On confidentiality, AFME members appreciate that the Commission's intention is for securitisation repositories only to provide access to private transaction information for public authorities, but the legislation as proposed does not implement this intention. Instead, it is silent about the disclosure by repositories of information relating to private deals to anyone other than public authorities. If the SECR is to be amended to require private deals to be reported to securitisation repositories (which we oppose), **it will be necessary to at least impose a clear legal obligation on securitisation repositories to keep that information strictly confidential** with appropriate enforcement mechanisms, both through regulatory action and direct enforcement via legal action by the transaction parties (both via specific enforcement orders and damages claims for any failure to maintain confidentiality).

Finally, in relation to third country transactions, we understand that the Commission intended to implement the ESAs' recommendation[5] that such transactions should not be captured by the repository requirement. AFME members support this, but we are concerned that the proposed legislation is not clear enough on this matter. We would ask – even if private securitisations are included in the scope of the repository reporting requirement against our recommendation – that third country securitisations be explicitly excluded from this requirement. Without a clear exclusion, EU institutional investors will be in an invidious position. They would be required to verify under the proposed new Article 5(1)(e) that a third country reporting entity has submitted a private template to a repository, but they would not have a right of access to the transaction information from the repository necessary to verify that reporting has taken place. In addition, in the case of EU investors investing in non-EU originator securitisations, repository reporting would risk excluding EU investors from these markets, as the non-EU originator is unlikely to be interested in complying with these new requirements. One example of this could be an EU bank providing asset-backed finance to a non-EU corporate client.

3. STS

AFME members welcome the simplification of the homogeneity rules for SME transactions. We consider that it is a positive step to facilitate the securitisation of SME loans as STS securitisations. We would, however, welcome a further clarification as to how the 70% threshold is measured. We would recommend that it be measured by principal amount outstanding of the underlying exposures.

AFME members also welcome the proposal to extend the eligibility of "on-balance-sheet STS securitisation" to securitisations where the credit protection is provided on an unfunded basis by insurers and reinsurers. This

[5] See paragraph 199 of the Joint Committee Report on the implementation and functioning of the Securitisation Regulation (Article 44).

will be very positive in enabling cost-effective SRT securitisation for certain asset types (in particular residential mortgages), where comparatively low asset risk-weights and portfolio yields make funded solutions economically challenging. However, AFME members are concerned that the conditions proposed in Article 26e(8)(aa) will actually significantly restrict the number of insurers and reinsurers who will be able to satisfy these conditions thereby preventing this proposal from fully achieving its potential to expand the use of securitisation.

In particular:

- Most insurers and reinsurers who are active in the unfunded SRT market use the standard model to calculate their capital requirements. Therefore, the requirement proposed in Article 26e(8)(aa)(i) that the (re)insurer uses an internal model for this purpose will significantly restrict the number of insurers and reinsurers able to provide this protection. It is not clear what this requirement really adds over and above the general requirement that the insurer complies with its solvency capital requirement. If more is required, an appropriate requirement would be that the insurer or reinsurer is required to have in place an appropriate credit risk management framework to manage the risk associated with providing the protection.

- The requirement proposed in Article 26e(8)(aa)(iv) that the (re)insurer has assets under management in excess of EUR 20 billion is problematic. First, the concept of "assets under management" is not an appropriate concept to apply in the context of a (re)insurer. It would be more appropriate simply to refer to the undertaking having assets in excess of EUR 20 billion. Secondly, to reflect the group structure of most insurance undertakings, this should be measured at a group level rather than solely at the level of the specific legal entity providing the protection.

- Finally, the effective requirement that the insurer is an EU entity will have the effect of excluding third country insurers. AFME members consider that it would be appropriate to permit (re)insurers from third countries to provide unfunded credit protection as well, as long as they are subject to prudential regulation in their home jurisdiction.

While the Commission is proposing some amendments to Article 243 of the CRR - notably for the CRE bucket increasing the risk weight from 50% to 60% - the legislative proposal has not reflected industry feedback suggesting a review also of the 100% risk weight currently applied to corporates. This calibration excludes any corporate loans with risk weights above 100%, for instance corporate loans with an external rating of B+ or below and standard risk weight of 150%, which can be present in portfolios of leasing, trade receivables or SMEs. In addition, in Articles 243(1) and (2), for both ABCP and non-ABCP STS transactions, the mere presence of one corporate in the pool that has a standard risk weight above 100% leads to no STS prudential benefit. It is therefore necessary to increase the risk weight cap from 100% to 120% for corporate pools to allow some flexibility of having a portion of the pool with a risk weight above 100%.

We also propose reducing the minimum rating requirement for an originator bank to hold cash collateral under Article 26e(10) of the SECR from CQS 2 to CQS 3, which would align with the requirement for cash collateral held with a third-party bank. The current CQS 2 requirement continues to present a significant problem for banks in many EU jurisdictions without providing any meaningful additional benefit for investors.

Finally, AFME members consider, as a general matter, that the STS label remains far too complicated and that the Commission's proposals – while generally positive – represent a missed opportunity to simplify the STS criteria so as to lower the barriers to entry for new originators wishing to do STS securitisation transactions.

Ideally the STS criteria would be revisited in order to remove much or all of the gold-plating inserted in SECR as compared to the BCBS-IOSCO "simple, transparent and comparable" ("STC") standard, the European implementation of which is the STS label.

(B) In respect of the bank prudential framework:

(a) CRR

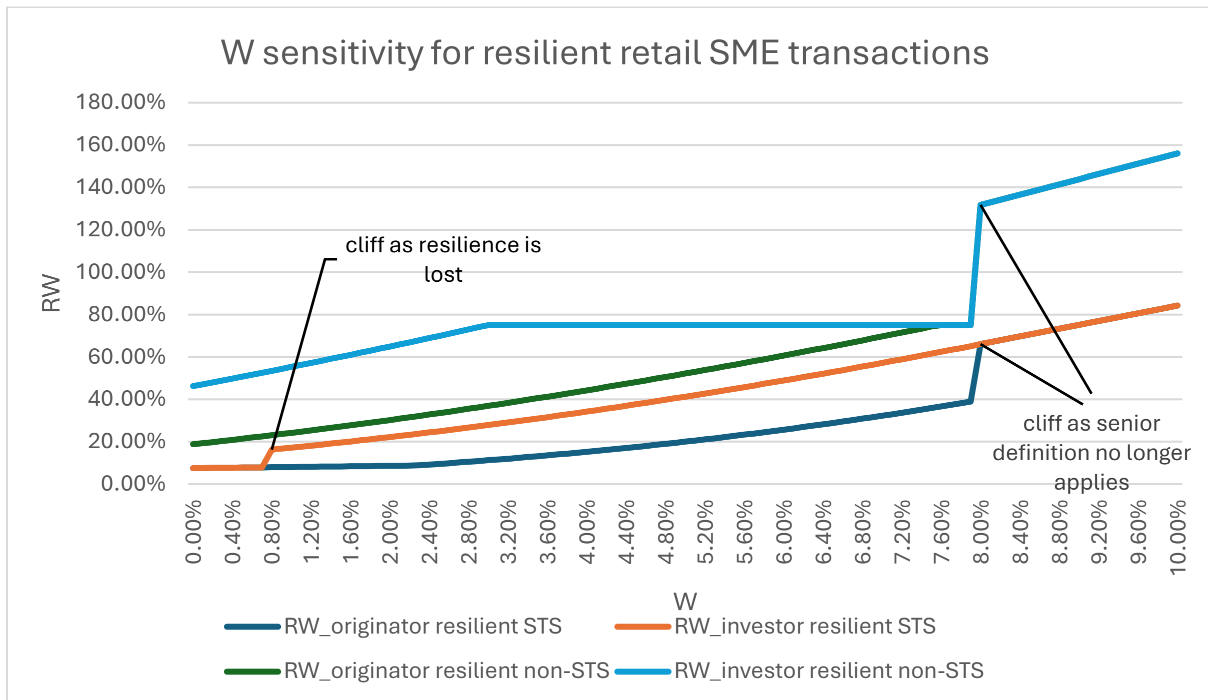
1. The proposed amended definition of senior securitisation (Article 242)

The proposed amended definition requires the senior position to attach above K_{IRB} or K_A, which may lead to the unintended outcome that a securitisation lacks a senior tranche altogether, particularly in the case of SEC-SA securitisations, where K_A may increase significantly over the life of the transaction. Given that, under the legislative proposal, the risk-weight floor would now only apply to senior securitisation positions, this would mean that there would be no floor applicable to the economic senior tranche. In addition, it is conceivable that rated traditional securitisations in the market will fail to comply with this requirement as a result of CRR not recognising the benefit of structural subordination arising from the trapping of excess spread. It would also mean that an on-balance-sheet securitisation which was initially structured to be an STS securitisation would cease to be eligible for the STS capital treatment for the originator, if K_{IRB}/K_A increase above the attachment point of the actual senior tranche. As we note below, given that the SEC-IRBA and SEC-SA formulae will already increase the risk-weight of the senior tranche in these circumstances, we believe that limiting the definition of a senior securitisation position in this way is not methodologically coherent.

2. Resilient Securitisations

AFME members understand the rationale behind introducing the concept of "resilient securitisations", which is to establish guardrails around senior securitised exposures in recognition of the shortcomings of the SEC-SA and SEC-IRBA formulae, thereby enabling a further reduction in capital requirements applicable to resilient securitisations. Such reduction is a welcome development. However, we are mindful that layering this new category of "resilient securitisations" on top of the existing STS label - whose adoption is exclusive to Europe - adds further complexity unique to the EU. It is therefore important that its introduction is impactful across a substantive universe of transactions. Reviewing the detail, we have a number of reservations with the current proposals set out in proposed Articles 243(3) and (4).

- First, AFME members do not think that K_A is the correct parameter to use for the purpose of assessing the minimum attachment point for the senior tranche under the SEC-SA or SEC-ERBA, as given the outsized impact which defaults have on K_A, a relatively small level of defaults could result in a transaction ceasing to meet the "resilience" requirement. Rather, K_{SA} would be the appropriate parameter to use for this purpose for securitisations using the SEC-SA and SEC-ERBA. However, AFME members would not support using K_{SA} to size the minimum attachment point for securitisations using the SEC-IRBA, which would significantly undermine the intended benefits of the proposed reforms for IRB banks.



- Secondly, we would question the appropriateness of applying the minimum attachment point requirement on an ongoing basis. The rationale for establishing a minimum attachment point on closing is to ensure that the level of subordination for the senior tranche is sufficient to absorb any losses over the life of the securitisation, even where those losses exceed the expected and unexpected losses for the securitised exposures. Accordingly, it may not be appropriate for a transaction to cease to be classified as resilient as losses occur over time. This is particularly so where the minimum attachment point under the SEC-SA/SEC-ERBA is based on KA, as discussed in the preceding point, but the principle also applies if the attachment point is based on KSA. We also note that the key benefit from being a resilient securitisation is the lower ultimate floor on the senior tranche risk-weight. However, this only relates to the risk-weight floor. As the SEC-IRBA or SEC-SA risk-weight for the senior tranche increases to reflect increases in KIRB/KA, or the external rating used for the SEC-ERBA is reduced to reflect deterioration in the securitised exposures, the floor will cease to be applicable anyway.

- Thirdly, we believe that the 1.5x multiplier used for determining the minimum senior tranche attachment point under the SEC-SA and SEC-ERBA may be too high, and we would therefore suggest considering a lower multiplier closer to the 1.1 that applies under the SEC-IRBA. That is because KSA is already more conservative than KIRB, so the higher multiplier unnecessarily builds excess conservatism. In particular, with a 1.5x multiplier, it is conceivable that rated traditional securitisations in the market will fail to comply with this requirement as a result of CRR not recognising the benefit of structural subordination arising from the trapping of excess spread. Further, in the case of synthetic SRT securitisations, the 1.5x multiplier does correlate with the p-factor of 0.5 that currently applies for an STS securitisation under the SEC-SA. However, continuing to apply a multiplier of 1.5x will undermine the benefit of applying a lower p-factor for STS securitisations under the SEC-SA in the proposals.

- Fourthly, given that resilient securitisation positions are already limited only to the senior tranche of a securitisation, we see limited justification for differentiating between the position of the investor compared with other parties to the securitisation.

- Fifthly, we note that on page 11 of the Explanatory Memorandum to the proposed CRR amendments, it is stated that only collateralised protection, or protection from national governments or IFIs would be eligible for resilient securitisations. The actual proposals in Articles 243(3) and (4) do not, however, provide this, but merely that the collateral requirements for on-balance-sheet STS securitisation would need to be complied with. However, these requirements (in Article 26e(10) of the SECR) do not require collateral to be provided for protection provided by (re)insurers that meet the requirements in proposed Article 26e(8)(aa), and thus an uncollateralised transaction from such an insurer would still be capable of being treated as a resilient securitisation. AFME members emphasise that we consider this to be the correct position.

- Finally, AFME members' understanding is that, notwithstanding the reference to the need to comply with Article 243(2) on an on-going basis in proposed Articles 243(4) of the CRR, the requirement for a resilient securitisation position to comply with the maximum concentration limit in Article 243(2)(a) of the CRR only applies to securitised exposures as at the time those exposures are included in the portfolio. Accordingly, this requirement would not cease to be met due to amortisation over the life of the securitisation resulting in remaining exposures exceeding the maximum concentration limit of the remaining portfolio. This is also important in ensuring that a resilient securitisation does not cease to be treated as such purely as a result of the natural and expected evolution of the securitised portfolio over the life of the transaction.

3. Risk-weight Floor

AFME members welcome the move towards a risk-sensitive risk-weight floor and the associated reduction of the capital requirements. While these changes are broadly very positive, we have a number of reservations with the current proposals:

- First, consistent with our concerns regarding the use of K_A in setting the minimum attachment point for the senior tranche for a resilient securitisation, we would question the appropriateness of also using K_A in the risk-weight floor calculation. That is because a relatively small level of defaults in a securitisation could result in the senior tranche risk-weight being significantly higher than the flat 15%/10% floor that applies under the current rules. Instead, a more suitable approach would be to use K_{SA} when applying the SEC-SA.

- Secondly, just as an ultimate floor applies to the floor calculation, it may also be appropriate to introduce a cap, which should be no higher than the current 15% for non-STS or 10% for STS securitisations. Otherwise, whenever the portfolio average risk-weight is greater than 100%, the risk-weight floor will actually be higher than is currently the case. This would be particularly relevant for some asset classes such as project finance, development loans and leveraged loans. While we acknowledge that the intention here is to move to a more risk-sensitive floor, it would be unfortunate if a consequence of that was to increase the capital requirements above the already very conservative levels that apply under the current rules for those types of exposures. In this regard, we note that this calculation is only a floor. Where the risk-weight determined under the SEC-IRBA or SEC-SA formula is higher than the floor, that higher risk-weight will apply anyway. The floor therefore should only be used to prevent the senior tranche becoming too low to be meaningful rather than effectively turning

the senior tranche risk-weight calculation into a "higher of" the output of two different formulae. Applying a cap to the floor calculation in this way would also guard against the risk that the risk-weight for a more junior tranche (which is based solely on the SEC-IRBA or SEC-SA calculation) could actually be lower than that which applies to the senior tranche, which would be a counterintuitive outcome.

- Thirdly, in our view, the multiplier on the risk-weight floor function may still be too high, and as a result the proposed reforms may offer, in fact, little or no benefit for portfolios of trade receivables or non-SME corporate exposures which typically carry a risk-weight of 100% (or in excess of 100%). We note that trade receivables represent a majority of assets funded through ABCP conduits in Europe. This tool is therefore central to banks' ability to provide finance directly to the real economy. Specifically, it is an important tool in providing European working capital and addressing supply chain needs. Therefore, it may be worth considering a reduction in these multipliers to ensure the reforms achieve the desired effect of stimulating securitisation activity. Accordingly, rather than applying 10% for STS and 15% for non-STS, we would propose multipliers of 7% for STS and 10% for non-STS, which is more in line with academic research.

- Fourthly, there are some asset classes (in particular residential mortgages), where the risk-weights of the securitised exposures are so low (i.e., below around 30%) that even an ultimate floor of 5% may be too high. In such cases, it may be appropriate to consider a lower ultimate floor, such as of 2%, to better reflect the underlying risk profile.

- Finally, although this concern is somewhat less significant than the differential that applies in respect of the p-factor discussed below, the differential in the ultimate risk-weight floor that applies between an originator/sponsor and an investor in the senior tranche of a non-STS resilient securitisation appears difficult to justify. We believe that an ultimate floor of 10% would be more appropriate in all cases.

4. Adjustments to the p-factor

AFME members welcome the proposals to reduce the p-factor that applies for the purposes of the SEC-IRBA and SEC-SA risk-weight formulae. However, we do have the following concerns:

- First, we would question the rationale for applying different p-factors between originator/sponsors on the one hand and investors on the other. This will significantly restrict the ability of banks to provide senior securitisation funding to their corporate client base where they are not the originator. There is particularly no justification for this differential in the case of the senior tranche of resilient securitisations, where the minimum attachment point for the senior tranche already serves a similar function to the p-factor. We would therefore suggest that the p-factor be the same for originators, sponsors and investors for all senior securitisation positions.

- Secondly, we note that the reduced p-factors under the SEC-SA for the originator of 0.3 for STS and 0.6 for non-STS are higher than those which currently apply for the purposes of the Basel 3 Final output floor transitional relief (0.25 and 0.5 respectively). Given that there are also reductions in the p-factor for the SEC-IRBA, the concern remains that the differential between the p-factor in the resulting risk-weights under the SEC-IRBA and SEC-SA will once again mean that the output floor will nullify the benefit of the significant changes being made to the risk-weights for the SEC-IRBA for IRB banks that become output floor constrained. This would be a very unfortunate outcome, and would significantly

reduce the ability of the reforms to stimulate securitisation markets. Contrary to the Commission's comments on page 15 of the Explanatory Memorandum for the CRR proposals, we do not think the concerns around the output floor are properly mitigated by the proposals, and they may actually be exacerbated.

5. **Significant Risk Transfer**

AFME members broadly welcome the proposed changes to the significant risk transfer framework.

However, we note that the workability in practice of the new proposed quantitative test (based on the PBA test from the EBA SRT Report of 2020) will depend very much on how banks are required to go about allocating the unexpected losses to the tranches. It is important that banks are able to make this allocation in a way which actually reflects the expected performance of the securitised portfolio taking into account appropriate stressed conditions, currently not reflected in Recommendation 10 of the EBA SRT Report, where, for example, in the back-loaded scenario, two-thirds of the unexpected losses were to be assumed to occur in the last year of the securitisation, which is not realistic. It should therefore be clarified in the EBA mandate in proposed Article 244(7)(a) that these calculations should reflect the originator's historical experience, and that it should be permitted to take appropriate pre-payment assumptions into account for that purpose.

AFME members also observe that the assumptions underpinning the PBA Test in the current ECB trial fast-track SRT assessment process appear to be workable. However, as that process is still in its trial phase, more time is required to assess whether those assumptions are appropriate in all cases rather than simply adopting them in full for the new SRT test.

In addition, and consistent with proposed Article 243(5), it should also be clarified that the WAL of the securitised exposures should be capped at 5 years for the purposes of fixing the earliest date for a time call in proposed Article 245(4)(h). In order to increase the viability of traditional SRT securitisation, AFME members also suggest deletion of the prohibition on time calls in traditional SRT securitisations (currently set out in the proposed final paragraph of Article 244(4)) and its replacement with a provision equivalent to Article 245(4)(h) for synthetic SRT securitisation.

(b) LCR

AFME members welcome the direction of travel indicated by the draft LCR amendment consulted on by the Commission. The removal of the asset class requirements, and of the 5-year residual maturity limitation are both positive, as are the correction of the erroneous application of a AAA rating requirement (and replacement with an A- or CQS7 minimum requirement) and the reduction of haircuts to 15% for certain resilient STS securitisation positions.

That said, AFME's response to the Commission's consultation points out a number of areas where the amendment proposal could be further improved and advocates LCR eligibility, as summarised in the table below:

<table>
<tr><th>Type of securitisation</th><th>LCR eligibility requirements</th><th>Applicable haircut</th><th>HQLA Level</th></tr>
<tr><td>Qualifying Resilient Non-STS</td><td>Senior tranche in traditional securitisation

“Resilient” (as per Commission CRR proposals save for exclusion of investors in non-STS transactions and the crucial technical point below re prudential cliff effects inherent in the current calculation mechanics [6])

Minimum senior tranche issue size EUR 250m (or equiv.)

Rated AA- or better</td><td>25% haircut</td><td>L2B</td></tr>
<tr><td rowspan="2">Standard STS</td><td rowspan="2">Senior tranche in traditional securitisation that satisfies the EU STS requirements applicable under SECR[7]

Minimum senior tranche issue size EUR 100m

Minimum rating requirements apply (see “Applicable haircuts” column)</td><td>15% haircut if rated AA- or better</td><td>L2A</td></tr>
<tr><td>35% haircut if rated A+

42% haircut if rated A

50% haircut if rated A-</td><td>L2B</td></tr>
<tr><td>Resilient STS</td><td>Senior tranche in traditional securitisation that satisfies the EU STS requirements applicable under SECR

“Resilient” (as per CRR proposals save for the crucial technical point below re prudential cliff effects inherent in the current calculation mechanics)

Rated AA- or better</td><td>10% haircut</td><td>L2A</td></tr>
</table>

[6] Positions in own-originated securitisations are in any case not eligible HQLA. If resilient positions were limited to originator/sponsor positions in this context, the extension of HQLA eligibility to STS securitisations would be meaningless

[7] For this category (other than rating requirements) there is no other gold-plating of the SECR STS criteria.

Type of securitisation	LCR eligibility requirements	Applicable haircut	HQLA Level
	Minimum senior tranche issue size EUR 250m		

(C) Transitional provisions

AFME members are alarmed that the proposed SECR amendments contain neither provisions to delay mandatory application of the reformed SECR nor any transitional provisions.

While we are optimistic that many of the changes to SECR will be favourable and market participants will want to adopt them quickly, we are nonetheless cognisant that any changes to regulatory compliance processes take time to organise. Large financial institutions, especially, rely heavily on systems to automate compliance processes, so implementation of any material change requires time to understand, to scope necessary systems changes, to code those changes and to implement them in a way that does not disrupt existing processes. **AFME members would therefore request that any SECR changes be delayed by 6 months**. In addition, and for similar reasons, we would request that the SECR mandate for the amended RTS on disclosure templates specify that any new disclosure templates should not be required to be used for at least six months following publication of the revised templates in the Official Journal.

Separately, it is critical as a matter of fairness and natural law to protect parties' legitimate expectation that they can rely on the law as it stands when a transaction is done. To that end, transitional provisions must be included in any SECR amending regulation to confirm that **transactions in existence at the time the SECR amendments begin to apply may continue to apply current standards unless they elect voluntarily to comply with the new standards instead.** Without this relief, parties would risk having the fundamental basis of the transactions they had done undermined, along with undermining confidence in the stability and predictability of the EU legal regime.

While the proposed CRR amendments will, in many cases, result in a reduced capital requirement for many securitisation positions, this will not be the case universally, unless some of the amendments we propose above are also adopted. Accordingly, given the inability of parties to amend existing securitisations, **optionality should be provided for an originator to continue to apply the existing CRR treatment to securitisation positions which it is already holding at the time the new regulations begin to apply**. However, to maximise the benefit of the changes, parties should be permitted to make such an election on a case-by-case basis rather than being required to make the same election for all existing securitisation positions.

(D) Other barriers to market development

- **Credit Conversation Factors for committed undrawn securitisation funding lines**

The current Credit Conversion Factors (CCF) mechanism limits the provision of private securitisation facilities that are needed for warehousing new origination, ahead of public securitisation issuance. The CCF applied to liquidity facilities and undrawn credit lines granted by banks in private securitisation transactions, defined in

Article 248(1)(b), is too binary: 100% CCF in general or 0% for liquidity facilities that are super senior and cancellable. This binary treatment came as a reaction to the 0% CCF applied under Basel I that proved not appropriate during the financial crisis. For ABCP transactions or warehousing lines, the senior financing is typically in the form of a committed facility (not cancellable at any time without conditions nor prior notice, contrary to an unconditionally cancellable commitment "UCC") which the bank's client can draw subject to the fulfilment of a number of conditions. With the current 100% CCF, the committed undrawn part of the facility, which is an off-balance sheet item for accounting purposes, attracts the same capital as the drawn part. This is to be compared to corporate facilities such as RCFs that benefit from a CCF of 40% for undrawn part (under the bucket 3 of Annex I for off-balance sheet items under CRR3). As we see no justification for this differentiated treatment, we would propose a CCF no higher than 40% for the targeted scope of the senior financing of bank client assets, either via ABCP lines or warehousing lines.

- **Calibration of LGD for secured assets that currently restrict "loan on loan" securitisation of real assets**

Article 8 "General conditions for risk differentiation" of the EBA RTS on KIRB calculation (Commission Delegated Regulation (EU) 2024/1780) provides the following clarification:

> *2. Institutions calculating KIRB may set LGD at 50 % for retail qualifying securitised exposures.*
>
> *3. Institutions calculating KIRB may set the following values for LGD, instead of the values laid down in Article 161(1), points (e) and (f), of CRR:*
>
> > *(a) 50 % for non-retail senior qualifying securitised exposures;*
> > *(b) 100 % for non-retail subordinated qualifying securitised exposures*

These rules have a negative impact on non-retail securitisation. The LGD calibration for SEC-IRBA limits the emergence in Europe of loan-on-loan private securitisation for real assets and their refinancing into public securitisation markets. Asset classes such as aircraft ABS, project finance CLO, data centre CMBS, are well-developed in the US and are needed in Europe to finance the energy transition outside banks' balance sheets and through the capital markets.

Indeed, when banks as investors in the senior tranche are using SEC-IRBA for the pools originated or serviced by clients, EBA accepts that the PD derived from banks' internal models can be used for the PD but not the LGD. For pools originated and serviced by banks' clients, banks must use flat LGD of 50% for senior exposure and 100% for subordinated exposures.

This creates two issues: no differentiation between senior unsecured exposures and senior secured exposures; no LGD benefit from security which exists under the foundation approach where the LGD is reduced to 25%; for subordinated exposures, the 100% LGD is too harsh compared to the foundation calibration of 75% LGD.

We would therefore propose to include in the CRR amendment a mandate to modify Commission Delegated Regulation (EU) 2024/1780 to rectify this issue. In particular, it should be clear that the expectation is to modify Article 8 of that RTS of for the specific case of non-retail exposures where banks can derive PD, with an LGD in line with the Foundation Approach (25% LGD for senior secured, 40% for senior unsecured and 75% for subordinated).

- **UCITS restrictions**

Another area not addressed in the Commission's proposals, but which AFME members would support having addressed as part of the securitisation package would be adjusting the 10% acquisition limit for debt securities in a single issuing body imposed under Article 56 of the UCITS Directive so that it does not apply to securitisations. This rule prevents UCITS funds from making larger allocations when investing in individual securitisation transactions. For example, this restriction can in some cases stop a large UCITS investor from subscribing for a full tranche or a significant proportion of a tranche because the issuing body is a single transaction SSPE (and not a programmatic issuer). The 10% cap therefore limits such large UCITS investors' ability to increase their securitisation investment volumes. This, in turn, drives more UCITS investments towards unsecured corporate credit with higher risk of default, fewer protections and lower rates of return compared to securitisation. Our members who raised this issue therefore suggest removing the 10% limit in respect of securitisations since it has a differential and unintended effect in that context. It also creates adverse incentives for UCITS investors wishing to increase their securitisation investments, which is undesirable in the context of the Savings and Investments Union objective of growing the European securitisation market.

- **The NPE securitisations regime**

The regime for NPE securitisations introduced in 2021 represented an improvement over the previous framework, but further refinements could still be made. First, the basis for capital calculations continues to be unfavourable. We would therefore recommend further alignment with the 2019 EBA Opinion on the subject, which, in our view, remains the fairest approach to dealing with true NPE securitisations. Furthermore, it has become clear that the NPE securitisations regime is not appropriately designed to deal with securitisations of exposures which are merely "unlikely to perform" (UTP). These loans are much more likely to be mixed with performing loans, meaning they will not benefit from the "corridor" in Article 269a of CRR and will frequently have worse capital outcome than true NPE loans - a result that may be considered unfair. This is particularly important in the current environment where some banks have disposed large volumes of NPEs in the past years, and such effort should be further supported through an improved regulatory treatment to efficiently derisk their remaining NPE portfolios which are at an early stage and often classified as UTP.

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