afme/
Finance for Europe

13th May 2015

Detailed response to Questions 1-18 of "An EU framework for simple, transparent and standardised securitisation

QUESTION 1	ANSWER
A. Do the identification criteria need further refinements to reflect developments taking place at EU and international levels? If so, what adjustments need to be made?	The European Commission's Consultation Document entitled "An EU framework for simple, transparent and standardised securitisation" dated 18 February 2015 (the "**Consultation Document**") does not propose detailed identification criteria. The broad categories of identification criteria identified in the Consultation Document, however, are consistent with those proposed by the EBA in its Discussion Paper on simple standard and transparent securitisation published on 14 October 2014 (the "**EBA DP**"). As such, our comments take the detailed criteria proposed in the EBA DP as a base. AFME (together with a number of other industry associations) has already commented in detail on the criteria proposed in the EBA DP. We believe that a number of refinements to the proposed criteria are necessary. The main areas in which the criteria proposed by the EBA need refinement specifically to reflect developments at the EU and international levels are: 1. The criteria should be made simpler, more general and more principles-based, akin to the approach taken by the BCBS and IOSCO in their consultation paper on simple, transparent and comparable securitisations, with regulators given the ability to provide technical guidance in order to allow them to ensure that the purposes behind the regulations are met and to allow more flexibility as market practices evolve. This approach will have the advantages of resolving much of the current regulatory uncertainty, allowing the criteria to be applied in a flexible, purposive manner and prevent "gaming" of the regulatory framework by virtue of the technical guidance provided following adoption of the overall framework. As it stands, the criteria proposed by the EBA are so lengthy and complex as to make them very difficult to comply with. They also risk being so specific and prescriptive as to risk excluding a large number of transactions and structures in the market that it is not intended to exclude. This will also tend to stifle the natural development of markets – a process that should be encouraged in order to allow markets to adapt to meet the needs of new investors whose involvement in securitisation markets the Commission is seeking to encourage. 2. The criteria implemented also need to include a mechanism for recognising equivalent "qualifying securitisation" frameworks being put in place in other jurisdictions, whether as part of a BCBS-IOSCO initiative or otherwise. In order to broaden and deepen European securitisation markets, we must encourage a wide range of investors to participate, including international investors. Indeed, attracting international investment is one of the objectives of the Capital Markets Union as set out in the Green Paper.

	The criteria proposed by the EBA in their discussion paper required compliance with a large number of European-specific rules, including European risk retention, disclosure and consumer credit rules. It is crucial to the success of the qualifying securitisation initiative in Europe that there should be a unified framework for qualifying securitisation across borders, or at least a system of mutual recognition that facilitates cross-border investment in securitised products. It would give both investors and issuers confidence in the framework on a global basis. It would also allow market participants to structure transactions according to the requirements of their home jurisdictions, safe in the knowledge that investors in other jurisdictions will nonetheless be able to benefit from the improved regulatory treatment associated with a qualifying securitisation.
B. What criteria should apply for all qualifying securitisations ('foundation criteria')?	It is important to remember the context provided to this question by the definition of "securitisation" contained in Article 4 of the CRR. That definition is arguably overbroad, in that it can include many forms of tranched debt that would not ordinarily be regarded as securitisations, e.g. receivables financings with a discount rate applied to determine the amount of lending. In that context, and bearing in mind the purpose is to increase the flow of funds to the real economy (and especially to SMEs), it is important that the definition of "qualifying securitisations" should not be drafted so prescriptively as to discourage banks from providing financing to clients in ways that might fall within the very broad definition of securitisation but not within the strict requirements of qualifying securitisation. We are therefore of the view that the list of "foundation" criteria with application to all areas (including bank capital, insurance capital, the LCR liquidity buffer and any other future areas of application) should be much shorter that that suggested by the EBA. In particular, no criteria related to the credit quality or risk weights of the underlying assets should be included as foundation criteria as this would tend to promote the idea of qualifying securitisation as somehow being "low risk". As discussed elsewhere, qualifying securitisation should simply signify that the risks are able to be well understood and properly modelled. We would further emphasise the position we articulated in our response to the EBA DP (and the GFMA's response to the BCBS-IOSCO consultation on the same subject) that the criteria should be designed in such a way as to allow synthetic securitisations to qualify. There are a number of key asset classes, including SME loans that are routinely securitised using synthetic techniques because of the difficulties associated with cash securitisation of such assets. Putting aside criteria specifically designed to exclude synthetics, there is no reason synthetic securitisations could not be "qualifying securitisations". The addition of a requirement (for synthetics only) that the transaction be designed to achieve credit risk mitigation in respect of exposures which appear on the consolidated regulatory

	capital accounts of the group of which the originator is a part would (quite appropriately) serve to ensure that qualifying synthetic securitisations do not include deals designed for arbitrage purposes. The foundation criteria should be further limited to those criteria that are sufficiently general as to be universal and also are related to simplicity and transparency. We would suggest the following: - an exclusion of resecuritisations; - a requirement for broad homogeneity of asset class; - a requirement for isolation of the assets such that they are beyond the reach of the seller and its creditors in the event of the seller's insolvency (or collateralisation providing equivalent protection); - origination of the assets in the ordinary course of the original lender's business pursuant to underwriting standards not less stringent than those the original lender applies to origination of similar assets not intended for securitisation; - the underlying assets contain a legal, valid and binding obligation of the obligor to pay specified sums of money; - the underlying assets are underwritten on the basis that there is full recourse to the underlying obligors (and not just to the assets securing their obligations); - a requirement for interest rate and currency risks to be appropriately mitigated via derivatives entered into for hedging purposes or otherwise; - a requirement for interest rates to be fixed or based on commonly encountered market interest rates and/or sectoral rates reflective of a lender's cost of funds; - a requirement that transaction documentation provide for continuity of service in the event that a critical service provider (e.g. servicer, swap counterparty or liquidity facility provider) defaults or becomes insolvent;

	- compliance with applicable risk retention requirements; - a requirement for external verification (confidence level of at least 95%) of a sample of the underlying assets to verify the data disclosed to investors in any formal offering document; - compliance with all applicable transparency requirements, including loan level data disclosure requirements; - in a manner and to an extent appropriate to the market in the relevant jurisdiction and asset class, the exclusion of credit-impaired obligors; - in a manner and to an extent appropriate to the market in the relevant jurisdiction and asset class, the exclusion of defaulted assets. All other criteria contain at least some element of specificity to particular circumstances that will not always be the case, even in securitisations that are, by any reasonable measure, simple, standard and transparent. Making other criteria "foundation criteria" therefore risks preventing the whole qualifying securitisation initiative from achieving its objective. We would note further that the decision on what criteria are required to be a "qualifying securitisation" should be made via regulation in order to ensure a consistent application of the criteria across the EU.

QUESTION 2	ANSWER
A. To what extent should criteria identifying simple, transparent and standardised short-term securitisation instruments be developed? What criteria would be relevant?	Short-term securitisation instruments, such as asset-backed commercial paper (ABCP), should be included in the project to develop criteria identifying simple, transparent and standardised securitisations. These instruments and the transactions they finance help channel capital markets funding into corporate working capital and consumer credit. As their qualities are different from those of asset-backed bonds, the criteria used to identify simple, transparent, and standardised short-term securitisation instruments must be different from those used for other types of asset-backed securities (ABS). An important point to keep in mind is that where an ABCP programme benefits from full liquidity and credit support from its sponsoring bank and that support is available in all circumstances to be drawn to repay maturing CP, any investor in the CP issued by the programme will be able to determine the creditworthiness of its investment by reference to the credit quality of the sponsoring bank as the liquidity and credit support provider. In this sense, the CP issued by ABCP programmes may be viewed as a relatively simple investment in a corporate exposure to the sponsoring bank, even if the underlying transactions funded by the programme do not themselves necessarily fall within the criteria for simple, transparent and standardised securitisation instruments. In addition to developing criteria for ABCP and other short-term securitisation instruments, regulators should adapt the wider qualifying securitisation criteria to cover the types of private securitisation transactions that are often funded by those short-term securitisation instruments or by banks directly. We discuss this point further in our response to question 2B. *Use and benefits* ABCP programmes offer an important source of funding for businesses and for financial institutions providing financing to businesses and consumers. For example, they provide working capital facilities to business enterprises by buying their short-term trade receivables and financing those investments by issuing commercial paper. Trade receivables securitisation is a very important and attractive funding source for companies, and should be encouraged as a well-established way to for banks and capital markets investors to provide funding to the real economy. ABCP programmes also facilitate consumer finance by investing in securitisations of consumer credit assets, including revolving "warehouse" facilities that bridge to longer-term ABS issuance.

Though ABCP can be used to finance many kinds of assets, the most common asset types are trade receivables, auto loans and leases, equipment leases and consumer loans.[1] ABCP programmes are especially well adapted to financing short-term assets and revolving pools of assets where the aggregate outstanding amount changes over time, as the amount of funding can easily be adjusted to accommodate changes in the underlying assets or the originator's funding needs. ABCP programmes are designed to be able to invest in a variety of asset types from different jurisdictions, and one of their strengths is that the mix of underlying assets can change over time in response to market conditions.

Before the financial crisis, ABCP conduits, not counting structured investment vehicles (SIVs) and securities arbitrage programmes, provided hundreds of billions of euros of financing to European and US businesses and institutions. Even after the financial crisis, ABCP programmes still provide tens of billions of euros of financing in Europe, though most ABCP issuance is in the US rather than the European ABCP market. For example, in 2014, ABCP conduits rated by Moody's Investors Service in Europe had outstanding commercial paper issuance of more than $70 billion, most of which was invested in European business and consumer assets.[2] Because of the support provided by their sponsor banks, conduits can be used to channel capital markets funding even to companies that would not be large enough or have high enough credit ratings to access capital markets directly.[3] A healthier European ABCP market could provide much more funding for European commerce.

Qualities for investors

From the investors' point of view, these instruments offer simple, transparent and standardised investments. They are short-term notes with maturities of one year or less (or, for purposes of money markets fund regulations, up to 397 days), and typically much less. They are very simple instruments, typically issued at a discount to face amount and providing for a single payment of the face amount on the maturity date, though some bear interest at a fixed rate, or at a floating rate based on a recognised index, with payments of interest at intervals during the term and principal and interest at maturity. Some programmes allow for issuance of ABCP with options on the part of the issuer to prepay or investors to require repayment with advance notice prior to original maturity, or for investors to

[1] *See, e.g.*, Moody's Investors Service, EMEA ABCP Market Survey Q4 2014 (15 April 2015) ("Moody's ABCP Market Survey"), Exhibits 9, 11 and 16.

[2] Moody's ABCP Market Survey, Exhibits 2, 10.

[3] *See* Moody's Investors Service, materials from Moody's 12th Annual ABCP Conference (Nov. 2014), *available at* https://www.moodys.com/research/Moodys-12th-ABCP-Conference-shows-optimism-about-European-ABCP-market--PR_313380, page 15.

	extend the terms of notes for limited periods under certain conditions. In a bank-sponsored ABCP programme, repayment of ABCP is supported by bank liquidity facilities (or, sometimes, a combination of credit enhancement and liquidity facilities) in an amount not less than the aggregate face amount of the outstanding commercial paper. These facilities, typically provided by the "sponsor" bank that established and manages the commercial paper programme, assure the prompt payment of commercial paper to investors on the stated maturity dates. Therefore, payments to investors depend primarily on the credit quality and liquidity profile of the sponsor bank, rather than on the underlying assets. In addition to the bank support facilities, ABCP programmes are secured or otherwise backed by investments in receivables or other financial assets acquired by the issuer in transactions negotiated by the sponsor bank with its customers and structured, generally, to at least investment grade credit quality. Because the bank sponsor, through the programme-level support facilities, has primary exposure to risks of those transactions, its interest in seeing the underlying transactions perform well is not just aligned with, but is much stronger than, those of the ABCP investors. The ABCP market has a long-standing practice of providing information to investors in appropriate detail and in a relatively standardised format. As long ago as July 2008, the European Securitisation Forum (a predecessor of AFME) and other industry associations submitted a report to the European Commission entitled "Ten Industry Initiatives to Increase Transparency in the Securitisation Market" and including a "Code of Conduct on Disclosure in the ABCP Market"[4] adopted by European ABCP market participants. In addition to the ABCP programme information memorandum that describes a programme's legal structure, programme documents and credit and investment policy, ABCP programme sponsors provide monthly reports to investors in a relatively standardised format including data on type, amounts and performance of underlying transactions, though they generally do not disclose identities of sellers or loan-level data on underlying assets . Sample forms of monthly investor report have previously been supplied to the EBA in the context of discussions with them on this question and can be supplied on request. *Criteria for qualifying ABCP* Because short-term securitisations have characteristics different from those of other ABS, the criteria used to identify "simple, transparent and standardised" ABCP programmes also need to be different from those for other

[4] European Securitisation Forum, and others, "Ten Industry Initiatives to Increase Transparency in the Securitisation Market" (2 July 2008), *available at* www.afme.eu/WorkArea//DownloadAsset.aspx?id=212, pages 45-46.

	types of ABS. Existing and proposed criteria for qualifying ABS have been designed for widely-offered asset-backed bonds backed by single pools of homogenous assets, without the benefit of bank support facilities that assure timely payments to investors. As a result, many of those criteria are not suitable for ABCP programmes. They focus on the underlying assets without taking into account the bank support facilities on which investors in ABCP rely. Some qualifying ABS criteria require that ABS are admitted to trading on a regulated market or recognised alternative market, but the exchange listing requirements are also not well adapted to short-term instruments like ABCP notes, and they are typically offered and sold in the over-the-counter market. Finally, an ABCP programme's underlying asset purchase or financing transactions are negotiated by the sponsor bank, which has extensive information about, and retains exposure to, the underlying assets and the seller or borrower, while the ABCP investors rely on the bank's support facilities for timely payment. The sellers and borrowers generally would not permit, and ABCP investors do not require, disclosure to those investors of details of the sellers and underlying assets. For qualifying short-term securitisations, we propose criteria that reflect the strengths of the ABCP product: (a) The securities are debt obligations with original maturity not later than one year (or 397 days) after issuance. (b) Funding for the programme's investments is provided by a single class of ABCP (i.e., not by senior and subordinated classes of securities), together with liquidity facilities and any credit support facilities. (c) The aggregate outstanding amount of the securities is covered by full support liquidity facilities provided by the sponsor bank, so timely repayment depends primarily on the sponsor bank rather than the underlying assets. (d) The bank that provides those facilities is subject to liquidity coverage requirements under Part Six of the Capital Requirements Regulation (CRR) or corresponding rules of another jurisdiction based on the Basel III: Liquidity Coverage Ratio. (e) The securities are of high credit quality, as measured by external ratings or other measures corresponding to those used for simple, transparent and standardised ABS (but appropriate for short-term instruments). (f) Investors are provided with an information memorandum that describes the programme's legal

	structure and operative documents, including its liquidity facilities and programme credit support agreements as applicable, the programme's administrator, its liquidity and credit support providers and other material service providers and its credit and investment policy. (g) The programme sponsor provides investor reports at least monthly setting out information about the programme, the liquidity and programme credit support providers and the underlying transactions (consistent with established market practice). We have already proposed most of these criteria in our responses to the European Banking Authority's recent consultation on simple, standardised and transparent securitisation[5] and the Basel Committee/IOSCO Joint Task Force consultation on simple, transparent and comparable securitisations,[6] and in the context of the proposed Money Markets Fund Regulation. In this response we propose in addition the last two criteria to more fully address the transparency objective. We note that the European Securities Markets Authority (ESMA) is due to consider disclosure standards for ABCP programmes for purposes of Article 8b of the amended Credit Rating Agency Regulation. The existing market practice for these programmes provides a robust level of disclosure well adapted to the product's characteristics and investors' needs, and should be used as a basis for the level of disclosure to be required under Article 8b.
B. Are there any additional considerations that should be taken into account for short-term securitisations?	*Allowing for private transactions* Besides providing criteria appropriate for short-term instruments such as ABCP, it is important that the more general criteria for simple, transparent and standardised securitisations also allow for other private securitisation transactions between banks and their customers. These transactions, though they may not include offering securities in the capital markets, usually fall within the broad regulatory definition of securitisation. Many banks, increasingly in recent years, fund such transactions directly by buying receivables or receivables-backed instruments in private transactions, rather than arranging funding from ABCP conduits. A regulatory framework to facilitate the re-growth of short-term securitisation markets and the kinds of transactions they finance needs to address not just the short-term instruments in the form of ABCP, which are typically supported by bank facilities, but also the

5 AFME and others, Response to EBA Discussion Paper on simple standard and transparent securitisations (14 Jan. 2015) *available at* https://www.eba.europa.eu/documents/ddm/com.liferay.portlet.dynamicdatalists.model.DDLRecord/949500/view_uploadFiles, pages 3-4.

6 Global Financial Markets Association (GFMA), and others, Response to BCBS/IOSCO Consultative Document on Criteria for identifying simple, transparent and comparable securitisations (13 Feb. 2015), *available at* http://www.bis.org/bcbs/publ/comments/d304/giii.pdf.

	underlying transactions supported or funded by banks directly. As we have noted, the existing and proposed qualifying securitisation criteria are designed for capital markets securities transactions, but the most widely-used regulatory definition of securitisation (in the CRR) is much wider, and includes even bilateral or other private transactions which may not involve any offering of securities. The criteria we propose for qualifying ABCP, relying on bank liquidity support facilities, also do not work for the exposures taken by banks providing those facilities or funding transactions directly. Exposures of sponsor banks and others providing facilities to ABCP conduits, and other private securitisations, while very different from the short-term exposures held by investors in ABCP, also should be included in simple, transparent and standardised securitisations under appropriate conditions. While many of the existing and proposed ABS criteria will work for private securitisation transactions, some of them need to be modified or made more flexible. In particular: (a) Admission to trading on regulated market or alternative market, while appropriate for some purposes (such as the liquidity coverage ratio), should not be a core criterion. (b) An independent fiduciary with power to enforce rights on behalf of investors should not be required in private transactions where investors or their agent can exercise remedies directly. (c) Information on originators and underlying assets should not have to be published or included in a formal offering document so long as it is made available to the sponsor bank and any other investors in the transactions. (d) Criteria on homogeneity of underlying assets should not exclude multi-country transactions in which a conduit or bank purchases or finances receivables of the same type (such as trade receivables) originated in different countries by affiliated companies in the same corporate group. *Use of internal assessment approach* Among the steps regulators should take to improve the regulatory environment for qualifying securitisation transactions is, in the context of bank capital requirements under the CRR, to allow banks to use the internal assessment approach (IAA) not just for exposures to ABCP conduits but also for other unrated securitisation

	exposures where the bank is not able to use the supervisory formula approach (SFA) or, under the revised Basel Securitisation Framework, the securitisation internal assessment approach (IRBA). The IAA, like the SFA or the IRBA, also requires a great deal of detailed information and analysis and is subject to a high level of regulatory supervision. While it makes use of credit rating agency (CRA) methodologies and rating matrices, the IAA requires banks to do their own due diligence and analysis of assets and transaction structures, and extending its use would further the goal of decreasing reliance on CRA ratings. It is increasingly common for a receivables securitisation facility to be provided by a lender group consisting of one or more ABCP conduits, supported by their sponsor banks, and one or more banks providing funds directly. It is anomalous that, in those cases, the ABCP sponsor banks may use the IAA to determine their capital requirements, while the other banks, having essentially the same exposure (though funded rather than unfunded), may not. Those other banks, if they are not able to use the SFA (or, under the revised framework, the IRBA) to determine the capital requirements for their exposures, need to have the exposures rated by CRAs, which adds costs and complexity to transactions as well as perpetuating reliance on CRAs. This anomaly has a directly negative effect on European banks' ability to provide financing to their customers, especially SME customers, using securitisation structures. We believe that banks that develop the necessary models and obtain supervisory permission should be permitted to apply the IAA to unrated securitisation exposures in appropriate conditions whether or not they fund those exposures through ABCP conduits. Of course, the IAA operating conditions, developed for exposures to ABCP conduits, would need to be adapted to apply to exposures not held through conduits, but this is not difficult and we would be happy to propose appropriate wording. *Timeliness* Another important consideration is to coordinate the timing of development and implementation of criteria for qualifying ABS and those for qualifying short-term securitisations. While we recognise that the development of qualifying ABS criteria is relatively advanced, and that this concept should be developed and implemented quickly, we are concerned that ABCP, as well as other special types of securitisation, should not be left behind. Because of ABCP's special characteristics, the criteria we propose focus on the programme structure rather than the underlying assets and transactions, and so they are straightforward and do not require detailed elaboration. As a result, it should be feasible to finalise and implement such ABCP criteria in the same time frame as for ABS generally.

QUESTION 3	ANSWER
A. Are there elements of the current rules on risk retention that should be adjusted for qualifying instruments?	1. In general, AFME members agree with the Commission that risk retention requirements help to ensure a proper alignment of interests throughout the securitisation chain. While other mechanisms (including "natural incentives" to maintain client relationships and more formal requirements with respect to asset underwriting standards and disclosure obligations) may also operate to counteract factors which have been identified as contributing to possible interest misalignment, it is widely accepted that the EU risk retention rules generally function in an appropriate manner in the context of many traditional securitisation transactions. 2. The Consultation Paper notes that "by definition" qualifying securitisation instruments will qualify only if they fulfil the risk retention rules. AFME members support this approach and agree that compliance with such rules is consistent in principle with, and indicative of, the concept of a qualifying securitisation. In many respects, the EU rules entrench practices which have been in place for many years in the securitisation market as EU originators have traditionally retained some net economic interest in the assets underlying their securitisations. As a result, other than as noted in our response to Question 3B below, we do not consider that the current EU rules on risk retention should be adjusted for qualifying securitisations only. 3. However, more generally, AFME members consider that certain adjustments should be made to the EU risk retention rules. To be clear, we consider that such adjustments should be made to the rules which apply in respect of securitisations, regardless of whether or not such arrangements are qualifying. This is because aspects of the rules are not clear or are overly restrictive, and significant compliance challenges may arise in less traditional transaction contexts. (a) In particular, certain compliance questions remain outstanding in the context of transactions which do not fit neatly within the traditional template assumed by the provisions, such as arrangements lacking an involved originator, sponsor or original lender or those involving an acquired portfolio of assets as in the case of certain funding and disposal transactions related to bank deleveraging initiatives. (b) The compliance issues highlighted above are caused in part by the ongoing lack of clarity with respect to the definition of "securitisation" under the Capital Requirements Regulation (**CRR**), which definition pre-dates the retention rules but determines the scope of application of such rules. The securitisation definition potentially extends to a wide range of arrangements, notwithstanding that

	the goal of interest alignment is closely connected to concerns related to the "originate-to-distribute" model and associated transaction features (including the presence of a clear link between asset origination and a corresponding securitisation). (c) Certain definitions and provisions under the EU rules are unclear and/or overly restrictive, such as the "sponsor" definition, the requirements for measuring the retained interest, the provisions on retaining on a consolidated basis and certain holding option related matters. These are discussed further below in paragraph 6.
B. For qualifying securitisation instruments, should responsibility for verifying risk retention requirements remain with investors (i.e. taking an "indirect approach")? Should the onus only be on originators? If so, how can it be ensured that investors continue to exercise proper due diligence?	1. AFME members consider that the EU's current approach to risk retention – the so-called "indirect approach" – should be reassessed and consideration should be given to instead applying a "direct approach" (i.e. a direct obligation on originators or sponsors) in the context of qualifying securitisations. This assumes that an adopted direct approach would be appropriately implemented such that it did not give rise to additional areas of uncertainty and/or concerns under the EU regime. (a) As a general matter, the indirect approach results in the allocation of compliance risk to investors. This means that areas of uncertainty under the regime may discourage new and existing investors from participating in the market if they are unable to determine with sufficient certainty that the requirements are satisfied. As noted above, not all aspects of the EU regime are entirely clear. (b) The indirect approach also means that, to the extent that any amendments are made to the EU regime which result in changes to the compliance position of existing arrangements, investors are the market participants most likely to be affected (unless protected), including as a result of any decrease in the liquidity of existing securitisation positions. The lack of full protection provided to investors in the context of the CRR recasting process and the corresponding changes made to the EU rules – notwithstanding that investors would have sought to originally comply in good faith on the basis of all available information at the relevant time – demonstrates that this is not a purely theoretical concern. (c) The European Banking Authority ("**EBA**") noted in its report on securitisation risk retention, due diligence and disclosure published on 22 December 2014 (the "**EBA Report**") that the direct approach could "reduce compliance costs and improve legal certainty for investors, thereby encouraging new securitisation investors to invest". While the EBA recommended that the direct approach should apply in addition to the indirect approach (rather than instead of it), we note that

	this appears to be have been based on the perception that the indirect approach operates to enhance the level of sophistication of investors over time. AFME members consider that any concerns in this regard could be effectively addressed through continuing to require investors to undertake certain due diligence in respect of their securitisation positions as described in paragraph 2 below. (d) We note that the indirect approach was originally adopted to achieve a level playing field between EU and non-EU market participants (i.e. to ensure that originators and sponsors were incentivised to retain regardless of the location of origination of the relevant transaction). While a direct approach on its own does not address level playing field issues, this could be addressed by the inclusion in the qualifying securitisation foundation criteria of a general requirement for retention by the originator or sponsor in accordance with the EU requirements (or with applicable requirements in another jurisdiction if substantially equivalent outcomes are delivered, see below) in all cases as if the requirements applied to such originator or sponsor. A requirement in these terms would appear to be consistent with the statement included in the Consultation Paper that "by definition" instruments will only qualify if they fulfil the risk retention requirements (suggesting that all qualifying securitisations should involve interest alignment through compliance with the requirements, regardless of how such requirements are applied and/or triggered). 2. Notwithstanding that AFME members support the application of a direct approach for risk retention in the context of qualifying securitisations, members consider that relevant regulated investors should continue to be required to satisfy the due diligence requirements currently applied to them with certain discrete adjustments. In particular, such due diligence requirements should be adjusted so that, with respect to matters relating to the retention requirement, it is necessary only for the relevant investor to confirm that an entity has provided a retention commitment statement. To be clear, it should be permissible for such investor to rely on such statement or attestation without further inquiry with respect to the retaining entity and/or the interest held. This approach is consistent with the direct approach (as it appropriately removes the retention compliance risk for investors), but also preserves the principle that investors should undertake appropriate due diligence such that they have a proper understanding of the position being acquired. We note that the recent joint response prepared by the Bank of England and the European Central Bank to the Consultation Document expressed support for a similar adjusted application approach although, like the EBA, such support focused on the application of the direct approach in addition to (rather than instead of)

	the indirect approach for qualifying securitisations. 3. As noted above in our response to Question 3A, AFME members consider that certain adjustments should be made to the current EU retention rules as they apply to all securitisations, qualifying or not. We consider that the relevant adjustments are necessary to address current areas of uncertainty and/or to provide appropriate flexibility under the EU regime. Below is a summary of the key adjustments which should be made. (a) Aspects of the provisions relating to the available holding options under the current regime should be adjusted. In particular, it would be very helpful if the current restriction on changing the retention holding option used was removed to permit the retainer to shift to another holding option, provided that such shift would not operate to materially reduce the retained interest. This flexibility would allow a retainer to better respond to accounting or regulatory pressures (which may change over time) and/or to otherwise respond to shifting legitimate commercial incentives to hold via one option or another, but would properly protect against changes which might compromise its interest alignment with investors. (b) Further consideration should be given to the measurement of the retained interest in circumstances where the underlying assets have been acquired at a significant discount to the nominal value. In particular, the current provision under the adopted regulatory technical standards which requires the nominal value to be used in all circumstances does not function sensibly in the context of arrangements where the acquisition price of the assets is materially less than the nominal value. Moreover, the current provision is inconsistent with the indication in the EBA Report that, in order to satisfy the spirit of the rules, a retained interest should represent both "upside" and "downside", which suggests that the value or purchase price of the assets may be relevant when identifying the interest which should be retained but does not refer to any corresponding adjustment to the measurement of that interest. AFME members would be happy to work with the Commission to identify an appropriate alternative basis for measuring the retained interest in certain scenarios. (c) Provisions related to eligible retainers should also be adjusted. In particular, adjustments should be made which are relevant to the sponsor definition and flexibility should be provided for retention on a consolidated basis by retainers in general. AFME members also support further consideration being given to the possibility of introducing an "exceptional circumstances" provision whereby

	under certain circumstances the retainer could be changed during the life of a securitisation as recommended in the EBA Report. (i) On the first point described above relating to the sponsor definition, we note that significant constraints apply under the current CRR definition given that it requires relevant entities to be a credit institution or an EU-regulated "investment firm". The inability of other entities (including entities regulated under other EU regimes such as the Alternative Investment Fund Managers Directive and investment firms regulated outside the EU) to retain as sponsor is not justified from a policy perspective and should be remedied. The term "sponsor" has been used for many years in the bank capital rules (first in some national rules on securitisation capital and then in the Basel II securitisation framework) to define a regulated bank's relationship to a securitisation for purposes of regulating the bank's capital requirements. When the term is used instead to define an appropriate party to retain risk in a securitisation, it should be defined more widely based on the entity's role in the transaction, without limiting it to a particular jurisdiction or type of entity. This would bring the definition of sponsor in line with the definition of originator, which need only be an "entity". (ii) On the second point described above relating to retention on a consolidated basis, we note that, whereas the previous risk retention guidance made it clear that the retained interest could be held on such a basis (i.e. by an entity within the eligible retaining entity's consolidated group for regulatory or accounting purposes) in all cases, the adopted regulatory technical standards do not address this. As a result, under the current regime retention on a consolidated basis (from a regulatory or accounting perspective) is restricted outside circumstances contemplated by article 405(2) of the CRR. The ability for retainers to hold the required interest on a consolidated basis is essential for EU and non-EU entities, and for regulated and unregulated entities, alike. While the EBA Report did not recommend increased flexibility for retention on a consolidated basis in general, the rationale for this is unclear. The EBA appeared to be concerned that it would not be possible to enforce the corresponding disclosure requirements in article 409 of the CRR if the interest was retained on a consolidated basis but it is already the case that retainers may not be regulated entities as contemplated by the disclosure obligation under article 409 (as noted above, an originator need only be an "entity") and, in any event, we would expect any flexibility

	provided for retention on a consolidated basis to be structured such that the disclosure obligation would continue to apply to the relevant regulated originator or sponsor and it would only be that the interest could be retained by it directly or through a consolidated entity. We note that the U.S. risk retention rules, which are fairly rigorous and restrictive in many respects, allow for retention by "majority owned affiliates" (as determined under U.S. GAAP), and we believe the EU rules should also provide for greater flexibility in this regard. (d) We are aware that certain concerns in respect of the provisions relating to eligible retainers have also been identified by the EU authorities and are described in the EBA Report. In this regard, the EBA has recommended that amendments be considered with respect to the originator definition under the CRR to remove a perceived loophole considered to make it possible for arrangements to satisfy the letter, but not the spirit, of the retention requirements. This recommendation was recently endorsed by the Bank of England and the European Central Bank in their joint response to the Consultation Document. As a starting point, AFME members fully support the need for market participants to comply with the retention requirements from both a technical and a policy perspective (in the case of both qualifying and non-qualifying securitisations), and this is the approach commonly applied by market participants (now and at all times since the introduction of the rules). However, AFME members are strongly opposed to formal changes being made to the originator definition. In general, we consider that the definition operates sensibly in its current form. If clarification is considered necessary, then we consider that any perceived issues would be more appropriately addressed through principles based guidance, possibly along the lines referred to in the EBA Report itself (although this should be accompanied by sufficient clarification of key terms referred to therein), rather than through formal amendments to the definition. In this regard, we note that any formal amendments to the definition run the real risk of giving rise to unintended consequences in a risk retention context and also in other regulatory contexts given that the originator definition is used elsewhere in the CRR and in separate EU legislative provisions (e.g. article 8b of the EU Credit Rating Agency Regulation). However, if amendments are pursued (which as noted above, AFME members do not support), then it is essential that this involves a public consultation process and (in keeping with the EBA's recommendation) an appropriate impact assessment exercise. (e) It should be noted that the EBA Report also referred to concerns arising from retained interests comprised of an asymmetric exposure to a securitisation (i.e. representing any "upside" but not the

	"downside" of the retained interest). As noted in paragraph 3(b) of our response to this Question 3B above, the suggestion that retained interests must represent both upside and downside risk is inconsistent with the current provision under the adopted regulatory technical standards relating to the measurement of the interest, which requires the nominal value to be used in all circumstances. To the extent that any amendments to the retention requirements may be considered to address concerns relating to retained interests comprised of a asymmetric exposure, once again AFME members wish to emphasise the risk of unintended consequences and the need for public consultation and an appropriate impact assessment exercise. (f) We note that there is a lack of consistency between the CRR rules, the AIFM rules and the Solvency II rules. In particular, additional due diligence requirements apply to alternative investment fund managers and insurers (requiring certain qualitative matters with respect to originators and sponsors to be assessed, including with respect to their credit granting, asset servicing and risk mitigation policies and systems) and it is not clear that the CRR guidance (set out in the corresponding regulatory technical standards) applies to insurers. The rationale for these differences is not clear and the current uncertainty with respect to how the regimes fit together and how the requirements may be satisfied in general risks negatively affecting the market. Adjustments should be made to make the requirements consistent and all points of departure should be removed unless required to reflect the nature of the relevant investor (e.g., appropriate sanctions for non-compliance). (g) More generally, we note that a number of the key issues under the current regime with respect to scope could be addressed through clarification of the securitisation definition under the CRR. As noted above, this definition is extremely broad and potentially extends to certain arrangements not traditionally considered to be a securitisation. We would welcome the opportunity to discuss certain concerns with respect to the securitisation definition with the Commission. (h) Lastly, we note that each of the EU regime and the U.S. retention requirements deliver substantially equivalent outcomes assuming the relevant outcomes for these purposes are appropriate interest alignment and significant mitigation of factors which contribute to interest misalignment, such as underwriting standard deficiencies. While the regimes differ significantly in their detail, each of them demonstrates certain key minimum features consistent with a robust retention standard. In particular, each of the regimes is entrenched in legislation, refers to the retention by the originator

	or sponsor in general and provides for a minimum retention level of 5% and a hedging restriction. We consider that it is these key features – and the outcomes described above – which should be focused on when comparing the regimes. On this basis, AFME members are of the view that the retention requirement which forms part of the qualifying securitisation framework should provide for mutual recognition with respect to the U.S. requirements, where such requirements apply.

QUESTION 4	ANSWER
A. How can proper implementation and enforcement of EU criteria for qualifying instruments be ensured?	From AFME's perspective, there would ideally be a central register of qualifying securitisations that all market participants are entitled to rely on. This register would say which transactions are qualifying securitisations meeting the "foundation" criteria as well as which additional criteria (e.g. those required for bank capital, Solvency II, LCR) each transaction meets. Transactions would be added to this central register prior to marketing in order that investors would have the information available to them when making a decision about whether to invest at issuance. This could possibly be achieved by the authorities playing a supervisory role in determining the criteria for a qualifying securitisation, and then appointing and regulating one or more independent, credible bodies to issue certifications. Given that relatively few of the criteria are issuer- or originator-based, an issuance-led approach to certification seems most appropriate. A number of bodies already exist to assign similar labels in the debt capital markets. To the extent that they are willing and able to administer the criteria for qualifying securitisations eventually decided upon, they are natural candidates to act as certifying bodies. Of these bodies, the PCS label is the only Europe-wide securitisation label and resulted from the work undertaken from 2009 to 2012 involving a broad range of European market participants (arrangers, originators, investors and legal experts) led by EFR and AFME. As such, and also because PCS has been designed to be responsive to the needs of issuers and investors in terms of giving certainty around the receipt of the label prior to pricing (as mentioned above), PCS is an obvious and strong candidate to act as a certifying body. True Sale International (TSI) and the Dutch Securitisation Association (DSA) are other securitisation labels but currently only have a national scope. The lead regulator should also play a supervisory role, reviewing the criteria regularly to adapt to market evolutions, ensuring that standards are applied uniformly and regulating the conduct of the certifying bodies generally.
B. How could the procedures be defined in terms of scope and process?	The specific procedures for assigning the certification to a particular issue should be designed and described in writing by the organisations appointed to issue certifications, and be subject to approval by regulators. Only a framework for these procedures would need to be set out by the regulators in order to ensure competence of the certifying bodies, consistency of the certification across certifying organisations and avoid conflicts of interest. A system of supervisory reporting by the certifying bodies and checks on them by regulators should also be implemented in order to ensure that the goals of the certification regime are being appropriately supported by the certifying bodies.
C. To what extent should risk features be part of this compliance monitoring?	The approach to compliance monitoring should be strictly guided by the criteria themselves. As we have argued elsewhere, it is inappropriate for the foundation criteria to include credit risk features, as the qualifying securitisation regime (in the words of the Commission's Consultation Document) "is not intended to provide an opinion on credit or other risks but make investors' assessments of these risks more straightforward". It is difficult,

	therefore, to see how assessments or monitoring of these risks by the certifying body would be help to achieve the purpose of the regime.

QUESTION 5	ANSWER
A. What impact would further standardisation in the structuring process have on the development of EU securitisation markets?	In our view, the creation of an optional EU securitisation structure covering the legal form of the SPV, the modalities to transfer assets and the rights and subordination rules among noteholders would have relatively little effect in the short to medium term (provided they are optional). It may have a slightly positive effect in the longer term. If made mandatory, such changes could be very disruptive in the short term and, it seems to AFME members, highly unlikely to be achievable given the fundamental differences in member state legal regimes. As a result, and given the urgency of many of the other proposals to help revive the securitisation markets, we believe that the development of such a structure would not be a justified investment of time or energy at this crucial juncture. We believe even the long term effect of such an initiative would be small because the proposed areas for standardisation are areas where most European jurisdictions have familiar, established and market-tested solutions that are generally well understood and predictable. Although these three areas would, of course, be critical in evaluating a securitisation in a new jurisdiction, investors in most European jurisdictions now already have confidence in the legal segregation of assets and in their relative rights (certainly to the extent that these matters could be standardised by a pan-European regime) such that these "start up" issues broadly do not, at this stage, have a serious deleterious effect on the growth of EU markets.
B. Would a harmonised and/or optional EU-wide initiative provide more legal clarity and comparability for investors? What would be the benefits of such an initiative for originators?	It is possible that such an EU-wide initiative would provide more clarity and comparability for investors looking to invest across jurisdictions, but we would expect these effects to be minimal. Because most European jurisdictions have tried and tested regimes in which investors already have confidence, we believe the likelihood of market participants taking a risk on a new structure with which investors are not familiar would, at least initially, be low. Particularly while markets are fragile and demand is low, originators are unlikely to want to take any step that might introduce uncertainty or differentiate them in a negative way from the market generally. In the longer term, however, it is possible that some modest benefits could be derived from a single, EU-wide initiative of this type. Having been tested in a more robust market environment, a single EU-wide framework for SPVs, asset transfer and noteholder subordination could simplify the credit assessment process for investors, particularly in new markets (new either to that investor specifically or new in the sense that the local market for securitised products is not yet mature in general). Likewise, originators are familiar with the tried and tested structures already in existence in most European jurisdictions. Transaction costs associated with their use are generally minimal because they have become broadly standardised and commoditised in most securitisation structures employed in Europe. While the use of a single framework across the EU might generate modest further efficiencies in the longer term, the uncertainty and

	temporarily increased transaction costs necessarily associated with the transition to any new legal regime, would likely mean take-up would be minimal in the short term. Again, given the urgency of broader reforms to encourage the securitisation markets as an engine for broader economic growth, this does not seem to us to be the best use of time and energy in the immediate future.
C. If pursued, what aspects should be covered by this initiative (e.g. the legal form of securitisation vehicles; the modalities to transfer assets; the rights and subordination rules for noteholders)?	These may all be possible areas of focus for the future, but in AFME's view the Commission should not be devoting time or energy to them for the moment.
D. If created, should this structure act as a necessary condition within the eligibility criteria for qualifying securitisations?	No. Discriminating against existing national regimes purely to encourage market participants to use a new European regime would constitute an unwelcome and harmful political interference with the market. Given that the objective of the qualifying securitisation regime is to encourage the return of healthy securitisation markets, a requirement to use a new, untested European framework for which the need is unclear would risk undermining the very purpose of the regime the framework is designed to support. What is more, it is important to realise that there may be unintended consequences to the introduction of an EU-wide regime of this kind. A number of EU Member States have put in place specific legal frameworks for securitisation and the various elements of these regimes tend to be intimately connected to one another. Such regimes will almost certainly overlap at least in part with the areas suggested to be covered by the EU-wide regimes (e.g. asset transfer or legal form of SPV), but also cover other areas. For example, there are very specific requirements in a number of EU Member States in order that a securitisation SPV should be taxed under the appropriate, securitisation-specific tax regime; these can require that the relevant national form of securitisation SPV be used in order to take advantage of the securitisation tax treatment. By making the proposed EU-wide structure a necessary condition within the eligibility criteria for qualifying securitisations, the Commission would inadvertently be forcing market participants in such a situation to choose between appropriate securitisation tax treatment and treatment as a qualifying securitisation.

QUESTION 6	ANSWER
A. For qualifying securitisations, what is the right balance between investors receiving the optimal amount and quality of information (in terms of comparability, reliability, and timeliness), and streamlining disclosure obligations for issuers/originators?	In terms of disclosure, publicly offered securitisations should meet the requirements of the Prospectus Directive. Private placements should be excluded from the requirement to comply with the Prospectus Directive as the transactions are "private" by their very nature and in such securitisations, investors tend to have the highest degree of transparency. Although such transparency is not regulated in the same way as a public securitisation is under the Prospectus Directive, the relationship between the originator and the investor tends to be a very close one in a private deal and investors typically have access to more information than in a public securitisation. The private nature of transactions also means there is not a need for public disclosure in order to inform potential investors. However, providing a greater level of transparency to regulators in respect of private transactions could be considered. In both cases, securitisations with underlying exposures originated in any non-EEA jurisdiction should meet equivalent requirements as set out in law or regulations of that non-EEA jurisdiction and mutual recognition or substituted compliance should be provided for. A securitisation should meet the requirements of Article 409 of the CRR (disclosure to investors), which is an appropriate and complete disclosure standard and securitisations with underlying exposures originated in any non-EEA jurisdiction should meet equivalent requirements as set out in the law or regulations of that non-EEA jurisdiction where these exist. In the absence of equivalent requirements set out in law or regulation, the securitisation should comply with disclosure practices customarily observed for securitisations in the local market. The scope of Article 8b of the CRA Regulation, on the other hand, though in principle extremely broad, in its initial implementation will be limited to those securitisations that fall neatly within the asset classes for which there are disclosure templates. Requiring compliance specifically with Article 8b in order that a securitisation should be a "qualifying securitisation" is likely to magnify its consequences, including its consequences that are broadly seen as being poorly suited to the needs of market participants. These include its potential application to all asset classes (including granular pools such as credit cards when the disclosure template becomes available) and private transactions. Restricting the transparency criterion for qualifying securitisations to require disclosure to investors according to Article 409 of the CRR, rather than website publication under Article 8b, would provide more certainty and create more of a level playing field as that applies to all securitisations in the same way. In relation to the provision of loan level data, a balance needs to be achieved between the level of disclosure and investor requirements (particularly for granular pools such as credit cards). While technology is being developed to collect and process such data, its use by investors in analysing risk and the associated costs should be considered

	further. For asset classes such as residential mortgages, auto loans and leases, consumer loans and credit card receivables, we believe that the credit data available already is sufficient, although we note the importance of harmonisation of reporting regimes in this respect in the Commission Delegated Regulation (EU) 2015/3, which sets out the required fields in the loan level templates and the timing of delivery (i.e. at least quarterly in line with investor reports). Where legally possible, investors in public transactions should have access to all underlying transaction documents relevant to the continued performance of the securitisation, subject to redaction of commercially and personally sensitive items such as personal contact details, bank accounts and fees. The transaction documentation should provide in clear and consistent terms definitions, remedies and actions relating to delinquency and default of underlying debtors, debt restructuring, debt forgiveness, forbearance, payment holidays and other asset performance remedies (without prejudice to the originator's right to restrict access to information relating to its credit risk management strategy). The transaction documents should clearly specify the priority following trigger breaches as well as the obligation to report such breaches. Any change in the waterfall should be reported on a timely basis, at the time of its occurrence.

B. What areas would benefit from further standardisation and transparency and how can the existing disclosure obligations be improved?	Cash securitisations have to be structured around the cash flows of the securitised assets, the needs and capabilities of originators and their systems, and commercial terms. There will therefore always be natural limits to the degree of standardisation that can be achieved. Commercial pressures have already produced considerable standardisation of transaction structures and documentation - neither issuers nor investors seek inconsistency for its own sake. Standardisation should not lead to "box-ticking", detract from the need for sensible flexibility (the "comply or explain" principle), unreasonably restrict the freedom of commercial parties to agree suitable terms or unreasonably restrict the choices of consumers. Having said that, we agree that further simplifying work could be undertaken regarding prospectuses and investor reports on public transaction. However, a balance will need to be struck between the need to achieve greater standardisation (and simplicity) on the one hand and the legal obligation to make appropriate disclosure under the terms of applicable legislation on the other. Investor reports on public transactions could benefit from standardisation by reference to principles relating to the matters to be disclosed (e.g. origination and servicing policies, arrears, defaults, prepayment rates and other portfolio performance metrics), definitions, layout and made accessible to investors in a format that is useful to them. Provided the cost is proportionate, having investor reports collected in a single repository would be a useful evolution. It seems to us, however, that such a repository is already being considered in the form of the website to be established by ESMA under Article 8b of the Credit Rating Agencies Regulation. To the extent that a single repository is created under that regime, it should be coordinated with the single repository suggested by the Bank of England and the ECB so as to avoid duplication of efforts. Securitisation is captured under the new transaction reporting and pre- and post-trade transparency requirements for fixed income under MiFID II. Following implementation of these requirements, there will be a high-level of European-wide harmonised public trade transparency in the securitisation secondary markets. We believe that sufficient macro-economic data is already available from many sources, including from originators, the rating agencies and other sources. Much securitisation-specific data is of course already disclosed pursuant to the existing ECB and Bank of England requirements and European Data Warehouse. Article 8b of the Credit Rating Agencies Regulation contemplates further similar (and in some cases overlapping) disclosure. In principle, a single repository for relevant data would be helpful to all market participants: to issuers and originators by reducing costs and removing overlapping compliance and filing requirements (thereby making securitisations easier to execute),

	and to investors and credit rating agencies in providing a single source of information for their initial investment or rating decision as well as ongoing credit assessment. However, we are concerned by what appear to be competing initiatives in this area. We urge all the different authorities involved to focus on harmonising and simplifying both data reporting templates (where possible) and also formats (there seems to us no sensible reason for competing formats in data files, for example), so that information only needs to be submitted once, in one place and in a single format.
C. To what extent should disclosure requirements be adjusted – especially for loan-level data – to reflect differences and specificities across asset classes, while still preserving adequate transparency for investors to be able to make their own credit assessments?	Preserving borrower confidentiality is challenging, and has been a difficult issue to resolve and a solution adopted has been to anonymise or make data less specific in various ways: for example, not just by hiding borrower names but also by truncating postcodes, approximating up or down amounts outstanding, etc. The legal requirements which need to be satisfied vary from one country to the other, but in the UK (for example) the key criterion is the extent to which the information published, when read with other data already in the public domain, could cause a breach of confidentiality. Given the severity of the sanctions on originators for breach, both legal and reputational, this is a difficult issue. AFME does not believe that credit registers would be helpful for asset classes other than SME loans. Data on underlying obligors is already reported by transaction parties and creating another source for the same data would not produce benefits commensurate with the cost of establishing credit registers. Rather, it is important to simplify and harmonise the formats in which information is reported to ensure it can be easily analysed and compared by investors. Facilitating access to loan level data for certain asset classes such as loans to SMEs or certain types of leasing transactions would make securitisation of these assets easier.

QUESTION 7	ANSWER
A. What alternatives to credit ratings could be used, in order to mitigate the impact of the country ceilings employed in rating methodologies and to allow investors to make their own assessments of creditworthiness?	We believe that credit assessment by investors has always been a critical element of a healthy, functioning market in any debt product, including securitisation. Certainly opaqueness and over-reliance on credit ratings are well-known contributing factors to the financial crisis of 2007-08. It is not obvious to us, however, that credit ratings need to be replaced by another tool. Rather, investors should be put into a position to make an appropriate credit assessment of their own, with credit ratings (including the uncapped credit ratings suggested by the Commission and as to which we comment further below in our response to Question 7B) used as a guide or "sense check" to give investors confidence in their own analysis. To that end, we believe that clear, complete and timely disclosure of the rationale behind ratings and rating outlooks is a key element in assuring the usefulness of credit ratings. This type of disclosure allows investors to sense check not only the results of their own internal ratings against the ratings assigned by credit rating agencies, but also permits them to compare their analysis of the specific case in order to determine the source of any divergences in opinion and decide independently whether they believe such divergences are justified. Note also the views expressed in our response to Question 6A with respect to the appropriate type and volume of information to provide to investors in order that they should be in the best position to make their own independent credit assessments.
B. Would the publication by credit rating agencies of uncapped ratings (for securitisation instruments subject to sovereign ceilings) improve clarity for investors?	Overall, AFME members who are users of credit ratings believe that the publication of "uncapped" ratings would be a useful innovation because it provides useful information to investors about the quality of the underlying assets and the credit enhancement applied thereto. This is clearly an issue for both the originator and the investor sides of the market. Some rating agencies impose ceilings on securitisation ratings that are derived from their rating on the relevant sovereign. These rating ceilings are intended to reflect certain “tail risks” associated with a potential sovereign default, and that cannot be mitigated e.g. by additional credit enhancement, in the agencies’ view. Many market participants, however, disagree with the agencies’ assessment of the scale of these risks and therefore with the calibration of these rating ceilings. This could be remedied in part by requiring credit rating agencies to publish "uncapped" ratings, which would allow investors to overlay their own view of such sovereign-related risks. This would, however, only be of limited usefulness because investors would presumably still be required to use the lower, capped rating e.g. for purposes of capital allocation. It is also worth noting that pursuing this avenue would be a complex endeavour for credit rating agencies because it

	would require them to analyse every input of sovereign risk into the ultimate rating of the securitisation, e.g. in the rating of the counterparties. Harmonising this approach across rating agencies may be difficult, but would be necessary if the "uncapped" ratings are to be meaningful in the market. That said, an obvious benefit of publishing uncapped ratings would be to allow investors to readily distinguish between deals are structured to the relevant sovereign cap rating (which is commonly done because it is known that it will not be possible to achieve a higher rating in any case) from those structured to AAA level but rated lower because of a sovereign cap.

QUESTION 8	ANSWER
A. For qualifying securitisations, is there a need to further develop market infrastructure?	Please see responses to Questions 8B and 8C.
B. What should be done to support ancillary services? Should the swaps collateralisation requirements be adjusted for securitisation vehicles issuing qualifying securitisation instruments?	In the long term, the EU authorities should consider some initiatives to ensure that certain aspects of ancillary services are protected so as to support rating stability with securitisations by de-linking securitisation ratings from the ratings of counterparties and service providers. The Commission should consider the feasibility of causing hedging swaps and bank accounts associated with securitisation transactions to be placed outside the insolvent estate of a swap provider or account bank in the event of its insolvency (as is the case in some covered bond frameworks). This could help improve ratings stability, allow investors to focus more on the assets underlying securitisations, and lower costs of securitisation for originators. This would understandably be a long term project. In the short term, it would perhaps be better to focus on more technical and more easily achieved priorities that would nonetheless help to simplify and reduce the cost of securitisation swaps. <u>Immediate Priorities</u> The current proposed collateralisation requirements which would apply to most securitisation swaps ("**Securitisation Swaps**") do not adequately reflect the structure of securitisation transactions and are, consequently, largely unworkable for most securitisations. This is in contrast to the rules for swaps relating to covered bond transactions, which do contain some variations to reflect the nature of covered bond structures. In particular, we make the following proposals in relation to Securitisation Swaps. **Proposal 1: as with covered bond swaps, the Issuer of a securitisation instrument (regardless of whether it is a qualifying securitisation) should not be required to post collateral** Securitisation issuers ("**Issuers**") do not have access to liquid collateral for posting to the swap counterparty (the "**Swap Counterparty**"), and would only be able to access such collateral by entering into additional liquidity facilities, which would add a layer of complexity to the securitisation transactions, and would merely have the effect of moving the risk to which the Swap Counterparty is currently exposed to the new liquidity provider. However, Securitisation Swaps already contain risk mitigation features to protect the Swap Counterparty against its exposure to the Issuer. Many of these features have their origins in rating agency criteria with which the Issuer and Swap Counterparty are obliged to comply where the notes are being rated by one or more credit rating agencies

	(such features are also found in most unrated securitisations due to the risk mitigation benefits for the Swap Counterparty). These features, which are similar to those found in covered bonds, will typically include: (i) the Swap Counterparty being a secured creditor of the Issuer, ranking at least *pari passu* with or senior to the noteholders in the Issuer's payment waterfall, and (ii) any collateral which is posted by the Swap Counterparty being held in a separate collateral account, thereby protecting it against co-mingling with the Issuer's other assets. The proposed collateralisation requirements provide that, where a swap connected with a covered bond transaction meets certain conditions, the covered bond issuer or cover pool is not required to post initial or variation margin. This special treatment, without corresponding treatment for Securitisation Swaps which are structurally very similar and serve a similar economic purpose, results in unjustifiable favourable treatment for covered bonds compared with securitisation and is not consistent with the general policy objective of achieving a "level playing field". **Proposal 2: the requirements for the Swap Counterparty to post collateral, and the amount thereof, should be modified in relation to Securitisation Swaps (regardless of whether it is a qualifying securitisation) which possess rating-agency driven risk mitigation features** Securitisation Swaps also contain provisions to protect the Issuer against the credit risk which it faces in relation to the Swap Counterparty by prescribing minimum rating requirements for the Swap Counterparty and consequences if the Swap Counterparty is downgraded below that level. This is usually done through a "two step" process involving two ratings which act as triggers. These rating-linked provisions protect the Issuer by ensuring that unless the Swap Counterparty has a sufficiently high credit rating, it is either posting collateral (which includes a variation margin component and an initial margin component) or taking other steps to ensure that the Issuer remains exposed only to another highly-rated entity through the transfer of the swap to a replacement Swap Counterparty or the procurement of a third party guarantee. Even in the case of unrated securitisation transactions, it is common for very similar risk mitigation techniques to be employed specifically for the purpose of mitigating the risk to the Issuer of a Swap Counterparty default. This approach to risk mitigation for the Issuer is more consistent with the Issuer's need to ensure that it will not be left facing a defaulting Swap Counterparty than proposed collateralisation requirements which go no further than

	requiring the Swap Counterparty to post collateral. Since 2008, many Swap Counterparties have been downgraded below the second trigger, thereby requiring them to find a replacement Swap Counterparty. An active market has developed in response, and market participants are now familiar with the process involved in executing such replacements. This indicates that these risk mitigation techniques do provide an effective means of mitigating counterparty credit risk. Furthermore, rating-agency driven criteria will generally oblige the Swap Counterparty to post a volatility buffer which, in many cases, may be greater than the initial margin amount which would be required under current rules. The size of these volatility buffers also increases as the Swap Counterparty suffers further downgrades, thereby providing yet further risk mitigation for the Issuer. It is, therefore, argued that it would be desirable for collateralisation requirements to mirror this rating-agency driven approach to risk mitigation by modifying the Swap Counterparty's requirement to post collateral in relation to Securitisation Swaps possessing these features.
C. What else could be done to support the functioning of the secondary market?	*Review scope of MiFID 2 pre-trade and post-trade transparency requirements* One of the biggest challenges to the secondary market for securitisations will be the fundamental changes to the market infrastructure that will arise as a result of MiFID. Since securitisation is typically a buy-to-hold market, the pre trade and post trade transparency requirements could have significant implications if the calibrations in the final RTS are not appropriate. Therefore, we urge the European Commission to ensure that the outcome of MiFID is consistent with the objectives of CMU. Specifically, if caught within the pre trade transparency regime, market makers will be forced to offer prices to their clients on a multiple execution basis. Given that many securitisations trade infrequently, such a requirement will constrain the ability of market makers to fulfil their role by committing their capital to facilitate trades. The result will be less liquidity and wider spreads. Further, the post trade transparency requirements requiring immediate publication of trade information could have a notable impact on the securitisation secondary market. Specifically, the maximum deferral of 48 hours for price publication is insufficient for less frequently traded bonds since it will not provide market makers with sufficient time to hedge and unwind their risks. The thinness of such markets causes concerns that the transparency regime could have an implied unmasking effect of the identity of the firm taking on risk. We understand a key feature of the proposed transparency regime was the anonymity of parties to a specific transaction

	Review treatment of securitisation in Fundamental Review of the Trading Book The current proposed treatment of securitisation in the BCBS's Fundamental Review of the Trading Book is very harsh for securitisation exposures generally, and, if adopted, would make if much more expensive for banks to provide secondary liquidity for ABS trading. While we recognise that the Commission and EU bank regulators will not control the outcome of this international consultation, we recommend that they pay close attention to the proposal and make sure that the potential effects on EU markets are taken into account.

QUESTION 9	ANSWER
With regard to the capital requirements for banks and investment firms, do you think that the existing provisions in the Capital Requirements Regulation adequately reflect the risks attached to securitised instruments?	The current CRR closely follows the Basel II framework as amended by Basel “II.5” (resecuritisations, etc.). Broadly speaking, bank issuers and sponsors have found the capital requirements for senior exposures reasonably appropriate, though some aspects of the framework cause difficulties. For example: • the much higher capital requirements for mezzanine and junior tranches are often higher than justified and create cliff effects. • conditions for using IRB SFA are too restrictive, particularly in the EU and as applied by some national supervisors in comparison to the apparently more flexible approach applied to large banks in the US. • conditions for recognising Significant Risk Transfer are too strict and, even after the "comitology" amendments to the old Capital Requirements Directive and later codification in CRR, there are ambiguities and differences in application between national supervisors. • there are continuing ambiguities in the definitions of securitisation and resecuritisation. • there is a serious anomaly in the use of the Internal Assessment Approach for transactions in ABCP conduits but not for similar transactions funded by banks directly. Most of these remain unaddressed in the recent BCBS revised framework – we have commented on this elsewhere in our answers, see in particular Questions 2 and 10. We also agree with the comments made by the EBA in the Executive Summary of the “EBA Discussion Paper on simple standard and transparent securitisations” (14 October 2014) that: • The existing CRR regime relies heavily on external credit ratings; and • Since 2010, the changes made by the credit rating agencies to their rating methodologies have led to an increase in the levels of credit enhancement required for a given credit rating which, when applying the CRR external ratings-based approach, leads to “a substantial departure from the neutrality of capital charges”.

QUESTION 10	ANSWER
If changes to EU bank capital requirements were made, do you think that the recent BCBS recommendations on the review of the securitisation framework constitute a good baseline? What would be the potential impacts on EU securitisation markets?	No, we do not think that the recent BCBS recommendations on the review of the securitisation framework constitute a good baseline. We believe the levels of capital implied by the proposed revised framework unfairly penalise securitisation across all three approaches, making it less likely that the asset-backed market will recover its ability to provide funding for the real economy. Further, the recommendations do not meet the Committee's stated objective of comparability, resulting instead in capital requirements that are neither comparable among calculation methods nor proportionate to risks. See further the comment letter from the GFMA and Joint Associations dated 12 August 2014 (the "August 2014 Comment Letter") enclosing the report (the "Report") commissioned by the GFMA and prepared by Professor William Perraudin, Adjunct Professor of Imperial College, London and a Director of Risk Control Limited (RCL) and available at http://www.riskcontrollimited.com/insights/quantitative-impacts-of-bcbs-269-securitisation-capital-approaches/. The Report reviewed the results of an analytical study by RCL of certain data provided by a number of GFMA's member banks on securitisation exposures and their underlying assets in various asset classes. While the data were limited as explained in the Report, in our view, the Report demonstrated that more work was needed to refine the calibration of the proposed framework and especially to improve the consistency of results between the IRBA, the ERBA and the SA. Among other things: • For each asset class, in a comparison of the average risk weights calculated using the IRBA, ERBA and SA, the capital requirements under the three approaches were very different and lacked consistency. • Even when average risk weights looked comparable across the three approaches, the rank order correlations of individual tranche risk weights were often low. In particular, the results showed a low level of correlation between IRBA and ERBA approaches, and in some cases the risk weights under IRBA were higher than under ERBA, contrary to their order in the hierarchy. • ERBA risk weights were often higher than SA risk weights both on average and for individual exposures, suggesting that the calibration of ERBA was too conservative. As we pointed out in the August 2014 Comment Letter, the dislocation and lack of correlation between approaches will lead to lack of comparability of capital requirements between different banks holding similar exposures, as well as inappropriately high capital requirements for senior tranches, which form the largest portion of the market. Capital requirements that are not proportionate to risk and lack consistency between banks using different

	approaches will lead to inappropriate incentives and feed market distortions. While the final Revisions to the Basel securitisation framework reflected some modest changes, for example, to mitigate the effect of the maturity adjustment, these changes did not address the inconsistencies shown by the Report. Following publication of the revisions to the Basel Securitisation Framework in December 2014, we set out below some of the more important detailed requests made in the March 2014 Comment Letter which were not addressed in the final rules. A complete list is available on request. • Calibration by asset class: we asked to recalibrate the IRBA and the standardised approach (SA) according to asset class so that securitisation capital requirements were brought more closely into line with historical loss experience for most asset classes, with capital requirements for other forms of finance and with those for the underlying asset pools. • Calibration between approaches: we asked to adjust the calibration of approaches in relation to each other so that IRBA would generally produce lower rather than higher risk weights than other approaches for the same exposures, and, if that is achieved, to allow banks and supervisors to develop more flexible approaches to application of operating conditions so that banks could use the IRBA based on information they would get when acting as investors. The definition of tranche maturity and ERBA calibration were adjusted moderately to reduce capital levels at longer maturities but otherwise calibrations of IRBA and ERBA were unchanged. BCBS addressed the point on usability of IRBA by adapting the IRB topdown approach for purchased receivables to securitisation, but it is not clear how workable that will be and how much it will help. • Maturity versus weighted average life: we asked to amend the definition of maturity (M) to allow use of published weighted average life (WAL) tables where available and to take into account expected prepayments based on supervisory inputs, contractual maturity of the underlying exposures and, in replenishing transactions, early termination triggers and contractual limits on average maturity of underlying exposures. • Lower risk weight floor: we asked for this to be 10%. It remains at 15%. The potential impact of the adoption of the recent BCBS recommendations on the review of the securitisation framework would be:

	• to penalise securitisation across all three approaches, making it less likely that the asset-backed market will recover its ability to provide funding for the real economy; and • to continue to entrench the unlevel playing field between securitisation and other forms of fixed income especially covered bonds reducing diversity of funding options for banks, increasing encumbrance on bank balance sheets and limiting banks' options to access the capital markets. If the Commission nevertheless decides to use the BCBS's revised framework as the "baseline" for bank capital requirements in relation to STS, then, given that the revised framework was designed and calibrated for all securitisations, not STS securitisations, clearly, the capital requirements for STS securitisations should be substantially more favourable than that "baseline".

QUESTION 11	ANSWER
How should rules on capital requirements for securitisation exposures differentiate between qualifying securitisations and other securitisation instruments?	This is a complex question. We refer to AFME's response in March 2014 to the EBA Questionnaire on the potential development of a "high quality" securitisation market in the EU, and to the response of GFMA and joint trades to the BCBS' Second Consultative document on Revisions to the Basel Securitisation Framework. We agree with the comment made by the EBA in its Discussion Paper on simple standard and transparent securitisations that "there is merit to propose a capital charge on the most senior tranche at the CQS-1 level which more closely mimics the capital charge applicable to CRR-compliant covered bonds for the same CQS level. Despite offering investors different types of recourse, CRR-compliant covered bonds and the most senior tranches of qualifying securitisation positions are funding tools whose differences in risk profile should not be overestimated." On 11th December 2014 the BCBS published its Final Rules for the revised securitisation framework, although further work is being conducted jointly by the BCBS and IOSCO "to review securitisation markets and to identify factors that may be hindering the development of sustainable securitisation markets." On the same day, the BCBS and IOSCO issued a consultative document with proposed criteria for "simple, transparent and comparable securitisation", and AFME, through GFMA, has responded to that. Once BCBS and IOSCO have published their report on their consultation we understand the BCBS will consider whether and how to incorporate such criteria into the securitisation framework. We believe therefore that a detailed answer to this question is perhaps premature. Further, such an answer must depend in large part on the specific criteria used to determine what are qualifying securitisations for regulatory capital purposes. That said, we believe that the more favourable treatment of qualifying securitisations should take two broad forms: a move toward capital neutrality, and reduced risk weight floors. We believe that treatment closer to capital neutrality for the transaction as a whole is a sensible consequence of being a qualifying securitisation since the criteria are broadly designed to ensure that the risks associated with investing in the securitisation reflect the risk of the underlying assets, rather than any extrinsic structuring or counterparty risks. If that is true, then the overall risk of holding the tranches of the securitisation ought to be much closer to being the same as the risk of holding the underlying assets directly and the capital treatment should be adjusted accordingly. A similar analysis applies to risk weight floors. The risk weight floor associated with securitisation can sometimes be higher than the risk weighting assigned to the underlying assets in the securitisation if held directly. Accordingly, risk

	weight floors ought to be reduced or eliminated for qualifying securitisations in order to ensure that the capital requirement calculated using the risk weight floor for holding the securitisation notes can be as low as the capital requirements for holding the underlying assets directly. In addition, the wider dissemination, and greater ease of use, in Europe of capital methodologies which do not depend on external credit ratings would assist. This could include not just wider availability and usability of the Internal Ratings-Based Approach under the BCBS Final Rules, but also alternatives that have been published and widely discussed. AFME's membership reflects a diversity of views on the most appropriate alternative approaches. One approach could be the Conservative Monotone Approach ("CMA"), its more recent variant the "European SSFA" and most recently the "Pool Capital Multiplier Approach" or "PCMA". While our members have not yet determined whether they would support adoption of the PCMA or these other alternatives, many members believe these approaches have merits, provide a more accurate capital outcome for qualifying securitisation and warrant further study by regulators and by the industry. These approaches would also be consistent with the continuing work of the Joint European Supervisory Authorities towards reducing "sole or mechanistic" reliance on credit ratings and could be implemented as soon as 2016, while more analyses /discussions are done on a longer term solution. Other members however believe that if these alternatives are adopted at an EU level and not at a BCBS level, such approaches could lead to more global inconsistency and more market fragmentation (as is already the case with current differences between the current European CRR and current US rules). Another approach, supported by other members, could apply if the Commission adopts the BCBS Final Rules. Specifically, a "scaling factor" could be applied to the capital level that would be generated under the BCBS Final Rules to securitizations that meet the "high quality" definition. This approach would rely on an internationally harmonious capital standard while also giving appropriate recognition to securitisations that satisfied the final "high quality" definition. The BCBS Final Rules would then be the backstop regime for "non-qualifying" securitisation. Opponents of this approach point out that while the scaling factor approach modifies the calibration of the overall amount of capital post-securitisation compared to pre-securitisation, it does not change the key issue of the incorrect allocation of capital inherent to the BCBS Final Rules. AFME members agree that the BCBS framework contains significant shortcomings and further work is required to address these. Despite this, it is imperative that the authorities work in the long term towards international

	consistency in the capital calculations in order to avoid further disruption in the capital markets or global market fragmentation. In addition, for multi-national banks there should not be a situation where the capital calculation is potentially different in the various jurisdictions in which the bank operates for the same assets on its balance sheet.

QUESTION 12	ANSWER
Given the particular circumstances of the EU markets, could there be merit in advancing work at the EU level alongside international work?	The Commission is right to draw attention to the particular circumstances of the EU markets. We believe a balance is required between the need for international co-operation and harmonisation and the need for a policy response tailored for the needs for the European markets. Credit and price performance of most sectors of European securitisation (and certainly those sectors likely to be "simple transparent and standardised securitisation") has been strong, and calibration of capital and liquidity requirements without taking this into account is already hindering market recovery. We believe urgent action is required for a capital regime in Europe which recognises the reality of historic performance, can be implemented quickly and easily, can be limited to STS securitisation and also only to new transactions. The latter requirement would avoid the risk of a sudden release of regulatory capital into the system, and would specifically encourage new issuance. Such a regime could be implemented with effect from January 2016 – perhaps on a temporary basis – while wider issues at the Basel level are resolved. This would send a very strong and positive signal to the market. This part of the PCMA proposal deserves particular consideration. There is need for better international co-operation and harmonisation in the fields of risk retention, where we have long argued for mutual recognition of the respective EU and US regimes in order to avoiding excessive complexity of structuring and cost for issuers and originators and the creation of artificial barriers to international capital flows between the US and EU (especially in light of the need to progress TTIP). A similar need exists in the field of loan level data disclosure, where disclosure templates need to have the flexibility to reflect the characteristics of not just domestic but also foreign assets.

QUESTION 13	ANSWER
Are there wider structural barriers preventing long-term institutional investors from participating in this market? If so, how should these be tackled?	Most (around 85%) investors in European securitisation are "regulated" investors who must comply with specified regulatory capital or other requirements in order to invest: banks, insurers, AIFMs, UCITS investors, MMFs. There are several barriers to investment for an investor contemplating participation in the European securitisation market. <u>Economic and pricing factors, and the imbalance between demand and supply</u> Current monetary conditions are highly unusual by historic standards. Essentially, the market is flooded with cheap funding made widely available by the ECB and national central banks, as a result of the need to achieve wider macro-economic monetary stability within and outside the Eurozone. On the demand side, the effect of this has been to drive spread to very tight levels such that the yields available do not meet the target returns on capital prescribed by regulation for these regulated investors. At the same time, the regulatory capital requirements for these investors have been (or will shortly be) increased significantly (as is discussed widely elsewhere in our response). Because yields do not meet the target returns on equity, there is little incentive to invest. On the supply side, there is little incentive for bank originators to issue as cheaper funding is more easily available elsewhere: for example other fixed income instruments such as covered bonds or unsecured borrowing which are both issued at tighter spreads than securitisation and also are held via repo or as HQLA under liquidity regulations at more generous haircuts. This makes securitisation as a pure funding tool an unattractive and expensive form of funding for European banks. As far as solutions are concerned, monetary policy is set with wider objectives in mind than the aim to revive a specific fixed income market such as securitisation. However, if the regulatory treatment of securitisation were to be adjusted so as to achieve a more level playing field with competing fixed income products – such as, in particular, covered bonds – that would go some way to addressing this issue. <u>Securitisation must recover its ability to transfer risk</u> On a headline all-in cost of funds basis, securitisation will normally be more expensive than covered bonds or unsecured borrowing. However, this ignores the fact that securitisation can (subject to structure and regulatory approval) transfer risk and free up regulatory capital held on bank balance sheets. When securitisation achieves

	this, the saving in regulatory capital achieved makes securitisation cheaper on a *capital-adjusted* basis than competing forms of fixed income. However, since the financial crisis, national competent authorities ("NCAs") across Europe have interpreted the Significant Risk Transfer ("SRT") rules conservatively and have been reluctant to approve structures which deliver risk transfer. See further below. Solution: reconsider the rules on SRT to make it easier to achieve, and ensure a uniform and consistent application across the EU. <u>Fragmentation in the single market</u> The rules on "Significant Risk Transfer" have now been harmonised in theory at a European level by the EBA, but there still exist considerable discrepancies in their application across Europe. NCAs in different member states take different views; there is little consistency of application, and in some cases we understand that "gold plating" occurs. This is not helpful when a single European standard exists. Another example of fragmentation can be found in the Solvency II rules. Larger and more sophisticated insurers are – theoretically at least – allowed to build and apply their own internal model. The internal model is expected to produce a less harsh application of the capital requirements than the standard model. Yet we understand that some member states have already indicated that they will not allow any insurers within their governance to use an internal model. This creates an uneven playing field within the single market. Solution: The Commission should enforce via the NCAs a uniform and consistent application across the EU. <u>Key data for investors is hard to find, creating barriers within the single market</u> In order to invest, a regulated bank investor must, according to the Basel rules, use either the external rating based approach (for which see "Over-reliance on credit rating agencies" below) or the internal rating based approach ("IRBA"). In order to use the IRBA, investors must produce their own probabilities of default ("PD") and loss given default ("LGD"). Data – for example, vintage analysis of quarterly defaults on a regional basis with a country - is required to achieve this. Unfortunately, this data is not easily available across the EU and the effect of this is to prevent cross-border investment from taking place. For example, consider a Dutch bank that wishes to invest in Portuguese

	consumer loans. The Dutch bank has no business or presence of its own in the Portuguese market. The Dutch NCA is reluctant to grant permission for the Dutch bank to use the IRB in this example because the Dutch bank has no data of its own on which to build its analysis. Such data as may exist may be held by Portuguese banks, but they may be reluctant to disclose it for reasons of commercial confidentiality or competition. The Portuguese NCA may also well hold relevant data but is unwilling or unable to disclose it. The Dutch bank cannot use the ERBA as an alternative for the reasons set out below. So the investment does not take place. To make things worse, this also has the effect of putting European banks at a competitive disadvantage to American banks. By way of contrast to the European approach, American banks seeking to provide a private securitisation financing are permitted to use standard pool information typically provided to rating agencies to rate securitisations for the purpose of deriving PDs and LGDs. It is therefore feasible for them to develop an internal rating for the securitisation being structured where it would not be feasible for a European bank to do so. Solution: the Commission is asked to work with the NCAs in the member states where securitisation markets are seen as important, and the industry, to create a uniform cross-border EU approach to making key credit-assessment data (including data held by NCAs) that investors require more easily available to investors, while respecting the commercial, competitive and confidentiality considerations of national originators. Collection and dissemination of portfolio and performance data needs to be more targeted, tailored to investor needs and user-friendly For some years now, much more information about securitisation portfolios and performance data has been available, largely through the European DataWarehouse ("EDW") which AFME helped establish and which we fully support. However, we believe the time is now ripe for a review of the requirements and operations of the EDW specifically in the following areas. Firstly, the overwhelming focus on loan-level data for all asset classes is in our view misplaced. It also comes at a cost, especially for highly granular asset classes such as credit cards. Credit card portfolios have tens of thousands of lines of data which mean that in practice they can only be analysed and digested intelligently through an aggregated approach. Further, the sheer size of the data files involved creates IT difficulties: it can take hours to download the relevant files, during which time access to data for other asset classes is unavailable. Additional or new hardware may be required to manage the file sizes involved. Most credit card securitisations in Europe are from the UK, and these difficulties therefore mean that in practice this asset class is excluded from eligibility for the EDW, restricting

	investor choice and issuer flexibility. <u>Over-reliance on credit rating agencies</u> We refer to the example above involving a Dutch bank investing in Portuguese consumer loans. Because of the lack of availability of data, the Dutch bank cannot use the IRB approach so instead uses the ERBA. This creates the following challenges. Firstly, the sovereign ceiling applicable to Portugal means that it is not possible to reach a AAA/Aaa credit rating with all four major CRAs. This is the case even if the investor is convinced that the underlying assets and structure are of a sufficiently high credit quality and strength to justify such a rating. Secondly, rating agency methodologies can change – for sovereigns and for swap counterparties as well as for the underlying assets. This introduces a risk of rating volatility and discourages investment both directly and indirectly. A sudden and unexpected change in credit rating due to a change in methodology can mean that ABS which one day qualified for inclusion as HQLA no longer does so. Haircut requirements in the repo market can change, as well as regulatory capital requirements determined by the ERBA. None of this encourages investment. Solution: reduce reliance on credit ratings and increase reliance on investors' internal models in European regulations. Reduce reliance on credit ratings in bank regulatory capital rules: see Pool Capital Multiplier Approach discussed in Question 11. Ensure data is available to enable investors to undertake this credit analysis. <u>High compliance and other barriers to entry</u> A new investor contemplating investment in securitisation is unlikely to do so because of the high barriers to entry prescribed by current regulation. These include disproportionately high capital charges, relatively harsh treatment under the LCR and central bank repo, having investors bear the sanctions for breach of the risk retention rules and disproportionate and overlapping requirements for transparency and disclosure. Compared to competing fixed income products such as covered bonds, this treatment makes securitisation unattractive as additional compliance staff need to be hired to deal with these requirements. Solution: rebalance the regulatory framework to create a more level playing field among different fixed income asset classes.

QUESTION 14	ANSWER
A. For insurers investing in qualifying securitised products, how could the regulatory treatment of securitisation be refined to improve risk sensitivity? For example, should capital requirements increase less sharply with duration?	We believe strongly that the Solvency II capital charges for securitisations remain too high such that they discourage investment in securitisations. This is particularly damaging to prospects for market recovery as non-bank investors such as insurers should be encouraged, not discouraged, from participating more in this market. There are therefore several elements of the Solvency II capital charge regime that could be refined to improve the treatment of securitisations to appropriately reflect the risks associated with the investment. Whilst AFME welcomes the leadership of the Commission and EIOPA in creating the first definition in European regulation of "Type 1 securitisation", as well as considerable lowering of the capital charges, there remains material additional scope for an approach which reflects more appropriately the benefits of high quality securitisations yet remains prudentially sound. In addition to the comments below, we would note that the definition of a Type 1 securitisation will need to be amended once the criteria for qualifying securitisations are finalised so that the two sets of criteria are harmonised. We recommend that Solvency II capital charges be improved by introducing the following changes: • the nominal capital charges for any investment in a securitisation be capped at a level no greater than the aggregate capital charge for the portfolio of underlying loans that back the securitisation; and • the percentage capital charge for senior securitisations be capped at the percentage capital charge that would apply to the underlying loans backing the securitisation, and • the charges for Type 1 securitisations be reduced to levels closer to the charges of corporate and covered bonds. • Such a reduction would also partly address the existing discrepancy in the current regime which strongly encourages investment in underlying loan portfolios compared to the securitised form of the same loans - despite whole loan portfolios in unsecuritised form being riskier and less liquid. This encourages insurance company portfolios to become less diversified and more sensitive to liquidity stress.

	The cap Recital 91 of the Solvency II Delegated Acts states that "it is appropriate to cap the spread risk factors on such positions at the level of the spread risk factor that would be applicable to underlying exposures, namely at the level of the 3 % risk factor per year of duration applicable to unrated loans". Yet for a number of reasons, we note that the 3% cap for non-AAA senior tranches for type 1 securitisations is not effective: • We understand that the reason the Commission has used the 3% cap for Type 1 securitisations (to ensure that the capital charges of securitisations are no greater than those of the underlying loans) is that the capital charge for unrated loans is 3% in the spread module. However, the cap is ineffective for RMBS, which typically makes up around 60 per cent. of the securitisation market. • For residential mortgages, the capital charges are determined based on the methodology set out in the counterparty risk module and not the spread module. As such, the capital charges for senior RMBS will often be significantly greater than investment in the underlying whole loans. For example, the capital charge of an AAA-rated RMBS backed by loans with an LTV of 80% will be 10% but a whole loan pool of residential loans with an LTV of 80% will receive a capital charge of 3.8%. This significant inconsistency between the capital charges is not appropriate because it does not reflect the comparative risks between the whole loan pool and the bond. In fact, the risk in a AAA-rated potion of RMBS will be significantly lower than investment in the whole loan pool because of the credit enhancement and other protections provided by securitisations and because a securitised structure gives the investor greater liquidity. Our members' analysis shows that the sum of Solvency II capital charges for RMBS exposures (the aggregate requirement of all the tranches in a securitisation) is often 5 to 10 times the capital charge on the underlying loans, even for Type 1 securitisations. • For non-RMBS securitisations, the 3% cap may still be ineffective because for secured loans that meet certain criteria, the capital charge is not 3% but calculated based on the risk-adjusted value of the collateral, which could be 1.5% or less. Note that the vast majority of loans backing European securitisation are secured loans. • We also believe that mismatch between the capital charges of Type 2 securitisations and their respective underlying loans is inappropriate. Whilst we agree that the charges for Type 2 securitisations should be higher than those for Type 1 securitisations, the cliff effect is disproportionate. For example, the capital charge of a

	AAA-rated 5 year CMBS would be 62.5% and an AA-rated 5-year CMBS would be 98.5% but the whole loan pool of the same unrated commercial loans of 5 years would receive capital charges of approximately 15%. *Calibration* We believe Solvency II capital charges for the vast majority of securitisations are not risk-sensitive, as they are too high across the board. Many insurers who once participated in the market have reduced their exposure to securitisations, opting instead to purchase whole loans or other investments with far lower capital charges. To make them more risk-sensitive, they should be better calibrated to loans and other fixed income products of similar risk. For example, senior securitisation capital charges should not exceed those of the underlying loans, and qualifying (i.e., Type 1) senior ABS should not be a multiple of covered bonds / corporates with similar risk levels. The question of duration is of secondary importance, in our view, since the charges as they stand are precluding much insurer investment and would do so for most duration scalars. Should the basic charges be changed to more accurately reflect the relative risk versus loans and other bonds, we would argue that the approach to duration should be similar to that used for covered and corporate bonds. Taking a significantly different approach for different bonds would increase the opportunity for insurers to engage regulatory capital arbitrage.
B. Should there be specific treatment for investments in non-senior tranches of qualifying securitisation transactions versus non-qualifying transactions?	Yes. The capital charges of Type 1 non-senior tranches remain far too high to make investment economically attractive for insurers since they are treated as Type B securitisations. We believe that there will be significant implications to the real economy. In order for originators to be able to transfer risk outside the banking system to non-bank investors such as insurers, the ability to issue non-senior tranches at economically reasonably-priced spreads is critical. Also, it will impact the workability of the securitisation structure, especially for securitisations with large mezzanine structures (e.g. SME securitisations). An AFME survey of insurers conducted in March 2014 confirms that insurer securitisation portfolios consist of 24-45% in non-senior holdings and 25-50% in non-AAA rated senior. Therefore, non-senior securitisations make up a material proportion of insurance company investment in securitisations. Finally, the capital charges are not appropriate for the risks. The spread volatility and credit default performance (based on analysis of historical data) of non-senior securitisations whereby the senior tranche is qualifying is significantly better than non-senior tranches whereby the senior tranche is non-qualifying.

QUESTION 15	ANSWER
A. How could the institutional investor base for EU securitisation be expanded?	Post-crisis, regulation of investments has been highly prescriptive, meaning that investment decisions are heavily (and, AFME members would argue, inappropriately) influenced by the regulatory context as opposed to the underlying credit. Therefore a key solution to help expand the investor base in the securitisation markets is to make investments in securitisation a sensible and plausible option from a regulatory perspective for all regulated investors. This, broadly, would be achieved by reducing the extent of regulatory control over investments to a level that is more comparable with other assets of similar complexity and risk profile. Question 13 above addresses the problem of barriers preventing investors from participating in the securitisation market. It is our belief that once those barriers are removed, the investor base in EU can be expanded. For more details regarding the proposed solutions, please see our responses to Question 13. Furthermore, it is generally acknowledged that before 2007 the securitisation market was too reliant on bank and bank-sponsored investors. For the investor base to be expanded non-bank investors should be encouraged to participate. Solvency II is key in this regard, since at the moment it has precisely the opposite policy impact by proscribing capital requirements that are much too high (please see our response to Question 14). In respect of risk retention requirements, please see our response to Question 3. Another of the key element in the process of expanding the investor base is to increase the supply in the market. There are about 40 investors in the market at the moment, but there is not enough supply. This is largely due to firstly the relatively expensive cost of securitisation compared with competing alternative fixed income instruments such as covered bonds and the availability of cheap central bank funding, secondly the very limited ability for securitisation to deliver risk transfer because of the challenges and inconsistencies of the Significant Risk Transfer rules and lastly the overall regulatory burden. All of these issues have been discussed at length elsewhere throughout this response. While the ECB ABS Purchase Programme is regarded as very positive initiative, and has gone some way to remove the stigma attached to securitisation, its impact on the ABS market has been limited because it is limited to senior tranches, does nothing to help issuers achieve risk transfer and is constrained by the supply available.
B. To support qualifying securitisations, are adjustments needed to other EU regulatory frameworks (e.g. UCITS,	Yes, adjustments are needed to the EU regulatory framework, of which capital rules are the most important (please see our responses to Questions 9 -11, 13 and 14 for more details regarding the capital rules for bank and insurer investors). In addition, AFME members consider that in order to function properly, certain rules of in the Delegated Act on the liquidity coverage requirement require further clarification and adjustments. For instance, the definition

AIFMD)? If yes, please specify.	of SSPE appears overly restrictive in an LCR context and it is not entirely clear whether the LCR rules apply throughout the EEA. For more detailed suggestions on the clarifications and possible adjustments to LCR framework, please see the separately attached table "Points for clarification in the Delegated Act on Liquidity Coverage Requirement". With regard to adjustments to the AIFMD regime, we stress the need to avoid overlapping retention regimes. Any differences in the requirements applied to AIF managers and UCITS from those applied to other EU regulated investors may result in compliance challenges for market participants seeking to ensure transactions are eligible investments for a range of EU regulated investors. However, it should also be noted that further issues may arise due to the fact that certain AIF managers and/or UCITS may be subject to more than one retention regime in Europe. Because the EU authorities have applied the risk retention and disclosure provisions to EU regulated banks and investment firms as well as entities included within their scope of consolidated supervision (which could include AIF managers, UCITS and/or insurance undertakings), the possibility of certain entities becoming subject to different (including conflicting) requirements under two regimes cannot be ruled out. We consider that general clarification should be provided to make it clear that AIF managers and UCITS are not subject to any risk retention and due diligence requirements other than as provided for under the AIFMD. As a general comment, we consider cross-sectoral consistency to be essential to ensure that market participants are able to comply with parallel regimes, and to ensure that such compliance may be achieved in a commercially sensible and economically efficient manner. The inconsistencies between different EU regimes are likely to give rise to significant issues for market participants seeking to ensure that transactions are eligible investments for a range of EU regulated investors. Therefore, in this context we stress the need to for sensible interaction between the retention regimes and disclosure regimes which will apply to different types of EU regulated investors. The interaction of the risk retention and due diligence requirements under the AIFMD regime with those which apply under the CRR in respect of EU regulated credit institution investors and consolidated entities is an area of significant focus for AFME members. In the past, ESMA has acknowledged that it is necessary to take account of the parallel provisions of the CRR which apply in respect of credit institution investors (and also of the measures to be made under the Solvency II Directive with respect to insurance and reinsurance undertakings) in order to ensure cross-sectoral consistency. We consider that, in principle, the same retention and due diligence requirements should apply to all types of EU regulated investors and that a different approach should be adopted only if and to the extent necessary. In our view, the factors which necessitate a difference in approach are limited and should relate primarily to adjustments

	necessary to address the unique features or characteristics of the relevant type of investor (i.e. the unique features of AIF managers and UCITS) or other matters specific to the regulatory regime governing such entities. It is also important to mention the cross-border consideration. We believe that provision should be made for recognition (i.e. mutual recognition and substituted compliance) under the EU rules made under the AIFMD (and the CRR, as well as Solvency II) of U.S. securitisations in circumstances where the relevant transaction is compliant with the U.S. retention regime. We consider such relief to be necessary to ensure avoidance of the significant compliance challenges and corresponding cross-border business operation and market access issues which would otherwise potentially arise.

QUESTION 16	ANSWER
A. What additional steps could be taken to specifically develop SME securitisation?	While never the largest asset class in European ABS, SME ABS enjoyed a period of extremely strong growth in the years leading up to 2008, with distributed issuance increasing from €600 million in 2002 to a peak of €31.3 billion in 2006. Since 2008, however, the vast majority of new issuance has been retained: €270 billion between 2008 and mid-2014, compared with just €6.4 billion of publicly distributed bonds over the same period. The underlying collateral in SME ABS tends to be short-dated in nature, such that SME ABS tend to amortise fairly quickly resulting in just €12 billion of publicly distributed paper still outstanding compared with €98 billion of outstanding retained paper. Spain remains the largest jurisdiction, accounting for €5.1 billion (43%) of all available bonds, followed by the UK (20%) and the Netherlands, Italy and Germany (about 10% each). In particular, Spanish deals from the 2006 and 2007 vintage account for a total of €4.1 billion, 75% of all Spanish paper outstanding[7]. The development of SME securitisation must be viewed holistically with the development of the European securitisation market as a whole. It is not possible simply to develop the SME securitisation market on its own. Many of the regulatory and other factors holding back the revival of the European market as a whole – which are described elsewhere in this response - apply just as much if not more to SME securitisation. Having said that, there are factors which apply specifically in a SME securitisation context which do need to be addressed. These include: • availability of data on the characteristics and performance of SME loans: there is no central repository of, for example, vintage analysis of credit performance. Such information if available – by (say) type or size of SME, sector, size of loan, region would greatly assist investors in assessing SME credit quality; • the inability of bank originators of SME loans to use synthetic securitisation to divest SME risk: regulators have in recent years been reluctant to grant Significant Risk Transfer when synthetic securitisation is used. We believe that, properly structured, synthetic securitisation does have a role to play and can be of great assistance in facilitating securitisations of assets where it may be difficult to achieve a legal true sale. Synthetic securitisation can also help reduce the all-in cost for a bank originator contemplating a SME securitisation. See B.2 in the response of AFME and the joint associations dated 14th January 2015 to the

[7] The information set out in this and the preceding paragraph is drawn from J.P. Morgan's Europe Credit Research paper dated 5th June 2014, "Focus on ...: European SME ABS". Figures are as of June 2014.

	EBA's consultation paper on simple standard and transparent securitisations ("SST"). Certain forms of synthetic securitisaton should be included as SST; • mezzanine tranches of SME securitisations tend to be much larger than for other more homogeneous asset classes such as residential mortgages. This reflects both the diversity and risk of SME loans, as well as existing shortcomings in data availability. The penal capital weightings prescribed by Solvency II in particular for mezzanine investment therefore have a disproportionate effect. It is our view that private sector demand does exist at the right risk / reward balance at this mezzanine level of risk provided capital requirements are reasonable. It should not be necessary for the public sector to intervene and assume this risk, rather Solvency II should be recalibrated to encourage private sector demand to return. • SME loans held on the balance sheet currently enjoy a 0.7766 scaling factor applied to RWA calculations. However, the same portfolio in securitised form does not benefit from this factor and indeed additional capital is attributed to the portfolio since the securitisation capitalisation approaches do not apply the principle of capital neutrality. SME securitisation incentives are therefore skewed through both the demand and supply channels, limiting the development of liquid a market in securitised SME risks: originators benefit from a reduced risk weights only while SME risk remains on balance sheet in unsecuritised form, while regulated investors are unable to acquire liquid SME risk on the same terms available to that credit risk in illiquid loan format. This misalignment particularly disadvantages firms seeking to achieve risk transfer for SME portfolios in order to release lending capacity as retained senior securitisations positions are allocated a disproportionate share of the underlying SME portfolio risk weighted assets. Allowing the application of the SME scaling factor to securitisation positions (including retained securitisation positions following risk transfer transactions) relating to exposures that would otherwise benefit from the scaling factor would better align incentives for regulated to firms to participate actively in SME securitisations for the purposes of funding and risk transfer.
B. Have there been unaddressed market failures surrounding SME securitisation, and how best could these be tackled?	For Europe as a whole please see the AFME-BCG report, "Bridging the growth gap", which is the result of interviews with global asset managers representing €9 trillion in assets under management and various stakeholders and exchanges. Survey participants for that report highlighted that fragmentation discourages investments in Europe; 65% of interviewees cited information/understanding differences across markets as a key barrier.

	Information/understanding issues could include language differences, difficulty in finding information to compare cross-border investment risk issues, as well as inconsistencies between data sources. Successful US SMEs find it easier to achieve scale – due both to the single language and the ease of expanding across US state lines, compared to national boundaries in Europe. Please see the separately attached chart. In the UK, AFME's report to the Department for Business Innovation and Skills of October 2012 "An Agency for Business Lending" recognised a lack of appetite to build in-house expertise in SME risk assessment, scarcity of resource against specific objectives, lack of historical trends in SME success factors and a perceived lack of a secondary market for SME risk as issues preventing better long term access by SMEs to capital markets (whether through securitisation or other instruments). There was also a need for detailed, historical and consistent information on the performance of loans taken out by UK businesses and SMEs in particular which meant that investors struggled to compare SME risk with other investments.
C. How can further standardisation of underlying assets/loans and securitisation structures be achieved, in order to reduce the costs of issuance and investment?	Unlike many other forms of fixed income securities, securitisation liabilities must broadly match the assets which support the liability cash flows. When developing any securitisation structure (whether backed by SME loans or any other asset) for distribution to third party investors, it is necessary to review the following key stages: a) Identify the specific pool to be funded through securitisation (aggregate amount, individual loan characteristics, geographic diversification, maturity, credit quality, and other aspects); b) Evaluate which cash flows are to be sold to investors, and which cash flows will be retained by the originator; c) Agree on desired tenor, currency and level of rating or credit quality of the tranches to be sold; and d) Agree on type and amount of credit enhancement required to support this level of rating or credit quality There are three main areas of securitisation which can be standardised a) loans (documentation and terms) b) disclosure (amount of data, consistency, and format), and c) structures. Disclosure has already been somewhat standardised, through legislation such as the Prospectus Directive, the Capital Requirements Regulation ("CRR") and Article 8b of the Credit Rating Agencies Regulation (and its associated regulatory technical standards) as well as initiatives such as the Bank of England and ECB ABS reporting standards, which AFME played an important role in developing.

	Structures have been standardised to some degree, however, since not all assets originated by banks and corporates across Europe are the same, there will inevitably be differences between liability structures due to differences in asset structures - credit standards, origination dates, interest rates, maturity dates, prepayment terms, default terms and also differences in legal terms. AFME has contacted many issuers and investors to ask them whether structures can or should be standardised. Generally, investors like large pools due to increased secondary market liquidity. However, the main constraint on standardised structures is whether the loans are standardised in all respects so that cash flows on the liabilities reasonably match cash flows on the assets. In terms of the standardisation of loan documentation, this could be done within a specific country, if all lenders agreed to standardise their loan terms, and only compete on credit quality and price, rather than terms and product features. Securitisation is sometimes criticised for its complexity. There are different layers of complexity possible, but some complexity is inevitable because of the need: • to achieve bankruptcy-remoteness from the originator, necessitating a sale or other isolation of the assets; • for investors to take security over the assets to protect their interests; • to link the repayment of the investment to the cashflows generated by the defined pool of assets and not to a simple covenant to repay by the issuer; • to deal with the pre-existing nature of the assets: in Europe, securitisation is just one of several funding tools banks can use. Assets are (for the most part) not generated specifically for securitisation. Instead, investors have told AFME that they prefer to buy securitisations backed by assets originated in the normal course of business by banks, rather than “originate to distribute” lenders. These assets are generated to meet the varying needs of banks’ customers – not necessarily the needs of capital markets investors. “The dog must wag the tail, not the tail the dog.” Similar constraints apply in the degree of standardisation that is achievable. Market forces already drive standardisation of transaction structures and documentation as far as is practicable and

	realistic. Neither issuers nor investors seek inconsistency for its own sake. For example, during the development of the PCS securitisation label process described below, investors said that standardisation of various aspects of securitisation (loan documents, securities document disclosure, and/or structures) or lack of information/transparency was not the main obstacle discouraging them from returning to the market. The main obstacles identified were focused on a lack of positive signals from policymakers on whether investment in securitisation was encouraged. The result is that (within asset classes) broadly standardised transaction structures and legal documentation already exist, although a balance has to be found. The ECB and Bank of England templates described above, which took several years to implement, specify particular fields of information but acknowledge the need for flexibility to reflect different approaches (for example) to calculating interest, or accruing arrears, or managing prepayments – these all vary not just across EU member states but even within a country, asset class or between originators. Sometimes diversity exists even within a single originator - if, for example, institutions have merged, or portfolios have been acquired, IT systems have been changed or upgraded, or customers have changed their preferences about what kind of loan they want. "Comply or explain" is therefore a critical and necessary feature of the ECB and Bank of England templates. Derivatives contracts for securitisations must be tailored to the characteristics of the securitised assets to protect investors from mismatches in cash flows.
D. Would more standardisation of loan level information, collection and dissemination of comparable credit information on SMEs promote further investment in these instruments?	Sufficient standardisation of loan level information has, in our view, already been achieved for the reasons set out above. SME loans are especially diverse in nature and always will be, so there is a natural limit to the standardisation that can be achieved without excessively interfering in the free choices of SME borrowers. With regard to collection and dissemination of comparable credit information on SMEs, in responding to the AFME-BCG report, "Bridging the growth gap" investors identified as a European roadblock the lack of high-quality and easily accessible information on SMEs, which makes investment due diligence difficult. Therefore, investors have difficulties evaluating SMEs and considered that the implementation, in the short term, of a consistent, industry-based definitions for SMEs across Europe would help investors evaluate investment opportunities more easily, especially in relation to SME loan portfolios and securitisations. Our interviews underscored the need for crucial economic actors – lenders, data providers and governments – to all have uniform definitions to facilitate instruments that are truly tradable across Europe. A possible solution consists in requiring the use of a mandatory reporting for key financial information in public record such as developed by the

	Banque de France and the Centrale dei Rischi. One should ensure greater access to, and linkage with, existing data records on file to improve general SME quality of information while extend data sharing agreements with supra-national agencies across borders to enable higher quality assessment and cross-border investments. While interviewees said easily accessible ratings or credit scores for SMEs would help increase the flow of funds to creditworthy SMEs, they conceded that providing these ratings could be prohibitively expensive, due to the number of firms and quantity of analysis involved. In the medium-term, interviewees believed it crucial to explore ways of allowing lenders to profit from sharing their internal ratings systems; predominantly lenders with regional expertise. One possible way to achieve this could be through promotion of partnerships between lenders and asset managers, with the former responsible for conducting diligence. While such partnerships may already be in operation (e.g. Barclays' partnership with BlueBay Asset Management), streamlining the process of establishing them, and reducing restrictions they are subject to, would increase their use in Europe. In the UK, AFME's report to the UK Department for Business Innovation and Skills of October 2012 "An Agency for Business Lending" recognised a need for detailed, historical and consistent information on the performance of loans taken out by UK businesses and SMEs in particular which meant that investors struggled to compare SME risk with other investments.

QUESTION 17	ANSWER
To what extent would a single EU securitisation instrument applicable to all financial sectors (insurance, asset management, banks) contribute to the development of the EU's securitisation markets? Which issues should be covered in such an instrument?	While a single framework is one approach to remedy the issues identified by the Commission and addressed in our responses, and there may be advantages to consolidating regulatory requirements in one body of text, the issues that need to be addressed are well known and entirely capable, with the support of the Commission, of being remedied at a technical level. A new regulation or directive will take several years to come into effect, and carries significant risk both of delay and political opposition. We prefer a more practical, swifter and step by step technical approach to remedy each issue - capital, liquidity, transparency and disclosure and risk retention – separately and in parallel. These, however, must be consistent and harmonised, both among themselves and with the criteria for qualifying securitisation where relevant.

QUESTION 18	ANSWER
A. For qualifying securitisation, what else could be done to encourage the further development of sustainable EU securitisation markets?	Please refer to our comprehensive response on the issues of regulatory capital, liquidity, risk retention, transparency and disclosure and derivatives regulation throughout this response.
B. In relation to the table in Annex 2 are there any other changes to securitisation requirements across the various aspects of EU legislation that would increase their effectiveness or consistency?	Yes. It is essential that the Money Market Funds Regulation preserve the ability of money market funds to invest in qualifying securitisations in both the long term ABS and the short term markets ABCP markets. Changes are also required in EMIR better to facilitate swaps between securitisation SPEs and their counterparties, and to restore a level playing field with other forms of fixed income instruments including in particular covered bonds.