

April 2019

ESMA's revised proposals on Disclosure Requirements under the Securitisation Regulation – areas for clarification pursuant to Q&A

AFME thanks ESMA for the opportunity to engage with it in constructive efforts to clarify the new proposals.

Broadly speaking, we find the approach ESMA has taken in its 31 January 2019 proposals to increase the number of No Data (“ND”) fields to be helpful in addressing some of the industry’s concerns. However, we note that several concerns about the disclosure regime remain unaddressed and for many requirements it remains unclear how they should be complied with.

Below we set out:

- First, some high-level general concerns,
- Second, a list of specific fields which remain highly problematic; and
- Third, areas which require further clarification.

I. General Concerns

Transitional and Phase-in Regime

A sensible and proportionate transitional and phase-in regime is necessary for the industry to be able to implement the new disclosure templates, as indicated in our Position Paper of October 2018 (see from page 6). Considerable implementation including IT work is required for our member firms to adjust to these new standards, also because the required information have different format than the existing ECB templates; such transition will take time. ESMA has indicated this issue as being outside their mandate, therefore, in the absence of a phase-in regime, we request ESMA to consider a repeat of the statement of 30 November 2018. We appreciate that the previous Joint ESAs statement would need to be refreshed and cover the new regime. We also ask ESMA to refer in this new statement not only to issuers obligations under Article 7 of the Securitisation Regulation, but also to investors obligations under Article 5 of the Securitisation Regulation. We believe that such statement will give enough time for ESMA to answer the questions that have been raised by market participants under Q&A (please see our concerns below) and based on those answers market participants would be able to develop appropriate process and IT systems.

Q&A Process

We appreciate the Q&A published by ESMA on the 31 January 2019, however we note that most (if not all) of technical questions raised by market participants so far remain with no answer, including questions listed in a document sent by AFME and TSI on January 8th. We would like to stress that implementation of disclosures templates represent an important effort involving staff and IT costs and that such staff cannot implement the templates if the guidance is not clear. Therefore, market participants fear that the disclosure templates will be finalised before the proper guidance on how to comply with detailed templates will be delivered under the Q&A. We believe that one of the most efficient ways to provide market participants with such guidance would be a roundtable, where both ESMA and the industry would have an opportunity to discuss those areas where clarification is most needed. We strongly encourage ESMA to consider organisation of such roundtable.

Private Securitisations

The regime remains unsuitable for private securitisations. Even though the reporting burdens have been reduced for ABCP-type transactions, the requirements for on balance-sheet private transactions remain

problematic. Our members consider that, although the latest proposals are substantially better than the previous ones, they are still likely to lead some borrowers, particularly corporates relying on securitisation to fund trade receivables, to conclude that they would be better off exiting the market and finding other funding sources. We believe that the standard of disclosure remains disproportionate to the risks being taken by investors.

Confidentiality

Article 7 of Securitisation Regulation permits data to be withheld in order to comply with customer confidentiality or data privacy laws. It also permits data to be aggregated to preserve confidentiality; however, no provision has been made in the ESMA draft technical standards to reflect that. Please see our detailed comments on Annex 3 and 4 below.

EU Investor in a Transaction with no EU-based Originator, Sponsor or SSPE

We believe this to be an important issue as the current regulation could lead to the situation where EU investors might cease to invest outside the EU, but non-EU investors will continue to invest in the EU; consequently, this would create (i) a ‘home bias’ of EU investors with lower diversification and (ii) a spread tightening which, although could be beneficial for issuers, will have a negative effect on the EU investor base (especially insurances and pension funds).

We, therefore, ask ESMA to clarify if an EU investor in a transaction with no EU-based originator, sponsor or SSPE is obliged by Article 5 Securitisation Regulation to verify that information will be provided in accordance with the ESMA templates, and only permitted to invest if that is the case?

II. Fields which are still mandatory and remain highly problematic for originators to produce

Account Status (RREL69; CREL136; CRPL79; AUTL70; CMRL55; CCDL37; LESL57; ESTL55)

This field remains a mandatory disclosure across every asset class. It appears likely to be problematic to complete accurately for some issuers, because it is so specific in the responses required. For example, it requires defaulted receivables to be classified according to whether they are defaulted under the definition in CRR Article 178, or under another definition of default, or neither or both. For a non-CRR firm, existing systems will likely not have been set up to track Article 178 defaults. Similarly, although existing systems likely track repurchases, they do not necessarily differentiate between the different reasons for repurchasing, as required by this field.

We assume that ESMA did not permit ND for this field, because they considered it reasonable to expect reporting entities to be able to identify defaults and repurchases, and up to a point this is understandable. However, the granularity of data required by the response codes could be problematic. A more balanced approach would be to have two fields representing account status: a high level field, for which ND is not permitted, which requires the reporting entity to disclose whether the account is performing, defaulted (any definition) or repurchased; and a more granular field, with the full eleven response codes, for which ND is allowed.

Lack of a template for trade receivables

The trade receivables asset class is among the largest asset classes in the private market, and it is therefore extremely problematic that there is no template for this asset class. As obligors in trade receivables are typically corporates, it is arguable that Annex 4 should apply - although this is highly unsuitable for such a context, and we believe that in absence of specific template for trade receivables transactions Annex 9 is more appropriate. However, if Annex 4 is considered to apply, then the following fields, for which ND1-4 are not permitted, are problematic:

- **CRPL25 Securitised Receivables.** “What receivables associated with this underlying exposure have been securitised: Principal and Interest (PRIN), Principal Only (PRPL), Interest Only (INTR), Other (OTHR). Trade receivables are not loans but rather a debt owed in payment for a good or service provided. They therefore do not easily fit in to concepts of “principal and interest” so it is unclear if the correct answer is PRIN or OTHR.
- **CRPL34 Maturity Date.** many corporates agree a variety of different payment terms with their customers, and hence trade receivables may fall due 30 days after invoice, following month end + 30, or some other basis. Typically, corporates’ systems will track invoice dates but will not always track which payment terms apply, or if they do, the payment terms are specified in categories which are not exact (e.g. 30-45 days). Corporates’ receivables management systems are simply not set up in the way contemplated by this requirement so at the very least it will be challenging to track maturity dates with such precision. Hence, it may not be possible to produce this data.
- **CRPL42 Total Credit Limit.** This field is clearly directed at corporate lending portfolios, where it makes sense. We have never seen this reported in the loan tapes for any trade receivables deal, and it is not useful. Potentially, ND5 could therefore be reported, as it is not relevant. On the other hand, most sellers will set credit limits for customers, so in that sense it is unclear whether “not applicable” (ND5) is a legitimate response when the answer could be either not meaningful or not relevant.
- **CRPL50 Payment Due.** Essentially the same point as CRPL34 as there is only one payment date.
- **CRPL78 Number of Days in Arrears.** Reporting to the nearest day is not currently normal, and impossible if the maturity date is not known.
- **CRPL82 Default Date.** Impossible if the maturity date is not known.

ABCP

- **IVAL 21.** We believe this field's description is still unclear. The RTS confusingly states that this field should be the {Monetary} value of exposures whose amortisation schedule is not either French, German or Fixed. The economic purpose of such a value is fundamentally unclear to market participants. ESMA's own Q&A states however (in Q5.1.5.4) that this field should take a {List} format with the type of amortisation entered, see below:

“Q5.1.5.4 Amortisation Type fields – how should these be completed for different types of bullet loans? For example, the Dutch market has a substantial amount of mortgages with a redemption type of ‘bullet + savings’. (RREL35; CREL87; CRPL46; AUTL32; CMRL32; LESL31; ESTL31; IVAL21)

A5.1.5.4 In this situation, the amortisation type field should be completed with ‘Bullet’.”

In our view the latter explanation, i.e. that the type of exposure amortisation should be entered into the field, is more logical but in this case, we would need guidance on how to report portfolios that mix exposures with various amortisation types. Therefore, we would request the regulators to correct this ambiguity in the template.

- **IVAR1 Unique Identifier - ABCP Transaction.** This field still refers to ABCP Transactions (IVAN2) but we believe this should be corrected to refer to the ABCP Programme (IVAN1). In a fully supported ABCP Programme triggers on individual ABCP transactions within the programme would not be material to the position of investors in the programme, who generally rely principally upon the support provided by the sponsor. In such a context, we would understand the obligation in Article 7(1)(e)(ii) Securitisation Regulation to refer only to events which trigger changes in the programme-level priority of payments and programme-level counterparties.

CLOs

- **CRPL41 Market Value.** The field description here is “For Collateralised Loan Obligation securitisations, enter the market value of the security”. The term “Collateralised Loan Obligation securitisation” does not appear to be defined and could cover a broad or narrow class of transactions depending how it is interpreted. On a broad interpretation it would cover all securitisations in scope of Annex 4, but presumably this cannot be intended or the reference within the definition of CRPL41 would be redundant. For an arbitrage CLO, the underlying loans will typically have readily observable market prices and there will often be market value triggers applicable, and for these cases provision of the market value is unlikely to be difficult. For balance sheet CLOs, SME CLOs and synthetic CLOs, there will frequently be no readily observable market price, the market value will not typically be tracked, and the market value is likely to be so subjective in its determination that any information disclosed is likely to be misleading. We believe it should be acceptable to respond ND5 in cases where there is no readily observable market value and/or market value is not tracked as part of the contractual terms of the securitisation
- **CRPL 99-101 Originator Information.** These fields are still highly problematic/unworkable for certain transactions which invest in corporate underlying exposures, such as CLOs. This is because there may be no entity that acts as originator for the purposes of the Securitisation Regulation - assets are purchased directly in the open market by the SSPE and the risk retention interest is held by the CLO manager as sponsor. Further, larger corporate loans are syndicated, which means multiple original lenders. There is also an active trading market in which interests in loans change hands in different sized units and therefore interests may be held by many parties over the life of a

loan. These features mean that it is difficult to identify an “originator” for completely legitimate reasons. Accordingly, it would not be possible to complete these fields and the ND is appropriate.

III. Points where clarification via Q&A is necessary

General Questions

Use of ND5 – does “not applicable” include “not relevant”?

“Not applicable” could mean either not relevant (capable in principle of being answered but having no significance in the current context) or having no meaningful answer. For example:

- (a) RREL 9 (Redemption date) has no meaningful answer for an exposure which has not been redeemed, and therefore ND5 must be the correct response
- (b) RREL40 (debt to income ratio) does have a meaningful answer – for any given loan, there is a ratio which could be determined if the data were available – but in some cases it is irrelevant, e.g. for a lifetime mortgage

Recital 13 of the draft RTS states that “... due to the heterogeneity of securitisation instruments, it is possible that a specific reporting item, in any of the categories of information mentioned in this regulation, may not be applicable or relevant for the securitisation. In such cases, it should be possible for this situation to be reflected as such in the data submission for that specific reporting item”.

Can ESMA please confirm that, in general, where ND5 is listed as a permitted response, it can be used to signify that the data item is not relevant to the risk assessment in the context of the current transaction, and not only in cases where there is no meaningful answer.

Dual Disclosure Burden

We would like to highlight to ESMA that, for ABCP, the RTS recitals acknowledges that lower granularity is appropriate, but in fact experience in the market suggests that, a higher disclosure burden is being created.

- Many transactions have ABCP + bank balance sheet funders. The bank investing via its own balance has the same access and is in economically the same position as the ABCP sponsors, so disclosure should logically be the same, but absent clarification from ESMA, it appears that many participants are concluding, conservatively, that both ABCP and non-ABCP disclosures are required.
- If all investors are ABCP conduits, and the sponsor agrees to accept only ABCP disclosures, it loses liquidity, because it could never sell, except to other conduits, if it decides it wishes to de-risk or de-lever its position. Either the bank accepts reduced liquidity – in which case we have the perverse result that a disclosure rule designed to protect investors is in fact adding to their risk – or it demands both types of disclosure which again increases the burden on the borrower.

ESMA is strongly urged to clarify that, in cases such as the above, it is sufficient for only ABCP disclosures to be done, even if subsequently a position is sold to a non-ABCP investors. Please also see our questions on “Lack of clarity regarding the reporting templates” and on private securitisations under “General ABCP Questions” section.

NPL Transactions

It is our understanding is that Annex 10 (Underlying Exposures Information – Add On for NPEs) and Annex 10 (Underlying Exposure Template – Add On for NPEs) were developed only for securitisations of performing exposures which then became non-performing for more than 50 % of the portfolio, and therefore were not designed for the securitisation of the portfolios of non-performing exposures (NPE transactions). Can ESMA please confirm that this understanding is correct, and if this is the case, that Annex 10 is not applicable to NPE transactions?

Assuming that our understanding referred to in the above is correct, and that therefore Annex 10 does not apply, can ESMA please confirm what type of disclosure requirement, if any, would apply in the case of a securitisation of NPEs, which also includes fully performing exposures, due to: (i) performing exposures being securitised together with NPEs; (ii) re-performing of exposures; and/or (iii) exposures

deriving from new finance granted by the SSPE, as lender (or which claims are purchased by the SSPE) in the context of the same securitisation, to the debtors of NPEs, as borrowers, in order to help their re-establishment and increase the recoveries?

The transitional provisions under the Securitisation Regulation require that CRA3 templates will be used until the ESMA disclosure templates are adopted. Assuming again the correctness of our understanding that Annex 10 does not apply to NPE transactions and considering that the CRA3 templates do not include a specific template referring to NPEs securitisations, could ESMA confirm, what type of disclosure requirement, if any, would apply in the case of a securitisation of NPEs during the transitional period?

Synthetic Securitisations

Given the fact that there are no ECB and no CRA3 templates for such types of securitisations, could ESMA please clarify what kind of disclosure should be completed for synthetic transitions, until the new ESMA RTS are adopted?

Furthermore, our members believe that the reporting templates have been primarily set up to accommodate cash securitisations and many fields related to the underlying calculation of principal and interests are not relevant to synthetic securitisations, thus creating excessive burden to originator while not benefiting investors. For instance, in some jurisdictions unique public-scheme “tranching cover” synthetic transactions exist which have the purpose of fostering new lending to SME and Mid-cap borrowers with positive impact on the real economy. Under this portfolio guarantee, the investor performs its due diligence - also by using its proprietary internal rating model - on each obligor. The whole loan documentation is also available to the investor. Monitoring obligations on the portfolio have been set up by the investor itself, which will receive periodic data flow from the originator based on the specifics requested. Could ESMA please confirm if those public-scheme transaction type are covered by the scope of ESMA RTS or should they be exempted given that as the investor doesn't rely on information from the originator to perform its own due diligence, the main purpose of Article 7 of Securitisation Regulation (“to provide the investors with a single and supervised source of the data necessary for performing their due diligence”) is not applicable?

Finally, for synthetic securitisations several confidentiality issues arise as certain fields allow the de-anonymization of the underlying borrowers (please see our detailed comments on Annex 4 below).

Disclosure via an “Article 7(2) Compliant Website”

We would like to seek clarification from ESMA on whether public securitisation transactions that start compliance with disclosure requirement by using an Article 7(2)-compliant website are required to start reporting via an authorised repository, once one becomes available?

Data Repository

Data repository is one of the key elements of the disclosure requirements, however until now there has not been any explicit confirmation neither in ESMA's Q&A nor in the Opinion wheatear the European Data Warehouse (EDW), or any other organisation, will be designated as a securitisation data repository. We kindly urge ESMA to issue an official announcement in this respect as soon as possible.

XML-schema

The Q&A refer to ESMA's statement of 13 November 2018, stating that a first version of the XML-schema will be published as soon as possible. Could ESMA please indicate as to when this will be the case?

Lack of Clarity Regarding the Supervising Entity

There continue to be a general confusion with regard to supervising entity. In several cases both the ECB and the NCA did not consider themselves as competent for Article 7 of Securitisation Regulation disclosures. This situation leaves market participants exposed to uncertainty which has very damaging effect to the market.

In addition, market participants are currently hindered by not being able to view a list of NCAs that have been appointed so far. Under Article 29 (8) of Securitisation Regulation ESMA is to publish and keep up-to-date on its website a list of the NCAs but that is not yet available. We would urge ESMA to publish as soon as possible this list even if there may be gaps for some jurisdictions for the time being.

Lack of Clarity Regarding 3rd Party Verification Agents

We appreciate that ESMA has recently authorised PCS and SVI as third-party verification agents, however, there seems to be no transparency for market participants as to which entities have been approved as verification agents. Therefore, we recommend that ESMA sets-up a register similar to the register existing for ECAIs. We believe this will be beneficial for issuers, arrangers and investors and will increase market transparency.

Lack of Clarity Regarding the Reporting Templates

There continues to be general confusion on which Annex template applies to which reporting entity, especially in “co-funding” structures where one transaction is syndicated among several different banks (please see below our comments on private securitisations). Please also see our question on Dual Disclosure” and question on private securitisations under “General ABCP “Questions section.

An Example of a “Dummy Data” Set With Explanations In Each Template

Would it be possible for ESMA to provide examples of “dummy data” in each template with some explanations, especially with regard to Credit Card and RMBS Securitisations? Issuers are finding it difficult to interpret the templates and visualise what a final template, complete with data would look like.

Incomplete Q&A Document

Some of the information in the Q&A published on 31 January 2019 does not seem correct or is contradictory. For example, the answer to Q5.1.2.2 contradicts the answer to question Q5.13.4 regarding Annex 14 and whether this is required. Also, the answer to Q5.13.4 refers to “Article 8(1)(F) of the RTS on disclosure” however this provision has been removed from the ESMA’s Opinion document. Further clarification from ESMA is therefore required.

General ABCP Questions

- **Use of ND1.** Sponsors of ABCP programmes act as underwriters and lenders to each ABCP Transaction that they fund. Can ESMA please clarify if the use of ND1 is acceptable in the circumstance when certain data fields are not required by the sponsor from the originator or Servicer of the underlying exposures as part of their due diligence / underwriting process?
- **Private Securitisations Falling Under Multiple Templates.** Private securitisations are often syndicated across multiple lending banks. Depending on each bank’s funding structure and preference, the same securitisation position may either be funded via an ABCP conduit or on the bank’s own balance sheet. This decision is also subject to change at the bank’s discretion. The current format of the RTS guidelines suggest that a single originator of a private securitisation potentially has to complete underlying exposures under the ABCP template AND the non-ABCP templates. Having to make disclosures on multiple templates significantly increases the complexity and burden on the reporting entity for the securitisation. Moreover, even when the position is not syndicated, there could be a scenario whereby the template which the reporting entity is required to use may change through the life of the securitisation. For example, if an Auto Loan securitisation held by Bank A (funded in its ABCP conduit), was sold to a Bank B and funded via Bank B’s balance sheet, the reporting entity of the underlying exposures template would be required to switch from Annex 11 to Annex 5. This can cause significant confusion for market participants, and excess burden in having to change IT systems to comply with a new disclosure template. To avoid both of the above scenarios, we would strongly suggest simplifying the requirement to using only one template for the entire transaction and we kindly ask ESMA to confirm that this was the intention.

- **Granularity Requirements.** Article 4(2)(b) of the revised RTS requires the reporting entity to make available information on “each ABCP programme which is funding the ABCP transactions on which information is made available”. Can ESMA please clarify how to fulfil this requirement when an ABCP programme is syndicated and funded via multiple ABCP Programmes, managed by different bank sponsors?
- **Underlying Exposures Annex Applicable to Sponsors of ABCP Programmes.** Article 2(4) of the updated RTS states, “The information on the underlying receivables or credit claims that the reporting entity for an ABCP transaction shall make available in order to comply with its obligations under Article 7(1)(a) of Regulation (EU) 2017/2402 is set out in Annex 11”. To the extent this change was intended as clarification vs the generic “ABCP securitisation” term in the prior draft, can firms interpret Annex 11 as being only applicable to the reporting entities of an “ABCP transaction”, and therefore not applicable to the reporting entities of an “ABCP programme”, if none of the entities at the programme-level are acting as an originator, sponsor or SSPE of the ABCP transaction?
- **Use of Annex 13 for Disclosures by Different Reporting Entities.** Revised RTS specifies Annex 13 to be used by the reporting entity of an “ABCP Securitisation”. Without further clarification, it is expected that reporting entities for the “ABCP Transaction” and “ABCP programme” will both use this template to fulfil their respective requirements under Article 7(1)(e) of EU 2017/2402. In the case of the reporting entity of an “ABCP Transaction” using Annex 13, the entity is unlikely to have access to data to be able to complete the “Programme information section” of the template. Therefore, can ESMA please confirm that the reporting entity for an “ABCP Transaction” is only required to complete the relevant sections at the transaction level (i.e. Transaction information section and Tests/Events/Triggers information section)?

Questions on Specific Annexes

ANNEX 2: UNDERLYING EXPOSURES TEMPLATE - RESIDENTIAL REAL ESTATE

- Could ESMA please clarify if these sections should be submitted as different data tapes (or tabs) or as a single file?
- There can be up to 4-borrowers party to a loan; can ESMA please clarify how should this reported and what is the definition of “primary” or “secondary” borrower?
- Can ESMA please confirm if a field can contain multiple variants of ND options? There are some products which require different responses within a single field (e.g. ND2 and ND4)
- **RREL8 - RREL69.** Could ESMA please clarify if this is reporting the spot position or a moving position? We believe that it should be a spot report, but the fields relating to loan repurchases contradicts this (i.e. a repurchased loan would not be in a spot report).
- **RREL15 Customer Type.** Could ESMA please clarify how is a new borrower defined?
- **RREL 23 Origination Date.** Origination Date may not be the same as the Original Advance. Could ESMA please confirm which value should be reported?
- **RREL31 Prior Principal Balances.** Can ESMA please clarify if “balances ranking prior” is referring to loans more senior (than the loan in the securitisation) rather than prior being a historical term?
- **RREL73 Allocated Losses.** Can ESMA please clarify when an actual loss should be reported in this field? Can an example be provided?
- **RREC7 Occupancy Type:** Can ESMA please confirm if “buy for investment” qualify under OTHER? There are many cases which cannot be qualified as “occupied” and not as “BTL”.

ANNEX 3: UNDERLYING EXPOSURES INFORMATION - COMMERCIAL REAL ESTATE

- AFME is aware that ESMA are in separate dialogue with CREFC Europe regarding commercial real estate aspects of the proposed disclosure framework. AFME and CREFC Europe have received similar feedback from members on those aspects, which is included below. In addition to those comments, CREFC Europe is preparing and will be submitting to ESMA, in due course, a detailed feedback on Annex-3 specific issues.
- **CREL2 Original Obligor Identifier.** CRE loans used for CMBS typically have multiple obligors. Can ESMA please confirm if the reporting entity should choose an obligor and use that as the identifier for the group of obligors? If that is the case, is the choice of obligor free or are there specific rules?
- **CREL4 Original Underlying Exposure Identifier.** A CRE “loan” is often multiple loans to multiple borrowers that are then cross collateralized and cross default to some degree. There is no one-to-one mapping from loans to obligors either. In this context, can ESMA please clarify if the identifier is required for the loan or the multiple legal loans?
- **CREL12 Geographic Region of Obligor.** As the loan will typically have many obligors often covering multiple countries can ESMA please clarify which region should be reported?
- **CREL27 Total Other Amounts Outstanding.** This information will not be known. All of the expenses of the special servicer in working out the loan are payable by the borrower. On any given date those expenses will not be known, e.g. the accrued but unpaid legal expenses, receiver expenses, bankruptcy practitioner expenses etc. Estimates may be available, but the facts will not be. Can ESMA please clarify how this field should be completed when the information is not known?
- **CREL41 Non-Payment on Prior Claim.** ESMA’s clarification is required as it is unclear what a prior claim means? Is this restricted to claims secured by mortgages with a prior ranking to that securing the exposure? For most loans going into CMBS a default by the borrower on any debt (widely defined) will trigger a default of the loan subject to a materiality provision.
- **CREL42 Equal Ranking Claim.** This field requires further guidance as a property (underlying exposure) cannot default.
- **CREL43 Noteholder Consent:** The answer for CMBS will be “it depends”. The servicer is allowed to change payment terms without noteholder consent provided that any such changes do not have certain specified impacts on the Notes. The field description is therefore ambiguous: “any” could be interpreted either as (a) in each and every possible restructuring or (b) there exists at least one possible restructuring. Could ESMA please clarify which interpretation is intended here?
- **CREL51 Servicing Standard.** This is a terminological point. A syndicated loan will have a Facility Agent with strictly limited (if any) discretion. A Servicer only exists in the context of a CMBS. Can ESMA please confirm should this question mean: does the Servicer on the securitised exposure also act as facility agent on the whole loan?
- **CREL54 Collection of Other Reserves.** These reserves are for operational type expenses. Can ESMA please clarify if reserves for capital expenditures would be captured here?
- **CREL 68 Fin Statement Currency.** The field description refers to CREL65-66 which we believe is not correct.

- **CREL88 Principal Grace Period End Date.** Can ESMA please clarify if this information is requested for principal payments missed because of technical or non-technical reasons?
- **CREL105 Payment Due.** Can ESMA please clarify if “contractual” should meant to be “scheduled”? If the loan is in cash flow sweep, then the contractually required payment on the next payment date will not be known while the scheduled payment will be known.
- **CREL115 Current Index Rate.** For most Euribor-based loans Euribor is floored, usually at zero. Given that 90-day Euribor is negative that means that the index on the payment date is not used to calculate the interest payment. Can ESMA please confirm should the entry for this field be the level of Euribor or the floor of zero?
- **CREL119 Interest Rate Floor.** For CRE loans the loan interest rate is not subject to an explicit floor. However, the index will usually be floored which, assuming the margin is fixed, implies a floor on the coupon. Can ESMA please clarify what is the correct entry for this field in these cases?
- **CREL127 Total Shortfalls.** Can ESMA please confirm whether “due” means “outstanding”? Is this for the whole loan the sum of negative amortization and deferred interest? It refers to outstanding principal balance of the loan will exist even if there is no negative amortization or deferred interest.
- **CREL131 Reason For Default.** Information required in this field is of no use to investors. It also misses breach of financial covenant.
- **CREL132 Default Amount.** As defined this information will not necessarily be known on the reporting date. The fees that are accrued but unpaid for, for example, legal advice to the special servicer on the workout of the loan will not be known. Further clarification is needed how to complete this field.
- **CREL137 Allocated Losses.** In the CMBS transaction there is no allocated loss that changes over time as the loan is worked out. There is a loss once the collateral has been liquidated. The reference to “gains on sale” is unclear and requires clarification.
- **CREL139 Liquidation Expense.** The field requires clarification. Liquidation expenses apply to working out a defaulted loan. Is the ask for the liquidation expenses up to the cut-off date for the loan or is it looking for an estimate of total liquidation expenses that will be incurred to liquidate the loan entirely? The second sentence says, “will be paid out”. The description says that these expenses will be netted from other assets of the issuer (we understand that “other” means assets other than the defaulted loan concerned). This will never be the case.
- **CREL143 Workout Strategy Code.** The most common workout strategy is not to modify the loan but enter into a negotiated consensual agreement with the borrower. That is not captured in this field.
- **CREL172 Sponsor.** This field requires further clarification as “sponsor” is not a clearly defined term. The most senior entity in an obligor group may be owned by a joint venture – for instance three insurance companies. The technical sense of sponsor would be the JV (the owner of the most senior member of the obligor group but the more normal view would be that it is the three insurers (or maybe fewer than three if, for instance, one of them had a small ownership interest in the JV). In fund setting the complication is the fund manager. The sponsor might often be said to be the fund manager when in fact the obligor group is owned by funds that are themselves managed by the fund manager. Would the funds be the sponsor or the fund manager?

- **CREC20-CREC21 Allocated Percentage of Exposure.** Can ESMA confirm that in cases where the ALA is not available, the value of the property as a percentage of the total value of the properties securing the loan should be reported. NOI on a property can be negative (if the property is completely vacant for instance) and so the required percentages will not work.
- **CREC36 Date of Financials.** Can ESMA please confirm that the information requested refers to “operating statements”.? Borrower financials (income statements and balance sheets) are reported in the OC and so the current wording is confusing.
- **CREC 37 - 42.** The information required in these fields may not be available on a property-by-property basis. The operating information for most sponsors is aggregated across properties particularly where there are many properties. Can ESMA please clarify how these fields should be completed when the information on property-by-property basis is not available?
- **CRET Tenant Level Information.** Can ESMA please confirm that this section is to be interpreted as “by property” or by “underlying exposure”?
- **Confidentiality in respect of 3rd Party Service Providers.** Whilst there is no requirement to publish valuation reports for private deals, Annex 3 does specify a number of data fields for the mandatory provision of valuation information (including the name of the valuation agent). This creates a difficulty in that frequently the valuation data of private transaction is provided by the valuation agent on the basis of non-reliance and with restricted terms of disclosure.

The following Annex 3 fields contain data provided by third party valuation agents the distribution of which may be restricted by non-reliance letters or non-disclosure agreements. We ask ESMA to clarify how the sensitive data should be reported, if no ND option is allowed?

COMMC8, COMMC9, COMMC10, COMMC11, COMMC12, COMMC18, COMMC19, COMMC20, COMMC26, COMMC27, COMMC28, COMMC29, COMMC30.

ANNEX 4: UNDERLYING EXPOSURES TEMPLATE – CORPORATE

Confidentiality. As noted above there are several issues arising in the context of confidentiality of data. Below we list several examples of those issues we ask ESMA to clarify, how the sensitive data should be reported?

- **De-anonymization of Underlying Borrower.** in many cases, it is possible for a reasonably well informed investor to identify a corporate borrower using just a few data fields from Annex 3 or 4. For example:
 - i. If **CRPL26** (ISIN code) is provided this would allow the immediate identification of a borrower.
 - ii. A combination of Annex 4 **CRPL10** (NUTS3) = Madrid, **CRPL14** (NACE Industry Code) = Telecommunication, and **CRPL17** (Revenue) = EUR 48.9bn would clearly signal that the borrower is Telefoncia SA.

Note that the NUTS3 requirement specified by CRPL10 is extremely granular for EU entities (e.g. there are over 400 NUTS3 districts in Germany, and over 100 in France), which would aid borrower identification. Furthermore, a process of borrower identification could be easily automated and could become subject to commercial data mining.

A further concern is that issuer is contractually obliged to provide periodic reports to investors. Although these do not contain sensitive or confidential information relating to underlying borrowers, the reports contain borrower names. Our concern is that by combining the periodic investor reports with the information contained in Annex 4 (for example by using loan maturity date as a matching key), an investor would then be able to map the confidential data not previously available to them to a specific borrower.

In portfolios where the investors report does not contain borrowers' names as per confidentiality and privacy issues, the de-anonymization of borrowers will be possible in many cases, as stated above. In synthetic transactions' contractually defined investors report, each obligor PD or internal rating cluster is generally made available to investors. It will then be possible to match the obligor and its internal evaluation made by the originator, creating privacy, confidentiality and commercial issues for the originators.

- **Inherent Sensitivity of Certain Data Fields.** We are concerned that multiple fields in Annexes 3 and 4 require the disclosure of data that is inherently sensitive. This concern is exacerbated by the risk of corporate borrower de-anonymization and the absence of a confidentiality marker or provisions for data aggregation in the draft technical standard as noted above.
- **Contractual Confidentiality in Respect of a Borrower.** Loan agreements will typically contain restrictions on the disclosure of certain or all information about the borrower, thus restricting the ability to disclose this information. Furthermore, as a practical matter, it is difficult to access on a portfolio basis whether a data item is subject to contractual confidentiality or not (as this will differ from loan to loan).
- **Regulatory Confidentiality.** In certain jurisdictions, disclosure of the details of a loan may be prohibited by law.
- **Material Non-Public Information.** Certain financial information, covenants and credit variables of a borrower could be material non-public information which would restrict publication.
- **Commercially Sensitive Data.** Certain data, e.g. pricing and interest rate data (e.g., Annex 4 - CRPL52 to CRPL67), would be of interest to competing lenders as they may provide an insight into bank's pricing strategy and risk models, amongst other commercially sensitive items. As well

as potentially having an adverse commercial impact, sharing such commercially sensitive information may give rise to EU competition law concerns.

- **Annex 4 Data Fields Which Allow De-anonymization of Borrower.** Granular geographical location and industry sector data, which when combined with publically available financial data facilitates the de-anonymization of the borrower. Also ISINs identify the borrower.

CRPL10, CRPL14, CRPL17, CRPL18, CRPL20, CRPL26

- **Annex 4 Data Fields Which Are Inherently Sensitive, Confidential, or MNPI.** Data fields disclosing the terms of the loan which may be subject to confidentiality, data fields disclosing borrower financial performance which might not be publically available (MNPI), or commercial terms of the loan (of interest to the originators competitors)

CRPL17, CRPL18, CRPL19, CRPL20, CRPL21, CRPL22, CRPL23, CRPL36, CRPL39, CRPL40, CRPL42, CRPL47, CRPL48, CRPL49, CRPL50, CRPL51, CRPL52, CRPL53, CRPL56, CRPL57, CRPL58, CRPL59, CRPL60, CRPL61, CRPL62, CRPL63, CRPL64, CRPL65, CRPL66, CRPL67, CRPL69, CRPL70, CRPL71, CRPL72, CRPL73, CRPL74, CRPL75, CRPL76, CRPL77, CRPL78, CRPL79, CRPL80, CRPL81, CRPL82, CRPL83, CRPL84, CRPC12, CRPC13, CRPC14

- **Annex 4 Data Fields Where No ND1-4 is Not Permitted.** The following data fields from Annex 4 are problematic and the issuers will have operational difficulties in complying with the requirements when the technical standard goes live and no “no data” option of ND1-4 is permitted.

CRPL29, CRPL77, CRPL78, CRPL79, CRPL87, CRPC6, CRPC7, CRPC9, CRPC16, CRPC17, CRPC19, CRPC20

- **Annex 4 Data Fields Which Are Not Applicable to Synthetic Securitisations.** We believe that the following data fields are not relevant to synthetic securitisations. These data fields mostly relate to the calculation and payment of interest and principal, and that this confidential data would not be relevant where the securitisation does not include a cash-flow waterfall.

CRPL 28 CRPL31 CRPL33, CRPL36 CRPL38, CRPL41, CRPL43, CRPL44, CRPL45, CRPL47, CRPL48, CRPL49, CRPL50, CRPL52, CRPL53, CRPL54, CRPL55, CRPL56, CRPL57, CRPL58, CRPL59, CRPL60, CRPL61, CRPL62, CRPL63, CRPL64, CRPL65, CRPL66, CRPL67, CRPL68, CRPL69, CRPL70, CRPL71, CRPL72, CRPL73, CRPL74, CRPL79, CRPL83, CRPL84, CRPL87, CRPL88, CRPL 89, CRPL90. CRPL91, CRPL92, CRPL93, CRLP, 94, CRPL95

- **Annex 4 Data Fields with Miscellaneous Issues Where Clarification is Required.** The following data fields from Annex 4 have miscellaneous issues or require clarification.

FIELD CODE	FIELD NAME	Comments
CRPL12	Credit Impaired Obligor	This field is requesting confirmation that an Obligor was not impaired at time of addition. Can ESMA please clarify how should this be populated for securitisations of non-performing loans?
CRPL13	Customer Type	This data field appears to be configured for consumer loans and not corporate loans.
CRPL33	Origination Date	Can ESMA please clarify how this field should be populated when (a) the asset is a revolving loan with multiple advances and (b) when the securitisation is synthetic.

CRPL38	Original Principal Balance	Can ESMA please clarify how this field should be populated when (a) the asset is a revolving loan with multiple advances and (b) when the securitization is synthetic.
CRPL41	Market Value	Mid cap and SME loans are unlikely to have observable market prices. Clarification needed: Does "Security" mean the reference loan itself, or the security behind the loan?
CRPL54	Current Interest Rate Index	Can ESMA please clarify how should this field be reported for revolving loan facilities, where multiple drawdowns can occur each using a different reference index and tenor?
CRPL55	Current Interest Rate Index Tenor	Can ESMA please clarify how should this be reported for revolving loan facilities, where multiple drawdowns can occur each using a different reference index and tenor?
CRPC9	Collateral Type	This data field does not accommodate unsecured debt.

ANNEX 7: UNDERLYING EXPOSURES INFORMATION - CREDIT CARD

- **CCDL 7 Pool Addition Date.** Can ESMA please confirm should this information be account focused or product focused? I.e. if an account switches product whilst in the pool, should the additions date remain unchanged?
- **CCDL 8 Date of Repurchase from the Pool.** It is unclear why would this data should be included in the template if the account has been repurchased from the pool. Could ESMA provide further explanation. then?
- **CCDL 11 Employment Status.** The information on private sector and public sector employment does not exist for originators in some countries i.e. this is not captured on acquisition. Also, employment status would not be automatically updated unless a customer contacted the bank to advise on the change. Can ESMA please confirm that the employment status data is required on acquisition. Can ESMA please also clarify what does 'other' mean?
- **CCDL12 Credit Impaired Obligor.** Can ESMA please clarify how should issuers report acquisitions of full portfolios from third parties that took place before the Securitisation Regulation took effect. Does the reporting entity need to go back historically to acquisition of full portfolio? Please confirm if this field should only apply to additions from date of application of the new RTS? With historic additions being captured by current arrears figures i.e. if we historically acquired a delinquent account it would have been removed through the recoveries and collections process. Furthermore, can ESMA please clarify if reporting entity is required to provide evidence with respect of confirmation 'to the best of the originator's or original lender's knowledge'?
- **CCDL 13 Customer Type.** Many originators will not collect the employee information on acquisition. Customer is not obligated to advise an originator if they are an employee, therefore originators will not be able to state non-employee with much confidence. Also, what if a bank has an existing relationship with a customer, for instance customer has a current account and if that customer then gets a credit card, are they a new customer? Furthermore, can ESMA confirm if the word 'Group' in the definition, means that if a customer within a different entity within the bank group has for instant a mortgage, they would be classed as existing?
- **CCDL14 Income.** This field requires clarification as to what relevance does the income of a customer on acquisition have if the data is dated i.e. a student on £3k a year applies for a £500 card balance, 10 years later the same customer has a card balance of £10k, but shows income of £3k (as current income has not been collected). This field may lead to incorrect assumptions of risk appetite being made by investors?
- **CCDL24 Purchase Price.** Can ESMA please clarify which purchase price should be reported when the underlying portfolio was acquired during an acquisition?
- **CCDL 25 Principal Grace Period Date.** Can ESMA please define 'grace period' and provide an example. Should an account with a grace period also be included as being structured?
- **CCDL29 Current Interest Rate.** Can ESMA please confirm if for credit cards, is an annualized blended rate acceptable? Also, would the data still be accurate if balance transfer 0% rates are included?
- **CCDL 32 Number of Payments before Securitisation.** This information may not be available if an originator historically acquired a portfolio. Can ESMA please clarify what should be reported if the information is not available?

- **CCDL 33 Date of Restructuring.** Can ESMA please clarify what ‘restructuring’ means for a purpose of this template? For example, if an interest rate is amended following a complaint, does this constitute a restructure as it would lead to a change in payment schedule?
- **CCDL36 Arrears Balances.** Can ESMA please clarify what is meant by ‘PLUS any amount capitalised’? Fees are automatically added to account balances, therefore it will be very different to report arrears less fees. Can ESMA please explain what is the rationale for this?
- **CCDL37 Account Status.** Can ESMA please provide definitions for restructured and performing? E.g. an account asked for a 3-month grace period due to unforeseen circumstances, for instant bereavement, health issue. This account has good credit and has never missed a payment. Is this account a restructured one?
- **CCDL 38 Reasons for Default or Foreclosure.** Article 178 CRR provides that the originator with the option to decide what is likely and unlikely in terms of meeting credit obligations. Can ESMA please clarify if an originator will be asked to provide its rationale for its interpretation?
- **CCDL 41 Cumulative Recoveries.** Accounts in recovery are often sold off in bulk as a portfolio. In such cases, can ESMA please clarify how should originator provide ‘net of costs’? Furthermore, we note that there may be an ‘anti-competition’ issue here? For example, if bank shows an account with e.g. £1000 balance, and then on the next report bank shows recovery of £100, then the bank not just shown the market how much was bid and subsequently paid for by a third party to acquire the debt. All bidders of ‘delinquent portfolio’ and the rest of the market would now be able to back solve the going rate for ‘bad’ credit card debt? Also, an important point here is that for e.g. once an account has been ‘sold off’ or ‘written off’ it would no longer be in the pool and would therefore no longer be included in the report. If accounts that are removed from the pool, still need to be reported in the template, this would then cause discrepancies between investor reporting (Annex 12) and (Annex 7).
- **CCDL42 and 45 Original (Lender) Name.** Could ESMA please clarify what is the difference between: “Give the full legal name of the original lender” and “Give the full legal name of the underlying exposure originator”?

ANNEX 11: UNDERLYING EXPOSURES INFORMATION - ASSET-BACKED COMMERCIAL PAPER

- **IVAL 3 and 4 Unique Identifiers.** There continues to be a lack of guidance as to how to generate the Unique Identifiers for fields IVAL3, IVAL4, IVAR2 and IVAR3. Our current assumption is each entity is that free to come up with their own methodologies to determine this, although this may create a case where the identifying may not be unique across different reporting entities, therefore, could ESMA please confirm should this be unique to the exposure type, but common across all transactions which use that exposure type, or unique to the exposure type and transaction? In other words, if there are two transactions in the programme which have, say, auto loans as the exposure type, should the IVAL3 identifier be the same identifier in both transactions, or should there be a different IVAL3 identifier representing the auto loan exposure type for each transaction which contains auto loans?
- **IVAL5 Underlying Exposure Type.** “Select the type of underlying exposure that exists in this transaction: ... Collateralised Loan Obligation (CLOB)”. Can ESMA please confirm does the use of this code mean that the securitisation is a CLO, with loans as underlying exposures, or that the securitisation is a resecuritisation with CLOs as the underlying securitisation positions? We believe that the latter was not intended.
- **IVAL11 Current Principal Balance.** In co-funding structures among ABCP Conduits (also called co-purchasing), due to transactions size, it is customary in this type of securitisation transactions to have several institutions co-funding the transactions. In this situation, according to Article 7 (2) Securitisation Regulation, the originator, sponsor or the SSPE has to be designated as the reporting entity to prepare the templates. In the context of co-funding structures, should the reporting show the amount of receivables transferred to the SSPE or only the amount of underlying exposures financed by each conduits? In the latter case the reporting entity shall need to fill two times Annex 11 for the same transaction which does not seem to be ESMA’s intention.
- **IVAL25 Financed Amount.** Although ND options are now allowed for this field, we still note the current wording of the content description is unclear and is not easily interpreted if the reporting entity is the originator of an ABCP Transaction, as they have no visibility over commercial paper issuances.

Furthermore, in the context of co-funding structures, does the “financed amount” refers to the total of commercial paper issued by Conduit Purchaser 1 and 2 or shall one annex be filled for each Conduit Purchaser for its amount of commercial paper issued?

Can ESMA please confirm that in this situation, the agent of the SSPE, the originator or one of the sponsors should take the full reporting for the transaction?

- **IVAR 1- 6 The Test/Trigger Information in Annex 13 is problematic, on many levels.** Generally, it will be very burdensome to produce this information, as in some transactions there are many triggers; however more importantly in some cases it will be challenging to produce a sufficient description of the trigger without giving sufficient information to identify the client, thereby breaching confidentiality. This is a disproportionate disclosure burden and requires information at the level of granularity that is not useful or required by investors, as the ABCP investors are focused primarily on the credit quality of the supporting sponsor and knowing the detail of specific triggers is therefore highly unlikely to be relevant to them.

There are several triggers (IVAR 2-6) in each underlying transaction referring to definitions, including confidential information. Therefore, to comply with this requirement, market participants should gather all triggers at transaction level plus definitions related to those triggers. In addition, as investors may have access to these data, market participants should be careful not to breach confidentiality provisions in order to fulfil ESMA requirements. Do ESMA considers that each

trigger for each transaction should be reported? If this is the case, should market participant repeat one reporting line for each trigger?

- **IVAR 6 Consequence for Breach.** Can ESMA please confirm that the only triggers which are required to be reported are those which cause a “change in the priority of payment” or “the replacement of any counterparties” or both? We are concerned that the inclusion of OTHR as an option is confusing, as the templates seem to expect a non-exhaustive list of trigger types to be disclosed, regardless of materiality, which would be unnecessarily onerous for the reporting entity
- **IVAS7 Trigger Measurement/ Ratio.** This reporting field is at conduit level; however it refers to underlying transactions, which is confusing. Can ESMA please confirm if market participants are required to report any trigger breach on any transaction funded in the ABCP Conduit?

ANNEX 12: INVESTOR REPORT INFORMATION - NON-ASSET BACKED COMMERCIAL PAPER SECURITISATION

- Can ESMA please confirm that issuers can upload a list of assumptions for how some of the data field is prepared?
- Under the triggers section, 1000 characters to capture all triggers may not be enough. Also, different parties will have a varying number of triggers meaning that uploaded files will not be identical in terms of the number of rows for each. This may cause issues on upload to depositories.
- Please confirm that it is ESMA's intention that one annex for each series of issuance should be provided.
- **IVSS11 Risk Transfer Method.** For synthetic transactions the risk transfer method cannot be "true sale" as indicated. Can ESMA please clarify how this field should be completed in the context of synthetic securitisation, if no ND option is available.
- **IVSS12 Trigger Measurements/Ratios.** Synthetic transactions can be structured without any triggers, however ND5 option is not allowed for this field. Can ESMA please clarify what information should be reported for synthetic securitisation where no triggers are included.
- **IVSS21 Current Overcollateralisation.** This definition nets out the principal balance of any loan that is in default. This means that for a CMBS the overcollateralization will be zero until a loan defaults and then will be negative. If it is a single-loan CMBS it will be zero until the loan defaults and then will be -100%. This field is of no use to investors.

Furthermore, in case of synthetic securitisation, transactions are not structured with overcollateralization features. The proposed ratio will be always one at the beginning of the deal and then less than one during the life of the transaction as defaulted exposures will be carved-out. Please clarify how this field should be reported in those cases?

- **IVSS22 Annual CPR.** The CPR is a residential mortgage concept. In European CMBS the loan count is typically 1 to 3. In this case a CPR is not relevant and market participants do not use it.
- **IVSS23 Dilutions.** This concept is related to cash securitisations and not relevant to synthetic transactions. Can ESMA please clarify how this field should be completed in the context of synthetic securitisation, if no ND option is available.
- **IVSS24 Gross Charge Offs.** The issuer has no concept of charge off in the sense of anticipated loss on the loan. The original lender on the loan will not know what charge off it would take if it had continued to own the loan and will not have a contractual obligation to provide it to the issuer even if it can calculate it. This information is also not relevant to investors. Can ESMA please clarify how this field should be completed if no ND option is available and the data is not available?
- **IVSS27 Annual CDR.** Can ESMA please confirm if the issuer is required to use the provided formula?

Furthermore, it seems that the formatting rule of the formula is unsuitable as it produces wrong results. Results would make sense if calculated as follows:

*"The annualised Constant Default Rate (CDR) for the underlying exposures based on the periodic CDR. Periodic CDR is equal to the [(total current balance of underlying exposures classified as defaulted during the period) / (total current balance of non-defaulted underlying exposures at the beginning of the period)] * ~~100~~. This value is then annualised as follows: $1 - (1 - \text{Periodic CDR})^{\text{number of collection periods in a year}} * 100$*

"Periodic CDR" refers to the CDR during the last collection period, i.e. for a securitisation with quarterly paying bonds this will usually be the prior three month period."

In the field IVSS27, multiplying with 100 after the quotient has been determined definitely leads to wrong results. The quotient is used as a subtrahend in the subsequent calculation step. Number 1 is the minuend. It only makes sense to use the initial quotient (a number smaller than 1). Multiplication (or formatting as percentage value) should be the last step. Otherwise, the result is inadequate.

Also, please see our comment on IVSS22.

- **IVSS31-36 Probability of Default:** Can ESMA please clarify the following
 1. The originating bank will have such a PD at origination and at the time the loan is sold to the issuer, but the originating bank will not have the information necessary to calculate the PD once the loan is sold to the issuer. Which entity should provide this information?
 2. If a loan is originated by two banks which information should be entered into this field?
 3. In synthetic transaction often the contractual investor report will already contain the borrowers' exact PDs. Providing PD information under IVSS31 -36 would be a duplication. Please confirm if PD information is therefore necessary?
- **IVSS37 LGD.** As for IVSS31
- **IVSR1 – IVSR9 Test/Events/Triggers.** Can issuers increase the number of rows to capture all the triggers in the transaction? Furthermore, could ESMA please clarify if this is this a list of triggers or a list triggers that have been breached? To the extent that this is a breach list should they be reported until they have been resolved?

Regarding synthetic transactions, these can be structured without any triggers. Given the fact that ND5 option is not allowed for this field, can ESMA please clarify what information should be reported for synthetic securitisation where no triggers are included,

- **IVSR3/4 New Test/Event/Trigger Identifier.** Could ESMA clarify what data should be reported in cases where there was breach?
- **IVSF1 – IVSF6 Cash-flow information section.** Can ESMA please clarify if issuers can increase the number of rows to capture all the waterfall items in the transaction? This will mean changing the template.

Could ESMA please clarify what are the differences between fields IVSF2,3 and 4?

The cash flow information section is not relevant to synthetic transactions when they do not have a cash flow waterfall. Given the fact that ND5 option are not allowed, could ESMA please confirm what information should be reported in such cases?

ANNEX 14: INSIDE INFORMATION OR SIGNIFICANT EVENT INFORMATION - NONASSET BACKED COMMERCIAL PAPER SECURITISATION

- The answer to Q5.13.4 on the Q&A published on 31 January 2019 states that market participants do need to fill the “CLO sections” (SEC and SESL) in for securitisations which are not CLOs. This seems incorrect. Can ESMA please provide clarification?
- In cases of securitisations where section SESC, SESL and SESV are not relevant, can ESMA please clarify how should fields where ND5 is not available be completed?
- **SESO.** Can ESMA please clarify what information is required in SESO section, what is specifically meant by “any other information” (in SESO2) and how should fields which are not relevant, but ND5 is not available, be completed?
- **Inside Information Section Fields IVSO 2, 3 and 4.** Could ESMA please clarify if the Inside Information Section Fields IVSO 2, 3 and 4 should be entered in the new SESO-section. Also, how should fields be completed in cases where there are no Inside Information available and ND-options are not available?
- **Counterparty Information Section Fields SESP 2 and 3.** Some counterparties do not have a LEI. However, there are no ND options for these fields. Can ESMA please clarify how these fields should be treated in cases where a LEI is non-existent?

With regard to SESP3, the Opinion states (on page 205) “*Where a Legal Entity Identifier (LEI) is available in the Global Legal Entity Foundation (GLEIF) database, the name entered shall match the name associated with the LEI.*” Can ESMA please confirm that it means that only in cases where a LEI does exist, it is necessary to enter the number. Otherwise, the name suffices. This makes sense for SESP3, since this fields allow for an alphanumeric answer. SESP2, however, requires a number.