



EBA Consultation Paper Draft RTS on the homogeneity of the underlying exposures in STS securitisation under Articles 20(4), 24(21) and 26b(13) of Regulation (EU) 2017/2402, as amended by Regulation (EU) 2021/557.

This document provides the response of the Dutch Securitisation Association (“DSA”) on the EBA Consultation Paper dated 28 July 2022. We welcome the opportunity to react on this Consultation Paper.

DSA Background

The Dutch Securitisation Association was established in 2012 as representative body of the Dutch securitisation industry. Our membership includes issuers of securitisations both from the insurance and banking industry as well as finance companies, and we are operating in close cooperation with the Dutch investor community. Our purpose is to create a healthy and well-functioning Dutch securitisation market. We try to achieve this i.a. by providing a standard for documentation and reporting of Dutch RMBS, BTL and Consumer ABS transactions, promoting further standardisation and improvements in transparency, and active involvement in consultations about future regulation of the securitisation market.

Against this background, we would like to provide our comments, on behalf of all Dutch issuers joined in the DSA, on the EBA Consultation Paper on homogeneity of the underlying exposures in STS securitisation (individual DSA members may submit their own responses).

Our general comments

Our main comment is that the proposed amendment is mainly an intended improvement of the existing definitions around enterprises and corporates by introducing wording that might in the not so near future become part of the new CRR.

What we are missing is an attempt to bring the homogeneity criteria in line with the characteristics of SRT transactions, that are a large part of the universe of on-balance-sheet securitisations.

This could have been achieved by defining exposures under SRT transactions as a separate asset type. Homogeneity is there to protect investors, but investors in SRT transactions have a much more detailed insight into portfolios compared to investors in traditional public transactions, so some more flexibility in these portfolio’s in terms of jurisdictions and borrower types would be justified. The additional risk, if any, would be mitigated by the fact that SRT transactions are subject to strict regulatory scrutiny.

Our answers on the questions

- Question 1: Do you agree with the proposed amendment to the asset category in Article 1 with respect to the addition of “credit facilities provided to enterprises, where the originator applies the same credit risk assessment approach as for individuals not covered under points (i), (ii) and (iv) to (viii)”?

Answer:

Yes, we do agree.

- Question 2: Do you agree with the proposed amendment in Article 1 to the “type of obligor” for credit facilities, including loans and leases, provided to any type of enterprise or corporation?

Answer:

We do not agree, since the EUR 500 mln threshold is rather artificial and most banks use different thresholds in their different risk models.

We do appreciate that some consistency is needed in setting the thresholds, so we would suggest a system where overlapping thresholds provide more flexibility to individual originators, depending on how the individual Originator handles and classifies the different sizes of corporates in terms of risk modelling, underwriting and servicing in the institution, which also depends on the size of the institution and the country it operates in. .

An example could be a combination of:

-SME is any entity with sales of EUR [500] mln or less

-Large Corporate is any entity with sales of EUR [100] mln or more

- Question 3: Do you agree with the proposed amendment in Article 1 to the “type of obligor” for auto loans and leases?

Our comments as provided for credit facilities provided to any type of enterprise or corporate do also apply to auto loans and leases

Answer:

- Question 4: Do you agree with the proposed amendment in Article 1 to the “type of obligor” for credit card receivables?

Given the nature of the asset class, the impact will be minimal. So against that background we can agree.

Answer:

- Question 5: Do you see the need for the grandfathering provisions in Article 2 for the outstanding STS ABCP and STS non-ABCP securitisations? If yes, please elaborate.

Answer:

Yes, we see the need, although admittedly not so many corporate exposures have been securitised through true sale structures, but the Art 270 transactions certainly need to be protected, A grandfathering which only lasts for two years, and forces the Originators of the Art 270 transactions to

restructure their transactions is in no way possible, because (unlike for the trigger RTS, where “only” triggers would have to be changed) a new pool composition because of changed homogeneity criteria has a lot of consequences, and forces Originators to do a completely new transaction, with a pool selection, new audit, new selection and replenishment criteria etc.

- Question 6: Do you agree with the deferred application date in Article 2 for the outstanding STS on-balance-sheet securitisations?

Answer:

No, we would need full grandfathering in line with true sale STS, and if that is not legally possible, something equivalent.

- Question 7: Are there any aspects that should be considered with regard to the homogeneity of the STS on-balance-sheet securitisations which are not specified in these RTS?

Answer:

Please see our general comments. For on-balance-sheet securitisations the Originator should have more flexibility for the asset class “loans to enterprises”, since the Originator is always a prudentially regulated bank, and all sub-portfolios would have to be on the same group balance sheet. The size of the corporates seems a random divide for determining homogeneity which does not take into account regional differences.

- Question 8: Are there any impediments or practical implications of the criteria as defined in these draft RTS for STS traditional securitisations?

Answer:

Effectively the same impediments apply around the 500 mln threshold, although admittedly traditional securitisations are not often used for securitising corporate exposures, but it could certainly play a role for Auto and Lease securitisations.

- Question 9: : Are there any important and severe unintended consequences of the application of the homogeneity criteria as specified in these RTS?

Answer:

We assume that it is not the intention to impede synthetic transactions of SME and/or Corporate exposures, but it looks like the proposed criteria will not facilitate these transactions either.