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Access to Data Under STS Article 5

Problem

With no definition of **Eligible Recipients** for the transparency requirements under Article 5 of STS EuroABS fears danger in its implementation:

- Possible inconsistency and ambiguity in **who** can access **what** (perhaps to be interpreted by non-regulatory body 3rd parties)
- Possible information asymmetry – some potential market participants or ABS professionals have access and others not
- ESMA not explicitly given the full set of tools needed to ensure an optimum solution for the citizens of Europe.

Introduction

With regard to the transparency and disclosure of ABS Loan Level Data (LLD) under the STS Regulations, EuroABS believe it is very important that ESMA are specifically given authority over LLD templates **and** a mechanism by which to control access to these data sets.

Regulatory requirements for disclosure of LLD in ABS markets give rise to an inherent tension between transparency and data protection. [Please see our January 2016 report to EC for further detail on this.](#)

Summary

Perhaps in an ideal world a full set of unredacted and precise LLD would be available publicly for all ABSs. However, this would present unacceptable data protection exposure and risks. There are three main measures by which these risks can be mitigated:

1. Anonymisation
2. Reduction of the precision of the data and
3. Controlling access

1 and 2 can be controlled through the specification of the LLD templates for each eligible asset class (RMBS, CMBS, Autos, etc.)

1 appears reasonably straight forward as names can be removed.

2 and 3 are spectra with transparency and data protection interests being inversely proportional to each other. 2 and 3 therefore need to be carefully calibrated to strike the right balance.

In the view of EuroABS it is very important that the setting of both the **LLD templates** and **control of access** (in the form of a definition of Eligible Recipients) are explicitly stated as under the control of regulators (ESMA).

See recommended amendments to STS text [here](#) (STS regulation changes marked-up with comments in Word on pages 12, 16, 18 and 23 addressing 'Eligible Recipients' definition).

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Importance of Data Precision

- See: “[4.3 Justifying Loan Level Data as a Requirement](#)” on page 7
- Precise and accurate LLD leads to precise and accurate statistics, indices, accurate investment proposition comparison, etc.
- What use are statistics if you don’t know how accurate they are?

Re-identification Risk

The more precise some numbers are, the more vulnerable the data set to re-identification risk. The problem here is that by creating transparency of, in particular, (LLD) for the assets underlying in securitisations, there could emerge a problem of re-identification of individuals with sensitive financial information that could violate data protection laws.

By putting a data set together with another and linking them, it might be possible to infer a sensitive data set. For example a LLD set for a residential mortgage securitisation together with property transaction data could be linked to identify individual properties accurately and then glean knowledge about whether the owner is behind with their mortgage payments or the size of their monthly mortgage payment outgoings, etc.

The concept is described usefully in an academic report [here](#).

Access to the Data

Access to data sets is important for many types of legitimate users to provide optimum oversight for the benefit of EU citizens and reduce reliance on a small number of large companies that have traditionally overseen this work/these markets.

Back in the pre-crisis days, the big rating agencies had exclusive access to European ABS LLD.

EuroABS strongly believes that data should be available as widely as possible to increase:

- Competition
- Innovation
- Consumer choice and
- Investment in ABS market data analysis (ratings type functions) and general market oversight

EuroABS accepts that some restrictions on access may/will need to be applied, but that access to data for the people that legitimately need it/want to professionally analyse it is important for the ultimate delivery of the optimum solution for the protection of EU citizens investing in these instruments in the form of their pension funds and insurance premiums.

Restricting access to regulatory specified LLD may or may not be desirable, but EuroABS consider that control of any access restriction policy must be explicitly kept in the hands of regulators and carefully configured in conjunction with data template definitions.

There needs to be a mechanism whereby regulators (ESMA) can receive feedback from parties professionally interested in the LLD and, where appropriate, adjust the definition of Eligible Recipients to include or remove groups as necessary.

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Suggested Solution

Give ESMA control over the definitions of:

- LLD templates *and*
- **Eligible Recipients**

All Eligible Recipients receiving data should be required to agree to an acceptable use policy (see: [“7.4.1 Some Thoughts on Acceptable Use Policy Criteria”](#) on page 16).

EuroABS also considers that, assuming costs to provide and securely host the data fall to the issuer, all Eligible Recipients should explicitly be able to access the data without additional charge (beyond the costs of Eligible Recipients' own equipment required to receive the data).

In cases where access to LLD is disputed, ESMA should act as ultimate arbiter.

Suggested initial definition of **Eligible Recipients**:

- a) Banks and other recognised financial institutions
- b) Any person or institution that has invested in asset backed securities and covered bonds
- c) Organisations or individuals compiling research to be distributed to financial institutions and other wholesale investors
- d) Market data or cash flow model providers to the investor community
- e) Governmental bodies, regulatory authorities and central banks
- f) Recognised rating agencies
- g) Any other party which would normally be considered to be a market professional and is a potential investor in asset backed securities and covered bonds
- h) Professional advisers representing any of the above.
- i) Academic Institutions conducting serious research into ABS markets (to be confirmed by institution departmental head)

See recommended amendments to STS text [here](#) (STS Changes marked-up with comments in Word on pages 12, 16, 18 and 23 addressing 'Eligible Recipients' definition).