**PRESIDENCY FLASH NOTE**

On 30 May 2017, an agreement was reached between the Council and the European Parliament on the Regulation on simple, transparent and standardised securitisation (STS) and the Regulation amending the Capital Requirements Regulation (CRR). Please find below an overview of the compromises on the key issues. Please note that each of the issues remains subject to technical finalisation, and small changes to the compromise proposals are still to be expected. Detailed drafting on each point will follow in the 4 column tables once they have been completed.

**STS specific issues**

* Parties to the securitisation market (STS Article 2a; lines 88-95)**:** Agreement on latest Commission non-paper proposal on eligible parties to securitisation
* Risk Retention (Article 4; Lines 134-139, 141, 146, 148-150, 155-160) and Macro-Prudential Oversight (Article 16a; Lines 575 – 585): General agreement in line with the latest Commission non-paper proposal on risk retention;
  + Risk retention level to be retained at current level of 5% only and thus deletion of the text in square brackets in the Commission non-paper;
  + ‘Cherry Picking’ and sanctions –agreement based on Commission non-paper proposal, including retention of the term ‘comparable’ and restriction of application sanctions to intentional acts of the originator;
  + Article 16a: General agreement in line with the latest Commission non-paper proposal, with regular reporting by the ESRB ‘where necessary and at least every 3 years’;
* Supervision (Articles 15 and 16; Lines 556-558, 563-564, 566-571): Agreement on latest Commission non-paper proposal on supervision
* Cooperation between competent authorities and the ESAs (Article 21; Lines 635-643):
  + Agreement on latest Commission non-paper proposal, with replacing ‘may’ with ‘shall’ in cases of disagreements to be referred to ESMA with certain further clarifications on the process;
  + Council grace period of 3 months retained;
* Sanctions (Article 17; Lines 606 – 607): Agreement on keeping with Council text;
* Transparency (Articles 5, Articles 5a to 5q and 22a to 22e EP; Lines 162-165, 169, 173-175, 177-178, 181, 185-187, 191, 194-210):
  + Agreement on latest Commission non-paper proposal on securitisation repositories:
  + Agreed to EP suggestion to refer to disclosure of retention modality used in Article 5(1)(e)(iii) (Line 186) but not to refer to ‘who’ retains the risk;
  + Agreement to exclude reporting for private transactions and EP provisions on investor/beneficial owner disclosures, with the addition of a review by the Commission as part of the general review in 3 years
* Stress Testing of the Sponsor (Article 12a(3); Line 485): Agreement that there would be no requirement for additional/ad hoc stress testing over and above existing stress test to which entities may be subject.
* Third Party Verification of STS Compliance (Articles 14 and 14a; Lines 519, 528-543, 619): Agreement with Council text on third party verification subject to clear reference that liability for compliance remains with the originator, sponsor and SSPE in accordance with Line 519 of EP text.
* Re-securitisation (Article 5r EP; Lines 371-373): Agreement based on the Presidency Non-Paper on resecuritisation (i.e. Option 3 to introduce a ban on re-securitisation subject to appropriate grandfathering, clarification on exclusion of ABCPs and additional carve-outs being included, as well as an empowerment for review)
* ESMA Guidelines and Recommendations (Article 7; Line 394): Agreement that EBA shall adopt guidelines with regard to STS criteria in close cooperation with ESMA and EIOPA.
* ESG Criteria / Disclosures (Article 10(3a) EP; Line 443): Agreement based on the latest Commission Non-Paper;
* Third-Country Regime (Articles 6 and 22f; Lines 386, 709-717): Agreement not to include EP suggestion for a third-country regime;
* Reports and Review (Articles 29-30; Lines 756-765, 768): Reports to be generally streamlined;
* Date of Application of STS/CRR Package: Agreement to set 1 July 2018 as the date of application of entire package;

**CRR specific issues**

Mezzanine securitisation positions in traditional securitisations and synthetic securitisations: threshold (CRR Article 244(2)(1)(a) and 245(2)(1)(a); Lines 84 and 120): Agreement to retain the 50% threshold.

Hierarchy of methods (CRR Article 254: Lines 246-262): Agreement to apply SEC-SA before SEC-ERBA with a number of derogations and subject to strict safeguards.

Senior positions in SME securitisations (CRR Article 270(e)): CRR line 567: Agreement to remove any reference to “cash assimilated instruments”. Agreement to limit it to just “cash on deposit” only.

**Next Steps**

Based on the agreements found, the Presidency, the Parliament and the Commission are now working on the final agreement at technical level with a substantial level of technical work that still needs to be completed. Once technical discussions are completed, the Presidency intends to send the final compromise text to delegations for their scrutiny in a silence procedure. Subject to final agreement by delegations and the EP's negotiating team, the Presidency plans to bring the file to COREPER as an I-item.

The Presidency wishes to thank all delegations for their hard work, commitment and continued constructive approach to the STS and CRR negotiations.

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