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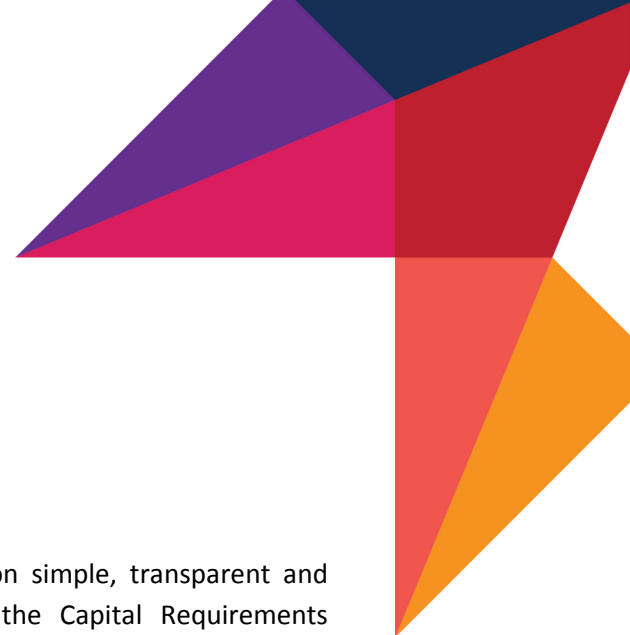
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From:	Presidency
To:	Working Party on Financial Services (Securitisation)
Subject:	Presidency Flash Note - 3rd Trilogue Securitisation



PRESIDENCY FLASH NOTE

On 7 March 2017, the third political trilogue on the Regulation on simple, transparent and standardised securitisation (STS) and the Regulation amending the Capital Requirements Regulation (CRR) took place in the European Parliament (EP).

Validation of technical work

Technical work was agreed with the exception for a number of lines where either the EP or the Council wanted to discuss further in the technical group.

Criteria for STS securitisations qualifying for differentiated capital treatment - single obligor exposure limit at ABCP programme level (CRR Article 243(1)(b))

On line 66, co-legislators agreed to the EP's 2% threshold and the exemption for securitised residual leasing value, for which the Presidency made a drafting suggestion (replacing "an effective undertaking" by "a legally enforceable commitment") and asked to specify "a third party". Presidency also made a suggestion on the determination of exposure value, to ensure consistency with Articles 222-223. The technical group will work on this basis and align line 69.

Treatment of mezzanine securitisation positions in traditional securitisations and synthetic securitisations (CRR Article 244(2) and 254(2))

When asked to justify the change from 50% to 49% in lines 84 and 120, EP explained that its aim was to guarantee sufficient risk transfer. This did not convince Presidency nor Commission. EP took note of their opposition, but did not want to give up its amendment before Commission has reflected on it further. Furthermore, the trilogue agreed to mandate the technical group to work on line 89, to take EP's text in line 90 and Council's text in line 91.

Exposure value - calculation (CRR Article 248(1) and (1a))

Presidency explained that the Council's changes in lines 171 and 173-180 were alignment to the new Basel framework and asked to add "specific" after "applicable" in line 171 for consistency with Article 246(1)(a) of the current CRR. EP agreed in principle and the technical group will work on this basis, with support from the Commission on remaining as close as possible to Basel text.

Recognition of credit risk mitigation for securitisation positions (CRR Article 249() and (7))

EP agreed to alignment to the Basel framework as proposed in the Council's lines 197 and 200.

Simple, transparent and standardised securitisation

With regards ABCP programme-level requirements (STS Article 13), co-legislators agreed to the principle of 5% as a cap in line 494 and on the fact that the text should not be too restrictive and rigid and allow some form of flexibility at programme level. The technical group was mandated

to work on a compromise. Co-legislators accepted each other's wording in lines 495 to 497, subject to a check across the text to avoid duplications.

Turning to STS notification (STS Article 14) and Third party verifying STS compliance (STS Article 14a), co-legislators agreed to merge the EP and Council text in line 518, including the Council's introduction of an explanation to be included in the notification. Line 519 was discussed in conjunction with Article 14a. Both EP and Commission voiced very strong concerns in relation to the Council's regime for third parties verifying STS compliance. The STS Rapporteur referred also to the ECB opinion and mentioned the Council approach would increase complexity and burden public resources, given the need to supervise such third parties separately.

Presidency's suggestion to provide for an explicit statement with regards the liability of sponsor, originator and SSPE in line 519 did not gather support. The parties agreed to reflect on this issue, and EP mentioned that it would be open to a compromise solution by the Presidency.

Supervision of STS Securitisation (STS Article 15(4) and Cooperation between Competent authorities and the European Supervisory authorities (STS Article 21)

When discussing Supervision of STS Securitisation (STS Article 15) the EP admitted that the division of responsibilities between national competent authorities and ESMA might not be entirely clear in its text (with reference to line 557), but stressed the importance of providing for a supervisory role for ESMA. Commission clarified that such role could be based on ESMA's existing mandate and proposed to prepare a non-paper on the issue.

As to Cooperation between competent authorities and the European Supervisory Authorities (STS Article 21), the Presidency agreed to the principle of creating a securitisation committee in the framework of the ESAs' Joint Committee (line 635 EP). The STS Rapporteur strongly criticised the Council's procedures in Article 21(5)-(5d) as too complex, stating that the binding mediation process should be as simple as possible. This Article could also be considered in the Commission's non-paper on supervision.

Risk retention (STS Article 4)

The Presidency set out the numerous concerns that the rapporteur's non-paper had raised in the Council and promised to provide a written reply. The Commission pointed out that the EP's risk retention framework consists of three elements: the level, the role of EBA and ESRB, and the fines for adverse selection. As to the level, there is clear political disagreement, with Commission and Presidency insisting on 5%. The Commission, however, was open to exploring the role of EBA and ESRB (without including too many constraints, and following the right procedures) and the inclusion of fines (while leaving discretion to national competent authorities), on which it will prepare a non-paper. At the request of the EP, the Commission will also consider data on different risk retention methods.

Securitisation
3rd Political Trilogue on 7 March 2017
FROM: Presidency

Transparency requirements (STS Article 5 and related STS Articles 5a-5q and 22a-22e EP)

The Presidency raised several concerns in response to the rapporteur's non-paper, mostly relating to proportionality, enforceability, costs, consistency and data protection, and warned against reinventing the wheel. It also made a link to the Council's Article 14a, arguing that if data repositories would merit the introduction of additional supervisory measures, this should also be true for third parties verifying STS compliance. EP stressed that the data repository system it is proposing would be decentralised, and showed openness to considering further improvements and alignment to SFTR and EMIR. It was agreed that the Commission will work on a proposal to streamline the transparency requirements added by the EP, for consideration by the co-legislators.

Other issues

Technical work on the issues that have not been listed as political is ongoing; in addition, the technical group will start working on the follow-up of the political trilogue as per above. Delegations be kept up-to-date on the outcome of the work.

Further trilogues

The next trilogue has been scheduled for 28 March, with further trilogues on 12 April and on 17 May. Additional trilogues might be scheduled if need be.

The Presidency will hold a Working Party meeting on 23 March to prepare for the next trilogues.
