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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Financial Services - Securitisation
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Subject:	Rationale of the changes introduced in the Presidency compromise proposal for the CRR

Meeting of the Council Working Party on Financial Services (Securitisation) 20th November 2015 (10:00)

RATIONALE FOR CHANGES

Recital 9	Clarification that the definition of “promotional bank” is indeed much broader than credit institutions;
Art. 134(6)	It is proposed to amend Art. 134(6) CRR to align it with paragraph 208 of the BCBS Framework;
Art. 153(7)	The proposed amendment clarifies the revised Art. 153(7) CRR in order to better align it with paragraphs 371 and 372 of the BCBS Securitisation Framework (December 2014) (“BCBS Framework”);
Art. 154(6)	1) “corporate” has been deleted from “For purchased corporate receivables” and replaced with “For purchased retail receivables” as Art. 154(6) CRR deals with retail exposures; 2) The proposed amendment clarifies the revised Art. 154(6) CRR in order to better align it with paragraphs 371 and 372 of the Securitisation Framework;
Art. 242	Definitions added/changed for consistency or clarification purposes. Art. 242(8) is deleted as it is not used in the text. The definition in Art. 242(10) is already in the CRR under Art. 4(1)(65). The definition of “promotional bank” is added;
Art. 242 (new subparagraph)	Addition of a clarification as regard several positions with different maturities, sharing losses on a pro-rata basis;
Art. 243(1)	In line with the amendment to the definition of “STS securitization”, it is proposed to clarify the purpose of the criteria set forth in Art. 243 (namely, to benefit from the preferential



treatment under Art. 260, 262 and 264 CRR);

Art. 243(1)(a)

1) As the term “origination” may be subject to interpretation, it is proposed to clarify that the underlying exposures shall meet the relevant conditions “at the time the exposures were added to the ABCP programme”. This amendment, hence, ensures consistency with Art. 243(1)(b);

2) It is also proposed to insert “would” after “meet the conditions for being assigned” the relevant rating. The purpose is to factor in situations where the underlying exposures are originated by corporates;

Art. 243(1)(aa)

A new wording is added to take into account the prominent role of the sponsor in ABCP;

Art. 243(1)(b)

The wording provides that, with respect to trade receivables, the concentration rule set forth in subparagraph 1 of Art. 243(1)(b) applies at transaction level (and not at programme level). According to market practice, it appears that applying a concentration rule at the level of the ABCP programme would be difficult or impossible;

Art. 243(2)

See amendment for Art. 243(1);

Art. 243(2)(a)

For the sake of consistency with Art. 5a of the STS Regulation – which does not specifically refer to Art. 79 CRDIV but takes a principle basis approach – it is proposed to replace “as required under Article 79” of CRDIV by “having regard to the criteria set forth in Article 79 CRDIV”;

Art. 243(2)(c)

In line with the amendment made under Art. 243(1)(a), it is proposed to insert “would” before “meet the conditions for being assigned” the relevant rating. The purpose is to factor in situations where the underlying exposures are originated by corporates;

Art. 244(1)

Alignment of the wording with Art. 247(1)(a);

**Art. 244(2) first
subparagraph (b) and
second subparagraph (a)**

Due to the change in the definition of “mezzanine tranche”, it was flagged that some securitizations will no longer be able to proceed to a SRT under Art. 244(2)(b). It is proposed to delete the condition relating to the absence of mezzanine position in the securitization;

Art. 244(2) last

Alignment with current CRR requirements. Originators should



subparagraph (b)	not be forced to transfer tranches with low risk weights;
Art. 244(3)	Amendment for clarification purposes;
Art. 244(4)(c)	Correction of cross-reference;
Art. 244(4)(h)	Amendment in line with current CRR. Reference to points (b) to (g) is too broad, as a qualified legal counsel would not be able to confirm all those elements;
Art. 245(1)	Alignment of the wording with Art. 247(1)(b);
Art. 245(2)(b)	Alignment to Art. 244(2);
Art. 245(4)(g)	Amendment in line with current CRR. Reference to points (b) to (f) is too broad as qualified legal counsels would not be able to confirm all those elements;
Art. 245(5)	Correction of reference;
Art. 246	Editorial changes;
Art. 247(1)	It is proposed to make a cross-reference to Art. 5a of the STS Regulation in Art. 247(1) given that, according to the currently existing Art. 408 CRR, the fulfilment of the credit granting criteria is a condition to the application of the significant risk transfer treatment;
Art. 247(2)	Amendment for clarification purposes;
Art. 248(1)	Editorial change;
Art. 248(1)(a)	Amendment for clarification purposes;
Art. 248(1)(b)	In line with current CRR, introduction of Art. 255(2) CRR. In addition, the competent authority would allow institutions to apply the specified conversion factor;
Art. 248(1a)	In line with current CRR, introduction of the conditions set forth in Art. 255(1) CRR.
Art. 248(1)(d)	Alignment with paragraph 37 of the BCBS Framework;
Art. 249(5)	Correction of reference;
Art. 249(6) and (7)	Clarification concerning partial credit protection on a pro-rata basis;
Art. 249(9)	Amendment for clarification purposes;
Art. 249(10)	The clarification was requested to ensure alignment with paragraph 105 of the BCBS Framework;
Art. 251(1)	Alignment of the wording with Art. 247;
Art. 254	In line with comments from the vast majority of MSs, the Presidency has further developed Option 3. Pending further



evidence, the threshold remains unchanged. The empowerment of the Commission to change the threshold has been narrowly framed. The wording clarifies the power of competent authorities to require banks to apply the SEC-ERBA;

Art. 254(2)(a)	Editorial change;
Art. 254(4)	The proposed amendment clarifies that cherry picking is not possible;
Art. 255(2)	Amendment for clarification and consistency;
Art. 255(3)(b)	Editorial change;
Art. 255(7)	Editorial change;
Art. 255(9)	Paragraph added to provide for a RTS in order to further detail the use of the top-down approach in line with paragraph 50c of the BCBS Framework;
Art. 256(1)	Clarification since the ratio is by definition always greater than zero. Editorial change for better clarity;
Art. 256(2)	Clarification since the ratio is by definition always greater than zero. Editorial change for better clarity;
Art. 256(4)	Editorial change;
Art. 256(5)	Clarification for time-tranched positions, in line with Art. 242;
Art. 257	Editorial changes;
Art. 257(1)(a)	Amendment for clarification regarding exposure-weighted average maturity;
Art. 257(2)	Given that all securitisations are dependent on performance of the underlying exposures, an average weighted maturity would never be used;
Art. 258(1)(b)	Alignment with BCBS framework, which does not require the availability of <i>public</i> information;
Art. 258(2)(a)	Alignment with paragraph 15 of the BCBS framework;
Art. 258(2)(b) and (c)	Editorial changes;
Art. 259(1)	Editorial changes;
Art. 259(1)	Amendment for clarification regarding exponential function;
Art. 259(1)	For the sake of coherence;
Art. 259(2)	Alignment with the BCBS framework;
Art. 259(6)	Amendment for clarification;
Art. 259(7)	Amendment for the sake of consistency with Art. 258(1)(a), and other amendment for clarification;



Art. 259(8)	Alignment with the BCBS framework concerning derivatives to include only market risk hedges;
Art. 260	Editorial changes;
Art. 261	Editorial changes;
Art. 261(5)	Alignment with the BCBS framework;
Art. 261(8)	Treatment of derivatives was missing under SEC-ERBA. New paragraph is consistent with 259(8);
Art. 262	Editorial changes;
Art. 263(1)	For clarification;
Art. 263(2)	Editorial change;
Art. 263(3)	Alignment with Art 259(8);
Art. 265(1)	Alignment of the wording with Art. 254(4);
Art. 265(2)	For the sake of legal certainty and in line with current CRR wording;
Art. 265(2)(ba)	Alignment with paragraph 8 of the BCBS Framework;
Art. 267(1)	For clarification;
Art. 267(2)	For clarification;
Art. 267(3)	For clarification and consistency of terminology;
Art. 268(3)	For clarification as the notion of “p factor” is already used elsewhere;
Art. 269(1)	Editorial change;
Art. 270a(2)	Given that the RTS already exists, the deadline has been eliminated;
Art. 270c	The wording is clarified to take into consideration the case of revolving securitisations;
Art. 270e	Given that the RTS already exists, the deadline has been eliminated;
Art. 456(1)	Deleted in line with MS comments;
Art. 519a	For clarification, amendments to the CRR may have to be done to align to the BCBS rules in the future.

