



Council of the European Union  
General Secretariat

**Brussels, 25 November 2015**

---

---

**Interinstitutional files:  
2015/0225 (COD)**

---

---

**WK 167/2015 INIT**

**LIMITE**

**EF  
ECOFIN  
SURE  
CODEC**

**WORKING PAPER**

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

**WORKING DOCUMENT**

|                |   |
|----------------|---|
| From:          | Presidency  |
| To:            | Working Party on Financial Services - Securitisation  |
| N° prev. doc.: | 14496/15  |
| N° Cion doc.:  | COM(2015) 473 final   |
| Subject:       | Securitisation - Presidency non-paper on the rationale for changes included in the second compromise proposal for the CRR |

**Meeting of the Council Working Party on Financial Services (Securitisation)**  
**26<sup>th</sup> November 2015 (10:00)**

## **RATIONALE FOR CHANGES**

|                       |  |
|-----------------------|--|
| <b>Recital 1</b>      | Wording added for completeness purposes;   |
| <b>Recital 4</b>      | Editorial changes;   |
| <b>Recital 6</b>      | Wording added for clarification purposes;  |
| <b>Recital 8</b>      | The EBA report has been published on 7 July 2015;  |
| <b>Recital 9</b>      | In line with the definition of “promotional entity” in Art. 242 (23);  |
| <b>Recital 11</b>     | Recital deleted as a result of the deletion of the Commission Delegated Act under the former Art. 456(1)(k);   |
| <b>Recital 12</b>     | Amendment for clarification purposes as all the applicable provisions of CRR (and not only the capital requirements) will remain applicable for grandfathered securitisations;   |
| <b>Art. 242(23)</b>   | Amendment to accommodate the promotional bank/entity models in certain MS where only guarantees are granted by the promotional bank/entity (but no loans) and/or where such promotional bank/entity could, in certain cases, make some profits. Given that the definition is not limited to “banks”, it is proposed to replace “promotional bank” (which is misleading) by “promotional entity”; |
| <b>Art. 243(1)(a)</b> | Amendment inserted to clarify that the obligation applies to the originator/original lender (rather than the sponsor who has a more distant relationship to the obligor) and to take into consideration situations where the originator/original lender are  |



not credit institutions;

**Art. 243(1)(aa)**

Clarification that where an institution uses the RW assigned to a liquidity facility to calculate the RW exposure amount for an ABCP according to Art. 248(3), such institution may use the risk weight of the liquidity facility to verify whether the condition of Art. 243(1)(a) is met;

**Art. 243(1)(b)**

- 1) Reverting to the Commission's original drafting by referring to "ABCP programme" instead of "ABCP transaction". The wording is now in line again with the EBA report;
- 2) Amendment to reflect the concern raised by a MS that the information as to the clients' connectedness in an ABCP programme may be difficult to verify in certain cases;
- 3) Amendment to reflect the concern raised by a Member State asking that overcollateralization be taken into account when assessing the concentration limit;

**Art. 243(2) last sub-paragraph**

Amendment inserted to reflect the concern raised by a MS that when higher RW or stricter criteria have been applied according to Art. 124(2) in relation to exposures secured by mortgage on residential and commercial properties, such RW shall not be taken into consideration for the purpose of Art. 243(2)(c);

**Art. 244(2)**

Reverting to the Commission's original proposal as it is necessary to ensure that a significant part of the mezzanine risk is transferred. The approach proposed in paragraph 2(b) is a fallback when the approach in paragraph 2(a) cannot be applied. The grandfathering provisions of Art. 2 for outstanding securitisation positions in those MS where the previous version of Art. 244(2)(b) would have been preferable, should provide sufficient time for the market to adjust;

**Art. 245(2)(b)**

In line with Art. 244(2).

**Art. 254(1) and (2)**

- 1) Editorial changes;
- 2) The wording was requested in point (b) to take into consideration the fact that the IAA needs to be part of the hierarchy. According to the December 2014 Basel framework, the IAA is on the same level as SEC-ERBA;

**Art. 254(3)**

- 1) Insertion of a reference to the powers of competent authorities under Pillar II;



|                      |  |
|----------------------|--|
|                      | 2) Deletion of the paragraph giving designated authorities the power to impose SEC-ERBA instead of SEC-SA for macro-prudential purposes.   |
| <b>Art. 256 (5)</b>  | Editorial changes.   |
| <b>Art. 257(2)</b>   | It is proposed to delete as agreed during the 20 November meeting.   |
| <b>Art. 259(1)</b>   | The definition of exponential function is self-explanatory and is deleted;   |
| <b>Art. 263(1)</b>   | Alignment to Art. 259(1);  |
| <b>Art. 267(2)</b>   | Editorial changes.   |
| <b>Art. 267(3)</b>   | <p>“multiplied by 12.5” should be moved at the level of the numerator. The reason is:</p> <ol style="list-style-type: none"> <li>1) Capital ratio = Expected losses (EL) / Exposure value at default (EV)</li> <li>2) Risk weight = capital ratio * 12.5</li> <li>3) Hence, the formula should be <math>RW = (EL / EV) * 12.5</math> (and <b>not</b> <math>EL / (EV * 12.5)</math>;</li> </ol> |
| <b>Art. 268</b>      | Editorial changes.   |
| <b>Art. 519a CRR</b> | Based on the comments received from MS, it is proposed that the Commission’s report shall be issued no later than 2 years from the date of entry into force of this Regulation (instead of 3 years);   |

