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NOTE

From:	Presidency
To:	Working Party on Financial Services - Securitisation
Subject:	Securitisation 1st Political Trilogue on 19 January 2017 - PRESIDENCY FLASH NOTE



PRESIDENCY FLASH NOTE

General remarks

On 19 January 2017, the first 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. In the initial discussion, all parties expressed their willingness to engage in trilogue negotiations with a view to a swift agreement.

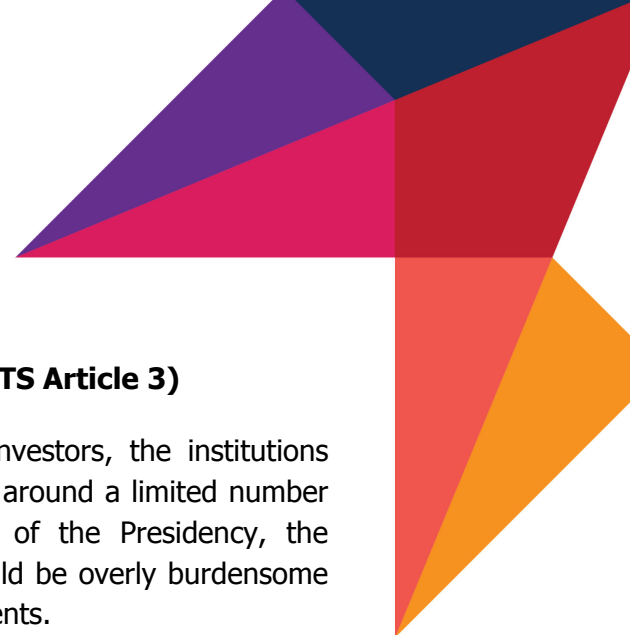
The STS rapporteur underlined his aim to make the market for securitisation both attractive and stable, and explained that in this context the Parliament has introduced significant changes in three areas: transparency, supervision, and the alignment of interests (i.e. risk retention and the framework around it). The STS rapporteur also stressed on the delicate nature of the compromise found in the EP.

The Presidency remarked on general common principles that are to be shared in the negotiations, namely that it was important to agree on a strong robust STS framework in Europe to be an alternative and credible vehicle to finance the real economy and avoid creating unintended, artificial barriers that would preclude inward capital investment into Europe. This was ultimately an objective of the Capital Markets Union initiative. Finally, the Presidency stressed on the importance of appropriately managing risks while keeping a right balance in terms of costs of securitisation products vis-à-vis other funding instruments.

Hierarchy of methods for calculating the risk exposure (CRR Article 254)

Although the hierarchy of methods for calculating the risk exposure was not on the agenda, all three institutions touched on this issue in their introductory remarks. In the absence of the CRR rapporteur, the ECON Chair explained that the Parliament had changed the hierarchy of methods because in its view that would ensure a level playing field both geographically and between different types of actors.

Both the Presidency and the Commission emphasised the importance of alignment with international standards, and the Presidency clarified that the Council's general approach provided for framed flexibility. The Commission explained that reverting the standardised approach and the external ratings-based approach could lead to suboptimal results.



Due diligence requirements for institutional investors (STS Article 3)

As regards the due diligence requirements for institutional investors, the institutions concluded that they are not far apart. The discussion revolved around a limited number of differences between the Council and EP texts. In view of the Presidency, the notification to ESMA included by the Parliament (line 128) would be overly burdensome and create an un-level playing field with other financial instruments.

As regards the Parliament's provision that ESMA may develop guidelines (line 131), Presidency and Commission agreed that this was redundant - and might even create ambiguity - as this possibility is already foreseen in ESMA's founding Regulation. The EP, on the other hand, for that same reason saw no harm in including this provision.

It was decided that the differences between the Council and Parliament texts as regards exemptions for ABCPs will be discussed in a future trilogue. The technical group will start aligning the remaining provisions of Article 3.

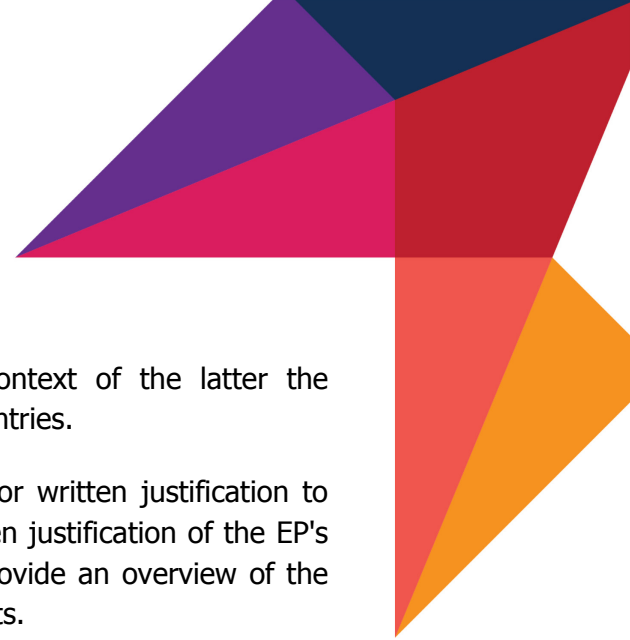
Transparency requirements (STS Article 5, 5a to 5q and 22a to 22e)

The discussion on transparency requirements focused on two changes introduced by the EP: the creation of a securitisation repository and the inclusion of additional transparency requirements for investors.

The EP thinks a repository would contribute to a better monitoring of transferred risks and giving a complete oversight of supply and demand in the securitisation market. This would in turn facilitate supervision. The Parliament considered that the repository will be a decentralised system relying on existing initiatives and building on existing legislation (EMIR). In this sense its proportionality would be ensured. As the Parliament text would allow only regulated investors to invest in securitisations, who would already be subject to reporting requirements, it does not consider the additional disclosure requirements to be excessive.

The Presidency expressed its concerns on the EP's amendments: the additional burden they would create, the fact that they would impede a level playing field with other financial instruments, and the delay of a swift revival of securitisation markets they would entail. Furthermore, the Presidency reminded the Parliament of the shortcomings of the transparency framework in EMIR and the upcoming review.

The Commission sided with the Presidency stating that it considered the Parliament's additional transparency requirements to be problematic, given the dissuasive effect they might have on investors and the lack of clarity on the use of the collected data. The Commission also mentioned the importance of a level playing field for different



instruments as well as different jurisdictions, and in the context of the latter the unlikelihood of equivalent systems of data collection in third countries.

The Presidency asked for some form of cost-benefit analysis or written justification to support the EP text. The rapporteur will provide for such written justification of the EP's amendments to the Council. The Commission was asked to provide an overview of the lessons learned from EMIR as regards transparency requirements.

Risk retention (STS Article 4)

The Presidency asked the Parliament to provide more clarity on its amendments to Article 4 and explained that, for various reasons, it would be very difficult for the Council to deviate from internationally agreed standards.

The Parliament focused on different aspects of the alignment of interests: the retention rate itself, the retention methods used, and other supervisory tools to ensure this alignment (such as fines - line 135). Moreover, on the topic of risk retention, the rapporteur will provide a written justification of the EP's amendments to the Council.

In addition, the Parliament asked the Commission to provide the co-legislators with more information on the different risk retention methods used in reality. The Commission replied that this would be a difficult task since those methods have not been considered relevant so far, and no evidence exists that different methods would lead to different levels of risk alignment. The Parliament nevertheless insisted that vertical and horizontal risk retention would bring about different results depending on the losses suffered (< or > 5%).

Technical work

The technical working group will start its work on 23 January on the issues that have not been marked as political (see Annex). Besides, the technical group was asked to work on the due diligence requirements as mentioned above.

Further trilogues

The next trilogue has been scheduled for 7 February, with further trilogues on 7 March, 29 March and 17 May. Additional trilogues might be scheduled if need be.

The Presidency will hold a Working Party meeting on 1 February to prepare the next political trilogue.

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Securitisation
1st Political Trilogue on 19 January 2017
FROM: Presidency

