

Regulatory Blog

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EU COM kicks off the consultation process on the functioning of the securitisation framework

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On Oct 9, the European Commission published the long-awaited [consultation paper on the functioning of the EU securitisation framework](#). The consultation process is open for 8 weeks until the beginning of December and aims to collect point of views and data from the industry and supervisory authorities on a wide range of issues.

Most of the discussion points outlined in the consultation paper are not new to those who followed the recent discussions around the revision of the securitisation framework in the financial services industry and on political level. In essence, the consultation paper refers to the following well-known issues that are considered to be a significant burden for the revitalization of the securitisation market although the product as such is supposed to play a substantial role for refinancing the transition of the EU economies:

- High and “non-neutral” risk weights for calculating capital requirements for banks
- Comprehensive due diligence requirements for investors
- Extensive disclosure and reporting requirements for originators
- Complexity of the STS standard
- Conservative liquidity treatment for securitisation notes
- Strict prudential treatment for investors from the insurance sector (Solvency II)
- Potential use cases for centralised securitisation platforms

Some might even say that many questions now raised by the EU COM were already addressed in one way or the other by recent studies and publications, among others, the [2022 ESA advice on the review of the securitisation prudential framework](#), the [2022 EU COM report](#), the [Noyer report](#), the [Draghi report on The Future of European Competitiveness](#), the [TSI report on securitisation platforms](#), or the [German Task Force report](#). However, when looking closer into the consultation paper, it becomes evident that the EU COM obviously seeks for further evidence which underpins the demands and recommendations brought up by various stakeholders in the last couple of months and years. Consequently, the EU COM’s questionnaire appears to be very detailed and technical, and it would sometimes even require a dedicated impact study or gap analysis before one can provide profound answers. Only to provide some examples:

...on the due diligence requirements according to Art. 5 SECR:

- Please provide an estimate of the total annual recurring costs and/or the average cost per transaction (in EUR) of complying with the due diligence requirements under Article 5.
- Please compare the total due diligence costs for securitisations with the total due diligence costs of other instruments with similar risk characteristics.
- Please estimate the total one-off costs you incurred (in EUR) to set up the necessary procedures to comply with Article 5 of SECR.
- What would you estimate to be the impact (in percent or EUR) of a [specified] modification in Article 5(3) on your one-off and annual recurring costs for complying with the due diligence requirements

under Article 5?

...on the disclosure requirements according to Art. 7 SECR:

- Please provide an estimate of the total annual recurring costs and/or the average cost per transaction (in EUR) of complying with the transparency regime under Article 7.
- Please estimate the total one-off costs you incurred (in EUR) to set up the necessary procedures to comply with Article 7 of SECR.
- Assuming that transparency requirements are amended as suggested in the [specified] option, by how much would the volume of securitisations that you issue, or invest in, change?
- What impact (in percent or EUR) would you anticipate the [specified] option would have on your one-off and annual recurring costs for complying with the transparency requirements in Article 7?

...on the RWA calculation for securitisations according to CRR:

- Do you consider that the current levels of the (p) factor adequately address structural risks embedded in securitisation, such as model risk, agency risk and to some extent correlation, as well as the cliff effects?
- If no, please provide the justification, and provide quantitative and qualitative data, for whether and how the (p) factor overestimates the risks and inappropriately mitigates the cliff-effects, for specific types of securitisation exposures.
- Do you consider that alternative designs of the risk weight functions have potential to achieve more proportionate levels of capital non-neutrality and capital distribution across tranches, address the potential cliff effects more appropriately and achieve prudential objectives?

...on the treatment of securitisation investments from insurers according to Solvency II

- Is the current calculation for standard formula capital requirements for spread risk on securitisation positions in Solvency II for the senior and non-senior tranches of STS / non-STS securitisations proportionate and commensurate with their risk?
- Is it desirable that Solvency II standard formula capital requirements for spread risk differentiate between mezzanine and junior tranches of STS / non-STS securitisations?
- If yes, please provide suggestions for calibrations of capital requirements for such mezzanine and junior tranches, including the data/evidence of historical spread behaviors backing such suggestions.

Since the consultation paper seeks for input from market participants rather than providing concrete proposals to change the current framework, you have to read somewhat between the lines to get a glimpse

of how the potential amendments will probably look like. One of those elements is the idea of a more **principle-based framework** in the areas of the SRT assessment, due diligence and reporting requirements. This concept would grant more degrees of freedom for the parties involved and could lead to more tailored and hence more effective processes compared to the current prescriptive regulation. It will be interesting to see how this will resonate with the different stakeholders.

Next steps and how PwC can support you

The EU COM's approach to gather further insights through the detailed questionnaire is understandable as it will probably need very convincing and data-driven arguments for the political debate on fundamental reforms of the securitisation framework on EU and even global level (Basel, FSB). However, it comes with a certain dilemma as the envisaged changes of the securitisation framework also have the objective to be more open and inclusive for new issuers and investors whereas precisely those (potential) stakeholders are probably not prepared to provide answers on such a detailed level in such a narrow timeframe of 8 weeks. Hence, while it is highly appreciated that the EU COM takes the different discussion points very seriously and picked them up for the consultation process, we see a certain risk that some important point of views might not be properly reflected in the consultation results. As an example: The above-mentioned principle-based concepts might be of great value for established stakeholders in the securitisation market. However, those first-time issuers, investors, or even national competent authorities in countries where securitisations didn't play any role so far would probably feel way more comfortable to work within a clear and predictable framework. Therefore, we strongly believe that everyone who is and who plans to be involved in the securitisation market should make sure that their perspectives will be considered in the consultation process.

We at PwC together with our colleagues from Strategy& supported many banks, insurance companies and corporate treasurers in the recent years with their initiatives in the securitisation space. We are more than happy to share our insights with you and to help collecting information for this probably groundbreaking consultation process.

[Get ongoing updates on the topic via regulatory horizon scanning in our research application, PwC Plus. Read more about the opportunities and offerings here.](#)

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Keywords

[Bankenaufsicht \(Europäische und Internationale Organisationen\)](#), [Capital Requirements Regulation \(CRR III\)](#), [Securitisation / Verbriefung](#), [Solvency II](#)

Contact



Martin Neisen

Frankfurt am Main

martin.neisen@pwc.com



Christoph Himmelmann

Frankfurt am Main

christoph.himmelmann@pwc.com