

BVI position on BCBS/IOSCO Consultative Document on criteria for identifying simple, transparent and comparable securitisations

BVI¹ gladly takes the opportunity to present its views on BCBS/IOSCO's proposals for criteria which may assist market participants in identifying securitisation structures of minor complexity.

With regard to investment funds, securitised products can play a vital role in helping to achieve an attractive risk/return ratio, particularly as a complement to portfolios of traditional equity and fixed-income. Hence, BVI welcomes BCBS/IOSCO's initiatives to support the development of sustainable securitisation markets and assist in the establishment of standardised structures which take account of the investors' need for simplicity and transparency. The envisaged standardisation of securitisation structures plays a particularly crucial role in eliminating unintended structural risks and strengthening investor confidence in securitisation products.

In detail:

- i. *Do respondents agree that the criteria achieve the goals they aim to achieve? In particular, do respondents believe that the criteria could help investors to identify "simple", "transparent" and "comparable" securitisations?*

BVI generally agrees that the proposed criteria could help to identify "simple", "transparent" and "comparable" securitisations. However, doubts remain as to whether a simplified identification of STC securitisations will in itself suffice to revive securitisation markets. Another important aspect therefor lies in the reduction of regulatory obstacles to securitised products. This holds particularly true with respect to the regulatory capital requirements for securitisation positions which are significantly stricter than those applied to other asset classes like, for example, covered bonds.

- ii. *Do respondents agree with the STC criteria set out in the annex of this paper? In particular, are they clear enough to allow for the development by the financial sector of simple, transparent and comparable securitisations? Or do respondents think they are too detailed as globally applicable criteria? The annex provides guidance on each criterion. Which additional criteria would respondents consider necessary, if any, and what additional provisions would be useful or necessary to support the use of the criteria? What are respondents' views on the "additional considerations" set out under some criteria in the annex? Should they become part of the criteria? Are there particular criteria that could hinder the development of sustainable securitisation markets due, for example, to the costliness of their implementation?*

Unless stated otherwise below, BVI agrees with the identified STC criteria. However, in some cases further clarification would prove helpful.

¹BVI represents the interests of the German investment fund and asset management industry. Its 84 members manage assets in excess of EUR 2.4 trillion in UCITS, AIFs and assets outside investment funds. As such, BVI is committed to promoting a level playing field for all investors. BVI members manage, directly or indirectly, the assets of 50 million private clients over 21 million households. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



In detail:

1. Nature of the assets: In order for this criterion to be sufficiently clear, further definition as proposed in the “Additional consideration” should be given.
2. Asset performance history: If, according to the proposal set forth in the “Additional consideration”, investors should consider whether the originator, sponsor or servicer have an established performance history for substantially similar receivables/claims to those subject to the relevant securitisation, the required scope and detail of such additional data should be less extensive than that of the data required on the jurisdiction level. Otherwise, the cost and effort for providing the required data set would outweigh the desired benefit even with respect to the “big” players in the securitisation market.
3. Payment status: In order for this criterion to be sufficiently clear, further definition as proposed in the “Additional consideration” should be given.
4. Consistency of underwriting: No comments.
5. Asset selection and transfer: In our view, the proposed exclusion of assets which are actively selected, actively managed or otherwise cherry-picked on a discretionary basis is not appropriate for the purpose of identifying STC securitisations. The risk retention requirement (criteria 12) and the requirement to establish pre-defined eligibility criteria should sufficiently prevent any adverse selection of assets. Moreover, asset selection through active management can offer considerable advantages to securitisation structures. A portfolio which is actively managed by a regulated loan manager with a successful track record is, under both economic and risk aspects, comparable to a static portfolio composed by assets with a successful performance history.
6. Initial and ongoing data: The cost for independent reviews might outweigh the desired benefit of ensuring compliance of the initial portfolio with the relevant eligibility criteria. Such purpose can equally be achieved by appropriate representations and warranties provided by the originator/sponsor.
7. Redemption cash flows: In our view, the term “sufficiently granular” is not clear and hence needs to be defined. We would expect more than 100 loans with each loan not succeeding 5% of the portfolio value to be “sufficiently granular”.
8. Currency and interest rate asset and liability mismatches: No comments.
9. Payment priorities and observability: No comments.
10. Voting and enforcement rights: No comments, also with respect to the “Additional consideration”.
11. Documentation disclosure and legal review: No comments, also with respect to the “Additional consideration”.
12. Alignment of interest: For clarification purposes, please add a definition of “material net economic exposure” referring to that of Article 405 of the CRR.



13. Fiduciary and contractual responsibilities: This criterion is rather vague. Unless further guidance is provided on how the relevant requirements are deemed fulfilled, appropriate quality and reliability of the servicer/parties could also be tested under criterion 2 -“Additional consideration”.

14. Transparency to investors: In addition to the proposed requirements, the main duties and responsibilities of the key parties to the securitisation (i.e. originator, sponsor, servicer and trustee) as well as provisions regarding replacement of transactions parties should be outlined in the prospectus or investor report. Otherwise, the documentation standard suggested under criterion 14 would remain unknown to the investor who is not a party to the relevant transaction documents.

iii. *What are respondents’ views on the state of short-term securitisation markets and the need for initiatives with involvement from public authorities? Do respondents consider useful the development of differentiating criteria for ABCP, in a manner similar to that of term securitisations? The BCBS and IOSCO would particularly welcome any data and descriptions illustrating the state of short-term securitisation markets by jurisdiction and the views of respondents on concrete comparable criteria that could be applied to short-term securitisations.*

In our view, the regulatory capital treatment for securitisation positions put ABS bonds at a disadvantage compared to other asset classes like, for example, covered bonds and hence forms the major obstacle for the development of short-term securitisation markets.