



**International
Banking Federation**

5th Floor, One Angel Court
30 Throgmorton Street
London EC2R 7HJ

tel: + 44 (0)7725 350 259

web: www.ibfed.org

Secretariat of the Basel Committee
on Banking Supervision (BCBS)
Bank for International Settlements
CH-4002 Basel
Switzerland
baselcommittee@bis.org

September 28, 2017

Dear Sir/Madam:

Subject: Draft IBFed response to the Basel Committee on Banking Supervision consultation on “*Capital treatment for simple, transparent and comparable short-term securitisations*”

The IBFed¹ is pleased to provide comments on the BCBS consultative document, “*Capital treatment for simple, transparent and comparable short-term securitisations*”.²

We welcome the BCBS’s decision to widen the scope of application of the STC criteria to include asset-backed commercial paper (ABCP) programmes. ABCP programmes provide a cost-effective, receivables-based, source of funding for corporate entities, financial institutions and financing companies that are important engines of economic growth. The funding these entities receive through ABCP transactions is an important source of cost-effective financing in a number of markets.

Whilst we understand the BCBS’s previous concerns about inappropriate maturity transformation based on the performance of some ABCP structures during the global financial crisis, we believe this risk is now significantly reduced by the introduction of the global liquidity standards. Permanently excluding ABCP from the STC regime would create an unnecessary burden for banks and the business they finance given that the global liquidity

¹ The International Banking Federation (IBFed) was formed in 2004 to represent the combined views of our national banking associations. The IBFed collectively represents more than 18,000 banks, including more than two thirds of the largest 1000 banks in the world. IBFed member banks play a crucial role in supporting and promoting economic growth by managing worldwide assets of over 75 trillion Euros, by extending consumer and business credit of over 40 trillion Euros across the globe, and by collectively employing over 6 million people. The IBFed represents every major financial centre and its members’ activities take place globally. This worldwide reach enables the IBFed to function as a key international forum for considering regulatory and other issues of interest to the global banking industry. For more information visit: www.ibfed.org

² <http://www.bis.org/bcbs/publ/d413.pdf>

standards have been specifically designed to assist in mitigating the maturity transformation risk that ABCP programmes highlighted in the wake of the global financial crisis.

Whilst we think some of the additional guidance in relation to the criteria is helpful, subject to our more detailed comments below, we prefer a principles-based approach, rather than the addition of even more prescriptive criteria and requirements. The additional requirements and guidance included in the consultative document will make it difficult for some existing ABCP conduits in some countries to comply with the proposed framework. We believe the proposed STC framework for short-term securitisations should take into consideration existing ABCP structures and requirements and seek to incrementally improve these structures rather than create a framework that fails to consider existing practices and improvements post-financial crisis. We believe that it would be more beneficial if a more principles-based approach was taken so that criteria can be more inclusionary. In addition, for the criteria/guidance that is retained, we believe that existing programmes should have a period of grandfathering in order that their structures and legal architecture, where meeting the underlying principles of the STC framework, may benefit from the preferred capital treatment while being brought into full compliance with the proposed STC criteria over a period of time. This will enhance the potential success of the STC framework by limiting the potential loss of existing ABCP transactions due to the higher capital cost incurred by non-compliant transactions potentially making those transactions uneconomical to carry on.

We suggest a grandfathering period of two years because many transaction commitments within conduits have two-year terms and sponsors will need an opening in the contractual arrangement to seek terms that will permit STC compliance. While sponsors can approach sellers about opening up a transaction agreement, they have no legal right to do so, so it will not be until an extension is requested that certain transaction terms can be revisited. In addition, assets in the conduit can be longer dated, so two years will allow more time for problematic assets to run-off.

If the BCBS decides to retain the additional guidance, it should be clear that it should not be, or be able to become, a binding requirement. A statement from the BCBS confirming this is the case would be very welcome, albeit that we believe this to be the BCBS' current intention.

We note that the BCBS remains determined that synthetic structures should remain outside the scope of the STC framework. A 2015 European Banking Authority (EBA) report³ on synthetic securitisations correctly distinguished between synthetic transactions undertaken for arbitrage purposes compared to synthetic structures used by banks for legitimate risk transfer of core assets they originated as part of their ordinary banking business. It showed that the default performance for traditional securitisations and these "business-as-usual" synthetic structures was similar. Therefore, where banks use synthetic structures to transfer risk from their balance sheet, we would welcome a further review in due course by the BCBS and IOSCO of their position on the applicability of the STC framework to this second type of synthetic securitisations.

³ <https://www.eba.europa.eu/documents/10180/983359/EBA-Op-2015-6+EBA+report+on+synthetic+securitisation.pdf>

Nonetheless, we are delighted that the BCBS considers that more conventional ABCP structures should benefit from the approach described in the consultative document (CD), and comment below on the five questions raised in the CD, from the perspective of sponsors subject to the regulatory capital requirements.

Question 1: Do respondents agree with the insertion of the additional guidance and requirements in Annex 1, which enables the short-term STC criteria to be adapted for regulatory capital purposes? Are there any other guidance and requirements for regulatory capital purposes which respondents would consider necessary to support the development of STC short-term securitisations?

The additional guidance and requirements helpfully provide greater confidence for sponsors about the application of the short-term STC capital criteria. However, in a number of cases, the additional guidance and requirements will further limit the ability of certain ABCP conduits to meet the STC requirements for capital relief. As an example, the additional guidance regarding homogeneity in criterion A1 ‘Nature of assets’ will make it difficult for ABCP conduits with auto lease or mortgage transactions to comply with this criterion, as these asset classes partially rely on refinancing and resale of the underlying assets to repay the ABCP.

With respect to additional requirements, an example of what we believe is an unnecessary limitation is the specified minimum experience time frames dictated by the additional requirement under criterion A2 ‘Asset performance history’. We believe the more principled approach under the actual criterion A2, which allows market participants to exercise some judgement as to what time frame permits a “meaningful evaluation”, is sufficient and appropriate. The specified minimum time frames of five and seven years set out in the additional requirement will unnecessarily restrict the entrance of new participants and assets into the market. We suggest a period of five years, except for trade receivables and other short-term receivables, which should be three years.

We also point to the additional requirements under criterion A3 ‘Payment Status’ as an example of where the additional requirements make an otherwise reasonable criterion both administratively and economically burdensome, if it can be reasonably satisfied at all. For instance, on its face, the requirement to check public registries for each obligor in a securitisation transaction could be very difficult and costly given the number of obligors normally underlying a transaction.

It is our view that the additional requirement under criterion A5 ‘Asset selection and transfer’, which adds an additional requirement for a third-party true sale and transfer legal opinion for capital purposes, will make the process overly complex.

We note that criterion A6 ‘Initial and ongoing data’ suggests that cut-off dates for aggregated data should be aligned with investor reporting. We do not think this is practical, or sensible, as ABCP conduits will usually spread the cut-off dates over a particular month in order to spread the funding of a conduit. The investor report is delivered once a month so cannot be aligned with all the cut-off dates of underlying pools.

We welcome the recognition in criterion B7 ‘Full support’ that where sponsors’ exposures arise only through the provision of liquidity support, the proposed capital treatment can apply where defaulted assets are netted out from liquidity support. This is consistent with our belief that full support should not be required to be STC compliant in general.

However, we believe that this capital treatment should apply to investors too. Where an investor understands the risk to their investment arising from the presence of defaulted assets in the programme, and all other short-term STC criteria are otherwise met, investors should be able to apply the preferential STC capital treatment. This is consistent with the approach to STC for term-ABS transactions, where the investment in ABS is not guaranteed against default. Investors are permitted to apply the preferred capital treatment to STC compliant ABS exposures that they may hold despite the ABS not having full support, or a full guarantee of timely repayment, from the issuer or other entity. We do not understand why an investment in STC compliant ABCP should be treated differently.

Criterion B13 ‘Alignment of interest’ seems to suggest that the material net economic exposure can only be taken by the seller or the sponsor, while in practice it can be taken by both the seller and the sponsor. In order to capture situations where both the seller and the sponsor retain a material economic exposure we suggest the wording of criterion B13 be changed to ‘...retained by the sellers and/or the sponsor at the transaction level, ...’.

Criterion D18 ‘Credit risk of underlying exposures’ includes a 100% risk weighting for ‘any other exposures’. For certain economically important exposures, such as trade finance, we believe the risk weight requirement should be applied on a portfolio-weighted average basis.

For criterion D19 ‘Granularity of Pool’, the conduit sponsor may not be able to determine with 100% confidence that adding to a new pool would not violate the 1% threshold at programme level. It would be helpful to have additional interpretive guidance on how the BCBS expects sponsors to identify the same obligor in different pools across different transactions. In our view, the 1% threshold applied to the aggregated outstanding exposure value of all exposures in the programme could be increased to 2%, without additional risk.

Question 2: What are respondents’ views on the baseline and alternative approaches being considered by the BCBS?

We understand the BCBS’ desire to keep the approach as simple as possible by applying one set of STC capital criteria at both the conduit and transaction level. But given the additional level of complexity inherent in ABCP programmes, coupled with the sophistication of ABCP investors, who are also able to access detailed information about the programmes performance on a regular basis, we support the more risk sensitive Alternative Approach 2. We agree with the BCBS that this approach will encourage investors to undertake their own due diligence at a transaction level. We also agree that a more tailored transaction-by-transaction approach for sponsors is appropriate, as it reflects the reality of multi-seller conduits where not all transactions will meet the short-term STC capital criteria, and will allow sponsors to benefit from the favourable capital treatment for qualifying transactions without increasing the risk to, or otherwise impacting, investors.

However, as we note above, both sponsors and investors should be able to benefit from the approach proposed in Alternative Approach 2.

Question 3: What are respondents' views regarding the requirement that the support required by Criterion B7 has to be provided by a single entity and the consequences of a subsequent replacement of this entity?

The criterion B7 requirement that the support be provided by a single sponsor may exclude some existing programmes from the proposed capital treatment and limit flexibility of programme design in the future. Programmes commonly exist that are structured with support being provided by multiple entities and provide for the replacement of liquidity providers, subject to a programme defined minimum credit requirements described in the prospectus or offering document. Where this is the case, we believe that the STC classification should not be impacted where all other short-term STC capital criteria are met.

Question 4: What are respondents' views on the options being considered by the BCBS for determining STC compliance?

We support the BCBS' proposal that the responsibility for assessing STC compliance criteria should lie with sponsors and investors in short-term securitisations. This encourages transaction-level investors to carry out their own due diligence, which we, like the BCBS, wish to encourage.

We therefore support the BCBS' first proposal for the assessment of compliance - that only investors should assess the notes issued by the STC conduit, and sponsors should assess whether other risk exposures to the conduit to which they are exposed, such as liquidity support provision, are STC capital criteria compliant.

Investors and sponsors will have access to the information required to make their own compliance assessment and should not rely on each other to do so. This aligns with how banks and sponsors make decisions about taking a credit or liquidity risk exposure.

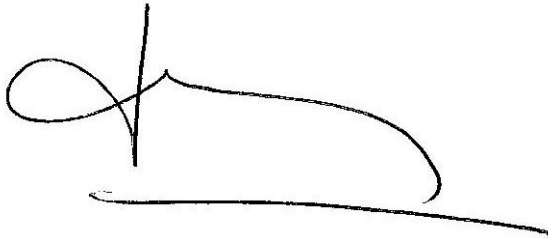
Question 5: Do respondents have any comments on or concerns over the proposed capital treatment?

We agree with the BCBS' proposal that the capital treatment of an STC short-term transaction should be comparable with the capital treatment of a tranche with a similar maturity as described in the July 2016 framework for STC term securitisations.

In general, we are supportive of the development of an STC framework and associated capital framework for short-term securitisations consistent to that developed for ABS securitisations. However, we feel the proposed criteria will be onerous to comply with and that the additional guidance and requirements proposed under the capital consultative document will only make compliance even more difficult. While we are otherwise supportive of the proposed capital treatment, we would suggest that the BCBS reconsider a number of the additional guidance and requirement items included in the capital consultative document as discussed above.

We thank you for taking our comments into consideration and we look forward to future discussions on these issues.

Yours sincerely,

A handwritten signature in black ink, featuring a large, stylized loop on the left and a long, sweeping horizontal stroke extending to the right.

Ms Hedwige Nuyens
Managing Director
IBFED

A handwritten signature in blue ink, written in a cursive style that reads "Deborah L. Crossman".

Ms Debbie Crossman
Chair of the Prudential Supervision Working Group
IBFED