International Banking Federation

Pinners Hall
105-108 Old Broad Street
London EC2N 1EX

tel: + 44 (0)20 7216 8947
fax: + 44 (2)20 7216 8928
web: www.ibfed.org

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

February 5, 2016

Dear Sir/Madam:

Re: ***BCBS Consultative Document on capital treatment for "simple, transparent and comparable" securitisations***

The IBFed welcomes the opportunity to comment on the Basel Committee on Banking Supervision's (BCBS's) consultative document, "Capital treatment for "simple, transparent and comparable" securitisations." We appreciate the efforts the BCBS has made to develop criteria to use in determining when simple, transparent and comparable (STC) securitisations can apply favourable capital treatment, and we agree with the rationale presented to support the treatment.

Overall, the IBFed supports the initiative of the BCBS to reduce capital requirements for STC qualifying securitisation, and we believe the capital element may increase participation in the securitisation markets; however, we question whether the proposed alternative capital treatment for STC qualifying transactions will provide sufficient capital incentives to justify the burden of determining and evidencing compliance. If BCBS and IOSCO still have the same view that only functioning securitisation markets can complement traditional bank loans in providing sufficient credit to companies, particularly to small and medium-sized enterprises (SMEs) in the common aim of supporting economic development, we share this view and are concerned that the proposed capital treatment would have a counterproductive effect.

We also believe that there is still an advantage in creating the fundamental basis for a harmonised implementation of criteria across all countries recognising the securitisation framework defined by the BCBS. However, it is crucial to ensure that the criteria are set out in a principled way so as to work for securitisation markets in different jurisdictions and for different asset classes. Moreover, we strongly recommend widening the scope by developing criteria for STC securitisations for asset backed commercial paper (ABCP) programmes and also synthetic securitisations, since certain jurisdictions have already proposed specific frameworks for such instruments.

As the BCBS is undertaking a quantitative impact study (QIS) of the proposals, we urge the BCBS to further consult a definitive way forward after considering preliminary comments and the results of the QIS.

We have provided our comments on some key issues below. Generally, we do not believe that the additional criteria are helpful as they do not assist in the differentiation of STC securitisation structures, but instead further burden the assessment process and limit potential qualifying transactions. We believe the BCBS-IOSCO July 2015 STC criteria are sufficiently rigorous to differentiate between “low-risk” and “high-risk” securitisations, and some would argue that even the BCBS-IOSCO criteria will be too limiting for the regime to have meaningful impact.

Prudential incentives for STC securitisations are key to stimulate securitisation market

The IBFed stresses the need to revive the securitisation market that has been toneless since the crisis in order to facilitate the ability of banks to originate more credit into the broader economy. Indeed a clear prudential framework for STC securitisations that provides appropriate incentives is necessary to revive the securitisation market, especially in jurisdictions where no public agency acts as a supporter of the market. It is worth remembering that banks are important actors in the securitisation market, acting as originators, sponsors and investors; therefore, we believe that banks should be incentivized and not penalised in terms of capital requirements for securitisation exposures they hold on their balance sheet (including on their trading book) when the transaction / instruments are compliant with STC and any additional criteria.

Moreover, as an effective funding tool, STC compliant securitisations should also attract a better treatment in terms of liquidity and related LCR.

Finally, and more generally, securitisation should be seen as a potential tool that could help banks to be more compliant with the leverage ratio, whose final calibration could be higher than 3%, especially when large banks will have to comply with the forthcoming total loss absorbing capacity (T-LAC) requirements.

If these prudential considerations are not well balanced by the BCBS, the IBFed believes that the BCBS’s initiatives will be insufficient to truly revive the securitisation market. With benefits that are too low and with too many constraints, complying with STC criteria will not be an attractive option, and instead of providing comfort to the market by distinguishing high quality securitisation transactions, the market will remain largely unaffected as participants choose not to seek STC options.

Scope of the STC framework for capital purposes should be extended

The IBFed requests that the BCBS develop an STC regime for ABCP programmes in order to ensure a level playing field with certain jurisdictions recognizing that some ABCP programmes can be of high quality. We welcome the BCBS's consideration of a specific STC framework for these instruments.

Importantly, a distinction needs to be drawn between the roles of ABCP conduit sponsors and ABCP conduit investors. In many markets, banks, as conduit sponsors, will be primarily concerned with the capital treatment of the liquidity facilities they extend to their sponsored conduits and/or the asset pools within the conduits (unlike conduit sponsors, many ABCP investors may not even be subject to regulatory capital requirements, and so the capital treatment of ABCP for investors is of lesser consequence). Addressing the proposed STC criteria, we believe that liquidity facilities extended to conduits largely meet the proposed requirements as drafted. The securitisations themselves are generally homogenous and relatively simple. In their role as conduit sponsor, banks have available to them the full breadth and depth of information regarding the underlying asset pools – in fact more information than is likely to ever be made broadly available in term ABS securitisations. The positions will, by definition, be comparable as they are effectively all structured by the sponsor and must meet underwriting criteria that will be consistently applied. IBFed members believe, more than any other category of securitisation, the activity of providing liquidity facilities to ABCP conduits should be eligible for STC compliance and the alternative capital treatment.

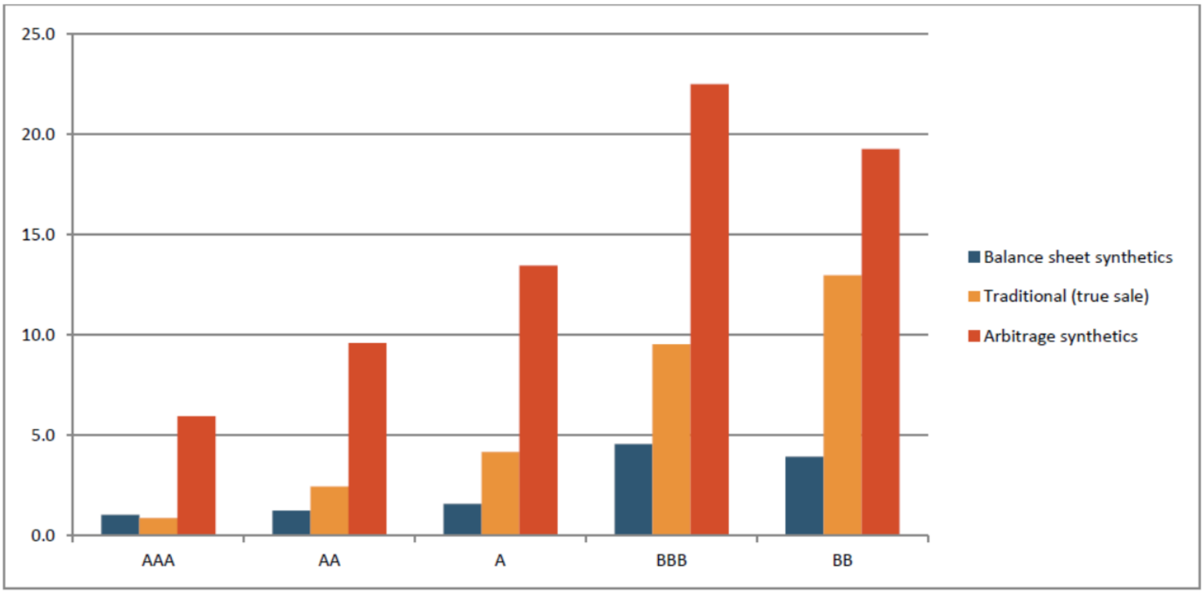
As we've stated in the past, ABCP programs are an important source of funding providing relatively low-cost funding and funding diversification for working capital for businesses and SMEs, in particular consumer finance, auto loans and leases. Accordingly, we strongly believe that the STC criteria, and associated benefits, including capital relief, should be tailored to and applied to ABCP programmes in order to promote and strengthen this market. We see no reason to exclude ABCP programmes from the STC regime as ABCP programmes are largely backed by the same types of assets as ABS transactions and largely utilize the same structure.

While we acknowledge that certain aspects of ABCP programmes do present some issues for tailoring STC criteria to ABCP, such as how to deal with multiple sellers within an ABCP conduit, we believe that these issues can be adequately addressed in order to provide ABCP programmes with the benefit of the alternative capital treatment afforded by STC compliance.

We believe that by providing capital relief for sponsors and investors, the economic incentives will automatically increase investor demand, and would help promote a stable and expanded securitisation market.

Moroever, it is regrettable that the BCBS is of the opinion that synthetic securitisations should not be under the scope of the STC framework and that they are not open to considering whether there could be a set of criteria for synthetic securitisations which fulfil the simple, transparent and comparable requirements. A report recently published by the European Banking Authority (EBA) on synthetic securitisation states that the evidence and analysis carried out by EBA clearly indicate that the synthetic transactions that are genuinely used by banks to transfer the credit risk of their lending activity off-balance sheet, i.e. balance sheet synthetics, have historically performed relatively well. The graphs below from the EBA report indicate that balance sheet synthetic securitisation has performed better than other types of securitisations in the past.

Figure 7: Lifetime default rate (%): balance sheet synthetic tranches, arbitrage synthetic tranches, traditional tranches, per rating grade (source: S&P, as of 2014 and the EBA calculations)



In particular, as illustrated by "Figure 7" above, EBA concludes that "*the default performance of balance sheet synthetics is comparable to that of traditional securitisations for high rating grades whereas for balance sheet synthetics is better for lower rating grades.*" The EBA's conclusion is consistent across different asset classes. Therefore, the IBFed strongly encourages the BCBS and IOSCO to continue their work on "simple, transparent and comparable securitisations" in order to elaborate on additional conditions, which would lead to the inclusion of balance sheet synthetic securitisation in the scope of the STC designation.

Determination of STC Compliance

The IBFed does not agree with the approach that the BCBS has taken in determining STC compliance for alternative capital treatment. If such a proposal (i.e. originators and sponsors to declare themselves compliant) is retained by the BCBS we would strongly support the certification by a third party which would provide comfort to originators by minimising the liability of investors (since they are not responsible for the confusion introduced by potential differences of interpretation) and regulators in terms of the quality, consistency and impartiality of the analysis. Such a system would have merit in ensuring a homogenous interpretation and application of the criteria for qualifying instruments, across all jurisdictions implementing STC framework and over the life of each transaction.

Alternatively, if the certification approach is not followed, instead of requiring issuers (i.e. originators and sponsors) to make a legally binding attestation in the offering documents, we would rather that issuers provide sufficient disclosures so that investors can make their own assessment as to whether a security purchased out of a securitisation vehicle meets the STC requirements for alternative capital treatment. Indeed issuers could make a statement like, "This structure was developed with the intent to meet the STC criteria as applicable by requirements", and include a disclaimer that investors are expected to make their own assessment of the suitability of their investment. At the same time, the issuer would be required to provide sufficient information to support the investors' review.

Supervisory Oversight

The IBFed would welcome the BCBS clarifying what is intended by the requirement that any issuer (i.e. originator/sponsor) of an STC qualifying securitisation transaction, and the transaction itself, must be subject to oversight by a regulatory authority, and the issuer must be subject to legal liability or regulatory action with respect to material misrepresentations or omissions regarding satisfaction of the STC criteria. This question is important to ensure that STC compliant transactions cannot only be completed by issuers subject to regulatory capital oversight.

We believe that the regulatory supervisor would be a supervisor of financial institutions responsible for capital requirements, and that the rules would apply to a regulated financial institution acting as issuer, sponsor or investor. However, an alternative interpretation could be that the required regulatory oversight is intended to be a securities regulator governing the issuance of asset backed securities (ABS) in order to allow ABS transactions issued by non-regulated issuers to be eligible for STC compliance and the alternative capital treatment in the hands of investors.

We welcome the BCBS's clarification that supervisors should only take remedial action in the event of material misrepresentations or omissions. There is a point we would like to make about the phrase "Should a supervisor not be satisfied with a bank's determination" that the STC criteria are fulfilled. One way of ensuring the supervisor's satisfaction would be to give the originator/sponsor the right to request from its competent authority a binding confirmation of conformity with a single criterion. The advantage would be that the STC criteria would be fulfilled a priori and the originator/sponsor (if retaining a securitisation position) would not take inappropriate risk weights into account. The originator could be sure the competent authority would not impose sanctions. This would increase legal certainty.

Finally we ask if the BCBS's intention was to limit transactions that can be certified as STC compliant to those that where the issuer (originator/sponsor) is subject to oversight by a regulatory body. Is this intended to be a bank supervisory body? If so, that would be too restrictive, as there may be a number of non-bank issuers, with assets that should be STC compliant that would not be able to benefit for the STC label. This would effectively create a two-tier market. We recommend that the BCBS clarify the reference to "regulatory body" and define it broadly enough that it does not restrict non-bank issuers from this designation (e.g. automotive finance companies, equipment finance, etc.). We also appreciate clarification from the BCBS as to whether the regulatory authority oversight would be at the parent level of the entity originating the securitisation.

Answer to the questions related to the consultation

Q1. Do respondents agree with the rationale for introducing STC criteria into the capital framework? Are there any other aspects that the Committee should consider before introducing STC criteria into the capital framework that are not already reflected in the rationale above?

The IBFed agrees with introducing STC criteria into the capital framework, as this was considered as a mitigant to the fact that the BCBS hardened the capital treatment of securitisations in its BCBS d303 final standard. Moreover we think that the BCBS should also consider how to incorporate STC criteria within other parts of the regulatory framework, i.e. into the liquidity framework and the leverage ratio framework, and the incorporation of ABCP into the STC securitisation regime.

In order to avoid unnecessary effort and complexity, the IBFed believes that there should be more consistency between the HQLA eligibility of certain securitisations (e.g. RMBS) in the LCR framework and STC securitisations, given that the STC compliant instruments should attract more liquidity than non-STC instruments.

In terms of the leverage ratio (LR), banks have currently no incentive to use securitisation as in most instances the underlying assets remain on the bank's balance sheet (even in the case of true sale). However, for simple cash securitisation where the risk and the economics of the securitised assets are transferred to the SPV, the investors in the ABS do not have any recourse to the bank. This means that any tranche sold to third party investors is a definitive transfer of credit risk and funding risk. The economic size of the bank's total assets is therefore reduced and, upon bankruptcy or stressed funding or credit conditions, the bank is not impacted beyond the tranches that have been retained. Therefore banks should be allowed to deduct any securitisation tranches sold to third party investors from the total balance-sheet size used for the computation of the leverage ratio, considering that accounting view on a consolidated basis cannot be the right reference for assessing securitised assets for the leverage ratio.

We believe that in the absence of a move in the LCR and also LR, the proposed capital relief for STC transactions will not be sufficient in its own right to increase demand for STC instruments. We are of the view that both measures are essential to restart the market.

While we think that the rationale for STC criteria should be thoughtful and accurately stated, this is less important than the resulting impact of the criteria (the reasons are less important than the result). On this front, our initial response is that the proposed alternative capital treatment for eligible low-risk securitisations complying with the STC criteria is still too conservative and may not provide sufficient incentives or benefits to justify the cost of complying with the STC criteria. To be effective, we recommend that the floor capital requirements for STC securitisations should be set at the current framework levels (i.e. RW floor of 7%).

As recognized in the consultative document, the Revised Securitisation Framework has built-in conservatism through the higher risk weight floor and "p" parameter, which is a surcharge on the capital requirements of the underlying assets, with the intent for the conservatism being to address concerns over higher risk and more complex securitisations. We recommend that this added conservatism should not be applied to high-quality, low-risk securitisations, in order to keep non-neutrality ratios close to 1.

Finally, we think that a certain degree of marketability in the securitisation segment is essential, especially to have the ability to liquidate an instrument. If a securitisation can be traded on an exchange, it will attract a broader range of investors and this could play a valuable part in promoting the securitisation market.

Q2. Do respondents agree that, for the purpose of alternative capital treatment, additional criteria are required? What are respondents' views regarding the additional criteria presented in Annex 1?

Generally speaking, the purpose of the STC criteria is for BCBS and IOSCO to facilitate revival of the securitisation market by helping but not replacing investors' due diligence. In addition, the capital relief for STC compliant securitisations should be an incentive for banks to invest in such instruments – the original goal of the STC regime. Arguably it would make sense that additional criteria may be added to reflect the low-risk of STC compliant securitisations. Such an approach may contribute to harmonised requirements across all sectors and counter fragmentation of the eligibility criteria for STC compliant securitisations. However, additional criteria could also have the effect of limiting the number of transactions that qualify as STC compliance with the resultant effect of limiting the positive impact of the STC regime on the securitisation market. This is a careful balancing act that the BCBS needs to be conscious of.

In our opinion, the additional criteria in the consultative document have the later effect – will limit the number of transactions that might qualify for STC with the resultant effect that the STC regime will not have the desired impact on securitisation markets. For instance, the new D15 criterion requires that the underlying exposures have to meet the conditions under the Standardised Approach for credit risk. The IBFed thinks that this is very problematic and could preclude the securitisation of corporate exposures including SMEs corporate exposures as STC securitisation, and therefore asks the BCBS that any additional risk criteria and guidance have to be practicable and not overly prescriptive.

We believe the broader, principled approach of the criteria, was a benefit and would lead to the greatest potential for the STC criteria to have the desired revitalizing impact on securitisation markets. Thus, the examples should be dropped because they do not reflect the successfully established market practice of prime securitisations. As a result, we are disappointed that the BCBS has seemingly taken a step backwards by adding additional prescriptive criteria, which we believe will undermine the desired impact of the STC criteria.

- **Nature of assets (A1) :** We agree that homogeneous assets imply a higher simplicity for the securitisations. However, we think that the BCBS is going too far in the description of the homogeneity, which could reduce heavily the size of a portfolio eligible to STC treatment. In addition, it would exclude the most common auto loan contracts with a higher final payment at the end of the contracts secured by the vehicles from STC-securitisation. Furthermore, it could imply an unfair playing field between countries according to their size.

  For instance, the examples showing that the transactions should include exposures from the same jurisdiction would limit the ability for STC securitisation of assets from small jurisdictions, in the context of a structured finance product which present fixed costs, requiring transactions of a certain size to be competitive.

  To conclude, homogeneity criterion is too prescriptive in its current explanation given by the examples. If the more the size of the transaction is reduced due to the homogeneity criterion, the more difficult the granularity objective of 1% would be difficult to comply with.

- **Asset performance history (A2):** Although the A2 requirements state that "it is not the intention of the criteria to form an impediment to the entry of new participants to the market", the proposed additional requirement of 7 years of performance history for non-retail exposure (5 years for retail) would actually prevent new participants. We believe although there should be a minimum history (e.g. 3 years) in order to avoid originate-to-distribute models, the 7 years requirement (5 years for retail) should be a requirement for applying SEC-IRBA. Securitisation complying with all STC criteria and minimum performance history (e.g. 4 years instead of seven) should still be deemed STC, however only the SEC-SA could be applied.

- **Credit Risk of Underlying Exposures (D15):** As alluded to above, D15's requirement that the risk weight of the underlying assets must be calculated using the Standardized Approach will be a significant disincentive for non-regulated originators / sponsors who are not subject to capital requirements. These originators / sponsors are unlikely to have the familiarity and expertise necessary to use the Standardized Approach to make the required assessment, and yet it is proposed that these originators and sponsors be required to formally attest to STC compliance of their transactions if they want their transactions to benefit from such compliance. In our opinion, this will just further limit the impact of the STC regime by limiting the number of originators / sponsors that will seek STC compliance. Risk weight should be carefully considered in light of the current discussion on the revision to the standardised approach for credit risk.

- **Granularity (D16):** We agree that granularity would be a relevant factor in assessing the credit risk of the underlying portfolio for homogeneous retail pools; however we think that setting a fixed percentage maximum threshold to individual loan exposures is too limiting for the structuring of transactions in asset classes different from the most granular ones of retail assets (consumers such as auto assets or residential mortgages).

  We feel this is an unnecessary, or at the least too restrictive, criterion as an obligor concentration level above 1% does not necessarily increase risk, may be appropriate for certain non-retail assets classes and can be addressed through adequate structuring and credit enhancement. A 1% limit effectively eliminates commercial mortgage-backed securities (CMBS) from being able to meet the STC criteria, and precludes certain low-risk securitisations (e.g. trade receivables, auto fleet deals) from qualifying for better capital treatment. If a granularity criterion is to be included, we believe it should be sized through consultation and should be higher than 1%; we note that fleet leases and CMBS transactions can have concentrations of up to 10%. In addition, the 1% requirement does not take into consideration any credit enhancement included in the structure, which is usually added to address concentration risk. Indeed granularity of debtors is not the only factor contributing to diversification. For pools of corporate loans, it can be also obtained with geographical diversification or industry diversification.

  In addition, it is difficult to compare the credit risk of very granular portfolios (mainly retail borrowers) which are by essence measured with statistical approaches, to credit risk of non-granular pools (e.g. commercial real estate, infrastructure projects, aircrafts, corporate loans portfolios, etc.) for which a very detailed credit analysis is thoroughly performed at individual loan level.

We recommend that BCBS consider revising the percentage of single obligor exposure in conjunction with consultation with industry.

- **Relationship between the originator and the servicer of the securitised assets (D17):** Another example of introducing an unnecessary criterion is D17. While most securitisation transactions are serviced by a servicer that either is the originator or is related to the originator, we do not see why this should be a criterion for STC qualification, especially in light of the exception for residential mortgages (although this exception may be limited by the ambiguous "*must be a jurisdiction where it is common practice to employ a third party servicer*"). If a third-party servicer is permitted for residential mortgages, it should be permitted for other asset classes and the principle for this is the same as that underlying residential mortgages (e.g. it may be that a specialist servicer provides for a safer, better serviced transaction). Having a different servicer and originator should not be presumed to undermine the low risk of a transaction.

We seek the BCBS's clarification whether two sets of STC criteria will need to be maintained (i.e. the BCBS-IOSCO July 2015 STC criteria and the STC criteria for regulatory capital purposes). We recommend that BCBS consider adopting one set of STC criteria, including reviewed additional risk criteria that take account of above-mentioned caveats. For reasons of simplicity, this seems more efficient as the usage of the first 14 criteria on a standalone basis is likely limited.

Q3. What are respondents' views on the compliance mechanism and the supervision of compliance presented in this consultative document?

The IBFed does not support the proposed compliance mechanism, as this self-certification proposal would raise many issues:

- STC certification by issuers and sponsors is going to be an issue with investors (in particular in the secondary market) since there will be diverging interpretations of the multiple criteria.
- The potential requalification would put investors at risk of losing value or having to raise capital, and originators at the risk of potential financial losses as they would be fully legally liable for any lack of compliance.

We believe that a written attestation is an excessive requirement. The legal liability for misrepresentations is too onerous, and having to make this assertion will limit the appetite a financial institution has to securitise assets. Should the BCBS keep this obligation, the certification by a regulator or an independent third party would provide comfort to originators, by minimising the liability towards investors (since they are not responsible for the confusion introduced by the potential difference of interpretation) and to the regulator in terms of the quality, consistency and impartiality of the analysis. We stress that such third parties should not be rating agencies, law firms or audit firms that would provide advisory, audit or equivalent service to the originator, sponsor or SPE involved in the securitisations which the third party assesses, but rather be an independent entity or entities authorised by competent authorities when certain conditions are met. Such a system would have the merit to ensure a homogenous interpretation and application of the criteria for qualifying instruments, across all jurisdictions implementing STC framework and over the life of each transaction.

Another solution would be that the originator should at least have the right to request and obtain a binding confirmation of compliance after the self-assessment that certain requested criteria under A to C are met. We believe that this would be prudent from the originator's perspective, as part of legal and regulatory risk management in specific cases where a different interpretation arises as to whether a certain criterion is fulfilled. Different from a certification such confirmation could not cause any "moral hazard" as indicated by the Committee, because the originator would have to provide a self-assessment and to give reasons why in his opinion a certain criterion is met. Furthermore, the possibility of obtaining such confirmation would have the advantage to reduce reputational risk both for originators but also for the STC-securitisation market.

Generally, we believe that the majority of ABS transactions currently in place should qualify for STC treatment given the common and reliable nature of both the asset types (credit cards, mortgages and auto and equipment assets) and the transaction structures. As a result, in implementing an STC regime, we propose that the applicable national regulators (we expect national supervisors of capital adequacy) should have the discretion, to the extent possible, to tailor local requirements to be inclusive of the type of transactions completed in their respective jurisdictions that one would reasonably expect to be STC compliant. For instance, we propose that if a supervisor adopts an STC regime, it should try to structure an STC regime that would look to make the majority of low risk securitizable transactions currently completed STC compliant. This would generally follow the BCBS requirements for STC and allow for the alternative capital treatment. We believe that this approach will provide the greatest impact and benefit.

With respect to formal attestations, we are pleased to see that no formal attestation or declaration in respect of specific securitisation transactions appears to be required from investors. It appears that investors will make their capital determination in the ordinary course based on their independent assessment of the ABS, but what is expected of the investor in making this determination is not fully clear and additional guidance would be appreciated. As well, additional information on the resolution of disagreements on what transactions are compliant would be appreciated. Our expectation is that the supervisors of financial institutions will be determinative of what qualifies for the alternative capital treatment for issuers (originators/sponsors) and investors that are subject to such oversight, and that securities regulators will govern issuers' responsibilities for determining whether ABS transactions meet the STC criteria for purposes of the related attestation and liability under the offering documents in connection with those transactions. Clarification from the BCBS in this regard would be appreciated.

From a practical perspective, we recognize that this will require securities regulators to develop the necessary expertise and allocate sufficient resources to make these assessments. It may be that securities regulators will just default to the determination made by the financial institution supervisor – if the financial institution supervisor determines a transaction does not meet the STC requirements for alternative capital treatment, the securities regulator will take action in respect of the issuer's attestation.

Q4. What are respondents' views on the alternative capital requirements for STC securitisation presented in this consultative document?

The BCBS d303 has revised the securitisation framework to address a number of weaknesses of the existing Basel II framework with the aim of providing developments such as (i) a higher risk management approach with the priority given to the available information at the level of the bank, thus reducing reliance on external ratings by giving the priority to the SEC-IRBA approach; (ii) a higher risk sensitivity approach with the incorporation of additional risk drivers such as maturity or tranche thickness; and (iii) a more appropriate calibration of capital requirement based on the level of quality of underlying pool.

If such evolutions would seem to be appropriate, we think that further steps should be taken to adjust the current regulatory treatment to the underlying risks attached to securitised instruments, and especially for STC securitisations.

- **A flexibility is necessary for STC securitisations in the application of the new BCBS hierarchy of approaches**

Even though the SEC-IRBA approach is at the top of the hierarchy, few investors will be able to use this approach. More clarity from BCBS is needed in order to permit the use of the top-down approach as a way to derive K_{IRB} for securitisation pools for IRBA banks acting not only as originators but also as sponsors or investors.

Not being able to use SEC-IRBA will lead to a "de facto" use of the SEC-ERBA in jurisdictions where ratings are permitted even though it is proved that this approach could lead to highly disproportionate capital surcharges (for instance in Europe the European Banking Authority demonstrated that non-neutrality ratio could be up to 7 times!). This is due to the fact that rating agencies have tightened their methodologies post-crisis while the capital charges based on ratings have not been updated. This has proved to be a major impediment to the revival of the securitisation market.

For STC securitisation, capital requirements would on average be reduced by only 25-30% from the capital requirements that are increased due to BCBS d303, with still a net increase from current levels in most prime securitisations with an investment grade rating. Under SEC-ERBA the capital required for a pool of securitised assets is not commensurate to the risk of the underlying pool of assets. It is particularly true for the most senior securitisation positions, where capital requirements will be significantly higher than the current Basel II framework. At tranche level, for example an ABS rated AA- would be subject to 30% RWA if not STC under SEC-ERBA compared to 8% currently. If STC, it would require 20%, a multiple of 2.5 of the current level. For prime STC auto-loan junior ABS, for instance, the risk weights would partly increase by the factor 5 although no problems have occurred during the last financial crisis.

The SEC-ERBA is punitive in terms of capital requirements after securitisation, over the capital requirements of the pool of assets and will discourage originators from participating in securitisation for recharging their capital capacity or for funding, and as investors in senior securitisation. This seems contradictory to the objective to revive securitisation.

We believe that the current level of capital requirements is still appropriate for high quality securitisations because many ABS performed well during the last financial crisis. As indicated, the tightened methodologies of external rating agencies have increased the credit enhancements for many securitisations. The IBFed is convinced that the proposed reductions of risk weights are not approximately sufficient to re-vitalize the securitisation market. Thus, reducing the risk weights for STC securitisations under the SEC-ERBA to a level that is comparable to the current level of capital requirements under Basel II is urgently needed.

Should this not be considered by the BCBS, we ask at a minimum the flexibility in the hierarchy to use the SEC-SA approach instead of the SEC-ERBA for all tranches of STC securitisations, when the capital requirements under SEC-ERBA are not commensurate with the underlying risks.

- **The current risk weighted floor of 7% is to be adopted for STC securitisations**

Securitisations of high quality have incurred a low level of losses even in the crisis. If the credit enhancement or attachment point is sufficiently high, there is no reason STC securitisation should have a floor above 10%. Historical performance of these securitisations shows that the floor should be actually lower than 7%. In these conditions, we believe there is no reason to have a floor higher than the current level of 7% (current Basel II).

- **The re-scaling factor should be significantly lowered to reflect acceptable capital surcharges for STC securitisations**

By definition and construction, the STC securitisations do not have "structural risk" or model risk. Therefore the surcharge due to securitisation should be very low (i.e. non-neutrality ratio close to 1). If the risk is deemed higher for certain transactions, it should be addressed at the level of the underlying pool for the STC securitisations. We understand that it is the Committee's plan to review the regulatory risk weights of the assets, including for the asset pools underlying the securitisations, therefore the surcharge should take this adjustment into account in the case of STC securitisations.

The IBFed believes that a more appropriate p-parameter for STC securitisations should be:
- p = 0,3 in SEC-IRBA, as STC securitisation should benefit of the Basel p-floor of 0.3
- p = 0,4 for SEC-SA, i.e. a re-scaling factor of 0,4 instead of between a range of 0,6-0,8

In addition, tranche maturity should be calculated as the weighted average of the tranche cash-flows, using contractual payment of the underlying loans (or no default, no prepayment).

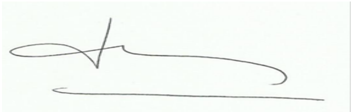
Using the final legal maturity would be driven by the legal framework of the jurisdiction of the underlying asset and is therefore not a good approach.

Conclusion

This consultation is important for the industry because the STC label could help revitalize the securitisation market. It is therefore crucial that the STC label be practicable and allow for genuine improvement in capital treatment for banks. We believe that a BCBS proposal that contains prudential incentives is important in motivating stakeholders to play their role in the future STC securitisation market.

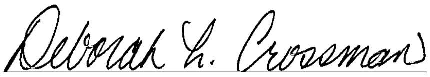
We thank you for taking our comments into consideration, and we look forward to future discussions on these issues.

Yours sincerely,



Mrs. Hedwige Nuyens
Managing Director

IBFed



Ms. Debbie Crossman
Chair of the Prudential Supervision Working Group
IBFed