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Secretariat of the Basel Committee on Banking Supervision
Bank for International Settlements
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20 March 2013

Dear Sir/Madam:

Re: *Response to the BCBS consultation on revisions to the Basel securitisation framework*

The IBFed appreciates this opportunity to comment on the Basel Committee on Banking Supervision (BCBS) proposal to revise the Basel securitisation framework and more generally, share with you our views on the way forward to achieve healthy, transparent and well governed securitisation markets. We note that IBFed Members will individually submit responses highlighting specific impacts to their respective securitisation markets, which we urge the Basel Committee to take into full consideration when further developing its framework.

Securitisation transactions are central to the functioning of the global financial system and play an essential role in financing the economy. Securitisation is an integral part of banks' funding and supports the flow of credit to the wider economy. The fundamental revision of the prudential treatment of securitisations put forward in the consultative paper and related documents is therefore one of the most delicate elements of the regulatory reform underway.

Overall, we are concerned with the unintended negative consequences that the proposed rules will have on the financial market. We also believe that the calibration of the proposed approaches fails to produce capital requirements that are commensurate with the true riskiness of the securitisation exposures. This is particularly evident with the proposed capital floor level and maturity adjustment, which significantly increase capital charges on longer-dated, senior high quality exposures.

We understand that the Basel Committee seeks to build on the July 2009 Enhancements to the Basel II Framework, which addressed concerns on re-securitisations, and is now seeking industry feedback on key elements of the proposed changes to the capital requirements for securitisations, as well as the reliance on external ratings. As the Basel Committee is undertaking a quantitative impact study (QIS) of the proposals, we urge the Basel Committee to further consult a definitive way forward after considering preliminary comments and the results of the QIS.

While the IBFed is not able to respond in detail to this response as the securitisation markets are quite different across jurisdictions, we would like to provide some high level messages:

Calibrating with appropriate conservatism

We note that the securitisation market in most jurisdictions and markets, while subjected to the same liquidity-related disruptions witnessed in credit markets globally, did not generate the same material credit losses for banks and investors that were observed in certain segments of the market such as the sub-prime mortgage securitisation market between 2005 and 2008.

In fact, the principal financial impacts for banks and investors in most markets and jurisdictions were temporary in nature, reflecting reduced market liquidity, and did not reflect the (credit) quality or performance of the underlying assets or securitisation structures. We believe that calibrations of the new proposed framework should differentiate underlying asset quality for securitisation transactions, e.g. between prime mortgages and non-conforming sub-prime mortgages. The impact of the new regulation on a proper functioning of retail mortgage markets is simply too important to ignore. We refer to the European Prime Collateralised Securities (PCS) criteria as an example of high quality classification.

More specifically, we believe that the proposed capital floor level (i.e. 20% risk-weight, de facto higher (58%) risk-weight for 5 year transaction maturities), is excessively high and does not reflect the credit experience of the securitisation business performed in most markets and jurisdictions. Scaling capital risk weights without regard to asset type, performance history, pool characteristics, service quality, and experience seems inconsistent with the Basel Committee’s stated objective of increasing the risk sensitivity of the securitisation framework. As all types of securitisation businesses are being treated as if they were all the same quality, we believe that banks’ highly rated high-quality senior exposures are being unfairly treated with such floors and maturity scaling. Indeed, the proposed capital floor would eliminate the capital savings from securitisation, effectively giving no credit to the bank for transferring away risk and for diversification. Surprisingly, a single mortgage loan will attract in most banks, relatively speaking, less capital than a diversified portfolio of mortgage loans. We therefore recommend maintaining the minimum risk weights currently in place, which has been universally demonstrated to be sufficiently conservative in light of the actual performance experienced in most asset pools funded except for sub-prime mortgage securitisations. We believe that the calibration of the floor should be carefully reviewed based on the results of the QIS.

When we take a closer look at proposed approaches, the following observations could be made:

- With regard to the Simplified Supervisory Formula Approach (SSFA), a certain report (Moody's *CLOs and the SSFA,* December 2012) indicates that even *p*=0.5 imposes an excessive level of capital charge, as compared to the 10 year accumulated loss ratio, and accordingly p=1.5 may be extremely conservative; and
- The following calibrations could also be proposed for the Revised Rating Based Approach (RRBA): (i) overall calibration based on the review of the Probability of Default (PD) and Loss Given Default (LGD) of the underlying pool, and (ii) calibration of thickness reflecting an excess spread;
- The Backstop Concentration Ratio Approach (BCRA) is a calculation method aiming to achieve an increase in the required capital of underlying assets which is equivalent to a leverage scale factor. With regard to tranches below mezzanine, doubling such a factor is inconsistent from a theoretical standpoint, and hence justification for setting *F*=2 for senior tranches is considered to be excessively conservative.

Taking full account of new capital requirements and other securitisation rules

Further, we would recommend that, in its calibration, the Basel Committee consider other elements of Basel III that increase the quantity (e.g. high minimum capital ratios) and the quality (e.g. focus on common equity) of the capital that banks are required to hold. We believe that the substantial increase in risk weights for securitisation exposures of very high quality, on its own and in aggregate with other measures taken to date, is excessive and results in multiple layers of conservatism. As an example, for a systemically important bank, the higher risk weights for senior tranches should be viewed in conjunction with capital ratios which can amount to almost 20%. The combination of higher risk weights and higher capital ratios may well be unaligned with realised losses of any asset class during the crisis.

We further note that generally the bulk of securitisation exposures are in the AAA/AA external and internal rating brackets; the higher risk weights for senior tranches therefore will bear a considerable impact on capital of both originators´ retained tranches and investors´ stakes.

Furthermore, the BCBS should consider an aggregate impact analysis on all securitisation related regulations post crisis: We found more than 30 new regulations (not counting local ones, apart from the US, only global and regional, see annex 1), the net effect of which in our view is negative and would jeopardise the viability of even high quality, transparent and simple structures. We cannot reiterate enough the importance of securitisation for the growth of the economy. New securitisation requirements need to be carefully balanced so as not to suffocate the securitisation transaction market.

Maintaining incentives for securitisation as a funding and risk transfer mechanism

These proposals, especially when viewed in conjunction with many other regulatory and accounting measures directly or indirectly impacting on securitisation (as above we estimate there to be over 30 new laws in the US and Europe), make the securitisation market less attractive for issuers, investors and intermediaries. As securitisation is an important funding instrument and risk transfer tool not only for financial institutions but also for other entities, this is an undesirable development.

The calibration of the proposals further undermines the securitisation process using multi-seller conduits and other securitisations because they are skewed against high grade credits and do not take account of alternative sources of funding. We are concerned about the following anticipated impacts on the market:

<u>Yields/Spreads</u>: For regulated financial institutions, yield requirements on all securitisation exposures they hold will need to increase in order to achieve minimum required returns on the higher capital requirements. This in turn would result in higher funding costs to the end users of the underlying assets, e.g. mortgages.

<u>Senior Tranche</u>: If market yields on the senior exposures, which make up the overwhelming majority of what banks fund for their customers, fail to rise to meet the banks' required yield, banks will naturally exit that part of the market due to the increased capital requirements. The result would be a decrease in Asset-Backed Securities (ABS) and Asset-Backed Commercial Paper (ABCP) outstanding and less liquidity in the market. As a result, customers may look to satisfy their fixed-income needs with more unsecured bank debt. As we have seen in times of crisis, secured debt issuance may be the last resort for some issuers to fund themselves and/or to manage their liquidity issues. We believe it will at all times be important for banks to have a balanced funding mix consisting of secured and unsecured debt; encumbrance restrictions and investor pressure will make sure that such a balance will be sought by issuers.

<u>Unregulated Financial Institutions:</u> The reduction in the participation of regulated banks in this segment of the market will either result in a decrease in available funding to clients, or a decrease in risk transfer due to a shift to whole loan purchases by banks, and/or migration of senior securitised funding to unregulated entities (e.g. shadow banking system) where the risk of the exposures can be priced more economically. This applies both to the buy- and sell-side of the securitisation spectrum.

<u>Use of Securitisation for Issuance:</u> Securitisation has contributed to economic growth as a cost-effective means of securing credit for many companies. The credit crisis has highlighted where many shortcomings existed and market participants have responded with meaningful adjustments to the transparency and rigour of the structures. The higher proposed capital requirements risk negating the benefits of changes made to date and could limit the re-established liquidity benefits. The result could be a reduction in the issuance of securitisations, thereby limiting an important source of liquidity and funding. Bank wholesale credit activities will involve support for an increase in unsecured corporate debt issuance, with the potential to increase banks' leverage and riskiness. Ultimately, the reduction in available liquidity and funding may result in slower economic growth.

<u>Program Fee:</u> Higher capital requirements will further drive up the program fee for ABCP conduits, which will further preclude smaller issuers.

<u>Maturity:</u> Given the punitive capital treatment for longer maturities, the terms offered for securitisation transactions may become shorter, thereby increasing liquidity and refinancing risk, which could be systematically destabilising.

Interplay with other regulatory initiatives

Capital rules for securitisation cannot be judged in isolation. New proposals on the accounting side (notably leading to on average higher provisioning for loans on banks´ balance sheets), bail in, possible depositor preference, new regulations imposed on traditional securitisation investors (insurers, money market and other funds) all contribute to making securitisation a potentially crucial instrument for issuers whilst less attractive for investors.

Maintaining appropriate Risk Sensitivity

The approaches do not adequately reflect the granularity and differences in underlying pools, and where they do permit such recognition they impose excessive information and modelling burdens on firms.

As stated above, the suggested risk weights for senior tranches are too high with minimum risk weight of 20% (instead of 7%). However, the de facto minimum risk weight is 58% given that most securitisations have a 5 year tenor. In contrast there are lower capital requirements for junior tranches.

We would prefer not to apply a 20% floor to short-term exposures, given that their objective is to extend temporary funding and the probability of default for short-term (less than one year) exposures is extremely low. ABCP programmes primarily focus on very short-term (less than six months) transactions and have features quite different from long-term exposures. Further, the model risks inherited in calculations of risk weight are relatively low. In fact, the programmes had a limited impact from the Lehman crisis. Therefore, risk characteristics, especially the maturity of the underlying assets, should be appropriately reflected in a floor of risk weights.

It is unclear what data was used as a basis for the suggested calibration. In setting the risk weights on the most senior high-quality exposures (including the maturity scaling), we also recommend that the Basel Committee consider the funded capital support provided by the banks' clients. As currently proposed, banks would be able to more cost-effectively finance client assets through purchasing the assets outright without benefit of the paid-in capital support provided by clients in existing securitisation structures. This is neither risk-sensitive nor prudent.

Further, if the high risk weights for senior tranches are not changed, this would mean the look-thorough approach would (almost) always result in a more commensurate (lower) risk weight. It is essential that the look-through approach becomes a viable alternative if the risk weights are not made more realistic. Regulators need to come up with a proper set of requirements that will allow investing banks to easily apply look-through risk weights. If the look-through approach becomes a hassle in practice, it will not work and senior tranches will become a less appealing investment opportunity.

Transition Arrangements and Grandfathering

Notwithstanding changes to be made following the consultation period, the proposal will certainly affect business practices and pricing. Some banks have material and well disclosed securitisation portfolios which are largely in run-off since 2009. Applying materially higher RWAs to such portfolios now naturally reduces capacity for new credit extension. To avoid such unintended market impacts and cliff effects for banks' current exposures, we recommend a transition period that would allow market participants to adapt to the new rules. This would give banks opportunity to disinvest or reconfigure their portfolios in a controlled way.

Specifically, we recommend grandfathering existing exposures, both in terms of methodology and rating requirements. To remove uncertainties around a market so fundamental to the funding of certain institutions – and to the economic recovery – we would recommend a confirmation from the Basel Committee as to its intentions regarding transition arrangements.

Strengthen Internal Assessments

We agree with the Basel Committee that those approaches should be at the top of the hierarchy which focus on internal procedures to evaluate the securitised portfolio. In our view the Internal Assessment Approach (IAA) is a much more sophisticated approach than the RRBA and for this reason it should be possible to place the IAA on the same level as the Modified Supervisory Formula Approach (MSFA). The preference is justified through a better risk assessment, through a mitigation of reliance on external ratings and supervisory control. A higher priority of the IAA would be important for sponsors of ABCP programs and also for investors of ABCP programs.

In order to ensure there is global consistency for banks whether they choose to apply the MSFA or the IAA, we believe it is imperative that there is convergence of the procedural and practical implementation of these two approaches. For example, without sufficient convergence in these aspects, capital requirements under the IAA could be calculated based on portfolio level data, whereas the MSFA would require K_{IRB} to be computed for every underlying asset, which makes the practical implementation of the MSFA more difficult. However, we believe that portfolio-level calculation of the MSFA should be permitted, and that the IAA should be expanded to apply more broadly than only for ABCP conduit transactions. These changes would go a long way in ensuring the overall convergence of these approaches.

Maturity Adjustment

While we theoretically support including a maturity adjustment to the securitisation framework as an explicit driver for credit risk capital requirements, we firmly believe there should be consistency between the revised framework and the overall Basel Accord. Since the Internal Ratings-Based Approach (IRB) model does not consider a maturity adjustment when determining capital requirements for retail assets, we believe there should also be no maturity adjustment on securitisation exposures that have underlying retail assets calculated under the IRB method by the bank since the asset value correlations for retail assets already incorporate maturity. The Basel Committee acknowledges this double count and does not believe it to be material. However, given the already overly conservative calibration of the MSFA and the application of the 1.06 credit risk multiplier, which would only heighten the double count, we believe it is critical for the Committee to ensure that any double counting of risks be removed, either by removing the maturity adjustment or by re-calibrating the IRB model for retail assets.

In addition, the Basel Committee does not seem to have considered securitisations of wholesale assets, for which there is an explicit maturity adjustment. Similar to retail securitisations, we do not believe the maturity adjustment to be appropriate for wholesale securitisations since K_{IRB}, by definition, already incorporates a maturity adjustment. Layering yet another maturity adjustment would only be duplicative.

We believe that the maturity applied should be consistent with the commitment of the credit provider, the nature of the underlying assets, and the tranche maturity, giving some credit for the seniority of the exposures. However, maturity scaling applied on top of base 1-year risk weights that are already disproportionately high relative to the risk implied by the experience of banks in the funding markets adds little to the achievement of risk sensitivity and prudence in the framework.

Moreover, the theoretical underpinning of the proposed maturity adjustment appears to be overly punitive, especially for the MSFA approach. For example, the IRB risk-weight difference between a 1-year maturity and a 5-year maturity exposure outside the securitisation framework is much smaller than if the assets were held in a securitisation framework (i.e. given the longer maturity, we estimate that the capital requirements increase by a factor of approximately 2 outside the securitisation framework, while inside the securitisation framework it could be as high as 9). We agree that the calibration of risk-weights should be risk sensitive and should be consistent with the IRB whole loan framework. However, this does not appear to be the case, as capital requirements under the proposed framework are considerably higher by several multiples than they are under the existing framework.

We note that the double count is not unique to the non-ratings based calculation. External ratings already take maturity and maturity mismatches between assets and transactions into account. This double count should in one way or another be discounted to avoid redundant overlaps.

The proposal specifies that the maturity is based on the contractual cash flows of the tranche. We believe that a more appropriate definition of maturity would be the weighted average life of the tranche. Under this recommended definition, the expected prepayment and default of the underlying portfolio, as well as the cleanup call, would be reflected in the maturity calculation. Further, this recommended definition would be consistent with how maturity is calculated in pricing public ABS, the hedging of fixed rate structures, and Basel II Pillar 3 disclosure requirements. Should this recommended definition of maturity not be accepted, we request that, at the very least, the maturity definition reflect the “minimum/core” prepayment that exists regardless of the market conditions. And if the “expected maturity” is not permitted, a weighted-average life maturity of underlying assets should be allowed.

Right now, the definition of the maturity is very strict. In most cases, the legal maturity would apply because the proposed definition contradicts the nature of a securitisation. The legal maturity would be the worst case for calculating the maturity and would lead to even higher capital requirements.

Early amortisation provision revisions

We would like to note our concern regarding the revision of the early amortisation provision. Although clarity is required on the exact proposal, we are concerned that any limitation in the recognition of risk transfer for structures that include an early amortisation trigger would limit a bank’s ability to continue securitising its revolving credit portfolios, as mosthave successfully done in the past. This would undoubtedly have a significant impact on credit availability as funding these receivables would become more expensive. If the Basel Committee decides to de-recognise risk transfer for such structures, then, as discussed above, a proper transition period and grandfathering of current exposures would be require to ensure a smooth transition to the new regulatory rules.

We therefore urge the BCBS to propose a framework which would take full account of the specific features of such transactions whilst still being applied under the umbrella of the securitisation framework.

Treatment of mixed pools

We are also concerned with the indiscriminate use of the overly conservative and risk-insensitive BCRA for mixed pool securitisations where the underlying pool is made partially of loans and partially of securitisations. This is particularly troubling for securitisations for which only a nominal portion of the underlying exposures are securitisations, since they are not appropriately differentiated from securitisations for which all of the underlying exposures are securitisations. Since the risk of the mixed pool securitisation is more aligned with the risk of a securitisation where all of the underlying exposures are loans, we believe it is overly conservative and punitive to use the BCRA, since it does not give any recognition for the enhanced diversification, returns, and subordination that are provided by underlying exposures that are securitisations.

We therefore believe banks should be allowed to use the hierarchy available for mixed pool securitisations rather than require banks to use the BCRA. If the Basel Committee does not adopt this recommendation, banks should be allowed to “impair” the portion of the mixed pool that is securitized for the purposes of calculating regulatory capital requirements. Under this approach, if a bank has a mixed pool securitisation, the bank would impair the value of the securitisations in the underlying pool to 0. Since the remaining assets in the securitisation pool are non-securitisations, the appropriate securitisation hierarchy can be used instead of the BCRA.

As a simple example, if a bank has a $100 mixed pool securitisation where 5% of the underlying assets are securitisations, the 5% would be impaired to 0, resulting in a $95 securitisation for which all of the underlying exposures are non-securitisations. The tranches would then be re-sized to reflect the impairment and the appropriate approach as per the securitisation hierarchy will be used.

This proposed alternative is both conservative and risk-sensitive. The $5 that has been "impaired" would receive a 1250% RW, effectively mitigating the riskiest component of the resecuritisation. Furthermore, since the remaining tranches will be re-sized, the remaining credit enhancement for all tranches is reduced, thereby increasing the capital requirements under the MSFA or SSFA for the remaining tranches. This approach is therefore more aligned with the risk of the securitisation than the risk-insensitive BCRA since credit enhancement is recognized. As an added benefit, this approach can be easily implemented within the confines of the Consultative Document without introducing new methodologies.

Detailed comments on Hierarchy A vs. Hierarchy B and proposed methodologies

Banks prefer a hierarchy that builds upon and encourages further development of the resulting credit disciplines and processes. Regardless of choice of hierarchy alternatives, it appears the resulting framework will require (i) significant and costly modifications to the processes that banks have invested in and developed since the adoption of Basel 2.5; and (ii) an increase in the amount of capital needed to be held against all of their securitised exposures. As such, we believe efforts should be focused on finding the right calibration (e.g. maturity adjustment and floor), as opposed to any specific hierarchy.

Although we continue to study the Basel Committee's technical papers and the MSFA and Revised RBA, we note the following initial comments on the proposal:

Where banks have made significant investments in the RBA and IAA, a level playing field concern exists with Hierarchy A should the desire to retain the Revised RBA/IAA processes disadvantage them relative to any revisions to the higher tier MSFA.[1] Importantly, we feel strongly that the IAA should be retained as an alternative for banks. This framework requires significant interaction among banks and regulators and also requires that banks demonstrate their proficiency with such transactions through adherence to existing robust protocols. We feel that disallowing the IAA because some jurisdictions prohibited their bank regulators from incorporating ratings into their capital regimes is inappropriate, arbitrary, and fails to consider the substantial and positive experience and track record of the IAA as well as the commensurate benefits that flow to borrowers.

- Similarly, between jurisdictions, adoption of either the MSFA or SSFA because of the non-availability of the Revised RBA/IAA may create an uneven playing field. An uneven playing field will reduce issuance and cross-border investment in the securitisation market and is thus undesirable.

[1] As currently drafted, we do not anticipate the MSFA being applicable for banks that provide backstop facilities to ABCP conduits due to the requirement that the PDs and LGDs be known for each of the assets that collateralize the securitisation transactions that are funded by the ABCP conduits.

- Reservations about Hierarchy B include:
  (i) the subjective determination of "high quality";
  (ii) the potential cliff effect that can occur when a securitisation exposure is no longer considered "high quality". To help mitigate the cliff effects, we recommend that the next step on the decision tree should fall to the Revised RBA approach (i.e. before the Concentration Ratio Approach); and
  (iii) An external credit rating of "AA-" or better currently illustrated as the basis of "high-quality" is considered not reasonable. In cases where a securitisation product is originated in an emerging market country, the country ceiling may limit the global credit rating to "A" or worse even when such a product has a domestic credit rating of "AAA". The uniform introduction of an "AA-" or better may impede the expansion of the securitisation business in emerging market countries.

- Some banks may use the Revised RBA (regardless of the hierarchy chosen) as the detailed data to calculate the IRB capital requirements is not available for the underlying pool of securitised assets (K_{IRB}) for customer pools, and the use of proxies is not defined. This includes asset classes where banks are not directly involved (e.g. auto leases).

- Regarding the requirement for two external ratings, exceptions to this treatment should be permitted since in terms of small-amount and short-term transactions, the cost of obtaining additional ratings significantly affects economic performances. Also, whether to apply such exceptions should be at the discretion of jurisdictions, considering the reliability of eligible rating agencies and the features of the securitisation market in each jurisdiction, on condition of stipulating specific principles, including for small-amount and short-term transactions.

- Other banks may prefer to apply the MSFA under Alternative A for all assets, which is intended to provide less conservative capital treatment in the hierarchy as it encourages banks to independently perform comprehensive analysis and understanding of the risk of the underlying assets without reliance on agency ratings. With this in mind, the Basel Committee should recognise potential data limitations for some asset types that may result in making full compliance with IRB requirements a challenge. Therefore, it is recommended that the IRB rules should be relaxed to allow some flexibility for banks to assess risk parameters for calculating K_{IRB} for the underlying assets. Analyses show that using portfolio level estimates of PD and LGD as drivers of the MSFA calculation results in reasonable and conservative estimates of capital when the data for each underlying asset are not available. We propose that sophisticated market participants be allowed to make use of portfolio level estimates of PD, LGD and term to calculate the K_{IRB}, and therefore also make use of the MSFA to calculate the regulatory capital for securitisation exposures. This approach would have many desirable characteristics, such as not relying on ratings, requiring fewer estimations and less modelling than the baseline MSFA, being highly resistant to "gaming" and promoting transparency in the market by creating a demand for timely and accurate portfolio level loss data from the originators. We propose that strict guidelines be put in place around the way banks parameterize the portfolio level PD and LGD estimates in order to reduce the possibility of errors.

- Regarding the formulation of the SSFA, the delinquency rate and a default rate are monitored using various indicators (ex. 3-months, 60-days to 90-days) with regard to some products, rather than an indicator of a 90-days or more delinquency rate. As such, banks should be permitted to use an indicator equivalent to a 90-days or more delinquency rate.

- As banks' securitisation exposures originated post financial crisis are significantly different from exposures originated prior to the financial crisis, our overall preference for hierarchy A or B is highly dependent on transition arrangements.

- In the RRBA it seems the risk driver (e.g. thickness, maturity) are recognised twice. Both rating agencies have adapted their models and take into account such risk drivers as well as on the revised approach.

- The requirements for the MSFA seem to be very high. At the moment it is allowed to use the current Supervisory Formula Approach (SFA) also for a mixed pool (Standardised Approach and IRB). If the Committee wants to ensure a practical relevance of the MSFA the Committee should take into account the existence of mixed pools and should implement a possibility for a threshold of SA positions. Otherwise the proposal will lead very quickly to apply a simpler approach, thus increasing the capital requirements further.

- Investors normally cannot use the (M)SFA and have no access to IRB data of the underlying assets. This means that it is not ruled out that the cap on capital requirements does not apply to bank investors. Their resulting capital requirement for a peer bank AAA tranche may well become very high; where the Basel Committee just decided to include high quality Residential Mortgage-Backed Securities (RMBS) in the Liquidity Coverage Ratio (LCR), this incentive to invest in third party RMBS is now de facto taken away by the new capital rules.

Voting requirements for supervision

The proposal includes on many places voting requirements for supervision. That would increase the issuance cost additionally. The approaches should be run more automatically without a vote of the supervision in each securitisation transaction.

Conclusion

From preliminary calculations of the newly proposed Basel capital rules (the ¨Basel 3.5¨ above), it seems that a mortgage on a bank´s balance sheet would lead to lower risk weighting than a AAA rated RMBS tranche based on a diversified mortgage portfolio.

Given that the investors cannot use the least affected new approach to calculate capital (the MSFA), and that the most senior tranches will require more capital in future, the new rules are likely to reduce even further (or annihilate) the appetite of peer bank investors for securitisations. It is important to note that the cap on capital requirements (i.e. capital cannot be higher post securitisation than pre securitisation) may well not be applicable to investors. Bank investors must therefore set off the widening of the LCR buffers to include RMBS against a materially higher capital consumption.

Whilst in large part supported by the industry, it should be noted that previously adopted regulations substantially increase the compliance burden and cost of securitisation for originators. Also, the capital calculations will become more complicated (and therefore not worthwhile if no capital relief is realisable) and newly added national discretions likely generate an unlevel playing field. The higher capital in combination with changed CRA methodologies may mean that capital relief related to securitisation activity in future is ruled out entirely.

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

Yours sincerely

Mrs Sally Scutt
Managing Director
IBFed

Annex - List of post crisis regulations potentially impacting a securitisation

International Standards

- Basel 2.5
- Basel 3 including LCR and NSFR
- Basel ¨3.5¨ – Revision to the securitisation framework
- FSB Shadow banking:
    - Work stream 1 on indirect regulation
    - Work stream 2 on Money Market Funds
    - Work stream 3 on other shadow banking entities
    - Work stream 4 on securitisation
    - Work stream 5 on Repos and Securities Lending
- IOSCO (1) Disclosure principles for Public offerings and Listings of Asset-Backed Securities
- IOSCO (2) Principles for ongoing disclosure for ABS
- IOSCO Suitability requirements for the distribution of complex financial products
- IFRS 9, 10, 12

European Standards

- European Banking Authority guidance on prudent valuation adjustments
- ECB collateral eligibility rules (in place)
- European Reporting requirements (ECB-EBA)
- Financial Transaction Tax (implementation date 1/1/2014)
- Credit Rating Agency Directive: Methodological and other changes in structured debt external rating process
- MIFID II / MIFIR
- EMIR
- Market Abuse Directive
- AIFMD
- UCITS

United States

- Risk retention: QRM, PCCRA
- CFTC: Potential reporting obligations related to securitisation swaps
- FATCA: No exemption for securitisation SPVs
- Investment permissibility rules: OCC and FDIC have issued new rules to reduce reliance on credit ratings
- Volcker rule
- Proposed Rule 127B under the Securities Act of 1933 – Conflict of Interest proposal
- Future loan-level reporting obligations under DFA and new SEC rules (e.g. regulation AB II)
- SEC due diligence disclosure rule
- SEC disclosure rule on breaches of representations and warranties
- BCFP mortgage servicing proposal

- Proposed rules on shelf eligibility

<u>Other Jurisdictions</u>

- Encumbrance limits UK FSA / Vickers