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By email: baselcommittee@bis.org

Basel Committee on Banking Supervision
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Dear Sirs

BCBS consultation on Capital Treatment for "simple, transparent and comparable" (STC) Securitisations

We refer to the consultative document on Capital Treatment for "simple, transparent and comparable" (STC) Securitisations issued by the Basel Committee on Banking Supervision (BCBS) in November 2015.

On behalf of our members, we set out in the annex our detailed comments on the proposals in the consultative document.

We hope you find our comments useful. For any questions, please do not hesitate to contact Ms Emily Ngan of the Secretariat at (852) 2526 6080.

Yours faithfully

Doris Ma
Secretary

Enc.

c.c. Ms Karen Kemp, Executive Director (Banking Policy),
Hong Kong Monetary Authority

HKAB's comments on the BCBS Consultation on Capital Treatment for "simple, transparent and comparable" (STC) Securitisations

We agree that securitisation deals meeting the STC criteria are justified in having a lower regulatory capital. It is important to ensure that the STC criteria are set out in a principle-based way so as to work for securitisation markets in different jurisdictions and asset classes.

Question no.	Question	Comments
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?*	We broadly agree the rationale for introducing STC criteria into the capital framework. We believe that STC securitisations are likely to have reduced model risk, reduced structural risk and increased predictability as compared to transactions which do not fulfil the criteria. We note that the BCBS paper of Nov 2015 does not include any changes to the treatment of synthetic transactions, stating that "the Committee is of the view that synthetic securitisation should not be under the scope of the STC framework for regulatory capital purposes" see p. 3). We continue to believe that synthetic securitisations could be subject to a more beneficial capital treatment when similar governing criteria could be met. In some cases, synthetic securitisations can be less complex than traditional securitisations, as legal, tax; encumbrance and cash flow issues associated with the transfer of legal ownership of assets are not applicable for synthetic securitisations. Two other documents worth highlighting in reference to synthetic securitisation and the STC criteria: • The European Commission Securitisation Initiative issued on 30th Sept 2015; which proposed amendments to Article 270 of the Capital Requirements Regulation which would potentially expand the Simple, Transparent and Standardised (STS) definition to cover those retained tranches in balance sheet securitisations of SME exposures where the protection is provided on an unfunded basis from a highly rated public sector entity that qualifies for zero pc risk weight. https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-473-EN-F1-1.PDF page 45. • The European Banking Authority document "The EBA Report on Synthetic Securitisation" issued on 18th Dec 2015, specifically recommends that the amendments to Article 270 be extended to cover those balance sheet securitisations, subject to various other requirements, where the protection is fully cash-funded. A cash-funded synthetic CLO is the most common way for banks to buy credit protection via synthetic securitisation, as opposed to purchasing unfunded protection from a zero pc risk weighted counterparty https://www.eba.europa.eu/-/eba-issues-advice-on-synthetic-securitisation-for-smes?doAsGroupId=10180

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		We urge the Committee and IOSCO to consider setting STC criteria for synthetic securitisations in order to include synthetic securitisations in the framework. We believe it is important to pursue the work for inclusion of Assets Backed Commercial Papers (ABCP) in the STC securitisation framework under appropriate circumstances. We agree that a separate set of governing criteria should be developed in order to facilitate the development of short-term securitisations.
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?*	We consider that additional criteria, if required, should be clearly and rationally linked to the objectives of the STC framework as it specifically applies to bank capital. The changes proposed to the STC criteria in Annex 1 are not additional criteria specifically related to bank capital but are, in substance, amendments to the final STC criteria published in July 2015. This approach would result in confusion as it creates a parallel regime where there are two different versions of STC criteria. We set out below our specific comment for the proposed changes to the STC criteria: • For A1. Asset Risk - Monthly payments: It is not clear if loans with higher bullet payments will be allowed in the STC framework. It is common in the Auto ABS sector (especially in Germany and UK) for the loans to have a large end of term payment profile (bullet), and such loans have exhibited very strong performance historically. It would be preferred that the condition for level monthly payments be lifted, as it will considerably narrow the scope for these Auto ABS transactions to be STC eligible (Germany and UK being the largest Auto ABS issuers in Europe). • For A1. Asset Risk - Homogeneity: Collateral mix of auto loans and auto leases is considered as non-homogeneous which could lead to additional capital charge. For instance, in Korea and Australia, it is not uncommon to have portfolio comprising both auto loans and finance leases (the nature of the product mix in those jurisdictions). Obligors' decision is largely driven by dealership promotions or tax incentive applicable. Performance wise they are however very similar. So the proposal can be unfairly penalizing this type of issuance. This may also potentially have similar implication for other Asian countries. Perhaps a distinction should be made to carve out operating leases which has very different dynamics but allow finance lease to be mixed with loans as long as performance can be demonstrated to be consistent. • For A3. Payment status: we consider that there should be a clear definition for "delinquent" which specifically states that short-term delinquency (e.g. 1-30 days delinquent, or obligor missing a single payment) would not be considered as delinquent. • Of the three additional criteria for capital purposes, two are not required (D15. Credit risk of underlying

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		exposures and D16. Granularity of the pool) as the underlying concerns raised by the Committee are already dealt with in the capital framework. Moreover, for D16. Granularity of the pool, the proposed 1% granularity would exclude many trade receivables securitisations, which are one of the more common and simple securitisations, from the STC criteria. • For D17. Higher standard under fiduciary and contractual responsibilities, the criterion should make it clear that this assessment should only be tested at closing of the securitisation. A securitisation is structured to survive the insolvency of an originator, and if a securitisation's servicer is replaced (by a third party during the life of the securitisation) as per the terms of the transaction documents, the capital treatment should not be changed for an investor because the securitisation is simply performing as structured to protect investors.
Q3.	*What are respondents' views on the compliance mechanism and the supervision of compliance presented in this consultative document?*	Any regime for assigning this designation can only work effectively if there are (1) unambiguous and objectively-verifiable criteria at the national level, (2) safeguards to protect issuers and investors where attestations are made using a third party certification regime or made in good faith if there is no such regime, and (3) provisions are included to ensure consistency of interpretation and treatment are maintained at least during the life of the instrument. Requiring investors to make a determination on STC compliance could deter many potential investors from participating in transactions, thus reducing market liquidity for some of the most liquid securitisations in the market. We believe strongly that the best way to achieve this is for the authorities to appoint and regulate one or more independent, credible bodies to issue certifications under supervision. Moreover, we note that a number of investors and multi-jurisdictional issuers see significant benefits to be gained from the third party certification route in encouraging investors to enter or remain in the market while recognising this should not reduce investors' obligations to carry out their own due diligence. In addition, given there are potentially different local rules for STC compliance in cross border securitisations, the Committee needs to make it clear which local sets of STC rules are to be used for the compliance assessments. This is particularly relevant for Asia where there are at least 2 types of potential cross border securitisations: (i) Securitisations being offered outside the home market of the originator / sponsor (e.g. Australian bank issuing RMBS in USD to multiple offshore markets) (ii) Securitisations being offered in the home market of the originator / sponsor, and often in local currency, but being bought by global investors going into such home market for buying (e.g. global investors buying HKD

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		RMBS or auto ABS offered in RMB by global originators in China using their auto loan portfolios in Mainland China e.g. BMW China auto ABS, Ford China auto ABS with international ratings).
Q4.	*What are respondents' views on the alternative capital requirements for STC securitisation presented in this consultative document?*	We agree with the alternative capital requirements for STC securitisations set out in the consultative document. We understand that there is an equivalent framework launched in Europe for "simple, transparent and standardised" securitisations. We propose to the Committee to ensure consistency between these frameworks in order to ensure a level playing field.