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on Banking Supervision

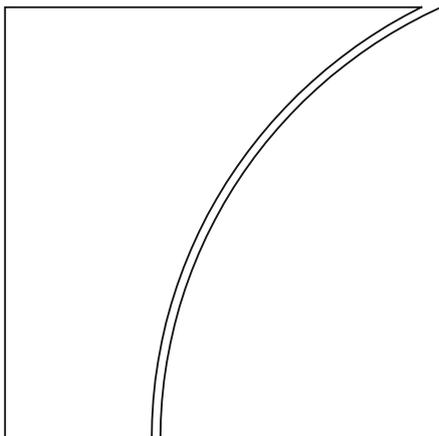
Board of the International
Organization of Securities
Commissions

Consultative document

Criteria for identifying
simple, transparent and
comparable short-term
securitisations

Issued for comment by 5 October 2017

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BANK FOR INTERNATIONAL SETTLEMENTS



OICV-IOSCO

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Introduction

In July 2015, the Basel Committee on Banking Supervision (BCBS) and the Board of the International Organization of Securities Commissions (IOSCO) published the final criteria for identifying simple, transparent and comparable (STC) term securitisations.¹ In July 2016, the BCBS published revisions to its securitisation framework that incorporated the regulatory capital treatment of STC term securitisations.² The purpose of these criteria and associated regulatory capital treatment is to assist the financial industry in its development of STC securitisation structures.

As short-term securitisations, typically those using an asset-backed commercial paper (ABCP) conduit to issue forms of commercial paper, differ significantly in structure from term securitisations, the STC criteria published in July 2015 cannot be applied to them without appropriate amendments. During the development of STC criteria for term securitisations, many commenters indicated that it would be useful to extend the scope of the STC criteria to short-term securitisations, in particular exposures related to ABCP conduits. ABCPs are a key part of securitisation markets in some jurisdictions and can provide a significant source of funding to the economy. Similarly to term securitisations, the outstanding volume and issuance of ABCPs dropped significantly following the financial crisis.³ In response to the comments received, BCBS-IOSCO have developed a set of 17 STC criteria specifically catering to short-term securitisations, focusing on exposures related to ABCP conduits (see Annex).

The STC criteria for short-term securitisations (hereafter “short-term STC criteria”) do not serve as a substitute for investor due diligence. The criteria are also non-exhaustive and non-binding. Interested parties may complement these criteria with additional and/or more detailed criteria based on specific needs and applications.

BCBS-IOSCO seek comments on the short-term STC criteria presented in this document by 5 October 2017. The BCBS is working in parallel on a proposal to incorporate these criteria into the regulatory capital framework.⁴

Objectives of the short-term STC criteria

The development of the short-term STC criteria advances the objective of BCBS-IOSCO’s work on securitisations to help transaction parties – including originators, investors and other parties with a fiduciary responsibility – evaluate the risks of a particular securitisation across similar products. For investors, these criteria should assist them with their conduct of due diligence on securitisations, but in no case would these criteria serve as a substitute for such due diligence.

- **Simplicity** refers to the relative homogeneity of underlying assets included in each transaction financed by the ABCP conduit, with simple characteristics, and a conduit structure that is not overly complex.
- Criteria on **transparency** provide:

¹ See www.bis.org/bcbs/publ/d332.htm.

² See www.bis.org/bcbs/publ/d374.htm.

³ While much of the decline reflects the discontinuation of complex structures such as special investment vehicles (SIVs), asset-backed extensible notes, mortgage warehouse programmes and other market value programmes, it has also extended to the remaining ABCP structures that now make up the majority of the ABCP market (ie multi-seller conduits that invest in traditional asset classes such as trade and credit card receivables, equipment leases, and auto and consumer loans).

⁴ See www.bis.org/bcbs/publ/d413.htm.

- investors with sufficient information on the underlying assets and underlying transactions, as well as details about the conduit structure and liquidity and credit support received; and
- the sponsor with granular information on the underlying assets.
- Criteria promoting **comparability** could assist investors in their understanding of such investments and enable more straightforward comparison across similar securitisation products within an asset class. Importantly, they should appropriately take into account differences across jurisdictions.

Scope of the short-term STC criteria

The short-term STC criteria cover ABCP conduits that primarily finance themselves through the issuance of commercial paper, typically involving one or multiple sellers of assets to the ABCP conduit (often short-term trade receivables). Credit securities arbitrage and structured investment vehicle (SIV) structures,⁵ where most of the problems occurred during the financial crisis, are excluded from the scope of short-term STC criteria.

The short-term STC criteria focus on the characteristics of the ABCP conduit and the underlying transactions and not on the legal form of the instruments issued or used to fund it (eg the ABCP conduit could issue short-term commercial paper or accept loans from lenders secured against the underlying assets/transactions).

The short-term STC criteria also do not prevent single-seller conduits⁶ (which are generally less common) from qualifying for STC status. However, in such an instance, some of the proposed criteria may be less relevant because they have been designed to reflect the dual-layer structure of multi-seller conduits (in particular, the asset risk criteria). Single-seller conduits are often less diversified, and investors should be clearly aware of the risk of concentration.

Design of the short-term STC criteria

The design of the short-term STC criteria follows the STC criteria published in July 2015 for term securitisations. While all principles underlying the STC criteria for term securitisations are relevant for short-term securitisations, some criteria have been amended to reflect specific aspects of ABCP conduits, in particular:

- the short maturity of the commercial paper issued by ABCP conduits;
- the different forms of programme structures (multi-seller, single seller);⁷ and

⁵ During the financial crisis, these structures left investors exposed to a very high risk, as they had often little liquidity support and relied on the ability to liquidate the entire portfolio to repay the commercial paper holders in times of stress. Many of these structures have failed as a result, as they did not manage to sell their assets or had to sell them at a high discount rate during the crisis.

⁶ A single-seller conduit is typically a bank or an auto captive that sells receivables or short-dated assets to a bankruptcy-remote special purpose vehicle which then issues commercial paper secured by these receivables. They typically have a first lost piece to cover defaults that remain with the seller (eg in the form of a letter of credit) and liquidity facility.

⁷ Some jurisdictions use multi-seller structures in which a conduit typically holds interest from multiple pools of credit claims or receivables from various sellers. These sellers can be non-financial institutions.

- the existence of multiple forms of liquidity and credit support facilities on different levels of the ABCP structure (ie conduit level or transaction level).

This section describes the key areas considered by BCBS-IOSCO in the design of the short-term STC criteria.

1. Transaction-level and conduit-level criteria

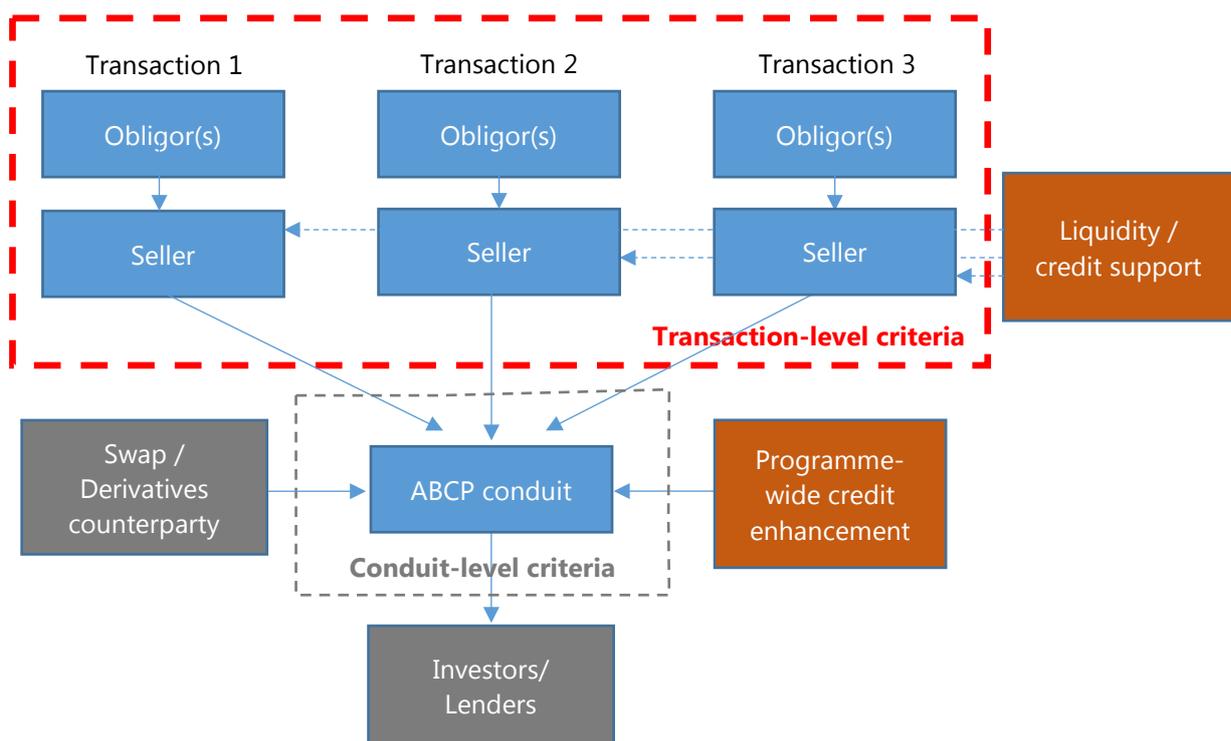
One of the main amendments made to the STC criteria for term securitisations was to split the criteria into two categories to reflect the two levels of stakeholders, relevant in ABCP conduits:

- the sellers**, who are typically the original lenders and, potentially, servicers of the underlying assets; and
- the sponsor**, who establishes or manages an ABCP conduit, and plays an essential fiduciary role in ensuring the quality of the underlying transactions and pools of assets financed by the ABCP conduit.

Graph 1 provides a stylised view of a typical ABCP conduit structure and illustrates the various roles that banks may play.

Schematic illustration of an ABCP conduit structure

Graph 1



As a result, the short-term STC criteria distinguish between criteria relevant at the transaction level and at the conduit level. Most criteria are relevant at both levels, but have a slightly different focus to reflect the differences in risk, stakeholders or structure at each level.

For instance, for the criterion on consistency of underwriting (Criterion A4):

- **at the transaction level**, the sponsor ensures that sellers apply a consistent underwriting standard between the assets transferred to the transaction and those retained on their balance sheet; and
- **at the conduit level**, the sponsor makes representation and warranties to investors that it has taken steps to verify that assets financed by the conduit have been subject to consistent underwriting standards.

The transaction-level and conduit-level criteria, in this regard, complement each other and ensure a consistent standard of underwriting by highlighting the different roles to be played by the sponsor.

2. Role of the sponsor

The short-term STC criteria focus on ABCP conduits in which the sponsor is generally not the asset originator, nor the asset servicer. However, the sponsor usually has a key role in providing the credit and liquidity support for, and establishing and managing the ABCP conduit. For this reason, the short-term STC criteria have been considered from the perspective of the role that a sponsor should have in an STC-compliant ABCP conduit.

The criteria specify that a sponsor should assume fiduciary responsibility vis-à-vis the investors (eg holders of the commercial paper or the lenders to the ABCP conduit) under the proposed STC short-term securitisation framework, including:

- ensuring that the transactions financed by the ABCP conduit and their underlying assets meet the transaction-level standards; and
- reporting to investors whether and how criteria are appropriately met.

3. Nature and level of the support desirable

The short-term STC criteria specify that, in order for the ABCP conduit to qualify for STC status, the commercial paper issued by the ABCP conduit needs to be fully supported. The party providing support should irrevocably and unconditionally commit to pay the investors in full and on time. Investors are thus fully insulated from underlying liquidity risk and asset-related credit risk, except in the event of the insolvency of the support provider. To further mitigate this risk, the criteria will also require that the party providing full support be a registered financial institution that is licensed to take deposits from the public and subject to prudential regulation in accordance with the Basel framework.

The criteria considered that, if partially supported ABCP conduits are deemed to be STC-compliant, greater transparency in the structure and more granular information on the underlying transactions would be necessary for investors to conduct due diligence and determine their risk exposure. This added complexity would go against the purpose of the criteria to identify STC structures per se from an investor perspective. For this reason, it is proposed that only fully supported ABCP conduits should be considered STC-compliant.

4. Confidentiality and disclosure

Due to the “private” nature of the transactions financed by the ABCP conduit and the commercially sensitive data shared with the sponsor, full disclosure of detailed granular data on the transactions to ABCP investors can be undesirable. The short-term STC criteria therefore lay emphasis on the sponsor being accountable to investors. BCBS-IOSCO welcome views from stakeholders regarding the appropriateness of this approach and the desired granularity and extent of disclosure to investors.

5. Re-securitisation

The issue of re-securitisation arises in two contexts for multi-seller conduits, namely in terms of (i) simplicity of underlying assets and (ii) the structure of the ABCP programme:

- In terms of simplicity of underlying assets, Criterion A1 (nature of assets) at the transaction level is meant to ensure that transactions whose underlying assets are securitisation tranches are not eligible for STC status.
- In terms of structure, the same criterion, at the conduit level, clarifies that a programme-wide credit enhancement should not prevent an ABCP conduit from qualifying for STC, regardless of whether such enhancement is considered as a re-securitisation.⁸ Programme-wide credit enhancements also insulate investors from losses, similar to facilities or enhancements provided at the transaction level. BCBS-IOSCO are of the view that the nature and the form of full support should not result in the overall scheme being prevented from qualifying for STC status.

6. Cap on maturity transformation

BCBS-IOSCO welcome views from stakeholders with regard to the need for a criterion that places a limit on the maturity transformation by the ABCP conduit. Multi-seller conduits can finance trade receivables along with other longer-term assets. Some of these longer-term assets are meant for term securitisations during their ramp-up period (a practice called “warehousing”). A cap on maturity transformation would limit maturity mismatch and ensure that an STC-compliant ABCP conduit would not finance a disproportionately large share of such longer-term assets, given the short-term maturity of the commercial paper they issue.

BCBS-IOSCO do not consider it necessary to fully disallow maturity transformation. The risk arising from maturity mismatch is mitigated because the STC ABCP conduit will have to be fully supported by a sponsor subject to capital and liquidity regulation. The short-term STC criteria propose to base the calculation of the maturity on both (i) the maturity of the contractual obligations resulting from the beneficial interests held or the underlying assets financed by the ABCP conduit and (ii) the maturity of the underlying assets financed by the ABCP conduit (incorporating the possibility of a simplified approach to reduce operational burden).

This approach has been designed to strike a balance between risk sensitivity and simplicity. BCBS-IOSCO considered initially whether to use the methodologies under the revised securitisation framework⁹ to calculate maturity but, given the slightly different objectives of these methodologies, decided to propose an alternative. The revised securitisation framework considers the impact of maturity for capital purposes from the perspective of a sponsor bank, whereas the proposed approach has been designed to be more relevant from the perspective of investors. It achieves this by taking into account the maturity of the underlying assets financed by the ABCP conduit as well as estimates of the length of time an ABCP conduit has committed to finance these assets in each transaction.

BCBS-IOSCO analyses suggest that this maturity transformation limit should be set between one and three years.

⁸ Under some conditions, a programme-wide credit enhancement may “technically” be classified as a re-securitisation under the Basel capital framework.

⁹ The revised securitisation framework includes methodologies to calculate the maturity of a securitisation exposure for capital purposes that could be relevant to measuring maturity in the context of an ABCP conduit (in particular, how to account for the contractual maturity of a commitment). See www.bis.org/bcbs/publ/d374.htm (p 12).

7. Different stakeholders / key parties

The short-term STC criteria aim to standardise the terminology and provide clarity on how the responsibilities are allocated among the stakeholders and which party in an STC-compliant ABCP conduit is best placed to identify or justify that the criteria are being met.

Questions

BCBS-IOSCO would welcome feedback regarding the following questions:

General questions

- Q1. Do respondents agree with the short-term STC criteria set out in the Annex? In particular, are the criteria clear enough to allow for the development of STC short-term securitisations by the financial industry?
- Q2. Which additional criteria would respondents consider necessary, if any, and what additional provisions would be useful or necessary to support the use of the short-term STC criteria? Are there particular criteria that could hinder the development of sustainable securitisation markets due, for example, to the cost of their implementation?
- Q3. Do respondents find the split of short-term STC criteria between conduit level and transaction level appropriate? And if not, which criterion does not appear appropriate?
- Q4. Do respondents agree that the right balance has been achieved in the short-term STC criteria between the level of transparency needed by investors exposed to commercial paper issued by STC ABCP conduits and the need to protect the “private” nature of the underlying transactions financed by such STC ABCP conduits?

Specific questions

Terms and definitions

- Q5. Do respondents agree with the proposed definitions in the Annex, in particular for “transactions”? Are there any other key terms that need to be defined?

Criterion: A. Asset risk – 1. Nature of assets

- Q6. Do respondents agree with the way the criterion deals with re-securitisation concerns?

Criterion: B. Structural risk – 7. Full support

- Q7. Do respondents agree that STC short-term securitisations should be fully supported and that the criterion related to such support is appropriate?

Criterion: B. Structural risk – 10. Payment priorities and observability

- Q8. Do respondents agree that the level of transparency to be provided via disclosure regarding payment priorities and observability is appropriate? Do respondents believe that additional disclosure is needed (eg breach of triggers)? If so, please specify the disclosure.

Criterion: B. Structural risk – 14. Cap on maturity transformation

- Q9. Do respondents agree that the proposed methodology to calculate the average maturity of the transactions funded by the ABCP conduit is appropriate? Do respondents agree that the limit on maturity transformation should be set at a value between one and three years?

Criterion: C. Fiduciary and servicer risk – 16. Fiduciary and contractual responsibilities

- Q10. Do respondents agree that the fiduciary and contractual responsibilities of the sponsor and other parties are adequately defined? Is the level of transparency and disclosure about these responsibilities (representations and warranties, procedures, policies etc) to be provided to investors sufficient?

Feedback to the consultation

BCBS-IOSCO welcome comments from the public on the questions and proposed criteria set out in this consultative document. Comments should be provided by 5 October 2017. All comments will be published on the websites of the Bank for International Settlements and IOSCO unless a commenter specifically requests confidential treatment. Comments may be provided as follows:

- To the BCBS, using the following link: www.bis.org/bcbs/commentupload.htm.
- To IOSCO, by e-mail to consultation-03-2017@iosco.org; or by post to:
International Organization of Securities Commissions
C/ Oquendo 12, 28006 Madrid, Spain

Annex

Criteria for identifying simple, transparent and comparable (STC) short-term securitisations

Terms and definitions

ABCP conduit / conduit	Asset-backed commercial paper (ABCP) conduit, being the special purpose vehicle that can issue commercial paper.
ABCP programme	The programme of commercial paper issued by an ABCP conduit.
assets / asset pool	The credit claims and/or receivables underlying a transaction in which the ABCP conduit holds a beneficial interest.
investor	The holder of commercial paper issued under an ABCP programme, or any type of asset representing a financing liability of the conduit, such as loans.
obligor	The borrower underlying a credit claim or a receivable that is part of an asset pool.
seller	A party that (i) concluded (in its capacity as original lender) the original agreement that created the obligations or potential obligations (under a credit claim or a receivable) of an obligor, and (ii) transferred those assets through a transaction to the ABCP conduit.
sponsor	The sponsor of an ABCP conduit. It may also be noted that other relevant parties with a fiduciary responsibility in the management and administration of the ABCP conduit could also undertake some of the responsibilities of the sponsor under its control.
transaction	An individual transaction in which the ABCP conduit holds a beneficial interest. A transaction may qualify as a securitisation, but may also be a direct asset purchase, the acquisition of undivided interest in a revolving pool of asset, a secured loan etc.

Criteria

For an ABCP conduit to be considered STC, the following criteria need to be met at both the conduit level and transaction level.

A. Asset risk

1. Nature of assets	
Relevant to the conduit level	Relevant to the transaction level
The sponsor should make representations and warranties to investors that the subsections of Criterion A1 defined at transaction level are met, and explain how this is the	The assets underlying a transaction in a conduit should be credit claims or receivables that are homogeneous. In assessing homogeneity, the sponsor's consideration

<p>case on an overall basis. Only if specified should this be done for each transaction.</p> <p>Provided that each individual underlying transaction is homogeneous, a conduit may be used to finance transactions of different asset types, which may have been originated in different jurisdictions or legal systems and which may be denominated in different currencies.</p> <p>Programme-wide credit enhancement should not prevent a conduit from qualifying for STC status, regardless of whether such enhancement technically creates re-securitisation.</p>	<p>should be given to asset type, jurisdiction, legal system and currency.</p> <p>The assets underlying each individual transaction in a conduit should not be composed of “securitisation exposures” as defined in the Basel III securitisation framework.¹⁰</p> <p>Credit claims or receivables underlying a transaction in a conduit should have contractually identified periodic payment streams relating to rental,¹¹ principal, interest, or principal and interest payments. Credit claims or receivables generating a single payment stream would equally qualify as eligible. Any referenced interest payments or discount rates should be based on commonly encountered market interest rates,¹² but should not reference complex or complicated formulae or exotic derivatives.¹³</p>
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2. Asset performance history

Relevant to the conduit level	Relevant to the transaction level
<p>In order to provide investors with sufficient information on the performance history of the asset types backing the transactions, the sponsor should make available to investors sufficient loss performance data, such as delinquency and default data of claims and receivables with substantially similar risk characteristics, and for a time period long enough to permit meaningful evaluation. The sponsor should disclose to investors the sources of and access to data and the basis for claiming similarity to credit claims or receivables financed by the conduit. Such loss performance data may be provided on a stratified basis.¹⁴</p>	<p>In order to provide the sponsor with sufficient information on the performance history of an asset type backing the transactions to conduct due diligence and access to a sufficiently rich data set to enable a more accurate calculation of expected loss in different stress scenarios, verifiable loss performance data, such as delinquency and default data, should be available for credit claims and receivables with substantially similar risk characteristics to those being financed by the conduit, for a time period long enough to permit meaningful evaluation by the sponsor.</p>

3. Payment status

Relevant to the conduit level	Relevant to the transaction level
<p>The sponsor should make representations and warranties to investors that Criterion A3 at the transaction level is met with respect to each transaction, and explain how.</p>	<p>The sponsor should take reasonable steps to ensure that the credit claims or receivables underlying each individual transaction are not, at the time of acquisition of the interests to be financed by the conduit, in default or delinquent or subject to a material increase in expected losses or of enforcement actions.</p>

¹⁰ See <http://www.bis.org/bcbs/publ/d374.htm>.

¹¹ Payments on operating and financing lease are typically considered to be rental payments rather than payments of principal and interest.

¹² Commonly encountered market interest rates may include rates reflective of a lender’s cost of funds, to the extent that sufficient data are provided to the sponsors to allow them to assess their relation to other market rates.

¹³ The Global Association of Risk Professionals (GARP) defines an exotic instrument as a financial asset or instrument with features making it more complex than simpler, plain vanilla products.

¹⁴ “Stratified” means, by way of example:

- all materially relevant data on the conduit’s composition (outstanding balances, industry sector, obligor concentrations, maturities etc) and the conduit’s overview; and
- all materially relevant data on the credit quality and performance of underlying transactions, allowing investors to identify collections, and, as applicable, debt restructuring, forgiveness, forbearance, payment holidays, repurchases, delinquencies and defaults.

4. Consistency of underwriting

Relevant to the conduit level	Relevant to the transaction level
<p>The sponsor should make representations and warranties to investors that:</p> <ul style="list-style-type: none"> it has taken steps to verify that, for the transactions in the conduit, any underlying credit claims and receivables have been subject to consistent underwriting standards, and explain how; and when underwriting standards change, it will receive from sellers disclosure about the timing and purpose of such changes. <p>The sponsor should also inform investors of the material selection criteria applied when selecting sellers (including where they are not financial institutions).</p>	<p>The sponsor should ensure that sellers (in their capacity as original lenders) in transactions with the conduit demonstrate to it that:</p> <ul style="list-style-type: none"> any credit claims or receivables being transferred to or through a transaction held by the conduit have been originated in the ordinary course of the seller's business to materially non-deteriorating underwriting standards. Those underwriting standards should also not be less stringent than those applied to credit claims and receivables retained on the balance sheet of the seller and not financed by the conduit; and the obligors have been assessed as having the ability and volition to make timely payments on obligations. <p>The sponsor should also ensure that sellers disclose to it the timing and purpose of changes to underwriting standards.</p>

5. Asset selection and transfer

Relevant to the conduit level	Relevant to the transaction level
<p>The sponsor should:</p> <ul style="list-style-type: none"> provide representations and warranties to investors about the checks, in terms of nature and frequency, it has conducted regarding the enforceability of underlying assets; and disclose to investors the receipt of appropriate representations and warranties from sellers that the credit claims or receivables being transferred to the transactions in the conduit are not subject to any condition or encumbrance that can be foreseen to adversely affect enforceability in respect of collections due. 	<p>The sponsor should ensure that credit claims or receivables transferred to or through a transaction financed by the conduit:</p> <ol style="list-style-type: none"> satisfy clearly defined eligibility criteria; and are not actively selected after the closing date, actively managed¹⁵ or otherwise cherry-picked. <p>The sponsor should be able to assess thoroughly the credit risk of the asset pool prior to its decision to provide full support to any given transaction or to the conduit.</p> <p>The sponsor should ensure that the transactions in the conduit effect true sale such that the underlying credit claims or receivables:</p> <ul style="list-style-type: none"> are enforceable against the obligor; are beyond the reach of the seller, its creditors or liquidators and are not subject to material re-characterisation or clawback risks; are not effected through credit default swaps, derivatives or guarantees but by a transfer¹⁶ of the credit claims or the receivables to the transaction; and demonstrate effective recourse to the ultimate obligation for the underlying credit claims or receivables and are not a re-securitisation. <p>The sponsor should ensure that, in applicable jurisdictions, for conduits employing transfers of credit claims or receivables by other means, sellers can demonstrate to it</p>

¹⁵ Provided they are not actively selected or otherwise cherry-picked, the addition of credit claims or receivables during the revolving periods or their substitution or repurchasing due to the breach of representations and warranties do not represent active portfolio management.

¹⁶ This requirement should not affect jurisdictions whose legal frameworks provide for a true sale with the same effects as those described above, but by means other than a transfer of the credit claims or receivables.

	<p>the existence of material obstacles preventing true sale at issuance¹⁷ and should clearly demonstrate the method of recourse to ultimate obligors.¹⁸ In such jurisdictions, any conditions where the transfer of the credit claims or receivables is delayed or contingent upon specific events and any factors affecting timely perfection of claims by the conduit should be clearly disclosed.</p> <p>The sponsor should ensure that it receives from the individual sellers (in their capacity either as original lender or as servicer) representations and warranties that the credit claims or receivables being transferred to or through the transaction are not subject to any condition or encumbrance that can be foreseen to adversely affect enforceability in respect of collections due.</p>
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6. Initial and ongoing data

Relevant to the conduit level	Relevant to the transaction level
<p>To assist investors in conducting due diligence prior to investing in a new programme offering, the sponsor should provide to potential investors sufficient aggregated data that illustrate the relevant risk characteristics of the underlying asset pools in accordance with applicable laws</p> <p>To assist investors in conducting appropriate and ongoing monitoring of their investments' performance and so that investors who wish to purchase commercial paper have sufficient information to conduct due diligence, the sponsor should provide timely and sufficient aggregated data that provide the relevant risk characteristics of the underlying pools in accordance with applicable laws. The sponsor should ensure that standardised investor reports are readily available to current and potential investors at least monthly. Cutoff dates of the aggregated data should be aligned with those used for investor reporting.</p>	<p>The sponsor should ensure that the individual sellers (in their capacity as servicers) provide it with:</p> <ul style="list-style-type: none"> • sufficient asset-level data in accordance with applicable laws or, in the case of granular pools, summary stratification data on the relevant risk characteristics of the underlying pool before transferring any credit claims or receivables to such underlying pool; and • timely asset-level data in accordance with applicable laws or granular pool stratification data on the risk characteristics of the underlying pool on an ongoing basis. Those data should allow the sponsor to fulfil its fiduciary duty at the conduit level in terms of disclosing information to investors, including the alignment of cutoff dates of the asset level or granular pool stratification data with those used for investor reporting. <p>The seller may delegate some of these tasks, and, in this case, the sponsor should ensure that there is appropriate oversight of the outsourced arrangements.</p>

¹⁷ For instance, the immediate realisation of transfer tax or the requirement to notify all obligors of the transfer.

¹⁸ For instance, equitable assignment or perfected contingent transfer.

B. Structural risk

7. Full support	
Relevant to the conduit level	Relevant to the transaction level
The sponsor should provide the liquidity facility (facilities) and the credit protection support ¹⁹ for any ABCP programme issued by a conduit. Such facilities and support should ensure that investors are fully protected against credit risks, liquidity risks and any material dilution risks of the underlying asset pools financed by the conduit. As such, investors should be able to rely on the sponsor to ensure timely and full repayment of the commercial paper.	(-)
8. Redemption cash flow	
Relevant to the conduit level	Relevant to the transaction level
(-)	The sponsor should ensure that the credit claims or receivables underlying any of the individual transactions do not need to be refinanced over a short period of time in order to repay the conduit, unless the underlying pool of credit claims or receivables is sufficiently granular and has sufficiently distributed repayment profiles, and that such repayment does not primarily rely on the drawing of an external liquidity facility provided to this transaction.
9. Currency and interest rate asset and liability mismatches	
Relevant to the conduit level	Relevant to the transaction level
The sponsor should ensure that any payment risk arising from different interest rate and currency profiles <ul style="list-style-type: none"> not mitigated at transaction level; or arising at conduit level are appropriately mitigated. The sponsor should also ensure that derivatives are used for genuine hedging purposes only and that hedging transactions are documented according to industry-standard master agreements. The sponsor should provide sufficient information to investors to allow them to assess how the payment risk arising from the different interest rate and currency profiles of assets and liabilities is appropriately mitigated, whether at conduit or transaction level.	To reduce the payment risk arising from the different interest rate and currency profiles of assets and liabilities, if any, and to improve the sponsor's ability to analyse cash flows of transactions, the sponsor should ensure that interest rate and foreign currency risks are appropriately mitigated. The sponsor should also ensure that derivatives are used for genuine hedging purposes only and that hedging transactions are documented according to industry-standard master agreements.
10. Payment priorities and observability	
Relevant to the conduit level	Relevant to the transaction level
The commercial paper issued by the ABCP programme should not include extension options, or other features described above which may extend the final maturity of the asset-backed commercial paper. The sponsor should:	To prevent the conduit from being subjected to unexpected repayment profiles from the transactions, the sponsor should ensure that: <ul style="list-style-type: none"> priorities of payments are clearly defined at the time of acquisition of the interests in these transactions by the conduit; and

¹⁹ A sponsor can provide full support both at ABCP programme level and at transaction level, ie by fully supporting each transaction within an ABCP programme.

<ul style="list-style-type: none"> • make representations and warranties to investors that Criterion B10 is met at transaction level, and in particular that it has the ability to appropriately analyse the cash flow waterfall for each transaction that qualifies as a securitisation position; and • make available to investors a summary (illustrating the functioning) of these waterfalls and of the credit enhancement available at programme level and transaction level. 	<ul style="list-style-type: none"> • appropriate legal comfort regarding the enforceability is provided. <p>For all transactions which qualify as a securitisation position, the sponsor should ensure that all triggers affecting the cash flow waterfall, payment profile or priority of payments are clearly and fully disclosed to the sponsor in both the transaction documentation and reports, with information in the reports that clearly identifies any breach status, the ability for the breach to be reversed and the consequences of the breach. Reports should contain information that allows sponsors to easily ascertain the likelihood of a trigger being breached or reversed. Any triggers breached between payment dates should be disclosed to sponsors on a timely basis in accordance with the terms and conditions of the transaction documents.</p> <p>For any of the transactions where the beneficial interest held by the conduit qualifies as a securitisation position, the sponsor should ensure that any subordinated position does not have inappropriate payment preference over payments to the conduit (which should always rank senior to any other position) and which are due and payable.</p> <p>Transactions featuring a revolving period should include provisions for appropriate early amortisation events and/or triggers of termination of the revolving period, notably: (i) deterioration in the credit quality of the underlying exposures; (ii) a failure to replenish sufficient new underlying exposures of similar credit quality; and (iii) the occurrence of an insolvency-related event with regard to the individual sellers.</p> <p>To ensure that debt forgiveness, forbearance, payment holidays, restructuring, dilution and other asset performance remedies can be clearly identified, policies and procedures, definitions, remedies and actions relating to delinquency, default, restructuring or dilution of underlying debtors should be provided in clear and consistent terms, such that the sponsor can clearly identify debt forgiveness, forbearance, payment holidays, restructuring, dilution and other asset performance remedies on an ongoing basis.</p> <p>For each transaction which qualifies as a securitisation, the sponsor should ensure that it receives, both before the conduit acquires a beneficial interest in the transaction and on an ongoing basis, the liability cash flow analysis or information on the cash flow provisions allowing appropriate analysis of the cash flow waterfall of these transactions.</p>
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11. Voting and enforcement rights

Relevant to the conduit level	Relevant to the transaction level
<p>To provide clarity to investors, the sponsor should make sufficient information available in order for investors to understand their enforcement rights on the underlying credit claims or receivables in the event of insolvency of the sponsor.</p>	<p>For each transaction, the sponsor should ensure that, in particular upon insolvency of the seller or where the obligor is in default on its obligation, all voting and enforcement rights related to the credit claims or receivables are, if applicable:</p> <ul style="list-style-type: none"> • transferred to the conduit; and • clearly defined under all circumstances, including with respect to the rights of the conduit versus other parties with an interest (eg sellers), where relevant.

12. Documentation disclosure and legal review

Relevant to the conduit level	Relevant to the transaction level
<p>To help investors understand fully the terms, conditions and legal information prior to investing in a new programme offering and to ensure that this information is set out in a clear and effective manner for all programme offerings, the sponsor should ensure that sufficient initial offering documentation for the ABCP programme is provided to investors (and readily available to potential investors on a continuous basis) within a reasonably sufficient period of time prior to issuance, such that the investor is provided with full disclosure of the legal information and comprehensive risk factors needed to make informed investment decisions. These should be composed such that readers can readily find, understand and use relevant information.</p> <p>The sponsor should ensure that the terms and documentation of a conduit and the ABCP programme it issues are reviewed and verified by an appropriately experienced and independent legal practice prior to publication and in the case of material changes. The sponsor should notify investors in a timely fashion of any changes in such documents that have an impact on the structural risks in the ABCP programme.</p>	(-)

13. Alignment of interest

Relevant to the conduit level	Relevant to the transaction level
<p>In order to align the interests of those responsible for the underwriting of the credit claims and receivables with those of investors, a material net economic exposure should be retained by the sellers or the sponsor at transaction level, or by the sponsor at conduit level.</p> <p>Ultimately, the sponsor should disclose to investors how and where a material net economic exposure is retained by the seller at transaction level or by the sponsor at transaction or conduit level, and demonstrate the existence of a financial incentive in the performance of the assets.</p>	(-)

14. Cap on maturity transformation

Relevant to the conduit level	Relevant to the transaction level
<p>Maturity transformation undertaken through ABCP conduits should be limited. The sponsor should verify and disclose to investors that the weighted average maturity of all the transactions financed under the ABCP conduit is [X]²⁰ year(s) or less.</p> <p>This number should be calculated as the higher of:</p> <ol style="list-style-type: none"> the exposure-weighted average residual maturity of the conduit's contractual obligations resulting from the beneficial interests held or the assets purchased 	(-)

²⁰ BCBS-IOSCO are considering that, in light of the maturity definition proposed, "X" should be set at a value between one and three years.

<p>by the conduit in order to finance the transactions of the conduit;²¹ and</p> <p>2. the exposure-weighted average maturity of the underlying assets financed by the conduit calculated by:</p> <p>(a) taking an exposure-weighted average of residual maturities of the underlying assets in each pool; and then</p> <p>(b) taking an exposure-weighted average across the conduit of the pool-level averages as calculated in Step 2a.</p> <p>Where it is impractical for the sponsor to calculate the pool-level weighted average maturity in Step 2a (because the pool is very granular or dynamic), the sponsor may instead use the maximum maturity of the assets in the pool as defined in the legal agreements governing the pool (eg investment guidelines).</p>	
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C. Fiduciary and servicer risk

15. Financial institution

Relevant to the conduit level	Relevant to the transaction level
The sponsor should be a financial institution that is licensed to take deposits from the public, and is subject to appropriate prudential standards and levels of supervision. ²²	(-)

16. Fiduciary and contractual responsibilities

Relevant to the conduit level	Relevant to the transaction level
<p>The sponsor should make representations and warranties to investors that it has undertaken adequate steps to ensure that:</p> <ul style="list-style-type: none"> • the various criteria defined at the level of each underlying transaction are met, and explain how; • the seller's policies, procedures and risk management controls are well documented, adhere to good market practices and comply with the relevant regulatory regimes; and • that strong systems and reporting capabilities are in place to ensure appropriate origination and servicing of the underlying assets. <p>The sponsor should be able to demonstrate expertise in providing liquidity and credit support in the context of ABCP conduits, and that it is supported by a management team with extensive industry experience.</p> <p>The sponsor should at all times act in accordance with reasonable and prudent standards. Policies, procedures and risk management controls of the sponsor should be</p>	<p>The sponsor should ensure that the seller(s) and all other parties responsible for originating and servicing the asset pools:</p> <ul style="list-style-type: none"> • act at all times in accordance with reasonable and prudent standards and have well documented procedures and policies in place to ensure appropriate servicing of the underlying assets; • have expertise in the origination of assets that are the same as or similar to those in the asset pools; • have extensive servicing and workout expertise, thorough legal and collateral knowledge, and a proven track record in loss mitigation for the same or similar assets; • have expertise in the servicing of the underlying credit claims or receivables; and • are supported by a management team with extensive industry experience.

²¹ Including purchased securitisation notes, loans, asset-backed deposits and purchased credit claims and/or receivables held directly on the conduit's balance sheet

²² National supervisors should decide what prudential standards and level of supervision are appropriate for their domestic banks. For internationally active banks, prudential standards and the level of supervision should be in accordance with the Basel framework. Subject to the determination of the national supervisor, in addition to risk-based regulatory capital this may include liquidity, leverage capital requirements and other requirements, such as related to the governance of banks.

<p>well documented, and the sponsor should adhere to good market practices and the relevant regulatory regime. There should be strong systems and reporting capabilities in place at the sponsor.</p> <p>The party or parties with fiduciary responsibility should act on a timely basis in the best interests of the investors.</p>	
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17. Transparency to investors

Relevant to the conduit level	Relevant to the transaction level
<p>To help provide full transparency to investors and to assist them in their conduct of due diligence, the sponsor should ensure that the contractual obligations, duties and responsibilities of all key parties to the conduit, both those with a fiduciary responsibility and the ancillary service providers, should be clearly defined in both the initial offering and any relevant underlying documentation²³ of the conduit and the ABCP programme it issues.</p> <p>The sponsor should also make representations and warranties to investors that the duties and responsibilities of all key parties are clearly defined at transaction level.</p> <p>The sponsor should ensure that the initial offering documentation disclosed to investors contains adequate provisions regarding the replacement of key counterparties of the conduit (eg bank account providers and derivatives counterparties) in the event of failure, non-performance, insolvency or other deterioration of creditworthiness of any such counterparty.</p> <p>The sponsor should also make representations and warranties to investors that provisions regarding the replacement of key counterparties at transaction level are well documented.</p> <p>The sponsor should provide sufficient information to investors about the liquidity facility (facilities) and credit support provided to the ABCP programme for them to understand its functioning and key risks.</p>	<p>The sponsor should conduct due diligence with respect to the transactions on behalf of the investors.</p> <p>To assist the sponsor in meeting its fiduciary and contractual obligations, duties and responsibilities of all key parties to all transactions (both those with a fiduciary responsibility and the ancillary service providers) should be clearly defined in all documentation underlying these transactions and the information made available to the sponsor.</p> <p>The sponsor should ensure that provisions regarding the replacement of key counterparties (in particular, the servicer or liquidity provider) in the event of failure, non-performance, insolvency or other deterioration of any such counterparty for the transactions are well documented (in the documentation of these individual transactions).</p> <p>To enhance transparency and visibility over all receipts, payments and ledger entries at all times, the sponsor should ensure that for all transactions the performance reports include all of the following: the transactions' income and disbursements, such as scheduled principal, redemption principal, scheduled interest, prepaid principal, past-due interest and fees and charges, delinquent, defaulted, restructured and diluted amounts, as well as accurate accounting for amounts attributable to principal and interest deficiency ledgers.</p>

²³ "Underlying documentation" does not refer to the documentation of the underlying transactions.