



IACPM Response to ECB Consultation on ECB Guide

IACPM members note that, in the proposed amendments to Section II, Chapter 3, Part 8 of the ECB Guide, the ECB is proposing to set out its approach and requirements in relation to the assessment of significant risk transfer ("**SRT**") securitisations in greater detail that has historically been the case.

The Guide currently includes only a general statement that the ECB may consider SRT has not been achieved on a case-by-case basis, taking into account the EBA Guidelines on Significant Risk Transfer. Going forward, however, if the proposed amendments are adopted, the Guide will incorporate a number of requirements which are drawn from the EBA's Report on SRT from 2020 (the "**EBA Report**").

In particular, the ECB is proposing to include almost verbatim the EBA's proposed test for commensurate risk transfer ("**CRT**"). The proposed language, which states that "the ECB *will* use, in particular" (emphasis added) this test suggests that the intention is a proposed securitisation will need to pass this CRT test in order to achieve SRT. We also note, however, that while the ECB has replicated the CRT test itself from Recommendation 13 of the EBA Report, it has *not* included the full detail about how the transfer of lifetime expected losses and regulatory unexpected losses achieved by the securitisation is to be calculated, other than a general reference to the need to take into account the whole life of the securitisation under different scenarios. This raises the question as to under which scenarios would the CRT test need to be passed in order to achieve SRT.

We understand that the ECB does not consider the adoption of these amendments to the Guide to reflect a change in its current approach to the assessment of SRT (including CRT). If that is the case, then we urge the ECB to modify the proposed amendments to clarify that the quantitative CRT test merely operates as a guide to assist originators and the JST in the SRT assessment, and to avoid creating any impression that passing the CRT test is a precondition to achieving SRT.

In addition, as the ECB is aware, there has been significant criticism by market participants of the CRT test proposed in the EBA Report. Indeed, our members reported in 2020 that the majority of SRT securitisations which have been through the SRT assessment process without objection from the JST *do not* in fact pass the CRT test as formulated by the EBA.

As has been discussed extensively in the market, this is in part due to the assumptions upon which the CRT test is based being unrealistic, in particular, the key assumptions that (i) unexpected losses are assumed to occur in the final year of the transaction after the expected losses have been realised and allocated and (ii) in the back-loaded

scenario, two-thirds of the total defaults occur in the last one-third of the life of the transaction. These assumptions simply do not reflect how losses occur in a typical securitisation. Indeed, the way in which losses will occur in a given securitisation is very much dependent on the nature of the portfolio, and for the CRT test to be meaningful, originators must be able to model the occurrence of repayments (including prepayments) and potential losses and their allocation to the transferred tranches in a way which reflects the observed historical performance of exposures similar to the securitised portfolio.

More fundamentally, however, we note that the CRT test set out in the EBA Report was never the subject of a formal consultation process. If it had been, the many shortcomings of the quantitative CRT test would have been the subject of industry responses which would have helped to inform any final version of the test. IACPM members therefore urge the ECB not to adopt this test without first engaging in a proper public consultation.

We also note that the ECB has listed a number of other matters to be considered "in particular" as part of the SRT comprehensive review. It is not clear how the ECB has concluded that these are topics to be considered in particular, or what purpose is served by enumerating them in the Guide. If specific topics are to be highlighted in the Guide, then it would be appropriate to include proper commentary in relation to how the ECB intends to approach the assessment of those topics (after proper industry consultation). If not, given that this is presumably not an exhaustive list of all matters the ECB will consider, it would be better not to single them out for mention in this way.

We also wish to point out that the IACPM supports the intention of the SSM that the process for SRT assessment should be common across ECB-supervised banks, for a better regulation and an effective fast-track process, and that the securitisation team assists the JSTs with the product, regulatory and market competences enabling non-mechanistic but consistent decisions. IACPM members would welcome the opportunity to discuss further with the ECB ways in which the SRT process could be improved.