10 September, 2025

IACPM Position Paper
on the European Commission's package of securitisation reforms published on 17 June 2025[1]

1. INTRODUCTION

The International Association of Credit Portfolio Managers (**IACPM**) draws together 157 financial institutions from around the world, with the aim of advancing the practice of Credit Portfolio Management and supporting the global economy. Membership includes banks, as well as investors and insurers sharing credit risk with banks to increase their lending capacity.

As one of the IACPM's objectives is safely broadening credit risk sharing between banks and non-banks, the association is highly engaged in delivering research on private data and in conducting discussions with regulators, in key jurisdictions, on the practice of private credit risk sharing, notably through credit insurance and significant risk transfer (**SRT**) securitisation.The IACPM welcomes the European Commission's proposals for wide-ranging securitisation reforms. IACPM members in banking, credit investment and non-life insurance particularly appreciate the holistic approach taken by the Commission, and the simplification of due diligence and disclosure for private securitization, In this paper, the IACPM provides comments on some key areas of the proposals with a view to facilitating further discussions on the proposals and with the intention that this legislative review achieves its aim of making the regulatory framework governing the EU securitisation market simpler, fit for purpose, and competitive in a global market. The IACPM's comments are provided exclusively from the perspective of SRT securitisations (both traditional and synthetic), but we have also considered, where appropriate, the implications of the proposed reforms for the wider securitisation market.

[1] https://finance.ec.europa.eu/publications/commission-proposes-measures-revive-eu-securitisation-framework_en

2. SECR PROPOSALS

2.1 **Transparency & reporting** (including drafting suggestions)

We welcome proposals to make the EU reporting regime more streamlined and more fit for purpose. However, we have concerns about possible unintended consequences and raise comments that would be helpful to have addressed as the proposals progress through the legislative process.

The IACPM proposes to **consider further amending Article 7** and corresponding mandates therein for amending Article 7 RTS/ITS as follows to avoid unintended consequences and to avoid more burdensome requirements being introduced in the future via changes in Article 7 RTS/ITS or via amendments to the operational standards on securitisation repositories:

(a) **All synthetic significant risk transfer (SRT) securitisations (irrespective of listing or how the deal is marketed) are to be always exempt from the definition of "public" securitisation and be subject only to the "private" reporting regime**: Changes in parameters for what constitutes a "public" securitisation will lead to unintended consequences and will result in some synthetic SRT securitisations falling into the "public" reporting regime. They will not benefit from the proposed simplified disclosure requirements and will lose all protection for confidentiality of deal information (including the ability to have only an anonymised record of any STS notification on the ESMA STS Register). However, these transactions always involve meaningful negotiation between sell- and buy-side whereby (over many months) investors work closely with originators to understand their business in great detail in order to ascertain the originators' risk drivers so that investors can determine the best way to underwrite the risk of the securitisation. While it is not common in practice, sometimes the originator in this type of securitisation may wish to seek a listing in the EU. The proposed definition creates disincentives to seek admission to trading on any EU trading venue as it would bring the deal into the "public" regime. In addition, the limb (c) of the new definition is too vague and it is unclear how the "non-negotiable" ("take it or leave it") nature of the deal will be tested or indeed how this concept may be further amended during the trilogue. Therefore, the private nature of the SRT market should be recognised in the SECR reform (irrespective of the application of any "non-negotiable" or any "EU listing" tests) and such securitisations should be always exempt from the "public" reporting regime.

⇨ *This can be achieved by adding a new limb (d) to the new definition of "public securitisation" which expressly excludes from that definition synthetic securitisations that are eligible to calculate risk-weighted exposure amounts, and, where relevant, expected loss amounts with respect to the underlying exposures in accordance with Articles 251 and 252 of the CRR as envisaged by Article 245(1) of the CRR.*

(b) **For the purposes of "private" reporting regime, all SRT securitisations (on-balance sheet (OBS) and traditional) should be subject to an adjusted EU supervisor-focused private reporting template under amended Art 7 RTS/ITS which avoids duplication with EU CRR SRT (incl. ECB/SSM) notification regime**: SRT securitisations are different from other securitisations because they are subject to supervisory SRT assessment by (and template-based notification and reporting to) the relevant EU supervisors under the EU CRR including, for significant institutions, under the SSM (with the ECB piloting its new fast-track process of supervisory SRT assessment). Therefore, the development of any EU supervisor-focused private securitisation template under Article 7 of SECR should take this into account and make it more tailored for such securitisations avoiding any duplication with the SRT notification regime.

⇨ *This can be achieved by hardwiring into the mandate given to the EBA in Article 7(3)-(4) of SECR that, when developing amendments to Article 7 RTS/ITS regarding the new* *private securitisation reporting regime, the SRT supervisory assessment reporting and notification requirements must be taken into account to avoid duplication.*

(c) **Recommend to amend Article 7 further to remove constraints identified by ESMA's feedback statements on the outcome of its consultation on private securitisation reporting so that supervisor-focused template for private securitisations can be fit for purpose and does not result in more burdensome reporting regime when Article 7 RTS/ITS are amended**: We also note in this regard the publication on 17 July 2025 of the ESMA feedback statement[2] on the outcome of its consultation on private securitisation reporting and that the analytical work conducted on this and other ESMA's consultations on reporting and the feedback received from stakeholders will be used as valuable input when developing amendments to Article 7 RTS/ITS under the new mandates coming out of the SECR reforms. We also note ESMA's comments about constraints of the current level 1 text that resulted in ESMA proposing less workable in practice supervisor-focused private template in terms of its contents, granularity of information, jurisdictional scope and frequency of the required reporting. Therefore, we recommend that it is further clarified in Article 7 (and corresponding RTS/ITS mandates) that for EU supervisors it is about: (i) *access* to the information made available to investors (which EU supervisors already have (or can easily be given such access if requested) irrespective of whether a securitisation is reported to a securitisation repository); and (ii) the *harmonisation of* existing mixed approaches to *notification of securitisations to EU supervisors* for the purposes of supervision of compliance of the relevant EU parties with their SECR obligations. On the latter, we note that the explanatory memo to the SECR proposals already states that "reporting template for private securitisation should be much lighter… and focused on the needs of supervisors". We recommend that this is more explicitly hardwired into amendments to Article 7 so that SECR reforms ensure that EU supervisor-focused private template is simple, avoids duplicative reporting and is required as a one-off notification only with ad hoc updating in certain limited cases of material changes (for example, when there is a material impact on the EU party's ability to continue complying with its SECR obligations).

- ⇨ *This can be achieved by amending paragraph 1 of Article 7 making the EU supervisor access point clearer – an illustrative mark-up is set out in the footnote below.[3] Paragraph 2 of Article 7 should be reframed to focus on harmonisation of existing supervisory reporting practices drawing a distinction between investors' and supervisors' needs and hardwiring provisions that will ensure more burdensome reporting regime is not introduced under mandates in Article 7(3)-(4). We will be happy to provide further thoughts on relevant drafting changes.*

(d) **All securitisations subject to the "private" reporting regime, *including third country securitisations*, (other than supervisor-focused template) should not be otherwise required to prepare any other prescribed asset-level or investor reporting and transaction parties should be free to choose the format and the method for how deal reporting is made available *to investors***: The deal information reported on privately negotiated securitisations, including synthetic SRT securitisations, is always tailored to what investors require initially and on an ongoing basis. Harmonisation of private securitisation reporting to EU supervisors is helpful (and the development of the private template should also work in third regard for *third country issuers* where only the EU investors are subject to supervision in the EU) but no other prescriptive requirements or templates relating to information to be provided to investors in any asset-level or investor reporting should be introduced via amendments to Article 7 RTS/ITS.

[2] https://www.esma.europa.eu/document/feedback-statement-private-securitisation

[3] Here is an illustrative mark-up:
"1. The originator, sponsor and SSPE of a securitisation shall, in accordance with paragraph 2 of this Article, make at least the following information available to holders of a securitisation position~~, to the competent authorities referred to in Article 29~~ and, upon request, for potential investors (and provide the competent authorities referred to in Article 29 with access to it):[…]"

⇨ *The IACPM recommends to more expressly hardwire this into the mandates in Article 7(3)-(4) so that it is clear in the mandates that for private securitisations only EU supervisor-focused template should apply to facilitate supervision of compliance of the relevant EU parties with their SECR obligations and that no other template for asset-level or investor reporting should be applicable.*

(e) **If reporting of "private" deal information to EU securitisation repositories is required (which we do not support), it should be limited to EU supervisor-focused template only and existing SECR reporting to ECB/SSM or other national supervisors should no longer be required; the originators must have full control over access to the deal data to further protect the confidentiality of deal information if anything else is required to be made available via repositories and repositories must be subject to a legal requirement to keep private deal information confidential**: On SRT securitisations in general, EU supervisors already have full visibility of each deal and can access all deal information. In addition, all SRT and non-SRT securitisations originated or sponsored by significant institutions are also reporting deal information using ECB/SSM template via the CASPER platform. In certain Member States additional notification requirements to the relevant national supervisors also apply. Therefore:

⇨ *if it is mandatory to use securitisation repositories on all private securitisations, Article 7 should make it clear that it is expected that the EU supervisor-focused private template should replace all other supervisor notification requirements to avoid duplication.*

⇨ *Article 7(3)-(4) mandates (and Article 17 provisions on securitisation repositories) should hardwire protections for preserving the confidentiality of deal information by the repositories, so that only EU supervisor-focused private template is required to be reported via repositories and, if any other information must be made available via repositories as well, originators (and/or sponsors, if any) have full visibility and control over access to the deal data.* For third country securitisations additional considerations arise which we address below.

(f) **Simplified reporting regime and application of any EU supervisor focused private template must work for third country deals and it should be clarified that third country securitisations are not required to report deal data via securitisation repositories**: We refer to our comments in section 2.2(b) below on Article 5(1)(e), and *note our support for the reforms to follow the JC of ESAs Article 44 Report recommendations*[4] *and to introduce more simplified and principles-based approach to due diligence regardless of public/private transaction type or sell-side location (inside/outside the EU) prioritising substance over form approach to the provisions of information as long as it enables EU investor to carry out a meaningful risk assessment*. However, if the proposed by the EC amendments to Article 5(1)(e) are adopted and third country securitisations are subject to strict compliance with Article 7 regime, the public templates must be sufficiently simplified and streamlined to make it easy for a third country issuer to complete and EU supervisor-focused template for private deals must be adapted for the scenario where the supervised entity is an investor rather than the sell-side party. In addition, in line with the JC of ESAs recommendations, it must also be clarified that there should be no mandatory use of EU securitisation repositories on third country securitisations.

(g) **Development of amending Article 7 RTS/ITS on simplified reporting must be prioritised with consultation process starting as soon as the political agreement is reached on Article 7 amendments even if other aspects of the reforms are still subject to negotiations so that amended Article 7 RTS/ITS are finalised shortly after the date when SECR amendments**

[4] https://www.esma.europa.eu/sites/default/files/2025-03/JC_2025_14_Joint_Committee_report_on_the_functionning_of_the_securitisation_regulation.pdf

come into force: As the implementation of the simplified SECR reporting regime will be largely dependent on the development of amendments to Article 7 RTS/ITS, this work should be prioritised and sped up with the consultation process on Article 7 RTS/ITS amendments starting before (not after) the SECR amendments are in force.

⇨ *Regulators should aim at having all changes to the reporting templates finalised as soon as the SECR amendments come into force thus giving the industry much needed clarity on what amended Article 7 regime will look like.*

(h) **Mandate in Article 7(4) on amending Article 7 ITS should hardwire requirement to give more flexibility on the format requirements if template-based reporting applies, so that use of XML is no longer mandatory**: In line with the JC of ESAs recommendations and the general industry feedback, mandatory use of XML format should be deleted in Article 7 ITS, leaving the flexibility for the format of any template-based or other reporting to be agreed by the relevant transaction parties. This should be hardwired in the Article 7(4) mandate.

(i) **Grandfathering and transitional provisions (in amendments to SECR and Article 7 RTS/ITS) should give sufficient flexibility for existing and new securitisations:** The proposals are missing crucial details on how any transitional or grandfathering provisions may operate.

⇨ *The IACPM recommends (with the wider market perspective in mind) that the drafting of grandfathering and transitional provisions should give the market sufficient flexibility so that existing securitisations can have the benefit of the full grandfathering (meaning that securitisations that are "private" under the current regime should continue being treated as "private") as well as the flexibility to opt into the simplified reporting regime and that sufficient time is given to the market to adopt internal systems and process for the new reporting templates that may apply*.

(j) Here are additional details and drafting suggestions relating to the points discussed with the European Commission on 12 August 2025:

Article 7 – please see below the mark-up of various provisions in Article 7 that illustrate how certain drafting changes could improve the interpretation of Article 7, thus limiting unintended consequences that may arise when amendments to Article 7 RTS/ITS are developed:

(i) **Article 7(1), first sub-paragraph** – The small change in the mark-up below makes it clearer that, as far as supervisors are concerned, it is about providing access to the same information made available to investors. This will permit to interpret the new mandate to amend Art 7 RTS in a way that reduces the unintended consequences. For example, for "public" securitisations, it will mean automatic access by supervisors to all relevant deal information (ie transaction docs, completed asset-level/investor templates) via the securitisation repository. For "private" securitisation (encompassing all synthetic SRT deals as recommended by the IACPM) it will mean automatic access to the completed supervisor-focused template submitted to the securitisation repository AND the originator granting to the EU supervisor(s) access to any data room/secure website or other platform used for sharing other deal information (how/where such information can be accessed and any login details can be specified in the applicable supervisor-focused template, the ECB/SSM template already requires an indication of where deal information is made available if repository is not used).

"1. The originator, sponsor and SSPE of a securitisation shall, in accordance with paragraph 2 of this Article, make at least the following information available to

holders of a securitisation position~~, to the competent authorities referred to in Article 29~~ and, upon request, for potential investors (and to provide the competent authorities referred to in Article 29 with access to such information):[…]"

(ii) **Article 7(2), second and third sub-paragraphs** – Please consider further amending the second and third sub-paragraphs so that it is clear that for "private" securitisation only the supervisor-focused template is required to be reported to the securitisation repository. If the proposed amendments (as illustrated in the mark-up below) are not made, the provision of the second sub-paragraph can be read as to mean that even if there are no templates for asset-level and investor reporting for a private securitisation (and only supervisor-focused template applies), nevertheless **all** deal information such as transaction docs and any other asset-level/investor reporting must be uploaded onto the securitisation repository. The third sub-paragraph of Article 7(2) needs to be also more aligned with the indication in Recital 14 that the new template should be modelled on the ECB/SSM template, ie be focused on the supervisors' needs which are primarily aimed at the supervision of compliance of the relevant EU transaction parties with applicable to them SECR obligations. This will ensure that the new "private" template is not made more onerous and does not confuse investors' and supervisors' needs, thus reducing the possibility of unintended consequences when Article 7 RTS are amended:

"The entity designated in accordance with the first subparagraph shall make the information for a public securitisation transaction available by means of a securitisation repository.

Private securitisations shall be subject to a distinct reporting framework that acknowledges their unique characteristics, differing from public securitisation in a dedicated and simplified reporting template. That dedicated and simplified reporting template shall focus on supervisors' needs, shall facilitate and harmonise the supervisory oversight relating to compliance of the relevant transaction parties with the applicable to them requirements of this Regulation and shall ensure that essential information relevant to national competent authorities is adequately reported, without imposing the full extent of asset-level and investor reporting obligations applicable to public securitisations. The entity designated in accordance with the first subparagraph shall make the dedicated and simplified reporting template for a private securitisation available by means of a securitisation repository. Private securitisations shall fulfil their obligations under this subparagraph as of [date set in the fourth subparagraphs of paragraphs 3 and 4 of this Article.] The template shall be regularly subject to an assessment."

(iii) **Article 7(3)** – Consider amending the mandate for developing changes to Article 7 RTS so that, as recommended by the IACPM, it is clear that the SRT nature of the transaction must also be taken into account to avoid duplication in reporting:

"ESAs shall develop, through the Joint Committee of the European Supervisory Authorities, under the leadership of the EBA and in close cooperation with the ESMA and EIOPA, draft regulatory technical standards in accordance with Article 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 to specify the information that the originator, sponsor and SSPE shall provide to comply with paragraph 1, first subparagraph, points (a) and (e), and paragraph 2 taking into account:

(a) the usefulness of information for the holder of the securitisation position;

(b) whether the securitisation position is public or private;

(c) whether the securitisation position is of a short-term nature;

(d) whether the transaction is subject to additional supervisory scrutiny and reporting as a significant risk transfer securitisation;

(d) in the case of an ABCP transaction, whether that transaction is fully supported by a sponsor.

The ESAs, through the Joint Committee of the European Supervisory Authorities, under the leadership of the EBA and in close cooperation with ESMA and EIOPA, shall submit those draft regulatory technical standards to the Commission by [6 months after the date of entry into force of this amending Regulation]."

(iv) **Article 7(4)** – Consider amending the mandate for developing changes to Article 7 ITS so that, as recommended by the IACPM, it is clear that there is flexibility for the format use and no mandatory requirement to use XML format only:

"*In order to ensure uniform conditions of application for the information to be specified in accordance with paragraph 3, the ESAs, through the Joint Committee of the European Supervisory Authorities, under the leadership of the EBA and in close cooperation with the ESMA and EIOPA, shall develop draft implementing technical standards in accordance with Article 15 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 specifying the format thereof by means of standardised templates which maintains flexibility to reflect the market practice and development of innovation and technological advances*."

2.2 Investor due diligence

We welcome the proposals to move certain investor due diligence (**DD**) requirements towards more proportionate and principles-based approach but **have significant concerns that the proposals do not go far enough to simplify the DD regime, do not improve competitiveness of EU investors when investing outside the EU, and that even helpful changes will be negated because of the proposed amendments to the delegation provisions and the very problematic introduction of the new (and additional) sanctions regime under Article 32**.

Our proposals on different approaches are set out below:

(a) **Delete non-compliance with DD from the proposed changes to Article 32 sanctions and reinstate in Article 5(5) ability to delegate DD to another EU institutional investor <u>with</u> optionality (if this is contractually agreed, which may or may not be the commercial position) for transfer of liability for regulatory compliance**: There is existing sectoral legislation (ie CRR, Solvency II, AIFMD, UCITS) that provides for consequences of non-compliance with SECR investor DD, which includes for CRR and Solvency II investor punitive capital charges. *The proposed application of Article 32 sanctions regime with its highly punitive financial sanctions on top of the existing requirements is excessive, disproportionate, unjustified, sends the wrong signal to the market about continued stigma of securitisation (no other financial product is subject to such sanctions regime) and it is likely to negate other helpful changes* (such as reduced DD for compliance with SECR retention, transparency and STS on EU-originated/sponsored securitisations) *and is also likely (in particular when coupled with proposed changes to delegation) to act as a deterred for some existing or new investors*. The suggestion in the proposals that this is needed to enable EU supervisors to enforce DD requirements is misguided and is at odds with the designation in Article 29(1) of national competent authorities for supervision of compliance with Article 5 by reference to the applicable sectoral legislation where, as noted, consequences for non-compliance are already covered.

Proposed Article 5(5) amendments should be deleted and replaced with amendments that make it clear an EU institutional investor should continue being free to choose whether it wants to be liable for non-compliance if it accepts the delegation of DD from another EU institutional investor (optionality for transfer of liability for regulatory compliance which may or may not be the commercial position, market practice differing in this respect). *This delegation flexibility was introduced in the original SECR in response to the industry comments and in recognition that it is appropriate to accommodate delegation on this basis for securitisation if parties agree. No evidence has been produced as to why it is no longer considered appropriate* to permit this for securitisation and a comparison with other legislation where delegation of regulatory liability is not permitted (eg EMIR) is not fully justified given the different background to the development of the SECR regime. *If the EU wants securitisation market to grow and support financing its strategic investments, amended SECR regime should encourage new investors to enter this market.* However, such investors may have initially more limited resources and expertise to cover securitisation DD and would, therefore, want to leverage the expertise of experienced asset managers who accept contractually also liability for non-compliance.

⇨ *If these proposals are not deleted, existing investors and new entrants will be discouraged from participating in the EU securitisation market and compliance challenges will arise on some existing DD delegation arrangements under currently applicable Article 5(5) thus creating further negative impact on the market*.

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(b) **More proportionate approach to the required DD on third country securitisations is needed, in particular on compliance with EU reporting; consider adopting instead the JC of ESAs recommendations for moving DD for EU and non-EU securitisations onto more principles-based approach with focus on what is material and necessary for meaningful risk assessment and focusing more on "substance over form" analysis**: We note that the EU is very focused on the EU competitiveness with the EC presenting earlier in 2025 the Competitiveness Compass initiative.[5] However, the SECR reforms are not used as an opportunity to address the much needed reform to the DD required on third country securitisations (in particular in relation to the EU style reporting), which puts EU investors at a significant competitive disadvantage compared to other investors that are not subject to such prescriptive DD (this includes UK investors that are required to apply a "sufficient information test" when investing in UK or non-UK securitisations which test is described with high-level detail only focusing on materially relevant information being provided to enable meaningful risk assessment).

The *DD reform should* therefore follow some of the JC of ESAs recommendations and *expand further on the principle of proportionality underpinning the entire Article 5 regime regardless of public/private transaction type or sell-side location (inside/outside the EU) prioritising substance over form approach to the provisions of information as long as it enables EU investor to carry out a meaningful risk assessment*. Article 5 itself (rather than only corresponding recitals that refer to "simplified" and "less extensive" DD in certain cases) should make it clear that the same level of DD is not required in all cases. We also support in this regard the JC of ESAs recommendations that Article 5 should avoid cross-referring to certain Articles of SECR (such as Article 7) and should instead explicitly set out certain minimum requirements that investors must verify and assess, where applicable. We would however caution against adopting the JC of ESAs recommendations to introduce new mandate for the development of new technical standards as it would only delay and slow down the introduction of meaningful DD reforms, create compliance challenges and potentially lead to unintended consequences.

⇨ *If this alternative approach is not adopted and, against our recommendations, SECR DD on third country securitisations in Article 5(1)(e) will require instead strict compliance with Article 7, the issues that we discussed earlier in section 2.1(c)-(h) above must be addressed. That is:*

(i) "public" reporting templates must be sufficiently simplified to make it easy for third country issuers to prepare such templates;

(ii) EU supervisor-focused "private" template must work for third country securitisations where only EU investors are subject to supervision in the EU and SECR amendments should then also make it clear that on third country securitisations no other template for asset-level or investor reporting will apply;

(iii) third country issuers should not be required to report any deal data to EU securitisation repositories;

(iv) format of reporting should not require mandatory use of XML;

(v) simplification of the EU reporting regime via amendments to Article 7 RTS/ITS should be fast-tracked; and

[5] https://ec.europa.eu/commission/presscorner/detail/en/ip_25_339

(vi) meaningful and flexible grandfathering and transitional provisions will be needed to smooth transitioning of existing and new securitisations onto the new reporting regime.

(c) **Add EU CRR definition of "exposure" into SECR Article 2 to harmonise application of the analysis as to when Article 5 is triggered**: The trigger for the application of Article 5 is "*holding a securitisation position*". The "*securitisation position*" is defined in SECR Article 2(19) as "*an exposure to a securitisation*". The term "*exposure*" is not defined in this context in SECR but it is defined in the EU CRR Article 5 (for the purpose of capital requirements for credit risk) as "*an asset or off-balance sheet item*". Our non-bank members' feedback indicates that it will be very helpful to incorporate this EU CRR definition into SECR Article 2 to drive harmonised approach to the interpretation of the term "exposure" and making it explicit that this definition should apply irrespective of whether or not the relevant institution is regulated under the EU CRR.

2.3 OBS STS securitisation – eligibility of (re)insurers' unfunded credit protection

We applaud the Commission's proposals to permit unfunded credit protection written by (re)insurers to be eligible within the OBS STS framework. This important measure has potentially positive implications for market growth and development, broadening and diversifying the investor base and facilitating cost-effective protection for lower risk asset classes and compliance with minimum credit enhancement/senior attachment point requirements.

However, the benefit of the reform will be reversed, and insurance participation in the SRT market threatened altogether, if the proposed new concept of "resilience" is implemented in the CRR, but transactions featuring unfunded credit protection provided by insurers that are eligible in line with proposed changes to the general STS framework are not eligible for "resilience" and the prudential benefits associated with resilience (whether the transaction, overall, is STS or non-STS, and whether the unfunded credit protection is the sole form of credit protection in the transaction, or is provided in combination with funded credit protection).

The "resilience" label is associated with important prudential benefits and is likely to be achievable by a much broader section of the market than is STS. It is also likely to be significantly less costly and time-consuming to achieve non-STS "resilience" than to achieve STS. These major incentives associated with "resilience" mean that insurers are likely to be excluded from a greater proportion of the market if they are excluded from the "resilience" label than they are, at present, by virtue of exclusion from the STS label. I.e. the insurance SRT market will shrink. This at a time when other markets are liberalising their approach to unfunded credit protection and allowing participation on a non-siloed/Balkanised basis.

Exclusion of protection provided by insurers from "resilience" would greatly aggravate existing level playing field issues in securitisation regulation (i.e. the competitive advantage created for fund investors relative to (re)insurers) and deprive the market of the counterparty risk diversification and market capacity benefits associated with participation by insurers[6]. The market would also lose the benefit (current and future, as the newly risk sensitive risk weight floor potentially facilitates the SRT securitisation of residential real estate (RRE) in particular) of insurers' special expertise in, and appetite for providing protection on mortgage SRTs (flowing from their capacity to underwrite long tail risks) as well as on long term investments like infrastructure and project finance, asset classes in which they have built up a specific expertise.

[6] As noted in IACPM's 4 December 2024 response to the Commission's Targeted Consultation on the Functioning of the EU Securitisation Framework, the use of insurance is risk-effective for originators in the sense of diversifying available protection types. Insurers also generally syndicate the tranches acquired, retaining on average only 35% of the risk (IACPM survey 2022), which assists with the diversification of counterparty risk and are well capitalized and highly regulated. The involvement of insurers in the synthetic securitisation market increases the overall supply of potential protection providers, providing greater market capacity to absorb risk.

⇨ ***Transactions featuring unfunded credit protection provided by insurers that is eligible in line with proposed changes to the general STS framework must count as resilient and be eligible for the prudential benefits (and practical cost and time efficiencies relative to STS) associated with resilience. This eligibility is crucial both for transactions that are STS and for transactions that are (overall) non-STS and whether the unfunded credit protection is the sole form of credit protection in the transaction, or is provided in combination with funded credit protection.***
The absence of this recognition could put the entire market for insurers at risk, as well as aggravating level playing field issues (between fund investors and (re)insurers), depriving the market of the counterparty risk diversification and market capacity benefits associated with the insurance format, and jeopardising market access to insurers' special expertise in, and appetite for, providing protection on mortgage and long term infrastructure finance SRTs.

In relation to the proposed eligibility criteria for unfunded credit protection within the OBS STS framework, themselves: the criteria are far too restrictive in certain respects and unlikely to be workable in practice - even for EU Solvency II firms - as they do not align with the specific business models of insurers.

The proposals fail to facilitate financial stability-protective diversification by excluding almost all of the (re)insurers currently underwriting EU SRT transactions, as well as all non-EU (re)insurers, creating excessively high barriers to entry, and running counter to the Draghi report and broader EU initiatives aimed at revitalising and deepening the European securitisation market through broader participation and investor diversification.

IACPM members note the contrast between the 15 insurers currently participating in the EU SRT markets, where issuance started in 2015, and the 60 insurers active in the U.S. Government Sponsored Enterprises (GSE) markets (Fannie Mae and Freddie Mac), where (re)insurance and capital markets solutions have built up in parallel since 2012, under the GSEs' Credit Risk Transfer (CRT) programs. In this context, we support safeguards that facilitate market participation by mid-size insurers with genuine credit expertise to add market capacity and flexibility, and address potential concerns about concentration.

IACPM has conducted a survey[7] (the (Re)Insurer STS Eligibility Survey) to:

(1) identify the number of insurers currently providing, or planning to provide (in the short to medium term), credit protection to EU banks in SRT securitisations that would be excluded by applying the proposed safeguards at the (in line with the proposal) solo level of the EU-based insurance underwriting entity, and

(2)estimate the number of insurers that would be re-included, and thus able to support banks' SRT operations as eligible STS (and resilient – see below) protection providers to EU banks, if the safeguards were amended,

and shared its findings with the Commission.

IACPM hopes that the survey will assist the Commission, in providing an impact assessment to the co-legislators.

[7] The survey data was collected on a best-efforts basis for IACPM and covers:
–53 carriers, including 20 Lloyd's syndicates, across
–23 groups globally, which are either already active (17 groups with 1 to 4 carriers each), or planning to be active (6 groups) in the short to medium term in SRT. Financial data (Total Assets) was sourced from publicly available annual reports or AM Best reports, including at the ultimate parent level (consolidated) and information about compliance with EU Solvency 2, SCR and MCR ratios, and availability of regulatory approved internal models, was sourced from SFCR reports. Where a carrier was not under the EU Solvency regime, data on equivalent ratios to SCR and MCR was not sourced. Certain (re)insurance groups use Lloyd's syndicates to underwrite SRT, but not exclusively if they have access to other eligible balance sheets. Each syndicate was allocated to its respective (re)insurance group.

Key conclusions of the (Re)Insurer STS Eligibility Survey are discussed below.

- ⇨ **Given the unworkability, as identified by the (Re)Insurer STS Eligibility Survey** (and detailed below)**, of the proposed requirements for: (i) regulatory approved internal models and; (ii) specified size/substance (as currently proposed, min EUR 20 billion AuM at underwriting company level), and the greater coherence of addressing any such sector-specific concerns via Solvency II, for the sake of consistency between banking and insurance prudential regulation, IACPM proposes that these requirements be deleted and replaced with cross references to a requirement for compliance with new provisions (to be developed) in Solvency II introducing parameters relating to eligibility, supervision and reporting for providers of unfunded credit protection under the SECR OBS STS framework (ideally this would extend to compliance with third country equivalent frameworks – see below).**

(a) Requirement for compliance with Solvency II

As the ESRB notes with approval, in its report "Unveiling the impact of STS on-balance-sheet securitisation on EU financial stability", in the current market *"… most of the risk associated with EU synthetic STS securitisation is transferred to investment funds and pension funds that are primarily domiciled outside the euro area. This results in diversification of risk across different sectors and geographical regions*". The majority of fund investors active in EU SRT, indeed, do not operate through an EU entity. The proposed requirement for compliance with Solvency II capital requirements, and use of Solvency II internal models, for eligible (re)insurers, by contrast, effectively excludes non-EU (re)insurers removing financial stability enhancing diversification. Large exposures / internal concentration limit issues could potentially also arise for originator banks (restricting their use of the format) if the pool of eligible providers is too small (due to geographic restriction or the other eligibility criteria, discussed below).

The (Re)Insurer STS Eligibility Survey, however, indicates that the restriction to Solvency II. while it excludes 45% of insurers at entity level, excludes only two groups (of which one is currently active in EU SRT) at consolidated level. This is because the majority of groups active in EU SRT have a Solvency II regulated undertaking.

- ⇨ ***In order to avoid excluding (at entity level) a large number of undertakings currently active in the EU, and allow for development and growth unfunded (re)insurance, eligibility should, ideally, be extended, beyond Solvency II, to include compliance with insurer prudential regulation requirements in third countries identified, by the Commission, as fully equivalent for purposes of Article 172, 227 and/or 260 of Solvency II.***
- ⇨ ***These equivalence decisions, published in 2015 and before Brexit, should be updated by the Commission before the proposed amends to the SECR take effect.***

As the Commission will be aware, (re)insurers are able, within the applicable CRR credit risk mitigation and on-balance sheet STS rules, to write credit protection in the form of an insurance policy that satisfies the CRR guarantee credit risk mitigation eligibility requirements applicable to guarantees, or in the form of a guarantee. The concept of equivalence to the Solvency regime would need to cover both formats, but that would presumably not be an issue if the equivalence concept relates to the insurer protection provider's overall prudential regulatory status.

(b) Requirement for Internal Models

The Commission is rightly concerned to ensure prudent risk management and capitalization, however, the requirement for use of an approved internal model is too onerous, excluding the vast majority of current and potential EU Solvency II credit protection providers.

<u>The (Re)Insurer STS Eligibility Survey indicates that restricting eligible entities to carriers using regulatory approved internal models under the EU SII regime would exclude 76% of carriers in the EU, most of them currently active in underwriting EU SRT.</u> The restriction would create a major barrier to entry into the market for further (re)insurance companies, EU and non-EU, and drive non-EU based (re)insurers to focus on other markets, benefiting non-EU banks.

An absence of approved internal models, in this market, in no way denotes a lack of sophistication in risk assessment and risk management. Analysis, undertaken by the actuarial firm, Milliman, based on the SFCR submissions of 728 non-life EU insurers in 15 countries representing about £500bn of premium indicates that "[t]he vast majority (87%) of the undertakings in the analysed sample have used the Standard Formula (SF) to calculate their SCRs"[8].

Where approved internal models are used, this is generally by the largest (re)insurance groups (total assets above €100bn) and typically driven by economies of scale, capital optimisation, inefficiencies in the standard formula approach (e.g. long tail risk). These models are not specific to SRT insurance/guarantees, but rather cover either the entire business of the insurer, or whole lines of business (typically relevant for such types of risks as catastrophe or professional malpractice).

It would be wholly uneconomic to develop and maintain an approved internal model specific to SRT protection (within credit risk). Based on EIOPA statistics, "Credit and Surety (C&S)" accounts for only 2.2% on average of insurers' gross written premium in direct insurance and 5% in proportional reinsurance[9], with SRT representing only a fraction of the above. The resource (time and cost) required to develop an internal model in the context of such a specialty business line is clearly disproportionate, so not undertaken.

⇨ ***As indicated above, the proposed requirement for use of an approved internal model should be replaced with a cross reference to compliance with new provisions (to be developed) in Solvency II introducing parameters relating to eligibility, supervision and reporting for providers of unfunded credit protection under the SECR OBS STS framework (ideally this would extend to compliance with third country equivalent frameworks).***

(c) Requirement for Sufficient Size / Substance

The proposed size/substance metric, as currently defined (min EUR 20 billion at underwriting company level) would exclude most of the multiline non-life insurers currently active in the European SRT markets. ***In order to achieve the Commission's objective of diversifying and strengthening protection sellers in SRT securitisation, proposed size/substance metric must be revisited.***

<u>The (Re)Insurer STS Eligibility Survey indicates that restricting insurers to underwriting entities with Total Assets higher than €20bn would leave less than 10% of undertakings</u>

[88] Analysis of non-life insurers Solvency and Financial Condition Reports: European non-life insurers year-end 2022

[9] And see Figure 15 in the Milliman analysis cited above, where "credit and suretyship" is identified as representing approximately 2% of all reported technical provisions.

eligible, excluding undertakings belonging to large international groups, and creating significant concentration risk that will impede market growth.

Even applying the same metric at group level would exclude 35% of the insurance groups, including highly experienced (re)insurers, with deep structured credit expertise. Again, this would expose both banks and insurers to concentration risks and impede the growth and efficiency of the EU securitisation market due to the internal credit and concentration limits imposed by banks on their portfolios.

In this context, IACPM members note that insurers are stringently prudentially regulated, that the CRR risk weights associated with the residual exposure to the insurer for the protection purchasing bank already adjust to reflect the rating/default risk of the insurer, that banks apply strict credit risk management assessments and limits to insurers as part of their BAU processes (based on solvency, financials, capital strength, assessment of credit, concentration risk and wrong-way risks, and the specifics of each underlying transaction). Improperly designed and calibrated, size/substance related eligibility requirements threaten efforts to revitalise and deepen the European securitisation market through broader participation and investor diversification, creating high barriers to entry and potential concentration risks.

If a specific quantitative threshold *is* imposed (in Solvency II or otherwise), proper definition would be critical to ensuring the development of a healthy, diversified and robust insurance and reinsurance sub-market as the SRT market matures.

IACPM members also note that, if imposed (in Solvency II or otherwise), the appropriate group level for testing any size/substance related eligibility requirements would require careful consideration because insurance groups operate, for licensing purposes, through multiple subsidiaries (opcos) in different regions. These opcos receive parental support (often through quota share reinsurance or parental guarantees), while still, themselves, enjoying A or AA credit ratings, especially where deemed, by the rating agencies, to have "core status".

- ⇨ ***As indicated above, the proposed size/substance metric should be replaced with a cross reference to compliance with new provisions (to be developed) in Solvency II introducing parameters relating to eligibility, supervision and reporting for providers of unfunded credit protection under the SECR OBS STS framework (ideally this would extend to compliance with third country equivalent frameworks).***

- ⇨ ***IACPM members note that, if a specific quantitative threshold is imposed, assets under management (AuM) is not a meaningful metric in relation to insurers*** *(as it might be in relation to e.g. fund managers) and certainly not a reliable measure of a (re)insurer's ability to bear credit risk.* ***Any eligibility requirement to ensure sufficient size/substance should be tested using a more appropriate metric, using a metric such as "Total Assets", or another metric based on solvency, provided properly calibrated.***

(d) Requirement to Operate in At Least Two Classes of Non-Life Insurance

IACPM members strongly support the exclusion of monolines. The (Re)Insurer STS Eligibility Survey indicates that all (re)insurance underwriting entities currently active, or planning to be active, in the EU SRT operate at least two business lines at the underwriting entity level.

As the terms "insurer"/"reinsurer" ("insurance"/"reinsurance") are used interchangeably in Solvency II framework and there is no separate "reinsurance" authorisation, IACPM notes that it does not perceive the application of this requirement to be problematic in relation to re-insurers.

(e) Contractual Insurer Replacement Provisions And The Minimum CQS3 Rating Requirement

A minimum (CQS3) rating requirement is proposed (which applies at the level of the operating company providing the credit protection). The (Re)Insurer STS Eligibility Survey indicates that this requirement is unproblematic, as, based on both credit and financial strength ratings, the minimum CQS3 rating requirement should not exclude any (re)insurer currently, or expected to be, active in the EU SRT market. **It would**, however, **be helpful to clarify that a transaction will not lose its STS status in the period required to effect the replacement, where a contractual provision exists for replacement** of an insurer that has ceased to be eligible by another insurer that is eligible (subject to the originator approving the replacement).

2.4 Other STS criteria

(a) CRR risk weight limits for underlying assets associated with STS prudential treatment

We note with approval the Commission's agreement that risk weight limits for underlying assets associated with STS prudential treatment require amendment, including in light of risk weight changes under CRR3.1. However, a number of important asset classes, like IPRE and pre-operational phase project finance, would be scoped out by the revised limits proposed by the Commission and prevent the Savings and Investment Union from financing certain of the EU's strategic objectives. IPRE lending can be instrumental to two of these objectives: the green transition and urban regeneration. IPRE lending can finance energy-efficient buildings and retrofitting projects, contributing to the green transition. Indeed, banks are acutely aware of the energy-efficiency of buildings they finance, becoming ever stricter in their minimum requirements.

The 100% RW limit (on a per asset basis) for exposures other than RRE and CRE is not compatible with pre-operational project finance exposures (which now attract a 130% risk weight on the standardised approach). Operational phase project finance assets would remain eligible for securitisation with STS prudential benefits, however a substantial part of a project finance book typically comprises pre-operational phase assets (and granularity is already a major issue for this asset class) meaning that it would become very difficult for banks to issue STS project finance securitisations unless this proposal is amended. The green and digital transitions that revival of the securitisation market should help to finance will require vast amounts of project finance lending by banks, including during the construction (pre-operational) phase. **Under the CRR risk weight limits for underlying assets associated with STS prudential treatment, a higher risk weight limit of 130% should be permitted, for STS prudential benefits, for project finance in the pre-operational phase**.

The 100% RW limit (on a per asset basis) for exposures other than RRE and CRE is also not compatible with ECAI rated corporate exposures rated B+ or worse (which attract a 150% risk weight on the standardised approach). These exposures can be present in leasing, trade receivables and SME portfolios. To accommodate the likely presence of minority, lower ECAI rated, corporate exposures in leasing, trade receivables and SME portfolios, **the RW limit for exposures other than RRE and CRE should be amended to apply on a exposure value-weighted average basis for the portfolio (rather than on a per asset basis) and increased to 120% (or 130% which would also address the eligibility of pre-operational project finance exposures, discussed above)**.

As the Commission notes the 60% proposed RW limit (on a per asset basis) for CRE is not compatible with CRE income producing real estate (**IPRE**) exposures (at any ETV level). IACPM members do not understand the rationale for this exclusion. **A higher RW limit (on a per asset basis) for CRE should be included to facilitate STS securitisation of CRE IPRE exposures.**

2.5 STS Notification

Eligibility of (re)insurers' unfunded credit protection requires amendments to the OBS STS notification template (e.g. Annex IV, fields STSS 149 "Credit protection used" and STSSY11 "Synthetic securitisation with unfunded credit protection"). Therefore, Article 27 should be amended to empower ESMA to amend accordingly the corresponding STS notification RTS (Commission Delegated Regulation (EU) 2020/1226).

It will be also important to ensure that any delay with the amendment and entry into force of the amending STS notification RTS should not preclude relevant OBS STS being structured with eligible (re)insurers' unfunded credit protection. Therefore, **ESMA should be required to put in place interim measures** to enable STS notification of such OBS STS transactions pending the development and entry into force of the amending STS notification RTS.

3. CRR PROPOSALS

IACPM members applaud the Commission's attempts to stimulate the EU securitisation market by increasing prudential risk sensitivity, reducing unjustified non-neutrality of securitisation risk weights and potentially facilitating the securitisation of lower risk weight asset classes, such as residential mortgages.

However, a number of important issues remain - as outlined below – that will prevent the proposals from achieving their intended objectives, and/or create unintended adverse consequences. These include definitions that create prudential instability/volatility and cliff effects, and impacts for certain asset classes that would see capital requirements far exceeding those that apply today. The proposed restriction of the key prudential benefits of the proposals to originators/sponsors, other than in transactions that are both STS and resilient is also a significant overall limitation on their impact/ambition since many transaction types are inherently incapable of achieving STS.

3.1 New concept of "resilient" securitisation

Members regard the proposed new concept of "resilience" as adding significant complexity and operational challenge to the framework, but welcome the confidence that it provides legislators to apply more proportionate and risk sensitive capital requirements - better aligned to their empirical risks - to positions eligible for the new label. It will be vital to ensure that the scope of the concept does indeed result in its availability to a large part of the market, as the Commission envisages. **Quantitative technical work should be undertaken, by EU legislators to confirm, in particular, that the proposed resilient attachment point requirements do not, de facto, scope out important sectors of the market**. Preliminary investigation by IACPM members suggests may be the case for traditional German auto deals where low default rates and the CRR non-recognition (in attachment points) of trapped excess spread may present challenges.

(a) **Transactions featuring unfunded credit protection provided by insurers (where eligible in line with proposed changes to the general STS framework) should count as resilient and be eligible for the prudential benefits associated with resilience.** In relation to the proposed application of the STS collateral requirements for on-balance sheet (synthetic) securitisations (Articles 26e8, 9 and 10 SECR) to resilient on-balance sheet securitisations, discussion of the rationale for the safeguard in the EC EU CRR proposal suggests that unfunded credit protection by insurers would not be permitted, however, (as indicated above) its eligibility is crucial both for transactions that are STS and for transactions that are (overall) non-STS, and its absence could put the entire market for insurers at risk..

(b) **The total exclusion, from the resilience definition, of positions held by non-originator/sponsor investors in non-STS transactions appears unrelated to the transaction risk and would certainly limit the positive impact of the reforms for the EU real economy.** STS transactions form a limited part of the market - many transaction types are inherently unable to comply with the STS criteria - and participation by banks as investors in low risk senior tranches will be fundamental to market growth (see further below re related refinements to the risk weight floor and p factor proposals as they impact the differential treatment of originators/sponsors on the one hand and investors on the other). Positions held by non-originator/sponsor investors in non-STS transactions should not be excluded from the resilience definition.

(c) **The minimum senior tranche attachment point associated with resilience should be tested upfront (in line with the current and proposed approach to testing portfolio granularity and risk weight limits associated with STS prudential benefits) and not brought down in order to avoid prudential instability and cliff effects. If brought down, resilient A should be calculated on a basis which is not affected by portfolio defaults / portfolio performance and in which WAL is dynamic (current WAL, not WAL based on**

the initial portfolio). However, IACPM members note, in this context, that they greatly value the availability of SEC-IRBA based calculation mechanics. Re the proposed mechanics for calculation of the minimum attachment point associated with "resilience" in Article 243(3), (4) and (5) of the CRR: the definition of resilient A as 1.5 x KA under the SEC-SA and SEC-ERBA, and as 1.1 x (EL x WAL of initial portfolio + UL) under the SEC-IRBA means that resilient A will vary over time with portfolio defaults / portfolio performance. The proposed SEC-IRBA mechanics also embed a mismatch between ongoing testing of EL and UL, and upfront testing of the WAL of the initial portfolio, which aggravates the potential volatility of resilient A (changes to IRB rating models alone could result in loss of resilience). If "resilience" is tested on an ongoing basis, as proposed, this will create significant prudential instability and cliff effects. Transactions will potentially lose "resilient" status as deals evolve post-closing, resulting in significant adverse changes in prudential treatment. The minimum senior tranche attachment point associated with resilience should be tested upfront and not brought down. This is in line with the upfront testing, only, of the granularity and maximum risk weight limits associated with STS prudential benefits in current and proposed Article 243 CRR. If upfront testing is, for any reason, not possible, resilient A should be calculated on a basis which is not affected by portfolio defaults / portfolio performance and in which WAL is dynamic (current WAL, not WAL based on the initial portfolio). IACPM members note, however, in this context, that they greatly value the availability of SEC-IRBA based mechanics within the calculation of resilient A.

(d) IACPM members consider the differential treatment of SEC-SA/SEC-ERBA positions on the one hand and SEC-IRBA positions on the other to be excessive. **The required attachment point for resilience under the SEC-SA/SEC-ERBA is 50% greater than the required attachment point under the SEC-IRBA and the 1.5 x KA multiplier that has this effect should be reduced with testing undertaken to establish the appropriate level of reduction and its impacts**.

(e) **The required attachment point for resilience under the SEC-IRBA should reference 1 year EL rather than EL**.

3.2 Revised definition of "senior securitisation position"

IACPM members oppose the amendment of the "senior securitisation position" definition to include a required minimum attachment point. If such a required minimum attachment point is introduced, the definition should be tested upfront and not brought down in order to avoid prudential instability and cliff effects. If introduced and brought down, the minimum attachment point should be calculated on a basis which is not affected by portfolio defaults / portfolio performance. However, IACPM members note, in this context, that they greatly value the availability of SEC-IRBA based calculation mechanics. The Commission proposes to amend the definition of the term "senior securitisation position" in Article 242(6) CRR to incorporate a requirement for attachment above KIRB / KA. IACPM opposes this amendment as unnecessary and inappropriate. If a required minimum attachment point is included, and tested on an ongoing basis, as proposed, a tranche that is the "senior securitisation position" at inception of a transaction can lose that status post-closing due to defaults in the portfolio over time, without any restructuring of the capital stack. The securitisation will be left in the anomalous position that it does not have a "senior securitisation position" and the benefits associated with "senior securitisation position" status will be lost creating prudential instability and cliff effects. If a required minimum attachment point is introduced and upfront testing is, for any reason, not possible, the attachment point should be calculated on a basis which is not affected by portfolio defaults / portfolio performance. IACPM members note, however, in this context that they greatly value the availability of SEC-IRBA based mechanics within the calculation of the required minimum attachment point.

3.3 Risk-weight floor

A cap should be incorporated in the newly risk sensitive risk weight floor to prevent risk weights significantly exceeding current values (i.e. 10% for STS, 15% for non-STS of nominal value). The risk sensitive risk weight floor proposal results in significant risk weight increases for senior tranches of securitisations the underlying assets of which have risk weights >100%. The proposal is likely to reduce securitisation activity in those asset classes in a way that appears to run counter to the Commission's objectives for revitalising the industry to the benefit of the EU real economy. Affected asset classes - which are important to the EU real economy - include leveraged lending, pre-operational project finance exposures and more risk weight intensive forms of real estate lending (eg, on the standardised approach, corporates of CQS 5 (B to B-) or 6 (CCC or worse), banks rated CQS 6 or unrated and internally categorised as Grade C, sovereigns, central banks, regional governments, local authorities, PSEs, MDBs rated CQS 6, rated specialised lending of CQS 5 or 6 (all of which risk weighted 150%)), unrated pre-operational project finance (risk weighted 130%), ADC exposures that aren't preferentially treated ADC exposures to residential property (risk weighted 150%), IPRE exposures that don't comply with the regulatory real estate requirements (risk weighted 150%), and, potentially, CRE IPRE that complies with the regulatory real estate requirements where the ETV is >80% (risk weighted 110%). A cap should therefore be incorporated in the newly risk sensitive risk weight floor to prevent risk weights significantly exceeding current values (i.e. 10% for STS, 15% for non-STS of nominal value).

(a) **IACPM members consider that the multipliers included in the risk weight floor proposal remain too high and should be reduced (from 15% for non-STS, 10% for STS) to 7% for STS, 10% for non-STS**.

(b) **IACPM members consider that the minimum values of the risk weight floor should also be reduced, down to 2% for resilient STS transactions, as they remain too high to facilitate the securitisation of asset classes with risk weights below 30%**.

(c) **As indicated above, IACPM members consider the exclusion, from the resilience definition, of positions held by non-originator/sponsor investors in non-STS transactions to be unrelated to the transaction risk and likely to limit, significantly, the positive impact of the reforms for the EU real economy**.

Detailed proposals reflecting (b) though (d) above are set out in the table below.

Risk weight floors - senior tranches	Risk-Sensitive RW Floor	Floor on Floor
Categories	formula	RW
Resilient STS originator	7% * KSA or KIRB * 12.5	2%
Non Resilient STS originator	7% * KSA or KIRB * 12.5	5%
Resilient Non STS originator	10% * KSA or KIRB * 12.5	7%
Non Resilient Non STS originator	10% * KSA or KIRB * 12.5	10%
Resilient STS investor	7% * KSA or KIRB * 12.5	2%
Non Resilient STS investor	7% * KSA or KIRB * 12.5	5%
Resilient Non STS investor	10% * KSA or KIRB * 12.5	7%
Non Resilient Non STS investor	10% * KSA or KIRB * 12.5	12%

(d) **To avoid prudential instability, the underlying asset risk weight used in calculating the risk sensitive risk weight floor - which applies on an ongoing basis and must remain a <u>floor</u> - should be calculated on a basis which is not affected by portfolio defaults / portfolio performance. However, IACPM members note, in this context, that they greatly value the availability of SEC-IRBA based calculation mechanics.** The risk weight floor is intended to function as a de minimis capital requirement where the primary risk weighting mechanics (SEC-IRB, SEC-SA, SEC-ERBA) – which do, appropriately, fluctuate with portfolio defaults / portfolio performance and generate higher risk weights in the presence of credit deterioration – produce outputs that fall below a minimum level considered safe. The risk weight floor should not, itself, increase with portfolio defaults / portfolio performance and compete with the primary risk weighting mechanics to generate higher outputs. This would create unhelpful prudential instability. The risk weight floor should therefore be calculated on a basis which is not affected by portfolio defaults / portfolio performance. However, IACPM members note, in this context, that they greatly value the availability of SEC-IRBA based calculation mechanics.

3.4 P factors

(a) IACPM members consider the adverse treatment of positions held by non-originator/sponsor investors in transactions that are (other than by virtue of the exclusion of investors discussed above) resilient but not STS, or STS but not resilient, to be unrelated to the transaction risk and likely to limit, significantly, the positive impact of the reforms for the EU real economy. **P factors for originators/sponsors on the one hand and investors on the other should be levelled up where a transaction is either STS or resilient.**

(b) **IACPM members also consider the proposed p factor levels insufficiently risk sensitive overall**.

(i) **Under the SEC-SA, IACPM members therefore propose**, in harmony with the Boyer amendment and requests from the industry for many years, and to avoid increases in capital requirements for IRB banks calculating SEC-SA risk weights for purposes of the IRB output floor following the expiry of the CRR3.1 output floor transitional: **a p factor of 0.25 for both originators/sponsors and investors in STS resilient and non-resilient transactions, a p factor of 0.5 for both originators/sponsors and investors in non-STS resilient transactions and for originators/sponsors only in non-STS non-resilient transactions, and a p factor of 1 for investors in non-STS non-resilient transactions.** We note, in this context, that, in the US, the securitisation risk weighting regime continues to apply the SFA in which the implicit p factor is close to zero.

(ii) **Under the SEC-IRBA IACPM members therefore propose: a scaling factor of 0.3, floor of 0.1 and cap of 0.3 for both originators/sponsors and investors in STS resilient and non-resilient transactions; a scaling factor of 0.7, floor of 0.25 and cap of 0.75 for both originators/sponsors and investors in non-STS resilient transactions and for originators/sponsors only in non-STS non-resilient transactions; and a scaling factor of 1, floor of 0.3 and cap of 1 for investors in non-STS non-resilient transactions.** In relation to the SEC-IRBA, IACPM members note that, where an investing bank is able to calculate the SEC-IRBA, it must, necessarily, be in possession of sufficient information to make concerns about information asymmetry as between buy and sell side irrelevant.

3.5 SRT Assessment

(a) PBA Test

IACPM members broadly support the Commission's proposal to replace all other quantitative SRT tests (including the current Level 1 CRR first loss and mezzanine tests, and the commensurate risk transfer (**CRT**) commensurateness test envisaged by the EBA in the EBA SRT Report) with the principle-based approach (**PBA**) commensurateness test. However, **the proposal for NCAs to be able to increase, above the standard 50%, the weighted average amount of UL required to be transferred to third parties in the PBA test** (on a highly discretionary basis for loosely defined perceived failings, for example in connection with perceived complex securitisation features leading to "disproportionate" capital relief, or perceived originator systems and controls failures, see Article 244(3) and 245(3) CRR), **should be deleted**. Members support the Commission's and EBA's efforts to achieve a greater level of harmonisation and more level playing field within the EU in relation to SRT supervision and believe that this proposal could significantly undercut those efforts, leading to supervisory divergence and excessive discretion and unpredictability in the framework.

(b) EBA Mandates

Members also feel that **the matters proposed to be mandated for development by the EBA in connection with SRT (quantitative SRT assessment, permitted/prohibited structural features and safeguards, and high-level principles governing the SRT review and assessment process (including a fast-track process) should take the form of guidelines rather than delegated regulation**. This would facilitate their swifter and simpler amendment when and if provisions require updating in light of market developments and with evolving practice. Industry consultation on the guidelines would remain critical. The industry has lamented the absence, to date, of formal opportunities to provide feedback on the EBA SRT Report proposals, certain of which are regarded as problematic. It is clearly difficult for members to anticipate, at this point, the detailed rules that may emerge from the mandates and their impact on the market. Protracted uncertainty inevitably results, to some extent, in suppression of deal making activity underscoring the importance of non-time limited grandfathering for deals executed prior to finalisation of the rules.

In the context of problematic proposals in the EBA SRT Report, IACPM members advocate that **the helpful positions developed by the ECB in operationalising cash flow modelling (common to the PBA and CRT commensurateness tests) in adapting the CRT commensurateness test for use in the ECB's fast track SRT notification pilot scheme and general SRT assessment process[10] should be maintained in operationalising cash flow modelling for the PBA commensurateness test**. Helpful positions to be preserved include, in particular, loss allocation assumptions (the EBA SRT Report required all UL to be allocated to the last year of the transaction, and included a back-loaded loss scenario in which 2/3 of defaults occurred in the last 1/3 of the transaction), treatment of time calls (which were ignored under the WAM Guidelines,[11] applied by the EBA SRT Report, unless the time call resulted in maturity mismatch, which would not be the case absent a positive incentive to redeem and which a time call would generally be structured not to do) and potentially the position in relation to pre-payments.

(c) Other

IACPM members consider that **the proposed new SRT requirement for the originator to sign off on the absence of problematic structural features, without adequate safeguards**, in their deals (proposed Articles 244(4)(g) and 245(4)(f) CRR) **is not strictly necessary, but, if included, must be amended to limit the confirmation to problematic structural features and required safeguards explicitly identified in the standards to be developed by the EBA**. The confirmation is otherwise un-providable as unclear/subjective and open ended.

[10] Which, as indicated in the ECB's recent consultation On revisions to the ECB Guide on options and discretions available in Union law incorporates a version of the CRT test

[11] The EBA's guidelines on determining weighted average maturity: Guidelines on WAM.pdf.

4. UCITS DIRECTIVE – REMOVAL OF 10% ACQUSITION LIMIT FOR SECURITISATION VIA TARGETTED UCITS ARTICLE 56 AMENDMENT UNDER THE AMENDING SECR REGULATION

The proposed legislative package of reforms does not go far enough when it comes to the improved treatment of securitisation in relevant sectoral legislation applicable to different investors. In addition to the CRR/LCR and (soon to be published) Solvency II proposals, the **reforms should remove barriers that hinder ability of other investors to play a bigger role in the EU securitisation market, most notably UCITS investors**. We recommend that amendments to SECR are used to address this as explained below.

SECR changes should introduce a targeted amendment to Article 56 of the UCITS Directive[12] removing 10% acquisition limit for securitisations to facilitate the growth of European securitisation market and to unlock investment opportunities for UCITS investors: We refer to the IACPM response of December 2024[13] to the targeted EC consultation on the securitisation reforms (see response to Q. 12.10) and strongly recommend the introduction in SECR amendments of a provision amending Article 56 of the UCITS Directive removing the 10% acquisition limit for debt securities in a single issuing body. There is a precedent for such targeted amendment to the UCITS Directive via SECR already – see Article 38 "Amendment to Directive 1009/65/EC" which introduced new Article 50a dealing with consequences for non-compliance by UCITS investors with SECR requirements.

By way of background, and as noted in our earlier response, securitisation reforms should be approached holistically to bring meaningful changes and incentives to securitise and to invest in securitisations. One of the key priorities of SECR reforms should include measures that help to grow securitisation investments and unlock the capacity of certain investors (such as UCITS) to play a bigger role in financing the real economic growth in the EU through securitisation. In this regard, the 10% acquisition limit for debt securities in a single issuing body that applies under Article 56 of the UCITS Directive is too restrictive and disproportionately hinders the ability of UCITS to invest more in securitisations thus driving more UCITS investments towards unsecured corporate credit with higher risk of defaults, less protections and lower rates of return compared to securitisation.

⇨ *Removal of this 10% restriction for securitisation by introducing in SECR a provision for amending Article 56 of the UCITS Directive will help* the *securitisation issuers to scale up the size of their transactions as greater involvement of UCITS investors can lead to significant increase in funding capacity by tapping into approx. EUR3trn UCITS market. This is a condition to grow the SRT in true sale securitisation.*

[12] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0065-20240109
[13] Available at: https://iacpm.org/wp-content/uploads/2024/12/2024-IACPM-EC-Consultation-Final.pdf

5. SECR SCOPE AND THE DEFINITION OF "SECURITISATION" – CRR ARTICLE 506E MANDATE

We refer to the EBA mandate in CRR Article 506e (*Recognition of capped or floored unfunded credit protection*) and the possibility of further legislative proposals being submitted (by 31 December 2027) by the European Commission to the European Parliament and to the Council on the basis of the EBA Article 506e report which, among other things, may include proposals relating to the adjusted application of Chapter 2 of SECR for portfolio guarantees where those guarantees qualify as securitisation.

Our recommendation would be to avoid amending the level 1 text of SECR again because of the Article 506e report after the work on the current package of the wide securitisation reforms is finalised. Instead, it will be more helpful in the current package of reforms to anticipate adjusted application of the SECR requirements in certain circumstances (eg including those that may be identified in the EBA Article 506e report) **and to generally empower the ESAs led by the EBA to develop applicable secondary legislation or guidance.** This will ensure that such further legislative proposals or guidance will be subject to consultation with the industry and will avoid a lengthier and more complex legislative process that will otherwise be required if amendments need to be made to the level 1 legislation.