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From:	Presidency
To:	Working Party on Financial Services and the Banking Union (Securitisation) Financial Services Attachés
Subject:	Securitisation Framework Review: Working Party on Financial Services and the Banking Union (Securitisation) 12.09.2025 - Presidency's discussion paper on amendments to the CRR

Delegations will find attached the above-referred Presidency's discussion paper relating to the WP meeting agenda items 2, 3 and 4.

Danish Presidency
Council of the European Union

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Presidency discussion paper on amendments to CRR – Working party 12 September 2025

Date: 5. September 2025

Introduction

The Working Party 12 September is dedicated to the amendments on CRR.

This note is drafted based on the input received from MS at the previous WP in July, especially on written responses to the questions raised in that meeting alongside the received 3CT, and bilateral meetings with Member States.

A majority of MS have expressed general support for the Proposal's overarching objective: to reduce capital requirements and regulatory burden in order to facilitate securitisation, while maintaining appropriate prudential safeguards., However, certain issues have been raised, in particular in relation to the prudential requirements of securitisations where the main issue is the right balance between simplicity and risk sensitivity.

The concept of resilience and its effect on both RW-floors and p-factor appear as a key issue. In particular, the scope of the concept of resilience and the differentiation between originator/sponsors and investors needs further discussion. The same goes for the dynamic RW floors.

It is the aim of this WP to better understand which direction the work should take regarding the structure of the framework, i.e. which elements should be used to differentiate the prudential treatment of different securitisations. Determining the actual levels of RW-floors and p-factors will be addressed in a later WP, when the PCY has a clearer idea of the preferred structure of the framework.

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Topics of discussion on the amendments to CRR
The PCY invites MS to comment on the following topics at the WP on the 12 September and elaborate further in the written procedure.

1. Overall approach
2. The concept of resilience
3. The distinction between originator, sponsor and investor
4. Formula-based or fixed RW-floors
5. Other topics related to resilience and RW-floors
6. Cap to the P-factor
7. Significant risk transfer (SRT)
8. Miscellaneous

1. Overall approach

To allow for a more risk-sensitive framework, the COM proposal introduces the concept of resilience, the distinction between originators/sponsors and investors and a dynamic RW-floor. This naturally increases the complexity of the overall framework, but the additional risk sensitivity may warrant the increase in complexity.

The COM proposal is acknowledged by most MS as increasing the risk sensitivity of the framework by allowing lower capital requirements for securitisation positions perceived as less risky.

However, a group of MS regard the added complexity introduced by the COM proposal as an undesirable side effect of the increased risk sensitivity, as it may create an entry barrier for smaller market players and hinder the growth of securitisation as a whole, raising the question of whether it is possible to reach the same objective with a less complex framework.

Finally, a few MS oppose the proposed new framework and prefer maintaining the current simpler framework, that primarily relies on the STS-status, and suggest reducing the current fixed RW-floors and p-factors, instead of introducing new elements to differentiate the levels of RW-floors and p-factors.

This raises the fundamental question about how to configure the prudential treatment of securitisations going forward, and whether the COM proposal can be simplified without sacrificing its goals of enhanced risk sensitivity and market facilitation.

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The discussion above raises three key questions; 1) whether MS support the concept of resilience and, if so, how it should be configurated, 2) whether to distinguish between originator/sponsor and investor, and finally 3) whether the dynamic RW-floor is preferable to the current fixed RW-floor.

Selecting between the options will guide the PCY on the direction that the framework for the prudential treatment of securitisations should take. Additionally, MS' choices between the options will indicate the optimal balance between risk sensitivity and overall complexity.

In the subsequent sections MS are asked to express which option they prefer regarding the overall structure of the framework, without commenting on the actual calibration of RW-floors and p-factors. As previously mentioned, detailed calibration will be addressed at a later WP. The PCY notes that many MS are generally supportive of reducing the capital requirements on securitisations, although some MS find the proposed reductions excessive for certain types of securitisation positions, whereas others believe the reductions in capital requirements should be larger than those proposed by the COM.

2. The concept of resilience

The concept of resilience is one of the new elements that, together with the distinction between originator, sponsor and investor and the dynamic RW-floors, increases the complexity of the securitisation framework by increasing the granularity and, thus, the possibility to differentiate the prudential treatment.

Many MS agree with the concept of resilience and agree that the additional risk sensitivity in the framework justifies lower capital requirements for certain positions, which in turn justifies the additional complexity that comes from adding the concept of resilience.

A large group of MS seem to agree on the above but point out that the concept of resilience increases complexity undesirably and therefore prefer a simpler approach if it could produce a similar outcome.

Additionally, a few MS prefer that the concept of resilience only applies to STS positions because these positions entail less risk.

Finally, the PCY notes that a few MS oppose the concept of resilience because they find that it increases complexity without clear benefits.

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The key question on resilience is therefore whether the concept should be maintained? And, if maintained, whether the concept should be applied to both STS and non-STS or only to STS-transactions?

Section 2 – Resilience
Option 1: Maintain the concept of resilience in line with COM proposal.
Option 2: Maintain the concept of resilience but limit the eligible positions to STS-transactions.
Option 3: Remove the concept of resilience.
Q1: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

3. The distinction between originator, sponsor and investor

The distinctive calibrations of regulatory capital requirements between originator, sponsor and investor are subject to divergent opinions among MS. Therefore, the PCY also finds it relevant to discuss the appropriateness of this distinction within the broader context of balancing complexity and risk sensitivity.

The main argument for the distinction between originator, sponsor and investor is that originator and sponsor are better informed about the underlying risks of the securitisation and are not exposed to the agency risk which is inherent in securitisations for investors. This agency risk is reduced in the case of STS securitisations, which is currently reflected in the lower RW-floors and p-factors in the existing regulation.

While some MS welcome the distinction and believe it increases granularity and enables increased risk sensitivity, a few MS find the distinction unnecessary, arguing that, when first securitised, the risk is the same irrespective of who holds the securitisation position and, therefore, no distinction is justified.

Some MS argue that this distinction is more important for non-STS-transactions than STS-transactions, while others note that the distinction is less important for resilient positions compared to non-resilient positions, as resilience entails safety for all holders.

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Finally, some MS believe that the capital requirements for sponsors are ill calibrated. Some MS also argue that in specific cases entities participating in the establishment of the securitisation and having similar information as the originator, are treated as an investor under the regulation and thus subject to higher capital requirements.

On this premise, the key questions that arise are: Do MS support the distinction between originator, sponsor and investor to differentiate prudential treatment? And, if MS support the distinction but find that it may be applied in a more targeted manner, i.e. maintaining the distinction for some positions but removing it for other positions, please indicate how?

Section 3 - Distinction between originator, sponsor and investor
Option 1: Maintain the distinction between originator, sponsor and investor in line with COM proposal.
Option 2: Maintain the distinction between originator, sponsor and investor but limit the cases in which the distinction is used to differentiate regulatory capital treatment. (please specify your preferred amendments to the use of the distinction)
Option 3: Remove the distinction between originator, sponsor and investor altogether and apply the same regulatory capital treatment to all.
Q2: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

4. Formula-based or fixed RW-floors

The COM proposal introduces a dynamic RW-floor which depends on the risk of the underlying assets being securitised. Moreover, the RW-floors are themselves subject to a floor (the so called “floor-to-the-floor”).

The argument for introducing a formula-based RW-floor is to increase risk sensitivity of the floor and thereby allow for lower capital requirements for securitisations of underlying pools of less risky (lower RW) exposures, without lowering the floor for all securitisations.

The formula for calculating the RW-floor and the determination of the floor-to-the-floor depends on whether the securitisation qualifies as an STS-securitisation and as a resilient

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securitisation, whether the holder of the securitisation position is the transaction's originator/sponsor or an investor, as illustrated in table 1 below.

Table 1: RW-floor for senior positions in COM proposal

Different 'types' of securitisations			Existing	Proposed	
STS/Non-STS	Resilient/Non-resilient	Originator-sponsor/Investor	RW-Floor	RW-floor formula	RW-floor-to-floor
STS	Resilient	Originator-sponsor and investor	10%	10%*Kirb/KA*12,5	5%
	Non-resilient	Originator-sponsor and investor	10%	10%*Kirb/KA*12,5	7%
Non-STS	Resilient	Originator-sponsor	15%	15%*Kirb/KA*12,5	10%
		Investor			12%
	Non-resilient	Originator-sponsor and investor	15%	15%*Kirb/KA*12,5	12%

Both the more granular application of the floor as well as its formulaic nature with an included floor-to-the-floor add complexity to the overall framework, but also enhances its risk sensitivity. The main question is, therefore, whether the benefit of the increased risk sensitivity outweighs the additional complexity of the framework.

Many MS are generally supportive of introducing a formula-based RW-floor, which is found to be more risk sensitive and regarded as striking the right balance between complexity and risk sensitivity.

However, some MS find the COM proposal unnecessarily complex and see no need for a formula-based floor. These MS argue that the increased complexity constitutes a barrier to entry for smaller credit institutions as well as for the development of securitisation in smaller markets. It is furthermore argued that the fixed floor in the current regulation already serves as a sufficient safeguard against excessively low risk weights from the already risk sensitive calculation of risk weights themselves.

One MS argues that introducing a formula-based risk weight floor on top of the calculation of the risk weights reduces overall risk sensitivity, rather than increasing it if the dynamic floor consistently binds more often, thus limiting the cases in which the calculation of RW is the one in effect. Put differently, the formula-based RW-floor would disincentivise securitisations of riskier underlying exposures with thinner senior positions, since these would remain subject to a relatively high binding RW-floor regardless of the level of credit enhancement.

Additionally, some MS point to the fact that the formula-based floors as proposed by COM will in some cases lead to higher floors than the floors in the current regulation and propose to introduce a cap to the floor for securitisations backed by certain underlying exposures with higher risk weights such as SME securitisations. As illustrated in the PCY non-paper for

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the WP 14th July, the formula-based approach will lead to higher RW-floors when K_{IRB}/K_A is above 8%.

The key question in this regard is whether MS prefer the proposed framework for the RW-floor comprising a formula and a floor-to-the-floor or the current framework with fixed RW-floors.

Section 4 – Formula-based or fixed RW-floors
Option 1: Maintain a formula-based RW-floor with a floor-to-the-floor in line with COM proposal
Option 2: Maintain a formula-based RW-floor with a floor to the floor in line with COM proposal but with the introduction of a cap to the RW-floor
Option 3: Maintain the current framework with fixed RW-floors
Q3: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

5. Other topics related to resilience and RW-floor

Resilience

Provided that the concept of resilience is maintained, PCY has identified following issues that need to be addressed.

5.1 Ongoing monitoring of the resilience requirements

Several MS mention that the obligation to fulfil the resilience requirement on an ongoing basis and not just at the time of origination may lead to cliff effects, making capital planning difficult and possibly affecting both supply and demand negatively. If a position no longer complies with the resilience requirement because the securitisation no longer complies with the thickness criteria, originators/sponsors and investors will face "jumps" in the capital requirement of the securitisation position on their books.

Moreover, some MS question if investors will always have the necessary information to calculate K_{IRB}/K_A on an ongoing basis.

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Some MS therefore propose compliance with the resilience requirements should be required at the time of origination only.

Section 5.1 – Resilience requirements
Option 1: Keep the COM proposal unchanged; compliance with the resilience requirements should apply on an ongoing basis
Option 2: Compliance with the resilience requirements should be required at the time of origination only
Q4: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

5.2 Using K_{SA} instead of Ka for determination of attachment point (A)

One MS argues that the use of K_A in the calculation of the capital requirement of the underlying assets in relation to the thickness criteria may lead to cliff effects and significant increases in capital requirements. This could be the case if just a small part of the underlying assets become non-performing, leading to the thickness criteria no longer being fulfilled.

This MS therefore proposes to substitute K_A with K_{SA}. Like above, this is a simpler but less prudent and less risk sensitive option since the capital requirement will not increase as the credit risk of the securitisation position deteriorates.

It should be noted that this potential cliff effect will not be relevant if the thickness criteria should only be complied with at the time of origination (i.e. the Council opts for option 2 in section 5.1)

Section 5.2 – *Using K_{SA} instead of K_A for determination of attachment (A)*
Option 1: Keep the COM proposal unchanged; Use K_A for the calculation of the thickness criteria
Option 2: Substitute K_A with K_{SA} for the calculation of the thickness criteria.
Q5: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

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RW-floor

5.3 RW-floor for non-senior positions

Some MS have also pointed out that, according to the COM proposal, no RW-floor applies to subordinated securitisation positions (i.e. mezzanine positions). This will introduce – at least in theory – the possibility to structure securitisations where the mezzanine tranche has a lower risk weight than the RW-floor of the senior tranche. Additionally, the proposed senior definition may result in transactions without any positions satisfying this definition, thereby not having a RW-floor for the most senior position of the securitisation.

The PCY believes it is useful to discuss whether this situation merits a dedicated provision and suggests one of the below options to remedy the issue.

The first option is to maintain the RW-floor for non-senior tranches, as they currently are under existing regulation, i.e. a fixed floor of 15%.

The PCY notes that this option could, in theory, lead to a situation where the proposed formula for the RW-floor (if formula-based RW-floors are preferred by MS) for the senior tranche may result in a higher RW-floor than 15%, for example for high-risk non-STS transactions.

The second option would be to extend the RW-floor for senior tranches to also cover non-senior tranches, meaning all positions in a transaction are subject to the same RW-floor. The PCY notes that such an approach would not differentiate between senior and non-senior positions allowing non-senior positions to potentially be subject to the same RW-floors as senior positions.

The third option builds on the formula-based RW-floor with a floor-to-the-floor and is therefore dependent on this approach being the preferred RW-framework by MS. In this option the floor for non-senior tranches is the formula-based RW-floor, but with a higher floor-to-the-floor than for senior positions. The PCY notes that this is the most complex option requiring additional calibration.

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Section 5.3 –RW-floors for non-senior positions
Option 1: Establish a fixed RW-floor for non-senior positions by adopting the current RW-floor for non-senior positions (15%)
Option 2: Establish a formula-based RW-floor for non-senior positions by adopting the same RW-floors as for senior positions, i.e. make the RW-floor independent of the seniority of the tranche.
Q6: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

6. Cap to the p-factor

The COM proposal introduces a cap to the p-factor. The introduction of the cap has been explained as necessary to maintain the hierarchy of approaches, by ensuring SEC-IRBA does not lead to higher capital requirements than SEC-SA/ERBA. While MS generally support reductions to the p-factors in some way or form, some MS questions the need for capping the p-factor as it limits risk sensitivity of the framework and incentivises the origination of high-risk securitisations and therefore proposes to delete the p-factor cap.

Section 6 – Cap to the p-factor
Option 1: Maintain the cap to the p-factor in line with COM proposal
Option 2: Remove the cap to the p-factor
Q7: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

7. Significant risk transfer (SRT)

The PBA (principle based approach) test in COM proposal aims to enhance the predictability of the SRT framework and to support faster approval for certain securitisations.

As part of the PBA, the originator shall submit a self-assessment that demonstrates how the lifetime expected and unexpected losses of the securitisation exposures are allocated to the positions of the transaction, both in a baseline scenario and a stressed scenario. Moreover, the self-assessment shall include information on the capital relief achieved by the securitisation.

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Details on the conditions for the competent authorities to apply the PBA test, as well as technical specificities of the self-assessment, shall be defined by the EBA in an RTS.

To ensure harmonisation of the supervisory assessment process of transactions applying for SRT the COM proposes to have high-level principles for the assessment and for the fast-track process defined by EBA in the RTS.

Securitisations entailing more complex and innovative structures that are not suited for the envisaged new streamlined process can be subject to a more comprehensive review to preserve supervisory flexibility. The RTS will set out conditions for the application of this comprehensive review as well.

The PCY notes that the proposed changes to the significant risk transfer framework are generally supported, although some MS propose certain amendments to the COM proposal. These are presented below.

7.1 Applying non weighted unexpected losses

One MS argues that the PBA test requires the originator to transfer at least 50% of unexpected losses of the exposures of the underlying portfolio of the securitisation transaction to third parties and therefore that no further weighting is necessary. This would also be consistent with the EBA recommendation.

Consequently, it is proposed that the formula in article 244(2) and 245(2) of the proposal should be replaced with the formula below.

$$\frac{\sum_i \cancel{RWEA}_i \times UL_trans_i}{\sum_i \cancel{RWEA}_i \times UL_i} \geq 0.5$$

Moreover, the wording of related articles should be amended accordingly, deleting the reference to “weighted amounts”.

Section 7.1 – Applying non weighted unexpected losses (*SRT*)
Option 1: Keep the provisions as proposed by COM
Option 2: Remove “weighted amounts” from article 244(2) and 245(2)
Q8: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

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7.2 Introduction of a Commensurateness of Risk Transfer test

The EBA report from 2020[1] recommended the implementation of a Commensurateness (CRT) test.

According to this recommendation, risk transfer should be deemed commensurate when the ratio of RWEAs to the capital reduction achieved by the originator (Ratio 1) is equal to or lower than the ratio of risk transferred to third parties (Ratio 2).

The CRT test is intended to complement the PBA, to ensure that the originator's retained exposures to the securitisation are not materially undercapitalised.

One MS has argued that, in addition to the PBA as proposed by the COM, the CRR should include a requirement of CRT.

Section 7.2 – Commensurateness test (*SRT)*
Option 1: Keep the provision as proposed by COM meaning the PBA test is sufficient for determining SRT
Option 2: Include a Commensurateness of Risk Transfer test as defined by the EBA-report
Q9: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

7.3 EBA mandate

To make the framework truly principle based one MS proposes to delete the EBA mandate to draft an RTS specifying the details of SRT (specified in article 244(7)). Such an approach could be supplemented by further specifying a simplified set of requirements for SRT directly in the level 1-text. Other MS propose to keep the mandate but supplemented with further precision.

[1] EBA Report on Significant Risk Transfer in securitization under articles 244(6) and 245(6) of the capital requirements regulation (EBA/Rep/2020/32)

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Section 7.3 – EBA mandate (*SRT)*
Option 1: Keep the mandate as proposed by the COM.
Option 2: Keep the mandate proposed by the COM, but subject to further precisions.
Option 3: Remove mandate and specify further requirements in the level 1-text.
Q10: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

8. Miscellaneous

Securitisation of high-risk weight assets

One MS point to the fact that increases in risk weights in CRR3 for certain assets – project finance in particular - means that these assets can no longer be securitised and benefit from STS treatment, since their risk weights exceed the 100% risk weight limit set in article 243(2)(b)(iv).

The MS therefore proposes to exempt project finance exposures where the project to which the exposure is related is in the pre-operational phase, and to which a risk weight of 130% applies, from the 100% upper risk weight limit.

Section 8 – Securitisation of high-risk weight assets
Option 1: Keep the Article 243(2)(b)(iv) in CRR unchanged
Option 2: Amend Article 243(2)(b)(iv) in CRR to exempt projects in which the related exposure is in the pre-operational phase, and to which a risk weight of 130% applies, from the 100% upper risk weight limit.
Q11: MS are invited to provide their views on the presented options, and especially which option is preferred and why?

Other issues

The PCY is aware that MS have raised other issues such as the definition of the senior position, NPL-securitisations, asset classes relying on SEC-ERBA and the transitional measure for the output floor. It is The PCYs intention to address these at later stage.