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From:	General Secretariat of the Council
To:	Working Party on Financial Services and the Banking Union (Securitisation) Financial Services Attachés
Subject:	Securitisation Review: Commission Services' non paper on the recognition of (re)insurance-based UFPC under the STS framework. Agenda item No. 6 - WP meeting of 22 September 2025

Commission Services' non paper on the recognition of (re)insurance-based unfunded credit protection under the STS framework

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This non-paper has been drafted at the request of the Council to structure the discussion in the Council Working Party. It has not been adopted or endorsed by the European Commission. Any views expressed are those of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

I. Background

Under current rules[1], for a synthetic securitisation to qualify for the 'Simple, Transparent and Standardised' (STS) label, the credit protection provided by non-0%-risk-weighted entities must be funded – meaning it must be backed by high-quality debt securities or cash to mitigate counterparty credit risk. In practice, protection sellers in funded synthetic securitisations are mostly domiciled outside the Eurozone[2].

Within the significant risk transfer (SRT) securitisation market, the role of insurance companies has grown from negligible levels to a small but increasing share – estimated to represent around 5% of the total SRT credit protection sold.[3] Insurers typically operate from the liability side of their balance sheets. This implies that the standard formula capital requirement for spread risk on such transactions is generally not applicable.[4]

As outlined in Recital 22 of the Commission's Proposal for a Regulation amending Regulation (EU) 2017/2402, "*the current criterion requiring credit protection is to be funded in the STS framework for on-balance-sheet synthetic securitisation under the STS regime has limited the ability of insurance or reinsurance companies to participate in the on-balance-sheet STS securitisation market. That is detrimental to the development of the STS market and the ability of originators to transfer credit risk outside the banking system.*"

This non-paper provides a technical explanation of the proposed approach for recognising certain types of unfunded credit protection provided by insurance and reinsurance undertakings as eligible under the STS framework, and a preliminary

[1] Article 26e(8) of the Securitisation Regulation

[2] Source: ESRB, May 2025, Unveiling the impact of STS on-balance-sheet securitisation on EU financial stability

[3] Source: ESRB, 2023, Occasional Paper Series No 23: The European significant risk transfer securitisation market

[4] Article 178(1) of Delegated Regulation (EU) 2015/35 defines the capital requirement for spread risk on securitisation positions as '*the loss in the basic own funds that would result from an instantaneous relative decrease of stress$_i$ in the value of each securitisation position i*'. Where securitisation is recorded as a liability, a loss in value of such liabilities increases basic own funds, instead of translating in a loss.

estimate of the number of undertakings potentially likely to meet the proposed eligibility criteria, as well as some sensitivity analyses.

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II. Proposed approach

The Commission's proposal aims to balance two objectives:

1) Facilitating credit risk transfer outside the banking sector, thereby improving risk distribution, liquidity and capital allocation;
2) Safeguarding the quality of the STS label and avoiding the risk of repeating the negative experience with monoline insurers in the Global Financial Crisis by ensuring that only experienced, well-capitalised and diversified insurance and reinsurance undertakings can act as eligible protection providers.

To that end, the Commission's proposed amendments to Article 26e(8) of the Securitisation Regulation to introduce a set of safeguards to restrict eligibility to insurers with sufficient size, soundness, risk management capacity and business diversification. Specifically, the criteria relate to:

(i) risk measurement via internal models;

(ii) solvency and credit quality;

(iii) diversification of insurance business;

(iv) minimum size of the undertaking.

Criterion (i): Use of an internal mode for capital requirements on guarantees

the undertaking uses an internal model approved in accordance with Articles 112 and 113 of Directive 2009/138/EC for the calculation of capital requirements for such guarantees

This criterion ensures that only insurers with advanced risk management capabilities are eligible. Internal model approval is a high supervisory standard, indicating that the undertaking can appropriately model the risk of guarantees and other structured exposures.

The requirement also reflects the fact that unfunded credit protection is typically treated as a liability, not an asset. As such, the standard formula capital charge for spread risk is not applicable. Instead, an internal model was deemed needed to ensure that credit risk is adequately captured.

Importantly, internal models typically do not differentiate between STS and non-STS exposures. Recognising such protection under the STS framework would therefore not

reduce insurers' capital requirements but would instead incentivise banks to transact with robust insurance counterparties[5].

Criterion (ii): Solvency and minimum credit quality

the undertaking complies with its Solvency Capital Requirement and its Minimum Capital Requirement referred to in Articles 100 and 128 of Directive 2009/138/EC, respectively, and has been assigned to credit quality step 3 or better

The criterion to comply with the Solvency Capital Requirement (SCR) and the Minimum Capital Requirement (MCR) ensures minimum regulatory soundness. While most EU insurers comply with SCR and MCR, originating banks may in practice require buffers above the minimum thresholds to avoid ineligibility risks during temporary capital fluctuations.

The inclusion of a minimum rating (credit quality step 3, equivalent to BBB[6]) was explicitly supported by a few participants in the EGBPI meeting of 7 May 2025. This ensures financial soundness by requiring that insurers have an 'investment grade' rating. In practice, banks are likely to require at least CQS 2 (A-rating) to mitigate counterparty downgrade risk and maintain STS eligibility. Setting the minimum rating at CQS 2 in the Commission's proposal would therefore have implied that, in practice, only insurers with CQS 0 or 1 (AAA or AA) would be eligible for the STS treatment – a restriction which was deemed too severe.

Criterion (iii): Diversification of insurance activity

the undertaking effectively operates business activities in at least two classes of non-life insurance within the meaning of Annex I to Directive 2009/138/EC

This criterion draws on the Joint Committee report on the implementation and functioning of the Securitisation Regulation[7], which identified the concentration of monoline insurers on structured credit products as a source of risk during the global financial crisis. The lack of diversification exacerbated their vulnerability, even when exposures were not heavily concentrated in the US market.

By requiring activity in at least two classes of non-life insurance, the proposal aims to ensure a basic level of business diversification. The term "effectively operates" excludes

[5] This in turn, would create new business opportunities for reinsurers.
[6] See Commission Implementing Regulation (EU) 2016/1799 of 7 October 2016 laying down implementing technical standards with regard to the mapping of credit assessments of external credit assessment institutions for credit risk
[7] See the report at the following link: https://www.eiopa.europa.eu/publications/joint-committee-report-functioning-securitisation-regulation-secr_en

undertakings that are licensed but not substantively active in at least two insurance classes.

<u>Criterion (iv)</u>: Minimum size of the undertaking

the assets under management by the insurance or reinsurance undertaking exceed 20 billion euro

This threshold ensures that only large undertakings can qualify. It aligns with the EUR 20 billion threshold to be used by EIOPA in its forthcoming updated financial stability guidelines. The rationale is to require a minimum financial capacity to absorb potential credit losses.

III. Quantitative impact assessment and sensitivity analysis

DG FISMA invited EIOPA to assess the quantitative impact of the criteria included in the proposed amendments to the Securitisation Regulation.

Due to data limitations-, EIOPA had to rely on some proxies:

- EIOPA has information on insurers using a full or partial internal model[8], but it cannot determine whether a partial internal model specifically covers credit/counterparty risk or spread risk;
- EIOPA interpreted 'assets under management' as 'total assets';
- EIOPA assessed the business diversification criterion by checking whether insurers reported positive gross written premiums in at least two non-life lines of business, as defined in the Annex I to the Solvency II Delegated Regulation (rather than the insurance classes set out in Annex I of the Solvency II Directive);
- EIOPA could not assess the rating criterion; however, it is assumed that most companies meeting their capital requirements would have a rating of at least BBB.

It is therefore FISMA's understanding that around 21 (re)insurers would meet the criteria.

Criterion	Number of undertakings fulfilling the criterion
Criterion 1: the undertaking applies a full or partial internal model to calculate its Solvency Capital Requirement	148
Criterion 2: the value of the undertaking's total assets exceeds EUR 20 billion	118
Criterion 3: the undertaking has positive gross written premiums in at least two non-life lines of business	1454

[8] A partial internal model is an internal model which does not cover all risks of the insurance or reinsurance undertaking. The partial model may for instance cover only market risks, or instead only cover underwriting risks.

The undertaking fulfils criteria 1 and 2	37
The undertaking fulfils criteria 1 and 3	113
The undertaking fulfils criteria 2 and 3	39
The undertaking fulfils criteria 1, 2 and 3	21

Source: EIOPA

In addition, DG FISMA sought feedback from the industry as to whether (re)insurers that are active (or considering being active) in the securitisation market and provide (or consider providing) unfunded credit protection would be able to meet the criteria. According to the information we received, based on a survey among 53 market participants, only about 10% of the market would be able to meet all the criteria. Please note that the assumption used was that insurers using partial internal models are not assumed to fulfil the criterion of the Commission's proposal.

Finally, at the request of the Danish Presidency, DG FISMA asked EIOPA to carry out sensitivity analyses on the impact of lowering the size threshold to EUR 15 billion or EUR 10 billion.

Sensitivity analysis 1 – The assets threshold is set to EUR 15 billion.

Criterion	Number of undertakings fulfilling the criterion
Criterion 2: the value of the undertaking's total assets exceeds EUR 15 billion	165
The undertaking fulfils criteria 1 and 2	51
The undertaking fulfils criteria 2 and 3	62
The undertaking fulfils criteria 1, 2 and 3	30

Source: EIOPA

Sensitivity analysis 2 – The assets threshold is set to EUR 10 billion.

Criterion	Number of undertakings fulfilling the criterion
Criterion 2: the value of the undertaking's total assets exceeds EUR 15 billion	230
The undertaking fulfils criteria 1 and 2	65
The undertaking fulfils criteria 2 and 3	91
The undertaking fulfils criteria 1, 2 and 3	42

Source: EIOPA