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WORKING DOCUMENT

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 due diligence and risk retention waiver when 15% first loss tranche is guaranteed. Agenda item no. 3 of Securitisation Working Party meeting (22.09.2025)

Commission Services' non paper on Due Diligence and Risk Retention waiver when 15% first loss tranche is guaranteed

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1. Introduction

Public-private funds (PPFs) are an essential tool to mobilise private investment at scale. In PPFs, public entities use de-risking mechanisms, typically involving a first-loss protection, to attract private capital to specific sectors or geographical areas which would not otherwise receive investments. As such, PPFs are not a typical, profit-motivated, market mechanism. These structures can help bring the scale and weight of private institutional investors to policy priorities of public authorities.

However, the current regulatory framework in Europe is not conducive for the uptake of PPFs. Such funds would usually fall under the definition of a securitisation, and specifically 'non-simple, transparent and standardised (non-STS)' securitisations (because of their layered structure, with a junior equity tranche held by and/or guaranteed by a public entity and the senior tranche(s) held by private investors, and due to the nature of their portfolio management that differs from standard securitisations). The first well-known innovative public-private fund launched was the Planet Emerging Green One (EGO) fund by International Finance Corporation, part of the World Bank Group, and Amundi in 2018. The fund's requalification as securitisation by the national supervisor made it extremely difficult to attract private investors, in particular insurance companies, given the high capital charges, as well as due diligence and risk retention requirements applicable to all securitisation investments that are more burdensome than in the case of an investment in a regular fund. This prevented the fund from attaining the initially intended size. This negative experience has disincentivised development finance institutions (DFIs) and public entities from launching PPFs. In response to those unintended effects, in addition to making capital requirements for banks and insurers generally more risk-sensitive, the Commission has proposed to reduce/waive due diligence and risk retention requirements for certain PPFs.

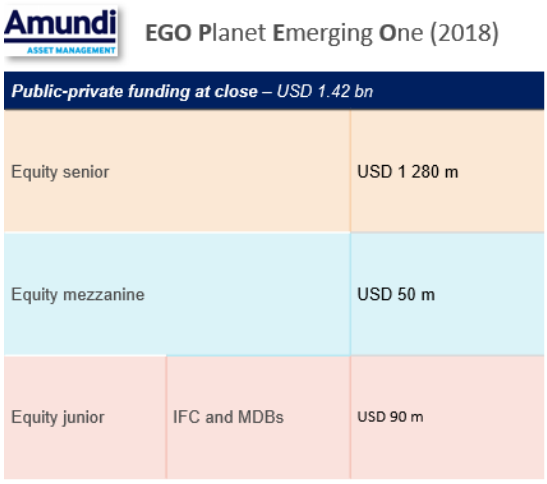
2. Use cases

PPFs have a policy objective defined by the public entity that was involved in their design and that derisks the vehicle. Examples of policy objectives include investing in specific projects, sectors

of the economy, or region-specific investments, such as IFC/Amundi Planet Emerging Green One - EGO fund, which mainly invests in privately placed green bonds issued by financial institutions in low- and middle-income countries.

PPFs are managed by an asset manager or investment company mandated to invest on behalf of the fund investors according to a very narrowly defined investment policy that is closely steered by the public entity. As a result, the public entity is closely involved in the selection of assets and therefore its status is close to a sell-side party.

To de-risk private investment in the fund, the public entity can guarantee or directly hold a junior equity tranche. This first-loss tranche absorbs losses and shields private investors from part of the losses incurred by the fund. The example below illustrates the liabilities of the EGO fund.



3. More proportionate due diligence requirements

Significant due diligence is being done by the public entity behind the PPF. Typically, the public entity carries out in-depth verifications and monitoring on the sponsor/ originator (i.e. asset manager creating the PPF itself), original lender and/or securitisation special purpose entity before granting a guarantee or taking a junior stake in the fund[1]. Moreover, the asset manager would usually be selected in a formal assessment process following a call and is required to provide detailed reporting to the public entity. As a result, this mitigates the need for the investors to carry out the verifications on the sponsor, originator, original lender or SSPE as specified in Article 5(1) of Regulation (EU) 2017/2402, as well as the documentation obligations pursuant to Article 5(4). It should be noted, however, that PPF investors would still be required to assess the risk characteristics of the underlying exposures and the structural features of the transaction.

4. Waiver of risk retention when there is a 15% first-loss tranche

The purpose of risk retention is to ensure that the interests of the sponsor, originator or original lender are aligned with those of the investors. This is particularly important where the investor(s) are different from the originator(s) and therefore they do not have control or sufficient information as to the underwriting or servicing of the underlying pool of exposures. In the case of PPFs, the public investor could be assimilated to a sell-side party because it provides a tight framework for

[1] For the EU, the principle of sound financial management applies to financial instruments and budgetary guarantees (Article 209(1) of the Financial Regulation).

the investment decisions of the asset manager. Since the public investor guarantees or directly invests into a significantly big first-loss tranche, this effectively acts like risk retention vis-à-vis the other investors.

The proposed 15% threshold was set with the aim to find the right balance between having a material involvement of a public entity (i.e. sufficiently high first loss investment/guarantee) and capturing most future transactions of this nature (i.e. not being too high so as not to exclude transactions where more moderate derisking is needed). Examples from existing PPFs highlight strong differences with regards the value of the junior (derisking) exposures relative to the funds' total size ranging from 6% to 50% : 19% for the BlackRock Climate Finance Partnership Fund (CFPF), 21% for the KfW Latin American Green Bond (LAGreen) Fund, 6% for the Planet Emerging Green One (EGO) fund, 50% for the AfricaGROW fund, 33% for the Emerging Market Climate Action Fund (EMCAF).

5. Conclusion

Overall, because of the atypical nature of PPFs that are qualified as securitisations, it is justified to apply targeted adjustments to due diligence and risk retention requirements to enable PPFs to fulfil their public policy goals.

The relative size of the de-risked tranche varies depending on the context and the expected risk level of the underlying assets. Having the de-risked tranche represent at least 15% of the total vehicle also provides a sufficiently high bar for avoiding regulatory arbitrage – it is unlikely that transactions would be structured in this manner to circumvent the securitisation due diligence and risk retention requirements.