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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: Presidency discussion paper on amendments to SECR. Agenda item no. 3 of the WP Meeting on 6 November 2025
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Presidency discussion paper on amendments to SECR – Working party 6 and 7 November 2025

Introduction

Date: 30 October 2025

At the October WP an outline of the PCY compromise proposal was presented to MS on the bulk of the COM proposed amendments to SECR. In the PCY's view there was general support for the direction of the PCY compromise, although a few areas needed further work.

At this WP, we aim to finalise the items discussed at previous meetings. In addition, we will present a few new items on which we seek feedback from MS. The draft legal text of the SECR in 3CT format will be included within the meeting materials. Comments on the draft legal text are provided in this note where considered relevant.

The first section seeks MS input on the following topics: data sharing with the ESRB, due diligence requirements on third country entities' compliance with transparency requirements and the supervision of STS criteria by prudential authorities.

The second section presents the PCY's first compromise proposal on the topics of:

- waiving of due diligence and risk retention requirements where 15% first loss tranche is guaranteed,
- the definition of public/private securitisation, and
- the suggested waiver from the risk retention requirement on the senior tranche that are guaranteed by public entities (Greek proposal).

The third section covers topics where the PCY has made changes in substance to the previously presented outline of a compromise to accommodate MS feedback.

Finally, this note contains a fourth section providing explanations of some of the more non-substantial changes introduced by the PCY to both the COMs proposal and certain elements of the previously presented PCY compromise. The 3CT document also incorporates other editorial corrections. Feedback on the wording of the provisions, however, remains very welcome.



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1. Topics for discussion

This section covers three topics on which the PCY still seeks input in order to determine an appropriate direction for the compromise.

1.1. ESRB inclusion in the cooperation arrangement of SECR

In its letter¹ addressed to the chair of the Council Working Party on COM proposed amendments to the securitisation regulation, the ESRB asked to be included in Article 36(1) of the SECR. This article establishes the framework for cooperation between competent authorities and the European Supervisory Authorities (ESAs), stating that “the competent authorities referred to in Article 29 and ESMA, the EBA and EIOPA shall cooperate closely with each other and exchange information to carry out their duties pursuant to Article 30 to 34.”

The ESRB argues that including a reference to them in this article 36(1) would further strengthen their ability to effectively fulfil their mandate, as they currently rely on data provided by the ESAs.

The PCY ask MS to indicate whether they support including the ESRB in article 36(1).

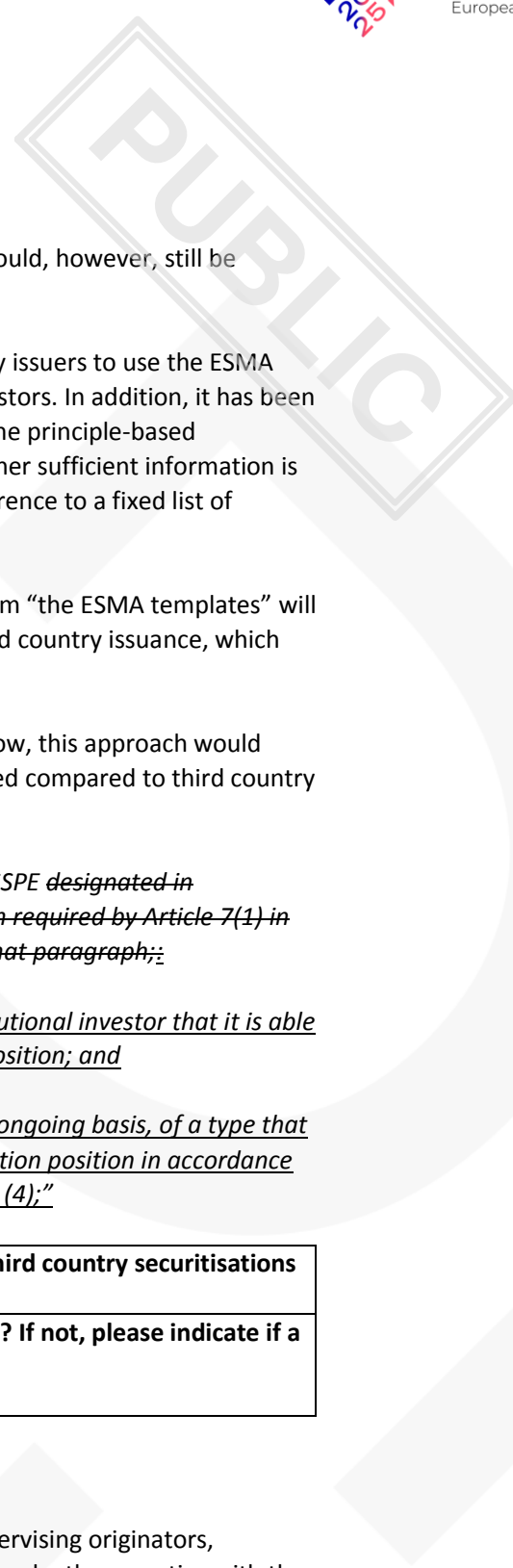
Section 1.1 – ESRB inclusion in the cooperation arrangement of SECR
Option 1: Include a reference to ESRB in article 36(1) of SECR.
Option 2: Do not include a reference to ESRB in article 36(1) of SECR (status-quo).
Q1: MS are invited to provide their views on the presented options, and especially which option is preferred?

1.2. Transparency requirements for third country securitisations

Several MS have expressed concerns regarding the requirements on the information to be made available by originators, sponsors, or original lenders established in third countries, as set out in Article 5(1), point (e). The list of required information is provided in Article 7(1) and is considered to be rather extensive.

The PCY would like to point out that the COM proposal suggests changing the reference in Article 5(1), point (e) concerning the frequency and modalities of reporting, from article 7 to article 7(1). In the PCYs view, this amendment would imply that third-country issuers would

¹ ESRB/2025/0092



not be required to report to securitisation repositories. They would, however, still be required to use the ESMA templates.

MS have raised concerns that the requirement for third-country issuers to use the ESMA template could unduly restrict the investment scope of EU investors. In addition, it has been noted that the proposed approach is not fully consistent with the principle-based framework, under which the key consideration should be whether sufficient information is available to enable satisfactory due diligence, rather than adherence to a fixed list of information items or prescribed methods of disclosure.

On the other hand, allowing third country issuers to deviate from “the ESMA templates” will make issuance within the EU more cumbersome relative to third country issuance, which could have negative effect on issuance within the EU.

An alternative version of Article 5(1), point (e) could be the below, this approach would however not address the issue of EU issuers being disadvantaged compared to third country issuers:

~~“(e) if established in a third country, the originator, sponsor or SSPE designated in accordance with Article 7(2) has made available the information required by Article 7(1) in accordance with the frequency and modalities provided for in that paragraph;;~~

(i) has made available sufficient information to satisfy the institutional investor that it is able independently to assess the risks of holding the securitisation position; and

(ii) has committed to make further information available on an ongoing basis, of a type that would permit the institutional investor to monitor the securitisation position in accordance with its written procedures referred to in point (a) of paragraph (4);”

Questions on section 1.2 – Transparency requirements for third country securitisations

Q2: Do MS support the amendments to Article 5(1), point (e)? If not, please indicate if a different approach is preferred or status quo is preferred.
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1.3. Supervision of STS criteria by prudential authorities

The COM has proposed that the authorities responsible for supervising originators, sponsors and SSPEs under CRD be tasked to supervise compliance by these parties with the STS requirements. This includes the ECB within the Banking Union. National discretion to designate a competent authority to supervise STS requirements is, thus, removed in the

above-described cases and only maintained for entities that do not qualify as “institutions” under the CRD.

The topic was discussed at the September WP, after which MS also provided written feedback to the PCY. Some MS supported the COM proposal, while others were more sceptical, arguing that STS requirements are primarily product-oriented and therefore fall outside the prudential mandate of the SSM.

At the of October WP, the Council Legal Services (CLS) provided their preliminary view on the legal feasibility of allocating STS supervision to the SSM. The CLS indicated that the legal feasibility of such a change would depend on whether the STS criteria can be regarded as prudential in nature and, thus, fall within the SSM’s existing mandate. The CLS further noted that the ECB had in their opinion² on SECR from March 2016 taken the view that STS requirements are primarily product-oriented and thus not prudential at their core. The COM argued to the contrary that STS criteria should be regarded as primarily prudential taking into account that exposures to STS-labelled securitisations carry a beneficial prudential treatment for CRD institutions.

The PCY has been postponing further discussions on this topic, waiting for the ECB opinion - to be published. Seeing as the delivery of the ECB opinion remains uncertain and taking into account the input provided by the CLS, the PCY would like to open the discussion of this topic again.

Questions on section 1.3 – Supervisory competence over the STS criteria
Option 1: Move supervisory responsibility of the STS requirements to the authorities responsible for supervising originators, sponsors and SSPEs under CRD (COM proposal).
Option 2: Maintain national discretion to designate the competent authority to supervise STS requirements for all types of entities (status quo).
Q3: MS are invited to provide their views on the presented options and indicate which are preferred.

² ECB opinion (CON/2016/11)

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2. Compromise proposal on other topics

This section elaborates on the more substantial topics that have not previously been addressed in the PCY outline of a compromise proposal. The compromise drafting on these topics is also included in the 3CT.

2.1. Waiving due diligence and risk retention for guaranteed transactions

At the September WP, the COM presented a non-paper on the reasoning behind the proposal to waive certain due diligence and risk retention requirements for securitisations where the first loss tranche constitutes at least 15% of total nominal value and is either held or guaranteed by the Union or national promotional banks or institutions within the meaning of point (3) of Article 2 of Regulation (EU) 2015/1017. MS discussed and indicated their opinion on the waivers on the October WP.

Some MS see merit in waiving certain due diligence elements for these transactions, but a clear majority of MS consider risk retention a cornerstone and a fundamental safeguard of the securitisation regulation and question whether sell- and buy-side interest would remain aligned if risk retention is removed for this kind of transaction.

The PCY took note of COM comments during the WP, that while the waiver of certain due diligence requirements is important the key barrier to these kinds of transactions is the risk retention requirement. With this in mind and seeing that a clear majority of MS are opposed to waiving the risk retention requirement, ***the PCY suggest removing the proposed waivers for certain due diligence and risk retention for these kinds of transactions.***

2.2. Definition of public/private securitisations

At the WP in October, the COM presented a non-paper on their rationale for the proposed amendments to the definition of private/public securitisations, after which MS discussed their views on the possible ways forward suggested by the PCY.

A majority of MS would like to maintain the current definition of private/public securitisations in SECR, arguing that the definition proposed by the COM will classify genuinely private transactions as public. They also emphasised that the non-negotiable criterion will be difficult to apply in practice.

Many MS are, however, sympathetic to the COM's objective of refining the distinction between private and public securitisations, with a view to enhancing transparency in relation to securitisations such as CLOs, which are generally public in nature despite meeting the current definition of private securitisations.

Accordingly, several MS expressed openness to modifying the COM proposed definition in order to address its identified shortcomings. However, no clear or practicable solution has yet been put forward as to how this could be achieved. The PCY suggested criterion of “active portfolio management” also appears insufficient, as one MS noted that transactions which are genuinely private may, in certain cases, also be actively managed.

The PCY also takes note that, under the proposed compromise, private securitisations will be required to report to securitisation repositories in order to enhance supervisory transparency. As a result, supervisors will obtain improved visibility of the CLO market, even if the COM proposed new definition of private and public securitisations is not retained.

Seeing that no solution to address MS concerns with COMs proposed new definition of private/public securitisations has materialised, **the PCY proposes to maintain the substance of the current definition of public securitisation**, i.e. a securitisation by which the issuer is required to produce a prospectus under the prospectus regulation. Although the PCY suggests maintaining the current substance of the definition of public/private securitisations, **the PCY has maintained the structure of the legal text as proposed by COM, that is to introduce definitions of public/private securitisations to article 2**, as the PCY believes this increases the quality/readability of the legal text.

2.3. Waiver from the risk retention requirement on guaranteed senior tranches of NPE-securitisations

At the October WP the Greek delegation presented their non-paper on the proposal of a new derogation from the risk retention requirement. The derogation would allow the holder of an NPE securitisation not to retain risk on any senior tranches that are guaranteed or held by one of the entities listed in points (a) to (f) of paragraph 5, Article 6.

The Greek delegation argued that the proposed new derogation would bring legal certainty to existing market practice for some NPE securitisation schemes such as GACS and HAPS.

Feedback received on the Greek proposal has primarily been positive. Many MS have voiced support for the Greek proposal, arguing that this is already accepted market practice. Another group of MS remain more sceptical, questioning its appropriateness and why a 95% guarantee on the senior tranche, which would ensure compliance with the vertical slice risk retention approach, is not a viable solution.

The PCY take note of the Greek delegation’s explanation of why their proposal is in line with the existing derogation in SECR to the risk retention requirement, the fact that this is established market practice and the general support by MS to include this proposal in the compromise.

The PCY proposes to include the Greek proposal in the compromise (as article 6, paragraph 5a), with one small technical amendment to cater for the lack of a definition of “senior tranche” in the SECR.

Section 2 – Compromise proposal on other topics
<p>Q4: MS are invited to provide their views on the proposed compromises on the topics of waiving DD and RR for securitisations with 15% FL guaranteed, the definition of public / private securitisations and waiver to risk retention on guaranteed senior tranches of NPE securitisations.</p>

3. Changes to previous outline of a compromise

At the October WP the PCY presented an outline of a compromise proposal on most of the topics of SECR. This section elaborates on the more substantial deviations from the previously presented compromise that the PCY is proposing, based on MSs feedback on the PCY's compromise.

3.1. Removing STS verification for institutional investors

The PCY has received considerable objections to the proposal to maintain the COM proposal removing the requirement for investors to verify STS compliance. The STS label functions both as a quality mark and as a potential gateway to more favourable prudential treatment. Many MS argue that given the importance of the STS label and with a view of maintaining its integrity, a positive assessment by an authorised third-party verifier (TPV) should be a prerequisite for the removal of the investor verification requirement.

The PCY has taken note of this feedback and has reflected it in recital 7 and in Article 5(3), point (c) of the proposed compromise. The PCY has also amended Article 27(2) to ensure consistency with the suggested approach whereby waiving the due diligence on STS compliance would be conditional on the assessment by a TPV.

3.2. Homogeneity criteria under the STS label

There is broad support for the COM objective of facilitating access to market-based financing for SMEs and promoting the development of cross-border securitisations involving exposures from multiple Member States.

During the October WP, it emerged that not all Member States had interpreted that the COM amendment would waive all homogeneity criteria in the RTS - for both the 30% and 70% of exposures. Based on feedback received from MS, the PCY takes note that some MS are quite concerned with the proposed relaxations of the homogeneity criterion.

Other MS have expressed support for the original COM proposal or the PCY previous compromise.

The PCY suggests a more targeted approach to ensure better conditions for SME securitisation while also carefully preserving the integrity of the STS label. ***The PCY suggests treating the homogeneity factor related to jurisdiction as fulfilled for pools comprising at least 70% SME exposures.*** This would in the PCY view achieve the main objective of facilitating SME securitisation, with an emphasis on better enabling cross-border pools. With the PCY's suggested approach, pools comprising of at least 70% SME exposures, would be permitted to source these SME exposures and the remaining exposures that are not necessarily SME from multiple jurisdictions, while still fulfilling the homogeneity factor related to jurisdiction. Seeing as only one homogeneity factors must be satisfied, pools

comprising at least 70% SME exposures would also be free to include exposures to other types of obligors (such as larger corporates) for the remaining 30% of exposures in the pool.

The PCY notes that, with the suggested new compromise, all exposures of the pool would still be required to fulfil the other homogeneity requirements of the RTS relating to asset type, underwriting standards and servicing procedures – thus diligently preserving the integrity of the STS label.

In the 3CT document, the PCY has therefore proposed the corresponding drafting for Recital 16 and Articles 20(8), 24(15), and 26b(8).

Section 3 – Changes to previous outline of a compromise
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Q5: MS are invited to provide their views on the proposed compromises on the topics of removing STS verification for institutional investors and the homogeneity criteria under the STS label.

4. Comments on drafting

This section sets out comments on drafting that has previously been discussed but has since undergone minor textual revisions, as well as on drafting that has not yet been discussed but where the PCY has assessed, based on MS feedback, that the proposed compromise text is not considered controversial. The actual drafting can be seen in the 3CT document.

Article 1 – Scope of SECR

The PCY suggests adding securitisation repositories and third parties verifying STS to Article 1 of SECRs scope, seeing as these entities are also subject to certain articles of SECR. The PCY considers this a purely technical amendment with no effect on substance.

The suggested change can be found in Article 1(2) of the 3CT.

Article 2 and recital (12) – Highly-granular pools of short-term exposures

The PCY suggests clarifying that the maturity requirement on ‘highly-granular pools of short-term exposures’ is at the level of the individual exposures and not on the pool of exposures.

The suggested change can be found in Article 2(35) and recital (12) of the 3CT.

Article 2 and 5 –Repeat transactions

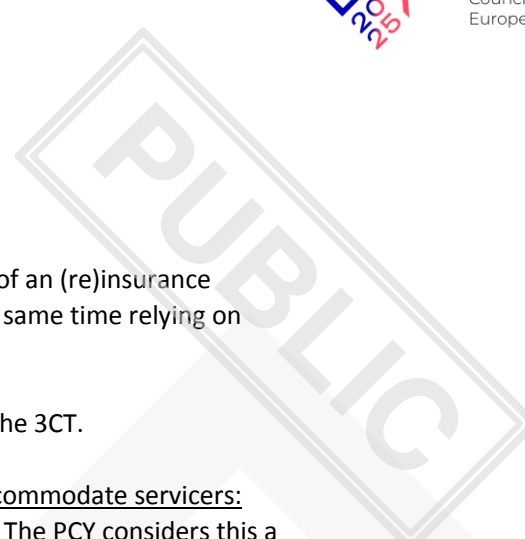
A majority of MS expressed general support for the PCY’s proposed definition of repeat transactions, with some concerns for the vagueness of the criterion on similarity of composition of the underlying pools. The PCY have sought to address this vagueness by requiring that the underlying pools have the same proportion of asset types reflected in the pools.

Some MS have also proposed to extend the permissible interval between two repeat transactions from 24 to 36 months. The PCY has chosen to accommodate this in the proposed compromise, with a view of facilitating the application of proportionate due diligence.

The suggested change can be found in the Article 2(34) and 5(4)(h) of the 3CT.

Article 26e – unfunded credit protection:

The PCY has amended the part of the size criterion allowing the parent of the (re)insurance undertaking to fulfil the size requirement, if arrangements for financial support are in place. The proposed amendment would prohibit (re)insurance undertakings from fulfilling the size criterion by relying on their parent if the originator benefitting from the UFCP is part of the same group as the (re)insurance undertaking.



The PCY has made this amendment to eliminate the possibility of an (re)insurance undertaking providing UFCP to a parent originator, while at the same time relying on financial support from that very same originator.

The suggested change can be found in Article 26e(8)(aa)(iv) of the 3CT.

Article 29, 30 and 32 – Integrating SECR provisions to better accommodate servicers:

The COM proposal adds servicers to Article 1 on scope of SECR. The PCY considers this a technical amendment seeing as servicers can fulfil the risk retention requirement for NPE-securitisations and are thus already subject to SECR.

The PCY has noted that servicers are not mentioned in Articles 29, 30 or 32 either and suggests amending this to reflect that servicers are allowed to fulfil the risk retention requirement – a cornerstone of the securitisation framework.

Article 29, paragraphs 3 and 4, concerning the designation of national competent authorities for the supervision of entities compliance with, among other things, risk retention does not designate a competent authority to supervise “Servicers”.

The PCY suggests requiring a designation of competent authority for servicers as well.

Likewise, COM’s proposed new paragraph 1a, of article 30, on the competent authority’s obligation to supervise does not mention servicers. The PCY suggest including servicers to this paragraph as well for consistency reasons.

Finally, the PCY suggests adding servicers to point (a), paragraph 1, of Article 32 on administrative sanctions for breach of risk retention requirements.

The suggested change can be found in Article 29(3,4), 30(1a) and 32(1)(a) of the 3CT.

Article 36 - JCSC guideline mandate:

The PCY took note that some MS objected to the very restrictive drafting that the PCY had used to determine when the JCSC should develop guidelines on supervisory procedures. The PCY has maintained the retroactive approach to the development of guidelines, while moderating the wording to lower the threshold for when guidelines could be developed.

The suggested change can be found in Article 36(3a) of the 3CT.

Recital (11) – Delegation of due diligence:

The PCY has amended the wording of recital (11) to emphasise that an institutional investor that has delegated due diligence is expected to ensure the effectiveness of the delegate’s performance of the due diligence tasks.

Recital (24) - Transaction-level supervision:

The PCY has made a revision of the wording of the recital to increase its readability. The substance, however, remains the same, competent authorities are not expected to verify the compliance of each individual securitisation transactions but can rely on their risk-based approach.