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## **WORKING DOCUMENT**

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From:	General Secretariat of the Council
To:	Financial Services Committee Financial Services Attachés
Subject:	FSC 14 April 2025 - Item 2 - Evaluation report on the functioning of the Securitisation Regulation (SECR) - ESAs presentation

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As per the revised annotated agenda, the numbering of the agenda items has been updated.

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# Evaluation report on the functioning of the Securitisation Regulation (SECR)

Financial Services Committee meeting (14 April 2025)

# Objectives

=>The [JC report on Securitisation Regulation](#) forms part of the multi-year review mandated under Article 44 of SECR. It also aims to provide timely input to the European Commission ahead of its forthcoming legislative proposal.

- 1. Evaluation of the functioning** of the key components of SECR, including:
  - Due diligence, risk retention and transparency rules
  - STS framework
  - Supervisory framework
- 2. Identify opportunities to enhance the effectiveness** and simplify the SECR, while **safeguarding financial stability** and **ensuring robust investor protection** – by clarifying the regulatory framework and enhancing proportionality.

# Key recommendations: scope and definition

=> Issue: Challenges with SECR application to geographically mixed securitisations, where some but not all the securitisation parties are established in the EU.

=> Issue: The current definition of public securitisation does not capture the full range of securitisations which are public 'in substance'.

## Recommendation: Clarifying the scope of SECR

- The application of SECR should be triggered in both of the following cases if any of the following conditions are met:
- at least one of the sell-side parties is established in the EU (with buy-sides that may be established in EU and/or outside EU);
  - at least one buy-side party is established in the EU (with sell-side parties that may be established in and/or outside EU).

## Recommendation: Broadening the definition of public securitisation

- Securitisation should be defined as “public” if they have any of the following characteristics:
- Transaction with EU-approved prospectus; or
  - Notes admitted to EU-regulated markets or multilateral trading facilities (MTF) or organised trading facilities (OTF) or /and any other trading venue ; or
  - Transactions marketed to a broad range of investors, where the relevant terms & conditions are not negotiable, subject to a market test.

# Key recommendations: Due diligence and transparency rules

=>Issue: Detailed and prescriptive due diligence requirements

**Recommendation: Simplified & more proportionate due diligence requirements**

In particular:

- Apply due diligence requirements to all institutional investors, irrespective of transaction type or sell-side location.
- Prioritise substance over format, ensuring investors receive sufficient information for meaningful risk assessment.
- Establish an STS equivalence/recognition regime only when EU investors seek preferential treatment
- Introduce flexibility in the timing of due diligence documentation in secondary markets.
- Remove the requirement for investors to check STS criteria where (i) originator/sponsor supervision is enhanced ; and/or (ii) a supervised third-party STS verifier is involved.

=>Issue: The current disclosure regime is considered insufficiently fit for purpose

**Recommendation: Simplifying the transparency framework including for public transactions**

In particular:

- Introduce greater flexibility within the transparency framework
- Harmonisation and simplification of transaction-level information and by removing duplication or inconsistencies and unnecessary asset-class sections
- Allowing aggregated or stratified data for some assets.

Meanwhile, ESMA is consulting on simplified templates for private securitisations.

# Key recommendations: STS framework and risk retention rules

=>An overhaul of the STS framework is unnecessary, instead, targeted enhancements to specific STS criteria & quick fixes to improve efficiency, particularly for on-balance-sheet securitisations

**Recommendation: remove the risk retention and general transparency rules from the STS criteria to avoid duplication.**

- **Targeted changes to STS criteria for on-balance-sheet securitisations**
- Pros/cons of allowing to Solvency II-regulated entities to provide unfunded guarantees to on-balance-sheet securitisations under the STS framework.

=> Interpretative issues related to risk retention rules

**Recommendation: Reducing ambiguity in the interpretation of the risk retention requirement.**

## **Collateralised loan obligations (CLOs)**

- Provide specific clarifications on the term “predominant source of revenues”.
- Consider the possibility of broadening the definition of “sponsor” to include other regulated entities, such as alternative investment fund managers.

## **Definition of sponsor for ABCP**

- Clarifying the definition of sponsor in asset-backed commercial paper (ABCP) transactions.

# Key recommendations: Options for supervision

=> **Supervisory issues that could hinder the long-term revival of the EU securitisation market:**

- ✓ Fragmentation of supervisory practices and reporting burden
- ✓ Cross-border coordination challenges
- ✓ Potential resource constraints
- ✓ Need for further convergence in supervisory approaches

**Recommendation: a road map for transitioning to a more centralised supervisory model, subject to future market developments**

=> **Options for addressing these challenges**

- ✓ **Option 1 - Short term: strengthen coordination via ESAs Joint Committee**
- ✓ **Option 2 - Long term: developing a more consolidated supervisory model**

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# Questions?