

SUPERVISION OF SECURITISATION VEHICLES IN THE EU

EU MEMBER STATE	Legal nature		Is there a supervisor for the SPV			Name of the supervisor	Details concerning the supervision and possibility to be considered as a credit institution (Sweden)
	Company	Fund	Yes	Only if issues securities to the public	No		
Austria	✓				✓	Finanzmarktaufsichtsbehörde	There is no specific supervisory authority for SPVs. The Banking law clarifies that special securitisation companies do not conduct any banking business.
Belgium							
Denmark							
Finland	✓		✓			Rahoitustarkastus (Finnish Banking Supervision Office)	In principle, the SPV is not considered as a credit institution but is considered as a financial institution. In most cases the Rahoitustarkastus supervises the SPV.
France					✓	Autorité des Marchés Financiers (management company of the FCC) Comité des établissements de crédit et des entreprises d'investissement (CECEI)/Commission Bancaire (custodian)	Only the founders of the Fonds Commun de Créances (FCC), i.e. the management company and the custodian are supervised by the French Financial Markets Authority (AMF) since the fund does not have any legal personality. The relevant rules applicable to management companies are described in the General Regulation of the AMF. The custodian is supervised by the authorities in charge of the supervision of credit institutions. FCC are not considered as credit institutions. However, an SPV incorporated outside France cannot be used because they do not benefit from the exemption to the “banking monopoly”, although some amendments to the French legislation are under discussion
Germany	✓				✓	Bundesanstalt für Finanzdienstleistungsaufsicht	Until very recently, no German entities were used as purchaser vehicles in securitisation transactions. This might change now with the True Sale Initiative. No need for a license for SPVs They are not considered as credit institutions under the Banking Act.
Greece	✓			✓		The Hellenic Capital Market Commission	SPVs are not considered to be credit institutions. No prudential supervision of SPVs given that securitisation only takes place through private placements. If the SPV is a Greek <i>société anonyme</i> , the supervising authority is the competent <i>prefecture</i> , which supervises the SPV as regards compliance with the law on <i>société anonyme</i> . The Hellenic Capital Market Commission has supervisory authority if securitisation takes place through public offerings. SPVs which are subsidiaries or affiliates of Greek Banks are subject to the supervision of the Bank of Greece.
Ireland	✓			✓		Irish Financial Services Regulatory Authority	Typical securitisation SPVs fall outside the financial services regulatory regime and there are not subject to supervision by Irish financial or banking regulators. Irish SPVs are subject to the jurisdiction of the Office of the Director of Corporate Enforcement with respect to their compliance with general company law. If SPV has listed securities on a regulated stock exchange, it will be subject to the rules of that exchange.
Italy	✓		✓			Banca d'Italia	SPVs are subject to the supervision of the Banca d'Italia and are required to disclose certain information related to the performance of the securitisation transaction with reference to both the securitised assets and the issued notes..

Luxembourg	✓	✓		✓		<i>Commission de surveillance du secteur financier</i>	SPVs are not considered to be credit institutions. SPVs/Securitisation undertakings (both funds and companies) which issue securities to the public on a regular basis must be authorised by the supervisory authority, i.e. the <i>Commission de surveillance du secteur financier</i> (CSSF). This does not apply to securitisation undertakings that only effect a single issue of securities or issue securities on an irregular basis.
The Netherlands	✓						
Portugal	✓	✓	✓			Comissão do Mercado de Valores Mobiliários (CMVM)	SPVs under the Portuguese securitisation law are not considered to be credit institutions. The activity of acquiring receivables is not considered as a credit institution. FTCs (funds) The establishment of an FTC must be authorised by the CMVM, which also supervises the FTC's activities. Where the originator is a credit or financial institution, the FTC's establishment is also subject to the Banco de Portugal's approval. The incorporation of an SGFTC must also be authorised by both the Banco de Portugal and the CMVM. STCs (companies) The incorporation of a STC is subject to authorisation by CMVM. Each issuance of notes is subject to prior registration with the CMVM for public placements or subsequent communication the MCVM, for private placements.
Spain		✓		✓		<i>Comisión Nacional del Mercado de Valores (CNMV)</i> <i>Central Mercantile Register</i>	The securitisation fund is not a credit institution. A Spanish public limited company (sociedad anónima) duly incorporated and authorised by the CNMV is responsible for the incorporation, management and representation of the Fondo de Titulización de Activos (FTA).
Sweden	✓		✓			Finansinspektionen	If SPV is funded publicly it is supervised by the Swedish Financial Supervisory Authority (Sw: Finansinspektionen) which also supervises banks and credit companies etc. According to the Global Legal Group Report, if financing business is deemed to be conducted in Sweden, there is a recent licensing exemption for securitisation SPVs. This exemption only applies for SPVs acquiring receivables a limited number of times (no more than three of five times). Thus, in transactions where receivables with short maturities are acquired on a revolving basis, the exemption cannot be relied upon. SPVs are considered as credit institutions if they extend financing and obtain funds from the public and the activity of acquiring receivables is considered as a credit operation within the meaning of banking legislation. However, An SPV incorporated in Sweden will not be subject to regulatory treatment (capital adequacy requirements etc.) if it is acquiring financial assets on no more than a few occasions and is obtaining funding on the capital markets (i.e. from the public) on no more than a few occasions.
United Kingdom	✓			✓		Financial Services Authority / UK Listing Authority	SPVs are not generally considered as credit institutions and do not usually require a licence. If SPV is listed on the London Stock Exchange, it will be supervised by the FSA/UK Listing Authority.