27 April 2026

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Re: Finalisation of the legislative process: Commission proposal to reform the EU general framework for securitisation

Dear Mr Seekatz, dear Ms Blanchet, dear Ms Albuquerque, dear Mr Berrigan, dear Madams, dear Sirs,

As you may know, the European Financial Markets Lawyers Group (the "**EFMLG**") is a group of senior legal experts from the EU banking sector dedicated to making analysis and undertaking initiatives intended to foster the harmonization of laws and market practices and facilitate the integration of financial markets in Europe. The members of the group are selected on the basis of their personal experience amongst lawyers of major credit institutions based in the EU active in the European financial markets. The Group is hosted by the European Central Bank ("**ECB**").

This letter sets out the EFMLG's views on several elements of the Commission's proposal[1] on the general framework for securitisation, which is the focus of this letter. The proposal, if still left unamended within the finalisation of the legislative process, risk undermining materially the effectiveness of the securitisation framework as a core pillar of the Savings and Investment Union (SIU).

1. Introduction

The financial sector is one of the main drivers of the economy due to its intermediary role in providing access to financing. Particularly, a vibrant securitisation market is essential for the Savings and Investment Union ("**SIU**"), enabling capital to flow efficiently to small and medium size enterprises ("**SMEs**") and supporting Europe's green and digital transitions.

In this context, securitisation is not a niche capital markets activity, but a strategic policy tool to expand lending capacity, optimise bank balance sheets and enhance the global competitiveness of EU financial markets.

Improving supply is urgently needed in the EU securitisation market, as current issuance levels remain structurally below those of comparable non-EU jurisdictions, ultimately constraining banks' ability to support the real economy.

Against this background, the EFMLG would like to offer the following observations on the Commission proposal in view of the currently ongoing finalisation of the ensuing regulation at the European Parliament and at the trilogues[2]. In addition to submitting this letter to the EU legislator (European Parliament, Council, Commission) we are also submitting it for information to the ESAs.

2. Regulatory Background

On 17 June 2025, the European Commission (Commission or "**EC**") presented the legislative securitisation reform legislative package as part of the SIU agenda. This effort is framed within an economic context in which the EU seeks to deepen the integration of its capital markets and diversify funding sources, with the objective of reducing reliance on traditional bank credit and facilitating access to financing for corporates and households.

Securitisation is viewed as a key instrument to release regulatory capital from banks' balance sheets and, at the same time, to channel institutional investment into the real economy. However, since the entry into force of the current

[1] Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation. COM/2025/826 final.

[2] See EP's *legislative train schedule* for the proposal: https://www.europarl.europa.eu/legislative-train/theme-a-new-plan-for-europe-s-sustainable-prosperity-and-competitiveness/file-review-of-the-securitisation-framework

framework in 2019, the development of the market has remained below expectations.

This EC legislative initiative corresponds to the Article 44 Report, published on 31 March 2025 by the Joint Committee of the European Supervisory Authorities (European Banking Authority ("**EBA**"), European Securities and Markets Authority ("**ESMA**") and European Insurance and Occupational Pensions Authority ("**EIOPA**")). This report was commissioned by the EC to evaluate the application of the existing framework and its impact on issuers and investors. Among its principal findings were: (i) the excessive complexity of transparency and reporting requirements; (ii) due diligence obligations regarded as disproportionate in certain cases; and (iii) limitations in the prudential incentives associated with the Simple Transparent and Standardised ("**STS**") label. According to the report, these factors have contributed to a more limited use of securitisation in the EU compared with other jurisdictions.

Against this background, it is critical that the securitisation reform which is being finalised strikes a careful balance between safeguarding financial stability and ensuring that the regulatory framework does not inadvertently disincentivise legitimate, low-risk securitisation activity.

3. Overview of the Commission's proposal and EFMLG suggestions.

3.1 Amendments to the securitisation regulation 2017/2402 (EU SecReg).

3.1.1 Transparency and Reporting

The proposal significantly broadens the definition of "public" securitisations, now capturing:

- **a)** any deal with an EU Prospectus Regulation[3]- compliant prospectus;
- **b)** transactions admitted to trading on EU regulated markets, multilateral trading facilities ("MTFs") or organised trading facility ("OTFs"); and
- **c)** securitisations marketed on a non-negotiable, "take it or leave it" basis.

This redefinition would convert a significant number of transactions that are currently and legitimately treated as "private" into "public" securitisations, triggering materially more onerous reporting, disclosure and compliance obligations on transactions that were previously private, thereby increasing compliance costs and administrative complexity. It would also erode the confidentiality that private deals rely on, forcing the disclosure of commercially sensitive information. From the perspective of EU banks, this change would undermine well-established significant risk transfer (SRT) and private placement structures because of such disclosure and because it would materially increase issuance costs, thereby discouraging future transactions.

[3] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC.

Furthermore, we believe these stricter and more burdensome requirements could discourage smaller issuers, reducing market participation and overall liquidity in the securitisation space.

The EC also mandates a streamlining of reporting templates, aiming for at least a 35% reduction in required fields, removal of loan-level reporting for highly granular assets (e.g. credit cards), and broader format availability (XML and CSV[4]). However, transitional or grandfathering provisions remain uncertain, raising potential implications for legacy deals.

The EC's mandate to streamline reporting templates should reduce the administrative burden on reporting entities; this simplification could lower compliance costs and improve efficiency in data submission processes. However, the uncertainty around transitional or grandfathering provisions introduces regulatory risk for legacy transactions. Without clear guidance, existing deals may face compliance ambiguity or additional reporting adjustments, potentially increasing operational complexity.

3.1.2 Investor Due Diligence

For EU-originated/sponsored deals, investors would no longer be required to verify sell-side compliance with retention, transparency or STS obligations removing a significant diligence burden. However, this relaxation is offset by:

a) continued strict diligence obligations on third-country securitisations, including adherence to EU reporting requirements (though repository use may be excluded, subject to interpretation);
b) prohibition on delegating diligence (and related regulatory liability) to other institutional investors; and
c) extension of sanctions, including administrative fines up to 10% of annual net turnover, for negligent or intentional non-compliance.

The changes would ease the due diligence burden for investors in EU-originated or sponsored securitisations, removing the need to verify sell-side compliance with retention, transparency, or STS obligations. However, this is offset by strict requirements for third-country securitisations, which would need to demonstrate alignment with EU due diligence and reporting standards to remain eligible for investment. **This higher compliance bar would materially limit the investment scope of EU investors and place EU banks at a competitive disadvantage relative to non-EU peers, particularly where non-EU transactions cannot fully meet these standards.**

A proportionate, principles-based approach is introduced for repeat deals and senior tranches. **This change should enhance efficiency and reduce compliance burden for frequent issuers**, while maintaining appropriate oversight and investor protection standards.

[4] Extensible Markup Language and Comma separated values formats.

Low-risk positions (e.g. those guaranteed by multilateral development banks ("**MDBs**") or by public entities retaining first-loss tranches ≥15%) may benefit from due diligence exemptions.

This adjustment would streamline regulatory obligations for highly secure exposures, freeing up resources for investors while maintaining confidence in the underlying credit quality.

3.1.3 STS Framework

The proposals expand the on-balance-sheet STS regime by allowing unfunded credit protection from EU Solvency II (re)insurers, subject to strict eligibility criteria (size, rating, business diversification, use of internal models). This reform is potentially transformative for synthetic securitisations but could limit its practical effectiveness in its current restrictive form.

The proposals broaden the on-balance-sheet STS framework by permitting the use of unfunded credit protection from (re)insurers, provided they meet strict eligibility criteria related to size, credit rating, business diversification, and internal model standards. **While this reform could significantly expand the scope and flexibility of synthetic securitisations, its practical implementation is likely to be limited, as few (re)insurers are expected to meet the stringent requirements needed to qualify as eligible counterparties**.

Additionally, homogeneity requirements are relaxed to facilitate SME securitisations: compliance is deemed satisfied if at least 70% of the pool comprises SME loans (versus the current 100% rule). Technical clarifications are also introduced regarding portfolio management, amortisation mechanics, premium calculation, and excess spread caps.

This change is expected to boost issuance capacity and investor participation in the SME segment, enhancing access to funding for smaller businesses and supporting broader market growth.

EFMLG is concerned that, unless eligibility criteria are calibrated more proportionately, the practical impact of this reform will remain limited, thereby falling short of its stated objective to meaningfully expand the synthetic securitisation market.

3.1.4 Supervision, Reports and Review

Supervision: third-party verifiers of STS must now be supervised as well as authorised; responsibility for bank-originated STS deals will rest with banking national competent authorities, or the ECB/SSM[5] for significant institutions.

This amendment is, in principle, a welcome development as it is expected to enhance consistency and market confidence;. However, if regulators

[5] Single Supervisory Mechanism.

place too much emphasis on third-party verifier requirements and enforce them too rigidly, this could introduce unnecessary rigidity into the securitisation market, hindering its growth.

Supervisory convergence: the EBA is given a more prominent role in harmonising supervision, leading the securitisation sub-committee of the European Supervisory Authorities Joint Committee and developing amended technical standards.

This should strengthen market confidence, though it may require national authorities to adapt their supervisory frameworks and practices.

European Supervisory Authorities rolling review mandate is expanded to assess securitisation's contribution to EU economic funding, with the EC required to produce five-yearly reports on the regime's functioning.

This should enhance policy accountability and evidence-based adjustments.

3.2 Observations on resilient securitisation and on risk weighting.

3.2.1 Resilience

A new "Resilience" prudential category is introduced; "resilient securitisation" positions would be senior positions in securitisations which satisfy a set of eligibility criteria that ensure low agency and model risk and a robust loss-absorbing capacity for the senior positions, providing additional prudential benefits where transactions meet enhanced safeguards:

a) For STS deals, a minimum credit enhancement requirement of the senior position, in order to ensure sufficiently wide buffer non-senior positions to cushion the senior position against potential losses.
b) For non-STS transactions, Resilience entails partial compliance with STS eligibility criteria, including collateralisation safeguards, concentration limits, and performance triggers for non-sequential amortisation.

The most significant effect of participating in a "resilient securitisation" would be the more favourable regulatory capital treatment. Exposures to qualifying resilient securitisations may benefit from reduced risk-weighted asset ("**RWA**") requirements (with a floor of 5% for STS Resilient positions"), reflecting the lower risk profile attributed to these transactions. **This could enhance the attractiveness of "resilient securitisation" senior tranches for institutional investors by improving capital efficiency and potentially increasing returns on capital**.

EFMLG supports the objective of enhancing risk sensitivity but cautions that additional structural complexity may limit uptake unless the framework is kept operationally workable.

3.2.2 Risk Weight Floor Proposals and P Factor Proposals

The EC seeks to increase prudential risk sensitivity and reduce unjustified non-neutrality of securitisation risk weights. The below stated proposals are likely to be of greatest benefit to SRT securitisations:

a) Replacement of fixed minimum risk-weight floors (the minimum capital charge that regulators require banks and other in-scope investment firms to apply to a securitisation exposure) with risk-sensitive floors. CRR currently prescribes fixed minimum risk- weight floors with respect to the senior tranches of a securitisation (10% for STS securitisations and 15% for non-STS securitisations), which apply regardless of the actual risk profile of the securitised pool. The Commission has proposed to: (i) lower the existing minimum fixed floors for each tranche type; and (ii) introduce a risk-sensitive element to the floor, which can dynamically scale according to the risk profile of the underlying asset pool based on factors like credit quality, asset granularity, historical performance and delinquency data and sectoral or geographical concentration.

b) Modifications to the P Factor (an additional multiplier that amplifies calculated risk-weighted exposure amounts ("**RWEAs**") to reflect perceived model and structural risk): reduced to 0.3 (STS) and 0.6 (non-STS) for certain positions, but only for senior tranches and (in non-Resilient deals) only for originators/sponsors.

The introduction of risk-sensitive capital floors and a lower P Factor enhances alignment between regulatory capital and actual portfolio risk, promoting more efficient capital allocation and potentially improving market competitiveness. However, the benefits are concentrated in senior tranches and therefore primarily accrue to originators and sponsors, offering limited advantages for investors in securitisations and for high-risk or less granular asset classes such as project finance, which may continue to face elevated capital charges.

4. EFMLG suggestions for improvement of the Commission proposal.

The proposed definition of "public securitisations" should be fundamentally reconsidered, as it risks destabilising the current functioning of the EU securitisation market. The mere fact that a securitisation is listed on an EU trading venue should not, in itself, classify a securitisation as public

The EC has proposed to introduce, for the first time, explicit definitions of "public" and "private" securitisations. A correct distinction between them is critical to adequately impact the proper functioning of the market.

Many SRT securitisations are structured as private credit-linked notes that, for technical reasons such as investor mandates or tax treatment, are listed on MTFs. Considering them public transactions would force the disclosure of

commercially sensitive data, jeopardising existing practices and potentially driving issuers to relocate activity outside the EU.

The EFMLG considers limbs (b) and (c) of the new proposed definition directly undermine the current functioning of the EU securitisation market and should be deleted or ultimately redrafted. EFMLG suggests that a public securitisation should be defined as one requiring a prospectus under the Prospectus Regulation; or involving notes admitted to trading on an EU trading venue without non-disclosure agreements or transfer restrictions. A private securitisation would be any transaction not meeting these criteria.

Article 2
Definitions
For the purposes of this Regulation, the following definitions apply:

(32) 'public securitisation' means a securitisation that meets any of the following criteria:
(a) a prospectus has to be drawn up for that securitisation pursuant to Article 3 of Regulation (EU) 2017/1129 of the European Parliament and of the Council;
(b) the securitisation is marketed with notes constituting securitisation positions admitted to trading on a Union trading venue as defined in Article 4(1), point (24) of Directive 2014/65/EU of the European Parliament and of the Council ***and where investors and prospective investors in those notes constituting securitisation positions are neither required to enter into a non-disclosure agreement as a condition of access to confidential information relating to the securitisation, nor subject to transfer restrictions.***
~~***(c) the securitisation is marketed to investors and the terms and conditions are not negotiable among the parties.***~~

(33) 'private securitisation' means a securitisation that does not meet any of the criteria laid down in point.

(34) 'non-disclosure agreement' means a contractual agreement relating to a securitisation between:
(a) an investor or potential investor in that securitisation, and
(b) the originator, sponsor or SSPE of that securitisation,
preventing or restricting the onward disclosure by the investor or potential investor of confidential information relating to the securitisation or the securitised exposures disclosed by the originator, sponsor or SSPE.

(35) 'transfer restrictions' means contractual restrictions on the onward transfer of exposures constituting securitisation positions that any investor holding those exposures agrees (or is deemed to agree) to comply with as a condition of acquiring those exposures, which provide that exposures may only be transferred by the investor to:
(a) one or more of a determined or determinable list of approved transferees or of disqualified or prohibited transferees; or
(b) with the consent of the originator, sponsor or SSPE of the securitisation.

The requirement for private securitisations to submit reporting templates to securitisation repositories introduces unnecessary legal, operational and confidentiality risks and should be removed

While the EC proposal usefully simplifies reporting, recognising that private securitisations should be subject to a distinct reporting framework, any reporting and access regime applicable to such transactions should reflect that differentiated treatment. Expanding access to confidential deal data across multiple authorities may otherwise raise unnecessary confidentiality and operational concerns and could undermine the viability of private securitisations, which play a crucial role in financing mid-size companies and particularly serve as a very useful tool for capital relief purposes for the EU banks. This requirement should be removed or, at least, limited to a very narrow group of stakeholders,

basically the competent authorities and the concerned investors involved in each particular transaction.

Article 7
Transparency requirements for originators, sponsors and SSPEs

[…]
2. The originator, sponsor and SSPE of a securitisation shall designate amongst themselves one entity to fulfil the information requirements pursuant to points (a), (b), (d), (e), (f) and (g) of the first subparagraph of paragraph 1.
The entity designated in accordance with the first subparagraph shall make the information for a securitisation transaction available by means of a securitisation repository. ***Notwithstanding the previous sentence, reporting to a securitisation repository shall not be required in respect of private securitisations.***

The proposed Investor Due Diligence regime for EU-originated/sponsored deals should not be offset by a prohibition on delegating diligence (and related regulatory liability) to other institutional investors

The proposed Article 5(5) provides that "the delegating institutional investor's liability under this Article shall not be affected by the fact that the institutional investor has delegated functions", while Recital 11 equally states that "such delegation should not transfer legal responsibility". This approach may create a significant operational burden and, in some cases, discourage investor participation in the market. In line with AFME's position, the allocation of primary regulatory responsibility should remain a matter of contractual choice between the principal and the delegate. In particular, where the delegate is itself a regulated institutional investor acting pursuant to a documented mandate, the parties should be permitted to agree that primary responsibility for compliance with the due diligence obligations rests with the delegate. This would provide a pragmatic solution, particularly where the delegate's investment research and analysis are proprietary and cannot be shared with the investor client.

Article 5
Due-diligence requirements for institutional investors

[…]
(5) Without prejudice to paragraphs 1 to 4 of this Article, where an institutional investor has given another institutional investor authority to make investment management decisions that might expose it to a securitisation, the delegating institutional investor may instruct the delegated institutional investor to fulfil its obligations under this Article in respect of any exposure to a securitisation arising from those decisions. The delegating institutional investor's liability under this Article shall not be affected by the fact that the institutional investor has delegated functions; ***unless the delegating and delegated institutional investors have agreed in a documented mandate that primary responsibility for compliance with this Article shall rest with the delegated institutional investor.***

Third Country Securitisations

In the Article 44 Report, the intention was to move towards a "substance over form" approach, allowing flexibility in the format of information provided, and avoiding mandatory imposition of EU reporting templates on third-country securitisations. EFMLG's stance, in relation to this point as set out in Article 44 Report, was that no third-country due diligence requirements should be imposed at all. The current EC proposals represent not merely a departure from the

recommended substance-over-form approach, but in fact a step further back from the more proportionate treatment outlined in the Article 44 Report.

The rationale is that pursuant to Article 14 of the CRR, European entities are obliged to verify due diligence compliance in respect of all securitisations in which such entity (including non-EU subsidiaries) participates as an investor. This situation places European banks at a competitive disadvantage, since it requires them to impose further burdens on non-EU originators and sponsors, and at the same time, generates additional regulatory costs. In light of this, our initial position remains that no third-country due diligence obligation should be introduced, and, in any event, any such obligation should try to align with the framework set out in the Article 44 Report.

We understand that the proposal of the Association for Financial Markets in Europe (AFME) (displayed in the box below) could partially mitigate this adverse situation, being consistent with the Article 44 Report.

Article 5
Due-diligence requirements for institutional investors

[…]

(e) if established in a third country, the originator, sponsor or SSPE designated ~~***in accordance with Article 7(2)***~~ *has made available the* ***sufficient*** *information* ~~***required by Article 7(1) in accordance with***~~ ***to enable*** *the* ~~***frequency***~~ ***institutional investor independently to assess the risks of holding the securitisation position*** ~~***and modalities provided for in that***~~ ***has committed to make further information available on an ongoing basis, to permit the institutional investor to monitor the securitisation position in accordance with its written procedures referred to in point (a) of*** *paragraph* ***(4);***

Non-performing exposure (NPE) Securitisations

A targeted amendment should also be considered in relation to non-performing exposure (NPE) securitisations. Under the current framework, non-qualifying traditional NPE securitisations are excluded from the application of the maximum capital requirement cap in Article 269a(5) of the CRR, which is intended to ensure that retained tranches do not attract capital materially in excess of that applicable to the underlying portfolio. This may give rise to unduly conservative capital outcomes for economically similar NPE transactions. Extending that cap to non-qualifying traditional NPE securitisations would address this regulatory gap in a proportionate manner, without calling into question the broader prudential distinction between qualifying and non-qualifying transactions.

Article 269a
Treatment of non-performing exposures (NPE) securitisations

[…]

5. For the purposes of Article 268(1), expected losses associated with exposures underlying a ~~***qualifying***~~ *traditional NPE securitisation shall be included after deduction of the non-refundable purchase price discount and, where applicable, any additional specific credit risk adjustments*

[…]

CR_{max}= the maximum capital requirement in the case of a ~~***qualifying***~~ *traditional NPE securitisation;*

"Grandfathering" period

Transitional or "grandfathering" provisions should be included with regards to the application of the proposed changes in the European legislative framework on securitisations, along the same lines as in previous reforms. Although this approach may need to be reviewed once the final legal texts have been agreed, we understand that a full "grandfathering" provision should be laid down for deals executed prior to the date of entry into force of this new legislative framework.

We understand that AFME's proposal (displayed in the box below) could address this issue:

Article 1a
Transitional provisions

(1) ***This Regulation shall apply to securitisations the securities of which are issued (or securitisation positions of which are created) on or after [date that is 6 months after publication in the OJEU], subject to paragraphs (2) to (4) of this Article.***

(2) ***The amendments made by this Regulation to Articles 7 and 10 of Regulation (EU) 2017/2402 shall apply to securitisations the securities of which are issued (or securitisation positions of which are created) on or after the date that falls six months after the last of the technical standards contemplated in those Articles is published in the Official Journal of the European Union, subject to paragraphs (3) and (4) of this Article.***

(3) ***In respect of any securitisation the securities of which were issued (or securitisation positions created) prior the dates mentioned in paragraphs (1) and (2) of this Article, the entity designated in accordance with the first subparagraph of paragraph (2) of Article 7 of Regulation (EU) 2017/2402 may elect by written notice made available to investors and competent authorities to apply to the securitisation, from the date of the notice (or such later date as may be specified in the notice), the provisions of Regulation (EU) 2017/2402 as amended by this Regulation.***

(4) ***In respect of any securitisation position, an institutional investor may elect to comply, from [date that is 20 days after publication in the OJEU], with its obligations under the provisions of Regulation (EU) 2017/2402 as amended by this Regulation.***

Article 2
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from [date that is 6 months after publication in the OJEU], except for the amendments made by this Regulation to Articles 7 and 10 of Regulation (EU) 2017/2402, which shall apply from the date that falls six months after the last of the technical standards contemplated in those Articles is published in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Simplified Disclosure Framework extended to non-ABCP trade receivables securitisations

The simplified disclosure framework should also be extended to non-ABCP trade receivables securitisations, which should not be subject to loan-by-loan reporting. These transactions are typically backed by short-term, revolving and highly granular pools with frequent turnover of exposures, such that loan-level reporting often provides limited incremental transparency while creating disproportionate operational and compliance burdens. This would also be consistent with AFME's position that, for highly granular and fluctuating pools such as trade receivables, aggregated data reporting may be sufficient, and that mandatory template-based asset-level reporting should be replaced by a more proportionate, principles-based approach. Extending the simplified framework in this way would promote a more coherent and balanced disclosure regime across economically comparable ABCP and non-ABCP trade receivables transactions, while preserving an appropriate level of transparency for market participants.

Article 7
Transparency requirements for originators, sponsors and SSPEs

[…]

*1. In the case of an ABCP ~~or~~, **of a non-ABCP trade receivables securitisation, or** of a securitisation of highly-granular pools of short-term exposures, the information described in points (a), (c)(ii) and (e)(i) of the first subparagraph shall be made available in aggregate form to holders of securitisation positions and, upon request, to potential investors.*

Cross-border securitisations involving exposures from multiple Member States

The ECB welcomes the support introduced in the proposal for cross-border securitisations involving exposures from multiple Member States. While there is awareness of the current legal and practical difficulties that such securitisations present, efforts towards enhancing this market segment remain a useful tool towards the integration of EU financial markets, which is of key importance for the EFMLG.

The EFMLG encourages the EU legislator to reconsider all the points highlighted in this letter. Addressing these issues is essential to ensure that the revised securitisation framework effectively supports the SIU, enhances EU competitiveness and enables banks to continue financing the real economy in a safe and sustainable manner.

We thank you for your attention.

Yours sincerely,

Fernando Conlledo Lantero

EFMLG Vice Chair