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	BSBV 115/Dr. Egger/St	3137	12 August 2013

EBA – Consultation on draft Technical Standards on securitisation retention rules (EBA/CP/2013/14)

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the entire Austrian banking industry, appreciates the possibility to comment on the EBA – Consultation on draft Technical Standards on securitisation retention rules and would like to submit the following position:

General remarks:
The technical standards proposal does not explain which revolving securitizations (e.g. UK RMBS Master Trusts) issued before 2011 will have to comply with risk retention and due diligence requirements after December 2014. It would be welcome to receive clarification how these transactions are affected.

Q1 and Q2:
We have noted a change from the CEBS-guidelines regarding the wider definition of sponsors in CRR which now includes CLO asset managers and excludes entities with which alignment of interest is achieved (eg subordinated investors involved in the selection of exposures and the structuring of tranches) (See page 40-41 of the consultation document).

As explained in the CRD II Article 122a guidance from EBA, the originator, sponsor or original lender in an ABS/CLO transaction should be the retainer. In some cases, third parties who do not meet the definition can also be eligible to be the retainer, for example, a third-party equity investor. The EBA consultation paper widens the definition of a sponsor and also includes investment firms (so that asset managers which are investment firms are included as well, page 41); therefore the EBA does not see any more necessity to include the previous flexibility. Thus, in most situations, only the collateral manager of a deal can be the retainer. This could have a negative impact on the CLO primary market, as – mentioned on page 41 – "a number of CLO managers [could face] capital constraints in fulfilling the 5% retention requirement". Additionally, it is not clear, how existing, newly issued CLOs would be treated - a possible grandfathering is not mentioned. Therefore it is unclear how transactions can be treated which

complied with retention rules according to EBA's previous guidelines but which don't comply with the new ones.

Article 6, page 15:
Option a (vertical slice) refers to the nominal value of the tranches whereas options b to e refer to the nominal value of securitized exposures (quoted in explanatory box relating to Article 5, in the header to Article 6, in paragraph 1, as well as in CRR). In contrast to this differentiation, paragraph 1.a. first sentence refers to 5% of the securitized exposures which can be different in case of over or under par sale of assets to SPV. In the 2nd sentence the text refers to option b (revolving securitization). Hence, there is a mix up of the two options in the clause. This should be clarified.

A similar mix up like in Article 6 was recognized in Q3: Paragraph 48 CEBS copes with revolving exposures retention, reflected in Article 405 b) and not a) to which the question refers.

Article 9 / Q 8:
For CMBS a second independent valuation could be considered in order to apply option (e) 5% first loss exposure to a B-piece investor or the owner of the properties in single loan/single borrower CMBS.

Article 23/Q15:
Loan by loan data has to be provided "on at least an annual basis". ECB demands quarterly loan by loan information for ABS to be accepted as collateral in Eurosystem credit operations. An alignment to CRR timeline especially for granular pools would make sense.

Kindly give our remarks due consideration.

Yours sincerely,

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