Bundesverband der Deutschen Volksbanken und Raiffeisenbanken e. V.
Bundesverband deutscher Banken e. V.
Bundesverband Öffentlicher Banken Deutschlands e. V.
Deutscher Sparkassen- und Giroverband e. V.
Verband deutscher Pfandbriefbanken e. V.

Die Deutsche Kreditwirtschaft

Comments

on draft RTS on the determination by originator institutions of the exposure value of SES in securitisations form

Lobby Register No R001459
EU Transparency Register No 52646912360-95

Contact:
Felix Krohne
Associate Director
Telephone: +49 30 1663-2190
E-mail: felix.krohne@bdb.de

Berlin, 14 October 2022

The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent approximately 1,700 banks.

Coordinator:
Bundesverband deutscher Banken e. V.
Burgstraße 28 | 10178 Berlin | Germany
Telephone: +49 30 1663-0
www.die-deutsche-kreditwirtschaft.de
www.german-banking-industry.org

Comments on **EBA draft RTS on the determination of the exposure value of SES**

Questions

Q3. Instead, would you favour that the RTS consider only one method (i.e. the full model approach or the simplified model approach) for the calculation of the exposure value of the synthetic excess spread of the future periods?

Both approaches are excessively penalising, making SES economically unviable. The only sensible approach is a one-year deduction on a rolling basis, which is coherent with the design of UIOLI SES calibrated on EL at 1 year. This is the so-called "alternative approach" referred to in the draft RTS.

Q4. Do you agree with the specifications of the asset model made in Article 3?

The full model approach is based on lifetime deduction of SES. As highlighted since the discussions at the time of the Capital Markets Recovery Package, lifetime deduction makes SES uneconomical, i.e. it destroys the economics of the transaction. If retained, originators would have to abandon SES and place thicker non-senior tranches instead.

Q6. Do you agree with the calculation of the exposure value of synthetic excess spread for future periods made in Article 6?

Article 6 proposes determining the exposure value of a synthetic excess spreads position as the average of losses absorbed by the synthetic excess spread mechanism across the three regulatory loss timing assumptions. Where the future excess spread amounts are variable, Article 4 stipulates that the expected available loss absorption amount is to be used as input to the expected loss allocation amount. No further adjustments will be made to account for uncertainty and the timing of future designation of loss absorption amounts.

This mechanism would disadvantage SES clauses compared to traditional securitisations. Section 3 para 8 (ii) correctly points out that in synthetic securitisations, unlike traditional securitisations, future proceeds from the securitised portfolio will continue to be recorded in the originator's income statement. However, where SES amounts are contractually linked to this future income (for instance by referencing the outstanding exposure amount, contractual credit spread and subtracting the originator's funding cost for the retained position), any future loss absorption will only be achieved out of future income. In this scenario the ex-ante capital base will never be impacted by the SES mechanism.

We propose reflecting this in the calculation of the exposure value. This could be achieved by adding the following sentence (either to Article 4(b) or to Article 6):

> "Where variable synthetic excess spread is contractually linked to income generated by the securitised portfolio, the amount of synthetic excess spread at any point shall be

> capped at the amount that has already been reflected in the originator's income statement."

As a result of this addition, synthetic excess spread clauses that contractually cannot impact the capital base at inception of the transaction will not lead to exposure values. However, where income has been recorded in the income statement (either intra-period or in trapped mechanisms), the resulting loss absorption potential will be accurately reflected as exposure value, comparable to a traditional securitisation transaction.

In cases where variable synthetic excess spread is not contractually linked to income generated by the securitised portfolio but to other metrics, the wording proposed above would not apply and the exposure value would be determined as outlined in the consultation paper.

Q10. Do you agree with the scalar assigned for UIOLI mechanisms? If not, please provide empirical evidence that justifies a different scalar based on the different loss absorbing capacity of UIOLI vs trapped mechanisms.

As acknowledged by the EBA, the proposed scalar will result in capital deduction way above current levels (based on one-year deduction on a rolling basis). It will therefore make the SES feature uneconomical.

Q11. Regarding the current supervisory practices on SES, described in paragraph 9 of the background section, the question is whether these practices could be adapted while keeping them aligned with the amended regulation, and the relative impact they would imply in comparison with the approaches included in the draft RTS. One way to try to further adapt the current supervisory practices on UIOLI SES to the provisions of the amended regulation could be by taking into account the part that is expected to cover for losses in the next period instead of the part that it is not, including at issuance of the transaction, keeping the rolling-window approach. Would you favour that approach? If so, how do you think that this rolling-window approach for calculating UIOLI SES will affect the efficiency and viability of synthetic transactions in comparison with the current supervisory practices? Please justify your response with specific illustrative examples or data.

The only sensible prudential treatment of SES is a one-year deduction on a rolling basis for UIOLI calibrated at 1-y EL. Higher capital requirements will destroy the economics of SES.