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| European Banking Authority (EBA) |  **Division Bank and Insurance**Austrian Federal Economic ChamberWiedner Hauptstraße 63 | P.O. Box 3201045 ViennaT +43 (0)5 90 900-DW | F +43 (0)5 90 900-272E bsbv@wko.atW http://wko.at/bsbv | **Bundessparte Bank und Versicherung****Wirtschaftskammer Österreich**Wiedner Hauptstraße 63 | Postfach 3201045 WienT +43 (0)5 90 900-DW | F +43 (0)5 90 900-272E bsbv@wko.atW http://wko.at/bsbv |

Ihr Zeichen, Ihre Nachricht vom Unser Zeichen, Sacharbeiter Durchwahl Datum

 BSBV 115/Dr.Egger 3137 12 January 2015

**EBA Discussion Paper on simple standard and transparent securitisations**

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 Discussion Paper on simple standard and transparent securitisations and would like to submit the following position:

We appreciate the EBA proposal for simple standard and transparent securitisations. From our point of view the paper finally corrects the “one-size-fits-all” shortage of the current regulatory approach and the proposed revisions to the securitisation framework.

We highly welcome that the existing CRR capital requirements are taken as basis instead of those proposed in the revision from December 2013. If the EBA recommendations of a two-stage approach, a decrease of the capital requirement for qualifying securitisations to near neutrality of capital charges compared to the underlying portfolio of exposures and an alignment of the different regulations will be implemented, securitisations will become economically feasible for originators again and the comeback of this essential risk transfer and funding instrument will be facilitated.

**Questions:**

**Question 1: Do you agree with identified impediments to the securitisation market?**

Yes, we agree.

**Question 2: Should synthetic securitisations be excluded from the framework for simple standard and transparent securitisations? If not, under which conditions/criteria could they be considered simple standard and transparent?**

In our view, synthetic securitisations should not be excluded from the framework for simple, standard and transparent securitisations.

Synthetic securitisations can be structured in a way to fulfil all mentioned criteria for qualifying securitisations. The non-compliance of legal true sale under criterion 3 and again mentioned under criterion 1 (legal and economic transfer) can be eliminated with funded trustee accounts from investors and the originator. The investors pay the notes notional on a trustee account to cover losses of the underlying assets. The originator pays the interest on the notes on a trustee account for fulfilment of its payment obligations until maturity. A legal transfer for recourse is therefore not necessary. Moreover, not including synthetic transactions would be a differentiation from the CRR in which the same capital requirement calculations apply for both traditional and synthetic transactions.

**Question 3: Do you believe the default definition proposed under Criterion 5 (ii) above is appropriate? Would the default definition as per Article 178 of the CRR be more appropriate?**

Instead of defaulted exposures (criterion 5 ii) we would recommend to only allow current exposures for qualifying securitisations at the time of inclusion. Exposures in arrears have a higher credit risk and should therefore not be included under qualifying securitisations.

**Question 4: Do you believe that, for the purposes of standardization, there should be limits imposed on the type of jurisdiction (such as EEA only, EEA and non-EEA G10 countries, etc): i) the underlying assets are originated and/or ii) governing the acquisition process of the SSPE of the underlying assets is regulated and/or iii) where the originator or intermediary (if applicable) is established and/or iv) where the issuer/sponsor is established?**

No. We do not believe that there should be limits imposed on the type of jurisdiction.

**Question 5: Does the distribution of voting rights to the most senior tranches in the securitisation conflict with any national provision? Would this distribution deter investors in non-senior tranches and obstacle the structuring of transactions?**

The distribution of the voting rights to the most senior tranches shortens the decision-making process, strengthens the most senior tranche and helps to support the decrease of the capital requirement for this tranche.

**Question 6: Do you believe that, for the purposes of transparency, a specific timing of the disclosure of underlying transaction documentation should be required? Should this documentation be disclosed prior to issuance?**

The transaction documentation should be provided prior to issuance to give investors enough time to analyse and model the transaction.

**Question 7: Do you agree that granularity is a relevant factor determining the credit risk of the underlying? Does the threshold value proposed under Criterion B pose an obstacle to the structuring of securitisation transactions in any specific asset class? Would another threshold value be more appropriate?**

The criterion for at least 100 exposures eliminates CMBS as well as most CLOs from qualifying securitisations. Granularity itself does not suggest lower credit risk as the US subprime and Alt-A historic performance shows.

**Question 8: Do you agree with the proposed criteria defining simple standard and transparent securitisations? Do you agree with the proposed credit risk criteria? Should any other criteria be considered?**

We agree with most of the proposed criteria apart from the exclusion of synthetic transactions and appreciate that certain asset classes are not eliminated right from the start. However, with the granularity criterion 7 CMBS and CLOs with below 100 exposures would be eliminated. The loan-to-value 100% limit needs further explanation in terms of value (eg foreclosure value in NL). Does it mean that the 100 % risk weight limit under ii) d) for all other exposures corresponds to the exclusion of all B and lower rated SME and corporate exposures (Table 2, page 27) under qualifying securitisations? Therefore we may ask the EBA for more clarification.

**Question 9: Do you envisage any potential adverse market consequences of introducing a qualifying securitisation framework for regulatory purposes?**

No. As long as qualifying securitisations will benefit from lower capital requirements compared to the CRR requirements and for non-qualifying securitisation transactions the capital requirements of the CRR will not be increased (in contrast to the revisions to the securitisation framework).

**Question 10: How should capital requirements reflect the partition between qualifying and non-qualifying?**

Please see our response to question 9.

**Question 11: What is a reasonable calibration across tranches and credit quality steps for qualifying securitisations? Would re-allocating across tranches the overall capital applicable to a given transaction by reducing the requirement for the more junior tranche and increasing it for the more senior tranches other than the most senior tranche be a feasible solution?**

A calibration towards near neutrality of the qualifying securitisation compared to its underlying exposures will already reduce the capital requirement of qualifying securitisations. We agree to the proposed reallocation across tranches in favour of the more junior tranches versus more senior ones other than the most senior tranche.

**Question 12: Considering that rating ceilings affect securitisations from certain countries, how should the calibration of capital requirements on qualifying and non-qualifying securitisations be undertaken, while also addressing this issue?**

As in the IRB approach it should be done through lowering the capital requirement for the most senior tranche versus non senior tranche at the same CQS.

Moreover we would like to emphasize that the consultation is not giving any information on default rates of covered bonds. In post 2007 Austria default rates on covered bonds have been significantly lower in comparison to securitisations. The covered bond market is much larger and has a much longer and favourable (credit and investment) history in comparison to few securitisations including Austrian assets in the more recent past. We see the reason for covered bonds not being stigmatised at all in those differences (opposite securitisations) as are listed on page 19 of the consultation. Taking a holistic approach on both securitisations and covered bonds may easily result in a rub-off of the stigma on the covered bonds market. Thus, we disagree with recommendation 1."

Please give our concerns due consideration.

Yours faithfully,

Dr. Franz Rudorfer

Managing Director

Division Bank and Insurance