



## **ESMA Consultation Paper on the revision of disclosure framework for private securitisation under Article 7 of the Securitisation Regulation**

This document provides the response of the Dutch Securitisation Association (“DSA”) on the ESMA Consultation Paper dated 13 February.

We welcome the opportunity to react on this Consultation Paper.

### **DSA Background**

The Dutch Securitisation Association was established in 2012 as representative body of the Dutch securitisation industry. Our membership includes issuers of securitisations both from the insurance and banking industry as well as finance companies, and we are operating in close cooperation with the Dutch investor community. Our purpose is to create a healthy and well-functioning Dutch securitisation market. We try to achieve this i.a. by providing a standard for documentation and reporting of Dutch RMBS, BTL and Consumer ABS transactions, promoting further standardisation and improvements in transparency, and active involvement in consultations about future regulation of the securitisation market.

Against this background, we would like to provide our comments, on behalf of all Dutch issuers joined in the DSA, on the ESMA Consultation Paper on the revision of disclosure framework for private securitisation under Article 7 of the Securitisation Regulation (individual DSA members may also provide their own comments).

### **Our general comment**

*In the second Consideration of both the RTS and the ITS it is mentioned that since the adoption of the Securitisation Regulation private securitisations have increased, partly due to their bespoke nature and the possibility to be structured more swiftly.*

*This claim is unjustified. As is indicated in the description of the private securitisation market on page 12, “making an aggregate calculation of private securitisations is challenging”. We would add that calculating the growth of private transactions is even more challenging. And that the proposed Annex 16 is intended to make this less challenging.*

*Also we would like to stress that structuring an ABCP transaction or a synthetic SRT transaction more swiftly than a public transaction is not a correct representation either.*

## **Our answers on the questions**

Question 1. Do you agree with the proposed approach to disclosing information on private securitisations?

*No, we do not agree with the requirement to provide the full set of 'public' disclosure information outlined in Article 7(1)(a) of the SECR to investors, potential investors and competent authorities upon request.*

*This would imply that the infrastructure for Loan-level-Data continues to be in place, which does not contribute to a reduction in complexity and costs.*

*We also do not agree with the fact that Annex 16 is designed to provide information for both supervisors and investors; as long as other templates for investor reporting (Annex 12 and 13) continue to apply this only creates a duplication of data and consequently less simplicity.*

If not, please specify any alternative approaches you would recommend, including their advantages and potential drawbacks.

*Our preferred approach would be to develop the disclosure requirements in tandem with the review of the SECR level 1 text, currently being prepared by the EC. Changes in the definition of public/private, the jurisdictional scope etc. can better be known when determining the disclosure requirements.*

*So our preferred option would be to look with market participants at workable disclosure solutions as an integral part of the SECR review.*

*An indication of the kind of outcome that would be supported by us could be:*

*-to create an Annex 16 for supervisory purposes; this should replace the current templates of the ECB/SSM and local Competent Authorities.*

*The content should be broadly aligned with the ECB/SSM template.*

*It should only be provided after closing or whenever a significant event occurs.*

*-to provide the option (for private transactions) to either apply a principles based disclosure, replacing Annexes 2-15, or continue to use the existing templates (with minor amendments incl. the potential addition of a trade receivable template).*

*The principles based approach would require an agreement between ESMA and the industry about a proper set of guidelines for disclosure (but no templates) and changes to the level 1 text, so should be part of the review of the SECR.*

Question 2. Do you agree with the proposed scope of application, which requires all of the originators, sponsors, original lenders and SPEs to be established in the Union?

*No, in our view optimal disclosure to supervisors would be achieved if all transactions with any EU leg would be reported.*

Alternatively, do you see any merit in applying the new template when at least the originator and sponsor are established in the Union?

*That will not solve the problem.*

Please provide specific examples where the application of the proposed scope might present practical challenges.

*For ABCP transactions, which are often multi-jurisdictional, excluding UK (Switzerland, Norway) based original lenders that have transferred their assets to the originator may limit the applicability of the proposed disclosure framework..*

Question 3. Do you agree that the simplified template should be made available in CSV format, or should ESMA adopt a more flexible approach proposing a machine-readable format to be determined by the CA?

*We do agree with the CSV format. XML is hardly used outside the world of supervisors.*

Please specify which alternative format(s) you would recommend and provide your rationale.

*Not applicable.*

Question 4. Do you agree with the disclosure frequency proposed in the Consultation Paper?

*No*

Please provide your rationale.

*Since the template should only serve the purposes of the supervisors, just reporting after closing should be sufficient. As per the ECB/SSM template reporting of significant events may be required if and when they occur.*

Question 5. Do you agree with the structure of the simplified template, specifically the relevance of Section A to D for private securitisations?

*We have no issues with the structure, but more with the contents of the sections, that should only contain information that is relevant for supervisors and not investor information.*

If not, please suggest any changes to the template's structure and provide the rationale for your proposed modifications.

*Not applicable.*

Question 6. Do you consider the use of ND Options in the template for private securitisations to be useful?

*Yes, we do.*

Please provide your rationale.

*Where ND5 is allowed, in most cases it is obvious that info that is not applicable to a certain transaction also cannot be provided.*

Question 7. Do you agree with the fields proposed in Table 1?

*Yes, we do.*

If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

*Not applicable.*

Question 8. Do you agree with the fields proposed in Table 2?

*Yes, we do, since this aligns with the ECB/SSM template*

If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

*Not applicable.*

Question 9. Do you agree with the securitisation characteristics fields proposed in Table 3?

*Yes, we do.*

If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

*Not applicable.*

Question 10. Do you agree with the instrument/securities characteristics fields proposed in Table 4?

*Yes, we do.*

If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

*Not applicable.*

Question 11. ESMA is not aware of significant issues with the current disclosure framework for ABCP transactions.

Do you agree with maintaining this approach (i.e., Annex 11), or do you consider that disclosure via the simplified template would be more appropriate for ABCP transactions?

*We do agree with maintaining an Annex 11 as alternative to a principles based approach.*

Please provide your rationale.

*A review of Annex 11 with the intention of finetuning and eliminating (but not adding !), would be recommended*

Question 12. If you support the use of the simplified templates for ABCP transactions (Question 10), do you also agree with the specific fields proposed in Table 5?

Yes,

If not, please suggest any changes to the content or structure of the table, along with the rationale for your proposed modifications.

*Not applicable*

Question 13. Do you agree with the proposed approach for ABCP transactions, which focuses on information at the programme level?

*If you were to proceed with applying Annex 16 to ABCP transactions, we would agree with the programme level focus.*

Alternatively, do you consider that disclosure should be based on transaction-level information to ensure alignment with the disclosure requirements for public transactions?

*Some disclosure at transaction level would be useful for the supervisors. This is reflected in Table 1-4, while Table 5 contains the programme level information.*

Please provide your rationale.

*As an example, supervisors might be interested to know which transactions are STS and which not.*

Question 14. Do you agree with the contact information collected under Table 6?

Yes, we do.

If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

*Not applicable.*

Question 15. Do you agree with the fields on the underlying exposures proposed in Table 7?

No.

If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

*Table 7.5 and 7.6 should not be included.*

*We refer to our answer on Question 1, where we indicated that Annex 16 should be only for supervisory purposes and mirror as much as possible the existing ECB/SSM template and/or local supervisory templates.*

Question 16. Do you believe that a minimum set of information should be made available to users to monitor the evolution of the underlying risks?

No.

If so, do you consider that the fields proposed in Table 7 to be relevant for this purpose?

*Not applicable.*

If not, please indicate which alternative indications should be used and provide the rationale for your suggestions.

*If supervisors will be the sole users of Annex 16, not additional risk information should be required.*

Question 17. ESMA proposes the inclusion of fields to capture information on underlying assets to be reported at an aggregated level. Some of this information is also included in the Investor Report for non-ABCP transactions. Do you agree that such information should be provided in both the template for private securitisations and the Investor Report for non-ABCP transactions?

*This information should be reported in one place; referring to our answer on Question 1, this place should be either a bespoke set of information developed on a principles based approach or the existing templates 12 and 13.*

Alternatively, would you support introducing the option to flag such fields as 'not applicable' in the Investor Report when used in the context of private securitisations?

No.

Please provide your views.

*No, this would create additional confusion.*

Question 18. Do you agree with the inclusion in table 7.5 of fields related to restructured exposures or do you consider that the information included in the investor reports is sufficient?

*No, we do not agree.*

Please provide your rationale for agreeing or disagreeing.

*The information in the investor reports or provided through bespoke reports developed on a principles based approach should be sufficient.*

Question 19. If you agree with the inclusion of restructured exposure fields (Question 17), do you also agree with the specific fields proposed in Table 7.5?

*Not applicable.*

If not, please suggest any changes to the structure or content of Table 7.5, along with the rationale for your proposed modifications.

*Not applicable.*

Question 20. Do you agree with the inclusion in table 7.6 of fields related to energy performance?

*No, we do not agree.*

Please provide your rationale for agreeing or disagreeing.

*This information is only required for STS transactions and only if available.*

Question 21. If you agree with the inclusion of energy performance fields (Question 19), do you also agree with the specific fields proposed in Table 7.6?

*Not applicable.*

If not, please suggest any changes to the structure or content of Table 7.6, along with the rationale for your proposed modifications.

*Not applicable; however, if this table would still be included, it should be expanded with the possibility to provide PAI information instead of the EPC information.*

Question 22. Do you agree with the inclusion of the proposed fields related to risk retention, considering that this information is already covered in the investor reports?

*No, we do not agree with the proposed fields.*

Please provide your rationale for agreeing or disagreeing.

*For supervisors, only limited retention information (level of retention and retention holder) should be sufficient as per the ECB/SSM template. Additional information can be made available to investors through other means. (see our answer on Question 1).*

Question 23. If you agree with the inclusion of risk retention fields (Question 21), do you also agree with the specific fields proposed in Table 8?

*Please see our answer on Question 22.*

If not, please suggest any changes to the structure or content of Table 8, along with the rationale for your proposed modifications.

*Please see our answer on Question 22.*

Question 24. Do you agree with the fields proposed for the position level information in Table 9?

*No.*

If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

*This information does not seem to be relevant/applicable for private transactions.*

Question 25. Do you agree with the fields proposed for synthetic securitisation in Table 9?

*No (table 10).*

If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

*If Annex 16 is only used for supervisory purposes, Table 10 serves no purpose, since supervisors will receive detailed information about synthetic transactions anyway.*

Question 26. Do you foresee any operational challenges or implications arising from the implementation of the simplified template for EU private securitisations?

*Yes there will be challenges, but they can be overcome.*

If so, please describe the challenges you anticipate and suggest any measures that could mitigate them.



*All issuers will have to amend/modify their input for Annex 16, unless it exactly copies the ECB/SSM template or the local applicable template.*

*Creating, testing and implementing a new template will take time, maybe up to 1 year. We noticed that the amended regulation will be directly applicable after the publication in the Official Journal. It would help if a transition period would be allowed, where the old regime can still be applied as long as the new template is not yet available for use.*

*Data availability issues will be manageable, but initially the ND1-4 option certainly has to be used. We would recommend to extend the ND1-4 option to all fields that contain information that had not been provided before in the same format in existing templates.*

Question 27. What are the projected implementation costs for sell-side parties for transitioning to the simplified template for private securitisations, and how do these compare to the reduction of reporting burden?

*A rough estimate of the implementation costs would be EUR 100.000 per originator.*

Question 28. To what extent does the simplified disclosure framework for private securitisation improve the usefulness of information for investors while maintaining their ability to perform due diligence?

*Investors will (continue) to get (and use) either existing ESMA templates or bespoke/principles based information; so the main improvement will come for those investors that would get bespoke/principles based disclosure.*

Question 29. Does in your view the introduction of the simplified template enhance the effectiveness of supervisory oversight without imposing disproportionate costs on market participants?

*In our view, with the simplified template the supervisory oversight would benefit at limited costs to the industry.*