

**AXA Investment Manager's response to CESR's call for evidence on
Implementing measures on the Alternative Investment Fund Managers Directive**

AXA IM is in line with the AFG's response to CESR call for evidence on AIFMD level 2.

Key highlight:

Regarding issue 7, we would like to highlight our concern with respect to the scope of securities which would fall under Article 17 of the AIFM Directive.

We believe that securitisations based on syndicated loans and actively managed by asset managers (the "Actively Managed Securitisations") have to be excluded from Article 17.

Our analysis is that current article 122a of the Capital Requirements Directive ("CRD"), by excluding the syndicated loans and CDS but including them when they are used to package and/or hedge a securitisation, leads to the end of managed securitisation transactions versus balance sheet ones (the "Balance Sheet Securitisations") to the detriment of end investors.

Detailed analysis:

Article 17 addresses a G'20 request but the implementation is currently duplicated from article 122a of the CRD, a regulation that applies to banks in their dual roles as investors and as original lenders.

Art 122a of the CRD sets out a framework to align interests between the originator/sponsor or original lender and the investor of a securitisation product.

Art 122a doesn't apply to syndicated loans and CDS where these instruments are not used to package and/or hedge a securitisation.

We think that Actively Managed Securitisations have to be out of the scope of article 17 (if syndicated loans stay out of the scope of article 122a of CRD) for the following reasons :

1) The syndicated loans, which constitute the underlying assets of those securitisations, are themselves out of the scope of the retention rule dictated by article 122a of the CRD. We understand that this exemption may be a recognition by CRD that in syndicated loans there is no issue of mis-alignment of interests due to the fact that several banks have underwritten the loans.

2) One of the added values of the asset manager of an Actively Managed Securitisation is to select a diversified portfolio of syndicated loans in the market on the basis of the credit selection of underlying issuers and from whatever original lender, as opposed to a single original lender. In this regard, Actively Managed Securitisations are not different from any credit fund managed by asset managers.

3) There is no party that could be a suitable candidate for the retention of the syndicated loans because of the current loophole that has been created by article 122a of the CRD (from the lobbying of banks acting both as investors but also as original lenders of loans) :

01/14/2011

- because Actively Managed Securitisations are constituted of syndicated loans originated by various banks with no single original lender, it will be practically impossible to determine which credit institution would be the natural candidate for the risk retention duty since syndicated loans are precisely out of the scope of Article 122a.
- On the other side, asset managers are not credit institutions. They don't have the capital to invest in the products they manage. Otherwise, their capital should be proportional to their assets under management, inducing considerable increased costs of the management activity to end investors. Their role is to manage portfolios for third-party clients but not for their own account. That's why the capital requirements applicable to asset managers are not comparable to those applicable to banks.

4) Nevertheless the alignment of interests between investors and the asset manager currently exists in practice from the standard fee structure of Actively Managed Securitisations (that could even be reinforced if wanted via the regulation).

5) Current projects of some asset managers to retain a substantial portion of the residual tranche will not achieve a better alignment of interest with all the capital structure but only with the residual investors, that could be in some situation a free option for risk

Conclusion :

We anticipate two major consequences if Actively Managed Securitisations are not excluded from the scope of article 17 of the AIFM Directive (whereas syndicated loans stays out) :

- Actively Managed Securitisations will not be eligible to European investors any more, whereas similar transactions are currently considered by FED for an exclusion from Dodd Frank Act. This will create a dissymmetry between US and Europe for both
 - o the issuers of loans who will then access a reduced investors' appetite between US and Europe
 - o and end investors who will access a reduced universe in terms of accessibility of diversifying credits
- Balance Sheet Securitisations based on syndicated loans will replace Actively Managed Securitisations to the detriment of end investors : Indeed because a single lender transfers its loans to a securitisation vehicle, it could be the natural candidate for retention of the syndicated loans underlying the transaction. Consecutively, asset manager analysing and selecting the loans will have disappeared from the transaction, being replaced by a single retention rule to assess alignment of interest.

For the avoidance of doubt, our understanding is that article 17 of the AIFM Directive only applies to securitisations based on loans, otherwise the arguments would be the same for actively managed securitisations backed by any underlying asset not linked to an originator's retention (bonds, CDS...).

GLOSSARY

Actively Managed Securitisations : actively managed securitisations based on syndicated loans are typically structured credit investments where a special purposes vehicle ("SPV") issues debt

for the acquisition of a portfolio of corporate loans to end borrowers. Collateral selection is primarily made by the portfolio/asset manager of the transaction. These securitisations differ from most other securitisation vehicles *backed by* term loans in that the portfolio of loans is selected and actively managed by the portfolio/asset manager. The portfolio/asset manager's role is subject to contractual guidelines.

Balance Sheet Securitisations : Balance sheet securitisations are structured credit investments generally issued by special purpose vehicles ("SPV") referencing a portfolio of loans and other assets initially held by financial institutions on their books and securitised via such SPV.