

ECON Public Hearing on Securitisation

First session “Have the lessons from the financial crisis been learned?”

ECON Committee – Brussels

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Introduction

I would like to thank Members of the ECON Committee and the Rapporteurs for Securitisation in the European Parliament for inviting me, this afternoon, to exchange views on the future of securitisation in the European Union. Today, speaking in my capacity as a securities markets regulator, I will touch on the following three topics:

- The importance of sustainable and transparent securitisation markets as one source of finance for the European economy;
- The work ESMA has been doing on securitisation and what are the key issues we identified; and
- Specifically focus on the topic of transparency and how to ensure that investors have the right information on securitisations.

Afterwards, I’m happy to take questions.

The role of securitisation as a source of finance in the EU

Let me turn to my first point: the role of securitisation in financing the real economy.

On the one hand, it is widely agreed that when used properly, securitisation can increase the availability of credit and reduce the cost of funding. As a funding tool, it can contribute to a well-diversified funding base. As a risk transfer tool, it can also act to improve capital efficiency and allocate risk to match demand.

However, on the other hand, it is also recognised that when not properly used, securitisation can become a significant destabilising factor. There have been legitimate concerns amongst investors and regulators about the risks associated with the securitisation process itself.

As shown during the financial crisis, investors may abandon securitisation markets if they do not believe they possess sufficient information to evaluate the risks associated with a particular securitisation product and to price it accordingly. This lack of transparency also contributed to the overreliance on credit ratings by market participants. When investors place too much weight on the value of credit ratings and too little on their own due diligence, this can lead to cliff effects and herding behaviour with negative consequences for financial stability.

ESMA's work on securitisation

Let me now turn to ESMA's work over the last years in the securitisation area.

Our role as a securities market regulator is to contribute to the improvement and implementation of the right regulatory framework to ensure sustainable development of the EU securitisation markets. Our mandate leads us to approach the securitisation issue in a cross sectoral manner to ensure that the approaches that are developed deliver a level playing field and don't result in inconsistencies, gaps or duplication.

The core concern for us is however investor protection - ensuring that investors have the right information to make their investment choices. When we get this right, it helps in turn to build stable securitisation markets.

Therefore, our focus has been on transparency, as well as cross sectoral consistency.

The disclosure requirements for structured finance instruments

Concerning transparency, we have developed Technical Standards under the CRA 3 Regulation. The purpose was to create common templates to ensure investors have access to loan level data and related transaction documents, which they were supposed to access by means of a website to be set up by ESMA.

Consistency of the disclosure and due diligence requirements

Regarding the consistency of the due diligence and transparency requirements at the EU level, together with EBA and EIOPA, ESMA has taken the initiative to assess whether the existing due diligence and disclosure requirements have been set up in a consistent manner. This work has led us to put forward recommendations released in May 2015 highlighting the need for:

- consistency between the due diligence and disclosure requirements;
- common definitions on "securitisation" across sectoral regulations to avoid discrepancies;
- a comprehensive framework for supervision and enforcement.

The importance of information for the investor

The main conclusion from our work on the topic of securitisation is that transparency is key in the decision making process of investors. This requires that investors - including potential

investors - have easy access to information on a range of securitisations and are enabled to effectively compare it.

In this respect, the proposed Securitisation Regulation, namely the establishment of common definitions and rules for due diligence, retention and disclosures rules for securitisation, represent a significant step forward in ESMA's view.

How to make information available to the investor?

The issue is how to make the information on securitisations best available to the investors.

The European co-legislators already adopted legal requirements to increase this transparency through the CRA3 Regulation. As explained above, they mandated ESMA to devise common templates for different types of securitisations and set up a website for the publication of information on Structured Finance Instruments (the "SFI website").

While ESMA was able to successfully establish common templates for reporting, we have encountered several difficulties while working on setting up the SFI website, specifically:

- the absence of either a legal basis to collect fees or a financial fiche to cover the significant set-up and running costs of the SFI website. On our first estimates this amounts to several million euro of set-up costs alone;
- the impossibility of delegating the development of the SFI website to a third party.

For these reasons, ESMA has announced a few months ago that we will not be able to set up and operate the SFI website by January 2017, as was envisaged in the CRA3 Regulation.

Given where we now are, we should take this as an opportunity to ask ourselves some important questions - namely what kind of infrastructure will best support the objective of greater transparency to the investor.

We know that some systems for tracking securitisations and the underlying assets already exist in the market. The Commission's proposal aims build on this and to further enhance the existing picture by establishing the requirements for issuers' websites. There is in addition the SFI website provision in CRA3. In his report, Rapporteur MEP Tang made the proposal for creating a European Securitisation Data Repository which aims to publish industry level data and anonymised information on underlying loans.

What is important from our perspective, is whether investors will be provided with greater and easier access to information about the underlying assets and whether this information will facilitate their ability to aggregate and process loan level data and allow them to conduct a thorough analysis of the risks and returns of various assets

Whatever solution is decided upon by the co-legislators, it needs to ensure that all transparency-related initiatives are efficiently coordinated - building on existing information

systems where possible rather than duplicate them - and help investors to access information in an easy and comprehensive way.

In any scenario, standardisation of the reporting templates and documentation has to be the basis, also to avoid imposing upon reporting parties multiple templates for multiple websites with all the attendant risks of errors and inconsistency, and also costs. I am saying that not just to make the life of reporting parties easier, but also because multiple websites that are providing potentially inconsistent information will not help the investor to do the necessary due diligence.

Looking forward

Looking ahead, once the Securitisation Regulation is adopted, ESMA stands ready to start working on whatever draft technical standards have been mandated to us. To do this job properly, as we have consistently told you, it is essential that the European Commission and co-legislators provide for at least a period of twelve months for ESMA to do the regulatory work, in order for us to be able to develop good quality and properly consulted draft technical standards.

Thank you for your attention and look forward to any questions you might have.