**SFC response to the ESMA consultation on securitisation disclosure templates**

**Introduction**

The Swiss Finance Council (SFC) engages in dialogue around policy developments in finance at a European level. Our members include the largest global asset and wealth management firms and have substantial activities within the EU.

**General Remarks**

Being geographically situated in the heart of the EU’s capital markets, the Swiss financial industry attaches great importance to the creation of an efficient, liquid and competitive European capital market as envisaged by the CMU. The SFC’s reflections on the design of the next stage of CMU are set out in the related [SFC Position Paper](https://www.swissfinancecouncil.org/images/Positions/SFC%20position%20on%20future%20of%20CMU_.pdf), including suggestions for reviving the EU’s securitisation market.

In this regard we welcome the commitment of the Commission to start reviewing the current Level 1 regulatory securitisation framework as an important element of the path towards better performing EU capital markets.

The SFC appreciates the Commission’s commitment in its [2024 Work Programme](https://commission.europa.eu/system/files/2023-10/COM_2023_638_1_EN.pdf) to reduce administrative burdens and to maintain the competitiveness of European businesses. The Commission's Communication on long-term competitiveness aimed to decrease reporting burdens by 25% while maintaining policy objectives intact.

**The ESMA consultation**

#### General Remarks and suggestions for improvements

**Applying these general remarks to this consultation, the SFC suggests the work on securitisation disclosure to be guided by the following principles:**

1. Adjustments should be targeted to strengthen CMU.
2. Removing obstacles that prevent a global reach of the EU securitisation business. Aiming for a reduction in reporting / disclosure burden without losing materially useful information, and without changes that mean yet more IT and system changes (and therefore costs) that outweigh benefits.
3. Introducing new / additional disclosure provisions only if they are of a true technical nature and whose impact is clearly reducing costs for market participants.
4. Addressing more substantial matters together with the Level 1 text review, based on a sound impact assessment and, if possible, on practical experience in the market.

**In the SFC’s view, none of the 4 proposed options in the consultation paper matches these principles on a stand-alone basis for the following reasons:**

* **Option A** – doing nothing would be a missed opportunity to introduce useful technical adjustments without adding additional costs.
* **Option B** is adding further disclosure requirements, but not addressing the efficiency problem.
* **Option C** includes a new mandatory template for private securitisations and for climate change disclosures, adding more compliance requirements and related administrative costs.
* **Option D** risks being too comprehensive to be adopted quickly enough to serve as an interim solution (until further Level 1 changes are made) and too important to be carried out without an impact assessment.

**However, the ESMA analysis points to some elements that can be improved without adding further (disproportionate) administrative costs. The SFC sees possibilities for improvements in the following areas:**

* **Third-country securitisation:** as identified in the [Commission Report](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022DC0517) on the functioning of the securitisation regulation, the strict interpretation of the EU disclosure provisions to securitisation, including the ones entirely issued in third countries, constitutes an obstacle for EU investors. Easing / simplifying the relevant EU disclosure provisions, especially if the relevant third-country jurisdiction applies disclosure provisions similar to the ones of the EU would be a first step to reduce some administrative burden and widen EU investor choice.*[[1]](#footnote-1)*

This would be in line with the Commission Report, which writes that: *‘The Joint Committee opinion argued for more flexibility, so that the verification can be presumed to be completed in the case of a third-country securitisation, even if not all EU transparency requirements are fulfilled in every detail. To this end, the Joint Committee suggested setting up a “third-country equivalence regime for transparency requirements” in relation to third-country securitisations.’*

In respect to the opinion of the Joint Committee and the current discussion on boosting the EU capital markets, we would like to provide the view from a third-country issuer angle. Generally, a more principle-based regime is attractive to global investors and issuers and, in our view, consistent with achieving the CMU objectives. We see little prospect of third-country securitisation issuers choosing to comply with additional EU disclosure requirements and templates. On the contrary, the establishment of a principle-based approach, also in Level 1 legislation, reduces unnecessary compliance costs.

* **Private placements:** Private transactions should be exempted from mandatory disclosure requirements. Private securitisation market participants (issuer/sponsor and investor) should have the freedom to determine the optimum way to report and meet transparency requirements. The very close relationship between manufacturer and investor should be reflected by allowing both parties to agree the form in which reports and information are provided. The Commission report acknowledges that,’ … *because of the bespoke nature of private securitisation, investors in such transactions need more tailor-made information than the ESMA templates might be able to provide.’*
* **Voluntary ESG disclosure:** Any introduction of harmonised and mandatory ESG disclosure should be based on sufficient experience (testing in the market) and based on (revised) Level 1 provisions. However, there may be merit in an optional climate risks template which issuers and investors could use if they found it useful. Experimenting with this template could yield useful lessons on whether to adopt more widely in the future and inform any upcoming changes in the Level 1 legislation.
* **Loan-by-loan information:** Regarding the disclosure for those asset classes which are considered to be (a) revolving in nature, (b) highly granular or (c) of short-term maturity, such as auto loans, credit card loans and trade receivables, loan-level information may be of less relevance. We support ESMA’s suggestion of a potential transition from loan-level disclosure towards a more aggregated level of information for these asset classes, and think that ESMA rightly points out that loan-level disclosure, while intended to reinforce transparency, is probably more than most investors require, and therefore does not justify the associated compliance costs. The proposal to relax the loan-level disclosure requirement is therefore a very valid one. Making a revised aggregate disclosure regime for these asset classes optional for the use by market participants is our preferred approach as it would avoid mandatory change, implementation and compliance costs for reporting entities. In addition, an optional approach is a good test case for market acceptance and may provide good guidance for any upcoming Level 1 changes.

#### Responses to selected questions

**Option A**

* **Question 1 - Do you agree with maintaining the current disclosure framework unchanged?**

No. This does not appear to address the identified issues with excessive regulatory burden.

* **Question 2** - **Do you agree that LLD granularity is essential for performing proper risk evaluation, including due-diligence analysis or supervisory monitoring? Please explain your answer considering the costs and benefits of keeping the current level of granularity in terms of operational costs, compliance burden and any other possible implications.**

LLD granularity is essential for some underlying assets – such as mortgages – but less so for very granular, rapidly revolving, short maturity assets such as credit card loans, as evidenced by the different practice in ABCP markets.

* **Question 4 - Do you agree that disclosure and reporting requirements should be maintained consistent between private and public securitisation?**

In private securitisations market participants (issuer/sponsor and investor) should retain current freedoms to determine the optimum way to report and meet transparency requirements. Generally, reducing and streamlining securitisation reporting requirements would be beneficial to stimulate securitisation activities.

**Option B**

* **Question 6** - **Do you believe that the additional adjustments to the current framework proposed by Option B, such as restricting the use of ND options and including additional risk indicators (including climate-related indicators) are necessary? Do you support a revision of the technical standards accordingly? Please explain your answer, indicating whether you support these proposed adjustments and any reasons for your agreement and disagreement.**

A further ramping up of regulatory requirements, with associated costs, seems to run counter to the findings of the EC work and the identified problem that the intensity of the regulatory burden is constraining the securitisation market from playing a role in supporting capital markets funding and economic growth.

* **Question 7** - **Do you believe that a reduction of ND thresholds would materially improve the representation of data of securitisation reports? Please explain your answer.**

Probably no – see our response to Q6.

* **Question 8** - **(Do you think that the advantages stemming from restricting the consistency thresholds and/or removal of ND options for specific fields, resulting in more accurate representation of data, would justify the heightened compliance costs for reporting entities?)**

Probably no – see our response to Q6.

* **Question 9** - **Do you believe that the proposal of enriching the Annexes with additional risk-sensitive indicators (presented in Section 5.3) is necessary?**

Probably no – see our response to Q6.

* **Question 10** - **Do you believe that reporting entities would face challenges and/or significant costs if requested to report those additional indicators? If yes, please elaborate your answer.**

Probably yes – because of additional compliance costs.

* **Question 11** - **Do you believe that the proposal of enriching the Annexes with climate risk indicators (presented in Section 5.4) is warranted?**

No. Any harmonised and mandatory ESG disclosure should be based on sufficient experience (testing) in the market and based on (revised) Level 1 provisions. However, there may be merit in an optional climate risks template which issuers and investors could use if they found it useful. Experimenting with this template could yield useful lessons on whether to adopt more widely in the future and inform the upcoming changes in the Level 1 legislation.

**Option C**

* **Question 14 - Do you agree with Option C as the preferred way forward (simplified template for private transactions, removal/streamlining of loan-level data for some asset classes, new template for trade receivables) for the revision of the disclosure templates?**

We think that a number of the constituent parts of Option C could have merit provided they are established as options for market participants rather than new mandatory requirements. Making a revised disclosure regime optional for the use by market participants would avoid complex implementation and compliance issues, new mandatory costs and operational implications on reporting entities. An optional approach is a good test case for market acceptance and may provide good insight for any upcoming Level 1 changes.

* **Question 15** - **Do you agree with the analysis and the inclusion of a new simplified template for private transactions that focuses mostly on supervisory needs?**

While we do not think that there is the need for the introduction of new additional templates, we support the simplification of the current supervisory reporting requirements also in consideration, as noted by the ESMA’s CP, of the limited use of SR data by supervisors.

* **Question 18** - **Do you believe that ESMA should proceed with the review of the RTS based on the proposal to deviate from loan-level data reporting for those asset classes which are highly granular, of short-term maturity or revolving pools? What are the potential benefits, challenges, or considerations that ESMA should consider if adopting this approach?**

Yes, but implementation /application should be optional, ensuring that granular disclosures can be retained if e.g. necessary for the security to be eligible as collateral for central bank repo.

1. We also think that the EU securitisation market would benefit rather than lose out from making it easier for EU investors to access third-country securitisations. It would make it more economic to maintain investor teams with securitisation expertise, and to offer intermediation services in these markets, with positive feedback for EU securitisation issuance too. [↑](#footnote-ref-1)