**Reply** **form**

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

Responding to this paper

ESMA invites comments on all matters in the Consultation Paper and in particular on the specific questions in this reply form. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **31 March 2025.**

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

* Insert your responses to the questions in the Consultation Paper in this reply form.
* Please do not remove tags of the type <ESMA\_QUESTION\_VALID\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
* If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
* When you have drafted your responses, save the reply form according to the following convention: ESMA\_VALID\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_VALID\_ABCD.

* Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings ‘Legal notice’ and heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’..

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | EFAMA |
| Activity | Other Financial service providers |
| Are you representing an association? |[x]
| Country/Region | Belgium |

# Questions

1. Do you agree with the proposed approach to disclosing information on private securitisations? If not, please specify any alternative approaches you would recommend, including their advantages and potential drawbacks.

<ESMA\_QUESTION\_PRSE\_1>

We welcome the initiative to simplify reporting for private securitisations. As outlined in our response to the European Commission’s public consultation which closed in December 2024, the current reporting regime (particularly the quarterly granular reporting templates) are **not fit for purpose for categories of securitisations** such as CLOs and CMBS as they (i) capture some irrelevant information, (ii) fail to capture necessary information, creating a data gap which has to be filled in by reports of third parties, and (iii) as a result, impose undue costs and operational burden for CLO/CMBS issuers and managers, and (iv) creates a barrier for entry for smaller issuers.

As a first point, we appreciate and agree with ESMA that, “any short-term changes should be limited and focused on reducing the disclosure burden, with broader reforms to the framework postponed until after the Level 1 review.” However, we do consider it preferable to wait until the review of Level 1 rules has taken place to avoid inadvertently creating inconsistencies and ultimately further work for parties to private securitisations. For example, a major factor in the suitability of this simplified template will be the question of which types of securitisations this simplified template will apply to – as the consultation run by the European Commission in late 2024 indicates that there may be a change in how securitisations are categorised (public or private). We must first know whether the current understanding of private securitisation will remain the same before we can definitively comment on the suitability of this Level 2 initiative. As such, to the extent that changes are made in advance of the Level 1 review, these should be as ‘light touch’ as possible in the interests of consistency.

Nonetheless, we have responded to the below questions on the assumption that there will not be a change to the existing definitions of public/private securitisations.

We have outlined in our response to the Commission consultation in December 2024 cases in which it would be more effective for investors to proceed on a principles-based approach to disclosure rather than insisting on a prescribed template which is not fit for purpose. Investors in CLOs and CMBS, for example, in practice rely on customary monthly investor reports developed by market participants rather than the Article 7 template reports as they are more tailored to their needs – removing irrelevant fields and filling in gaps not covered by the existing templates. Investors in secondary market trades, which have a much shorter timeframe, may be forced to miss offering deadlines due to being required to insist on strict compliance with the template despite otherwise receiving adequate disclosure. For this reason, in line with our response to the European Commission consultation of December 2024, the template should not be mandatory for reporting to investors where the parties have agreed that investors and potential investors shall receive reports on an at least quarterly basis containing information sufficient for the purposes of satisfying due diligence obligations under Article 5 of the SECR. Where agreement is not reached by the parties to the securitisation, reporting should default to the status quo, i.e. should take the form of the existing reporting annexes (i.e. the template from Annexes II – IX relevant to the underlying and Annex XII).

Given the different needs of supervisors and investors, we consider it best that the simplified template, if introduced, would not attempt to perform a dual function of satisfying both investors’ due diligence needs and supervisors’ oversight functions. As the large majority respondents indicated in their responses to the European Commission’s consultation in December 2024, the information required by supervisors and by investors is ‘significantly different’.

The draft suggests that originators, sponsors and SSPEs of private transactions “must still 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 contingent obligation in practice means that sell-side parties must prepare both the new simplified templates while also collecting the information and having in place the systems necessary to prepare the ‘public’ disclosure templates. This would appear to create a **dual obligation, resulting in a higher compliance burden for private securitisations**.

<ESMA\_QUESTION\_PRSE\_1>

1. Do you agree with the proposed scope of application, which requires all of the originators, sponsors, original lenders and SSPEs to be established in the Union? Alternatively, do you see any merit in applying the new template when at least the originator and sponsor are established in the Union? Please provide specific examples where the application of the proposed scope might present practical challenges.

<ESMA\_QUESTION\_PRSE\_2>

The scope of application excludes securitisations in which an originator, sponsor, original lender or SSPE is not established in the Union. We do not agree with this approach. It gives rise to legal uncertainties and operational difficulties. For example, if a non-EU originator or sponsor later becomes party to the securitisation, disclosure templates must be changed, adding complexity. It also exacerbates the competitive disadvantage faced by EU investors, acknowledged in both the European Commission’s Report on the Functioning of the Securitisation Regulation (10 October 2022) as it *“de facto excludes EU institutional investors from investing in certain third-country securitisations,”* and in ESMA’s Consultation Paper of 21 December 2023 on the securitisation disclosure templates under Article 7 of the Securitisation Regulation as it “*creates compliance challenges and legal uncertainties when investing in such [third country] transactions*.” Analysis conducted by some of our members indicates that European investors are limited to investing in just 25% of the global securitised market, with the rest of the investible universe opting not to comply with the SECR’s reporting templates. This restriction significantly reduces the pool of eligible securitisations, forcing EU funds to operate within a constrained market. As a result, their investment strategies become less diversified and less scalable, limiting their ability to achieve optimal returns. This in turn dampens the demand for securitisations (both EU and non-EU). Enabling EU funds to invest in a broader range of securitisations would not only make their investment strategies more competitive on the global scale, but also enhance the attractiveness of securitisation investments and drive more liquidity in the market, increasing demand and growth in this asset class.

Linked to legal certainty and consistency with the Level 1 review, requiring investors to request a different scope of due diligence depending on the jurisdiction of the originator, sponsor, lender or SSP is not in the best interests of investors (and the consequent growth of demand for this asset class) nor in line with legislative intent. As noted by the Commission in its 2022 report, “*it does not matter for the proper performance of the EU based institutional investors’ due diligence whether a securitisation originated inside or outside the EU.*”<ESMA\_QUESTION\_PRSE\_2>

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

<ESMA\_QUESTION\_PRSE\_3>

No comment.<ESMA\_QUESTION\_PRSE\_3>

1. Do you agree with the disclosure frequency proposed in the Consultation Paper? Please provide your rationale.

<ESMA\_QUESTION\_PRSE\_4>

See our comments to Q1. Our view is that Annex XVI should be developed for the purposes of supervisors, with investors being permitted to agree to adopt a principles-based approach or, in the absence of such an agreement, defaulting to the status quo.

<ESMA\_QUESTION\_PRSE\_4>

1. Do you agree with the structure of the simplified template, specifically the relevance of Section A to D for private securitisations? If not, please suggest any changes to the template’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_5>

See our comments to Q1.<ESMA\_QUESTION\_PRSE\_5>

1. Do you consider the use of ND Options in the template for private securitisations to be useful? Please provide your rationale.

<ESMA\_QUESTION\_PRSE\_6>

See our comments to Q1<ESMA\_QUESTION\_PRSE\_6>

1. Do you agree with the fields proposed in Table 1? If not, please suggest any changes to the Table’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_7>

The table requires the ‘Full legal name of the original lender’ to be listed; however, this could comprise many different entities. As such, it should be possible to populate more than one name into this field.

<ESMA\_QUESTION\_PRSE\_7>

1. Do you agree with the fields proposed in Table 2? If not, please suggest any changes to the Table’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_8>

Table 2 includes a new requirement for a formalised disclosure of ‘significant events’. These include material breaches of obligations, changes in structural features, shifts in risk characteristics, or loss of STS status. It also notes that ‘other reportable events’ would include remedial or administrative actions, material amendments to transaction documents, or any other developments that fall under Article 7(1)(g) of the SECR. We note that these items appear quite broad. Trustees (who would presumably conduct most of the reporting) would not be capable of commenting on ‘shifts in risk characteristics’. They would, however, be able to definitively opine on a more narrow set of items such as events of default, indenture amendments or changes in key parties (trustee, servicer, account bank, etc.).

<ESMA\_QUESTION\_PRSE\_8>

1. Do you agree with the securitisation characteristics fields proposed in Table 3? If not, please suggest any changes to the Table’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_9>

Table 3 refers to ‘credit rating (if applicable)’ of the securitisation. It should be noted that the deal itself will not have a credit rating – rather, each tranche may (or may not) have a rating from multiple rating agencies. Table 3 also refers to the ‘date of origination’. It should be clarified whether this refers to the date of origination of the loan (underlying assets) or of the deal. If this is referring to the date of the loan (underlying assets), there could be hundreds of different dates. Table 3 also refers to the ‘reference date of information’. It is unclear whether this refers to the date the table is populated and submitted, or the date the various pieces of information have been sourced.

<ESMA\_QUESTION\_PRSE\_9>

1. Do you agree with the instrument/securities characteristics fields proposed in Table 4? If not, please suggest any changes to the Table’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_10>

Table 4 refers to the Instrument/Security Type’, which appears ambiguous and to overlap with the question regarding the number of tranches. Table 4 also requires the ‘Maturity date’ to be listed. It should be clarified whether this is the anticipated maturity or the final legal maturity.

<ESMA\_QUESTION\_PRSE\_10>

1. 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? Please provide your rationale.

<ESMA\_QUESTION\_PRSE\_11>

No comment.<ESMA\_QUESTION\_PRSE\_11>

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

<ESMA\_QUESTION\_PRSE\_12>

No comment.<ESMA\_QUESTION\_PRSE\_12>

1. Do you agree with the proposed approach for ABCP transactions, which focuses on information at the programme level? Alternatively, do you consider that disclosure should be based on transaction-level information to ensure alignment with the disclosure requirements for public transactions? Please provide your rationale.

<ESMA\_QUESTION\_PRSE\_13>

No comment. <ESMA\_QUESTION\_PRSE\_13>

1. Do you agree with the contact information collected under Table 6? If not, please suggest any changes to the Table’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_14>

Table 6 requires the full legal name of the designated reporting entity to be disclosed; it should be clarified if this refers to the trustee. Table 6 also requires the ‘Full legal name of the law firm’ to be disclosed, however this information is rarely disclosed in the documents and may have no ongoing involvement in the transactions. Table 6 requires the ‘Registered address of the SSPE’ to be listed, however it should be possible to populate more than one address as this can be the case in practice.

<ESMA\_QUESTION\_PRSE\_14>

1. Do you agree with the fields on the underlying exposures proposed in Table 7? If not, please suggest any changes to the Table’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_15>

Terms such as “Defaulted Exposures CRR” need clear definitions. Much of this language is not completely familiar to non-EU market participants, meaning we need to anticipate familiarisation and change over time regarding this section via continued reporting by the Trustees.

<ESMA\_QUESTION\_PRSE\_15>

1. Do you believe that a minimum set of information should be made available to users to monitor the evolution of the underlying risks? If so, do you consider that the fields proposed in Table 7 to be relevant for this purpose? If not, please indicate which alternative indications should be used and provide the rationale for your suggestions.

<ESMA\_QUESTION\_PRSE\_16>

See our response to Q1.

<ESMA\_QUESTION\_PRSE\_16>

1. 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? 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? Please provide your views.

<ESMA\_QUESTION\_PRSE\_17>

See our response to Q1.

<ESMA\_QUESTION\_PRSE\_17>

1. 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? Please provide your rationale for agreeing or disagreeing.

<ESMA\_QUESTION\_PRSE\_18>

See our response to Q1.<ESMA\_QUESTION\_PRSE\_18>

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

<ESMA\_QUESTION\_PRSE\_19>

See our response to Q1.

<ESMA\_QUESTION\_PRSE\_19>

1. Do you agree with the inclusion in table 7.6 of fields related to energy performance? Please provide your rationale for agreeing or disagreeing.

<ESMA\_QUESTION\_PRSE\_20>

See our response to Q1.

<ESMA\_QUESTION\_PRSE\_20>

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

<ESMA\_QUESTION\_PRSE\_21>

See our response to Q1.

<ESMA\_QUESTION\_PRSE\_21>

1. 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? Please provide your rationale for agreeing or disagreeing.

<ESMA\_QUESTION\_PRSE\_22>

See our response to Q1.

<ESMA\_QUESTION\_PRSE\_22>

1. If you agree with the inclusion of risk retention fields (Question 21), do you also agree with the specific fields proposed in Table 8? If not, please suggest any changes to the structure or content of Table 8, along with the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_23>

See our response to Q1.

<ESMA\_QUESTION\_PRSE\_23>

1. Do you agree with the fields proposed for the position level information in Table 9? If not, please suggest any changes to the Table’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_24>

See our response to Q1.

<ESMA\_QUESTION\_PRSE\_24>

1. Do you agree with the fields proposed for synthetic securitisation in Table 9? If not, please suggest any changes to the Table’s structure and provide the rationale for your proposed modifications.

<ESMA\_QUESTION\_PRSE\_25>

As most synthetic securitisations use credit-linked notes held in a clearing system, it is not possible for the originator to report on the name of the protection provider, nor would it be appropriate for the identities of multiple protection providers to be disclosed to other investors or potential investors.

<ESMA\_QUESTION\_PRSE\_25>

1. Do you foresee any operational challenges or implications arising from the implementation of the simplified template for EU private securitisations? If so, please describe the challenges you anticipate and suggest any measures that could mitigate them.

<ESMA\_QUESTION\_PRSE\_26>

We do consider challenges will arise from the implementation of the simplified template in the event that they diverge from the changes ultimately made as part of the ongoing Level 1 review.

The European Commission’s consultation in the second half of 2024 questioned whether the definition of private and public securitisation should remain the same or be changed, whether there is an overlap in the information supervisors and investors require under the SECR, and most fundamentally whether there was a need for a template at all in the case of private securitisations.

If it is concluded, during the course of the review of the Level 1 text, that there is no requirement for a template as a principles-based approach is best, or that certain transactions now fall into a different reporting regime due to being reclassified as private or public, short-term investments made in switching to a different reporting template will have been disruptive. <ESMA\_QUESTION\_PRSE\_26>

1. 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?

<ESMA\_QUESTION\_PRSE\_27>

Not applicable.

<ESMA\_QUESTION\_PRSE\_27>

1. 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?

<ESMA\_QUESTION\_PRSE\_28>

As outlined in our response to Q1, investors would continue to rely on bilateral principles-based reporting agreed between the parties (e.g. in trustee reports).

We consider that (i) allowing the parties to tailor their own due diligence with out mandating a template is the best approach, while keeping the existing templates as a fall-back in case agreement is not reached; (ii) given the divergence between the information required by supervisors and investors, it is best not to try to design a ‘one-size-fits-all’ template for both supervisors and investors. <ESMA\_QUESTION\_PRSE\_28>

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

<ESMA\_QUESTION\_PRSE\_29>

No comment.<ESMA\_QUESTION\_PRSE\_29>