

16 September 2010

**UniCredit Group's reply
to the CEBS CP 40 on guidelines to article 122a of the CRD****GENERAL REMARKS**

UniCredit Group (UCG) experts, both in the holding and in the investment bank, have undertaken a deep review of the CEBS consultation.

This UCG staff contribution is aimed at providing competent technical advisory supporting CEBS efforts in promoting better supervisory practices ensuring the level playing field.

CEBS will notice that there are a number of suggestions and several areas where further guidance is still required to promote an appropriate implementation of the guidelines in EU.

Specific comments and answers

Recital 25:

We agree with the exemption from the retention requirement for purchased receivables transactions (for corporate finance means).

Suggestion 1: We would strongly recommend to further specify the scope of application to ABS/ABCP transactions and programmes, respectively the various securitisation positions in these transactions and programmes. From discussions with experts on this topic we take that recital 25 may be misinterpreted in a way that it only applies to factoring business. Such interpretation would be in our view incorrect, as section 122a regulates securitisations - not factoring.

The original driver for the penalisation through a retention requirement was the originate to distribute model. This model, however, does not apply to corporate finance transactions refinanced with ABS/ABCP.

Question 1

Do you agree with this differentiation between the requirements of credit institutions when "investing" (leading to the applicability of Paragraphs 1, 4, and both sub-paragraphs of 5) as opposed to the lesser requirements when assuming "exposure" but not "investing" (leading to applicability of Paragraph 1 and sub-paragraph 2 of Paragraph 5)?

Generally, we agree with the differentiation. However, we believe this should be treated as initial guidance only. The reason is that a static assignment of the relevant rules to the specific roles of banking institutions may require modification on the practical experience with the execution of the law.

Further, we cannot derive from the table the clear distinction between the roles "investor, originator and sponsor" which are all exclusive vis-à-vis each other (i.e. one can only perform one role at a time in one specific transaction - please refer to Section 229 of the German Solvabilitätsverordnung).

Suggestion 1.1: For clarification purposes, we believe it is important that this clear distinction is also maintained when setting up such table assigning obligations to the various roles. As a consequence, it should be clarified that the relevant requirements of section 122a apply to each such role only once:

e.g. if UniCredit Bank AG acts as hedge counterparty in a Corporate Finance ABCP commercial paper conduit ("Investor") and is also "sponsor" of such conduit, from a regulatory perspective, it would be treated as "sponsor" and not as "investor". Accordingly, a sponsor should be able to contribute to the retention by virtue of its risk assumption on the basis of it taking credit risk in the relevant transaction (e.g. letter of credit). If the bank, in addition, took the position of the liquidity provider, again, the sponsor role would overrule and the bank would not have to demonstrate retention vis-à-vis itself. Depending on the scope of the liquidity facility (i.e. if the liquidity facility took credit risk), such liquidity facility could also be used to fulfil the retention requirement.

Suggestion 1.2: We would see benefits if CEBS could provide a methodology to calculate the retention requirement (or in alternative a conversion table where is shown the equivalence between the liquidity facility exposure and the retained notes) in case the liquidity facility takes credit risk.

Suggestion 1.3: Furthermore, regarding conduit programs, it would be helpful if CEBS could provide specific guidelines for this business. A more detailed supranational regulation on the topic might solve also part of the problems the Group has due to the different approaches/views local regulators have on how the conduits should be treated (i.e. German vs Italian regulator).

Question 2

Do you agree with this differentiation in the role of a credit institution as liquidity facility provider (based on the provisions of CRD Annex IX, part 4, paragraph 2.4.1, point 13)?

Suggestion 2.1: We agree with the view expressed in item no. 7 and would refer to our elaboration under question 1 above. However, we would see necessary a clarification by CEBS in item no. 7 that liquidity facilities that take credit risk should be subject to requirements of section 122a as opposed to saying that only liquidity facilities "that are not eligible under the criteria set out in Annex IX, part 4, par. 2.4.1 point 13 of the CRD" qualify for such treatment. Again, we would like to stress that a clear distinction of the applicable roles should be made in order to avoid a potential double allocation. E.g. if a credit institutions acts as sponsor, and provides credit enhancement to a transaction (which would theoretically make it qualify as investor), the credit institution will be deemed a sponsor as opposed to an investor. Accordingly, the credit enhancement provided will have to be accounted for as retention.

Question 3 Lead: CIB-Markets, Involved: TCTR

Do you agree with this differentiation in the role of a credit institution as hedge counterparty, and what issues might arise when credit institutions seek to determine whether their role as hedge counterparty results in the assumption of credit risk or not?

In general, we agree that with the incorporation of derivatives exposure in the overall calculation of originator/sponsor retained interest. We further agree that a distinction should be made, to the extent possible, between derivatives exposures incorporating credit risk and derivatives exposures without credit risk in the application Article 122a.

Suggestion 3.1 Additional guidance, however, is required in two following areas.

First, even in situations where the derivatives counterparty is not assuming direct principal risk to the underlying assets, indirect credit exposure continues to exist as derivative notional amounts are reduced on an accelerated/undefined basis as a result of asset credit deterioration within securitisations. Therefore, it is difficult to comprehend situations in which no credit exposure exists within a derivative unless this "indirect" risk has been transferred to a third-party.

Second, in situations in which the originator/sponsor assumes derivatives exposure with direct credit exposure to securitisations, a methodology must be defined for measuring this exposure and incorporating such exposure into the retained interest calculation for purposes of Article 122a. This methodology should consider both a future exposure element and a credit element which considers the positioning of the derivative exposure positioning within the securitisation capital structure.

Question 4

Does this guidance adequately address means of fulfilling the retention requirement in the case of securitisations of exposures from multiple originators, sponsors, or original lenders? And if not, what suggestions do you have for additional clarity?

Suggestion 4.1 In circumstances where the securitized exposures are those of multiple originators/originator lenders the retention of net economic interest must be fulfilled by the orig/orig lender or the sponsor (if available) and will be calculated as the ratio between the sum of the net economic interest of the participants and the total notional amount of the securitization. [retention of net economic interest def a) and d)].

Suggestion 4.2 It would be helpful to know from the competent authority the rationale why in case of two different originators, one of the two cannot retain the net economic interest of the whole transaction.

Link to paragraph 2 – in the case the net economic interest is met at consolidated level (ie UCG) and not at solo level (i.e. Unicredit Bank AG) the securitization is valid even at solo level (individual regulatory purposes).

Question 5

Do you agree that the form of retention should not be able to be change during the life of the transaction, except under exceptional circumstances only, or alternatively should some additional flexibility be granted? Please provide evidence of exceptional circumstances which would justify a change in the form of retention.

Concern 5.1: To us, the limitation of flexibility to combine or change forms of self-retention seems not appropriate given the purpose of the self retention. From a risk perspective it cannot make any difference by virtue of which means a bank etc. fulfils the retention requirement as long as it is fulfilled in economic substance. This thought is yet reflected in item d) of paragraph 1 where, if the first loss tranche is not sufficient to fulfil the retention requirement, the next higher tranche can be used for retention purposes.

Suggestion 5.1

The following practical and legal reasons speak in favour of a more flexible approach:

- changes in law, in particular accounting laws and treatment of retained or placed positions
- restructurings and mergers of conduits or transactions (e.g. following mergers of banks (ABN AMRO and RBS or Dresdner Bank and Commerzbank)
- practical reasons: In ABCP conduits retention is made on the one hand by the original lender/originator (which may or may not be a regulated institution) by way of a purchase price reduction and by the sponsor on the other hand. Currently, a combination of retained interest on the level of the originator and on the level of the sponsor would not be possible. We are of the opinion that such combination which has been practiced in ABCP conduits over the past decades suffices to accommodate investors' interests.

- preferences of investors and other market participants - bear in mind that we are making this effort to provide comfort and confidence to the market and investors so that a combination of the different means of retention may also be driven by investors' requests.

Suggestion 5.2 On a more general note, we suggest revising the option to increase the retention in each case/jurisdiction. A heterogeneous European retention scheme (e.g. 10% in Germany and 5 % in the other EU countries) could lead to a retention arbitrage in the form of transactions being executed in other countries than Germany as originators may not meet the high retention requirements. German regulated institutions will, at the same time not be able to invest in European assets as it would always be obliged to demonstrate a 10% retention whereby European originators/sponsors would only be obliged to retain 5%.

Question 6

Should the definition of “net economic interest” in terms of “nominal” exposure be interpreted to mean that both excess spread tranches (i.e. where only residual interest cashflows are sold) and interest-only tranches (i.e. where all interest cashflows are sold) be excluded from the various means of fulfilling the retention requirement (as both have notional rather than nominal values), or should either be a valid means of fulfilling the retention requirement? If the retention requirement were allowed to be fulfilled by retention of a tranche with no principal component (for instance, an excess spread tranche or an interest-only tranche), how would the retention percentage be computed – with reference to the notional value, market value, or otherwise?

We agree with an inclusion of excess spread tranches and interest only tranches to form part of the self retention. In the case of synthetic excess spread tranches the retention is fixed and therefore can form part of the demonstration of the self retention. For actual cash flow instruments (interest only and excess spread) we would simply refer to the calculations underlying such instruments and adjust, if necessary.

Suggestion 6.1 Against this background, we suggest clarifying items no. 44 and 45. A retention of risk may well happen on a synthetic basis i.e. through mechanisms such as interest sub-participation and synthetic excess spread. These mechanisms contractually ensure that investors do not bear losses on their investments. On the other hand the originator has to deduct from capital any reserves built on synthetic excess spread which demonstrates the risk retention. By excluding this mechanism from the retention requirement one would completely ignore the world of synthetic securitisation. Again, there is no reason from a risk perspective to do this.

Suggestion 6.2 With regard to the items listed in no. 44 we would like to have a clarification that the term equity must not be used in securitisations as it suggests the recourse to assets other than those which form part of the securitised pool. This would contradict one fundamental element of a securitisation which is that recourse is possible only to the assets and nothing else (such as equity positions of an entity). If recourse would be possible to other assets the structure would rather qualify as covered bond or Pfandbrief than as securitisation.

Suggestion 6.3 Furthermore, guidance should be provided on item no. 46. We are not sure when a refundable purchase price discount would qualify as retention. In fact, we believe that the full amount of the refundable purchase price should be treated as retention, as the full risk may materialise on the part of the originator: In a worst case scenario the originator will not receive any residual and will have borne the full risk, accordingly. The reference to "economic substance of a securitisation justifying this" is too vague.

Suggestion 6.4 Regarding the inclusion of the synthetic excess spread in the retention requirement we think that the originator can disclose to the investor (e.g. in the term-sheet) the expected level of SXS usage and the methodology used to compute it (e.g. over the transaction life the Bank expect to cover 1% of the initial portfolio first losses through the SXS); this level can be used for calculating the retention requirement.

Question 7

Where Paragraph 1 indicates that a credit institution must ensure that retention has been “explicitly disclosed”, is the guidance above sufficient? In particular, will the market evolve such that credit institutions would expect such disclosure by market participants to be of a binding nature, and therefore provide some means of enforcement or redress to them, or should such a requirement be part of the CEBS guidance? Feedback is welcome on the most effective means to assure that the commitment of the originator, sponsor or original lender is enforceable by credit institutions that invest. This is an area which CEBS is likely to pay particular attention to in as part of keeping these guidelines up to date and in annual reviews of compliance.

We think that the guidance is sufficient and that no further measures would be required. In practice information is made available to investors and other third parties through investor reports that are published periodically. Market practice will suffice to exercise pressure on originators/sponsors that do not include the retention statement in such investor reports. This has past experience with any information contained in an investor that raised the relevant investors' attention: Investor contact immediately /sponsors to seek clarification so that issues could be sorted without third party involvement.

Question 8

Does this guidance address properly the subject of hedging of retained exposures? What specific types of hedge should be permitted? CEBS would welcome evidence and examples from respondents.

We do not object to the guidance in general and we also agree that are permissible hedges based on an index, on risk factors and on macroeconomic variables.

An example of permitted hedge could be the following: a Bank sees increasing risk on real estate industry and selects a portfolio of secured loans towards Italian SMEs (mainly real estate) in order to structure a synthetic securitisation focused on reducing credit risk. The transaction will be structured with a senior tranche [90%] of the portfolio, fully retained, and a junior tranche [10%] of the portfolio of which [95%] it will be sold to the market. The remaining [5%] first loss risk is retained by the Bank. On this risk the Bank put in place a macro-hedge solution based on a Property Index. The hedging is based on an Italian property Index derivative (IPD Italian Index) and it is structured as a bespoke transaction (structured bond or a ETF) whereby investors go “long” to the IPD Italian Index enjoying an increased yield on the investment (from running option premium) and then starts to lose principal if and when the property index falls at least [15-20%] from initial level.

Suggestion 8.1 We would like to stress that the new rule may contradict existing rules on risk management (e.g. Ma-Risk in Germany). For example, for risk management purposes credit institutions have established Chinese walls between trading book and banking book in order to avoid conflicts of interest. The new rules would not work with such Chinese walls as information would have to pass from one side to the other in order to ensure compliance with the limitation. Against this background, we believe a restriction on hedging of specific assets would be possible whereas the limitation should not apply to e.g. corporate names in general.

Suggestion 8.2 Also, we believe that the broad and very generic limitation on hedging is impossible to process/execute in practice and would prohibit very basic bank activities which will undermine bank's risk management, severely.

Question 9

Should retention of 5% of each securitised exposure fulfil the requirements of Paragraph 1 under option (a)?

Concern 9.1: We agree that from the investors perspective also the retention of 5% of each securitised exposure fulfil the requirements of Paragraph 1. Anyway from a regulatory perspective the two possibilities lead to different results (see example below¹):

a) Vertical slice retention of 5% of the nominal value of each of the tranches

Ante securitisation

Total Pool	100.0
RWA ante	76.1

Post securitisation

Tranche	Notional	Size %	RW	Retained	RWA
Senior	92.0	92.0%	7.0%	5%	0.3
Mezzanine	3.0	3.0%	877.2%	5%	1.3
Junior	5.0	5.0%	1250.0%	5%	3.1
Total	100.0				4.8

RWA post = 4.8

RWA relief = (76.1 – 4.8) = 71.3

b) Retention of 5% of each of the securitised exposures

Ante securitisation

Total Pool	100.0
RWA	76.1

Post securitisation

Tranche	Notional	Size %	RW	Retained	RWA
Senior	87.4	92.0%	7.0%	0%	0.0
Mezzanine	2.9	3.0%	877.2%	0%	0.0
Junior	4.8	5.0%	1250.0%	0%	0.0
Total	95.0				0.0

RWA post = 5% * 76.1 = 3.8

RWA relief = (76.1 – 3.8) = 72.3

Suggestion 9.1 In our view such a difference in terms of RWA relief makes no sense since the credit risk retained by the originator is the same in both cases; we think that in case of vertical slice retention of 5% of the nominal value of each of the tranches, the “RWA post” should be equal to the “RWA post” computed in case of retention of 5% of each of the securitised exposures (i.e. 5% of the RWA of the securitised pool).

Question 10

Should option (b) be applicable equally to both securitisations of revolving exposures and revolving securitisations of non-revolving exposures⁴ (or revolving securitisations with a combination of revolving and non-revolving exposures) in fulfilling the requirements of Paragraph 1?

¹ RWA of the tranches are calculated with the supervisory formula approach using the following inputs: weighted average LGD = 35%; K_{IRB} = 6.44%; N = 100

Suggestion 10.1 As per our response to question 5 we welcome any flexibility to the retention requirements. However, we believe that a clarification of what "revolving exposure" means would be helpful, as it is not entirely clear where this would apply.

Suggestion 10.2 We think that from a risk perspective the option (b) has to be imposed only for those securitizations where the outstanding of the notes is a variable (e.g. Variable Funding Notes): this can be the case of securitisations where the underlying assets (credit cards) are revolving or where new assets are added to the original portfolio (not substituting old assets).

Question 11

Do you agree with this interpretation of the phrase "there shall be no multiple applications of the retention requirement" to mean that there shall be no requirement for multiple application either by individual parties or at the level of individual SPVs, but that there may be multiple application at the overall transaction level (for instance, where a transaction is the resecuritisation of existing securitisations), and does the above lead to an effective and proportionate alignment of interest for resecuritisations?

Suggestion 11.1: In the context of re-securitisations we believe that a single retention on the level of the "first" securitisation is sufficient to secure originators' ongoing interest in the securitised assets.

Imagine a CDO of ABS. In such example we take the view that the retention that is (to be) made on the level of the ABS instruments that constitute the pool of assets for the CDO is sufficient and that no other retention should be required.

A second retention would in our view not add further value as on the second level no active role can be played with respect to the securitisation positions. I.e. a sponsor/originator of a resecuritisation has no influence whatsoever on the performance etc. of the securitisation position that it uses for its re-securitisation. This would be slightly different in example A as the pool that is securitised contains non-securitisation positions. We suggest that only with respect to these positions but not the re-securitisation positions the sponsor/originator should retain the 5% risk.

As indicated in item no. 48, we suggest clarifying that structure that require the presence of two SPV for legal or practical reasons (such as, e.g. Law 130 in Italy or FCT in France or the separation of borrower/purchaser SPV and issuer SPV) are exempt from the retention.

Question 12

Does this interpretation of the phrase "net economic interest shall be determined by the notional value for off-balance sheet items" raise any potential issues with respect to application of the retention requirement?

Suggestion 12.1 The term "notional" is, inter alia, used in synthetic transactions where instead of a reference to a nominal amount reference is made to the notional amount (which in substance means such nominal amount). This is owing to the fact that the synthetic securitisation only reference to assets "synthetically" as opposed to a transfer of legal title to the assets in a true sale transaction. Against this background, we suggest clarifying the term "notional amount" on the basis of examples as we are not clear how this term should be interpreted and used in practice. Also, we would be interested to understand how the notional value of future cash flows/sales can be calculated.

Suggestion 12.2 In our view if the securitisation includes revolving exposures (e.g. revolving loans to a large corporate companies) has to be considered the full credit line (drawn + undrawn amounts) and then the retention requirement has to be fulfilled by retaining the 5% of the credit line.

Question 13

Given that Paragraph 1 specifies that “retained positions, interest or exposures are not hedged or sold”, to what extent will it be possible for an originator, sponsor or original lender to use such retained interest for secured funding purposes without having “sold” such retained interest, for instance in cases where such funding is sought under a TBMA/ISMA Global Master Repurchase Agreement (GMRA) or alternatively under a bespoke repo agreement?

Suggestion 13.1 In our view the possibility of using the retained interest for repo purposes should be left within the discretion of originator/sponsor. The rationale of repo structures is not to ultimately transfer the risk to a third party but only temporarily. If the repo agreement expires the originator/sponsor will re-assume the risk transferred.

Question 14

Is further clarification needed on the ability to differentiate between the trading book and the non-trading book?

Suggestion 14.1 Yes. In fact, it is critical that the application of Paragraph 4 distinguish between market-making and investment activities in order to encourage, to the greatest extent possible, secondary market liquidity. Guidance is particularly needed in the area of relative “due diligence intensity” between trading and non-trading books and “minimum due diligence thresholds.”

CP 40 states that, if a trading position can be evidenced by the credit institution to represent a “truly different” risk profile, the application of clauses a) through g) “can be different to non-trading requirements.” Guidance clearly needs to be provided regarding the definitions of “different” in this context.

Question 15

Is the general guidance on securitisation stress testing in the document linked above sufficient, or is further guidance needed on how stress testing should be undertaken for the specific requirements of Article 122a, and if so what topics should such further guidance cover?

The CP 32 dedicates the Annex II to the stress testing exercise for securitisation. The general setting of the guidelines seems to be mainly focused on securitized assets or assets to be securitized of the bank, thus mainly referring to securitisation in own origination (a sentence of the CP 32 as example for this perspective is “The stress testing programme should cover pipeline and warehousing risks. Institutions should include such exposures in their stress tests regardless of their probability of being securitized”). This is applicable only for securitisations in own origination).

On the other hand, article 122a mainly concerns credit institutions other than when acting as an originator, a sponsor or original lender. Hence, it mainly refers to securitisation exposures as investor in third parties originated transactions.

Suggestion 15.1 Considering this first different perspective and considering the fact that the Annex II of CP 32 defines only general guidelines for securitisation stress testing, a further guidance covering this topic should be appreciated. Some of the areas to be managed might be:

- stress testing on exposures deriving from securitisations in own origination vs stress testing on exposures deriving from positions as investor
- how to manage stress testing on exposures that are externally rated (in such cases the rating does not directly depend on the internal risk assessment but mainly depends on external parameters and models of evaluation) with stress test on exposures that are internally evaluated (for example with the Supervisory Formula Approach – in this case the evaluation fully depends on the internal risk assessment)
- how to manage the stress test results on the underlying portfolios with the tranches in case the securitisation has an external rating. In such a case, the external rating of the notes according to which the regulatory capital absorption is computed is not directly affected by the underlying portfolios: stress test results performed according to the bank’s general stress test exercise on own portfolio might not be directly reflected in the notes external rating.

Question 16

Do you agree with this method of calculating the additional risk weight?

Par. 77 - Would be easier to leave the RW% in the table, instead of capital requirements absorption:

	additional RW%				
	250%	500%	750%	1000%	1250%
12%	42%	72%	102%	132%	162%
15%	53%	83%	128%	165%	200%
18%	63%	100%	153%	198%	240%
20%	75%	120%	170%	226%	270%
35%	127%	210%	298%	395%	473%
50%	219%	360%	510%	667%	819%
100%	350%	600%	840%	1100%	
250%	575%				
425%					
625%					
1250%					

CAP @ 1250%

Suggestion 16.1 An alternative approach to calculate the additional risk weight would be (ie 10% * 250% = 25%; 10% + 15% additional risk weight):

	additional RW%				
	250%	500%	750%	1000%	1250%
12%	30%	60%	90%	120%	150%
15%	38%	76%	113%	150%	188%
18%	46%	90%	135%	180%	225%
20%	50%	100%	150%	200%	250%
35%	68%	135%	203%	275%	338%
50%	100%	200%	300%	400%	500%
100%	250%	500%	750%	1000%	1250%
250%	625%	1250%			
425%	1025%				
625%					
1250%					

CAP @ 1250%

The risk charges highlighted in items 77 to 90, in particular the minimum addition of 250% appear to be set arbitrarily and exceed in our view the aim of section 122a. In our view such static increase bears the risk of a deviation from the principle of "adequate risk assessment" as

- a. the severity of non-compliance with the requirements of para. 5 is not taken into account (minor and more severe breaches are all treated equally) and
- b. it is not possible to appropriately react to such increase.

Concern 16.1 Further, we believe that the technical and procedural implementation of this rule will be extremely difficult given the time frame for the implementation of CRD 2.

Suggestion 16.2 Further, the cap on the increased risk capital charge appears to be incorrect from an editorial perspective. We believe that the original intention was that the overall risk charge must not exceed 1250% (full capital deduction). It should be clarified that the sum of original RW and additional risk weight must not exceed 1250%.

Question 17

Do you have any comments on this approach to achieving consistent implementation of application of the additional risk weights by competent authorities, including both the level and duration for which additional risk weights are applied? Do you agree that, notwithstanding the textual provisions of Paragraph 5, the cumulative result of applying such additional risk weights should not result in the capital required to be held against a securitisation position exceeding the exposure value of such securitisation position?

Sub1

The criteria are quite “severe” and need to be detailed more in terms of process and methodologies:

1. The additional risk weights, showed in the table at the end of par. 84, should be all at 250%. For multiple breaches we agree to apply an additive approach as showed in par. 84 sub. e).
2. Regarding the duration for which additional risk weight are applied, we agree with par 84 sub g) and 86.
3. Regarding par. 88, we propose to change “the due diligence factor should be doubled and applied **to all securitization holdings for a minimum period of 12 months**” in “the due diligence factor should be doubled and applied **to the securitization holdings for which the requirement has been breached, till the credit institution prove the implementation of new process and procedures required by the regulator**”.
4. As far as the stress test is concerned would be extremely useful to receive a common guideline in order to align the internal model to regulators’ expectations.
5. A specific point of attention is related to Market Making activities. As far as we understood, following to the new “CRD 3” directive amendments, the capital requirement for a securitization position held in a trading book can be no less than that which would apply if the position was held in the non-trading book. This would imply the application of the above additional risk charge also to trading books’ positions (i.e. Market Making desks). In our view this would be too severe, and could lead to a decrease of liquidity on secondary market. Market Making desk, usually provide secondary market liquidity to institutional clients, not only on securitizations positions issued by their own banks. The average holding period for a market making position is also lower than the one of a position held in a non-trading book. In our view, the additional risk charge should be applied only to securitizations positions with an holding period higher than 30 days. This could allow to market making desks to provide secondary market liquidity to banks’ client and, in case of positions with an holding period higher than 30 days, have the same additional requirements of banking book.

Sub2

We agree. The cumulative result of applying such additional risk weights, in any case, should result in the capital required to be held against a securitisation position exceeding the exposure value of such securitisation position.

Question 18

If a credit institution is involved as sponsor in the securitisation of exposures on behalf of third parties in an asset class or business line in which such sponsor is not itself active in extending credit, is the guidance provided above a sufficiently high standard to hold such sponsor to?

We believe the guidance is sufficient. However, we would highlight the fact that the regulation may also apply to structures where assets from a corporate (not a bank or financial institution) are securitised. This is the case in many European ABCP conduits which use this instrument for corporate finance purposes. In that context the bank would be required to maintain the same sound origination standards of the corporate.

Concern 18.1 We strongly believe that this obligation is (a) difficult if not impossible to fulfil and (b) does not add any value. Why should a bank apply the same origination standards as a supplier of Auto parts or a “do it yourself market”? As indicated in item no. 94 an application of such rule should be made subject to the possibility of a meaningful application of origination standards. This should be seen both from a content perspective as well as from the extent to which such application should be made. In the event that an application is not meaningfully possible a sponsor should only demonstrate that it has knowledge of, and has assessed the underlying origination standards.

Question 19

Is this interpretation or the requirement with respect to “participations and underwritings in securitisation issues” clear and unambiguous, or are there alternative interpretations possible or clarifications necessary?

Suggestion 19.1 We believe the guidance may require some more clarification. In the event that a bank/credit institution participates in or underwrites a securitisation position (even if purchased from third parties) such bank/credit institution qualifies as an investor and not as an originator or sponsor. In that context paragraph 6 of section 122a is unclear because it applies to sponsors and originators but describes in the second half the role of an investor. The roles are exclusive, i.e. one cannot be originator and sponsor/investor at the same time. Against the background of this understanding the guidance should clarify.

Question 20

Would disclosure templates that currently exist or are in the process of being prepared by trade associations, industry bodies, central banks, market participants or others fulfil these requirements on an adequate basis?

Yes, as per our response to question no. 7 we believe that existing reports and mechanisms suffice to fulfill this requirement. Experience from the past has shown that investors needs for information were fully satisfied. Today's format of reports is the outcome of a reciprocal process between sponsors/originators on the one hand and investors on the other hand. In Europe, rating agencies have always acted as "agents" for the investors and have over the past decades also enhanced investors' positions with regard to the content of offering documents and reports.

Suggestion 20.1

In general, we believe that such templates should serve the purpose. However, one should distinguish between the different templates and their particular purpose on the one hand and limitations such as, e.g. data protection, banking secrecy on the other hand.

In addition, the guidance should reflect the operational burden and practicality for both the bank/credit institution providing the information and the investing institution with regard to the evaluation of such information (i.e. the amount of loan level data in very granular portfolios where a portfolio approach would be meaningful) on the other hand.

Question 21

Would disclosure templates that currently exist or are in the process of being prepared by trade associations, industry bodies, central banks, market participants or others fulfil these requirements on an adequate basis?

See answer to question 20

Question 22

Would such implementation without a materiality threshold create complications or be overly burdensome?

As originator, we do not have originated transactions (nor synthetic nor traditional securitisations) with a revolving period ended after 31 December 2014.

Such implementation without a materiality threshold for existing securitizations where new underlying exposures are added or substituted after 31 December 2014, could create some difficulties and additional costs to be paid. A well defined threshold in terms of materiality or number of exposures added or substituted to the transaction could help the sponsor, the originator and the investors in reducing the cost for oldest transactions.

Suggestion 22.1 Instead of introducing a materiality threshold we suggest implementing a trial period during which on a quasi shadow basis the new rules would be applied there their impact would be

measured. Following such trial period the impact should be analysed and the rules should be re-assessed on the basis of such trial run results.

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