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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the creation of a specific framework for simple, transparent and standardised synthetic securitisation, limited to balance-sheet synthetic securitisation

(Text with EEA relevance)

{SWD(2020) 120 final}

1. BACKGROUND AND RATIONALE

Article 45(1) of Regulation (EU) 2017/2402[1] (*hereafter "Securitisation Regulation"*) requires the European Banking Authority (*hereafter "EBA"*) to publish a report on the feasibility of a specific framework for simple, transparent and standardised (*hereafter "STS")* synthetic securitisation, limited to balance-sheet synthetic securitisation. Balance-sheet synthetic securitisations (*hereafter "BSSS"*) are securitisation transactions where the originating institution, typically a bank, uses financial guarantees or credit derivatives to transfer to third parties the credit risk of a specified pool of assets that it holds on its balance sheet and for which, in the vast majority of cases, it was also the original lender. The underlying assets are typically corporate loans, SME loans or trade finance – assets that are for various reasons more difficult or less attractive for the originator to securitise in a traditional way. As such, BSSS can be clearly distinguished from arbitrage synthetic securitisations, which involve underlying assets that are not owned by the originator of the securitisation. Instead of hedging credit risk, the main aim of an arbitrage synthetic transaction is to seek arbitrage between the spread on the credit quality of a pool of assets or product indices and the spread on the resulting securitisation product.

Recital 24 of the Securitisation Regulation also invites the EBA to determine relevant criteria for such specific framework "with a view to promoting the financing of the real economy and in particular of SMEs, which benefit the most from such securitisations".

Article 45(2) of the Securitisation Regulation requires the Commission to submit to the European Parliament and the Council a report on the creation of a specific STS framework for balance-sheet synthetic securitisation, on the basis of the aforementioned EBA report, and accompany it with a legislative proposal, if appropriate.

The EBA report was published on 6 May 2020[2]. The report builds on the previous EBA Report on Synthetic Securitisation, published in December 2015[3], whose recommendations are already reflected in the Capital Requirements Regulation[4] (*hereafter "CRR")*, and on the Discussion Paper on Significant Risk Transfer[5] in Securitisation, published in September 2017[6]. Significant risk transfer (*hereafter "SRT")* is particularly important for synthetic securitisation, as the transfer of risk, and associated capital relief, are one of the motivations for engaging in this type of securitisation.

In preparing its report, the EBA published a discussion paper in September 2019 for a two-month consultation. With most of the responses expressing strong support both for the analysis of the market and for the rationale for the development of an STS framework for synthetic securitisation, the EBA report builds on a broad consensus among stakeholders, for both the feasibility of such framework and the relevant criteria that would make synthetic securitisation part of it.

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1 Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012

2 https://eba.europa.eu/eba-proposes-framework-sts-synthetic-securitisation

3 https://eba.europa.eu/eba-issues-advice-on-synthetic-securitisation-for-smes

4 Regulation (EU) 2017/2401 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms

5 Significant risk transfer is required in order for the originator bank to be able to exclude the securitised exposures from its risk-weighted assets, in the case of traditional securitisation, or to calculate its risk-weighted assets in accordance with Articles 251 and 252 of the CRR, in the case of synthetic securitisations.

6 https://eba.europa.eu/regulation-and-policy/securitisation-and-covered-bonds/discussion-paper-on-the-significant-risk-transfer-in-securitisation

2. SPECIFICITIES OF BALANCE-SHEET SYNTHETIC SECURITISATION

Synthetic securitisation and traditional/true-sale securitisation do not fundamentally differ in terms of the nature of the underlying exposures, risk tranching and capital (waterfall) structures. Where they differ considerably, however, is in the ways of transferring risk from the originator to the investor.

Traditional securitisation involves the effective legal transfer of the assets by the issuer of the securities in a way that the ownership is actually transferred to a Securitisation Special Purpose Entity (SSPE) that hence becomes entitled to the cash flows generated by those assets. BSSS realises the risk transfer by means of a credit protection contract (credit derivatives or financial guarantees) between the originator and the investor, in a way that the underlying exposures in the ownership of the originator are left on its balance sheet. Therefore, while traditional securitisation requires both an SSPE and actual issuance of securities, neither of those would be strictly necessary for synthetic securitisation.

BSSS tends to be easier to execute than traditional securitisation, owing to the greater flexibility of the synthetic mechanism. In addition, it tends to be cheaper in terms of costs and quicker to arrange. It allows the originator to avoid the legal and operational difficulties that can arise in the process of the transferring the ownership of the underlying exposures in a traditional transaction.

Recent years have brought about significant simplification in BSSS market practices and industry evidence suggests that the documentation accompanying the instrument have decreased from around 500 pages before the global financial crisis to less than 50 pages nowadays, pointing to a significant reduction in complexity. [7]

The risk transfer in synthetic securitisation depends not only on the capital structure of the transaction (*i.e.* the tranching*)* and potential mechanisms of support from the originator (as it is the case for true-sale securitisation), but also on the features of the credit protection contract entered into by the parties as well as on the creditworthiness of the investor. The recourse to credit protection, in particular if it is unfunded and provided by non-public protection sellers, exposes individual banks to counterparty risk and may, in case of a high concentration of protection sellers create an interconnectedness in the financial system that can have systemic implications (as demonstrated in the 2008/9 financial crisis).This notwithstanding, when both parties enter into the transaction with full knowledge of the underlying risks, the risk of misalignment of interest between originators and investors is reduced as risk management is equally important for both the protection seller and the protection buyer.

Synthetic securitisation also differs from traditional securitisation in terms of purpose. The use of synthetic securitisation has indeed emerged as a useful tool for a large number of banks in their credit risk and capital management activities, as it enables them to transfer credit risk to the private capital markets efficiently, thus freeing up both capital and lending limits and allowing them to continue lending activities, while traditional securitisation is more commonly used to obtain funding from the sale of assets, rather than as a credit risk management tool.

3. MARKET PERFORMANCE

Market dynamics

Unavailability of comprehensive data about market developments and performance of synthetic securitisations were among the key factors that resulted in limiting the STS label to traditional securitisations in Regulation (EU) 2017/2402. The EBA filled this gap by collecting i) data on the volume of BSSS transactions for the period 2008 – early 2019; ii) data on the default performance of BSSS for the same period; iii) supervisory data on transactions that have achieved SRT; and iv) information gathered from industry in a roundtable event in March 2019 as well as other market analysis. Despite this significant effort, however, the picture is not fully complete, largely because of the bilateral and private nature of these types of transactions in the years since the global financial

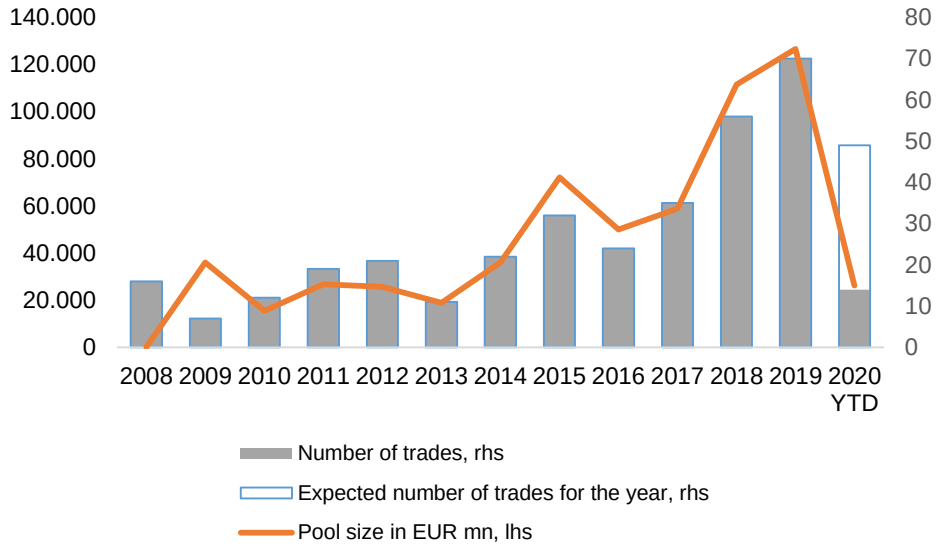
[7] Synthetic securitisation: Making a silent comeback, Deutsche Bank EU Monitor, 21 February 2017

crisis. Moreover, a lot of the transactions reported were originated in recent years and therefore have not gone through a full business cycle yet. Finally, some of the data was collected through surveys of market participants and therefore may not be fully representative of the entire market.

The gathered information demonstrated that the 2008 financial crisis has profoundly reshaped the synthetic securitisation market. Before the crisis, European synthetic securitisation peaked in 2004-2005 with volumes above EUR 180 billion due to a large supply of arbitrage synthetic transactions. The latter suffered significant losses during the crisis, reflecting their complexity, lack of transparency and imperfect alignment of interest, and seem to have largely disappeared, and the market now consists primarily of balance-sheet transactions.

The data on issuance point to a positive trend. Following a few years of subdued activity after the financial crisis, reflecting the stigma that was attached to the securitisation instrument, the synthetic market has been recovering in the recent years, with both the number and volume of transactions steadily increasing. According to data collected by the International Association of Credit Portfolio Managers (IACPM), 2018 saw the initiation of some 49 transactions with a total volume of 105 billion EUR, the highest since the financial crisis (see Figure 1).

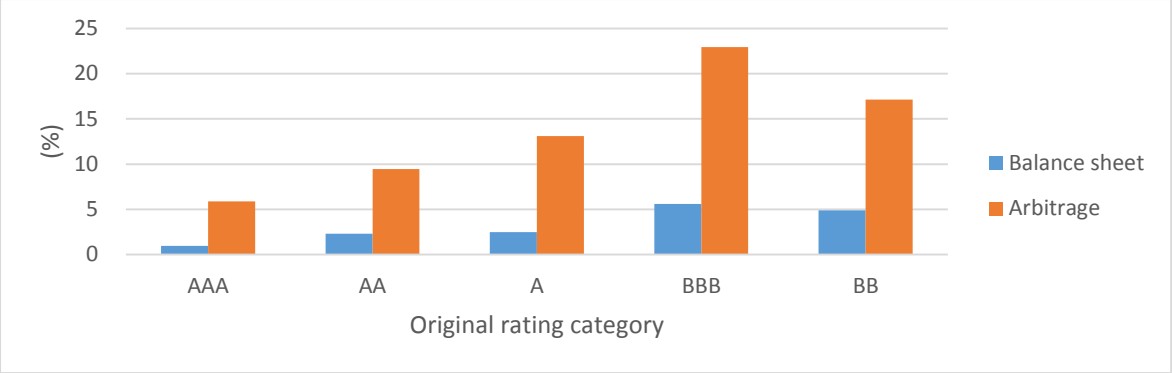
Figure 1: European balance sheet securitisation issuance after the global financial crisis



Source: EBA, IACPM

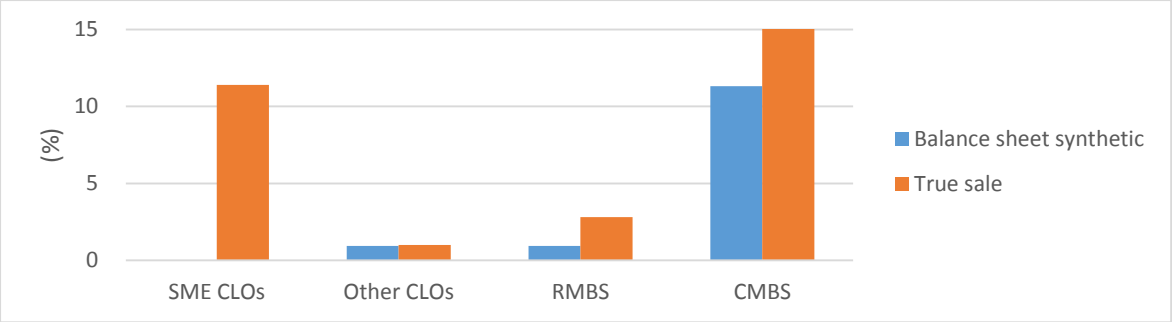
The change in the nature of European synthetic securitisation market and the prevalence of the balance-sheet segment might be explained by the low default rates of the instrument even throughout the 2008 financial crisis. According to the data collected by the EBA, investors in on-balance sheet transactions have borne materially lower losses than investors in arbitrage synthetics (see Figure 2). In fact, the lifetime default rates of on-balance-sheet transactions tended to outperform traditional securitisations as well, for all rating grades and asset classes (see Figure 3).

Figure 2: Lifetime Default Rate for synthetic tranches, as of end 2018



Source: EBA, S&P

Figure 3: Lifetime Default Rates for balance-sheet synthetic and true-sale securitisaion, selected asset classes (as of end 2018)



Source: EBA

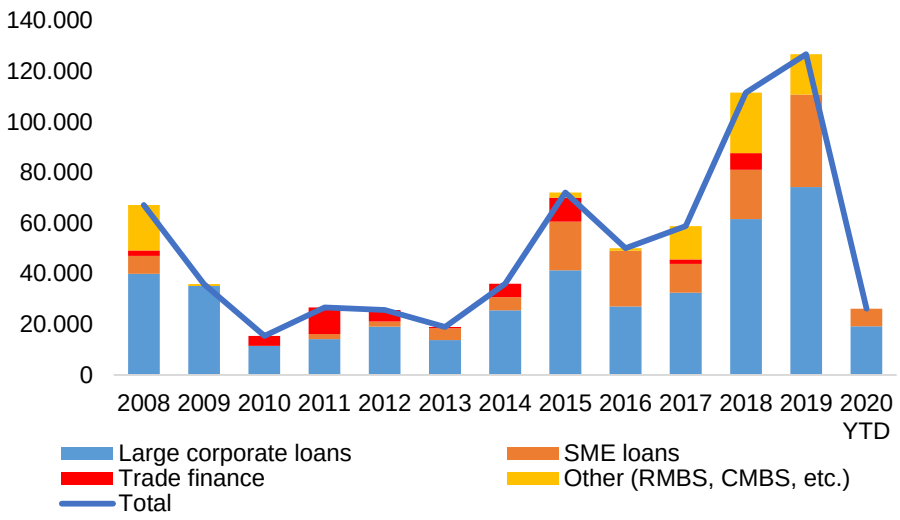
Asset composition, buyers and sellers

The data collected by the EBA shows that BSSS appear to be used to transfer corporate risk from banks to capital markets to a much larger extent than traditional securitisations. The predominant asset classes in balance sheet transactions are loans large corporates and SMEs, followed by trade finance (see Figure 4).[8]

To maximise the objective of capital relief, BSSS originators tend to select asset classes with high risk weights. Moreover, the EBA analysis indicates that originators of BSSS tend to select portfolios that represent their core business, which might reflect demand from investors to ensure alignment of interest. Indeed, it is less common for stressed or over-leveraged assets to be included in BSSS than in traditional securitisations, which might partly explain the observed difference in terms of default rates. Retail exposures, such as residential Mortgage-backed securities (RMBS) or consumer loans, also tend to appear less frequently in BSSS as they have lower risk weights, thereby bringing less benefit in terms of capital relief, and are more likely to be subject to internal concentration limits, such as in terms of geographical location, type of borrower or economic sector, which makes them more suitable for traditional securitisation.

Figure 4: Asset classes breakdown, EUR million

[8] Data from recent years indicates increased diversification of asset classes to include specialised lending (including infrastructure loans), commercial real estate, residential real estate, trade receivables, auto loans, as well as more esoteric classes such as micro loans and farming loans.



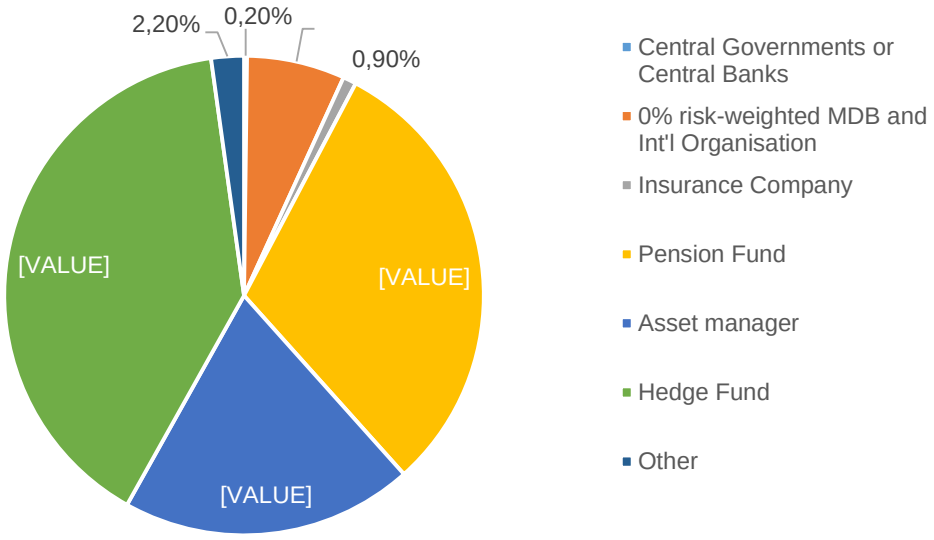
Source: EBA, IACPM

Market characteristics

The originators are now mostly banks, in particular large and systemically important banks using Internal Rating-Based models for calculating capital requirements. The main reasons for an originator to seek entering into a BSSS are credit risk management and releasing capital. The latter is becoming increasingly important in light of regulatory developments, such as the adoption of the Basel III framework and the application of IFRS 9.

The majority of investors in synthetic securitisation are non-bank entities, usually highly specialised in credit investing and experienced in portfolio due diligence. The investor pool consists primarily of hedge funds, pension funds and asset managers, while insurance companies represent a negligible minority (see Figure 5). Recent years have seen the entry of multilateral development banks[9] and international organisations (including the EIB/EIF which continue to be an important investor in the SME market).

Figure 5: Investors, in terms of % volume of distributed tranches over 2008-2019



Source: IACPM, EBA; Note: MDB – Multilateral Development Bank

[9] The multilateral development banks, exposures to which are eligible for a 0% risk weight, are listed in Article 117(2) of the CRR.

The credit protection mechanisms used in BSSS evolved substantially in the aftermath of the global financial crisis. Unfunded credit protection mechanisms (bilateral, privately negotiated credit derivative contracts, such as Credit Default Swaps) have been almost entirely replaced by funded protection (involving an upfront payment to the protection buyer, thus removing counterparty risk exposure, such as Credit Linked Notes). Indeed, the EBA highlights in its report that 90% of the credit protection provided by the private investors is now funded credit protection.

Beyond this additional security provided by the change in the use of credit protection mechanisms, the financial crisis brought about major changes in the way risk is shared and transferred within the market. According to the EBA's analysis, originators tend now to transfer the junior and/or mezzanine element of the portfolio's credit risk and retain the senior tranche of the same portfolio. The senior tranche would typically be the largest of the tranches and would represent on average around 87% of the total volume of transaction. This is an important change in practice compared to the pre-crisis period, when a "super" senior tranche[10] would typically be placed with investors. The EBA observed that in response to the entry into application of the new securitisation framework, junior tranches appear to have become thicker, which might attract new investors into the market.

In terms of geographical distribution, many of the larger transactions have been concentrated in a few Member States (UK, Germany, Spain, France, and Italy), although transactions have also been seen in other EU Member States. The EBA's analysis also shows that the majority of the transactions contain multi-jurisdictional exposures, with most of them involving exposures outside Europe.

4. WOULD BALANCE-SHEET SYNTHETIC SECURITISATIONS REQUIRE A SPECIFIC STS FRAMEWORK?

Desirability analysis

The pro's and con's analysis conducted by the EBA suggests that introducing a specific STS framework for BSSS is likely to bring many long-terms benefits to financial markets and the real economy and is, to that extent, expected to improve overall financial stability.

The main benefits of the extending the label are, as the name implies, enhancing simplicity, transparency and standardisation of the synthetic securitisation product. This would address some of the main concerns that have been attached to synthetic securitisation, such as its perceived complexity, riskiness, likelihood of arbitrage and fraud, and the information asymmetries involved. The assessment of risks, by the parties involved as well as by supervisors, would be enhanced and the overall monitoring of the market would be greatly facilitated. Even if the market remains largely bespoke and bilateral, competent authorities would be notified of each transaction that claims the STS label and would have the opportunity to follow up with the parties involved. Finally, market standardisation would make it easier for new originators to enter the market, which could also attract more investors.

Furthermore, the roll-out of the final elements of the Basel III reform would increase the importance of credit risk and capital management tools, such as BSSS. In this context, making sure that the market develops within the parameters of the robust STS framework avoids the risk of re-emergence of the harmful practices of the past and would benefit financial stability.

However, the EBA warns that the introduction of a specific STS framework for BSSS needs to be diligently accompanied by supervision to avoid negative consequences. In particular, just like with the

[10] Designating a "super" senior tranche was a technique used by originators of synthetic securitisations before the global financial crisis, in order to stress the deemed risk-free nature of the most senior tranche in the securitisation structure. Typically, the tranche below the 'super' senior one would be rated AAA, thus giving the "super" senior tranche the nickname "AAAA-rated".

cash securitisation STS label, the risk of moral hazard, such as negligence by less sophisticated investors, might increase due to a possible perception that the STS label inherently means a low-risk product independent of differences between individual transactions or positions within transactions.

Additionally, there is a question whether the introduction of an STS framework for BSSS might lead to less issuance of traditional STS securitisation. The likelihood of this risk materialising is however not significant. Also the EBA points out that no materially significant impact on traditional securitisation should be expected given the different functions and objectives – both for originators and investors – of the two instruments.

Finally, it should be noted that currently, the international framework for simple, transparent and comparable securitisation, developed by the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO), excludes synthetic securitisation from its scope. Based on the data collected and the technical analysis performed by EBA, there is prudential evidence to consider a specific STS framework for BSSS.

Feasibility analysis

According to the EBA, a specific STS framework for BSSS would need to take account of the structural specificities of the product that differ from traditional securitisation. In particular, these include counterparty credit risk, modalities of the credit transfer, as well as the different motivations and perspectives for the protection buyers and sellers.

Taking the existing STS criteria for true-sale securitisations as a basis, the EBA has identified a set of STS criteria that can apply to BSSS, while at the same time addressing the specificities of the latter. The identified criteria also seek to ensure that risky assets that are out of scope for traditional STS securitisations, such as non-performing loans, corporate mortgage backed securities or collateralised loan obligations, woud remain out of scope of the STS label.

When it comes to simplicity and transparency, many of the true-sale STS criteria can be applied also to synthetic transactions. Some would need to be modified or replaced as they are not relevant in synthetic transactions. For example, the true-sale criterion and its enforcement should be replaced with a definition of balance sheet synthetics, carefully drafted to excluding arbitrage transactions, and requirements to ensure robustness of credit protection contract. Some new criteria, such as specifying credit protection premiums and early termination events, have also been deemed necessary.

The EBA proposes a more substantial review of the standardisation criteria as only a few general ones would be relevant in synthetic transactions, such as the risk retention requirement. Others, such as the mitigation of interest rate and currency risks or the allocation of losses and tranche amortisation, have been modified to better reflect the nature of BSSS practices. Finally, a number of new criteria specify key aspects such as credit protection mechanisms, synthetic excess spread, credit events and credit protection payments. Standardising this largely bespoke market has been seen as one of the key challenges to building an efficient STS framework. The proposed set of criteria takes into account existing best market practices in order to set a prudent and workable standard.

Annex II provides a full list of the STS criteria identified by the EBA.

As with true-sale STS securitisations, the synthetic STS label should not be taken to mean that the securitisation concerned is free of risks, but rather that the product respects a number of criteria and that a diligent protection seller and buyer, as well as a national competent authority, will be able to analyse the risk involved. The identified criteria take into account the different objectives of synthetic securitisations, i.e. done for capital/risk management purposes as opposed to funding, no true sale transfer of the underlying assets, exposure to counterparty credit risk, etc., and therefore seek to ensure protection for both originators and investors (as the originator is also an investor in the

transaction, retaining the senior tranche). By contrast, the true-sale STS framework aims to maximise protection for the investor only, as the sale of the assets to an SSPE makes protection for the originator less relevant.

5. PREFERENTIAL CAPITAL TREATMENT

From a prudential point of view, synthetic securitisations are currently treated as traditional (true-sale) non-STS securitisations. The only exception to this approach is provided in Article 270 of the CRR for the synthetic securitisations of SME loans. Article 270 targets the senior tranche retained by the originator of synthetic securitisations fulfilling a set of limitative criteria:

- at least 70% of the securitised exposures need to be exposures to SMEs, as defined in Article 501 of the CRR;
- the securitisation meets the true-sale STS criteria as applicable to a synthetic securitisation;
- the credit risk not retained by the originator is transferred through a guarantee, or counter guarantee, which complies with CRR requirements on credit risk mitigation, and the guarantor/counter-guarantor is either a) a central government or central bank of a Member State, a multilateral development bank or an international organisation, and qualifies for a 0% risk-weight treatment under the standardised approach for credit risk; or b) an institutional investor provided that the guarantee or counter-guarantee is fully collateralised by cash on deposit with the originator.

Despite some constrains in terms of collected data and practical experience with the traditional STS securitisation framework, the technical analysis carried out by the EBA could allow to conclude that the inherent risks linked to BSSS complying with adjusted STS criteria could call for reviewing the CRR toward a more risk-sensitive capital treatement of the senior tranche of those instruments, aligning it with the preferential treatment of traditional STS securitisations. As observed by the EBA, this would be justified by the good performance of BSSS compared to arbitrage synthetic securitisation and traditional securitisation, with in particular low default and loss rates. In addition, the extention of the STS label would allow to better appreciate simpler, more standardised and more transparent synthetic securitisations, where reduced agency and modelling risks can be expected.

As mentioned by the EBA Report, BSSS are currently not part of the STS framework developed by the Basel Committee, which is centred on traditional securitisations. This deviation from Basel standards would be nonetheless prudentially motivated by data and technical analysis justifying the prudential soundness of an extension of the STS framework to BSSS.

The extension of the STS framework to BSSS would allow the latter to benefit from the established preferential capital treatment for the STS product. This could be nonetheless framed by a targeted review of Article 270 of the CRR ensuring a) an extension of the preferential capital treatment offered by this Article to all STS-compliant BSSS, independently from the type of underlying exposure (by deleting provisions currently restraining this article to BSSS composed of at least 70% of securitised exposures on SMEs), while b) maintaining the already existing limited scope of the preferential capital treatment to the senior tranche retained by the originator, deemed less risky. As a consequence of these adjustments, the senior tranche retained by the originator would be subject to a risk weight floor of 10%.

Overall, the combined review of the STS framework and the CRR in the case of BSSS, by allowing for a differenciated prudential treatment of STS compliant BSSS compared to non-STS compliant BSSS and arbitrage securitisation, would increase the risk sensitivity of the prudential framework and reinforce the attractiveness of the STS framework.

6. CONCLUSIONS

The analysis conducted by the EBA shows that it is possible to set standards for synthetic securitisation that allow mitigating the main drivers of structuring risk, such as agency and model risks, in the same way as for traditional securitisation, thereby creating a subset of synthetic securitisation that is comparable to STS traditional securitisation. In fact, evidence shows that historical performance of balance-sheet synthetic securitisation tends to exceed that of traditional securitisations for the same asset class. Indeed, from a technical perspective, there is no evidence that would suggest that synthetic securitisation structure inherently results in higher losses than traditional securitisation structure. A sound synthetic structure does not negatively affect the performance of the securitisation.

The analysis does not point to any material negative consequences that could be foreseeably generated by the creation of a specific STS framework for balance-sheet synthetic securitisations. On the other hand, reviving the synthetic securitisation market and ensuring that it develops within the robust STS framework entails a number of positive benefits for banks, financial market and financial stability in general. The risk transfer from banks to the non-banking sector is one of the main objectives of the Capital Markets Union and by facilitating the availability of credit to those who need it, could promote economic growth.

Based on the EBA analysis, it is possible to create a specific framework for STS balance-sheet synthetic securitisations and to establish a differentiated regulatory treatment, limited to adjusting the prudential floor for the senior tranche, that should be retained by the originating credit institution, to a level equivalent to the traditional STS framework.

ANNEXES

Annex I: Summary comparison of synthetic market pre- and post-crisis

	Synthetic market pre-crisis	Synthetic market post-crisis
Market	Public	Private or bilateral
Type of securitisation	Arbitrage and balance sheet	Almost exclusively balance sheet
Private/Public	Mostly public and rated	Mostly private and bilateral
Assets	Mostly corporates	Mostly corporates, diversification and addition of new asset classes
Originators	Larger to mid-tier banks, standardised banks moving to IRB	Large banks, mostly SIFIs
Investors	Broad, ABS mainly	Narrow, alternative mainly
Structure	Full synthetic structure (senior + junior)	Mezz/junior only
Credit protection mechanism	Unfunded	Funded, and unfunded for public

Source: EBA, Integer Advisors

Annex II: Overview of STS criteria and comparison with STS criteria for traditional securitisation

Criterion	Comparison with criteria for traditional (non-ABCP) securitisation (references to Articles in Securitisation Regulation)
Simplicity	
Criterion 1: Balance sheet synthetic securitisation, credit risk mitigation	Replacement of the criterion on true sale/assignment/assignment at later stage, clawback provisions, representations and warranties on enforcement of true sale (Art. 20(1) – (5) of the Securitisation Regulation) – with definition of balance sheet synthetics and requirement to ensure robustness of credit protection contract (credit risk mitigation criteria)
Criterion 2: Representations and warranties	Adaptation of the the criterion on representations and warranties (Art. 20(6): extension of the required representations and warranties and adaptation of their objective and content
Criterion 3: Eligibility criteria, no active portfolio management	Adaptation of the criterion on eligibility criteria, no active portfolio management (Art. 20(7)): adaptation of allowed portfolio management techniques, inclusion of additional conditions for removal of the underlying exposures in securitisation
Criterion 4: Homogeneity, enforceable obligations, full recourse to obligors, period payment streams	*Similar (Art. 20(8))*
Criterion 5: No transferable securities	*Similar (Art. 20(8))*
Criterion 6: No resecuritisation	*Similar (Art. 20(9))*
Criterion 7: Underwriting standards and material changes thereto	Adaptation of the criterion on underwriting standards and material changes thereto (Art. 20(10): additional clarification with respect to the types of eligible obligors and with respect to the underwriting of the underlying exposures
Criterion 8: Self-certified loans	*Similar (Art. 20(10))*
Criterion 9: Borrower's creditworthiness	*Similar (Art. 20(10))*
Criterion 10: Originator's expertise	*Similar (Art. 20(10))*
Criterion 11: No defaulted exposures or exposures subject to outstanding disputes	*Similar (Art. 20(11))*
Criterion 12: At least one payment made	*Similar (Art. 20(12))*
NEW criterion: Credit protection premiums	Specifying that the credit protection premiums should be contingent i.e. the actual amount of premium paid should be a function of the size and the credit risk of the protected tranche. No guaranteed premiums, upfront premium payments, rebate mechanisms or other mechanisms of similar nature are to be allowed
NEW criterion: Early	Specifying an exhaustive, limited number of early

termination events	termination events
Standardisation	
Criterion 13: Risk retention requirements	*Similar (Art. 21(1))*
Criterion 14: Appropriate mitigation of interest rate and currency risks	Adaptation of the criterion on appropriate mitigation of interest rate and currency risks (Art. 21(2)): to further specify measures for appropriate mitigation of interest rate and currency risks, adapted to synthetic securitisation
Criterion 15: Referenced interest payments	*Similar (Art. 21(3))*
Criterion 16: Requirements after enforcement/acceleration notice	Adaptation of the criterion on requirements after enforcement/acceleration notice (Art. 21(4)): adapted to reflect that not all synthetic securitisations use SSPE
Criterion 17: Allocation of losses and amortisation of tranches	Adaptation of the criterion on requirements for non-sequential priority of payments (Art. 21(5)): adapted with additional requirements for pro rata amortisation and allocation of losses
Criterion 18: Early amortisation provisions/triggers for termination of the revolving period	Adaptation of the criterion on early amortisation provisions/triggers for termination of the revolving period (Art. 21(6)): adapted with requirements for early amortisation only in the case of the use of an SSPE
Criterion 19: Transaction documentation	Adaptation of the criterion on transaction documentation (Art. 21(7)): with additional requirements for servicing standards and procedures
Criterion 20: Servicer's expertise	*Similar (Art. 21(8))*
Criterion 21: Reference register	Replacement of the criterion on definitions, remedies in the transaction documentation (Art. 21(9)): requirements for the transaction documentation to specify payment conditions is covered in separate criteria
Criterion 22: Timely resolution of conflicts between investors	*Similar (Art. 21(10))*
NEW criterion: Credit events	Definitions of credit events, including reference to existing CRR text, and forbearance measures
NEW criterion: Credit protection payments	Criteria for credit protection payments, including that they should be based on the actual realised loss
NEW criterion: Credit protection payments following the close out/final settlement at the final legal maturity of the credit protection agreement	Specifying criteria for ensuring a minimum degree of timeliness in credit protection payments
NEW criterion: Synthetic excess spread	Specifying the conditions, under which the originator would be allowed to commit to synthetic excess spread in the transaction. The interplay between synthetic excess spread and a potential assessment by the supervisor of the achievement of significant and commensurate risk transfer should be specified.
NEW criterion: Eligible credit protection, counterparties and collateral	Specifying a clear set of rules for the credit protection arrangement and the collateral in the transaction.
Transparency	
Criterion 23: Data on historical default and loss performance	*Similar (Art. 22(1))*

Criterion 24: External verification of the sample	*Similar (Art. 22(2))*
Criterion 25: Liability cash flow model	*Similar (Art. 22(3))*
Criterion 26: Environmental performance of assets	*Similar (Art. 22(4))*
Criterion 27: Compliance with transparency requirements	*Similar (Art. 22(5))*
NEW criterion: Verification agent	Establishing the need to appoint an independent third-party verification agent to verify specified elements of the credit notice for each underlying exposure.

Source: EBA