**EBA Consultation Paper Draft RTS Specifying the determination by originator institutions of the exposure value of synthetic excess spread pursuant to Art 248(4) of Regulation (EU) No 575/2013**

This document provides the response of the Dutch Securitisation Association ("DSA") on the EBA Consultation Paper dated 9 August 2022. We welcome the opportunity to react on this Consultation Paper.

**DSA Background**

The Dutch Securitisation Association was established in 2012 as representative body of the Dutch securitisation industry. Our membership includes issuers of securitisations both from the insurance and banking industry as well as finance companies, and we are operating in close cooperation with the Dutch investor community. Our purpose is to create a healthy and well-functioning Dutch securitisation market. We try to achieve this i.a. by providing a standard for documentation and reporting of Dutch RMBS, BTL and Consumer ABS transactions, promoting further standardisation and improvements in transparency, and active involvement in consultations about future regulation of the securitisation market.

Against this background, we would like to provide our comments, on behalf of all Dutch issuers joined in the DSA, on the EBA Consultation Paper on the determination of the exposure value of synthetic excess spread (individual DSA members may submit their own responses).

**Our general comments**

*In our view, the approach to capitalize all future EL in the proposed models will lead to uneconomical results and will eliminate the option to use SES.*
*We strongly suggest to continue using the method as currently applied by the ECB (one year EL), or a comparable alternative.*
*Any alternative approach should be based on the following conditions:*
*-a level playing field between true sale and synthetic transactions*
*-no capitalisation of future interest margins.*

**Our answers on the questions**

- Question 1: Do respondents find the provisions clear enough or would any additional clarification be needed on any aspect?

*Answer:*
*We wonder whether the definition of UIOLI captures the different forms of UIOLI actually seen in transactions, like losses being allocated in the period*

*the credit event occurs (rather than the period the loss is actually realized) and 12 months rolling UIOLI.*

- Question 2: Do you agree with the possibility of choosing between the full and the simplified model approaches in a consistent manner?

*Answer:*
*We do not agree. Institutions should have the option to use a model depending on the specific characteristics of a transaction and asset class.*
*If this option is not available, institutions would also have to use the Simplified Model Approach, since they will never know beforehand whether they can provide all the input required for the Full Model Approach for future transactions.*
*We also have a problem with the annual review provisions. Especially for the Simplified Model Approach such a review seems unnecessary burdensome.*

- Question 3: . Instead, would you favor that the RTS consider only one method (i.e. the full model approach or the simplified model approach) for the calculation of the exposure value of the synthetic excess spread of the future periods?

*Answer:*
*If there is no possibility to choose one of the approaches depending on the specific circumstances (see our answer on Question 2), we would prefer to have one method.*

- Question 4: Do you agree with the specifications of the asset model made in Article 3?

*Answer:*
*First of all, we would like to point to the fact that the cumulation of different asset models (WAM, SRT, SES) makes structuring of transactions extremely complex.*
*Furthermore, we notice that the determination of payments under Art 3 is a cumulation of conservative assumptions:*
*-unchanged drawing until maturity under revolvers*
*-no amortization of replenished exposure*
*-expected prepayments not to be taken into account*
*This sums up to an unrealistic and unnecessary uneconomic outcome.*
*As alternatives we suggest:*
*-use credit conversion factors for drawings under revolvers*
*-replenished exposures amortizing in line with initial exposures*
*- expected prepayments to be taken into account*

- Question 5: Do you agree with the specifications for the determination of the relevant losses made in Article 5?

*Answer:*
*We note that the IRB models sometimes require regulatory add-ons and are generally based on a margin of conservatism. So this again leads to an overstatement of the actual risks.*

- Question 6: Do you agree with the calculation of the exposure value of synthetic excess spread for future periods made in Article 6?

*Answer:*
*We agree with the calculation as proposed in Article 6 (average of the 3 scenario's). The front- and backloaded scenario's could produce rather extreme outcomes, like in a situation where the EL% exceeds the SES% in the first or last period and consequently the loss absorbing capacity will be lower over the full period. An average of scenario's would at least dampen this effect. Also, we do not see any correlation between one of the scenario's and the actual materialisation of losses that would justify a preference for a scenario-based approach.*

- Question 7: Shall the average of the scenarios be made in a different way for UIOLI and trapped mechanisms (e.g. back-loaded and evenly-loaded only for UIOLI mechanisms, and front-loaded and evenly-loaded for trapped mechanisms)?

*Answer:*
*No, we think it should be based on the average of the 3 scenario's in both Models. Our answer on Question 6 applies in this regard to both UIOLI and trapped.*

- Question 8: Do you agree with the specification of the simplified model approach made in Article 7?

*Answer:*
*With regard to the WAL we refer to our comments on Art 3. A WAL calculated based on conservative assumptions with regards to drawings, amortization and prepayments, will be unrealistic.*

- Question 9: Do you consider that the formula can be further simplified (e.g. by using the maturity of the credit protection multiplied by a conservative scalar instead of WAL)?

*Answer:*
*Using a scalar would not do right to the amortization characteristics of the underlying portfolio.*

- Question 10: Do you agree with the scalar assigned for UIOLI mechanisms? If not, please provide empirical evidence that justifies a different scalar based on the different loss absorbing capacity of UIOLI vs trapped mechanisms.

*Answer:*
*We understand from our members that the proposed scalar leads in certain cases to materially different exposure values between the 2 Models*

- Question 11: Regarding the current supervisory practices on SES, described in paragraph 9 of the background section, the question is whether these practices could be adapted while keeping them aligned with the amended regulation, and the relative impact they would imply in comparison with the approaches included in the draft RTS. One way to try to further adapt the current supervisory practices on UIOLI SES to the provisions of the amended regulation could be by taking into account the part that is expected to cover for losses in the next period instead of the part that it is not, including at issuance of the transaction, keeping the rolling-window approach. Would you favor that approach? If so, how do you think that this rolling-window approach for calculating UIOLI SES will affect the efficiency and viability of synthetic transactions in comparison with the current supervisory practices? Please justify your response with specific illustrative examples or data.

*Answer:*
*Both the current regulatory practice based on 1yr EL, as the proposed alternative rolling window approach are approaches strongly supported by our members. Both approaches are also more in line with the intention of the CRR (Art. 248) than the 2 approaches of the Consultation Paper.*

- Question 12: Do you agree with the treatment of the ex-post SES of future periods in the RTS? If not, please provide rationale and data supporting your views.

*Answer:*
*We do not agree with the overly conservative treatment as proposed and would strongly suggest to continue the current supervisory practice or any alternative producing comparable outcomes.*

- Question 13: Do you have any other comments on these draft RTS?

*Answer:*
*We miss any kind of grandfathering provisions or at least a phase in period, which is especially problematic where (i) the exposure value has to be calculated based on a complicated asset model for which internal checks and validations have to be in place and (ii) originators have to decide on an approach to be used for all current and future transactions.*