



## **ESMA Consultation Paper on the Draft technical standards on disclosure requirements, operational standards, and access conditions under the Securitisation Regulation**

This document provides the response of the Dutch Securitisation Association (“DSA”) on the ESMA Consultation Paper dated 19 December 2017.

We welcome the opportunity to commend 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, 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 and Consumer ABS transactions, promoting (in close cooperation with PCS) 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 commend, on behalf of all Dutch issuers joined in the DSA, on the ESMA Consultation Paper on the draft technical standards on disclosure (individual DSA members may also provide their own comments).

### **Our comments**

Q 1: Do you agree with ESMA’s initial views on the possibility of developing standardised underlying exposures templates for, respectively, CDOs and “rare and idiosyncratic underlying exposures”? If you perceive a need to develop one or all of these underlying exposure templates, please explain in detail the desirable consequences that this would have. As regards CDOs, if you are in favor of developing a dedicated template, then please also indicate whether ‘managed CLOs’ and ‘balance sheet CLOs’ should be dealt with under the same template or separately under different templates.

*-CDO’s: agree that a template should only contain references (ISINs); CLOs should be covered by a (to-be developed) corporate template (the current template for SMEs is not suitable for large corporate exposures);*

*-WBS: it is indeed not useful to develop a template;*

*-Rare and Idiosyncratic: it could be useful to develop a template for future application.*

Q 2: Do you agree that ESMA should specify a set of underlying exposure disclosure requirements and templates for NPL securitisations, among the set of templates it will propose to the Commission? If so, do you agree that the draft EBA NPL exposures templates could be used for this purpose? Are there additional features (excluding investor report information, discussed in section 2.1.4 below) that are pertinent to the securitisation of NPL exposures that would need to be reflected or adjusted, in relation to the draft EBA NPL exposures templates?

*We do agree that (a) template(s) for NPL securitisations should be available.*

*We have not commented on the draft EBA NPL exposures template and will not comment on it in the context of this Consultation.*

Q 3: Do you have any comments on the loan/lease-level of granularity for non-ABCP securitisations? If so, please explain, taking into account the due diligence, supervisory, monitoring, and other needs and obligations of the entities discussed above.  
*We support loan level data already for many years and will continue to do so. We note however that changes to the templates for such granular information require huge efforts of data collection departments and consequently should be contemplated with low frequency and long advance notification.*

Q 4: Do you find these risk-related fields proposed in the draft templates useful? Do you see connections between them and the calculation of capital requirements under the SEC-IRBA approach provided for in the CRR?

*We would like to point to the fact that insight in competitor's PD/LGD info may lead to undesirable consequences (search for the lowest common denominator). Given the current debate about floors for (inputs in) internal models, it is also not to be expected that institution specific IRB results will become useful as "proxy data", so we see also no direct benefit in including them in the templates in this context.*

Q 5: Do you have any views on the contents of the non-ABCP securitisation underlying exposure requirements found in the templates in Annexes 2 to 8 in the ITS (located in Annex V to this consultation paper)?

*As a general comment, we would like to emphasize the importance of providing clear and unambiguous definitions for all fields in the templates. Experience with the ECB taxonomy has learned that (unintended) wrong interpretations of requirements for specific fields can lead to serious delays and disruptions in the completion of the data.*

*Apart from issues around the risk related fields (see Q 5), we have identified several other problematic fields. The following analysis for RMBS, the most active asset class in our jurisdiction, also applies to many aspects of the other templates:*

*First of all, 23 currently optional fields will become mandatory. Of those fields, a number will reveal already existing problems, like RESL 11 and 12 regarding secondary income: for old vintages of mortgages these data are not always available.*

*Another category consists of those fields that do not seem applicable at least in our jurisdiction (RESL 22, principal grace period and date; RESL 36, length of payment holiday), or that are only used in very specific cases (RESL 42, interest cap rate).*

*Also there are a number of fields that will be difficult to fill since they look back in time, like RESL 69 (date of sale), RESL 76 (cumulative prepayments), RESL 82 (date of restructuring) and RESL 84 (date last in arrears).*

*And we note an inconsistency between RESL 5 (requiring a unique identifier per property) and RESL 62-67 (indicating that if there are multiple properties, only the main property should be used). In our view, all properties should be used in determining the Value.*

*Secondly, there are also 24 fields identified as new fields, where similar issues can be found, like missing data in older vintages (RESL 7, primary income type, RESL 16, customer type), not applicable in our jurisdiction (RESL 77, prepayment lock-out end date; RESL 78, prepayment fee end date), only used in specific cases (RESL 50, interest rate floor, RESL 81, prepayment fee), or looking backwards (RESL 79, prepayment date; RESL 80, cumulative prepayments).*

*The data on energy performance (RESL 59 and 60), though not counting for the data quality measurement, will be initially be incomplete and only be filled over a long period in time.*

*And last but not least, it will be a challenge to report RESL 72, default according to the CRR definitions, especially for those transactions that have been structured based on their own specific/non-CRR default definition.*

Q 6: Do you agree with the reporting of ABCP underlying exposures to be segmented at the transaction level?

*We have no specific comments on segmentation at transaction level. In practice, individual transactions tend to consist of only one asset class.*

Q 7: Do you have any views on the contents of the ABCP securitisation underlying exposure requirements, found in the template located in Annex 9 in the ITS (Annex V to this consultation paper)?

*This template seems to be more RMBS focused and not very useful for trade receivable securitisations.*

Q 8: Do you agree with the proposed reporting arrangements for inactive exposures? If you prefer the alternative (i.e. require all inactive exposures to continue to be reported over the lifetime of the securitisation), please provide further evidence of why the envisaged arrangement is not preferred.

*Yes, we do agree.*

Q 9: Do you have any views on these proposed investor report sections? Are there additional fields that should be added? Are there fields that should be adjusted or removed? Please always include field codes when referring to specific fields.

*Most of the information is already available in the current standard DSA Investor Reports and/or the Prospectus. Some fields in the non-ABCP template do not seem to be relevant for non-ABCP (Overcollateralisation: field INVSS 11 and Dilutions: field INVSS 29) and some fields may be difficult to fill: INVSS 31, default exposures CRR, may be difficult for those transactions that have been structured based on their own specific/non-CRR default definition, INVSS 34, restructured exposures and INVSA 5, amortising account, are both not easily available.*

Q 10: Do you have any views on the 'protection information' and 'issuer collateral information' sections, for synthetic securitisations?

*We have a serious problem with the requirement to make the name of a protection provider publicly available (INVSN 5-7).*

Q 11: Synthetic ABCP securitisations have not been observed in Europe—to ESMA's knowledge. However, do you see a need to extend the ABCP securitisation invest report template to cover potential synthetic ABCP securitisations?

*There has been at least one, but this is not expected to be repeated.*

Q 12: Do you agree with the proposal that ISIN-level information should be provided on the collateral held in a synthetic securitisation using CLNs? If you believe aggregate information should be provided, please explain why and how this would better serve the due diligence and monitoring needs of investors, potential investors, and public bodies listed in Article 17(1) of the Securitisation Regulation.

*Yes, we do agree.*

Q 13: Do you consider it useful to have this static vs. dynamic distinction in the templates?

*Yes, it is useful in our view.*

Q 14: Do you have any views on these 'No data' options? Do you believe additional categories should be introduced? If so, please explain why.

*It is very important to stay as close as possible by existing definitions. We note however that, since jurisdictional selection in the template has disappeared, a ND category indicating "not applicable for this jurisdiction" may be useful.*

Q 15: Do you have any views on these data cut-off date provisions?

*We are happy that the requirements as developed by the ECB continue to be applicable.*

Q 16: How much time would you need to implement these disclosure requirements? Do you have views on the date of effect of these disclosure requirements?

*Given the large number of optional fields to be turned into mandatory and the complicated nature of some new fields, we see the implementation of the ESMA templates as a complex operation, not much different from the original implementation of the ECB templates.*

*So a transition period of 12 months would be required in our view. For this period certain (quarterly) milestones should be defined in terms of gradual improvement of the data. And for those transactions not meeting all data requirements after the transition period, further steps in the data quality improvement process should be prescribed.*

Q 17: Do you agree with the proposed technical format, ISO 20022, as the format for the proposed template fields? If not, what other reporting format you would propose and what would be the benefits of the alternative approach?

*We subscribe to the comment of the European Data Warehouse that the ISO 20022 standard can be used for daily reporting and providing feedback messages, but better not for the template fields, where it is recommended that CSV and XML be used.*

Q 18: Do you agree with the contents of the item type and code table? Do you have any remarks about a system of item codes being used in this manner?

*We do agree with the item types and codes, but we miss an explanation of how summaries of agreements (items 17-22) should look like.*

Q 19: Do you agree with the proposal to require the use of XML templates for securitisation information collected by securitisation repositories?

*Yes, we do agree.*

Q 20: Do you agree with the requirement that securitisation repositories produce unique identifiers that do not change over time?

*Yes, this is already industry practice. The identifiers can also be linked to the LEI's of the SSPE's.*

Q 21: Do you agree with the usefulness and contents of the end-of-day report?

*An end-of-day report may help to compare the contents of separate repositories, so can be a useful tool.*

Q 22: Do you agree that securitisation repositories should, at a minimum, offer a secure machine-to-machine connection platform for the users listed in Article 17(1) of the Securitisation Regulation? If not, please explain why and what you would propose instead as a minimum common operational standard.

*We do agree.*

Q 23: Do you believe that other channels besides SFTP (such as messaging queue), are more appropriate? If so, please outline your proposal and explain why.

*We recommend that a web portal and/or an API can also be used. These alternatives have been applied in the past successfully by the European Data Warehouse.*

Q 24: Do you agree with the available fields for creating ad hoc queries? Are there other fields that you would like to include? Please explain why if so.

*We agree, but with certain restrictions as indicated in the response of the European Data Warehouse (ad-hoc queries to be limited to a certain maximum number of loans, like 100.000).*

Q 25: Do you agree with the deadlines for securitisation repositories to provide information, following a data access query? Please explain if not and provide an alternative proposal and justification.

*We agree with the deadlines.*

Q 26: Do you agree with the 60 minute deadline for securitisation repositories to validate data access queries and provide a standardised feedback message? Please explain if not and provide an alternative proposal and justification.

*We agree with the 60 minutes deadline.*

Q 27: Do you agree with the mandatory use of XML format templates and XML messages? If not, please explain why and please provide another proposal for a standardised template and data exchange medium.

*Yes, we do agree.*

Q 28: Do you agree with the use of the ISO 20022 format for all securitisation information made available by securitisation repositories? If not, please explain why and please provide another proposal for a standardised information format.

*In line with our answer on Q 17, we agree that the ISO 20022 standard can be used for daily reporting and providing feedback messages, but better not for the template fields, where it is recommended that XML be used.*

Q 29: Do you agree with the data completeness score provisions? Are there additional features that you would recommend, based on your institution's needs as per the Securitisation Regulation?

*The completeness scores as developed by the ECB have been a useful tool in the early implementation of the loan-level-data. We agree with their ongoing application by ESMA.*

Q 30: Do you agree with the data 'consistency' provisions? Are there additional features that you would recommend be examined?

*We agree with the continuation of the current practice as proposed by ESMA.*

Q 31: Do you agree that the securitisation repository, in order to verify the "completeness" of the securitisation documentation reported to it, should request written confirmation each year, as described above?

*We propose to require a documentation completeness and consistency check from one of the securitisation parties, or preferably the third-party verification agent, up-front and whenever a transaction is restructured. Annual confirmation does not add any value when f.i. a securitisation is restructured 1 month after the most recent confirmation / 11 months before the next one.*

*We also refer to our earlier question (under Q 18) that we miss an explanation of how summaries of agreements should look like.*

Q 32: Do you agree that the securitisation repository should verify the "consistency" of documentation reported under points (b), (c), (d), (f), and the fourth subparagraph of Article 7(1) of the Securitisation Regulation by asking for written confirmation of its "consistency" as part of the same "completeness" confirmation request?

*Yes, subject to the same comments as in our answer on Q 31.*

Q 33: Do you see a need to develop standardised language for the written confirmation?

*We do not see a direct need, but in general standardisation is welcome.*

Q 34: Do you agree with these 'free of charge' proposals?

*Not entirely. Access to investors and especially potential investors of proprietary information like formulae used by securitisation repositories is undesirable. Repositories should be challenged to develop the best formulae and not be allowed to just copy them.*

Q 35: Do you agree with the data access conditions for each entity listed in Article 17(1) of the Securitisation Regulation? If not, please explain your concerns and what access conditions you instead consider appropriate.

*Yes, we do agree.*

Q 36: Do you consider that additional specifications should distinguish 'direct and immediate' access to information? If so, please explain why the above provisions are insufficient for your purposes and what you instead propose.

*No there is no need to distinguish between direct and immediate access.*

Q 37: Do you believe that there should be a specific deadline for reporting entities to be able to make corrections for information submitted to a securitisation repository? If so, please set out the reasons why a principle-based approach is insufficient and, furthermore, what deadline you propose.

*No, we agree with corrections to be made "without undue delay".*

Q38 Do you agree with the outcome of this CBA on the disclosure requirements?

*The costs, also for reporting entities already working with ECB templates may be underestimated. While the mandatory fields in ECB templates were often "low-hanging fruit", the previously optional and the new fields may require much more effort to fill.*

*The comparison based on net increases in fields may be relevant for the ongoing reporting efforts, but not for the upfront work. Reporting entities do not get hours/money credited for fields they no longer have to provide.*

Q39 Do you have any more information on one-off or ongoing costs of implementing the disclosure requirements or of working with the disclosure requirements?

*No, it is very difficult to track this cost information, also for reasons of competition.*

Q40 Do you agree with the outcome of this CBA on the operational standards and access conditions?

*Yes; the chosen options may create an extra entrance barrier for repositories, but that should not be a reason to choose less demanding options.*

Q41 Do you have any more information on one-off or ongoing costs of implementing the turnaround times for responding to reporting entities or to data queries?

*No.*