FSB request for feedback on the effects of G20 financial regulatory reforms on securitisation

This document provides the response of the Dutch Securitisation Association ("DSA") on the FSB request for feedback dated 30 August 2023. We welcome the opportunity to react on this request.

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 response, on behalf of all Dutch issuers joined in the DSA, on the FSB request for feedback (individual DSA members may submit their own responses).

Our comments

The extent to which securitisation reforms are achieving their intended objectives, especially the reduction of systemic and moral hazard risks

For the EU securitisation market, the ultimate proof may be a new crisis of the same magnitude as 2007/2008, which we hope will never happen. However, due to the regulatory landscape it is very likely that the EU securitisation market will not exist anymore by the time the next crisis hits. In the current market, it is obvious that STS criteria do very well to protect against systemic and moral hazard risks, so STS has clearly contributed to a reduction of risks. For securitisation in general, the Securitisation Regulation introduced measures on retention, due diligence and disclosure that effectively eliminated re-securitisation. This also reduced risks for non-STS securitisations, which is a good thing as well. We also note that loss rates on European securitisations are very low, but that is no different from the 2007/2008 episode.

Specific securitisation reforms (e.g. changes in bank prudential frameworks, risk retention requirements) which have had the greatest impact on originators, sponsors and investors

It is not easy to measure the impact of certain reforms in isolation, since they all apply simultaneously. However, (bank)investors mention the conservative treatment of securitisation in the LCR as the most impacting measure holding back issuance in response to the decreased attractiveness of investing in securitisation positions. For originators and sponsors the disclosure requirements, especially for private transactions, have been a major hurdle, but we hope that the current review of the ESMA templates will somewhat alleviate the problem. There is also uncertainty about several elements of the regulation, like the rules for Significant Risk Transfer; so problems that are currently not apparent, may still arise. Finally, for all issuers and investors in STS transactions, the level of the p factor is seen as not giving sufficient credits to the elimination of systematic and moral hazard risk by the application of STS criteria. P factors need to be investigated by the international standard setters as a matter of urgency, given the phase in of Basel 4.

The broader effects of these reforms on the functioning and structure of the securitisation markets as well as on financing to the real economy

Due to the gradual decline in (public) outstanding securitisation volumes, investors have been gradually closing their securitisation desks because of lack of critical mass. The market has shifted towards providing funding to originators with limited access to Central Bank liquidity and/or Covered Bonds on the one hand and providing capital relief to banks that can meet the SRT criteria on the other hand. Ultimately. also these 2 applications will disappear if no regulatory relief is provided, which will have a serious but hard to measure, impact on the financing of the real economy. Also, such a development would mean increased use of covered bonds, putting all financial eggs into a single basket when it comes to secured funding. From a financial stability perspective, it is our strong desire to have a combination of strong securitisation and covered bond markets in the EU.