EIOPA Consultation Paper on the Advice on the Review of the Securitisation Prudential Framework in Solvency II
This document provides the response of the Dutch Securitisation Association ("DSA") on the EUOPA Consultation Paper dated 15 June 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 EIOPA Consultation Paper on the Advice on the Review of the Securitisation Prudential Framework in Solvency II (individual DSA members may submit their own responses).

Our general comments

Since there is no specific question about the data section of the Consultation (pages 9-14) we would like to comment here as follows:
The comparison between the size of the investments of the solo/standard formula insurers (EUR 12.8 bln) with the investments of the total banking sector (EUR 800 bln), which mainly consists of paper retained as ECB collateral, is not very insightful.
In fact, the EUR 12.8 is a surprisingly high number compared to the total outstanding distributed amount in the European securitisation market (appr. EUR 300 bln).
It would have been interesting to know how much all insurers had invested in securitisation and in what kind of products.
The fact that insurers do invest in the more mezzanine/higher risk spectrum of securitisation market is no news. Bank treasuries are investing in securitisations for their liquidity portfolios, while Insurers are more interested in (higher) returns.

Our answers on the questions

- Question 1: Do you have any comment on the comparison of the securitisation capital charges with other asset classes with similar characteristics? (Section 1 – page 16)

Answer:
We are missing a comparison with whole loan investments, especially since our members have seen insurers switch massively from holding mortgage risk through securitisations to holding mortgage risk through whole loan portfolios. If a long duration exposure to a whole loan portfolio requires less capital than a short duration risk to a AAA position in a securitisation, the choice is obvious.
We are also missing the comparison with capital charges under CRR; although we appreciate that spread risk and default risk are not comparable methods, the outcomes are a factor 5-10 different and a such a relevant consideration in forming an opinion about capital charges for securitisations.

- Question 2: Do you see practical or legal difficulties in investing in securitisation with the STS label? Are you aware of any other factors, including regulatory rules other than capital requirements that could have a major impact on securitisation investment levels? (Section 1 page 16)

Answer:
There are many practical and legal difficulties in investing in securitisations. No capital markets product is so overregulated and providing so much detailed disclosure as securitisations, The due diligence requirements for institutional investors are way beyond what is required for other products. On top of that, insurers also have to check compliance with Art 243 of the CRR, a regulation that is not applicable to them, so where they are not expected to be familiar with.
And for STS transactions there is the additional due diligence requirement on the STS notification, although a verification by a regulated verification agent can help in this respect

- Question 3: Do you have evidence that the current calculation for capital requirements for securitisation (senior STS, non-senior STS and Non-STS) is not proportionate or commensurate with their risk? (Section 2 page 24)

Answer:
There is ample evidence that European securitisations have been performing extremely well during and after the 2007 crisis. Especially rating agency default studies could be very enlightening in this respect.
So where capital requirements for securitisations in excess of those for Covered Bonds could still be justified by the dual recourse character of the latter product, the same cannot be concluded for whole loans, corporate bonds etc.
Especially for STS securitisations, where agency and modelling risks are almost fully eliminated (see our answer on Question 11), the current capital requirements under Solvency II (and CRR) cannot be justified.

- Question 4: Do you agree with the calibration method used in this paper? Do you have any evidence that an alternative method could have been used? (Section 2 – page 25)

Answer:
We do agree with the method, but as indicated in the CP, lack of data and especially the (Covid) period covered cast doubt over the relevance of the outcomes as also is evidenced by the comparison with the AFME paper.

- Question 5: Do you agree with the conclusions obtained in this section? Do you have any evidence which suggests that the conclusions could be different? (Section 2 – page 25)

Answer:
Your conclusions are referring to the spread movements of European securisations during the Global Financial Crisis. We know now that these spread movements reflected the lack of transparency and due diligence which made many investors believe that European securitisations might be just as "toxic" as their US (non agency) equivalents. Over time it has become clear that in fact losses on European securitisations were minimal and with the Securitisation Regulation the transparency and due diligence issues have been redressed.
The spread widening was also a reflection of the lack of market liquidity.
As soon as the ECB started a purchase program for Covered Bonds, spreads for this product came in rapidly. Unfortunately it took a very long time before also securitisation could benefit from ECB support.
So we conclude that the GFC spreads for securitisations are not the right justification for the high capital requirements imposed by Solvency II.

- Question 6: What is your view on the proposed segmentation of the STS category: should the calibration of the Non-Senior STS Securitisation be differentiated between mezzanine and junior? (Option 1 or 2 of page 31) Please explain your view. If Option 2 is your preference, do you think it would encourage you to invest more into securitisation with the STS label? (Section 3 – page 43)

Answer:
Option 2 refers to non-STS so we assume that the reference in the question to non-senior STS is an error.
We are an organization of issuers, so we cannot indicate if and when we would be investing in securitisations.
However, we could see only a limited benefit in option 2 (splitting the non-senior STS category in two credit tranches). The risk-sensitivity is already reflected to a large extent in the different capital charges for the respective CQ categories.
And without an overall reduction of the capital charges the benefit will anyway be marginal.

- Question 7: What is your view on the preliminary conclusion not to implement the underlying exposure risk as a basis for the securitisation risk charges in Solvency II? Do you have any evidence which suggests that this conclusion could be different? (Section 3 – page 43)

Answer:
In our view, the capital charges for a senior (CQ 1) STS securitisation tranche should be lower than those for the underlying exposures. The securitized pool is the product of positive selection (sufficient geographical distribution, no defaulted assets, homogenous), and the AAA tranche benefits from a high level of protection through subordination.

- Question 8: What is your view on the preliminary conclusion not to implement the considerations for the thickness of non-senior tranches in Solvency II? Do you have any evidence which suggests that the conclusions could be different? (Section 3 – page 43) CONSULTATION PAPER ON THE ADVICE ON THE REVIEW OF THE SECURITISATION PRUDENTIAL FRAMEWORK IN SOLVENCY II EIOPA(2022)0026630 EIOPA REGULAR USE EIOPA- BoS-22/341 Page 46/47

Answer:
Our answer is the same as for Question 6. Increasing the risk-sensitivity may help, but this will only have a real impact if the overall capital requirements are reduced.

- Question 9: What is your view on the proposed segmentation of the non STS category: should the calibration of the non STS securitisation be differentiated between senior and non-senior? Please explain you view. (Option 3 or option 4 of page 36)? If Option 4 is your preference, do you do you think it would encourage you to invest more into Non-STS securitisation? (Section 3 – page 43)

Answer:
Option 4 refers to non-senior STS so we assume that the reference in the question to non-STS is an error.
We are an organization of issuers, so we cannot indicate if and when we would be investing in securitisations.
However, we could see only a limited benefit in option 4 (splitting the non-senior STS category in two credit tranches). The risk-sensitivity is already reflected to a large extent in the different capital charges for the respective CQ categories.
And without an overall reduction of the capital charges the benefit will anyway be marginal.

- Question 10: What is your view on the preliminary conclusion not to implement the hierarchy of approaches in Solvency II? Do you have any evidence which suggests that this conclusion could be different? (Section 3 – page 43)

Answer:
We agree. The option to use internal models already creates a hierarchy.

- Question 11: Do you consider that agency and modelling risks are reflected in an appropriate manner in Solvency II? If the answer is "No", please elaborate on the changes that you deem necessary. (Section 3 – page 43)

Answer:
The issue is somewhat comparable to the discussion about the "look through" approach and adverse selection and contagion risks in par 3.2 (Question 7). The difference in capital charges between STS and non-STS seem to reflect a lot of agency and modelling risk, but on top of that even STS Seniors do get a further capital surcharge for these risks as compared to (Covered) bonds and loans. This suggests a lot of agency and modeling risk, which for European securitisations does not seem to be justified based on historic default numbers.

- Question 12: What is your view on the preliminary conclusion not to use the maturity (as in CRR) for the Solvency II framework? (Section 3 – page 44)

Answer:
We appreciate the fact that since Solvency II is completely based on a spread methodology, modified duration is the more appropriate duration measure for Solvency II.

- Question 13: Do you consider that other technical amendments may be appropriate or desirable to improve that treatment of securitisation in Solvency II? If the answer is "Yes", please elaborate on the changes that you deem necessary (Section 3 – page 44)

Answer:
No, as indicated in answers on earlier questions: it is not a matter of further finetuning, it just requires lower capital charges if we want to revive the securitisation market.