Comments on the Securitisation Regulation (SECR)

GBIC, TSI, Leaseurope and Eurofinas welcome the opportunity to comment on the EC's proposed amendments to the SECR. As the consultation focuses solely on the SECR, our remarks address only the key proposed changes, although we would also have numerous comments on CRR related aspects.

1 Definitions of Public securitisation

The proposed amendments create legal uncertainty regarding the definition of 'public securitisation'. Moreover, the broadened definition would unintentionally capture many private transactions, including synthetic SRTs, ABCP transactions, and technically listed structures. A more precise limitation—such as explicitly covering only CLOs—would help avoid unintended consequences. Alternatively, the definition should be left unchanged.

2 Due-Diligence requirements in case of third country origination

While the proposal provides sensible relief for EU securitisations, it maintains requirements for third-country transactions that are practically impossible to fulfil, e.g. prescription of exhaustive disclosure templates. These rules significantly disadvantage EU investors as transaction parties located outside of the EU are not subject to such EU requirements. Not amending these requirements and recognising equivalent frameworks would further exclude EU-investors from global markets; therefore, allowing the use of market-standard disclosure packages for third-country securitisations instead of prescriptive EU templates.

3 Transparency requirements

The proposed changes are substantially positive and should be maintained as proposed. In some detail, the proposals are unclear, e.g. rules for highly granular portfolios. An aggregated reporting template should be applied for all public transactions with highly granular pools whereas for all private transactions a simplified template should be developed which should serve regulatory supervisory needs only. Additionally, a senseful definition of highly granular should be found.

4 STS framework and the obligation to use an SSPE

The mandatory involvement of an SSPE is unnecessary in many cases. Banks often purchase receivables directly onto their balance sheet—economically equivalent to SSPE-based structures but more efficient and without any additional insolvency risks. STS criteria should therefore be deemed satisfied even without an SSPE when all substantive safeguards are present and no external investors are involved.

5 Adjustments to STS criteria

Several proposed criteria are difficult to implement in practice. These include homogeneity rules, amortisation triggers for private transactions and restrictive residual maturity limits for ABCPs. Practical STS requirements are needed to preserve functionality. Therefore, these STS criteria should be revised.

6 STS – Safeguards for eligible unfunded credit protection

The EC proposals shall support the development of the synthetic STS market and the ability of originators to transfer credit risk outside the banking system, i.e. to (re-)insurers. However, safeguards are introduced, as no incentives for inexperienced or undiversified insurance undertakings should be created to become exposed to high levels of risk. However, as currently worded, such safeguards sharply reduce the number of eligible providers to near zero. Safeguards should be adjusted to broaden the market of (re-)insurers as providers of STS-eligible for unfunded credit protection.

7 Sanction regime

The sanctions regime should not be extended as sanction mechanisms are already in place for investors. Extending the regime increases uncertainty and raises market entry barriers for new investors.

Conclusion

Above-mentioned amendments are crucial to safeguard the competitiveness and functioning of the European securitisation market. If not carefully implemented the result will be a reduced ability of institutions to transfer credit risk out of the banking sector; and a weakening of the securitisation market's role in supporting lending to households and businesses.