

## Capital markets union: agreement reached on securitisation

On 30 May 2017, the presidency reached agreement with European Parliament representatives on proposals aimed at facilitating the **development of a securitisation market** in Europe.

A framework for securitisation is one of the main elements of the EU's 2015 plan to develop a fully functioning capital markets union **by the end of 2019**. Developing a securitisation market will help create new investment possibilities and provide an additional source of finance, particularly for SMEs and start-ups.

"This initiative will encourage financial market integration in Europe and make it **easier to lend to households and businesses**", said Edward Scicluna, minister for finance of Malta, which currently holds the Council presidency. "Tonight's agreement with MEPs will allow us to relaunch the securitisation market, defining a model for **simple, transparent and standardised** securitisations."

The agreement will be submitted to EU ambassadors for endorsement on behalf of the Council, following technical finalisation of the text. Parliament and Council will then be called on to adopt the proposed regulation at first reading.

Securitisation is the process by which a lender - typically a bank - refinances a set of loans or assets, such as mortgages, automobile leases, consumer loans or credit card accounts, by converting them into securities. The **repackaged loans** are divided into different risk categories, tailored to the risk/reward appetite of investors.

Following the US subprime crisis of 2007-08, public authorities took steps to make securitisation transactions safer and simpler, and to ensure that incentives are in place to manage risk. As a result of these reforms, all securitisations in the EU are now **strictly regulated**. However, in contrast to the United States where markets have recovered, European securitisation markets have remained subdued. This despite the fact that EU securitisation markets withstood the crisis relatively well.

Building on what has been put into place to address risk, the proposals differentiate simple, transparent and standardised (STS) products. The concept of 'simple, transparent and standardised' refers not to the underlying quality of the assets involved, but to the process by which the securitisation is structured.

### Issues resolved

One of the main political issues resolved relates to a so-called **risk retention requirement**. This refers to the interest in the securitisation that originators, sponsors or original lenders of securitisations need to retain themselves. The requirement will ensure that securitised products are not created solely for the purpose of distribution to investors.

The negotiators agreed to set the risk retention requirement at **5%**, in accordance with existing international standards and in line with the Council's negotiating position.

Other elements agreed with the Parliament include:

the creation of a data repository system for securitisation transactions, which will increase **market transparency**; a light-touch authorisation process for **third parties** that assist in verifying compliance with STS securitisation requirements. The aim is to prevent **conflicts of interest**. The text makes clear that, even when a third party is involved in the STS certification process, liability for compliance with the rules remains completely with originators, sponsors, original lenders and securitisation special purpose entities.

### Two regulations

The agreement with the Parliament covers two draft regulations:

one setting **rules on securitisations** and establishing criteria to define STS securitisation; the other amending regulation 575/2013 on bank capital requirements.

The first brings together rules that apply to all securitisations, including STS securitisation, that are currently scattered amongst different legal acts. It thus ensures consistency and convergence across sectors (such as banking, asset management and insurance), and streamlines and **simplifies existing rules**. It also establishes a general and cross-sector regime to define STS securitisation.

The text amending regulation 575/2013 sets out **capital requirements** for positions in securitisation. It provides for a more risk-sensitive regulatory treatment for STS securitisations.

The regulations require a qualified majority for adoption by the Council, in agreement with the European Parliament. (Legal basis: article 114 of the Treaty on the Functioning of the European Union.)

[Council Conclusions on the Commission Action Plan on building a Capital Markets Union](#)

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