

JOINT COMMITTEE ADVICE ON THE REVIEW OF THE SECURITISATION PRUDENTIAL FRAMEWORK (INSURANCE)

JC-2022/67
12 December 2022



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

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EXECUTIVE SUMMARY

This section is the response to the insurance part of the Call for Advice¹ (CfA) of the European Commission to the Joint Committee (JC) of the three ESAs for the purposes of the securitisation prudential framework review.

The analysis performed for this advice is based also on answers received by 98 European standard formula, solo (re)insurance undertakings through a quantitative and a qualitative questionnaire. In addition, it includes input received from stakeholders received at the Roundtable² which took place on the 22nd of June as well as through an open consultation which took place from the 15th of June until the 13th of July 2022³. EIOPA's preliminary conclusions included in the consultation paper were also presented at the Insurance and Reinsurance Stakeholder (IRSG)⁴ meeting on June 28, 2022.

The JC supports the objective of reviving the EU securitisation markets on a prudent basis with regards to the insurance sector. Nevertheless, based on the input received and the analysis performed, the JC does not advise changes to the current framework of Solvency II with regards to the prudential treatment of securitisation.

Key findings included in this section of the advice:

- 1) On the impact of the introduction of Senior STS , non-Senior STS and Non-STS provisions on the investment behaviour of (re)insurers enriched with information and data on the investment behaviour over the recent years the analysis shows the following findings:
 - Based on the questionnaire distributed to 98 solo (re)insurers 92% reported that the introduction of STS in 2019 had no major impact on their investment decisions.
 - Since the introduction of Solvency II, the majority of the (re)insurance undertakings that apply the standard formula to calculate their capital requirements have not been key

¹ The CfA is available under this [link](#)

² Roundtable information is available under this [link](#)

³ The Public Consultation is available under this [link](#). Overall, stakeholders reacting to EIOPA's proposals during the Roundtable and the consultation represented a wider spectrum of market participants and not only the insurance industry. They came primarily from the selling side of securitisation products (i.e. asset managers and banks).

⁴ Available under: [link](#)

investors in the securitisation market. Only a very small number has been active. Approximately 12% of the European standard formula (re)insurers have investments in securitisation. Among them, approximately 60% invest below 1% of their total investment assets. A small increase of 2.5 percentage points in the number of undertakings who invest in securitisation can be observed since the introduction of Solvency II.

- The introduction of the STS securitisations in 2019 has enabled some investments in these assets classes, but to date it has not had a significant impact.
 - Based on the questionnaire, 37% of the respondents mentioned their intention to increase their investments in securitisation in the next 3 years (63% foresee no change).
 - The Solvency II framework does not seem to be a significant driver for (re)insurers investment activity in EU securitisation. Although for a small number of undertakings capital charges play a role, the vast majority of the undertakings do not seem to be interested in this asset type as it does not match their investment preferences which are focused on the risk-return profile of the investment and the undertaking's asset-liability management.
- 2) On the assessment of the current capital requirements for spread risk on securitisation positions in Solvency II for senior STS, non-senior STS and non-STS the analysis shows that there is not sufficient evidence to conclude that the current framework is not fit for purpose. More specifically:
- At this stage, the evidence is not sufficient to justify a change in the calibration for securitisations which meet the STS criteria.
 - On the Non-STS segment of the market, it was also found that change in the calibration is not warranted. This is based on the analysis performed by EIOPA on historical spread volatility.
- 3) On the improvement of the risk sensitivity of the capital calibration as in: (i) mezzanine and junior tranches of STS securitisations, and (ii) senior and non-senior tranches of non-STS securitisations as well as to whether the existing calibration method of Solvency II could be elaborated in a manner coherent with the overall Solvency II framework providing with more consistency with the CRR's securitisation framework, EIOPA's analysis concluded that although some changes could be feasible, their potential effectiveness to the revival of the securitisation market remains uncertain. Therefore, the advice is to propose no changes to the existing framework.

Main reasoning behind this recommendation:

- Not to increase complexity to an already complex framework which was updated only three years ago;
- Uncertainty of effectiveness of measures; the potential cost of changing the existing framework is high given the low investment volumes and the very low participation of the insurance industry.

The CfA seeks the JC's assistance to assess the recent performance of the rules on the capital requirements of Solvency II relative to the framework's original objective of contributing to the sound revival of the EU securitisation market. The concern emerges from the fact that despite the introduction of the senior simple, transparent and standardised (STS) regime in 2019, insurance and reinsurance undertakings' participation in the EU securitisation market remains low.

The European Commission requested from the JC to look into the issue of low investment participation by analysing various elements such as: The impact of Solvency II as a driver to securitisation investments, the assessment of the current calibration under Solvency II and the extent that the current framework is risk sensitive. In addition it was also requested to identify possible improvements which can be made to the existing framework as well as ways that Solvency II could be elaborated further in a manner more consistent with the Capital Requirements (CRR⁵) securitisation framework.

⁵ Relevant for the banking industry.

INTRODUCTION

1. On 18th October 2021, the European Commission (COM) sent a Call for Advice⁶ (CfA) to the Joint Committee (JC) of the ESAs for the purposes of the securitisation prudential framework review. The CfA seeks the JC's assistance to assess the recent performance of the rules on capital requirements (for banks and (re)insurance undertakings) and liquidity requirements (for banks) relative to the framework's original objective of contributing to the sound revival of the EU securitisation market on a prudent basis.
2. Regarding the insurance sector, the calibration of capital requirements for investments in securitisation tranches was recently revised (with the adoption of the Commission Delegated Regulation (EU) 2018/1221) to reflect the new securitisation framework in the banking sector and creating a specific framework for simple, transparent and standardised securitisation (STS).
3. In 2019, the calculation of the capital requirements for securitisations held by insurance and reinsurance undertakings was modified and the introduction of simple, transparent and standardised securitisations (STS securitisations) taken into account. The stress factors were modified by replacing the previous categorisation according to type 1, type 2 and re-securitisations with the new classification in senior STS, non-senior STS, Non-STS and re-securitisations. Exposures to STS securitisations receive favourable capital treatment under the new regulation if certain conditions are met (STS eligibility criteria). Investors would need to carry out due diligence prior to holding a securitisation position.

Content

4. In order to respond to the CfA, this advice is structured in three main sections: (1) Investment behaviour of insurance undertakings; (2) Assessment of the securitisation capital framework and (3) Treatment of securitised products within CRR and comparison with Solvency II. For each section, the analysis performed is enriched with information received through a questionnaire completed by 98 (re)insurance undertakings. The aggregated information from the questionnaire can be found in Annex I. Furthermore, each section includes the summary of the relevant comments received by the stakeholders through the public consultation. The resolution table with the addressed stakeholder comments along with additional information and data is included in Annex II. It has to be highlighted that stakeholders who responded in the consultation represent a wider spectrum of market participants and not only (re)insurers.

⁶ Available under this [link](#)

Acknowledgments

5. The JC would like to thank all participants of the public consultation for their comments on the proposals. The responses received have provided important guidance in preparing this section of the advice. The JC would like also to thank the national supervisory authorities (NSAs) and the 98 individual undertakings that participated in the information request by completing the questionnaire.

1. INVESTMENT BEHAVIOUR OF INSURANCE UNDERTAKINGS

KEY FINDINGS OF THIS SECTION

- Investments on securitisation have been stable across Europe amounting to approximately 12.5 billion or 0.33% of total investment assets since the introduction of Solvency II⁷. 15 countries have undertakings with securitisation positions over 10 million euros (2021 data).
- Based on the information available in the Quantitative Reporting Templates (QRTs) dataset and on the answers received from the questionnaire⁸, the demand for securitisation investments as well the factors affecting those investments are very diverse across the insurance sector.
- Securitisation investments are relevant for a small number of (re)insurers. For the vast majority of (re)insurers the demand for securitisation products is low or non-existent.

(Re)Insurers securitisation investment overview

- A small number of solo standard formula undertakings (12% of the number of total solo undertakings or 255 individual undertakings) have investment positions on securitisation. Approximately 60% of those undertakings hold securitisation positions below 1% of their total investment assets (2021 data).
- Since the introduction of the STS label in 2019, the numbers for STS investments are relatively stable. A very marginal increase in investments can be observed within the senior STS segment of the securitisation market (Figure 8).
- The vast majority of the securitisation investments are made in the Non-STS segment⁹ (75% - 2021 data-Figure 8)
- Comparing the investment behaviour of (re)insurers and the treatment of securitisation within Solvency II one can observe:
 - (i) The capital charges for Senior STS and assets with a similar risk profile (corporate bonds, covered bonds) are broadly comparable.

⁷ This information refers to (re)insurers who use the standard formula only. For the purposes of this CfA internal model users are found out of scope since they are not affected by the current calibration.

⁸ The questionnaire was completed by 98 (re)insurers - coverage is 88% of total investments in securitisation

⁹ Or "Other securitisation". Please refer to the Delegated regulation, Article 178, paragraph 8 ([available under this link](#)). This category does not benefit from the STS label.

- (ii) The capital charges for non-senior STS are much lower than the Non-STS but (re)insurers seem to prefer the latter asset category. This is mainly attributed to the availability of Non-STS paper compared to the non-senior STS in the markets as well as to the additional obligations (re)insurers need to address when purchasing STS products.

Based on the input received by the questionnaire to individual insurance undertakings:

- 92% of (re)insurers reported that the introduction of STS in 2019 has had no major impact on their investment decisions.
- 37% of the (re)insurers reported that they intend to increase their securitisation investments in the next 3 years (63% foresee no change). The level of additional investments may vary across undertakings according to the responses received.

1.1 EXTRACT FROM THE CALL FOR ADVICE

Extract from the CfA covered in this section:

Page 4 of the CfA

Insurance and reinsurance undertakings

The Commission services seek advice primarily on the impact of the following provisions on the investment behaviour of insurance and reinsurance undertakings which set out the key parameters for the calculation of capital requirements on spread risk for securitisation positions

- The determination of risk factor stress for senior STS securitisation positions in Article 178(3) and 178(5) of Commission Delegated Regulation (EU) 2015/35;
- The determination of risk factor stress for non-senior STS securitisation positions in Article 178(4) and 178(6) of Commission Delegated Regulation 2015/35;
- The determination of risk factor stress for non- STS securitisation positions in Article 178(8) and 178(9) of Commission Delegated Regulation (EU) 2015/35;

The analysis should consider the information gathered under the previous section as well as the evolution of the share of investments in tranches of STS and Non-STS Securitisation positions on the balance sheet of insurance and reinsurance undertakings in recent years. It

should also take into account the capital requirements on spread risk for comparable instruments, such as corporate and covered bonds.

Page 6 of the CfA

Despite the revisions to the capital treatment of securitisation positions implemented in the Solvency II framework following the entry into force of the STS regime, insurance and reinsurance undertakings' participation in the EU securitisation market remains low. As previously explained, the Commission services request the JCs' advice:

(a) as to whether the Solvency II capital framework has been a significant driver for insurance and reinsurance companies' investment activity in EU securitisation markets in recent years, and whether other factors, including regulatory rules other than capital requirements, should be regarded as having had major impact;

1.2 RELEVANT LEGAL PROVISIONS

1.2.1 DEFINITION OF SECURITISATION

6. According to Article 2(1) of Regulation (EU) 2017/2402, a securitisation is defined as a transaction or scheme, whereby the credit risk associated with an exposure or a pool of exposures is tranching, having all of the following characteristics:
 - a) Payments in the transaction or scheme are dependent upon the performance of the exposure or of the pool of exposures;
 - b) The subordination of tranches determines the distribution of losses during the ongoing life of the transaction or scheme;
 - c) The transaction or scheme does not create exposures which possess all of the characteristics listed in Article 147(8) of Regulation (EU) No 575/2013¹⁰.
7. On the European Commission website¹¹, it is stated that 'when banks and other credit institutions package loans into securities and then sell them to investors, it is called "securitisation". It lets banks transfer the risk of some loans to other banks or long-term investors such as insurance companies and asset managers. This allows banks to use the capital that was set aside to cover the risk in those loans to create and sell new loans'.

¹⁰ (a) the exposure is to an entity which was created specifically to finance or operate physical assets or is an economically comparable exposure; (b) the contractual arrangements give the lender a substantial degree of control over the assets and the income that they generate; (c) the primary source of repayment of the obligation is the income generated by the assets being financed, rather than the independent capacity of a broader commercial enterprise.

¹¹ [Securitisation | European Commission \(europa.eu\)](https://ec.europa.eu/economy_finance/securing-finance/securing-finance_en)

8. Securitisation allows investors exposures to different types of risks and thus offers potentially increased diversification. Compared with a direct investment in the underlying asset pool structuring the loans into various tranches can also reduce the risk for investors. On the other hand, the riskiness of a securitisation depends also on the risk characteristics of the underlying asset pool as well as how the cash flows from the pool are divided among investors. Securitisations were a key driver in the global financial crisis (GFC) 2008/2009. The financial crisis has revealed the potential dangers and risks embedded in securitisations: the interests of originators and investors may not always be aligned. The originator is also typically better informed about the quality of the underlying assets. In addition to these complexities, transactions may be structured so as to lack a sufficient degree of transparency towards investors and other market participants.
9. Since the GFC, securitisation needs to comply with the general rules of the updated Securitisation Regulation which includes:
 - Risk retention requirements for the misalignment of interests between issuers and investors (the sponsor or original lender is required to retain 5% of the nominal value of each of the tranches sold or transferred to the investors) ;
 - Transparency requirements to prevent from the information asymmetry ;
 - Due diligence requirements in order to allow the investor to understand the risks properly;
 - Standardisation requirements to prevent from the risks of the use of complex derivatives;
 - Ban on re-securitisations.
10. The JC acknowledges that changes in the securitisation markets and their regulation since the Global Financial Crisis (GFC) have taken place. The EU took steps to mitigate the risks involved in securitisations.
11. Furthermore, in many areas the legislation has been updated and securitisation assets which were legal in the past are no longer available. However, it is difficult to quantify by how much these changes would reduce the volatility in a situation similar to the GFC.

1.2.2 SOLVENCY II PRUDENTIAL TREATMENT WITHIN THE STANDARD FORMULA

12. Within the Standard Formula of Solvency II, securitised products are in the scope of the spread risk sub module of the market risk module (Article 178 DR¹²), together with bonds, loans and credit derivatives. The risk factor (stress_i) of securitised products depends on several factors. For each securitised product, the level of shocks is defined in the regulation based on:

¹² As replaced due to the COMMISSION DELEGATED REGULATION (EU) 2018/1221 of 1 June 2018 amending Delegated Regulation (EU) 2015/35 as regards the calculation of regulatory capital requirements for securitisations and simple, transparent and standardised securitisations held by insurance and reinsurance undertakings

- Modified duration;
 - Whether the product is STS or non-STS.
 - Seniority¹³ (only if the products qualify as STS securitisation, for Non-STS the shocks applied do not differentiate between senior and non-senior tranches);
 - Credit Quality Step (CQS) from 0 to 6. The link between the CQS and the corresponding credit assessments are provided by the External Credit Assessment Institutions (ECAIs) through a provided mapping¹⁴.
13. The new segmentation used to produce the QRTs since the introduction of the STS label in 2019 is the following:
- Senior STS
 - Non-senior STS
 - Re-securitisations
 - Other securitisation (so called Non-STS in this document)
 - Transitional type 1 securitisation
 - Guaranteed STS securitisation

Senior STS securitisations which fulfil the requirements set out in Article 243 CRR are subject to the lowest capital charges, but still slightly higher than the ones applied to bonds and loans (please refer to pages 24-25).

Non-senior STS securitisations which fulfil the requirements set out in Article 243 CRR capital charges are around two to three times higher than Senior STS securitisations.

Re-securitisation and “other” securitisations are not distinguished by their seniorities and are assigned a capital charge higher than Non-senior STS securitisations.

Securitisations issued before 1 January 2019¹⁵ that qualify as type 1 securitisations in accordance with Article 177(2) in the version in force on 31 December 2018 are defined as the “**Transitional type 1 securitisation**” (article 178a DR) category and apply the same capital charges that the Senior STS securitisations, even where those securitisations are not STS securitisations.

Finally, regarding **guaranteed STS securitisation**, the positions that fulfil the criteria set out in Article 243 CRR and which are fully, unconditionally and irrevocably guaranteed by the European Investment Fund or the European Investment Bank, where the guarantee meets the requirements set out in Article 215 DR, apply a risk factor stress of 0 %.

¹³ The word ‘senior’ indicates that the exposure is the most senior tranche of a given securitisation structure.

¹⁴ [ESAs publish amended technical standards on the mapping of ECAIs | EIOPA \(europa.eu\)](#)

¹⁵ And where no new underlying exposures were added or substituted after 31 December 2018.

1.3 ANALYSIS

14. The analysis that follows, is based on data from the EIOPA Quarterly Reporting Templates (QRT) dataset and the input from the questionnaire received from the individual solo standard formula user undertakings via the national competent authorities (NSAs).

1.3.1 Data description

QRT dataset

15. Data used in this section are based on the annual template S.26 on Market and Spread Risk¹⁶ of the QRT dataset for solo undertakings, which use the standard formula since the introduction of Solvency II (2016–2021). This template provides information on the investments in securitisation based on the breakdown mentioned in the previous section: Senior STS, Non-Senior STS, Re-securitisations, Other Securitisation, Transitional type 1 securitisation and Guaranteed STS securitisation. During the quality check performed a small number of undertakings (outliers) were removed from the sample¹⁷.

Data received through the questionnaire

16. In addition to the QRT dataset, EIOPA performed an information request to European (re)insurance undertakings in order to get additional data on securitisation. The information request included a qualitative and quantitative part. 98 undertakings responded to the qualitative part. Among them, 43 provided additional data for this call for advice. In terms of coverage, the 43 undertakings who completed the quantitative part are approximately 88% of the total investments in securitisation available through the S.26 template which makes the information received very representative. Undertakings with amounts invested in securitisation of less than 10 million provided information through the qualitative questionnaire. The description of the sample, the questions asked and the consolidated replies of the qualitative questionnaire can be found in Annex I. The information of the quantitative part is included in the following sections and complements the data from the QRT dataset.

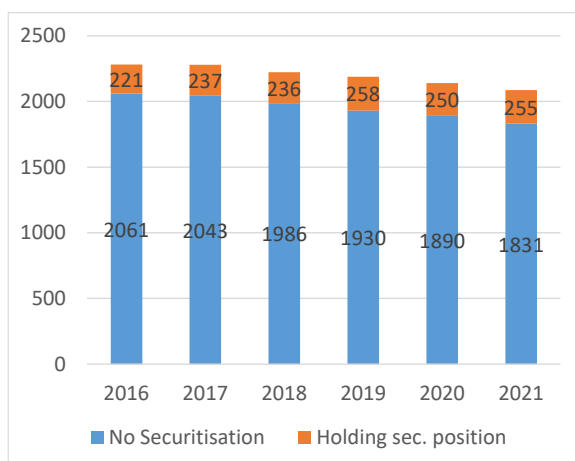
1.3.2 Participation of (re)insurers in securitisation investments

17. Figures 1 and 2 indicate that the number of solo undertakings investing in securitisation is relatively low compared to the total number of undertakings in Europe. One can observe a small increase of 2.5 percentage points since the introduction of SII over the last 6 years.

¹⁶ Template S26.01.01.01 - the section on spread risk includes all relevant information on securitisation.

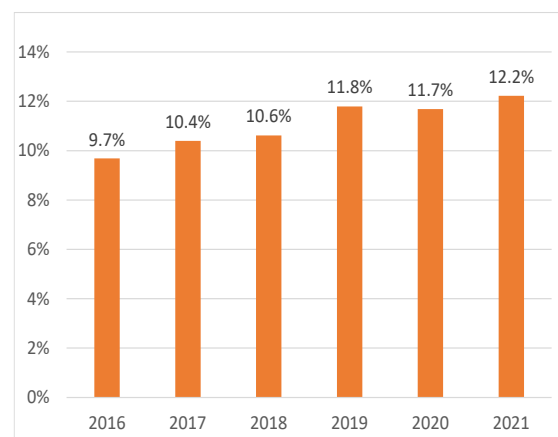
¹⁷ Mainly undertakings whose securitisation position exceeded the threshold of 100% to total investment assets.

Figure 1 – Number of Solo undertakings in the sample



Source: EIOPA - QRT dataset

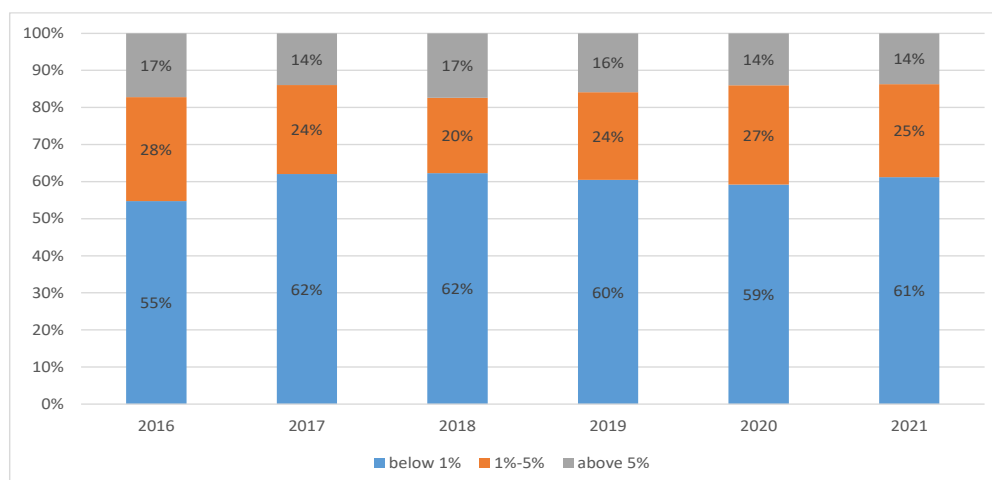
Figure 2 - Percentage of Solo undertakings who invest in securitisation out of total sample of solos



Source: EIOPA - QRT dataset

18. As shown in Figure 3, approximately 60% of the undertakings which invest in securitisation, invest in amounts below 1% of their total investment assets. Approximately 25% of the undertakings invest amounts between 1% to 5% of their total investment assets and only 15% invest in amounts more than 5% of their total investment assets. This investment trend is stable since the introduction of Solvency II.

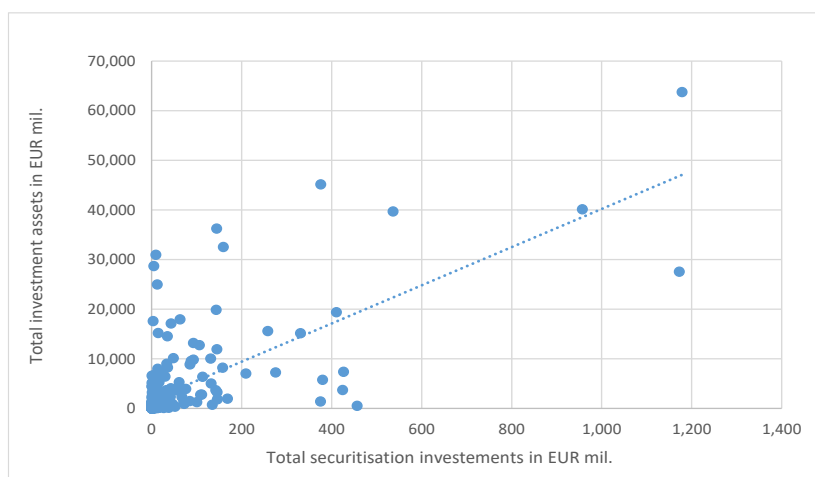
Figure 3 – Investments in securitisation as a percent to total investments for each undertaking



Source: EIOPA - QRT dataset

19. An additional observation which has to be made is that from the 255 (re)insurers who invested in securitisation in 2021 (figure 1), the vast majority are relatively small in size. Figure 4 below gives an indication of the size of the (re)insurers who invest in securitisation in relation to their size of total investments for 2021. The distribution of (re)insurers who invest in securitisation seems to be relatively skewed. Overall, a small number of undertakings make the majority of investments in securitisation. This can be seen by the correlation between the size of the insurer and its securitisation investments. This information is also confirmed by the responses received in the quantitative questionnaire.

Figure 4 – Investment in securitisation in relation to total investments per undertaking

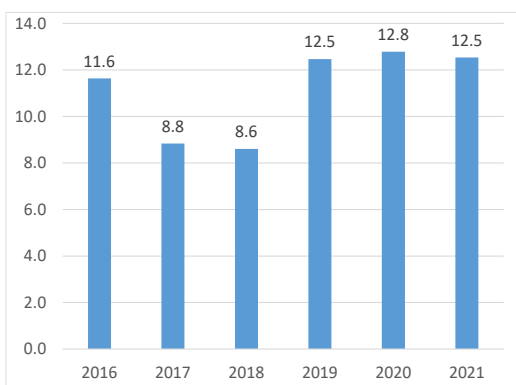


Source: EIOPA - QRT dataset

1.3.3 Overview of the European securitisation market

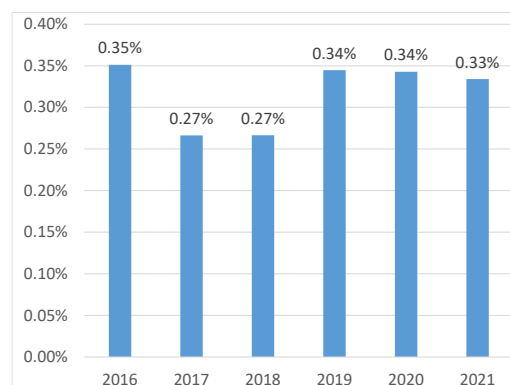
20. As shown in figures 5 and 6 the volume of investments in securitisation is low among EEA (re)insurers: 0.33% (12.5 billion euro) of total investment assets in 2021. More importantly the number is also relatively stable since the introduction of Solvency II. A small drop can be observed for the years 2017 and 2018 but the volume stabilizes to approximately 12.5 billion euros for the next three years. For 2021, the size of securitisation investments of full and partial internal model users (not shown in the figures) is an additional 5.7 EUR bn. In the banking sector, the total outstanding amount invested in securitisation in 2020 was approximately 800 billion euros (source: EBA).

Figure 5 – Securitisation positions in Europe since the introduction of SII (in EUR bn)



Source: EIOPA - QRT dataset

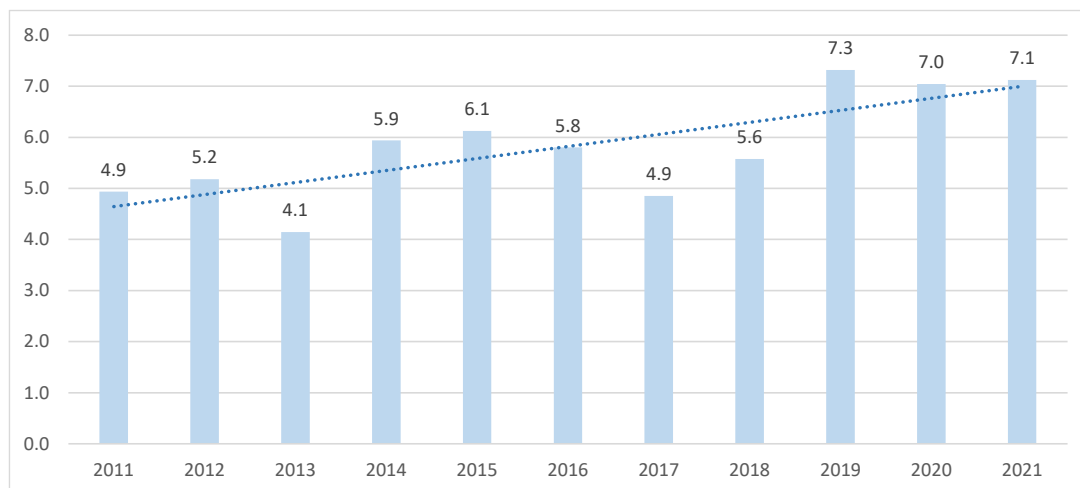
Figure 6 – Securitisation positions in Europe since the introduction of SII (in % to total investments)



Source: EIOPA - QRT dataset

21. Longer time series are not available through the QRT dataset. So in order to have an indication, EIOPA asked individual undertakings for the size of securitisation investments over the last 10 years. Overall, out of the 43 (re)insurers who completed the quantitative part, 18 provided data from 2010. In 2021 these 18 (re)insurers held investments of 7.1 EUR billion or approximately 57% of total securitisation investments reported in the QRT. This confirms the fact that the distribution of investments in securitisation is concentrated to a small number of companies. Results are shown on Figure 7. Overall, an upward trend in investments on securitisation can be observed. These undertakings increased their securitisation positions by approximately 45% since 2011. However, it has to be said that this trend concerns only the 18 (re)insurers who provided data.

Figure 7 – Investment in securitisation across (re)insurers since 2011 (in EUR bn)



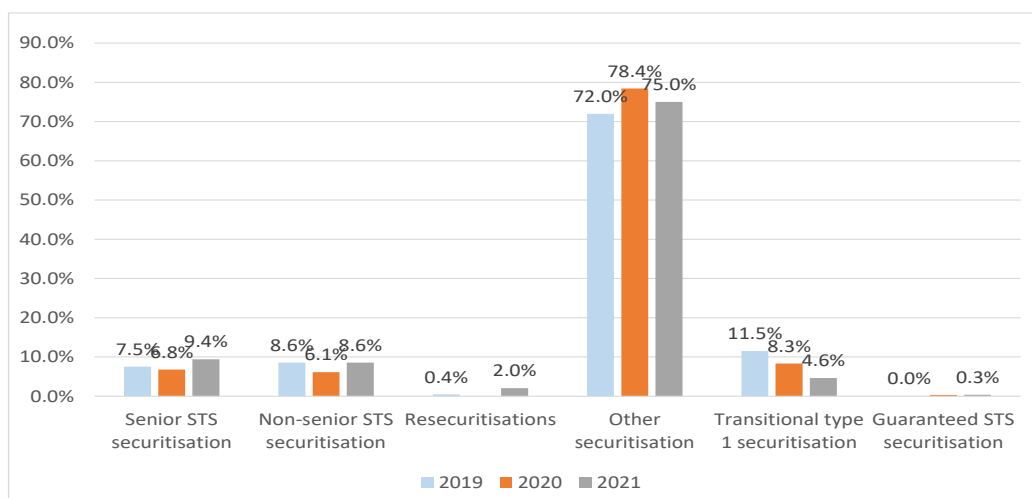
Source: EIOPA - Quantitative questionnaire

Note: Based on data received by 18 undertakings.

1.3.4 Securitisation by type

22. Since 2019, the STS breakdown has become available. Based on figure 8, one can observe that the sum of Senior and Non-senior STS is 16% in 2019 and 18% in 2021 indicating a small increase seen in the senior STS segment. The vast majority of securitisation investments is in the ‘Other securitisation’ (Non-STS) category, where an increase of 3 percentage points is observed from 2019 to 2021. For Transitional type 1 securitisation a downward trend can be observed.

Figure 8 – Investment in securitisation by type



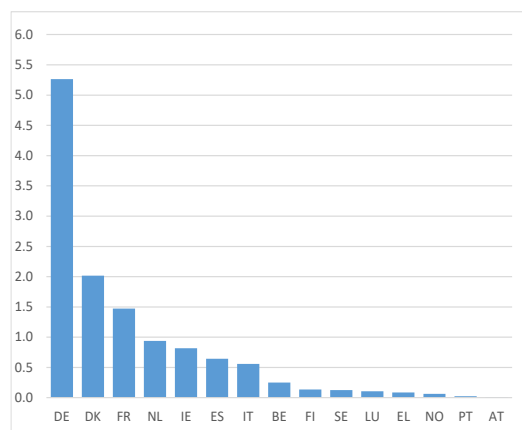
Source: EIOPA - QRT dataset

23. Prior to 2019, no breakdown for the type of securitisation has been available. From 2016 until 2018, 99% of the assets are under securitisations and approximately 1% under re-securitisations.

1.3.5 Securitisation investments by country and by type of business

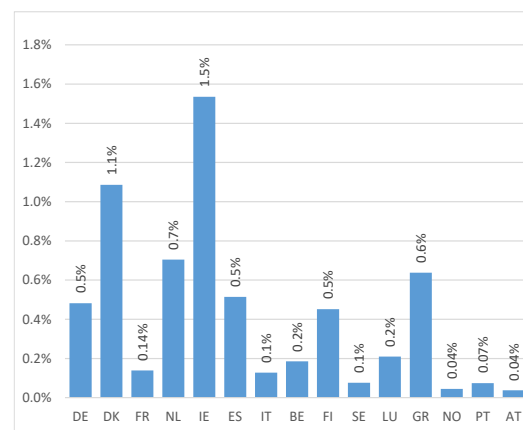
24. In figures 9 and 10, one can observe the country breakdown of securitisation investments. When looking at country data, only 15 countries have position over 10 million euros. In terms of percentage to total investment assets, only Denmark (with 1.1%) and Ireland (1.5%) stand out compared to others. Overall, percentages across countries are low.

Figure 9 – Securitisation positions per country for 2021 (in EUR bn)



Source: EIOPA - QRT dataset

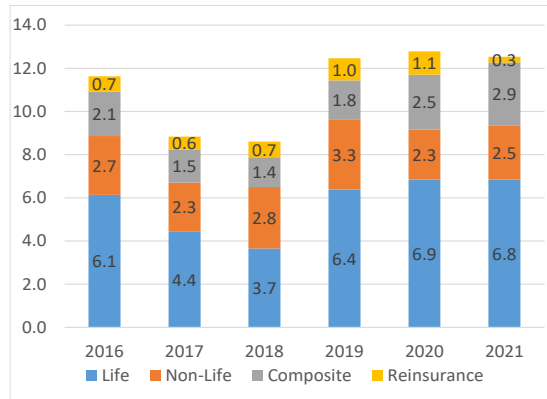
Figure 10 – Securitisation positions per country for 2021 (in % to total investments)



Source: EIOPA - QRT dataset

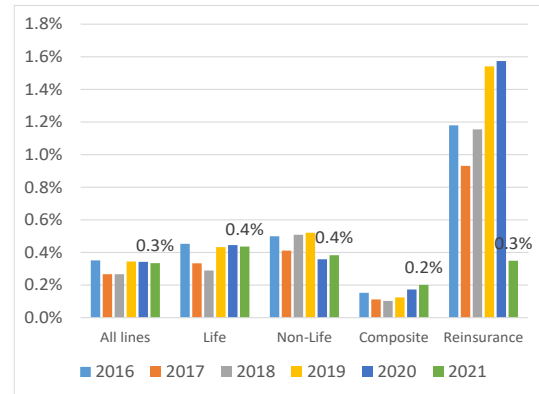
25. When looking at the data by line of business, approximately half of the assets are in life business (Figures 11 and 12). In terms of percentage to total investments, in relative terms the highest concentration can be seen traditionally in the re-insurance sector. However, in 2021 a drop is observed.

Figure 11 – Securitisation positions by line of business (in EUR bn)



Source: EIOPA - QRT dataset

Figure 12 – Securitisation positions by line of business (in % to total investments)

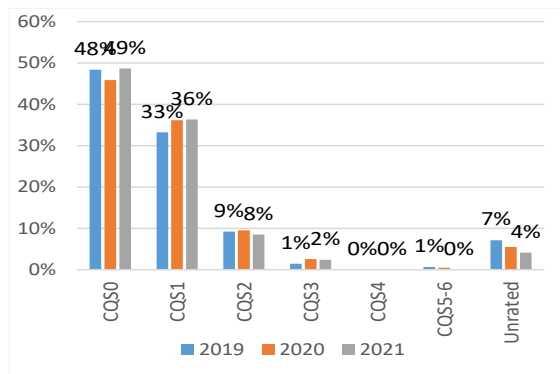


Source: EIOPA - QRT dataset

1.3.6 Securitisation investments by rating and by duration

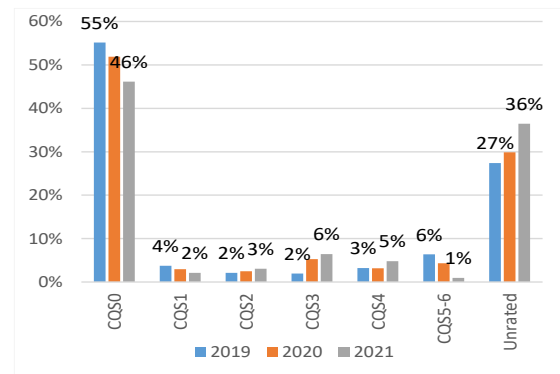
26. The STS and Non-STS breakdown by rating and by duration is not available through the QRT dataset. Therefore for the purposes of this CfA, this information was requested directly by the undertakings. The figures below (Figures 11-16) are based on the 43 submissions received through the quantitative questionnaire in Q2 2022.
27. For the STS segment (representing 18% of the total securitisation holdings in 2021) the majority of investments are under credit quality step (CQS) 0 and 1 (85% in 2021). For the Non-STS segment, (representing 75% of the total securitisation holdings in 2021) the majority of investments are under CQS 0 and unrated (82% in 2021). On the unrated Non-STS part, an increase of 9% is observed since 2019 (Figure 14).

Figure 13 – STS - Securitisation investments by Rating



Source: EIOPA - Quantitative questionnaire

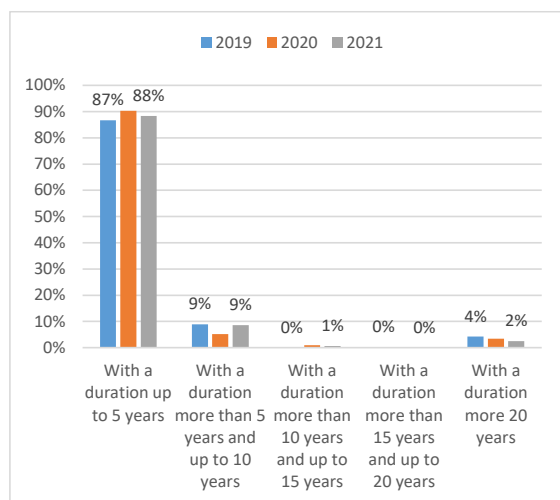
Figure 14 – Non-STS - Securitisation investments by Rating



Source: EIOPA - Quantitative questionnaire

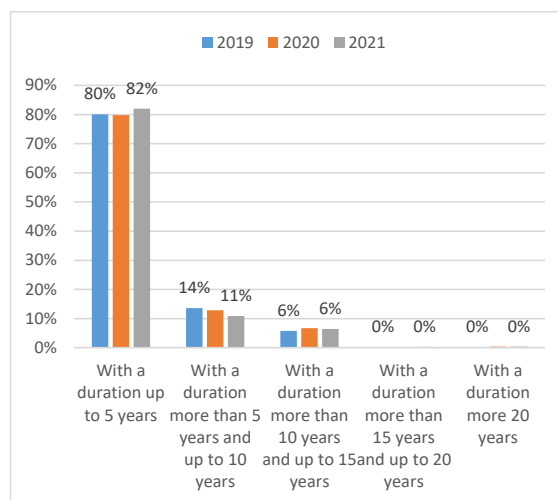
28. When looking at the duration breakdown, one can observe that for both the STS and the Non-STS segments, the majority of investments are under the 0-5 year category (88% for STS and 82% for Non-STS in 2021). When looking at the other duration categories, smaller amounts can be found in the 5-10 year category (Figures 13 and 14). This could be attributed to the availability of securitisation products for those duration categories.

Figure 15 – STS - Securitisation investments by Duration



Source: EIOPA - Quantitative questionnaire

Figure 16 – Non-STS - Securitisation investments by Duration



Source: EIOPA - Quantitative questionnaire

1.3.7. Impact of Solvency II on the investment behaviour in the EU securitisation market

29. In the previous sections, one can see that since the introduction of Solvency II investments in securitisation products have been overall stable. Overall, the introduction of STS may have brought some changes in the securitisation allocation of (re)insurers but no strong trends can be identified due to the limited time series. In addition to the data analysis, EIOPA asked individual (re)insurers on their investment behaviour with regards to securitisation through the qualitative questionnaire (Undertaking questions 1-1a-1b-1c-1d; detailed aggregate responses are available in Annex 1).

30. Overall:

- 68% of the responses indicated that Solvency II has not been a significant driver to the investment behaviour with regards to securitisation.
- 21% reported a decrease in securitisation investments and 9% indicated an increase; the estimated net effect is small but negative (-12%)

When looking at individual segments of the securitisation market one can observe that:

- Senior and non-Senior STS: More than 82% indicated 'No' or 'N/A' with regards to the impact of Solvency II on the senior and non-senior STS investments. More than 10% responded explicitly that there was no impact. (Responses to questions 1a and 1b¹⁸).
 - Non-STs: 65% indicated 'N/A' with regards to the impact of Solvency II on the Non-STs investments and an additional 10% explicitly responded that there was not impact. 17% mentioned lower investments and 7% higher (Response to question 1c).
31. The summary from the explanations provided indicate that the appetite of insurance undertakings with regards to investments in securitisation varies significantly. This can be partly explained by the individual undertaking Asset and Liability management. Each undertaking has a different liability structure and adjusts its investments accordingly. Therefore few undertakings seem to use securitisation for this purpose, whereas the vast majority seems not to do so.
32. The vast majority of the responses indicate no strong interest in this asset class. In some cases, the parent company or the group does not allow solo undertakings to invest in securitising. Some undertakings indicated the lack of interest existed before as well as after the introduction of Solvency II. A few undertakings mentioned that the high capital charges are the reason why they are not investing. A few also highlighted that their investment strategy is based primarily on risk and expected returns rather than directly to capital requirements.
33. Complexity of this asset class was also mentioned as a reason of not investing by a few undertakings. A few also mentioned that their preference is on other asset classes which show better risk-return profiles. One mentioned that at the moment there is lack of interesting STS securitisations.
34. An important finding of the survey based on some answers received is that it seems that if the undertaking's solvency position is very robust, the significant driver for investment activity is primarily risk and expected return rather than capital requirements.
35. Overall, the investment appetite towards securitisation remains diverse since each (re)insurer manages its investments based on its individual needs. The vast majority of the standard formula users in the sample seem to have never invested in securitisation and do not see the need to change their investment behaviour. A minority of (re)insurers (less than 20% within the sample) have been more active in investing in this asset class.

¹⁸ Question 1a – Investment behaviour impact by the article on Senior STS: 14% No, 7% Yes lower, 7% Yes Higher, 71% N/A

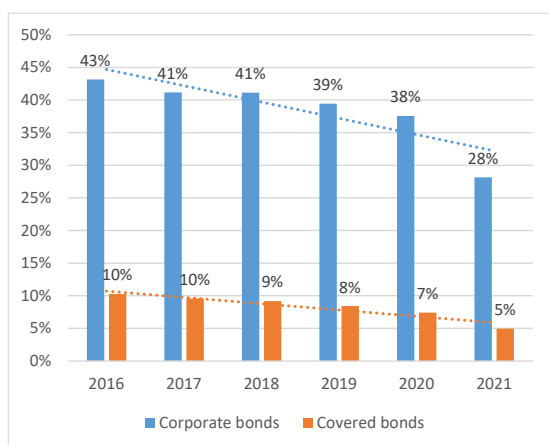
Question 1b – Investment behaviour impact by the article on Non Senior STS: 11% No, 10% Yes lower, 7% Yes higher, 71% N/A

1.3.8 Investments of European (re)insurers in Corporate and Covered bonds against Securitisation

36. In the figure 17, one can assess the developments in the holdings of so called comparable instruments to securitisation instruments, such as corporate and covered bonds.

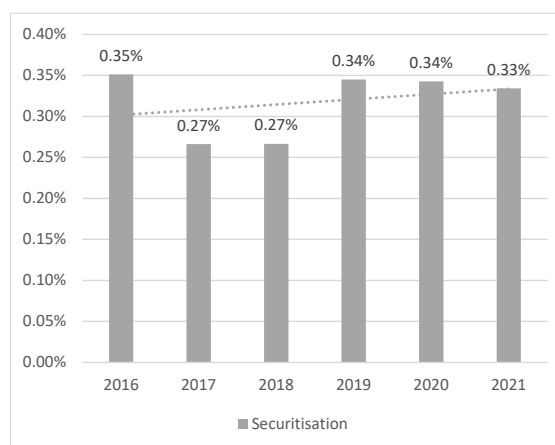
37. Figure 17 shows the holdings of (re)insurers in corporate bonds as well as for two types of corporate covered bonds¹⁹ available in the QRT dataset. In terms of percentage to total investment assets, the proportion of these two instruments is significantly higher than the proportion of securitisation. However, it is important to mention the downward trend since the introduction of Solvency II (-15 percentage points for corporate bonds and -5 percentage points for covered as a percent to total investments).

Figure 17 – Corporate and Covered bonds (in % to total investments)



Source: EIOPA QRT dataset

Figure 18 – Securitisation positions (in % to total investments)



Source: EIOPA QRT dataset

38. Furthermore, in addition to the available data, EIOPA asked individual (re)insurers on their investment behaviour with regards to covered and corporate bonds through the qualitative questionnaire (Undertaking questions 3 and 4).

39. The overview of the responses received from 98 solo standard formula (re)insurers is summarised below:

- For Covered bonds: 73% indicated no change, 17% indicated lowering the volumes and 9% increasing the volumes.

¹⁹ Corporate covered bonds include Common Covered bonds and Covered bonds under Spec Law, data from template S06

- Corporate bonds: 63% indicated no change, 15% indicated lowering the volumes and 21% increasing the volumes.

40. The vast majority of the participants to the questionnaire responded that the allocation of the investments to covered and corporate bonds remains unchanged since the introduction of Solvency II. On reason why investments have decreased in some cases is the existence of the low interest rate environment over the last years and the lack of sufficient return on those investments.

1.3.10 Comparison of capital charges for covered bonds, corporate bonds and various securitisation categories within Solvency II

41. Tables 1, 2 and 3 include the capital charges to be applied for covered bonds, “bonds and loans”²⁰ and securitisation categories for the selected durations of 5, 10 and 15 years; As requested in the Call for Advice “the analysis [...] should also take into account the capital requirements on spread risk for comparable instruments, such as corporate and covered bonds”.

Table 1 – Capital charges for duration of 5 years for three indicative credit quality steps

	CQS 1	CQS 3	CQS 5
Covered bonds	4.5%	-	-
Bonds/loans	5.5%	12.5%	37.5%
STS senior	6.0%	14.0%	47.0%
STS non senior	17.0%	39.5%	100.0%
non STS (other)	67.0%	98.5%	100.0%

Table 2 – Capital charges for duration of 10 years for three indicative credit quality steps

	CQS 1	CQS 3	CQS 5
Covered bonds	7.0%	-	-
Bonds/loans	8.5%	20.0%	58.5%
STS senior	9.5%	22.5%	73.5%
STS non senior	26.5%	63.0%	100.0%
non STS (other)	100.0%	100.0%	100.0%

Table 3 – Capital charges for duration of 15 years for three indicative credit quality steps

	CQS 1	CQS 3	CQS 5
Covered bonds	9.5%	-	-
Bonds/loans	11.0%	25.0%	61.0%
STS senior	12.0%	28.0%	76.5%
STS non senior	34.0%	79.0%	100.0%
non STS (other)	100.0%	100.0%	100.0%

Table 4 – Capital charges for equity and comparison of those to securitisation

	Equity risk - shocks applied (Art. 169)
Type 1 equity	39%
Type 2 equity	49%

42. According to the delegated regulation (Article 180.1), only covered bonds assigned to a credit quality step 0 or 1 receive a differentiated treatment. For CQS 3 and 5 covered bonds have the same treatment as “normal” bonds.

²⁰ This category includes corporate bonds

43. When looking at the credit quality step 1, the capital charges for covered bonds, “bonds and loans” and senior STS are approximately of the same magnitude. For all the three durations, the capital charges for covered bonds are slightly lower than the ones applied to “bond and loans” which are subsequently slightly lower than the ones applied to senior STS positions. The same conclusion also holds for credit quality steps 3 and 5, although for these steps the absolute differences between the risk charges for senior-STS and the other securitisations are much higher.
44. Regarding equity risk, shocks are approximately of the same magnitude with the non-senior STS or the senior STS senior with high credit quality steps on table 1. Despite the relatively high shocks compared to the shocks applied to STS securitisation products with a good credit quality step, the proportion of equity in the (re)insurers’ portfolio is significant. This comparison could imply that the level of capital requirements is not the main factor in the disinterest of insurer’s investment in securitisation products. For instance, higher returns from equity which are not available through securitisation could be a reason why.
45. When comparing the risk charges applied to senior and non-senior STS positions, as well as between non senior STS and ‘other Securitisation’ (Non-STS) positions, one can observe the following:
 - i. The risk charges applied to the Non-Senior STS positions are approximately 2.8 times higher than the ones applied to the Senior STS positions.
 - ii. The risk charges applied to the Non-STS positions are approximately 3.8 times higher than the ones applied to the Non-Senior STS positions for a duration of 5 and 10 years; and 3 times higher for a 15 years duration.
46. However, if one looks at figure 8, securitisation investments across senior STS, non-senior STS and Non-STS evidence demonstrate the following:
 - i. Although the treatment of Senior STS in terms of capital requirements is broadly similar to asset classes such as covered bonds or “bonds and loans”, only small amounts are invested by (re)insurers in this particular asset class (9.4% of total securitisation investments in 2021).
 - ii. The Non-senior STS category is subject to significant lower capital charges than the Non-STS category. However, evidence suggests, that the vast majority of investments in securitisation for (75% in 2021) are made to Non-STS. (Re)Insurers seem to be indifferent to the additional capital charges of Non-STS versus the non-senior STS. This can be attributed to the different types of securitisation product (ABS, MBS etc.) which fall under each STS segment as well as to the availability of the Non-STS paper compared to non-senior STS.
47. In order to better understand the investment behaviour of (re)insurers on this matter, EIOPA asked individual (re)insurers on the factors affecting their investment choices through the qualitative questionnaire (Undertaking questions 2-2a-2b-2c-2d-2e-2f):

48. Based on the qualitative questionnaire, approximately one third of the undertakings (33% of question 2) described factors other than Solvency II which relate to the investment activity in the securitisation market. The responses received by the individual undertakings have been very diverse. Overall:

- 74% of the undertakings reported that they have not changed their securitisation allocation since the 2008 crisis [Undertaking question 2a – Sum of ‘N/A’ (62%) and ‘No’ (12%)]. Approximately a quarter (26%) of the respondents mentioned that they have modified their investment allocation.
- 90% of the undertakings reported that the bad reputation on securitisation is NOT a reason that affects the desirability in securitisation investments [Undertaking question 2b – Sum of ‘N/A’ (59%) and ‘No’ (31%)]. However, 10% of the (re)insurers responded that it is a valid reason.
- 81% of the undertakings reported that the complexity of the securitisation products is NOT a reason that affects securitisation investments [Undertaking question 2c – Sum of N/A (58%) and No (23%)]. However, 19% of the (re)insurers responded that it is a valid reason.
- **92% of the undertakings reported that the introduction of STS in 2019 had no impact on their investment behaviour** [Undertaking question 2d – Sum of ‘N/A’ (58%) and ‘No’ (34%)]. Only 8% responded that there was some impact.
- 98% of the undertakings mentioned that the low interest rate environment is NOT a reason that made them invest less in securitisation products [Undertaking question 2e – Sum of ‘N/A’ (59%) and ‘No’ (39%)].
- Lastly, 83% of the undertakings reported that there are no additional factors which affect their investments in securitisation (Undertaking question 2e – Sum of ‘N/A’ (42%) and ‘No’ (41%)).

It has to be said that approximately two thirds of the (re)insurers in the sample are not major securitisation investors. This is why in many questions approximately two thirds of the responses are ‘N/As’. This is interpreted as low interest in this type of investments.

49. Among the 17% of the (re)insurers who replied yes to the additional factors affecting the investment behaviour with regards to securitisation (question 2e), the following responses stand out:

- Other asset classes show better risk-return profiles, for example Private Debt/Alternative Investments
- Other factors are considered when entering into a securitisation position, including macroeconomic and microeconomic dynamics at such time, as well as transaction specific features.

- Given the general profile and nature of the liabilities, (re)insurers tend to invest in longer duration fixed rate investments. Securitisation products are typically floating rate and have a shorter maturity, hence not a natural fit.
- Securitisation spreads for European ABS are less attractive compared to 5 to 10 years ago.
- Portfolio consists mainly of "hold - to - maturity" bonds. Securitisation investments do not fit into this portfolio due to embedded optionality.
- Limited offer of interesting opportunities in securitisation on local market
- Securitisation investments are not considered or not allowed due to group policy
- Different regulatory definitions and reporting frameworks across Europe and US
- Not part of the portfolio strategy
- Trying to avoid complexity.
- A few also mentioned the size of the capital charges

1.3.11 Future of securitisation investments across the insurance sector

On this topic (re)insurers were asked the following question:

- ▶ What is the appetite of (re)insurers to increase securitisation investments in the next 3 years? (Undertaking question 16).

Approximately 37% of the undertakings reported that they intend to increase their securitisation investments in the next 3 years (3% extremely or very, 20% moderately and 13% slightly). 63% foresee no change (of which 51% 'not at all' and 12% 'N/A'). From the ones who replied positively, some mentioned that the volume will depend on the market conditions and outlook. More specifically, the demand to European Asset Backed Securities (ABS) over the next 3 years will be driven by a number of factors including, growth of the business, liability profile of the new business, relative value of ABS compared to other asset classes. In addition, future transactions will depend on the fit within risk guidelines of the undertakings.

1.4 STAKEHOLDER INPUT

50. In this section answers to questions 1 and 2 from the EIOPA's public consultation²¹ are summarised.

²¹ The Public Consultation is available under this [link](#)

Stakeholder 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 of the consultation paper)

Stakeholder 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 of the consultation paper)

Summary of the feedback received

51. No policy options are considered in the two questions above. Stakeholders used this opportunity to highlight that capital charges are high compared to other assets with similar characteristics. Most of these remarks are related to the current calibration they are analysed in the stakeholder feedback section of chapter 2 of this advice. The introduction of the STS label was welcomed in 2019 by the majority of the stakeholders, however based on the feedback received, more in terms of lowering the capital requirements has to be done to allow the revival of the securitisation market.
52. A comparison with United States (US) was also made. In the US, capital charges for (re)insurers are significantly lower for similar type of securitisation products. In addition comparisons with other frameworks such as the CRR were mentioned.
53. In terms of process, legal difficulties on acquiring the STS label were highlighted by some stakeholders. More specifically:
54. The securitisation market is considered overregulated since the disclosure of information requested is very detailed. The due diligence requirements for institutional investors are way beyond what is required for other asset classes hence this is an additional obstacle for increasing securitisation investments
55. Lastly, on the point of why (re)insurers invest more on non-STS than in non-senior STS mentioned on page 25, an explanation was provided by the stakeholders. The availability of the securitisation products in the Non-STS is much higher than in the senior STS and better cover the needs of the investors. Decreased availability, in combination with additional obligations which are in place in relation to purchase of STS products make Non-STS securitisation products more attractive.

Resolution proposed by EIOPA

56. The majority of the comments received refer to the calibration section and are dealt in section 2. On the point made with the US, JC believes that given the overall differences in the two regulatory frameworks, a comparison does not seem meaningful mainly due to differences in the measurement of the risk. Furthermore, it is difficult to isolate the effect of the regulation

from other differences observed (e.g. in terms of products and the resulting asset-liability measurement requirements).

57. The JC also acknowledges there may be legal difficulties in investing in STS labelled products however this is part of the STS Regulation and therefore outside the remit of the JC.
58. On responses with regards to specific securitisation asset types mentioned by a few stakeholders it has to be noted that the current Solvency II framework does not distinguish for specific product types (ABS, CMBS etc.).

2. ASSESSMENT OF THE SECURITISATION CAPITAL FRAMEWORK

KEY FINDINGS OF THIS SECTION

- Overall, the JC concludes that for the time being there is not sufficient evidence that the current framework is not fit for purpose.
- For STS securitisation, the assessment included in this section of the advice is based on STS information received from ESMA, enriched by data downloaded from Bloomberg. The main conclusion is that there are not enough observations to perform a proper assessment. The evidence is not sufficient to justify a change in the calibration.
- For the securitisations, which do not benefit from the STS standard (Non-STS), the analyses focused on the spread volatility of securitisation investment during the Global Financial Crisis (GFC). The results indicate that a change in the calibration is not warranted. The positive effects of the market and regulatory changes made since the GFC are difficult to quantify.
- The public consultation did not produce sufficient new information that would suggest the need to revise the conclusion that the current calibration is adequate.

2.1 EXTRACT FROM THE CALL FOR ADVICE

Extract from the CfA covered in this section:

Page 6 of the CfA

[...] the Commission services request the JCs' advice:

(b) Whether the current calculation for capital requirements for spread risk on (i) securitisation positions in Solvency 2 for the senior tranches of STS, (ii) non-senior tranches of STS and (iii) Non-STS Securitisations are proportionate and commensurate with their risk. The JC should take into account the capital requirements for non-securitised assets with similar risk characteristics, comparing the capital requirements for such assets with senior and non-senior tranches of securitisations;

2.2 RELEVANT LEGAL PROVISIONS

59. The current calibration on securitisation is based on Art 178 of the [latest delegated act of 2019](#) which is an amendment of the previous Art 178 of the [delegated act from 2015](#).
60. The main difference is that the latest version includes risk charges for more securitisation categories (taking into account the STS label introduced in 2019) and is more detailed in terms of calculation of the risk charges based on the duration. The calibration proposed in the delegated act of 2015 was directly based on the calibration [work performed by EIOPA in 2013](#).
61. It has to be noted that while the amendment in 2019 introduced a treatment for the new STS securitisations, the level of the risk factors themselves were not in substance radically modified. But, as expected, risk charges for the STS segment received a more favourable treatment than those for type 1.
62. The JC is asked to assess whether the existing calibration, originally performed in 2013, is still plausible and appropriate after the new framework for STS securitisations exists for a number of years and the securitisation market has further evolved. The analysis performed is described in the following paragraphs.
63. The way forward is complementary to the explicit request by the EC to account for the capital requirements for non-securitised assets with similar risk characteristics, comparing the capital requirements for such assets with senior and non-senior tranches of securitisations. The details of this comparison can be found in section 1.3 pages 24-25 of this advice. Overall, based on the tables shown above, risk charges for Senior STS are slightly higher than the ones for corporate bonds (and somewhat more for covered bonds). The European Commission took the positive changes introduced by the STS framework into account in the legislative changes it introduced in 2018. With respect to covered bonds it should be noted that the lender has dual recourse to the issuer as well as to the underlying pool of assets.

2.3 ANALYSIS

2.3.1 ASSESSMENT OF THE CALIBRATION FOR STS AND NON-STIS SECURITISATION

i) STS Securitisation

Overview

64. EIOPA attempted to run an empirical 99.5% Value at Risk based on information from the [ESMA STS register](#)²² which includes data until the beginning of 2022. Non-public transactions (the

²² [ESMA Registers \(europa.eu\)](#) available from this location [LINK](#)

ones which did not have an ISIN) and cancelled ones were excluded from the sample. The data used captured all available STS transactions notified to ESMA since the introduction of the STS label.

65. Based on the International Securities Identification Numbers (ISINs) available in the ESMA STS register, the rating, the duration and the spread for the majority of sample (326 ISINs) were extracted from Bloomberg. Given the poor data quality, information after March 2022 was also excluded from the sample.

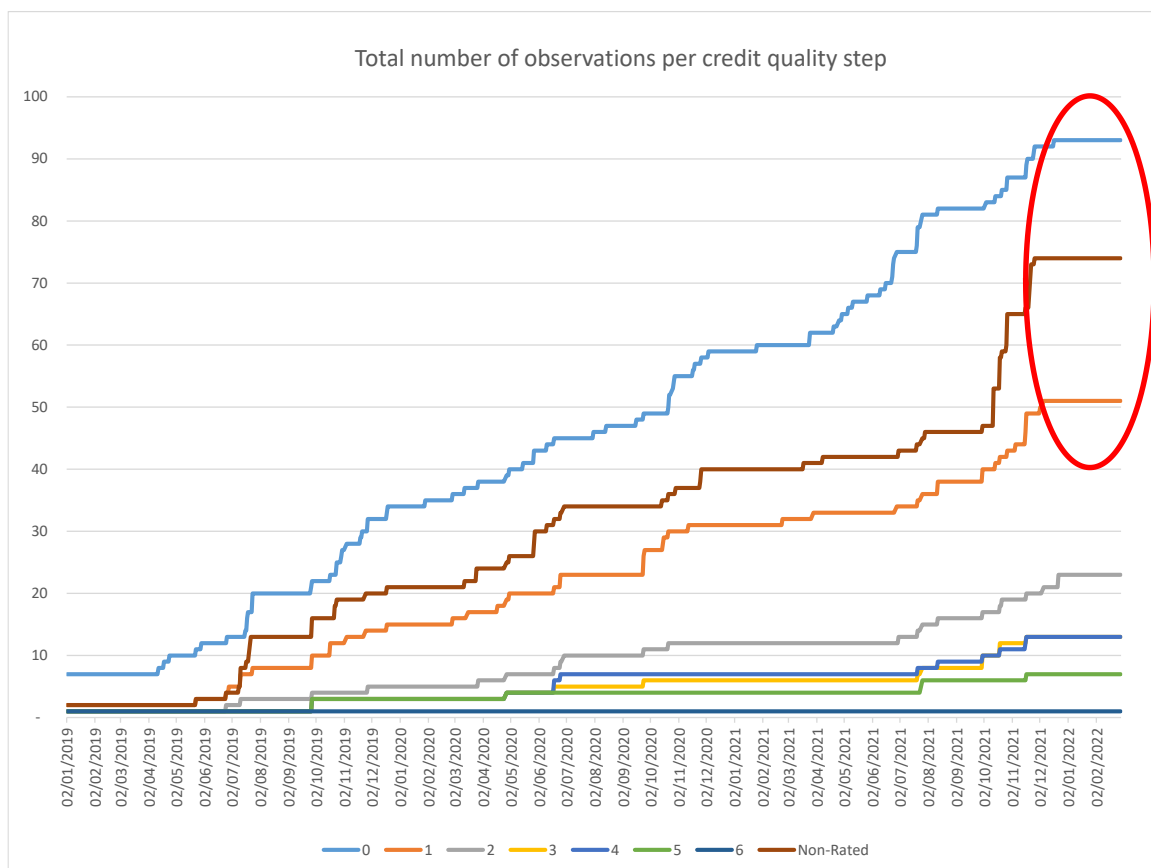
Data and Methodology

66. Raw data were cleaned and checked for inconsistencies. What became obvious was the overall lack of observations.

CQS	0	1	2	3	4	5	6	Non-Rated
Total number of observations	101	53	25	16	15	7	1	109
average duration	1.86	2.11	3.44	2.74	2.54	1.79	1.59	2.69

67. In the above table, for credit quality steps 0, 1 and non-rated, the number of observations might seem prima facie adequate for the assessment. For credit quality steps 2 to 6 there are clearly too few observations to perform any analysis and draw any meaningful conclusions. Furthermore, it has to be noted that the total number of observations is not constant over the considered period. Indeed, in early 2019, there were very few ISINs with spreads and the STS label available. This imposed an additional issue to the analysis since the period from spring 2019 until the spring 2020 when the COVID crisis culminated could be considered a period of moderate 'stress'. The information on the observations is summarised in figure 23 below.

Figure 23 – Overview of observations for the STS segment



Source: ESMA, Bloomberg and EIOPA calculations.

Additional limitations

68. From the above information, it can be inferred that the data available with the STS label are simply not enough for any proper STS calibration exercise for all credit quality steps. The focus of the analysis could be directed on information from credit quality steps 0, 1 and non-rated. But here the number of observations during the Covid period are too low to derive any robust conclusions.
69. In addition to this, one can see in table above that durations are quite low. That is the reason why, for the purpose of the analysis when attempting to calculate risk charges, the reference could only be made on the to the lowest duration category of Solvency II (0-5 years) which could be sufficient but does not fully capture the duration range available in Solvency II. Not looking at higher durations may not be fully representative.
70. At this stage, and based on the limited information available, it can be concluded that it is too soon to propose changes in the risk charges for the STS segment of the securitisation market.

Longer time series along with a higher number of observations per credit quality step and duration are needed to make such an attempt.

ii) Non-STS Securitisation

71. After the Global Financial Crisis (GFC), the EU took steps to mitigate the risks involved in securitisations, in particular it introduced STS securitisations. The 2007 to 2009 episode remains relevant, at least for Non-STS securitisations, as it illustrates the possible effects of a loss of investor confidence.
72. The JC acknowledges the changes in the securitisation markets and their regulation since the GFC. In many areas the legislation has been updated and securitisation assets which were legal in the past are no longer available. However, it is difficult to quantify by how much these changes would reduce the volatility in a situation similar to the GFC. At the same time, Non-STS securitisations do not benefit from the reliable “label” that the STS Regulation has created. Therefore, there is an argument for a differentiated treatment between STS and Non-STS securitisations.
73. The analysis is based on the “AFME Securitisation Data Report Q4:2010”²³ which shows the development of spreads for securitisations between January 2008 and the end of 2010.
74. The graphs on page 12 of this report suggest that the maximum change in spreads over 12 months during this period for European 3-5 Year AAA CMBS²⁴ was around 1.000 basis points. The corresponding value for BBB was approximately 3.500 basis points. It would of course be preferable to have the figures underlying the graphs available but the aim here is only to develop an idea about the general magnitude of the changes.
75. For RMBS the spreads are shown for different countries (page 13 of this report). The situation is therefore less clear-cut than for CMBS but the maximum change in spreads over 12 months was at least 250 basis points for European 3-5 Year AAA RMBS. The corresponding value for BBB was 1.500 basis points.
76. The same caveat as for RMBS applies also for ABS (page 14 of this report). The values here are 300 basis points for AAA and 2.000 basis points for BBB.
77. For BBB, the observed 12-month maximum spread change for CMBS and ABS was above the 1.970 basis points implied by the standard formula calibration (for CMBS significantly higher).²⁵ For AAA the maximum 12 month spread change for CMBS was quite close to the 1.250 basis point change implied by the standard formula while lower for the other underlyings. But there

²³ [AFME / ESF Securitisation Data Report, 2010 Q4 - SIFMA - AFME / ESF Securitisation Data Report, 2010 Q4 - SIFMA](#) (pdf)

²⁴ Commercial Mortgage Backed securities.

²⁵ The results would probably not be considerably different if one looked at the period 2008 to 2021 and calculated the empirical 99.5 % one-year VaR of the spreads. Assuming 260 trading days the empirical VaR would correspond roughly to the 18th highest 12-month drop in spreads. Given the development of the spreads as illustrated in the referenced report this value should not be meaningfully lower than the estimate provided above.

is uncertainty about the future composition of the Non-STS securitisations for standard formula (re)insurers.

78. In summary, the considerations above show that no changes to the calibration for Non-STS securitisations are warranted.

2.3.2 ADDITIONAL INFORMATION FROM THE QUALITATIVE QUESTIONNAIRE

79. In order to assess better the securitisation capital framework, EIOPA asked questions to individual insurance undertakings through the qualitative questionnaire (Undertaking questions 5,5a and 10).
80. On question 5, on the existence of evidence that the current calibration of the capital requirements for senior STS, non-senior STS and non STS is not proportionate and commensurate with their risk only 16% responded positively. A few individual replies focused on specific high quality securitisation products mentioning that capital charges for those are high. However, Solvency II does not distinguish between securitisation products (CLO, ABS etc.) but on credit quality and duration. The vast majority of the respondents (65%) mentioned that there is no evidence that the current calibration on securitisation is not proportionate and commensurate with its own risk. In addition, 18% responded 'N/A'.
81. On question 5a, only 14% of the respondents mentioned that there is evidence of different capital charges to securitisation against other assets with similar risk characteristics. Very specific examples were provided, however the vast majority of respondents 85% [Sum of 'N/A' (64%) and 'No' (21%)] indicated that there is no evidence against the current treatment.
82. Lastly, on the question to whether EIOPA would need to investigate alternative methods (not mentioned in this questionnaire) to the calculation of risk factor stress that can capture in a more adequate and proportionate manner the risk of securitisation (undertaking question 10), 75% of the (re)insurers responded negatively [Sum of 'No' (51%) and 'N/A' (24%)]. Approximately a quarter mentioned that such action could be of use.
83. Among the positive replies received, some new theoretical approaches were suggested in order to achieve greater consistency between securitised and non-securitised assets of similar risk. However, for the vast majority of (re)insurers, these alternative methods to the calculation of risk factor stress to securitisations are not of a great concern given that the current portfolios contain a very small number of investments in securitisations. It was highlighted that the costs of implementation of new methodology for this type of assets need to be taken into account given the small investments in these assets class by the majority of the undertakings.

2.4 STAKEHOLDER INPUT

84. In this section answers to questions 3, 4 and 5 from the EIOPA's public consultation²⁶ are summarised.

Stakeholder 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 of the consultation paper)

Stakeholder 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 of the consultation paper)

Stakeholder 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 of the consultation paper)

Summary of the feedback received

85. The majority of the stakeholders questioned the adequacy of the current calibrations, in particular for non-STS and non-senior STS. Reference is made to studies by Risk Control (AFME) and Bank of America Merrill Lynch that are supposed to provide evidence for a lower calibrations (in the latter case only for CMBS).

The main arguments of the stakeholders are:

- Solvency II risk charges too high relative to those for other fixed income investments like corporate bonds and covered bonds.
- Solvency II risk charges too high relative to risk charges for underlying pool of assets, in particular for non-junior tranches. There is no evidence for additional risks introduced by securitisation.
- Solvency II risk charges too high relative to those for banks and US insurers.
- The risk charges for Non-STS securitisations are too high relative to STS securitisations given the limited differences in terms of additional requirements.
- The risk charge for non-senior STS is too high relative to senior tranches as both are subject to the same requirements.
- The use of price data from 2007 to 2009 for Non-STS securitisations is not warranted (markets did not function, market and regulatory changes in the interim).

²⁶ The Public Consultation is available under this [link](#)

86. In order to improve the issue with the calibration the following suggestions were made:
- Application of a look-through approach (i.e. calculate the risk charge for the underlying pool of assets and then reflect seniority of the tranche).
 - Capital requirements should be capped at the level of the capital requirements for the underlying assets for all securitisations or at least the senior tranches.
 - Use of the covered bond risk charge for senior STS, corporate bond risk charge for non-senior STS and for non-STs (with a CQS plus 1 for the latter).
 - Alternatively consider: Covered bond risk charge in case of granular underlyings (mortgages and consumer loans) and corporate bond risk charge in case of CLOs.
 - Inclusion of CMBS in the STS securitisations
 - Further analysis requested (Insurance Europe)

Resolution proposed by EIOPA

87. Overall, it has to be noted that changes in the calibration are only warranted if there is evidence that the risk charge overestimates the risk of losses in the 99.5 scenario for the specific securitisation (i.e. absolute rather than relative perspective to covered and corporate bonds).
88. The calibration should be based on actual fluctuations in the prices of securitisations and not on theoretical fluctuations based on the risk charges for the underlying assets under Solvency II. A look-through approach produces results that do not fully reflect the risk. The historical observed spread volatility exceeded the proposed cap.
89. 2007 to 2009 is a relevant example for a global crisis. The positive effects of the market and regulatory changes are difficult to quantify at this stage.
90. The European Commission calibration for STS securitisation in 2018 reflected positive changes since the financial crisis. Since then there is not enough evidence to revise the existing calibrations.
91. There are methodological limitations in the cited studies. Risk Control (AFME) follows a relative approach (i.e. comparison with the risk of other fixed income) and uses the period 2010 to 2021²⁷. Furthermore, the Bank of America Merrill Lynch study mentioned a different risk measure than the 99.5 % Value at Risk is applied.
92. On the proposed suggestions:
The proposals mentioned in paragraph 86 are based on a look-through approach, a cap or the alignment of capital requirements with those for other fixed income investments. For the reasons outlined in paragraphs 87-91 they have all serious drawbacks.

²⁷ This study was analysed in the Consultation paper [LINK](#) – section: 2.2.2 – pages 21 and 22.

2.5 ADVICE

93. Based on the analysis performed and the input received from the individual undertakings and the stakeholders, it is JCs view that the overall risk sensitivity of the Solvency II risk charges with regards to STS is appropriate for the time being. A longer period of observations are needed in order to consider changes to the existing framework for the STS securitisation.
94. To this day there is not sufficient evidence that the current framework is not fit for purpose. At this stage, the analysis performed does not justify a change in the calibration for securitisations that do meet the STS criteria.
95. Furthermore, for securitisations which do not benefit from the STS treatment (i.e. the Non-STS), the analysis focused on the spread volatility of securitisation investment during the Global Financial Crises (2007-2009) and indicates that a change in the calibration is not warranted.
96. Based on the responses received by the questionnaire, a small number of (re)insurers are concerned with the existing size of the risk charges applied to some specific securitisation products. However, the vast majority of (re)insurers in the sample do not seem to have major issues with the current capital calibration.

3. TREATMENT OF SECURITISED PRODUCTS WITHIN CRR AND COMPARISON WITH SOLVENCY II

KEY FINDINGS OF THIS SECTION

- The European Commission requested to assess whether Solvency II framework could be elaborated in a manner coherent with the CRR's securitisation framework. In addition, it was requested to investigate whether the risk sensitivity of the capital calibration framework could be improved by further differentiating among securitisation tranches.
- EIOPA analysis also based on input from the insurance undertakings and the stakeholders, investigated all possibilities and concluded that although some changes could be feasible, their potential effectiveness to the revival of the securitisation market remains uncertain. The main reasons are:
 - Not to increase complexity to an already complex framework which was updated only three years ago;
 - Uncertainty of effectiveness of measures; the potential cost of changing the existing framework is high given the low investment volumes and the very low participation of the insurance industry.

More specifically:

- On the Treatment for STS and Non-STS securitisations and the potential increase in the granularity of the treatment of various tranches: EIOPA investigated the possibility of splitting the Non-STS category into two credit tranches (one senior and one non-senior) and to differentiate between mezzanine and junior with regards to the current non-senior STS tranche. Although such changes could potentially improve consistency and make the existing framework risk sensitive in a more granular way, it is concluded that at this stage, it would be better to keep the existing status quo.
- On the linking between capital requirements of securitisation and capital requirement of underlying exposures as well as on applying the hierarchy of approaches used in the CRR, EIOPA analysis concluded that such changes would not be desirable for implementation within Solvency II.
- Applying a look-through treatment as in the CRR and estimating the market value of the underlying assets would not be adapted and would be very burdensome for (re)insurers, considering the valuation methodology under Solvency II where capital requirements are calibrated in order to be used on the market value of assets, and not the exposure. Also,

the securitisation entails additional risks which are not present in the underlying exposures itself. The spread risk of a securitisation is in general higher than the spread risk of its underlying exposure. The additional risks of the securitisation must be taken into account in a risk-sensitive calibration.

- On the implementation of the hierarchy of approaches it was concluded that it is not desirable to suggest an additional approach or modify the standard formula with the concept of underlying exposures.

3.1 EXTRACT FROM THE CALL FOR ADVICE

[...] the Commission services request the JCs' advice:

(c) whether the risk sensitivity of the capital calibration framework could be improved in order to increase investor demand and, in particular, whether Solvency II capital requirements for spread risk should differentiate between (i) mezzanine and junior tranches of STS securitisations, and (ii) senior and non-senior tranches of Non-STS securitisations.

In addition, the Commission requests the JC to assess whether the existing calibration method of Solvency 2 could be elaborated in a manner coherent with the overall Solvency 2 framework providing for more consistency with the CRR's securitisation framework. This alternative method should, in particular, provide for the following:

- i) differentiated treatments for STS vs. Non-STS securitisations,
- ii) a link between capital requirements for securitisations and the capital requirements for the underlying exposures, including a cap based on the capital requirements of the underlying portfolio of assets as a backstop to the capital requirements on the securitisation positions,
- iii) the granularity of the treatment of tranches as characterised by their attachment and detachment points; and
- iv) a hierarchy of approaches similar to that currently set out in the CRR (SEC-IRBA (Internal Ratings Based Approach), SEC-SA (Standardised Approach) and SECERBA (External Ratings Based Approach)).

Finally, the Commission services will welcome additional suggestions that the JC may want to make on any other alternative methods (other than the one mentioned above) to the calculation of risk factor stress that can capture in a more adequate and proportionate manner the risk of securitisations. In its advice, the JC is particularly invited to reflect about agency and modelling risk and how they differ between STS and Non-STS securitisations.

Follow-up recommendations

Should the JC conclude that the securitisation regulatory capital framework could be improved, the Commission services would welcome recommendations from the JC on appropriate amendments to the

framework. The JC is, in particular, invited to consider for these purposes the recommendations laid out in the HLF Report for recalibrating capital 7 charges applied to senior tranches under the CRR and for recalibrating the capital treatment of securitisation tranches under Solvency II (see pages 61-62 of the HLF Report).

In addition to the above, the Commission Services welcome recommendations from the JC on any other technical amendments that may be appropriate or desirable to improve the prudential capital treatment of securitisations, as well as on desirable mechanisms to enhance consistency in the interpretation of the framework.

Overview of Solvency II and CRR

97. The Commission requests the JC to assess whether the existing calibration method of Solvency II could be elaborated in a manner coherent with the overall Solvency II framework providing for more consistency with the CRR’s securitisation framework.

98. However, it should be noted that structural differences characterise the banking and insurance prudential frameworks:

- Coverage of different risks (credit risk for the CRR and spread risk for Solvency II);
- In the banking regulation, there are no standardized valuation criteria;
- Under the CRR, the capital requirements consider only the items on the assets side, not the liabilities;
- The requirement to distinguish between expected and unexpected losses applies only to those banks that have elected to use the Internal Ratings-Based (IRB) approach to credit risk ;

99. When it comes down to securitisation the way capital charges are calculated is different.

<p>Solvency II: $SCR_{\text{securitisation}} = \text{market value} * \text{shock}$</p>	<ul style="list-style-type: none"> - Market value consistent - Shocks take into account the securitisation category, modified duration, seniority and credit quality steps (CQS).
<p>CRR: $\text{Capital requirement} = 8\% * \text{exposure value} * \text{risk-weight}$</p>	<ul style="list-style-type: none"> - Exposure value²⁸ - Risk-weights take into account the securitisation category, type of exposure (long-term, short-term),

²⁸ Initial amount of money that the institution has invested in an asset.

	credit quality steps, tranche maturity, seniority and tranche thickness (in the case of non-senior tranches).
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- Recognition of diversification in Solvency II
- Loss-absorbing effect of technical provisions and deferred taxes recognised in Solvency II
- The Solvency II capital requirement is the difference in own funds value between two balance sheets, in which assets are included at their market value. Therefore stresses to assets in order to calculate that capital requirement should refer whenever possible to the market value.
- Solvency II determines capital requirement as 99.5 % one-year Value-at-Risk of Own Funds. CRR differs between trading book (99% Value-at-Risk over 10 days) and banking book (credit risk driven, not market value based).

100. The banking approach of the financial risk stemming from investments in securitised products is defined within the Capital Requirements Regulation (CRR)²⁹ which was developed within the credit risk module (such a separate module is not foreseen in the Solvency II risk tree).

3.2 DIFFERENTIATED TREATMENTS FOR STS VS. NON-STS SECURITISATIONS

Extract from the CfA covered in this section:

In addition, the Commission requests the JC to assess whether the existing calibration method of Solvency 2 could be elaborated in a manner coherent with the overall Solvency 2 framework providing for more consistency with the CRR's securitisation framework. This alternative method should, in particular, provide for the following:

- (i) Differentiated treatments for STS vs. Non-STs securitisations

²⁹ Regulation (EU) 2017/2401 (the EU CRR Amendment Regulation) which makes the capital treatment of securitisations for banks and investment firms under the Capital Requirements Regulation (EU) 575/2013 (EU CRR) more risk-sensitive and able to reflect properly the specific features of STS securitisations

3.2.1 CRR - CURRENT REGULATION

STS Securitisation

101. For an STS securitisation, for the external rating based approach under CRR (SEC-ERBA), the risk-weight is determined by the external rating of the tranche, its seniority, thickness³⁰ and its maturity³¹ as defined in article 264 CRR. In this respect, two categories are distinguished:

- Short-term credit assessment with 4 credit quality step (1, 2, 3 and “all other ratings”)
- Long-term credit assessment with 18 credit quality step (1 to 17 and “all other”) adjusted in 2 categories:
 - Senior tranches with 2 maturity : 1 year and 5 years ;
 - Non-senior tranches with also the 2 above maturities.

102. It should be noted that tranche maturity is the remaining effective maturity of the tranche in years and it can be measured at the banks discretion. In this context, banks have to choose between calculating the maturity as:

- the weighted average maturity of the contractual payments due under the tranche, or
- the final legal maturity of the tranche.

103. For long-term exposures, in order to determine the risk weight for tranches with a maturity between 1 and 5 years, institutions have to use a linear interpolation between the risk weights applicable for 1 and 5 years maturity. The determination of a tranche maturity is subject in all cases to a floor of 1 year and a cap of 5 years.

104. For long-term exposures for non-senior tranches, the tranche thickness is also taken into account (see part below on the granularity of the treatment of tranches).

105. For STS securitisation, the resulting risk weight is subject to a floor risk weight of 10% for senior tranches and 15% for non-senior tranches. The presence of caps to risk weights of senior tranches and limitations on maximum capital requirements (1250%) aim to promote consistency with the underlying IRB framework and not to disincentive securitisations of low credit risk exposures.

Non-STS Securitisation

106. Similar to STS securitisation, the risk-weight is also determined by the external rating of the tranche, its seniority, thickness and its maturity as defined in article 263 CRR, with the same 2 categories as for STS securitisation, short-term and long-term exposures. The difference

³⁰ Size of the tranche relative to the entire securitisation transaction.

³¹ Effective maturity that is remaining and is expressed in years.

between STS and Non-STS securitisation being the level of the risk-weight that are higher for Non-STS securitisation. A risk-sensitive prudential treatment in a more granular way is provided for STS securitisations.

3.2.2 ANALYSIS

Comparison Solvency II/CRR

107. From the table below one can observe that there are substantial differences in the treatment across the two frameworks.

	Solvency II	CRR
Prudential treatment applied to securitised products	<p>Treated as a spread risk</p> <p>Shock applied directly to the market value of the product.</p> <p>Shock determined according to several tables presented in the Delegated Regulation depending on :</p> <ul style="list-style-type: none"> - seniority, - credit quality step (CQS 0 to 6), - modified duration (from 1 to more than 20), - STS/non STS character - Non STS securitised products <u>are not</u> differentiated between senior and non-senior tranches 	<p>Treated as a credit risk</p> <p>SEC-ERBA (external rating based approach) : risk-weight provided from tables and applied based on :</p> <ul style="list-style-type: none"> - rating type (long/short), - for long-term exposures : external credit assessment (CQS 1 to 17), - tranche maturity (1 and 5 years), - tranche thickness for non-senior tranches, - STS/Non-STS character - Non STS securitised products <u>are</u> differentiated between senior and non-senior tranches
Capital requirements	Capital requirement = market value * shock	Capital requirement = 8% ³² * exposure value * risk-weight

³² Pillar 1 requirement

	After applying the shock to the products, the capital requirements of securitised products benefit from risk diversification.	There is no concept of “diversification” of risks under CRR.
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3.2.3 POLICY OPTIONS CONSIDERED

108. In order to increase the risk sensitivity of the prudential framework and make it more consistent with the STS category, one could consider splitting the Non-STS category into two credit tranches: one senior and one non-senior.

- ▶ Policy option 1: No change with regards to the granularity of the Non-STS category.
- ▶ Policy option 2: Split the Non-STS category into two credit tranches: one senior and one non-senior.

Impact of the options on the financial position and investment

109. A segmentation of this category within Solvency II could better reflect the risks that investors are exposed to when investing and could lead to more investment in this category, taking into account also the higher appetite of (re)insurers for Non-STS securitisation products (see part 1). However, given the overall low investments volume across the sector the effectiveness of such a change to the revival of the securitisation market remains uncertain.

Assessment of the options: PROS and CONS

110. The following tables set out the pros and cons of Options 1 and 2:

Option 1: No change	
Pros	Cons
No additional complexity added to Solvency II framework.	Less granularity of the capital charges, possibly making the senior Non-STS category less appealing for (re)insurers.
Option 2: Split the Non-STS category into two credit tranches: one senior and one non-senior. New risk factors would need to be proposed.	

Pros	Cons
Avoidance of possible disincentive for Senior Non-STS securitisation	Increasing the complexity of the framework could lead to less investment in this category, taking into account also the current low appetite of (re)insurers for securitisation products.
Increased granularity of the risk sensitivity. Consistency with the STS category and the banking framework (CRR)	There is no calibration of what any new risk factors would be.
	Cost of implementation.

Additional input received through the qualitative questionnaire

111. In addition to the analysis, EIOPA asked individual (re)insurers on this topic through the qualitative questionnaire through undertaking questions 6, 8, and 9.
112. On undertaking question 6, on whether it can be consider that the investment in securitisation is refrained by lack of sensitivity of the capital calibration framework: 28% of the (re)insurers replied positively and 72% replied negatively [Sum of 'No' (59%) and 'N/A'(13%)]. This confirms that the vast majority has no issue with the existing the framework.
113. Undertakings mentioned several additional reasons which justify the low investments in securitisation apart from the lack of the risk sensitivity:
- Some undertakings commented on the fact that the return on SCR for securitisations is usually much lower than non-securitised assets with similar characteristics.
 - Others consider themselves as prudent institutional investor and mention that usually securitisations are not a regular investment to consider for their portfolio. Therefore, they are not being refrained due to capital charges rather than due to prudence of the company.
 - As seen on section 1, on the same line, for some undertakings, investment decisions are driven by matching the general profile and nature of liabilities. Changes in capital calibration are therefore not their main driver for decisions.
 - Finally, for some undertakings, this type of investment is not so attractive as a consequence of 2008 crisis.
114. On undertaking question 8, with regards to evidence supporting a differentiated capital calibration between senior and non-senior tranches of Non-STS securitisations; 93% [Sum of 'No' (79%) and 'N/A' (14%)] of the (re)insurers replied negatively of having evidence which

supports a differentiated capital calibration between senior and non-senior tranches of Non-STS securitisations.

115. Lastly, on undertaking question 9, with regards to the existence of evidence supporting a differentiated capital calibration per securitisation type (E.g. ABS, MBS, CDO, CMO, mixed, other), 90% [Sum of 'No' (76%) and 'N/A' (14%)] of the responses indicate that there is not such evidence. Only 10% supported a differentiated capital calibration per type. Indeed for some undertakings, CLO underlying assets are seen similarly to senior secured loans. (Re)Insurers also mentioned that the global financial crisis showed that losses differed substantially between different types of securitisations. However, such a differentiation would allow to treat other types of underlyings with lower quality, lower transparency and lower recovery rates in a similar way.
116. In summary, based on the answers received on questions 6, 8 and 9, the majority of (re)insurers has no evidence that a change in the existing status quo is needed.

3.2.4 STAKEHOLDER INPUT

117. In this section answers to question 9 from the EIOPA's public consultation³³ is summarised.

Stakeholder 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

Summary of the feedback received

118. The majority of the stakeholders are positive on increasing granularity within non-STS. However, they see this as secondary to the lowering of capital charges. Stakeholders state that there could also be a differentiation between senior and mezzanine tranches within the Non-STS Segment.

Resolution proposed by EIOPA

119. For the time being, there is no robust evidence that there is room for lowering the current capital requirements of the Non-STS category (see section 2.3.1). Splitting further the Non-STS category may increase the granularity and the risk sensitivity but it is uncertain that it will bring the desired results.

³³ The Public Consultation is available under this [link](#)

3.3 SECURITISATION AND UNDERLYING EXPOSURES

Extract from the CfA covered in this section:

In addition, the Commission requests the JC to assess whether the existing calibration method of Solvency 2 could be elaborated in a manner coherent with the overall Solvency 2 framework providing for more consistency with the CRR's securitisation framework. This alternative method should, in particular, provide for the following:

(ii) a link between capital requirements for securitisations and the capital requirements for the underlying exposures, including a cap based on the capital requirements of the underlying portfolio of assets as a backstop to the capital requirements on the securitisation positions.

3.3.1 CRR – CURRENT REGULATION

Description of the link between capital requirements for securitisations and the capital requirements for the underlying exposures under CRR

120. The securitisation framework applicable since 2019 with the introduction of the STS label included also, under CRR, caps on capital charges (driven by the capital requirements that would be applied to the underlying exposures if they had not been securitised) and a “look-through” treatment which applies to senior securitisation positions. For these exposures, an institution can apply a risk weight equal to the weighted-average risk weight applicable to the underlying exposures.
121. Article 267 of the CRR (“maximum risk weight for senior securitisation positions: look-through approach”) stipulates that: *“an institution which has knowledge at all times of the composition of the underlying exposures may assign the senior securitisation position a maximum risk weight equal to the exposure-weighted- average risk weight that would be applicable to the underlying exposures as if the underlying exposures had not been securitised”*.

3.3.2 ANALYSIS

122. The securitisation entails additional risks which are not present in the underlying exposures itself (referred to as “capital non-neutrality”), meaning that the sum of the capital requirements associated to all the tranches of a securitisation are X times higher than the capital requirements of the underlying exposures. These potential additional risks are for example the risk associated with the structure of the securitised product, the market liquidity risk, the agency and modelling risk (see part 3.5 for more details), etc. Additionally, the credit risk of a securitisation is in general higher than the credit risk of its underlying exposure.

123. Therefore, while the assessment of the risk of a securitisation requires to relate the risk to some extent to its underlying exposures, it is not sufficient to just perform a look-through approach for the securitisation products. The additional risks of the securitisation need to be taken into account in a risk-sensitive calibration of securitisations in general, thus the higher capital charges applied in comparison to bonds and loans.
124. Additionally, transferring this concept to Solvency II for the securitisation positions would be complex, burdensome and not adapted to Solvency II given the fact that capital requirements in the later are calibrated in order to be used on the market value of assets, and not the exposure. Also, there are no requirements for (re)insurers to report or even calculate the underlying exposure of their securitisation position. Using the underlying exposure would create an additional burden on (re)insurers. This concept is therefore not desirable under Solvency II to calculate the capital charges for securitisation positions.

Additional input received though the qualitative questionnaire

125. In addition to the analysis, EIOPA asked individual (re)insurers on this topic through the qualitative questionnaire. Questions 12b: *Do you consider that the existing calibration could be elaborated in a manner that is coherent with the overall Solvency II framework but providing more consistency with the CRR's securitisation framework with regard to a link between capital requirements for securitisations and the capital requirements for the underlying exposures, including a cap based on the capital requirements of the underlying portfolio of assets as a backstop to the capital requirements on the securitisation positions* was added for this purpose.
126. Out of the responses received, 80% [Sum of 'No' (37%) and 'N/A' (43%)] of the (re)insurers do not consider that the existing calibration has to be elaborated in a manner that is coherent with the CRR's securitisation framework with regard to the link between capital requirements for securitisations and the capital requirements for the underlying exposures. (Re)Insurers mentioned that in general, it is extremely burdensome to deal with the information about concrete investments within the underlying pool. Such an attempt could probably improve the accuracy of the market stress factor, but there are concerns that it would make the calculations too complicated. It would also be much more challenging to communicate the capital requirement to the stakeholders.

3.3.3 STAKEHOLDER INPUT

127. In this section answers to question 7 from the EIOPA's public consultation³⁴ is summarised.

³⁴ The Public Consultation is available under this [link](#)

Stakeholder 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?

Summary of the feedback received

128. Stakeholders are overall interested in linking capital requirements with those for underlying exposures but are concerned about potential complexity. However, they believe that looking through the securitisation structure to review the underlying exposure risk could be overly burdensome for (re)insurers.

Resolution proposed by EIOPA

129. Transferring this concept to Solvency II for the securitisation positions would be complex, burdensome and not adapted to Solvency II.

3.4 GRANULARITY OF THE TREATMENT OF TRANCHES UNDER CRR

Extract from the CfA covered in this section:

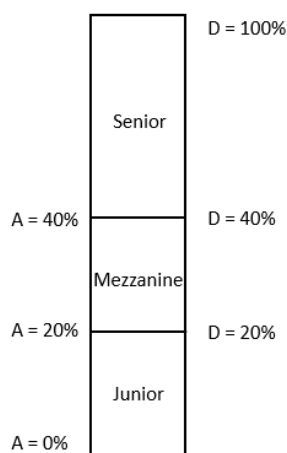
In addition, the Commission requests the JC to assess whether the existing calibration method of Solvency 2 could be elaborated in a manner coherent with the overall Solvency 2 framework providing for more consistency with the CRR's securitisation framework. This alternative method should, in particular, provide for the following:

(iii) the granularity of the treatment of tranches as characterised by their attachment and detachment points;

3.4.1 CRR – CURRENT REGULATION

Description of attachment and detachment points within the CRR

130. The CRR takes into account the thickness of the tranche relative to the size of the overall pool. To do so, the tranches are defined by an attachment³⁵ and a detachment point³⁶ expressed as a decimal value between zero and one (article 256 of the CRR).
131. The riskiness of a tranche decreases with the tranche's seniority. For example, a junior tranche, could have an attachment point of 0% and a detachment point of 20% of the pool exposure. This tranche would be intact if there are no losses but it would be partly consumed with the first losses as shown in the example below. When losses reach 20% of the pool exposure, the junior tranche is completely consumed. The mezzanine tranche with attachment and detachment points of 20% and 40%, respectively, is initially protected (the junior tranche being consumed at first). But it would be affected as soon as losses exceed 20% of the pool. When losses reach 40% of the pool exposure, the mezzanine tranche is, in turn, completely consumed. The senior tranche with attachment and detachment points of 40% and 100% respectively, will be the most protected, starting to incur losses only when both the junior and mezzanine tranches are consumed. To simplify:



³⁵ “Expressed as a decimal value between zero and one and shall be equal to the greater of zero and the ratio of the outstanding balance of the pool of underlying exposures in the securitisation minus the outstanding balance of all tranches that rank senior or *pari passu* to the tranche containing the relevant securitisation position including the exposure itself to the outstanding balance of all the underlying exposures in the securitisation” (article 256 CRR)

³⁶ “Expressed as a decimal value between zero and one and shall be equal to the greater of zero and the ratio of the outstanding balance of the pool of underlying exposures in the securitisation minus the outstanding balance of all tranches that rank senior to the tranche containing the relevant securitisation position to the outstanding balance of all the underlying exposures in the securitisation” (article 256 CRR).

- The attachment point (A) indicates the minimum of pool-level losses at which a given tranche begins to suffer losses.
- The detachment point (D) corresponds to the amount of pool losses that completely wipe out the tranche.

Calculation of the risk-weights

133. In order to calculate the risk-weights for long-term exposures for non-senior tranches when SEC-ERBA is used, banks have to take into account the thickness of the tranche, which corresponds to the difference between the detachment and attachment points. Therefore, institutions calculate to risk-weights as follows:

*Risk Weight = (risk weight of non – senior tranches adjusted to maturity) * (1 – min(T; 50%))*

Where T is the tranche thickness measured as D-A

134. For the senior tranche, under the SEC-ERBA, this concept does not apply, the risk-weights being already available in the look-up table in article 263 and 264 CRR³⁷.

3.4.2 ANALYSIS

135. Under the SEC ERBA, the inclusion of such concepts allow CRR to be sensitive in a more granular way for non-senior tranches. Theoretically, it could be feasible to integrate the same concept within Solvency II. The objective being to make the risk-weights more unfavourable for thin tranches. Thinner tranches bringing more risks, a thick tranche represents a larger portion of the pool and, as a result, has lower principal sensitivity to losses.

136. However, it is not recommended to adopt this approach for Solvency II considering the fact that it would be too burdensome for (re)insurers to integrate them. The proportion of investment in securitisation being already low for (re)insurers, the prudential treatment should be kept simple and not add additional burden with complex concepts.

137. Instead, in order to increase the risk-sensitivity of the existing framework, one could propose instead, to split the current non-senior tranche of STS securitisation into two tranches: mezzanine and junior. This suggestion would take into account the fact that the riskiness of a tranche decreases with the tranche's seniority.

3.4.3 POLICY OPTIONS CONSIDERED

- ▶ Policy option 3: No change with regards to the granularity of the STS category.

³⁷ It is important to keep in mind that this sections refers to SEC-ERBA only, this concept is the main driver under the SEC-SA and SEC-IRBA.

- ▶ Policy option 4: Split the current non-senior STS category into two credit tranches: one mezzanine and one junior.

Impact of the options on the financial position and investment

138. A segmentation of this category within Solvency II could better reflect the risks that investors are exposed to when investing and could lead to more investment in this category. However, given the overall low investment volume across the sector and more specifically to the non-senior STS category makes the effectiveness of such a change uncertain for the revival of the securitisation market. In addition, such a measure would increase the complexity to an already complex framework which was updated only three years ago.

Assessment of the options: PROS / CONS

139. The following tables set out the pros and cons of Option 3 and 4:

Option 3: No change	
Pros	Cons
No additional complexity	Less granularity of the capital charges, making the mezzanine STS category potentially less appealing for (re)insurers.
Option 4: Split the current non-senior STS category into 2 credit tranches: one mezzanine and one junior. New risk factors would be proposed.	
Pros	Cons
Avoidance of potential disincentive for mezzanine STS category.	Increasing the complexity of the framework could lead to less investment in this category, taking into account also the current low appetite of (re)insurers for securitisation products.
Increased granularity of the risk sensitivity. Consistency with the banking framework (CRR)	No consistency with other asset classes within Solvency II.

	New risk factors would have to be calibrated without knowing if (re)insurers would invest in such tranches, considering also the current low proportion of investments in the STS category (cf. part I.).
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Additional input received through the qualitative questionnaire

140. In addition to the analysis, EIOPA asked individual (re)insurers on this topic through the qualitative questionnaire by Questions 12c: *Do you consider that the existing calibration could be elaborated in a manner that is coherent with the overall Solvency II framework but providing more consistency with the CRR's securitisation framework with regard to the granularity of the treatment of tranches as characterised by their attachment and detachment points.* 80% [Sum of N/A (44%) and No (36%)] of (re)insurers do not consider that the existing calibration has to be elaborated in a manner that is coherent with the CRR's securitisation framework with regard to the granularity of the treatment of tranches as characterised by their attachment and detachment points.
141. Some undertakings believe that this concept should be reflected in the credit rating and thus is not necessary within Solvency II. Others consider that it is somewhat problematic in practice as the use and value of attachment/detachment points really depends on asset quality and diversification and cannot be viewed in isolation. Finally, they are of the view that this would add benefit but the collateral types and various legal structures would make it too complex.
142. A minority of 20% responded that it would be an important enhancement to more correctly capture the risk in the investment.
143. Lastly, on undertaking question 7, to whether there is evidence supporting a differentiated capital calibration between mezzanine and junior tranches of securitisations, 93% [Sum of 'No' (79%) and N/A (14%)] of the (re)insurers responded negatively.

3.4.4 STAKEHOLDER INPUT

144. In this section answers to questions 6 and 8 from the EIOPA's public consultation are summarised.

Stakeholder 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?

Stakeholder 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?

Summary of the feedback received

145. Stakeholders are positive on increasing granularity within STS. However, they see this as secondary to the lowering of capital charges.
146. Regarding the thickness of non-senior tranches, the majority of the stakeholders agree not to implement this concept in Solvency II. They believe that the securitisation market needs a simple, transparent and risk-adequate regulation and not more complexity. Indeed, the cost vs benefit of this, would risk adding complexity while being unlikely to represent a driver of additional demand from (re)insurers.

Resolution proposed by EIOPA

147. A segmentation of the STS category, as suggested, could better reflect the risks that investors are exposed to when investing. However, the effectiveness of such measure on market demand is uncertain without the lowering of the capital charges.
148. Increasing the complexity of the framework by adding the concept of thickness of the non-senior tranches could lead to less investment in this category. The main objective remaining to keep the framework as simple as possible.

3.5 HIERARCHY OF APPROACHES

Extract from the CfA covered in this section:

In addition, the Commission requests the JC to assess whether the existing calibration method of Solvency 2 could be elaborated in a manner coherent with the overall Solvency 2 framework providing for more consistency with the CRR's securitisation framework. This alternative method should, in particular, provide for the following:

(iv) a hierarchy of approaches similar to that currently set out in the CRR SEC-IRBA (Internal Ratings Based Approach), SEC-SA (Standardised Approach) and SEC-ERBA (External Ratings Based Approach).

3.5.1 CRR – CURRENT REGULATION

149. The capital requirement to cover banks' securitisation exposures is calculated by multiplying the amount of the exposure by the appropriate risk weight determined according to the hierarchy of approaches. There are three different approaches under CRR. The hierarchy of these approaches relies on the information that is available to the bank and on the type of analysis and estimations that it can perform on a specific transaction. They can be summarized as follow:

150. The bank must first use the approach based on internal ratings: SEC-IRBA, Internal Ratings-Based Approach:

- The IRBA for credit risk relies on credit institutions' own credit risk assessment of their counterparties and exposures to calculate capital requirements for credit risk.
- The risk weight under the SEC-IRBA is subject to a floor of 15%, unless the securitisation position meets the STS criteria, in which case the capital surcharge is halved and the risk weight floor is set at 10%.
- The capital charge for the underlying exposures in the securitisation pool (“ K_{IRB} ”): Institutions determine K_{IRB} by multiplying by 8% the risk-weighted exposure amounts that would be calculated in respect of the underlying exposures as if they had not been securitised, divided by the exposure value of the underlying exposures (article 255 CRR).
- Institutions using this approach also have to determine the attachment point (A) and detachment point (D) separately for each of the positions (article 259 CRR – see part 3.2 for more details on these concepts).
- This approach could be the closest to the internal models under Solvency II. Indeed, an undertaking may use an internal model, rather than the standard formula, to calculate its solvency capital requirement. Such use is subject to the national supervisory authority's approval.
- A comparison between the capital charges in the IRB approach and Solvency II is not straightforward.

151. If the bank cannot use the SEC-IRBA approach, it will have to apply the Standard Approach, SEC-SA:

- This approach relies on a provided formula using as an input the capital requirements that would be calculated under the existing standardised approach.
- Capital requirements would be calculated using the following bank-supplied inputs:
 - The capital charge under the Standardised Approach for the underlying exposures in the securitisation pool (“ K_{SA} ”): Institutions calculate K_{SA} by multiplying by 8% the risk-weighted exposure amounts that would be calculated in respect of the underlying exposures as if they had not been securitised, divided by the value of the underlying exposures (article 255 CRR).

- A factor, “W”, being the ratio of the nominal amount of delinquent exposures³⁸ in the underlying pool to the nominal amount of the total underlying exposures;
 - Once again, the risk-weight floor under the SEC-SA is 15%, with the exception of STS securitisations for which the capital surcharge is halved and the risk weight is floored at 10%.
152. Finally, if the bank cannot use the SEC-SA, it needs to use the External Ratings-Based Approach, SEC-ERBA, which is based on external credit ratings :
- This approach includes the requirement that external ratings (known as external credit assessments) must be from one or more eligible credit assessment institutions (ECAIs³⁹).
 - The bank will be required to refer to the applicable look-up table containing risk weights for short-term and long-term ratings respectively.
153. Since the main inputs to approaches are different (pool regulatory capital versus agency ratings), the capital levels implied by the SEC-ERBA and the formula-based approaches can diverge substantially.

3.5.2 ANALYSIS

154. Current Solvency II rules for the standard formula are the closest to the external ratings approach of CRR (SEC-ERBA). Under the standard formula, (re)insurers use a risk factor based on a look-up table. Under Internal Models, (re)insurers use a risk factor based on their own assessment, with prior supervisory approval. Both approaches for banks, (internal models and standardized approach), use the underlying asset capital requirement as a basis for the securitisation capital requirement. Transferring this to Solvency II would be complex.
155. Theoretically, the Solvency II capital requirement is the difference in own funds value between two balance sheets, in which assets are included at their market value. Therefore stresses to assets in order to calculate that capital requirement should refer whenever possible to the market value.
156. Practically, for some investments such as loans and mortgages, Solvency II does not have any floor to the cost of capital. A calculation based on the cost of capital of the underlying assets might underestimate the risk of securitisation, especially for junior tranches.
157. Unlike CRR, Solvency II capital requirements are calibrated in order to be used on the market value of assets, and not the exposure. For non-traded assets such as loans and mortgages, estimating the market value of the underlying assets would be more complex than estimating the market value of the securitisation.

³⁸ Delinquent exposures are exposures that are 90 days or more past due, subject to bankruptcy or insolvency proceedings, in the process of foreclosure, held as real estate owned, or in default, where default is defined within the securitisation deal documents.

³⁹ As for Solvency II, the link between the CQS and the corresponding credit assessments are provided by the External Credit Assessment Institutions (ECAIs) through a common and provided mapping.

158. Additionally, there are no requirements for (re)insurers to report or even calculate the underlying exposure of their securitisation position. Using the underlying exposure would create an additional burden on (re)insurers. Therefore it is not possible to integrate such concepts within Solvency II considering the fact that it would not be coherent with the rest of the framework.

Additional input received through the qualitative questionnaire

159. In addition to the analysis, EIOPA asked individual (re)insurers on this topic through the qualitative questionnaire by Questions 12d: *Do you consider that the existing calibration could be elaborated in a manner that is coherent with the overall Solvency II framework but providing more consistency with the CRR's securitisation framework with regard to a hierarchy of approaches similar to that currently set out in the CRR SEC-IRBA (Internal Ratings Based Approach), SEC-SA (Standardised Approach) and SEC ERBA (External Ratings Based Approach).*

160. 88% [sum of 'No' (34%) and 'N/A'(54%)] of (re)insurers mentioned that they do not consider that the existing calibration has to be elaborated in a manner that is coherent with the CRR's securitisation framework with regards to the hierarchy of approaches similar to that currently set out in the CRR.

3.5.3 STAKEHOLDER INPUT

161. In this section answers to question 10 from the EIOPA's public consultation is summarised.

Stakeholder 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?

Summary of the feedback received

162. Stakeholders are not interested in adopting hierarchy of approaches. Some stakeholders believe that the option to use internal models already creates a hierarchy.

Resolution proposed by EIOPA

163. Along with stakeholders' responses, EIOPA suggests not to modify the current existing approaches in Solvency II.

3.6 AGENCY AND MODELLING RISK

Extract from the CfA covered in this section:

In its advice, the JC is particularly invited to reflect about agency and modelling risk and how they differ between STS and Non-STS securitisations.

3.6.1 ANALYSIS

Treatment under the CRR

164. Under CRR, besides the re-calibration of the three approaches in order to generate lower capital charges for positions in transactions qualifying as STS securitisations, the regulation introduced, for senior positions in STS securitisations, a lower floor of 10% (instead of 15%, which will remain applicable to both non-senior positions in STS securitisations and to Non-STS securitisations more generally)⁴⁰. Over time, senior STS tranches have performed materially better than non-senior STS tranches⁴¹.
165. Additionally, the Securitisation Regulation (Article 6) requires that an originator, sponsor or original lender must explicitly disclose that it will retain, on an ongoing basis, a material net economic interest in the securitisation for the life of the transaction. For the purposes of the CRR, 5% has been specified as the minimum net economic interest required in order for such retention to be 'material'.
166. Another requirement to counteract the agency and modelling risk is the hierarchy of approaches under CRR (part 3.5), putting as a last approach to be used by banks, the SEC-ERBA, based on external ratings. Indeed, CRR prioritizes the approaches based on internal models in order to have capital requirements more proper to each bank.

Definition of agency and modelling risk and application to Solvency II

Agency risk

167. The large number of parties involved in a securitisation transaction brings about agency risk, a special form of operational risk in which individual parties involved in the transaction (agents) may take advantage of discretionary freedom to the detriment of the investors (principals).
168. An agency risk arises when principals (shareholders or investors) appoint agents (employees or managers) to act on their behalf. The interests of those principals and agents are not necessarily aligned. This so-called incentive conflict is a key feature of any agency problem. Lack of information about the activities of the agents (information asymmetry) is a key factor in agency problems as it prevents principals from adequately protecting their own interests.

⁴⁰ See part 3.4 on hierarchy of approaches

⁴¹ [https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/608778/EPRS_BRI\(2017\)608778_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/608778/EPRS_BRI(2017)608778_EN.pdf)

169. Securitisation-specific agency risks (which can be allocated to the category of general operational risks) could result from the numerous contractual relationships among the parties involved in a securitization transaction, in combination with the existing information asymmetries between the parties.

170. As the principal, the special-purpose vehicle commissions the other parties involved (agents) without being able to monitor their actions directly. This leaves the agents a certain latitude for discretionary action which they could use to their own benefit and to the detriment of the special-purpose vehicle as well as the investors (moral hazard). This agency risk is exacerbated in cases where the agent has access to specific information (e.g. defaults which become known to the servicer) and withholds it from the principal. Examples of potential agency risks include the following:

- Disregard for the criteria defined for selecting receivables on the part of the originator;
- Failure to report losses on the part of the servicer;
- Lack of motivation on the part of the servicer to collect receivables on time and as completely as possible, as the securitisation is intentionally drawn on as insurance against losses;
- Insufficient monitoring of the transaction by the trustee or the violation of payout arrangements — Attempts to exercise influence on rating calculations and
- Maximization of fee income by the arranger or the bank syndicate at the expense of the available payment flows.

171. The avoidance of agency risks is to be ensured in the structuring of the transaction and in ongoing risk monitoring.

Modelling risk

172. Modelling risk is a type of risk that occurs when a financial model is used to measure quantitative information such as a firm's market risks or value transactions, and the model fails or performs inadequately and leads to adverse outcomes for the firm.

173. Securitisation is a funding technique converting balance sheet exposures that are normally not tradable into tradable securities placed by the originator with the aim of raising funds. The transformation process entails the tranching of the credit risk related to the exposures being securitised. Institutions use the securitisation as a tool for significant risk transfer and capital relief purposes.

174. The transformation process may be complex to structure and operationalise: the risks arising in a securitisation transaction include, but are not limited to, the model risk and the agency risk between the various participants in the securitisation process.

175. Against these complexities transactions may be structured so as to lack a sufficient degree of transparency towards investors and other market participants.

176. Given the different risk charges between STS and Non-STS securitisation, these additional risks are therefore already reflected under the Solvency II framework.

Additional input received through the qualitative questionnaire

In addition to the analysis, EIOPA asked individual (re)insurers on this topic through the qualitative questionnaire. In Question 11 (re)insurers are asked whether they consider that agency risk and modelling risk for STS and Non-STS securitisation are adequately addressed in Solvency II.

21% of (re)insurers consider that agency risk and modelling risk for STS and Non-STS securitisation are adequately addressed in Solvency II. They consider that the stresses under Solvency II are high and therefore include also both risks. 34% did not provide any answer to this question as they have no strong view on the subject. Finally, 41% do not consider that agency risk and modelling risk are adequately addressed. They are of the view that agency issues should be taken more into consideration, especially if a more granular approach, that aligns capital charges between securitised and non-securitised assets, is introduced.

3.6.2 STAKEHOLDER INPUT

177. In this section answers to question 11 from the EIOPA's public consultation is summarised.

Stakeholder 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.

Summary of the feedback received

178. The majority of the stakeholders consider that the agency and modelling risks are not reflected in an appropriate manner in Solvency II because they are practically very small or immaterial. They assume that these risks are embedded in the capital charges in a disproportionate manner.

179. In contrast, a minority of the stakeholders consider that the agency and modelling risks are reflected in an appropriate manner in Solvency II. They believe that agency risks are intrinsic to every type of transaction and that this risk might not be avoidable. They also believe that models are a simplified representation, and this risk might also exist across the securitisation universe. So, they agree with the fact that these risks are already embedded in the risk charges of STS and Non-STS securitisations.

Resolution proposed by EIOPA

180. The large number of parties involved in a securitisation transaction, in combination with the existing information asymmetries between the parties result in agency risk. Also, for a

securitisation, the transformation process may be complex to structure and operationalise, arising in a securitisation transaction the model risk.

181. Stresses under Solvency II take into account these additional risks.

3.7 ADDITIONAL INFORMATION

182. The High Level Forum⁴² (HLF) report proposes recommendations which are broadly aligned with the considered policy options and the calibration analysis performed by EIOPA.

3.7.1 RECOMMENDATION LAID OUT IN THE HIGH LEVEL FORUM (HLF) REPORT⁴³

Extract from the CfA sections covered:

Follow-up recommendations:

The JC is, in particular, invited to consider for these purposes the recommendations laid out in the HLF Report for recalibrating capital charges applied to senior tranches under the CRR and for recalibrating the capital treatment of securitisation tranches under Solvency II (see pages 61-62 of the HLF Report).

183. Regarding Solvency II, the [HLF report](#) recommends that the capital charges for securitisation positions should be recalibrated to reduce the current gap between the shocks applied under stress-testing to mezzanine and senior STS tranches as well as the gaps between respective STS and Non-STS tranches based on additional data and common methodology.

184. The HLF report also recommends that the stress factors applied to senior STS and Non-STS tranches should be realigned where justified with those for equally rated corporate and covered bonds, while the stress factors for senior securitisation tranches must be commensurate with their risk and in principle lesser than those applied to the respective underlying exposures on a stand-alone basis.

185. As explained before, different policy options and calibration methodologies, aligned with those recommendations, were being considered by EIOPA:

- On capital charges, the analysis is performed in chapter 2 ;

⁴² https://ec.europa.eu/info/sites/default/files/business_economy_euro/growth_and_investment/documents/200610-cmu-high-level-forum-final-report_en.pdf

⁴³ https://ec.europa.eu/info/sites/default/files/business_economy_euro/growth_and_investment/documents/200610-cmu-high-level-forum-final-report_en.pdf

- On the comparison between securitisation and corporate and covered bonds, the analysis appears in chapter 1⁴⁴;
- On the granularity of the tranches, the analysis and comparison with CRR is performed in chapter 3.

3.7.2 USE OF MATURITY AND DURATION

Extract from the CfA covered in this section:

In addition to the above, the Commission Services welcome recommendations from the JC on any other technical amendments that may be appropriate or desirable to improve the prudential capital treatment of securitisations, as well as on desirable mechanisms to enhance consistency in the interpretation of the framework.

186. Under CRR, the risk weight uses the maturity of the securitisation as reference, which is the time remaining until the payment of the nominal value of the bond. Under Solvency II, the stress uses the modified duration of the securitisation as reference, which is the sensibility of the asset price to a change in interest rate value.

187. The principle of Solvency II asset stresses that they model the loss in own funds from the loss of value of an asset. Securitisations are subject to the spread risk, which models the loss of value from a change in spread levels. The modified duration is a better reference compared to the duration when assessing the exposure to change in spread levels. Therefore, it is more appropriate to use in the Solvency II framework.

3.7.3 STAKEHOLDER INPUT

188. In this section answers to questions 12 and 13 from the EIOPA's public consultation are summarised.

Stakeholder Question 12: What is your view on the preliminary conclusion not to use the maturity (as in CRR) for the Solvency II framework?

⁴⁴ "Given the nature of securitisation and its added risk, a slightly higher capital charge is applied compared to the other two asset categories. However, this difference is unlikely to explain the small amounts of investments made by insurers in this particular asset category. Other reasons also have to be taken into account such as the complexity of this asset product or legal provisions that make such investment more complicated than in other asset classes. We expect that the responses to the questionnaire will give us information on this."

Stakeholder 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

Summary of the feedback received

189. Stakeholders agree that the modified duration, rather than the maturity as in CRR, is the appropriate reference for the purposes of Solvency II.
190. Finally, on question 13, some stakeholders reiterate the lack of a level playing field between securitisations, and corporate / financial bonds, covered bonds and the high current capital charges for securitisations.

Resolution proposed by EIOPA

191. EIOPA agrees with the stakeholders that the modified duration is a better reference compared to the duration when assessing the exposure to change in spread levels. Therefore, it is more appropriate to use it in the Solvency II framework.
192. As mentioned in section 2, for the time being, there is no robust evidence that there is room for lowering the current capital requirements.

3.8 ADVICE

193. In summary, based on the analysis performed, the input received from the stakeholders and the insurance industry, the JC proposes not to do any changes to the existing framework and to keep the existing status quo with regards to introducing elements from the CRR into Solvency II.
194. Analysis shows that it would be feasible to increase the risk sensitivity by making the framework more granular. However, one downside, such a measure will further increase the already high number of risk charges in Solvency II, which was updated only three years ago. In addition, there is little evidence that such a measure would bring the desired results of reviving the securitisation market. Furthermore, implementation of this measure standalone, given the current low investment volumes, may be ineffective and costly with small or no potential gains.
195. On the linking between capital requirements of securitisation and capital requirement of underlying exposures as well as on applying the hierarchy of approaches used in the CRR, JC’s analysis concluded that such changes would not be desirable for implementation within Solvency II.

ANNEX I – QUESTIONNAIRE TO INDIVIDUAL UNDERTAKINGS – RESPONSES RECEIVED

SAMPLE

Qualitative questionnaire

C	#	C	#	C	#
AT	2	FR	4	LV	3
BE	2	GR	2	NL	2
BG	2	HR	2	NO	3
CY	2	HU	3	PL*	1
CZ	2	IE	5	PT	2
DE	4	IS	3	RO	1
DK	12	IT	8	SE	4
EE	2	LI	3	SI	4
ES	5	LT	2	SK	7
FI	4	LU	2	Total	98

Type	%
Life	31%
Non-Life	21%
Composite	43%
Re-ins.	5%
Sum	100%

* The Polish NSA completed one qualitative questionnaire for Poland given the low investment volume in the country.

Quantitative questionnaire

C	#	C	#
BE	1	IT	3
DE	3	LU	2
DK	12	LV	1
ES	5	NL	2
FI	1	NO	3
FR	2	PT	1
GR	2	SE	2
IE	3	Total	43

Type	%
Life	51%
Non-Life	16%
Composite	28%
Re-ins.	5%
Total	100%

OVERVIEW OF THE QUALITATIVE RESPONSES RECEIVED

I. BACKWARD LOOKING QUESTIONS ON THE INVESTMENT BEHAVIOUR

Impact of Solvency 2 on the investment behaviour in the EU securitisation market in recent years

1. Has the Solvency 2 capital framework been a significant driver for your investment activity in EU securitisation market in recent years? Please explain (Section 1)

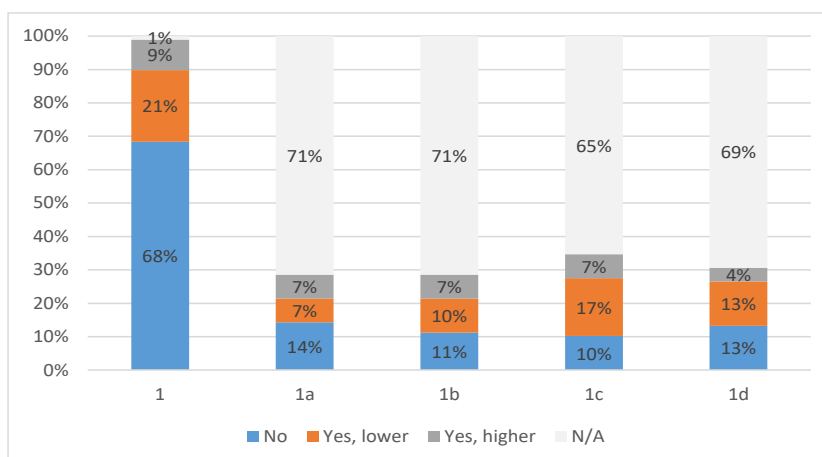
1a. if yes: has your investment behaviour been impacted by Article 178(3) and 178(5) of Commission Delegated Regulation (EU) 2015/35 which set out the risk factor stress for senior STS securitisation? Please explain.

1b. if yes: has your investment behaviour been impacted by Article 178(4) and 178(6) of Commission Delegated Regulation (EU) 2015/35 which set out the risk factor stress for non-senior STS securitisation? Please explain

1c. if yes: has your investment behaviour been impacted by Article 178(8) and 178(9) of Commission Delegated Regulation (EU) 2015/35 which set out the risk factor stress for Non-STS securitisation? Please explain

1d. if yes: has your allocation to securitised products changed since the introduction of Solvency II in 2016? Please explain.

Aggregated summary of responses:



Other factors having an impact on the investment behaviour in the EU securitisation market

2. Should other factors be regarded as having had major impacts on your investment activity in EU securitisation market? Please explain (Section 1)

2a. if yes - has your allocation to securitisation products changed since the crisis of 2008? Please explain

2b. if yes - does the bad reputation of securitisation make you invest less in this type of products? Please explain

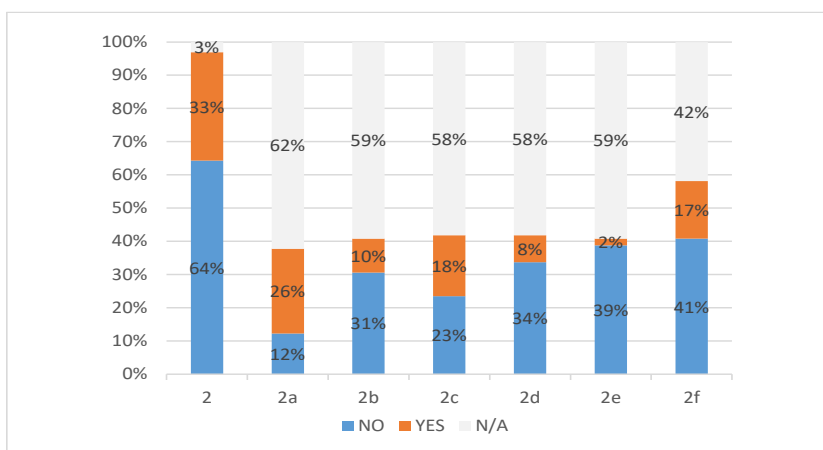
2c. if yes - does the complexity of the securitised products linked to risk management difficulty make you invest less in the product? Please explain

2d. if yes - has the STS label introduced in 2019 and securitisation regulation in general impacted your investment behaviour? Please explain

2e. if yes - does the low interest rate environment make you invest less in securitised products? Please explain

2f. Are there other factors that make your company to invest less in securitisation products? Please explain

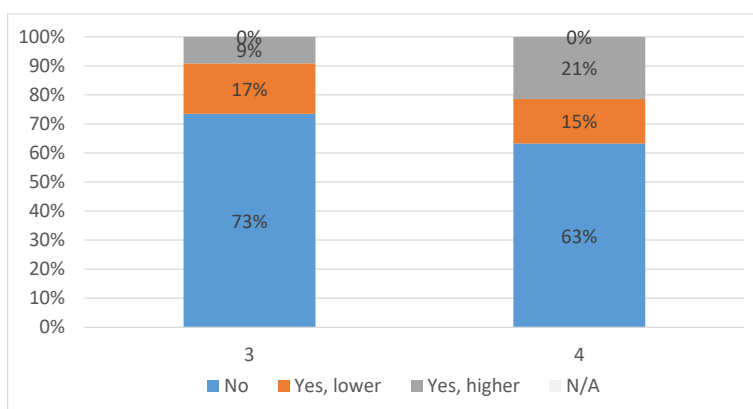
Aggregated summary of responses:



Investment behaviour for comparable instruments

3. Has your allocation to covered bonds changed since the introduction of Solvency II of 2016? Please explain the main reasons of the change. (Section 1)
4. Has your allocation to corporate bonds changed since the introduction of Solvency II of 2016? Please explain the main reasons of the change (Section 1)

Aggregated summary of responses:

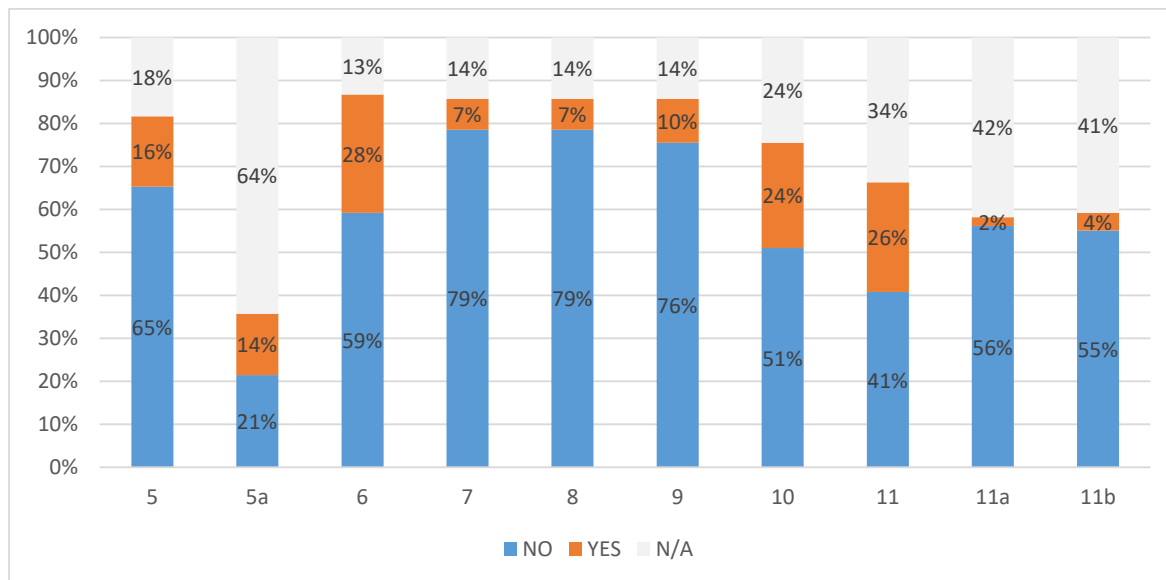


II. SECURITISATION QUESTIONS

Assessment of the capital calibration of securitisation tranches held by insurance and reinsurance undertakings

5. Do you have evidence that the current calculation for capital requirements for spread risk on securitisation positions in Solvency II for the senior tranches of STS, non-senior tranches of STS and Non-STS securitisations is not proportionate and commensurate with their risk? Please explain (Section 2)
- 5a. If yes - do you have evidence to support different capital requirements for spread risk on for securitisation positions in Solvency 2 for the senior tranches of STS, non-senior tranches of STS and Non-STS securitisations especially compared to capital requirements for non securitised assets with similar risk characteristics, such as covered bonds and corporate bonds? Please explain (Section 2)
6. Do you consider that your investment in securitisation is refrained by lack of risk sensitivity of the capital calibration framework? Please explain (Section 3)
7. Do you have evidence supporting a differentiated capital calibration between mezzanine and junior tranches of securitisations? Please explain (Section 3)
8. Do you have evidence supporting a differentiated capital calibration between senior and non-senior tranches of Non-STS securitisations? Please explain (Section 3)
9. Do you have evidence supporting a differentiated capital calibration between type of securitisations (E.g. ABS, MBS, CDO, CMO, mixed, other)? Please explain (Section 3)
10. Do you consider that EIOPA should investigate any alternative methods (not mentioned in this questionnaire) to the calculation of risk factor stress that can capture in a more adequate and proportionate manner the risk of securitisation? Please explain which ones and why. (Section 2)
11. Do you consider that agency risk and modelling risk for STS and Non-STS securitisation are adequately addressed in Solvency 2? Please explain (Section 3)
- 11a. Do you have evidence supporting a different treatment of agency risk and modelling risk for STS securitisation in Solvency 2? Please explain (Section 3)
- 11b. Do you have evidence supporting a different treatment of agency risk and modelling risk for Non-STS securitisation in Solvency 2? Please explain (Section 3)

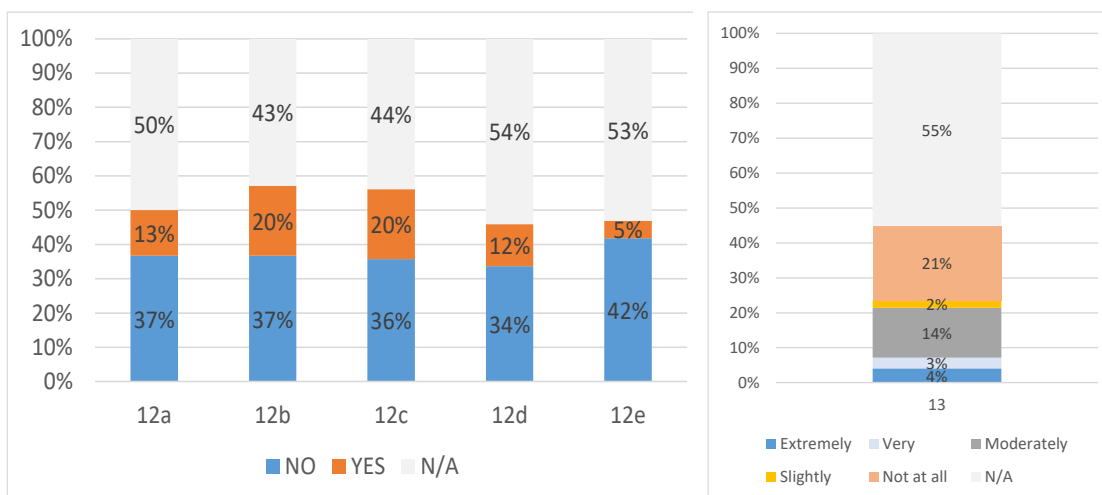
Aggregated summary of responses:



Assessment of the existing calibration method of Solvency II in comparison with other frameworks

12. Do you consider that the existing calibration could be elaborated in a manner that is coherent with the overall Solvency 2 framework but providing more consistency with the CRR's securitisation framework with regard to:
- differentiated treatment for STS and non STS securitisation
 - a link between capital requirements for securitisations and the capital requirements for the underlying exposures, including a cap based on the capital requirements of the underlying portfolio of assets as a backstop to the capital requirements on the securitisation positions
 - the granularity of the treatment of tranches as characterised by their attachment and detachment points
 - a hierarchy of approaches similar to that currently set out in the CRR SEC-IRBA (Internal Ratings Based Approach), SEC-SA (standardised approach) and SEC ERBA (External Ratings Based Approach)
 - any other aspects
13. Do you think the capital requirements of securitised products for insurers are excessive when compared to the capital requirements for other financial institutions (e.g. banks, pension funds)? Please provide evidence to support your answer. (Section 1)

Aggregated summary of responses:



III. GENERAL QUESTIONS

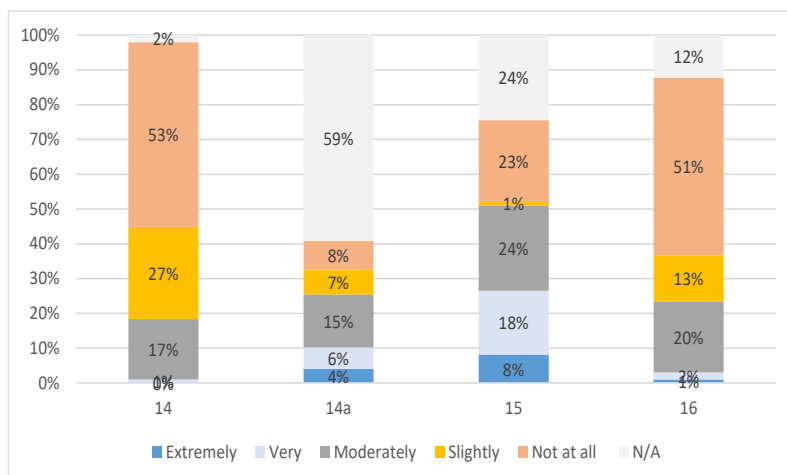
14. Do you currently invest in securitisation products?

14a. if yes - do you diversify your positions? Please explain

15. To what extent do you rely on ratings with respect to the securitisations considered?

16. Is there an appetite from your insurance company to increase their investments in securitisation in the next 3 years? Please explain – (Section 1)

Aggregated summary of responses:



ANNEX II – QUESTIONS TO STAKEHOLDERS

EIOPA received comments on the consultation paper published on the 15th of June until the 13th of July from the following 9 stakeholders:

#	Stakeholder name
1	Prime Collateralised Securitisation (PCS) EU sas - PCS
2	Association for Financial Markets in Europe (AFME)
3	Leaseurope & Eurofinas
4	Insurance Europe
5	Dutch Securitisation Association
6	CREFC Europe
7	The Loan Market Association (the “LMA”)
8	GDV (German Insurance Association)
9	Association of German Banks

RESOLUTION TABLE

<p>Comments received from the Consultation on the advice on the review of the Securitisation prudential framework in Solvency II</p> <p>Consultation paper published under: LINK (EIOPA/BoS-22-341)</p>				
<p>Q1. Do you have any comment on the comparison of the securitisation capital charges with other asset classes with similar characteristics? (Section 1 - page 16)</p>				
#	Stakeholder name	Answer yes/no	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS	Yes	Based on the work of Risk Control and the general considerations outlined, we believe that the capital charges for securitisations are excessive compared to other assets classes. Subject to the additional work using proxies as mentioned in our comments we would propose the following more appropriate numbers:	See remarks on the Risk Control Paper in the resolution for response 2 to question 4.

			<table border="1"> <tr> <td rowspan="3">current</td> <td>STS senior tranche (x Duration) *****</td> <td>1.00%</td> <td>1.20%</td> <td>1.60%</td> <td>2.80%</td> <td>5.60%</td> <td>9.40%</td> <td>9.40%</td> </tr> <tr> <td>STS non-senior tranches (x Duration)</td> <td>2.80%</td> <td>3.40%</td> <td>4.60%</td> <td>7.90%</td> <td>15.80%</td> <td>26.70%</td> <td>26.70%</td> </tr> <tr> <td>Non-STS tranche (x Duration)</td> <td>12.50%</td> <td>13.40%</td> <td>16.60%</td> <td>19.70%</td> <td>82.00%</td> <td>100.00%</td> <td>100.00%</td> </tr> <tr> <td rowspan="4">proposed</td> <td>STS senior tranche (x Duration)*</td> <td>0.90%</td> <td>1.10%</td> <td>1.40%</td> <td>2.50%</td> <td>4.50%</td> <td>7.50%</td> <td>7.50%</td> </tr> <tr> <td>STS non-senior tranches (x Duration)**</td> <td>1.40%</td> <td>1.75%</td> <td>2.50%</td> <td>4.50%</td> <td>8.50%</td> <td>9.50%</td> <td>8.50%</td> </tr> <tr> <td>Non-STS (senior) tranche (x Duration)***</td> <td>2.50%</td> <td>3.50%</td> <td>4.50%</td> <td>7.50%</td> <td>12.50%</td> <td>14.50%</td> <td>100.00%</td> </tr> <tr> <td>Non-STS (non-senior) tranche (x Duration)***</td> <td>4.00%</td> <td>5.75%</td> <td>7.50%</td> <td>12.50%</td> <td>19.50%</td> <td>23.50%</td> <td>100.00%</td> </tr> </table> <p>PCS does not propose any changes to the modified maturity shocks or the credit quality step shocks.</p>	current	STS senior tranche (x Duration) *****	1.00%	1.20%	1.60%	2.80%	5.60%	9.40%	9.40%	STS non-senior tranches (x Duration)	2.80%	3.40%	4.60%	7.90%	15.80%	26.70%	26.70%	Non-STS tranche (x Duration)	12.50%	13.40%	16.60%	19.70%	82.00%	100.00%	100.00%	proposed	STS senior tranche (x Duration)*	0.90%	1.10%	1.40%	2.50%	4.50%	7.50%	7.50%	STS non-senior tranches (x Duration)**	1.40%	1.75%	2.50%	4.50%	8.50%	9.50%	8.50%	Non-STS (senior) tranche (x Duration)***	2.50%	3.50%	4.50%	7.50%	12.50%	14.50%	100.00%	Non-STS (non-senior) tranche (x Duration)***	4.00%	5.75%	7.50%	12.50%	19.50%	23.50%	100.00%	
current	STS senior tranche (x Duration) *****	1.00%	1.20%		1.60%	2.80%	5.60%	9.40%	9.40%																																																					
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	Non-STS (non-senior) tranche (x Duration)***	4.00%	5.75%	7.50%	12.50%	19.50%	23.50%	100.00%																																																						
2	Association for Financial Markets in Europe (AFME)	Yes	<p>Under the Delegated Act on Solvency II (adopted by the Commission in June 2018), the capital calibrations in relation to senior tranches of STS securitisations were reduced to levels comparable to those applying to corporates.</p> <p>However, the risk factors remain much too high for the mezzanine and junior tranches of STS securitisations, and for all non-STS securitisations. Furthermore, “whole loan pool” investment remains much more generously treated than even STS securitisation, creating a disparity of treatment which is both unjustified from a prudential perspective and creates an unlevel playing field to the disadvantage of all securitisation (both STS and non-STS).</p> <p>Insurance company investors have an important role to play in investment in securitisation, particularly in the mezzanine and junior tranches. Despite their “mezzanine” label, these bonds are of very high quality, mostly rated investment grade (AA to BBB) thanks to the credit quality of the securitised pool and the credit support of the securitisation structure. These areas of the securitisation market match the risk/return, duration and diversification needs and analytical capabilities of insurers. As a result, they can facilitate better risk management and diversification in the financial</p>	Regarding the calibration, please see the resolution of comments on questions 3 and 4 below.																																																										

		<p>system.</p> <p>We further note the example of the US, where insurance company investors are active investors in the securitisation market benefiting from securitisation risk weights comparable to those for corporates: uniform for AAA-A risk weights and only marginally higher for BBB, with a steep cliff at BB level. The active participation of US insurers in the US securitisation market allows them to benefit from these risk diversification and yield opportunities and increases their global competitiveness.</p> <p>A whole loan mortgage pool (unrated, long duration, illiquid with no credit enhancement, where investors will suffer the first and every subsequent loss made on loans in the pool) will carry a capital charge of 3% for, say, a 30-year life at 80% LTV. A 5 year senior AAA rated STS RMBS (rated, medium duration, liquid, credit-enhanced, protected from first loss) will incur a capital charge of around 5% for the senior tranche and much higher for the non-senior tranche. This disparity of treatment is unjustified from a prudential perspective and creates an unlevel playing field to the disadvantage of STS securitisation (a fortiori non-STS securitisation).</p> <p>While the capital calibrations for senior STS tranches have been set to levels which are comparable to those applying to corporates, the calibrations of non-senior STS tranches remain disproportionately high in both absolute and relative terms, in some cases between three and four times the equivalent charges for corporate bonds. Practically speaking, yields in ABS are nothing like three or four times those in corporate bonds. The current Euro BBB corporate bond index (Barclays Euro BBB Corporate Bond Index) yielded end 2021 around 1%. Over the last two years, average BBB securitisation yields have been around 0.5% to 0.75% higher than corporates – nowhere near enough of a pick-up to</p>	<p>Given the differences in the regulatory frameworks, a comparison does not seem meaningful.</p> <p>Noted.</p>
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			<p>attract investors who will suffer a three to four times higher capital charge. A further example is the capital charges for a single-A non-senior STS tranche with a duration up to 5 years (4.6% - 23%) which is comparable with a BB-rated corporate of similar duration (4.5% - 22.5%). But the spreads for, say, Volkswagen corporate risk (BBB+) compared with Volkswagen auto ABS (AAA, A) tell a very different story which is not reflected in the proposed calibrations. This is even more difficult to justify given the zero default rate in investment grade auto ABS and the non-zero default rate in investment-grade corporate bonds. The approach to STS non-senior tranches seems excessively conservative also because the lower credit ratings of non-senior tranches already naturally lead to higher capital charges. This effective ‘double-counting’ creates a large cliff effect between senior and non-senior tranches creating strong disincentives for potential investors as it directly affects the ‘sweet spot’ for insurer investors. A more risk-sensitive approach would be to align with the capital treatment of covered bonds for senior STS securitisations and with corporate bonds for non-senior STS and, with a shift of one credit quality step, for non-STS. We believe this revised approach would more appropriately reflect the true economic risk of such investments. The analysis that Risk Control Limited conducted on behalf of AFME titled "ABS and Covered Bond Risk and Solvency II Capital Charges" indicates that the securitisation capital charges for 2 buckets, STS non Senior and non STS are materially disproportionate when contrasted to inferred capital charges from the analysis.</p>	
3	Leaseurope & Eurofinas	Yes	<p>Leaseurope & Eurofinas the voices of leasing and consumer credit providers (credit institutions, independent providers and finance divisions of manufactures) in Europe welcome the opportunity to comment on EIOPA’s consultation on the review of the Securitisation prudential framework in Solvency II.</p>	<p>For the comments on the calibration, please see the resolution of comments on questions 3 and 4.</p>

		<p>We would like to stress that the current prudential capital framework for insurance companies investing in securitisation remains excessively conservative compared to the treatment of other comparable investments. We therefore urge EIOPA and the European Commission to review the prudential capital framework for insurance investors in securitisation. This is essential for the recovery of an investor base that has shrunk considerably since the global financial crisis. The regulatory framework for securitisation in Europe is today both comprehensive and prudent. Therefore, a revised calibration for Simple Transparent and Standardised (STS) securitisations will make it more attractive for insurers to invest in securitisations.</p> <p>The Delegated Act on Solvency II (adopted by the European Commission in June 2018) did include some positive changes. However, these do not go far enough in correcting the harsh and disproportionate treatment of securitisation investments under Solvency II. We therefore believe that the current Review of Solvency II is an opportunity to fix this regulatory barrier.</p> <p>Under the Delegated Act, the capital calibrations in relation to senior tranches of STS securitisations were reduced to levels comparable to those applicable to corporates. Unfortunately, the risk factors remain too high for the mezzanine and junior tranches of STS securitisations.</p> <p>Insurance company investors have an important role to play in investment in securitisation, particularly in the mezzanine and junior tranches. These tranches are high quality (mostly rated investment grade AA to BBB) thanks to the credit quality of the securitised pool and the credit support of the securitisation structure.</p>	<p>Noted. It has to be said that it is not the intention of EIOPA to limit (re)insurers for their investments.</p>
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		<p>These areas of the securitisation market match the risk/return, duration and diversification needs and analytical capabilities of insurers. As a result, they can facilitate better risk management and diversification in the financial system.</p> <p>We further note the example of the US, where insurance company investors are active investors in the securitisation market, benefiting from securitisation risk weights comparable to those for corporates: uniform for AAA-A risk weights and only marginally higher for BBB, with a steep cliff at BB level. The active participation of US insurers in the US securitisation market allows them to benefit from these risk diversification and yield opportunities and increases their global competitiveness.</p> <p>While the capital calibrations for senior STS tranches have been set to levels which are comparable to those applying to corporates, the calibrations of non-senior STS tranches remain disproportionately high in both absolute and relative terms, in some cases between three and four times the equivalent charges for corporate bonds. AFME and other market participants have provided with detailed analysis and examples, which show that STS securitisations are unjustifiably penalised by Solvency II. Those numbers may explain why securitisation, in particular non-senior STS tranches, are not an attractive investment for insurance companies in Europe, despite being a transparent, high quality financial product.</p> <p>For all the above-mentioned reasons we call on EIOPA and the European Commission to adjust the capital charges for non-senior STS tranches that more adequately reflect their risk profile.</p>	<p>Given the differences in the regulatory frameworks, a comparison does not seem meaningful</p>
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<p>4</p>	<p>Insurance Europe</p>	<p>Yes</p>	<p>The significant capital requirements for securitisation vs comparable asset classes under the standard formula (in the context of a more penalising framework for asset-backed securities versus, for instance, the US market where, paradoxically, the historical default experience has been worse than in Europe) limit the participation of standard formula insurers.</p> <p>This is particularly the case for non-STS and non-senior STS (see table below). The potential additional asymmetry in capital treatment between selected residential mortgage-backed securities (RMBS) tranches and whole loan mortgage pools (as well as between selected collateralised loan obligation (CLO) tranches and pools of leveraged loans) can potentially create further disincentives for standard formula players, which can look at direct investment across underlying collateral.</p> <p>Table 1</p> <p>Corporate bond (1 year exposure): 0.9% (AAA), 1.1%(AA), 1.4%(A), 2.5%(BBB), 4.5%(BB), 7.5%(B and below)</p> <p>Covered (1 year exposure): 0.7%(AAA), 0.9%(AA), 1.4%(A), 2.5%(BBB), 4.5% (BB), 7.5% (B and below)</p> <p>Residential Mortgage loan (1 year exposure): 3% at LTV=80%</p> <p>STS Senior (1 year exposure): 1.0%(AAA), 1.2%(AA), 1.6%(A), 2.8%(BBB), 5.6%(BB), 9.4%(B and below)</p>	<p>Given the differences in the regulatory frameworks, a comparison does not seem meaningful.</p> <p>For the comments on the calibration, please see the resolution of comments on questions 3 and 4.</p>
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		<p>STS non-Senior (1 year exposure): 2.8%(AAA), 3.4%(AA), 4.6%(A), 7.9%(BBB), 15.8%(BB), 26.7%(B and below),</p> <p>Non-STS (1 year exposure): 12.5%(AAA), 13.4%(AA), 16.6%(A), 19.7%(BBB), 82.0%(BB), 100.0%(B and below)</p> <p>Corporate bond (5 year exposure): 4.5% (AAA), 5.5%(AA), 7.0%(A), 12.5%(BBB), 22.5%(BB), 37.5%(B and below)</p> <p>Covered (5 year exposure): 3.5%(AAA), 4.5%(AA), 7.0%(A), 12.5%(BBB), 22.5% (BB), 37.5% (B and below)</p> <p>Residential Mortgage loan (5 year exposure): 3% at LTV=80%</p> <p>STS Senior (5 year exposure): 5.0%(AAA), 6.0%(AA), 8.0%(A), 14.0%(BBB), 28.0%(BB), 47.0%(B and below)</p> <p>STS non-Senior(5 year exposure): 14.0%(AAA), 17.0%(AA), 23.0%(A), 39.5%(BBB), 79.0%(BB), 100.0%(B and below),</p> <p>Non-STS (5 year exposure): 62.5%(AAA), 67.0%(AA), 83.0%(A), 98.5%(BBB), 100.0%(BB), 100.0%(B and below)</p> <p>(Source: Commission delegated regulation (EU) 2015/35 of 10 Oct 2014, Commission</p>	
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			<p>delegated regulation (EU) 2018/1221 of 1 Jun 2018, Commission delegated regulation (EU) 2019/981 of 8 Mar 2019)</p> <p>Internal model-based investors may have more flexibility, but the very extensive due diligence requirements on a mainly floating rate product may, to a certain extent, disincentive an increase in investing, especially in market phases in which yields are not compelling enough, prompting a search for alternatives. The implicit constraints deriving from the regulation on looking globally at securitisation are also a general limiting factor in increasing overall investment in securitisation by insurance companies.</p> <p>In addition, the industry notes that the differences in capital requirements between senior and non-senior tranches of a securitisation remain high. For example, a senior five-year AA STS securitisation now has a capital charge of 6%, while the junior tranche with the same AA rating is at 17%. Insurers take the view that the rating is already encompassing the level of risk, whether the concerned tranche is senior or non-senior, so that a factor of one to three in the capital charge appears much too high.</p>	
5	Dutch Securitisation Association	Yes	<p>General comment:</p> <p>Since there is no specific question about the data section of the Consultation (pages 9-14) we would like to comment here as follows:</p> <p>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.</p>	Noted.

			<p>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).</p> <p>It would have been interesting to know how much all insurers had invested in securitisation and in what kind of products.</p> <p>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.</p> <p>On Q1:</p> <p>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.</p>	<p>For the comments on the calibration, please see the resolution of comments on questions 3 and 4.</p>
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			<p>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.</p> <p>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.</p>	<p>Due to the differences in the risk measurement of the regulatory regimes for banks and (re)insurers (timeframe, confidence level, etc.) a comparison of capital requirements would not produce meaningful results.</p>
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6	CREFC Europe	Yes	<p>We approach this question solely from the perspective of commercial real estate (CRE) debt securitisation and commercial mortgage-backed securities (collectively, CMBS), noting that, as elaborated in our response to Question 2, EU rules make it effectively impossible for exposures of this kind to qualify for STS treatment.</p> <p>We do not think the comparisons that EIOPA has made are very illuminating, and can recommend alternative approaches, within the sector and asset classes that we know well, which could be much more informative.</p> <p>The capital charges applicable under the standard formula for CMBS (as non-STIS exposures), are penal, in the sense that they are so high, in both relative and absolute terms, that insurers using the standard formula are almost certain to prefer alternative</p>	<p>For the comments on the calibration, please see the resolution of comments on questions 3 and 4.</p>

		<p>ways of gaining exposure to the risk/return of CRE credit.</p> <p>Insurers with internal models do however invest in CMBS on the basis of the capital charges determined by their model. For the many insurers rejecting CMBS because of penal standard formula capital charges, there are other options: allocating capital to specialist CRE debt fund managers (on either a segregated account, non-discretionary basis, or on a pooled, discretionary basis), buying exposures in the syndicated loan market, or indeed by setting up their own CRE loan origination platform. The capital charges applicable to such forms of CRE credit investment are, of course, different and lower than those applicable to CMBS under the standard formula.</p> <p>As a result, CRE credit offers a natural experiment for EIOPA to explore the impact of capital charges.</p> <p>First, EIOPA could collate information about the typical or average range for capital charges applicable to CMBS exposures under approved internal models, and compare those to the capital charges under the standard formula. That in itself would give an indication of whether the standard formula approaches CMBS in a reasonable way.</p> <p>Secondly, EIOPA could breakdown the level of CMBS exposures held by insurers by reference to whether they are using internal models or the standard formula. This would show the attractiveness of CMBS in different capital charge conditions.</p> <p>Thirdly, EIOPA could collate data regarding the level of investment by insurers in CRE credit in non-securitised form. This would give an indication of the appetite for CRE credit exposure that penal CMBS capital charges may be redirecting into products that are less</p>	<p>Internal models reflect the individual exposures of the respective insurer. It is also a priori not clear, why internal model (re)insurers should have access to non-public price data on securitisations that would be useful for the calibration of a broadly applicable securitisation risk charge in the standard formula.</p>
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		<p>transparent, tradeable or comparable.</p> <p>Combining the above, EIOPA could produce a matrix comparing securitised and non-securitised CRE credit exposures across insurers, having regard to the capital charges applicable to each (which will differ according to securitised status as well as according to whether the standard formula or an internal model is being used)</p> <p>We suspect that the conclusions would show very clearly that the standard formula capital charges for CMBS have stifled such investment by insurers using the standard formula, whereas other forms of CRE credit investment (securitised by internal model users, and unsecuritised by all insurers) have flourished. It would also be possible to determine the durations preferred by insurers, and whether those vary according to the applicable capital framework.</p> <p>In the meantime, there is clear evidence that issuance of CMBS in Europe has failed to recover to anything remotely resembling pre-GFC levels, or in the way that corresponding issuance has recovered in the United States, where the regulatory response to pre-GFC excesses was much more restrained than in Europe. As discussed further below, there is no evidence that securitised CRE debt poses greater risks to insurers (or indeed to financial stability) than unsecuritised forms of CRE debt (indeed, the opposite may be true).</p> <p>EIOPA should conduct the detailed comparative analysis we suggest and, if the evidence supports doing so, recalibrate capital charges so as to remove the regulatory arbitrage they currently create.</p>	
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<p>7</p>	<p>The Loan Market Association (the “LMA”)</p>	<p>Yes</p>	<p>The syndicated lending market is one of the principal sources of credit for the productive economy, financing not only operating companies but also infrastructure. Corporates need capital in order to grow their businesses. A robust corporate debt market is an essential component to grow the economy particularly in an environment where traditional lenders are capital constrained. Collateralised loan obligation transactions (“CLOs”) are securitisation structures involving portfolios of syndicated loans to corporate borrowers rated below investment grade. Such corporate borrowers, because of their below investment grade rating, have limited access means of accessing debt capital and CLO transactions therefore represent a key source of such debt capital.</p> <p>The securitisation capital charges for non-STS securitisations make it unattractive for insurers to invest in syndicated loans through securitisation structures such as CLOs.</p> <p>By contrast, securitisations of residential mortgage loans, auto loans and consumer loans can all qualify as STS and therefore represent more favourable investments for insurers. Thus, a consequence of the securitisation capital charges for non-STS securitisations being so high in relative terms is that insurers are discouraged from investing in corporate loans and other long-term productive assets. A reduction in the securitisation capital charges for securitisations comprising investments in syndicated loans (either by including them within the STS regime, or reducing the applicable charges for non-STS securitisations) would support greater investment by insurers in the productive economy. In addition, a comparison between the approach taken by the Solvency II regime for insurers and the Capital Requirements Regulation for banks and investment firms should be drawn. Securitisation capital charges in respect of assets classes with similar characteristics are considerably higher under the Solvency II regime than those for banks and investment firms under the Capital Requirements Regulation. This approach does</p>	<p>For the comments on the calibration, please see the resolution of comments on questions 3 and 4.</p> <p>Due to the differences in the risk measurement of the regulatory regimes for banks and insurers</p>
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			not appear to be proportionate to the risks inherent in investment in the same assets by such entities.	(timeframe, confidence level, etc.) a comparison of capital requirements would not produce meaningful results.
8	GDV (German Insurance Association)	Yes	<p>The German Insurance Association (GDV) welcomes the opportunity to provide comments on the consultation paper on the advice on the review of the securitisation prudential framework in Solvency II.</p> <p>German insurers invest in securitizations and would like to expand these investments further. While there is willingness to invest in this asset class, the capital intensity of securitisations in Solvency II has clearly been one of the key obstacles to invest in securitisations. The Solvency Capital requirements (SCR) for securitisations under SII appear to be too high relative to the real risk and notably in comparison with equally rated corporate or covered bonds.</p> <p>In addition, we believe that the level of distinction regarding capital charges between STS and non-STs is not justified by the inherent risk in the STS and non-STs transactions.</p> <p>The high capital requirements for securitizations under Solvency II limit their attractiveness for insurers. When reviewing the securitization regulation, consideration should be given not only to the risk aspect but also to appropriate equal treatment vis-à-vis similar asset classes.</p>	<p>Noted. Generally information for the period before Solvency II in not so easy to acquire. EIOPA asked individual undertakings through the NSAs and some data was collected for the last 10 years which so an increase. However, this is based on a small sample.</p> <p>For the comments on the calibration, please see the resolution of</p>

			<p>The lack of a level playing with relatively unattractive capital requirements is the main reason for the small allocation to securitisations within the insurance industry. The EIOPIA analysis in section 1.4 shows that holdings of European Insurance companies in the European securitisation market are small and that past regulatory efforts to boost and expand the European securitisation market for the benefit of the real economy have not been successful. We note however, that the analysis lacks an assessment of the securitisation holdings before the introduction of Solvency II. An analysis starting in 2000 would have been more suitable.</p> <p>The consultation paper also mentions the size of the European securitisation market at around EUR 800 bn (source: EBA). It is our understanding that this 800 bn includes retained transactions used by banks to raise funding at the ECB via repos or liquidity facilities. Retained transactions are not investable for insurance companies or any other investors as they can be considered bilateral trades between a financial institution and the ECB.</p>	<p>comments on questions 3 and 4.</p>
9	Association of German Banks	Yes	<p>General remarks</p> <p>The completion of capital markets union (CMU) is one of the central elements on the European agenda and securitisation is key to the CMU. Securitisation would enable greater involvement of the capital markets in the major financing challenges of our time. It should thus be given an important role in the post-Covid recovery toolkit for unlocking the significant amounts of capital that are much needed to finance the real economy, the fight against climate change and the digital transformation. Securitisation can build a bridge between bank-driven financing in Europe and the resources of the capital markets,</p>	<p>EIOPIA is fully supportive of the objectives of the European Commission in terms of sustainable growth and the Capital Market Union. In its role as prudential regulator its focus is though on</p>

		<p>while at the same time offering investors such as insurance companies the opportunity to invest according to their risk appetite in e.g., mezzanine tranches or very low risk senior tranches.</p> <p>However, the capital requirements for insurance undertakings that invest in securitisation positions are still far too high, with the consequence that they hardly ever invest in securitisation positions anymore. The only way to revitalise the securitisation market is to get insurance undertakings to invest more in securitisations again. A securitisation market with more depth is more attractive to investors. If the volume of investments were to increase to 2% again this could mean that in the EU around €200 billion could be invested in securitisations (based on investment capital of €12.8 trillion in 2020). This would strengthen the securitisation market considerably. Rising interest rates could also make securitisations more attractive again for insurance undertakings. But this will only happen if capital requirements are also recalibrated accordingly, which does not currently appear to be the case.</p> <p>It has also not been taken into account in the methodology that insurance undertakings often hold their securitisation positions until maturity. The capital requirement for the spread risk (market risk) is overstated. It should be sufficient to cover only the default risk, as in the banking books of banks. The same default risks should also be covered by the same capital requirements, irrespective of whether the securitisation positions are held by banks or insurance undertakings. The rules for calculating the capital requirement for default risk on insurance undertakings should be aligned with those of banks because a wealth of historical data is already available on this. For example, to keep the calculations simple, the capital requirements could be based on the external ratings of the securitisation positions.</p>	<p>the adequacy of the capital requirements under Solvency II.</p> <p>For the comments on the calibration, please see the resolution of comments on questions 3 and 4.</p> <p>Based on the Directive, Solvency II measures risks in terms of fluctuations in fair values over 12 months and not based on default and recovery rates</p>
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			<p>Most insurance undertakings appear to have since withdrawn from investing in the securitisation market. One hurdle for them to overcome before they begin reinvesting in the securitisation market is the comprehensive due diligence requirements. Thought should therefore be given as to how due diligence requirements for STS (simple, transparent, standardised) securitisations can be made more practicable and streamlined in order to encourage insurance undertakings to reinvest in them.</p>	
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<p>Q2. 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)</p>				
#	Stakeholder name	Answer yes/no	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS	Yes	We do not invest in securitisation.	Noted
2	Association for Financial Markets in Europe (AFME)	Yes	<p>To address EIOPA's point regarding insurers perceived greater appetite for Non STS than STS non Senior, there are several reasons for this.</p> <p>First of all, let's remember that greater appetite is relative. Since the implementation of</p>	Noted. The reason lies to the availability of securitisation products and not to the size of

		<p>Solvency II, appetite for ABS by insurers is evidently near non-existent. Marginal differences in appetite between Non STS and STS non Senior are attributed to the following;</p> <p>Availability - There is significantly less STS non Senior paper than non STS paper. Why? Senior tranches of the capital structure for both STS and non STS make up c.85% of the total capital structure, so there is naturally greater weighting towards Senior (whether STS or non STS), even before considering the subsequent points. The vast majority of STS collateral is Senior only, namely STS issuers less frequently offer for sale non Senior paper. There is no need to sell Classes B, C, D, for example, because they do not need the incremental funding at the higher cost. By contrast, there is a lot more non STS non senior paper as a result of CLO managers issuing CLOs and RMBS issuers (BTL, non-Conforming) issuing Classes A, B, C, D, E, F (rated AAA, AA, A, BBB, BB, B) which creates more opportunities for insurers to seek out transactions with improved RAROCs. Whilst the output from your sample set shows that insurance participation is skewed to non STS, big picture, participation is still very small. Your comparison of equity capital charges (Tables 1-4) provides a strong indication as to why - Type 1 and 2 equity capital charges are half of CQS 5, 5 year ABS.</p> <p>SecReg - The additional obligations under Article 5 for insurers purchasing STS is a burden which they can avoid through purchasing non STS if they can invest in the junior part of the capital structure where the RAROC makes more sense, all the better.</p> <p>RAROC preference - The returns on capital for standardised insurers to hold junior mezzanine non STS vs STS non Senior are better. EIOPA need to access the underlying data behind Figure 6 of their consultation paper which will likely highlight the distortions</p>	<p>the capital charges.</p> <p>Also the duration of these products plays an important role to the investment decision of insurers vis-à-vis- their investment strategy. Some additional information was added to the advice via the survey performed to individual undertakings for this please refer to chapter 1 of the advice.</p> <p>The mentioned provision is part of the STS Regulation and therefore outside the remit of EIOPA. The comments and their resolution will be one part of the advice to the European Commission.</p>
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			<p>that drive insurers to invest in junior non STS structured credit as a result of Solvency II.</p> <p>As we say above, insurance companies are not typically significant buyers of senior, mostly AAA rated, securitisations - or indeed of covered bonds. These investments simply do not yield enough and they are often too short-dated. A representative insurance company's fixed-income credit portfolio will be concentrated towards the mid-to-lower end of the investment grade spectrum, which covers most of the corporate bond market, and perhaps with a bias to longer maturities, where the yields and duration match their risk/return and asset/liability matching investment needs. The reduced calibrations for senior STS tranches introduced under the Delegated Act have therefore had no major impact.</p>	
3	Leaseurope & Eurofinas	No	No comment.	Noted
4	Insurance Europe	Yes	<p>From an investor perspective, the general impact of the EU Securitisation Regulation (SECR) on costs has been related to the need to ensure, through the several internal functions involved, adequate due diligence on investments both before purchase and on an ongoing basis. Being compliant with such an in-depth assessment has created a higher cost burden than the analysis required on comparable products such as covered bonds. From an issuer perspective, Insurance Europe understands that additional cost changes have also been driven by, inter alia, the need to comply with transparency requirements and the STS designation.</p>	<p>The mentioned provision is part of the STS Regulation and therefore outside the remit of EIOPA. The comments and their resolution will be one</p>

			<p>The asymmetry in capital treatment between selected RMBS tranches and whole loan mortgage pools (as well as between selected CLO tranches and pools of leveraged loans) can create further disincentives for standard formula users to invest. Similarly, the asymmetric treatment of securitisations and equally rated covered bonds can create disincentives.</p>	<p>part of the advice to the European Commission</p> <p>The calibration should be based on actual fluctuations in the prices of securitisations and not on theoretical fluctuations based on the risk charges for the underlying assets under Solvency II. Based on a look-through one would for example conclude that the risk charge for the senior tranche of a CMBS with an underlying portfolio of commercial real estate mortgages with 5 years modified duration would be zero provided the senior tranche does not represent more than 85 per cent of the notional amount. In order to reduce the</p>
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				capital requirement for securitisations there would have to be robust evidence that the current risk charges overestimate the loss in their value in the 99.5 % scenario.
5	Dutch Securitisation Association	Yes	<p>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.</p> <p>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.</p> <p>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</p>	<p>Comment is not clear (Article 243 seems to refer to criteria for determination of capital requirements for banks)</p> <p>The mentioned provision is part of the STS Regulation and</p>

				therefore outside the remit of EIOPA. The comments and their resolution will be one part of the advice to the European Commission
6	CREFC Europe	Yes	<p>Commercial real estate (CRE) debt securitisation and commercial mortgage-backed securities (collectively, CMBS) is effectively excluded from STS treatment. Recital (29) Securitisation Regulation prejudices against the natural interpretation of Article 20(13), which would incentivise good practice by differentiating between CMBS by reference to the nature and degree of dependence on the sale of assets. CMBS is also effectively excluded from STS capital treatment because of the requirement that no single exposure/obligor should represent more than 2% of the underlying pool – a rule that makes no sense for non-recourse CRE loans, where credit risk diversification should be tested, it at all, at the tenant level.</p> <p>Why would any insurer using the standard formula invest in even AAA-rated five-year CMBS exposures (67% capital charge), given the much lower charges for comparable products (and even for direct real estate at 25%)?</p> <p>The spread volatility in CMBS during the GFC does not justify this highly distortive regulatory framework. CMBS volatility was exaggerated during the GFC reference period by leveraged holding structures that are no longer in use; insurers are unlikely to require or expect CMBS holdings to have high liquidity; and the relatively high spread volatility of</p>	Noted. However, this reply does not directly respond to the question asked. It highlights the specific characteristics and performance of a one type of securitisation.

		<p>CMBS is a function of a small but public market - volatility is invisible, not lower, in the opaque and private CRE loan market to which penal capital charges drive insurers seeking CRE credit risk/returns.</p> <p>The effective exclusion of securitised CRE debt from the benefits of STS treatment matters, because it can help finance (with lower risk/cost capital than investors' equity) the productivity-enhancing CRE industry, which provides quasi-financial services to SMEs and other businesses by providing and managing premises for rent, thereby allowing businesses to use capital and other resources for their core business and not to build or buy premises from which to operate. CRE credit is also an important investable asset class alongside other, more liquid fixed income products.</p> <p>Excessive exposure to CRE can be problematic for banks and financial stability, but non-bank investors have long found the risk/returns of CRE credit attractive, especially if, like life companies, they value an illiquidity premium more than high liquidity. The penal treatment of CMBS under Solvency II has led most insurers to gain CRE credit exposure through direct loans or allocations to debt funds. Direct lending maximises visibility and control, but with minimal secondary market liquidity, comparability or transparency. Allocations to debt funds effectively outsource the infrastructure required for a direct lending business, but still lack the enhanced secondary market liquidity, comparability and transparency offered by CMBS.</p> <p>European CMBS emerged in the booming pre-GFC property market. Some notes performed poorly during the GFC, but where data is available (Bank of England / UK), it can be seen that securitised CRE debt suffered much lower write-offs than comparable unsecuritised debt. In any event, the CMBS industry tackled the problems revealed by the GFC (see "Market Principles for Issuing European CMBS 2.0" at</p>	
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			<p>https://www.crefceurope.org/library/opendownload/250), with better practice in post-crisis issuance, which has performed well with no principal losses to date.</p> <p>Research shows that over 25 years, European CMBS volatility has been similar to that of REITs and broader corporates, and returns were less volatile than those of REIT bonds.</p> <p>The high volatility exhibited by CMBS during the GFC was exaggerated by the fact that European CMBS exposures at that time were largely held by leveraged vehicles subject to margin calls. Market stress and value falls triggered margin calls which forced distressed sales and further value falls. Opportunistic investors who acquired CMBS at large discounts mostly saw substantial profits when prices recovered just a few months later. Those leveraged holding vehicles are no longer a feature of the European CMBS market, so the price volatility that one would expect to see in a period of comparable market stress should be lower. Life companies are unlikely to need to liquidate CMBS holdings in a crisis.</p> <p>The fact that volatility is visible in CMBS markets should not be taken to imply that CMBS has higher spread volatility than comparable private, opaque CRE debt investments. The lack of a market in those other investments simply means their spread volatility is invisible – not that it is lower than CMBS volatility. It is wrong to punish CMBS with higher capital charges when it actually offers better secondary market access and pricing transparency, than secured loans (or, indeed, buildings).</p> <p>Research cited is here: https://www.crefceurope.org/library/opendownload/372.</p>	
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7	The Loan Market Association (the "LMA")	Yes	<p>Since the implementation of the current Solvency II prudential framework EU insurers have been generally absent as investors from the market for CLOs and other securitisations of syndicated loans to corporates. Insurers could provide a vital source of capital and investment in the EU if the prudential framework were to be revised.</p> <p>Managed CLOs do not currently fall within the STS regime. However, it is our view is that the Securitisation Regulation should be amended so that it is possible for managed CLOs to achieve STS status, and for investors therein to benefit from the regulatory capital treatment associated therewith. Amending the STS criteria to permit the inclusion of some or all CLO structures would, in our view, help increase the volume of STS transactions. In turn this could increase the level of investment therein and support the recovery of the EU securitisation market and the wider EU economy in the post-COVID-19 era by providing essential funding to EU corporates.</p> <p>Further, widening the class of transactions that may achieve STS status to include managed CLOs would address the current disparity in capital charges for CLO transactions when compared with those for STS transactions (see responses to Question 1 and Question 3).</p>	<p>Noted. This reply does not directly respond to the question asked. It highlights the specific characteristics of a one type of securitisation which does not to this acquire the STS label.</p> <p>This is related to the STS framework which is outside the remit of this work. The European Commission will be informed with all the comments. Their resolution will be one part of the advice to the European Commission.</p>
8	GDV (German Insurance Association)	Yes	<p>There are practical difficulties to invest in securitisations, particularly due to the lack of a level playing field with other asset classes. While the due diligence and transparency regime is in principle adequate for securitisations it is not proportionate when compared to other fixed income asset classes (loan pools, covered bonds, etc.) and clearly puts securitisations on disadvantage. The regulatory framework for securitisation and for other comparable instruments (loan pools, covered bonds, etc.) is inconsistent and there</p>	<p>Noted.</p>

			are less requirements for investing in riskier asset classes. For example: It is much easier to buy highly leveraged AT1 bonds issued by financial institutions or unrated mortgage pools than buying a publicly listed and rated STS senior tranche.	
9	Association of German Banks	No	In our case "no" means no comment on this question.	N/A

Q3. 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)				
#	Stakeholder name	Answer yes/no	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS	Yes	The work of Risk Control, together with the points we made above in “[B] Capital Requirements are not responsible for the state of affairs – RAROC	See remarks on the Risk Control Paper in the resolution for response 2 to question 4.
2	Association for Financial Markets in Europe (AFME)	Yes	First of all, the focus of recalibration should be on those segments where there is natural appetite from insurers; that is to say non senior STS and non STS. Capital calibration for these segments is substantially disproportionate, as referenced in the RCL article “ABS and Covered Bond Risk and Solvency II Capital Charges”. A decade ago insurance companies considered ABS an important and relevant asset class as part of a diversified asset allocation strategy. Asset managers have asserted through recent solicitations and	EIOPA conducted a survey (quantitative and qualitative) to the (re)insurance sector through the National Competent Authorities.

			<p>previous surveys conducted by AFME - please see the AFME investor surveys of 2012, 2014 and 2018 - that substantial ABS investment mandates were terminated by insurers in anticipation of the implementation of Solvency II as a direct consequence of the capital framework therein. Please also refer to (i) Fitch Ratings' Special Report titled "Solvency II and Securitisation: Significant Negative Impact on European Market", (ii) the European SF Weekly report published by Bank of America and dated 27 June 2022 and (iii) the report titled "Non-traditional investments - key considerations for insurers", dated 19.1.2015, presented to The Institute and Faculty of Actuaries by the Non-traditional Investments Working Party. Has EIOPA conducted an impact analysis across the industry to confirm this or are their conclusions based on non-verified assumptions?</p> <p>EIOPA states that it is important to emphasize that the securitisation entails additional risks which are not present in the underlying exposures itself. These potential additional risks are specifically adverse selection and contagion risks. This is not correct. Where is the empirical analysis that evidences this? To take adverse selection first, for securitisations issued under the regulatory framework and issued prior to its implementation, the opposite is in fact true. Historical performance of securitised portfolios is either the same or frequently marginally better than the equivalent unsecuritised assets. Please refer to Bank of Italy's working paper (Banca D' Italia, Temi di discussione) from February 2011 titled "Securitisation is not that evil after all". The</p>	<p>98 European undertakings responded. The analysis can be found within the advice.</p> <p>The point on contagion mentioned during the roundtable and was taken into account in the final advice.</p> <p>Data are not available to us before the introduction of Solvency II.</p> <p>The person providing a loan has an informational advantage relative to the buyer of the loan. The seller also does not bear all the risks of poor underwriting decisions. This is what happened in the USA before the GFC and this is what retention rules are designed to limit. A quantification of the</p>
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			<p>rationale is that the originators interests in funded and on balance sheet securitisation are and have always been aligned to those of the investor. Regulation has prescriptively reinforced this alignment through risk retention and transparency of reporting. Contagion risks perceived in securitisation by EIOPA are no different to non-securitised risks that insurers hold, such as mortgage loan portfolios, for which capital charges are significantly lower. Again, on what basis are these statements made? These are consequential statements which would appear to be founded on no basis. Why is securitisation being treated differently with no valid reason?</p>	<p>effects of the still remaining agency risk is inherently difficult. The relevance of the different factors (liquidity, perceived agency risk etc.) may be difficult to disentangle but the fact remains that there is a large difference between the observed volatility in the prices of securitisations and the variation implied by a look-through using standard formula risk weights for the underlyings.</p> <p>The comment could be read to imply that the preliminary recommendation for no changes to the calibration is based on a</p>
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			<p>EIOPA's apparent rationale for not applying a risk sensitive capital framework is based on the erroneous assumption that insurers have no appetite for securitisation. This assumption appears to be based on the fact that because their analysis went no further back than 2016 and showed no significant disinvestment of ABS by insurers, there was never any appetite. Long before 2016 nearly all insurers had disinvested of ABS and terminated their investment mandates.</p> <p>At the time, they made it clear that this was solely due to the impact of Solvency II. It was nothing to do with concerns around the product. A risk sensitive framework is therefore not recommended by EIOPA on the basis that it would be too burdensome to be integrated for a minority investor base. This assumption is based on flawed analysis. Please refer to previously mentioned investor surveys.</p> <p>On that basis, a framework that introduces incremental risk sensitivity and is proportionate is much needed if the investor base that existed pre 2016 is to be encouraged back. A framework that splits STS junior to STS mezzanine and STS junior is proposed as a step in the right direction. To the extent the capital calibrations for STS mezzanine and junior are proportionate and comparable with other investment grade / non-investment grade asset classes, it may make sense as a compromise step.</p>	<p>perceived lack of interest of insurers in securitisations or their perceived limited relevance. This would be inaccurate. The recommendations in the consultation paper are exclusively based on the analysis of the evidence for the riskiness of securitisations relative to their treatment in the standard formula to ensure that Solvency II remains a risk sensitive framework.</p> <p>In terms of numbers securitisation currently concerns only a small number of insurance undertakings located in a few countries. It can be the case that during the financial crisis and some years after more insurers were investing. This we have no means to fully investigate. However an attempt</p>
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				<p>was made and the first section of the advice included some additional data. However it has to be noted that SII is applied to all insurers irrespective of size who use the standard formula.</p> <p>Please see resolution of comments in section on possible changes</p>
3	Leaseurope & Eurofinas	Yes	See our answer to question 1.	Noted
4	Insurance Europe	Yes	<p>The industry notes that the differences in capital requirements between senior and non-senior tranches of a securitisation remain high. For example, a senior five-year AA STS securitisation now has a capital charge of 6%, while the junior tranche with same AA rating is at 17%. Insurers take the view that the rating is already encompassing the level of risk, whether the concerned tranche is senior or non-senior, so a factor of one to three in the capital charge appears much too high. In addition, under the standard formula, penalising differences in the capital treatment of senior tranches versus the whole loan underlying portfolio (eg, with regards to residential mortgages) might not be proportionate with the overall embedded risk.</p> <p>In addition, the SCR for securitisation is significantly more punitive when compared to</p>	There have been clear differences in the historical spread

			<p>equally rated covered bonds and, to a lower extent, corporate bonds, and also becomes increasingly punitive as ratings decline. In this context, mezzanine STS are likely to miss out on significant interest from standard formula investors, bearing in mind also the required due diligence effort. The argument previously mentioned with regards to senior STS versus the underlying whole loan risk (eg, with regards to residential mortgages) might theoretically continue to apply selectively also to mezzanine tranches, adding to potential disincentives to take exposure in this format.</p> <p>For example, by comparing the capital requirements for senior tranches of STS securitisations that are ranked AAA and AA and a duration under five years with comparable bonds, Insurance Europe observes:</p> <p>-The corresponding risk charges for a AAA (AA) STS securitisation with credit assessment with a duration of one and three years are 1% (1.2%) and 3% (3.6%) respectively. By comparison, corporate bonds ranked with AAA (AA) and a duration of one and three years have risk charges of 0.9% (2.7%) and 1.1% (3.3%) respectively. The comparable covered bonds have risk charges of 0.7% (0.9%) and 2.1% (2.7%).</p> <p>The industry notes that non-STs securitisations remain significantly penalised compared to equivalent covered and corporate bonds and STS securitisations (see table in Q1) without this being justified by historical data. This is inevitably reducing the appetite of standard formula investors for non-STs positions.</p>	<p>volatility of securitisations, corporate bonds and covered bonds.</p> <p>Exposures to companies represent a different risk than to pools of assets. With covered bonds, there is the dual recourse to the issuer and the pool of assets. The most important question is whether the capital requirements for securitisations reflect the possible change in the value of securitisations.</p> <p>The calibration should be based on actual fluctuations in the prices of securitisations and not on theoretical fluctuations based on the risk charges for the</p>
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				<p>underlying assets under Solvency II. Based on a look-through one would for example conclude that the risk charge for the senior tranche of a CMBS with an underlying portfolio of commercial real estate mortgages with 5 years modified duration would be zero provided the senior tranche does not represent more than 85 per cent of the notional amount. In order to reduce the capital requirement for securitisations there would have to be robust evidence that the current risk charges overestimate the loss in their value in the 99.5 % scenario.</p>
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			<p>While the STS label brings some guarantees to investors, non-STS tranches, when benefitting from an identical rating to STS tranches, should be treated in a similar way, and in any case should not have a capital charge more than 10 times higher. There are cases where the riskiness of an investment is not really correlated with the STS label, meaning that the difference in the credit performance between STS and non-STS securitisations does not justify the huge difference in risk charges. Therefore, the current delta between the two categories is deemed excessive, particularly within the investment grade (IG) space (eg, when looking at the very benign historical default experience on highly rated tranches of CLO 2.0). A potential disincentive specifically concerning selected CLOs tranches could also arise for standard formula players in light of the capital advantage of taking direct exposure to underlying pools of leverage loans.</p> <p>Lastly, there is inconsistency in treatment between a whole mortgage loans pool versus RMBS, the latter being heavily penalised in terms of capital.</p>	<p>Non-STS securitisations do not benefit from some of the improvements introduced by the STS regulation which provides a reliable framework. In order to reduce the capital requirement for non-STS securitisations there would have to be robust evidence that their current risk charges overestimate the loss in their value in the 99.5 % scenario</p> <p>Please see remark above on look-through</p>
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				in the resolution of response 4 on question 2.
5	Dutch Securitisation Association	Yes	<p>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.</p> <p>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.</p>	<p>Based on the Directive, Solvency II measures risks in terms of fluctuations in fair values over 12 months and not based on default and recovery rates</p> <p>There have been clear differences in the historical spread volatility of securitisations, corporate bonds and covered bonds.</p>

				<p>Exposures to companies represent a different risk than to pools of assets. With covered bonds, there is the dual recourse to the issuer and the pool of assets. The most important question is whether the capital requirements for securitisations reflect the possible change in the value of securitisations</p> <p>The calibration should be based on actual fluctuations in the prices of securitisations and not on theoretical fluctuations based on the risk charges for the underlying assets under Solvency II. Based on a look-through one would for example conclude that the risk charge for the senior tranche of a</p>
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			<p>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.</p>	<p>CMBS with an underlying portfolio of commercial real estate mortgages with 5 years modified duration would be zero provided the senior tranche does not represent more than 85 per cent of the notional amount. In order to reduce the capital requirement for securitisations there would have to be robust evidence that the current risk charges overestimate the loss in their value in the 99.5 % scenario.</p> <p>The European Commission performed a calibration for senior and non-senior STS in 2018, which reflected</p>
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				the positive changes introduced by the STS Regulation. The available observations since then are too limited to draw any meaningful conclusions about revisions.
6	CREFC Europe	Yes	<p>Our focus is solely on commercial real estate (CRE) debt securitisation and commercial mortgage-backed securities (collectively, CMBS). The capital charges for CMBS exposures (which are, wrongly for a principles-based framework, effectively excluded from STS treatment) are neither proportionate nor commensurate with their risk.</p> <p>This response references BofA Securities research (https://www.crefceurope.org/library/opendownload/372). After analysing the market price and total returns volatility of EUR, GBP and USD CMBS compared to relevant REIT and corporate bond indices, the research concludes:</p> <p>"We find that the volatility of securitised notes has been similar to that of REITs and broader corporates over the past 25 years in Europe and the UK. The returns of securitised notes were less volatile, expressed as lower standard deviation, than REIT bonds but higher than corporates on average in both EUR and GBP denominations.</p> <p>"Likewise, the UK securitised notes were less prone to fat tails, expressed as lower kurtosis, than corporate and REIT bonds. European securitised notes exhibited a particularly high kurtosis and negative skew owing to a negative 9-sigma return during the Covid pandemic. Previously, the kurtosis had been 0.0 for the 23 years since 1997.</p>	<p>The relevant risk measure for Solvency II is the 99.5 Value at Risk. The cited study uses other risk measures.</p>

		<p>"We think the pricing of the European securitised index may be less representative of the sector and could have been more sensitive to outliers owing to the small number (9) of constituents. By contrast, we think the results from UK securitised index may be more meaningful owing to the higher number (145) of constituents.</p> <p>"Despite the limited pricing data in Europe, the EUR and GBP securitised indices had similar results to the bigger and deeper US CMBS index. This consistency lifts our confidence in the robustness of the European and UK securitised results.</p> <p>"Volatility was higher during the Covid pandemic than the financial crisis in many cases including European corporate bonds, REITS and securitised bonds as well as UK corporate bonds. We think this illustrates the need to review regulatory frameworks in light of recent performance."</p> <p>As to the spread volatility of CMBS during the GFC, it mainly reflects the fact that only this small part of the CRE debt market has any meaningful level of secondary market liquidity. Note the points made in our response to Question 2 about the (now historic) impact of leveraged holding vehicles, and about the fact that visible volatility in CMBS is almost certainly lower, not higher, than invisible volatility in the opaque and illiquid CRE loan market to which Solvency II instead pushes insurers using the standard formula. In the absence of data about the spread volatility of unsecuritised CRE loans, it is worth considering the volatility implied by the discounts at which European banks sold NPL portfolios (as much as 70, 80 or even 90%, we understand) in the years following the GFC.</p> <p>Secondary trading is not common in the European CRE credit investment market – life</p>	<p>The GFC continues to be a relevant example for a severe crisis. One can debate to what extent securitisation markets became illiquid, certain market participants withdrew etc. But these prices (which were also published by industry associations) would have been the reference for the valuation of</p>
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		<p>companies are especially likely to hold to maturity, matching income to long-term liabilities and enjoying a yield premium over more liquid assets.</p> <p>The research also assesses the credit performance of European CMBS over its 27-year history. As insurer investments in CMBS and CRE credit more generally are not in our view generally intended or expected to be highly liquid, credit risk may be a more useful metric for capital charges for CRE debt (securitised and unsecuritised) than spread volatility. The research shows that the credit performance of European CMBS has been good.</p> <p>Almost all CMBS losses arose in transactions issued in 2005-07, at the peak of CMBS's first property cycle, which ended with the GFC. For notes originally rated AAA, principal losses have amounted to just 0.3% of aggregate issuance. Total principal losses are just 2.2% of European CMBS since 1995. The industry has worked hard to improve CMBS since then (even in the absence of regulatory encouragement via the 'carrot' of STS capital treatment). There have been no principal losses for noteholders so far on post-GFC issuance.</p> <p>There is no evidence that the securitisation of CRE debt increases market/spread or credit risk for investors, or even at the loan level. On the contrary, securitised CRE loans appear to perform better than loans retained on bank balance sheets.</p> <p>As noted in the BofA Securities research, the 4% of principal losses arising on CRE loans originated and sold via conduit securitisation by UK banks between 2000 and 2008 compares favourably to the 9% write-offs cited by the Bank of England for non-securitised CRE loans. We have not seen such data from the ECB, but suspect European results would be similar. So credit performance would not justify penal capital charges for CMBS any more than spread volatility (if considered properly and fairly).</p>	<p>securitisations held by insurers.</p> <p>Care is needed when making adjustments to reflect the changes since then in terms of market participants and regulatory requirements. An estimate how much they would dampen the historically observed volatility is inherently difficult. There is also no guarantee that the composition of market participants and their objectives does not change in future. Reflecting the changes by simply ignoring the years before 2010 completely as suggested by some stakeholders</p>
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				could be seen as too optimistic.
7	The Loan Market Association (the "LMA")	Yes	<p>We respectfully ask that the regulatory capital treatment for securitisations of syndicated loans to corporates, in particular CLOs, be re-examined. Generally, the risk weights should be reviewed in light of the blanket exclusion of CLOs from the STS regime, the historically low default rates seen in relation to CLOs through the global financial crisis and since the start of the global pandemic in early 2020 and also the disproportionate risk weights assigned to non-STS securitisation tranches when compared with a direct investment in a corporate loan.</p> <p>Historically low default rates of EU CLOs</p> <p>Securitisations of syndicated loans, such as European CLO transactions which generally comprise portfolios of 30-60 loans to corporates have proven resilient throughout both the global financial crisis and the recent market disruption resulting from the global pandemic. In September 2021 Standard & Poor's published its 2020 Annual Global Leveraged Loan CLO Default and Rating Transition Study, which considered annual default</p>	Based on the Directive Solvency II measures risks in terms of fluctuations in fair values over 12 months and not based on default and recovery rates

		<p>rates of CLOs for the period from 2001 to the end of 2020. As set out in the study:</p> <p>(i) in each year during that period the annual default rate of CLOs was a fraction of the annual default rate of investment grade corporate debt; and</p> <p>(ii) in no year during that period has the annual default rate of CLOs exceeded 0.5% and in the year 2020, the global annual default rate for the security was 0.02%.</p> <p>It is also worth noting that the resilience of European CLO transactions is further exemplified by the fact that since the establishment of the European CLO 2.0 in the post global financial crisis period, not one of these securities has defaulted. Furthermore, despite the credit deterioration seen subsequent to the beginning of the Covid-19 pandemic, only one CLO 1.0 tranche defaulted in 2020, reduced from three the previous year.</p> <p>Direct investment vs investment via a securitisation</p> <p>Further, we note the CfA requests advice “whether the current calculation for capital requirements for spread risk on ... (iii) non-STs securitisations are proportionate and commensurate with their risk...” and that “The JC should take into account the capital requirements for non-securitised assets with similar characteristics...”.</p> <p>Under the Solvency II standard formula the calculation of the regulatory capital requirement in respect of a direct investment in a loan is calculated by applying to the</p>	<p>The calibration should be based on actual fluctuations in the prices of securitisations and not on theoretical fluctuations based on the risk charges for the underlying assets under</p>
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			<p>market value of the loan factors corresponding to (i) the credit quality step (the “CQS”) applicable to such loan, (ii) the modified duration of such loan and (iii) whether or not the borrower has posted collateral (such factors, the “Direct Investment Stress Factors”). The longer the modified duration and the higher the CQS (i.e. the lower the rating) of the relevant loan, the higher the regulatory capital requirement.</p> <p>As illustrated by the table set out in our response to Question 7, the Securitisation Investment Stress Factors for tranches of STS securitisations, particularly for the senior tranche of STS securitisations, are not very far from the Direct Investment Stress Factors for investment in loans. However, for any CQS, the Securitisation Investment Stress Factor for non-STs securitisations is far higher than that for a direct investment in corporate loans. For example, for investments with a “BB” rating, the Securitisation Investment Stress Factor for non-STs securitisations is over 18 times higher than the corresponding Direct Investment Stress Factor and for investments with a “B” rating, the Securitisation Investment Stress Factor for non-STs securitisations is over 13 times higher than the corresponding Direct Investment Stress Factor. We would also highlight that despite risk profiles, the Securitisation Investment Stress Factor for “AAA” rated non-STs securitisations is still 50 per cent higher than the Direct Investment Stress Factor for “B” rated corporate loans.</p>	<p>Solvency II. Based on a look-through one would for example conclude that the risk charge for the senior tranche of a CMBS with an underlying portfolio of commercial real estate mortgages with 5 years modified duration would be zero provided the senior tranche does not represent more than 85 per cent of the notional amount. In order to reduce the capital requirement for securitisations there would have to be robust evidence that the current risk charges overestimate the loss in their value in the 99.5 % scenario.</p>
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			<p>Commission Delegated Regulation (EU) 2018/1221 introduced the concept of STS securitisation into Solvency II with effect from 1 January 2019 in place of what had previously been referred to as a Type 1 securitisation. Commission Delegated Regulation (EU) 2018/1221 also significantly reduced the Securitisation Investment Stress Factors for tranches of STS securitisations compared with those that had previously applied for a Type 1 securitisation. However, the Securitisation Investment Stress Factors for non-STS securitisations have not been reduced from those provided for in the Solvency II Delegated Regulation and which have applied since the commencement of the Solvency II regime.</p>	<p>Non-STS securitisations do not benefit from some of the improvements introduced by the STS regulation which provides a reliable framework. In order to reduce the capital requirement for non-STS securitisations there would have to be robust evidence that their current risk charges overestimate the loss in their value in the 99.5 % scenario.</p>
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<p>8</p>	<p>GDV (German Insurance Association)</p>	<p>Yes</p>	<p>We believe that capital charges for securitisations are too high. The historical default experience for European securitisations is very good. In the European capital market there have been considerably more significant defaults on European sovereign debt, certain sub-sovereigns and financial institutions than on European securitisations. It should also be noted that according to several studies of rating agencies, the default risk of EU securitizations is significantly lower than for US securitizations (e.g. Fitch - “Global Structured Finance Losses: 2000-2020 Issuance” - 3 March 2021” or „Moody’s - Impairment and loss rates of EMEA structured finance securities: 1993-2018 – 16 May 2019). These rating agency studies show that historical losses in North America are 10x higher than in EMEA (4.2% vs. 0.42%).</p> <p>The capital charges for securitisations are especially too high when compared to respective capital charges for corporates and other asset classes (e.g. covered bonds or loan pools). This is shown, for example, by a comparison of the capital requirements for senior tranches of STS securitisations that are rated AAA and AA with a duration under 5 with comparable bonds. The corresponding risk charges for an AAA (AA) investment with duration 1 respectively 3 is 1 % (1.2 %) respectively 3 % (3.6 %). By comparison, corporate bonds rated AAA (AA) with duration 1 and 3 have risk charges of 0.9 % and 2.7 % (1.1 % and 3.3 %) and the comparable covered bonds have risk charges of 0.7 % and 2.1 % (0.9 % and 2.7 %). From our point of view the risk charges are therefore too high.</p> <p>Capital charges should more be in line with corporates when the securitisation is based on a corporate pool or it should be in line with covered bonds when securitisation is based on granular mortgage or consumer loan pools.</p>	<p>Based on the Directive, Solvency II measures risks in terms of fluctuations in fair values over 12 months and not based on default and recovery rates</p> <p>There have been clear differences in the historical spread volatility of securitisations, corporate bonds and covered bonds. Exposures to companies represent a different risk than to pools of assets. With covered bonds, there is the dual recourse to the issuer</p>
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			<p>We believe that the riskiness of an investment is not convincingly correlated with the STS-Label. There are not sufficient data points to come to the conclusion that the credit performance of STS and non-STS differs and do not imply as in the abovementioned example a 12 - 13x higher spread risk. Comparable to senior tranches of STS securitizations, there are many non-STS securitizations rated AAA and AA with a duration under 5. The corresponding risk charges are duration independent. For AAA respectively AA investments the risk charges are 12.5 % respectively 13.4 %. The corresponding risk charges for STS securitization with an AAA (AA) and duration 1 respectively 3 is 1 % (1.2 %) respectively 3 % (3.6 %). From our point of view, the risk charges non-STS securitizations are therefore too high.</p>	<p>and the pool of assets. The most important question is whether the capital requirements for securitisations reflect the possible change in the value of securitisations.</p> <p>Non-STS securitisations do not benefit from some of the improvements introduced by the STS regulation which provides a reliable framework. In order to reduce the capital requirement for non-STS securitisations there would have to be robust evidence that their current risk charges overestimate</p>
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			<p>Against this background the performance of European securitisations over various credit cycles and in comparison to other asset classes should be systematically analysed to derive adequate risk charges. We believe it is not sufficient to look only at the STS label to get to an overall conclusion on the European ABS market, rather, non-STS securitisations should also be closely analysed.</p>	<p>the loss in their value in the 99.5 % scenario.</p> <p>Please see previous remarks on comparison with other asset classes</p>
9	Association of German Banks	Yes	<p>Details</p> <p>The capital requirements for securities since Solvency II and also after the recalibration continue to be disproportionately high in relation to the actual risk, as insurance undertakings have been complaining about for many years. This has led to the risk/return ratio for investments by insurance undertakings in securitisation positions being disproportionate. The consequence of which is that investments by insurance undertakings in securitisation positions have fallen significantly since 2012 after it became clear from the QIS5 for Solvency II that capital requirements for securitisations would rise exorbitantly. Before that, investments in securitisation positions collapsed in the course of the financial crisis, even though European securitisations had very low default rates, also during the crisis. In recent years, investments in securitisation positions began to stabilise at a very low level. Insurance undertakings that have become niche specialists in this area currently seem more inclined to invest in securitisations as part of a mix with high potential returns, for which capital requirements then only appear to play a subordinate role. This used not to be the case.</p>	Noted

			<p>The aim should be for the share of investments by insurance undertakings in securitisations positions to reach the level it was at before the financial crisis. In our opinion, this would also require appropriate capital requirements for securitisation positions which reflect the actual risk and do not significantly overstate it. This is not the case for most securitisations based on the current capital requirements according to the standard formula for securitisations, even after the recalibration. This also applies to STS securitisations. It continues to be the case that the capital requirements for other investments with comparable risks are lower than those for securitisation positions. There could be a revival of the securitisation market if the current very low interest rates were to rise again due to inflationary developments currently being observed. However, this will only work if the capital requirements for securitisations do not overstate the actual risk.</p> <p>Most insurance undertakings appear to have since withdrawn from investing in the securitisation market. One hurdle for them to overcome before they begin reinvesting in the securitisation market is the comprehensive due diligence requirements. Thought should therefore be given as to how due diligence requirements for STS securitisations can be made more practicable and streamlined in order to encourage insurance undertakings to reinvest in them.</p> <p>The reason for the capital requirements for securitisations still being too high – they are still higher than other asset classes with comparable risk – is, in our opinion, because the capital requirements continue to take account of price trends for securities that were occurring during the financial crisis between 2008 and 2010. Since investors had no</p>	<p>Noted</p> <p>See resolution of comments in section on question 2</p> <p>The GFC continues to be a relevant example for a severe crisis. One can debate to what extent securitisation markets became illiquid, certain market participants withdrew</p>
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			<p>previous experience of crises with securitisations and bad news from sub-sections of the securitisation market in the US fed fears that there could be similar risks for European securitisations, the securitisation market in Europe almost came to a complete standstill for nearly a year. As a result, only hedge funds were prepared to buy securitisation positions in the market at very low prices. At the time, the prices were set by panic selling, some of which were only based on low volumes, and did not reflect the actual risk. Many investors held on to their securities and waited until they matured.</p> <p>After the last financial crisis came to an end around ten years ago, it was discovered that the default rate for most European securitisation segments was very moderate. If this experience of European securitisations had already been gained prior to the last financial crisis, the sudden price swings that occurred at the time would not have happened. This would have meant that the capital requirements which are based on historic data would be considerably lower and would correspond to the actual risk. This is why we continue to have serious concerns that the spread risk for securitisations is not calibrated appropriately. A stress test scenario which assumes that the risks arising from holding securitisations are sufficiently transparent for investors, as is the case for STS securitisations, should lead to lower stress factors. We therefore urgently recommend basing the recalibration of capital requirements for securitisation positions on more recent data which can be stress tested again based on a realistic stress scenario. We do not believe that historical data from the last financial crisis is a suitable basis since we assume that, due to the level of maturity the market has now reached, the professionalism of the</p>	<p>etc. But these prices (which were also published by industry associations) would have been the reference for the valuation of securitisations held by insurers.</p> <p>Care is needed when making adjustments to reflect the changes since then in terms of market participants and regulatory requirements. An estimate how much they would dampen the historically observed volatility is inherently difficult. There is also no guarantee that the composition of market participants and their objectives does not</p>
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			investors and the significantly stricter regulatory framework, there would not be a repeat of past developments.	change in future. Reflecting the changes by simply ignoring the years before 2010 completely as suggested by some stakeholders could be seen as too optimistic
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Q4. 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)				
#	Stakeholder name	Answer yes/no	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS	Yes	See above	
2	Association for Financial	No	The current calibration framework is NOT fit for purpose. Please refer to responses provided by Risk Control Limited. The presumption that there is not sufficient data to analyse STS transactions is not correct. There is ample data to analyse STS transactions by	The cited analysis is based on a relative comparison of risk charges. But the

	<p>Markets in Europe (AFME)</p>		<p>using very close proxies, focusing on prime RMBS and auto ABS issued prior to the implementation of SecReg. The inclusion of these transactions, which are substantively STS transactions, will likely build in some conservatism into the analysis and will provide a rich source of data as far back as market data exists.</p>	<p>crucial question is whether the risk charges for non-senior STS securitisations and non-STS securitisations overestimate the risk of a loss resulting from an investment in these securities. The considered period in the study starts in 2010 (see the discussion about the relevance of including data from the Global Financial Crisis elsewhere). Finally, based on the description in the Risk Control paper there seems to be a random drawing of weekly returns. If this should be the case, the question arises whether there is actually autocorrelation between weekly returns in a crisis (i.e. a bad week is more likely to be followed by a bad week – like for example in 2008 and 2020).</p>
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			<p>If one accepts the above truism, the need to use "non rated STS" likely becomes redundant. Focussing on "non rated STS", it is unclear to AFME members what is the underlying data used. If unrated, it would likely be equity or residuals. Can EIOPA confirm that? It is mentioned that this is a proxy for non-senior STS. In relation to non STS analysis, please refer to question 1 in relation to reliance on US Subprime as golden source data for non STS transactions. Non STS analysis focussed on spread volatility post the GFC on an asset class that is not available today. The consultation report refers to the High Level Forum (HLF) report and it (the consultation report) proposes different recommendations which are broadly aligned with the policy options and the calibration analysis envisaged by EIOPA – this is not obvious from the report findings. Please clarify. How does the analysis take into account the capital requirements for non-securitised assets? The cliff effects are notable. Please refer to page 3 of the European SF Weekly report published by Bank of America and dated 4 July 2022.</p>	<p>Noted. In the attempt to see if the calibration is adequate we used all data available. It is true that the proxy of non-rated STS is questionable this is why we cannot base any policy recommendations on this. It is simply too soon to analyse this segment of the market considering the covid period.</p>
3	Leaseurope & Eurofinas	No	No comment.	
4	Insurance Europe	No	While an empirical VaR calibration is suitable for calibrating many asset classes within the standard formula, it is clear that in the case of STS and non-STS securitisations, there is insufficient data to calibrate tail risks.	Please see remarks on the cited study under No. 2 in the Q4 section

			<p>In light of this, EIOPA should enrich its data sources. The dataset used by AFME/Risk Control in their paper (https://www.riskcontrollimited.com/insights/abs-and-covered-bond-risk-and-solvency-ii-capital-charges/), in which both for non-senior STS and non-STS the capital charges implied by the analysis are lower than those in the current Solvency II rules, provides a useful starting point. However, additional data sets should be sought and included in the assessment.</p> <p>Until the calibrations of this asset class are corrected, there is unlikely to be sufficient transactions/data points to allow EIOPA to conduct a meaningful empirical value-at-risk (VaR).</p>	
5	Dutch Securitisation Association	Yes	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.	The COVID pandemic resulted in significant stress in financial markets which would not seem to be a reason to discard data in case they were available in sufficient quantity.
6	CREFC Europe	No	See responses to other questions.	Noted.
7	The Loan Market Association (the "LMA")	No	We would suggest that the more appropriate measure for certain asset classes (such as corporate loans) would primarily be by reference to historical default data. As noted in our response to Question 3, securitisations of syndicated loans have proven robust throughout financial and economic crises and the COVID pandemic. Whilst spread variations do occur	Based on the Directive, Solvency II measures risks in terms of fluctuations in fair values over 12 months and not based on

			in respect of such securitisation in periods of volatility, these variations are not an accurate representation of the risk in CLO investments given their resilient nature.	default and recovery rates
8	GDV (German Insurance Association)	No	<p>We have the impression that the capital charges for STS and non-STS securitisations are too high and do not commensurate with their risk. Please see answer to question number 3.</p> <p>We don't agree with the calibration method used in this paper. Risk charges are still high due to the volatility of 2008-09. However, low credit losses suggest this was an unjustified spill-over from previous non-adequate CDO structures. Since then, investors have experienced the robustness of ABS and also regulation has been significantly enhanced, e.g. with STS. As such, past volatility should not be a guide for future volatility and hence risk charges. Given the short period for feedback we are not able to provide more evidence on alternative methods.</p>	<p>The GFC continues to be a relevant example for a severe crisis. One can debate to what extent securitisation markets became illiquid, certain market participants withdrew etc. But these prices (which were also published by industry associations) would have been the reference for the valuation of securitisations held by insurers.</p> <p>Care is needed when making adjustments to reflect the changes since then in terms of market participants and</p>

				regulatory requirements. An estimate how much they would dampen the historically observed volatility is inherently difficult. There is also no guarantee that the composition of market participants and their objectives does not change in future
9	Association of German Banks	No	In our case "no" means no comment on this question.	N/A

Q5. 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)				
#	Stakeholder name	Answer yes/no	Explanation	Processing
1	Prime Collateralised Securitisation	Yes	See above	Noted

	(PCS) EU sas - PCS			
2	Association for Financial Markets in Europe (AFME)	No	<p>More time is not needed to determine appropriate calibrations for STS given that there is sufficient data available from proxy transactions. Evidently, insurance companies stopped investing in ABS as a result of Solvency II. A more risk sensitive framework is needed for both STS and non STS transactions to support the re-entry of insurers that terminated ABS mandates a decade ago.</p> <p>If you need to look for evidence to demonstrate that insurers have appetite for securitisation mezzanine tranches, please consider active and increasing participation by insurers in unfunded synthetic participation in so called Significant Risk Transfer (SRT) transactions. Insurers participate in these securitisations through selling unfunded mezzanine tranche protection to banks. The prudential capital treatment is favourable however, given the unfunded nature of the participation and therefore interesting to insurers. As noted in the RCL article, "ABS and Covered Bond Risk and Solvency II Capital Charges", capital requirements are indeed now more comparable between Senior STS securitisation and covered bonds. The reason why insurers do not participate in Senior STS Securitisations is because insurers preference is for non-senior notes rated investment grade. Prior to the implementation of Solvency II, a substantial part of insurance investment mandates in securitisation focused on ABS non Senior investment grade only. That is to say, classes B, C, D (rated AA, A, BBB respectively). The reason is that this is the risk and duration that best meets insurance appetite, namely longer duration, higher margins and demonstrated to be low risk through the financial crisis (cf. ratings transition and loss rates for these structures).</p> <p>EIOPA note that "Investments on securitisation have been relatively stable across Europe</p>	Noted.

		<p>since the introduction of Solvency II (12.8 billion or 0.34% of total investment assets – 2020 numbers). Since the introduction of the STS label in 2019, a small decrease in investments can be observed in the STS segment of the securitisation market. This is entirely missing the point. Investments in securitisation declined from the moment that Solvency II calibrations were being discussed around 2009. By 2016, insurers had substantially disinvested of ABS. EIOPA would know this if they had tracked ABS holdings back and surveyed insurers and asset managers. Please see AFME investor surveys of 2012, 2014 and 2018.</p> <p>Solvency II should aim to encourage Europe insurers to invest in mezzanine and junior tranches of securitisation both to help them meet their risk/return, duration and diversification needs and more broadly to help facilitate better risk management and diversification in the financial system. Yet under the current calibrations, apart perhaps from some shorter maturity mezzanine tranches, this is not the case.</p> <p>Therefore, we argue that the calibration of risk factors for securitisations should be reviewed. A more risk-sensitive approach would be to align with the capital treatment of covered bonds for senior STS securitisations and with corporate bonds for non-senior STS and, with a shift of one credit quality step, for non-STS. We believe this revised approach would more appropriately reflect the true economic risk of such investments.</p> <p>Non-STS securitisations today carry very high charges as Type 2 securitisations. Many non-STS securitisations (CLOs, CMBS) have an important role to play in funding the real economy and today’s extremely high calibrations are unjustified in view of the performance of these securitisations through and since the global financial crisis.</p> <p>For example, we refer to the treatment of the AAA senior part of a CLO where around</p>	<p>Some additional evidence coming from the questionnaire were added in the advice.</p> <p>This would require robust evidence that the proposed risk charges do not underestimate the loss in their value in the 99.5 % scenario.</p>
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			35%-40% of the loans in a transaction could default with a 100% write-off before AAA noteholders might suffer a loss. These notes will incur a capital charge almost three times higher than a typical BB-rated constituent loan, and of course yield far less, giving insurers no incentive to invest in them.	
3	Leaseurope & Eurofinas	No	No comment.	N/A
4	Insurance Europe	No	<p>The industry does not agree with the conclusion that the overall risk sensitivity of the Solvency II risk charges with regards to STS and non-STS is appropriate. However, it agrees with the conclusion that not enough observations are available as there has not yet been a full credit cycle (including recession) on which to base an empirical calibration.</p> <p>The industry notes that non-STS securitisations remain significantly penalised, without this being justified by historical data. While the STS label brings some guarantees to investors, non-STS tranches, when benefitting from a rating that is identical to STS tranches, should be treated in a similar way, and should certainly not have a capital charge more than 10 times higher. There are cases in which the riskiness of an investment is not really correlated with the STS label, meaning that the difference in the credit performance between STS and non-STS securitisations does not justify the huge difference in risk charges.</p>	<p>Non-STS securitisations do not benefit from some of the improvements introduced by the STS regulation which provides a reliable framework. In order to reduce the capital requirement for non-STS securitisations there would have to be robust</p>

			<p>The SCR for securitisation appears significantly more punitive when compared to equally rated covered bonds and, although to a lower extent, corporate bonds, and also shows an increasing penalisation as ratings decline. At least, the capital treatment of securitisation senior tranches should be aligned on the one for bonds and loans with equivalent rating level.</p>	<p>evidence that their current risk charges overestimate the loss in their value in the 99.5 % scenario.</p> <p>There have been clear differences in the historical spread volatility of securitisations, corporate bonds and covered bonds. Exposures to companies represent a different risk than to pools of assets. With covered bonds, there is the dual recourse to the issuer and the pool of assets. The most important question is whether the capital requirements for securitisations reflect the possible change in</p>
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				the value of securitisations.
5	Dutch Securitisation Association	Yes	<p>Your conclusions are referring to the spread movements of European securitisations 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.</p> <p>The spread widening was also a reflection of the lack of market liquidity.</p> <p>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.</p> <p>So we conclude that the GFC spreads for securitisations are not the right justification for the high capital requirements imposed by Solvency II.</p>	<p>The GFC continues to be a relevant example for a severe crisis. One can debate to what extent securitisation markets became illiquid, certain market participants withdrew etc. But these prices (which were also published by industry associations) would have been the reference for the valuation of securitisations held by insurers.</p> <p>Care is needed when making adjustments to reflect the changes since then in terms of</p>

				market participants and regulatory requirements. An estimate how much they would dampen the historically observed volatility is inherently difficult. There is also no guarantee that the composition of market participants and their objectives does not change in future. Reflecting the changes by simply ignoring the years before 2010 completely as suggested by some stakeholders could be seen as too optimistic
6	CREFC Europe	No	See responses to other questions.	Noted
7	The Loan Market Association (the "LMA")	No	We note the conclusion that "For the securitisations, which do not benefit from the STS standard (non-STS), the analyses focuses on the spread volatility of securitisation investment during the Global Financial Crises. The results indicate that a change in the calibration is not warranted". We disagree with this conclusion. Please see our response to Question 4 above, where we submit that analyses focused more on default rates and resilience than spread volatility would be a more appropriate method for calibration.	Please see resolution of the mentioned comment

8	GDV (German Insurance Association)	No	<p>We don't agree with the conclusions obtained in this section. As previously stated:</p> <ul style="list-style-type: none"> • From our point of view, the risk charges for securitisations, especially for non-STS securitisations are too high, see above answers for reasoning, and therefore necessitate changes to the framework. • There is no level playing field between securitisations, corporate / financial bonds and covered bonds. • It seems necessary to look holistically at the performance of several asset classes over the cycle to reach more reasonable conclusions. See answer to question 3. 	Please see resolution of the cited responses
9	Association of German Banks	No	In our case "no" means no comment on this question.	N/A

<p>Q6. 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)</p>				
#	Stakeholder name	Answer yes/no	Explanation	Processing

1	Prime Collateralised Securitisation (PCS) EU sas - PCS	Option 2	<p>PCS has no objection to such segmentation. We believe that the existing regime is of such complexity already that this relatively minor change is unlikely to be material to investor behaviour. However, this remains a small change compared to the more relevant and necessary changes to capital calibrations we discuss in our submission. We also support Option 2 but with the same reservations as above. We are not investors so cannot respond to the last question.</p>	Noted.
2	Association for Financial Markets in Europe (AFME)	Option 2	<p>AFME members welcome the more risk sensitive approach proposed by EIOPA for STS transactions to the extent that any revised capital charges are proportionate for the level of risk.</p> <p>The approach proposed by EIOPA for STS should be adopted for non STS. That is to say, Non STS should be split into 3 categories; Senior, Mezzanine, Junior. We understand that EIOPA does not have access to the granular data underlying the non STS exposure making up 78% of the ABS exposure that they note. AFME expects that the lack of risk sensitivity in the Solvency II framework causes non prudential distortions. That is to say it forces insurers to invest in the riskiest parts of the non STS transactions where there is very little differentiation between capital charges and can therefore optimise RAROC through equity like yields, Behaviour driven by regulatory distortions would seem contrary to the prudential aims of a regulator. AFME therefore strongly suggests implementing a risk sensitive framework for both STS and non STS. The cliff effect between senior and non-senior STS remains high, as does that between senior STS and equally rated non-STS securitisations. We are not aware of any market evidence to justify this, be it for default or spread volatility. Even with lower capital requirements, return on capital projections for insurers are poor and compare badly with what bank investors can achieve. Projected return on capital calculations, especially compared with bank investors, illustrate how</p>	Noted.

			<p>unattractive it remains for insurers to re-engage with securitisation.</p> <p>A more proportionate capital charge on mezzanine notes would encourage insurers to reinvest in this product once again. It is evident that insurers were very active in mezzanine ABS prior to the implementation of Solvency II. It is also increasingly evident that there is strong appetite from insurers in mezzanine risk on an unfunded basis due to the differing capital treatment.</p>	
3	Leaseurope & Eurofinas	Option 1	No comment.	N/A
4	Insurance Europe	Option 2	Insurance Europe supports Option 2. In principle, regulation should avoid being too complex but in the case of mezzanine versus junior tranches, a differentiated treatment could be justified. To be however noted that for equivalent rating levels, the differences between capital charges of same segmentations should be consistent (ie not too different).	Noted
5	Dutch Securitisation Association	Option 1	<p>Option 2 refers to non-STS so we assume that the reference in the question to non-senior STS is an error.</p> <p>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.</p>	<p>Correct, there was a typo in the reference to the options numbering.</p> <p>Noted.</p>

			And without an overall reduction of the capital charges the benefit will anyway be marginal.	
6	CREFC Europe	Option 2	<p>The starting point is that the Solvency II capital framework currently allows effectively no differentiation at all within the CRE debt securitisation asset class.</p> <p>EIOPA's goal should be to reduce the current, unjustified (in terms of the evidence, properly investigated and assessed) regulatory arbitrage in favour of non-securitised CRE credit investments, and create a regulatory incentive for well-structured transactions.</p> <p>To that end, adjustments should be made to allow differentiation through improved calibration of STS criteria so that well-structured CRE debt securitisation transactions can qualify for STS treatment.</p> <p>In addition (but especially if the STS criteria are not adjusted in that way), the capital charges for non-STS CRE credit exposures should be reduced to levels that are more broadly in line with those applicable to comparable CRE credit exposures (and to a level</p>	<p>A necessary condition for a change in the capital requirement for CMBS would be robust evidence that the current values overestimate the risk of a loss in these investments in the 99.5 % shock.</p> <p>This is a broader issue outside the scope of the call for advice. The capital requirements for securitisations are set out in the Solvency II Delegated Regulation.</p> <p>Please see remarks on the look-through in the</p>

			<p>that is not, as the current levels are, inexplicably much higher than the capital charge for direct real estate investments).</p> <p>It is perverse that the very illiquidity of private loans and buildings, which results in their prices appearing less volatile in stressed conditions, should mean that they attract lower capital charges than public securities whose relative liquidity allows volatility to be seen in a time of stress.</p> <p>As a relatively minor point beside those important points, recognising the difference between different risk tranches would be better than not doing so.</p>	resolution of response 5 to Question 1
7	The Loan Market Association (the "LMA")	Option 1	We do not express a view on this question.	N/A
8	GDV (German Insurance Association)	Option 1	<p>Possible further segmentation of the STS category should not lead to increasing complexity and higher requirements, but rather to lower risk-adequate charges. This means without a concrete risk charge reduction for senior and junior STS securitisation we would prefer Policy option 3: No change with regard to the granularity of the non-STS category.</p> <p>We would agree with Policy option 1 "No change with regard to the granularity of the non-STS category" to avoid possible further complexity and additional requirements. The capital charges for STS securitisations are already too high and an increase in granularity would probably open the door for a more complex regulation with even higher capital charges compared to the status quo. The securitisation market rather needs a simple, transparent and risk-adequate regulation and not more complexity.</p>	Noted.

9	Association of German Banks	Option 2	In our case "option 2" means no comment on this question.	N/A
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Q7. 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). Please provide an explanation.				
#	Stakeholder name	Answer yes/no	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS		<p>We believe that an approach focusing on underlying exposure risk without imaginary agency risks could be a positive approach. But we recognise the added complexity. Should the existing capital requirements be correctly calibrated, this would be unnecessary. However, a cap at the capital requirement for the underlying assets for all the tranches of an STS securitisation would correctly reflect the absence of securitisation specific agency risks for STS. (See our comments in “Agency 14 Risks” above). As such it could be a positive aspect of a re-calibrated capital requirement regime, introducing a form of “sanity check”</p>	<p>One concern with this approach at least for junior tranches would be that they absorb the first losses so that the losses in the underlying pool are magnified for their holders. More generally, there were instances in the past where the spread changes even for AAA-rated tranches exceeded the value implied by the risk charge for the underlying assets under Solvency II. In other</p>

				words the cap was breached.
2	Association for Financial Markets in Europe (AFME)		<p>Whilst AFME members are sensitive to any revisions which further burden insurers from a regulatory standpoint they would challenge the precept that spread risk of a securitisation is in general higher than the spread risk of its underlying exposure. They would also repeat the challenge relating to the assumption that there are additional risks introduced by selection or contagion that do not exist in the underlying portfolio loan sales. Where is the evidence for this?</p> <p>A potential solution would be to allow insurers to elect to cap capital charge at the look through charge for senior tranches to the extent they have the capabilities to calculate the capital charges of the underlying exposures.</p>	<p>Please see resolution of the referenced remark.</p> <p><i>Please see remarks on look-through in the resolution of response 5 to Question 1</i></p>

3	Leaseurope & Eurofinas		No comment.	N/A
4	Insurance Europe		Insurance Europe would agree with the preliminary conclusion not to implement an exposure risk assessment within Solvency II for the reasons laid out in section 3.2.2. As already stated, Insurance Europe believes that the securitisation market needs a simple, transparent and risk-adequate regulation and not more complexity.	Noted
5	Dutch Securitisation Association		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.	Please see resolution of the first comment in this section.
6	CREFC Europe		<p>Please see our responses to other questions. As a general matter, for CRE credit exposures, there is no evidence to suggest that securitised investments are either more volatile or present greater credit risk compared to comparable unsecuritised investments - indeed, it seems more likely that the opposite is the case.</p> <p>It is possible that the analysis set out in section 3.2.2 of the consultation paper has some basis in evidence and truth for other asset classes, but it is simply not supported by any evidence in relation to CRE debt and CMBS. Again, see the BofA Securities research (https://www.crefceurope.org/library/opendownload/372).</p> <p>Therefore, and as argued in our responses to other questions, reducing or eliminating the substantial (and penal) capital surcharges applicable to CMBS and other CRE debt</p>	A necessary condition for a change in the capital requirement for CMBS would be robust evidence that the current values overestimate the risk of a loss in these investments in the 99.5 % shock.

			<p>securitisation investments so as to bring them more closely into line with the underlying exposure risk would be appropriate.</p>	
7	<p>The Loan Market Association (the "LMA")</p>		<p>We note that looking through the securitisation structure to review the underlying exposure risk could be overly burdensome for insurers. However, looking through to the exposure risk does offer an advantage in that it can help to demonstrate the risk benefits of an investment in a tranching loan/bond portfolio versus an interest in the same untranching portfolio.</p>	<p>The calibration should be based on actual fluctuations in the prices of securitisations and not on theoretical fluctuations based on the risk charges for the underlying assets under Solvency II. Based on a look-through one would for example conclude that the risk charge for the senior tranche of a CMBS with an underlying portfolio of commercial real estate mortgages with 5 years modified duration would be zero provided the senior tranche does not represent more than 85 per cent of the notional amount. In</p>

			<p>The Consultation Paper notes that “securitisation entails additional risks which are not present in the underlying exposures themselves” and “The additional risks of the securitisation must be taken into account in a risk-sensitive calibration”. We would submit that the benefits of a securitisation in allowing investors access to (i) a pool of diversified assets which can be managed to mitigate risk and (ii) senior tranches which have the protection or more junior tranches to absorb losses far outweigh the minimal risks inherent in a securitisation.</p> <p>Further, as evidenced by the performance of CLOs throughout several crises (financial, economic and COVID), the CLO structure enhances credit protection – in a CLO the risk is spread across a number of sectors and assets rather than concentrated in a single name (as would be the case in a direct hold investment). By referring to the CQS, the calculation of charges already takes into consideration the agency and modelling risks present in a securitisation.</p>	<p>order to reduce the capital requirement for securitisations there would have to be robust evidence that the current risk charges overestimate the loss in their value in the 99.5 % scenario.</p> <p>A necessary condition for a change in the capital requirement for CMBS would be robust evidence that the current values overestimate the risk of a loss in these investments in the 99.5 % shock.</p>
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		<p>As such, we would suggest implementing a more risk-sensitive approach by referring to a combination of the underlying exposure risk, together with the existing reference to the applicable CQS as a basis for securitisation risk charges. We consider it appropriate to include a cap on securitisation risk charges applicable to positions that benefit from tranching, with such cap being based upon the capital charges applicable to a direct interest in the relevant portfolio.</p> <p>Under the Solvency II standard formula the calculation of the regulatory capital requirement in respect of an investment in a securitisation is calculated by applying to the market value of the securitisation investment factors corresponding to the CQS and the modified duration applicable to the tranche in which the investment is made. This aligns with the approach taken for direct investments however there are different sets of factors for securitisations depending on (i) whether or not the relevant securitisation satisfies the conditions to be an STS securitisation and (ii) in the case of an STS securitisation, whether or not the relevant tranche is the most senior tranche of the securitisation, (such factors, the “Securitisation Investment Stress Factors”).</p> <p>Under the current Solvency II rules all three sets of Securitisation Investment Stress Factors are higher than the Direct Investment Stress Factors, i.e. an insurer is required to hold more regulatory capital in respect of an investment in loans through a securitisation structure compared with a direct investment in the loans, assuming the CQS and modified duration of each type of investment is the same. The difference between the Securitisation Investment Stress Factors and the Direct Investment Stress Factors for non-STs securitisation positions is particularly large. The following table illustrates the difference in the required regulatory capital that results from the difference between the stress factors:</p>	<p>On the cap please see resolution for the first response in the section for Q7</p>
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			<p>Credit Quality Step CQS 0 (AAA rating) CQS 1 (AA rating) CQS 2 (A rating) CQS 3 (BBB rating) CQS 4 (BB rating) CQS 5/6 (B rating or lower)</p> <p>Direct investment in corporate loan 0.90% 1.10% 1.40% 2.50% 4.50% 7.50%</p> <p>Most Senior Tranche of STS Securitisation 1.00% 1.20% 1.60% 2.80% 5.60% 9.40%</p> <p>Other Tranche of STS Securitisation 2.80% 3.40% 4.60% 7.90% 15.80% 26.70%</p> <p>Non-STS Securitisation 12.50% 13.40% 16.60% 19.70% 82.00% 100.00%</p>	
8	GDV (German Insurance Association)		We would agree with the preliminary conclusion not to implement an exposure risk assessment within Solvency II for the reasons laid out in section 3.2.2. As already stated in Q 6: The securitisation market needs a simple, transparent and risk-adequate regulation and not more complexity.	Noted
9	Association of German Banks		no comment on this question	N/A

Q8. 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). Please provide an explanation.

#	Stakeholder name	Answer yes/no	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS		We have no views on this issue.	N/A
2	Association for Financial Markets in Europe (AFME)		<p>AFME members would support an assessment as to the relevance of incorporating as an input the thickness of non-Senior tranches within this methodology at some time in the future. It would logically form part of an initiative to create a more risk sensitive framework, more closely aligned to CRR.</p> <p>If a phased approach is preferred to advance in lock step with a return of insurers to investing in ABS, the recommendation set out in the preliminary conclusion would seem logical.</p>	Noted
3	Leaseurope & Eurofinas		No comment.	N/A
4	Insurance Europe		Insurance Europe agrees not to implement the considerations for the thickness of non-senior tranches. On balance, the cost vs benefit of this would risk adding complexity while being unlikely to represent, per se, a driver of additional demand from insurance players (considering also the scalability of non-senior tranches particularly in the STS space). In addition, one should also consider that the riskiness of a tranche should not be associated only to its thickness, but also to its attachment point. However, when it is justified, the	Agreed

			capital treatment of securitisation should not be more punitive than the underlying exposure.	
5	Dutch Securitisation Association		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.	Noted
6	CREFC Europe		We express no opinion in relation to this question.	N/A
7	The Loan Market Association (the "LMA")		<p>We appreciate the conclusion not to implement considerations for the thickness of non-senior tranches. It would be challenging to develop appropriate considerations in order to give credit for subordination given the individual nature of each portfolio and the securitisation capital structure.</p> <p>For each transaction, the various tranches may be sized differently, with different risk profiles. It's not clear how these considerations would apply in practice.</p> <p>Instead, we believe it would be more appropriate to apply a cap on securitisation risk charges (see Question 7 above) to avoid imposing further burdens on insurers.</p>	Noted
8	GDV (German Insurance Association)		We would agree with the preliminary conclusion not to implement the considerations for the thickness of non-senior tranches. As already stated in Q 6: The securitisation market needs a simple, transparent and risk-adequate regulation and not more complexity.	Agreed
9	Association of German Banks		no comment on this question.	N/A

Q9. 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? (Option 3 or option 4 of page 36)? Please explain your view. If Option 4 is your preference, do you think it would encourage you to invest more into Non-STS securitisation? (Section 3 - page 43)				
#	Stakeholder name	Option 3 or 4	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS	Option 4	See our response to Question 6. On balance we are favourable and have provided proposed numbers on that basis (see our response to Question 1). We are not investors so cannot answer the final part of the question.	Noted.
2	Association for Financial Markets in Europe (AFME)	Option 4	AFME members believe that an Option 5 would be more appropriate, mirroring Option 2 outlined above. That is to say, a risk sensitive approach that differentiates between Senior, Mezzanine and Junior. This approach would also be more prudent and align the capital framework with a risk sensitive approach adhered to by insurers. Evidence collated by AFME indicates that if proportionate capital charges are assigned, this will encourage insurers to reinvest in the product.	Disagree. Input from insurance undertakings (through the questionnaire) suggested that although some changes could be feasible, their potential effectiveness to the revival of the securitisation market remains uncertain. The main reasons are: (i) Increase complexity to an already complex

				framework which was updated only three years ago; (ii) Uncertainty of effectiveness of measures; (iii) The potential cost of changing the existing framework is high given the low investment volumes and the very low participation of the insurance industry.
3	Leaseurope & Eurofinas	Option 3	No comment.	N/A
4	Insurance Europe	Option 4	Insurance Europe supports Option 4. There should be a differentiation, within non-STS securitisation, to justify different treatment for an equally rated senior and mezzanine (eg, across different asset classes) under the standard formula. However, in Insurance Europe's view this should not be excessive, assuming the currently applied capital charges remain in place.	Partly agree. Although some changes could be feasible, their potential effectiveness to the revival of the securitisation market remains uncertain. Undertakings suggested that the potential cost of changing the existing framework is high given the low investment volumes and the very

				low participation of the insurance industry.
5	Dutch Securitisation Association	Option 3	<p>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.</p> <p>And without an overall reduction of the capital charges the benefit will anyway be marginal.</p>	<p>Correct, there was a typo in the reference to the options numbering.</p> <p>Noted.</p>
6	CREFC Europe	Option 4	<p>We have no opinion as the options under consideration appear to have no relevance to the asset class about which we are knowledgeable. The question refers to the "non STS category" and "non STS securitisation", but the options in the consultation paper actually refer to "the STS category" and "non-senior STS category" - so we assume the wording of the question is wrong.</p> <p>For the avoidance of doubt, we have selected an option solely because your survey form forces us to do so, not because we support that option. Our response should not be included in any count of responder preferences as between the options.</p>	<p>Correct, there was a typo in the reference to the options numbering.</p> <p>Noted.</p>
7	The Loan Market Association (the "LMA")	Option 4	<p>In our view, the optimal approach would be to follow Option 4.</p> <p>Calculation of capital charges that is more sensitive to the risk profile of the relevant investment should provide insurers with a more level playing field for them to invest in line</p>	<p>Disagree.</p> <p>Input from insurance undertakings (through the questionnaire) suggested that although</p>

			<p>with their risk appetite. . Although the framework may become more complex as a result of the proposed segmentation, we would submit that a more granular approach to the calculation of risk charges represents a justifiable benefit for investors and the market as a whole. We consider it appropriate to align this approach with the CRR framework and take into consideration the risk portfolios of mezzanine tranches.</p>	<p>some changes could be feasible, their potential effectiveness to the revival of the securitisation market remains uncertain. The main reasons are: (i) Increase complexity to an already complex framework which was updated only three years ago; (ii) Uncertainty of effectiveness of measures; (iii) The potential cost of changing the existing framework is high given the low investment volumes and the very low participation of the insurance industry.</p>
8	GDV (German Insurance Association)	Option 4	<p>Possible further segmentation of the non-STS category should not lead to increasing complexity and higher requirements, but rather to lower risk-adequate charges. This means without a concrete risk charge reduction we would prefer Policy option 3: No change with regard to the granularity of the non-STS category.</p> <p>However, we believe a segmentation of non-STS category in senior and non-senior would be useful and should result in lower capital requirements, where senior tranches benefit</p>	Noted.

			<p>from the first losses taken by non-senior tranches (Policy option 4). As such, the standard formula should differentiate between the two, especially for non-STS securitizations. Lower risk charges for senior non-STS positions would increase the attractiveness of the asset class. For example: For AAA respectively AA rated senior tranches of non STS-securitisations and spread duration 1 and 3 the risk charges are 12.5 % (13.4 %) respectively 37.5 % (40.2 %). By comparison as above mentioned, other bonds ranked with AAA (AA) and duration 1 and 3 have risk charges of 0.9 % and 2.7 % (1.1 % and 3.3 %). The corresponding risk charges for STS securitizations with an AAA (AA) and spread duration 1 respectively 3 is 1 % (1.2 %) respectively 3 % (3.6 %). From our point of view, these risk charges for senior tranches of non STS-securitisations are therefore too high and should be reduced.</p>	<p><i>Non-STS securitisations do not benefit from some of the improvements introduced by the STS regulation which provides a reliable framework. In order to reduce the capital requirement for non-STS securitisations there would have to be robust evidence that their current risk charges overestimate the loss in their value in the 99.5 % scenario.</i></p>
9	Association of German Banks	Option 4	In our case "Option 4" means no comment on this question.	N/A

Q10. 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). Please provide an explanation.

#	Stakeholder name		Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS		We do not have strong views on the topic.	N/A
2	Association for Financial Markets in Europe (AFME)		No comment	N/A
3	Leaseurope & Eurofinas		No comment	N/A
4	Insurance Europe		Insurance Europe agrees with the proposal not to implement a hierarchy of approaches. As mentioned in previous points, Solvency II capital requirements are calibrated in order to be used on the market value of assets, not the exposure, and there are no requirements for insurers to report the underlying exposure of their securitisation position.	Noted
5	Dutch Securitisation Association		We agree. The option to use internal models already creates a hierarchy	Noted
6	CREFC Europe		We express no opinion in relation to this question.	N/A

7	The Loan Market Association (the "LMA")		We agree that applying a hierarchy of approaches to the calculation of capital under Solvency II would be complex. We would suggest that the benefits of the CRR model of (i) internal; (ii) standard; (iii) external can be replicated for Solvency II by adjusting the considerations to include reference to the underlying exposures (see response to Question 7).	Noted
8	GDV (German Insurance Association)		No opinion. In all considerations, it should be taken into account not to increase the complexity and the capital charges for the securitisation sector.	N/A
9	Association of German Banks		no comment on this question	N/A

Q11. 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).				
#	Stakeholder name	Yes or No	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS	No	We refer you back to our response in "[C] Agency Risks". To summarise, we believe that there are no identified agency risks in STS securitisations what are not either (a) fully remedied by the general rules set out in the Securitisation Regulation or in specific STS criteria or (b) are general "agency risks" applicable to all or many capital market	See resolution of the referenced comment

			<p>instruments but are folded in the general regulatory framework through the assumption that such risks are contained in the data. As for modelling risks, for STS plain vanilla securitisations we invite EIOPA to engage with market participants. Whereas PCS (and many other stakeholders and the EBA) identified specific modelling risks generated by the use of models on models in the cases of re-securitisations, these modelling risks were derived solely from the structure of re-securitisations. These are now banned.</p> <p>For traditional securitisations and even more so for STS securitisations, the so called “modelling risks” are very small and certainly no worse than modelling risks in corporate bonds or equities. As with “agency risk”, we invite those concerned about these to explain in greater detail what risks exactly they are focusing on and not merely speak of loose undefined and undetermined “modelling risks”. PCS would contend that it cannot identify any securitisation specific modelling risks outside of the genuine but now banned risks of re-securitisations.</p>	
2	Association for Financial Markets in Europe (AFME)	No	<p>Nowadays, issuers’ motivations to use securitisation is purely as a tool to obtain funding or risk transfer, thereby releasing regulatory capital for banks. These motivations are constrained within the securitisation framework. This substantially mitigates the agency risks that existed prior to the global financial crisis. Specific articles within the securitisation regulatory framework impose obligations upon parties that mitigate the drivers of agency risk, being moral hazard and information asymmetry through Articles 5, 6 and 7.</p> <p>Solvency II calibrations were based on a wide universe of transactions, many of which were not originated with the same motivations and none of which were issued under the existing regulatory framework. Agency risks that were associated with adverse selection in</p>	Noted

			arbitrage products in the run up to the financial crisis do not exist within the current regulatory framework.	
3	Leaseurope & Eurofinas	Yes	No comment.	N/A
4	Insurance Europe	Yes	Agency risks are intrinsic to every type of transaction, ie, across asset classes. This operational risk might not be avoidable. Models are a simplified representation of the real world, and this risk might exist across the securitisation universe. So, Insurance Europe agrees that they are already embedded in the risk charges of STS and non-STS securitisations.	Agreed
5	Dutch Securitisation Association	No	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.	Noted.
6	CREFC Europe	No	We believe that these risks are immaterial in the context of the asset class about which we are knowledgeable (CRE debt securitisation, including CMBS). Model risk is irrelevant in an asset class where the number of underlying exposures is typically very small and investors, analysts and rating agents routinely analyse each	Noted

			<p>individual underlying exposure rather than relying on financial models and statistical analysis (and are provided with sufficiently detailed information to allow them to do that).</p> <p>See our response to Question 3 (and the underlying research referenced there) for evidence that securitised CRE loans performed better during the GFC than similar loans that were not securitised.</p> <p>The risks identified by EIOPA are no doubt theoretically relevant, but there is no evidence that they actually affect the CRE debt securitisation market (in the case of model risk, unsurprisingly given the way EU regulation has prevented the market from achieving any scale). We would be very happy to organise a teach-in if officials would like to gain a better understanding of CRE credit and/or CRE debt securitisation.</p>	
7	The Loan Market Association (the "LMA")	Yes	We consider reference to the CQS of the exposures to be sufficient to reflect any agency and modelling risks.	Noted
8	GDV (German Insurance Association)	No	<p>The joint consultation paper does not quantify the statistical and financial relevance of agency and model risk for securitisations. Basically the joint consultation paper just vaguely mentions the existence of agency and model risk but does not quantify the relevance of these risks for STS or non-STS transactions.</p> <p>Agency risk is also a risk factor in non-financial and financial corporations and we are not aware of any study that quantifies an appropriate capital charge for agency risks in non-financial and financial corporations.</p>	Noted

			As the capital charges for securitisations are already too high we would assume that any agency and model risk are already more than adequately reflected in the capital charges.	
9	Association of German Banks	No	In our case "no" means no comment on this question.	N/A

Q12. 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). Please provide an explanation.

#	Stakeholder name	Yes or No	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS		The modified maturity stress factor is not, in our view, a driver of the miscalibration we have identified in the current Solvency II framework. In our own proposals, we have not suggested any changes to this aspect of the rules	Agreed
2	Association for Financial Markets in Europe (AFME)		No comment.	N/A
3	Leaseurope & Eurofinas		No comment.	N/A

4	Insurance Europe		Insurance Europe supports the use of modified duration vs maturity (as in CRR).	Agreed
5	Dutch Securitisation Association		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.	Agreed
6	CREFC Europe		<p>For asset classes (like securitised CRE debt, including CMBS) that are not intended or expected to offer high liquidity, the maturity approach does not seem to us to make much sense. As explained elsewhere in these submissions, investors in CMBS typically buy to hold to maturity. They select this asset class in part because of the illiquidity premium that it offers - that being worth more than higher liquidity, especially for investors such as life companies seeking to match long-term income to long-term liabilities.</p> <p>The fact that longer duration securitisation exposures are subject to very high capital charges is the most obvious explanation for the very short duration of securitisation holdings that EIOPA observes among insurers. The capital framework skews against the longer durations that life companies might naturally prefer. The research we recommend in our response to Question 1 would no doubt offer additional insights and evidence to support decisions in this area.</p> <p>We cannot comment on what is appropriate for other asset classes, but for CRE debt securitisation and CMBS, a focus on credit risk would seem to be a smarter and more appropriate than the focus on spread volatility and maturity.</p>	Noted

7	The Loan Market Association (the "LMA")		We would agree that the modified duration (rather than effective maturity) is the appropriate reference for the purposes of Solvency II. Modified duration takes into consideration the nature of the underlying portfolios, notably options to repay early or to extend the maturity that arise in portfolios of loans/bonds.	Agreed
8	GDV (German Insurance Association)		No opinion. However, when assessing elements of market risk the modified duration seems for us more appropriate vs. maturity (as in CRR)	Agreed
9	Association of German Banks		no comment on this question	N/A

Q13. 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).

#	Stakeholder name	Yes or No	Explanation	Processing
1	Prime Collateralised Securitisation (PCS) EU sas - PCS	Yes	We believe that fixing the current miscalibrations is the primary task required here. Within the context of Solvency II as a whole, we would question the dichotomy between the credit risk modules and the spread modules. As we have stated above, they produce irrational outcomes and are not, in PCS' view, reflective of the business and risks of European insurance undertakings. PCS also believes that modifications should be made to	Noted. As already mentioned in the question the general design of the standard formula is outside the

			the operation of the dynamic volatility adjustment. But we recognise that this is a matter that goes well beyond securitisation.	scope of this call for advice.
2	Association for Financial Markets in Europe (AFME)	Yes	<p>Whilst the indicative proposals outlined in the consultation introduce further risk sensitivity which is welcomed by AFME members, it will be key that proportionate calibrations are agreed that reflect transactions compliant with SecReg are adopted.</p> <p>More broadly and as a final comment on the Delegated Act on Solvency II, the technical assumptions the Commission used to derive the capital charges for securitisations originally were not correct; nor were the resulting capital charges appropriate. The approach adopted significantly overstated the price volatility of the securitisation market resulting in unjustifiably high capital charges, which have deterred investment in both STS and non STS securitisations.</p> <p>The Commission recommended an approach that heavily and disproportionately depended on the historic spread volatility of U.S. subprime home equity loans (see Solvency II: Level 2 capital charge treatment of securitisation by AFME). In particular, they weighted their calibrations according to the market values of assets in 2006. This approach effectively skewed the calibration of the entire market according to the performance of one asset class which (a) is largely no longer available and (b) EU insurers would be forbidden from holding under Article 135 of Solvency II Directive. We believe this fails to account for the changes in the market practices and new regulations and it does not appropriately account for the high quality securitisation that insurers can invest in.</p> <p>The Commission in its methodology does not adjust for market factors that significantly</p>	Noted. The view of AFME is clear through the responses to all questions. Please see the corresponding resolutions.

		<p>affect the accuracy of the spread data used. These include: (i) the spreads are not fair value spreads due to forced selling of overleveraged vehicles in the peak of the crisis; and (ii) the spreads are quoted on the bonds original length of duration and as such extension risk is absorbed into the spread causing double counting, if not accounted for.</p> <p>The approach does not reflect the actual economic risk of securitisation. The Commission’s approach currently treats securitisation equivalent to and in some cases worse than whole loan portfolios and BB corporate bonds. This is not an accurate reflection of the actual risks of high quality securitisation evidenced by its good performance in the peak of the crisis and recent periods of market stress.</p> <p>For example, from 2007, European RMBS, which currently makes up approximately 70% of the European securitisation market, only had a 0.07% default rate. Additionally, in the recent periods of market turmoil, prime AAA European securitisation has outperformed almost all other asset classes in relation to both spread and credit performance. For example, Europe/Dutch prime AAA RMBS widened 10-15bps in August and September 2021, whereas French covered bonds widened by 53bps and senior financials by 93bps and Euro non-financial corporate by 63bps.</p> <p>We believe the disproportionate capital calibrations under Solvency II have created an unlevel playing field for securitisation compared to other fixed income instruments and whole loan pools, in many cases making it uneconomic for insurance companies to invest in securitisations. In addition to capital calibrations, there are other reasons that have to be taken into account, such as the complexity of the Securitisation Regulation (“SecReg”). For example, due diligence obligations for investors under Article 5 (of the SecReg) make such investment more complicated than in other asset classes.</p>	
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			We therefore urge the Commission to reconsider the revision of the risk factors for mezzanine and junior tranches of Europe STS securitisations, and for all Europe non-STs securitisations, in order to support the recovery of safe and well-regulated securitisation in Europe as a key tool in providing long-term capital to support the Europe's growth and progression towards meeting climate change targets, as well as supporting the competitiveness of Europe insurance company investors in a world of low yields.	
3	Leaseurope & Eurofinas	No	No comment.	N/A
4	Insurance Europe	No	Insurance Europe has no further suggestions on technical amendments but would like to reiterate that there is no adequate level playing field between securitisations, and corporate / financial bonds, covered bonds. The current capital charges for securitisations are too high and limit their attractiveness for insurers.	Please see the resolution regarding the comparison with other investments in the previous sections
5	Dutch Securitisation Association	No	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.	Noted
6	CREFC Europe	Yes	We approach this question solely from the perspective of commercial real estate (CRE) debt securitisation and commercial mortgage-backed securities (CMBS).	Noted. EIOPA's advice is enriched with input from individual insurance undertakings through a quantitative and a qualitative questionnaire.

			<p>The consultation paper recognises the very modest levels of securitisation investment across insurance firms. As explained in our response to Question 1, it would be possible to collate and analyse data comparing internal model and standard formula users, and investments in securitised and unsecuritised CRE debt, to assess the degree to which regulators have artificially created that situation through capital calibrations under the standard formula. We would encourage EIOPA to do that research before concluding (contrary to anecdotal evidence and contrary to our intuition as a specialist industry body for the CRE finance market) that the capital calibrations are appropriate.</p> <p>We would emphasise that the definition of securitisation set out in section 1.2 of the consultation paper does not fully recognise the role that securitisation can play in the context of CRE debt. Securitisation is not merely a tool for banks to recycle their capital in this market. It can also operate as an additional channel for real estate firms to access credit from the capital markets directly (through the agency of investment banks). There is also untapped potential for non-bank CRE lenders to access the capital markets through the use of CRE CLOs. Unjustifiably penal standard formula capital charges for CRE debt securitisation arbitrarily restrict the appetite of insurers for all of these products. They</p>	<p>A necessary condition for a change in the capital requirement for CMBS would be robust evidence that the current values overestimate the risk of a loss in these investments in the 99.5 % shock.</p>
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		<p>thus adversely affect the potential of securitisation to support a diverse CRE financing market with a degree of transparency, standardisation and secondary market liquidity missing from other CRE credit products.</p> <p>There are enormous, socioeconomically important challenges ahead for the real estate sector, in terms of decarbonisation, as well as to ensure that the built environment remains fit for purpose in the face of changing technology and social norms for how we live, work and spend our leisure time. The long-term capital that insurers can deploy could play a vital, productive role in delivering the requisite investment (both as higher risk/return equity invested directly in buildings, and as lower risk/return credit, in securitised as well as unsecuritised form).</p> <p>There is no evidential basis whatsoever to justify regulatory barriers that steer insurers' CRE credit investments solely into unsecuritised, rather than (at least to some degree also) securitised, products.</p> <p>As mentioned above, the spread volatility in CMBS during the GFC does not justify the current, highly distortive regulatory framework. CMBS volatility was exaggerated during the GFC reference period by leveraged holding structures that are no longer in use. Insurers are unlikely to require or expect CMBS holdings to have high liquidity (valuing, instead, the illiquidity premium, as well as the degree of transparency, standardisation, comparability and secondary market liquidity they offer as compared to other CRE credit products). And the relatively high spread volatility of CMBS is a function of a small but public market - volatility in the opaque and private CRE loan market to which penal capital charges drive insurers seeking CRE credit risk/returns is hidden, rather than lower.</p>	<p>Please see remarks on the appropriateness of a look-through in the resolution of response 4 on Question 1.</p> <p>Please see remarks on relevance of GFC data in section 2 of the advice.</p> <p>This is outside the remit of this call for advice</p>
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			<p>There are two solutions that should be considered to correct the current regulatory framework as it affects CRE debt:</p> <p>(a) The STS criteria should be re-formulated and/or interpreted in such a way as to encourage well-structured CRE debt securitisations, by rewarding well-structured transactions with STS capital treatment. Simply excluding an entire product category and asset class is poor regulation, and creates regulatory arbitrage risk.</p> <p>(b) The capital charges applicable to CRE debt securitisation under the standard formula need to be reduced so that insurers using the standard formula are not effectively forced to get their CRE credit risk/return in unsecuritised form. We have referenced research and analysis that shows that neither spread volatility nor credit risk can justify a strong regulatory preference for unsecuritised exposures. EIOPA has not presented any contrary data. Insurers should be offered something closer to a level regulatory playing field, so that they can choose the form of CRE credit exposure that best suits their requirements.</p>	Please see resolutions for previous comments about adequacy of the calibration
7	The Loan Market Association (the "LMA")	No	No comments.	N/A
8	GDV (German Insurance Association)	No	No opinion regarding other technical amendments to improve the treatment of securitisations in Solvency II. As already mentioned: There is no adequate level playing field between securitisations, and corporate / financial bonds, covered bonds. The capital charges for securitisations are too high and limit their attractiveness for insurers.	Please see resolution of corresponding comments in previous sections

9	Association of German Banks	Yes	<p>Irrespective of which, the capital requirements for securitisations do not take account of the fact that securitisation positions are general held until maturity.</p> <p>The advantage of many securitisation positions is that they are repaid continuously in line with the amortisation profile of the underlying exposures and generate a liquidity stream that can also be used to cover the costs of insurance events that are considerably higher than planned.</p> <p>With a buy-and-hold approach, there is no spread risk only a default risk which is far lower than the spread risk. Accordingly, in the context of banks' capital requirements, a distinction is made between banking book risks with default risks and trading book risks where the securitisation positions are then subject to default risk and spread risk. We are therefore calling for the capital requirements for securitisation positions to only consider the default risk if the securitisation position is held until maturity. This should be aligned with capital requirements for securitisation positions in the banks' banking books, since the same risks should also be subject to the same capital requirements, irrespective of whether these positions are held by banks or insurance undertakings.</p> <p>With an investment volume in the insurance industry of around €12.8 trillion (2020) in the EU, additional investment funds of around €200 billion could be generated in securitisations if the investment volume in securitisations were to again reach 2% of the total investment volume. But to achieve this, investment in securitisations would need to be made more attractive again and the capital requirements would need to reflect the actual risk. Overall, the European securitisation market can only be made more attractive</p>	Based on the Directive, Solvency II measures risks in terms of fluctuations in fair values over 12 months and not based on default and recovery rates

			and given added depth for investors if insurance undertakings can be encouraged to increasingly invest in securitisations again.	
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EIOPA

Westhafen Tower, Westhafenplatz 1

60327 Frankfurt – Germany

Tel. + 49 69-951119-20

info@eiopa.europa.eu

<https://www.eiopa.europa.eu>