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WORKING DOCUMENT

From: To:	General Secretariat of the Council Working Party on Financial Services and the Banking Union (Securitisation) Financial Services Attachés
Subject:	Securitisation Framework Review - CRR amending Regulation - Replies from 16 MS

From: IE, FR, ES, EL, EE, DE, CZ, BE, AT, SI, SK, SE, RO, PT, NL, LU **Updated: 05/09/2025 14:55**

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Drafting suggestions: you may use '**track changes**'* or formatting (for example **bold-underline** for additions and ~~strike-through~~ for deletions, **where necessary, in a different colour**). *Track changes can only be connected once the cursor is placed in editable areas (Drafting or Comments columns).

To make it feasible to consolidate all contributions, the structure of the table must not be changed, so **no rows can be added or deleted.**

New provisions may only be added in any of the **'existing cells'.**

Name of document: please add the **two initials** of your delegation's country followed by a space (to the MS Word document name), followed by any optional text, for example, for Austria: **AT comments on … .docx**

Thank you for your cooperation!

Commission proposal	Drafting Suggestions and Comments
General Comments	IE (Comments): **IE** Comment: As a general comment, the Commission's proposals go much further than those of the JC of the ESAs, who considered the prudential treatment of securitisations and made associated recommendations to reduce RW floors for resilient senior tranches. No such recommendations were made in respect of non-senior tranches, owing to heightened levels of risk, or lowering of p Factors owing to Basel deviations and a lack of empirical evidence to support any such reductions. EE

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	(Comments): EE: We are still scrutinising the Securitisation Framework Review Proposals[1]. Based on the initial analysis, we generally support adjustments to the capital and liquidity framework, provided financial stability risks are not increased. Changes to capital and liquidity requirements must remain strictly risk-based. The increase in risk sensitivity can only be accommodated in a manner consistent with financial stability and investor protection. In our initial assessment, we are cautious about some changes to the Capital Requirements Regulation (CRR) for banks. Changes to banks' capital requirements must be risk-based and not introduce new risks to financial stability. Moreover, some proposed changes lack consistency with the key political priorities, such as simplification and reducing administrative burdens. All proposed simplifications may not comply with these political priorities and might lead to unregulated side effects. It is essential to ensure that the real economy benefits from the initiative, i.e. more investments, and that banks are not the only ones to benefit from the relaxed capital requirements (additional impact analysis welcome and needed). When reviewing the capital requirements of banks and insurance

[1] The comments provided are based on the preliminary assessments and are intended solely to support the first discussions and contribute to the negotiations at the Council's Working Party level. At this stage, they may not be regarded as stating an official position of the Government or Parliament of Estonia.

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	companies, it is important to holistically consider the risks associated with securitisation and the effects of the changes to the regulatory framework. Attention must be given to ensuring that the systemic impacts of securitisation are comprehensively assessed and transparency is maintained. DE (Comments): We welcome that COM has put forward a comprehensive proposal on securitisation, including on the recalibration of the regulatory requirements for banks. With regard to the CRR proposal, our primary goal is to achieve greater risk adequacy in the regulatory framework and to improve the financing of the real economy. We are sceptical whether the concept of "resilient positions" and the additional complexity introduced by COM will live up to this task (See our comments on the discussion paper and our comments to the recitals for more details) Indeed, we are of the view that the current set-up with STS and Non-STS, which is based in the Basel principles, has proven beneficial for the market. Within the binary system, we suggest a reduction of p in the senior tranche of around 20% and a reduction of the fix floor (for all tranches) of around 30%. We have implemented this proposal in the drafting suggestions. Aside from our general reservation on the concept of resilience and the excess complexity introduced by COM, we took the liberty to point to major areas of concern that need addressing. For convenience we have used *italic* to mark these comments. Based on our current state of assessment these areas are: • *Excess capital reduction giving rise to concerns of undercapitalisation, notably in the mezzanine Tranche (RW-Floor now only covering senior*

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	tranches / reductions of p of up to 70% compared to Basel Standards and up to 40% compared to current regulation) • *Inappropriate regulatory treatment of low-risk asset classes such as Auto-ABS with important links to the real economy* • *Insufficient consideration of business models where entities from the real economy (notably CMU) use securitisation for cash-flow funding (ABCP).* • *Undue differentiation between originators/sponsor on the one hand and investor on the other;* • *No additional burden on institutions regarding capital planning due to volatility of RW;* AT (Comments): Any increase in risk sensitivity should always be made on the premise of minimising potential constraints on financial stability and investor protection and in view of the low default rates of European senior securitisation positions. From an AT perspective, we need a pragmatic approach and strike a balance between over-capitalisation and taking excessive risks. Please bear in mind that our comments are of preliminary nature and we reserve the right to adapt or supplement them at a later stage. SE (Comments):

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	All of our comments are preliminary at this stage and we might come back with additional comments. Generally, we support the objective of making the legislation more risk sensitive. We consider that any reduction in capital requirements should be justified by the underlying risks in the securitizations and not just to revitalize the market. We are therefore cautious in our approach to lowering capital requirements. In addition, the goal should be spreading risks and not to have banks invest in each others securitization. At this point it is not clear to us what the effect of the different methods proposed would be on the overall capital requirements. In this regard we welcome the Commission presentation circulated after the WP, but like to stress that we need time to analyse its content in depth. From our point of view it would be helpful to get an overview of how the changes to the risk weight floors and the p-factor interplay, and how these drives the changes in risk-weighted exposure amounts. Additionally, it would be interesting to know more on how complex transactions with four or more tranches would be affected by the proposed changes. RO

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	(Drafting Suggestions): Romania acknowledges the Commission's proposal and its objective to enhance risk sensitivity and reduce unwarranted capital differences across securitisation methodologies. We are open to the introduction of the “resilient” category, as long as preferential treatment remains proportionate and consistent with prudential safeguards. We support increased risk sensitivity for senior tranches, as long as minimum thresholds are preserved. The proposed RW floor formula may incentivise the securitisation of lower-risk assets, and we remain open to discussions on its calibration, favouring a conservative approach. Revisions to SEC-IRBA should primarily address unjustified gaps with SEC-SA, while maintaining the method hierarchy and avoiding overall capital relief. At this stage, we take a cautious view on revising the p-factor. Any recalibration should primarily address the gap between methodologies and remain limited to senior tranches, avoiding broader reductions that could weaken the prudential treatment of securitisation exposures. We also support the proposed changes to the SRT framework, in particular the introduction of a principle-based PBA test, which we believe improves clarity and flexibility.

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	These positions reflect a preliminary assessment by Romania, subject to further developments in the negotiations.
2025/0825 (COD)	
Proposal for a	
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	
amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions as regards requirements for securitisation exposures	
(Text with EEA relevance)	SK (Comments): Our comments are preliminary and subject to scrutiny reservation.
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,	
Having regard to the proposal from the European Commission,	
After transmission of the draft legislative act to the national parliaments,	

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Having regard to the opinion of the European Economic and Social Committee[2],	
Having regard to the opinion of the European Central Bank[3],	
Having regard to the opinion of the Committee of the Regions[4],	
Acting in accordance with the ordinary legislative procedure,	
Whereas:	
(1) Securitisation transactions are an important part of well-functioning financial markets as they help to diversify credit institutions' funding sources and enable the release of regulatory capital which can then be reallocated to support additional lending. Furthermore, securitisations provide credit institutions and other market participants with additional investment opportunities with specific risk-return trade-offs. This makes possible both greater portfolio diversification and the redistribution of risk in the wider financial system. It also facilitates the flow of funding to businesses and individuals both within Member States and on a cross-border basis throughout the Union.	
(2) The Union needs significant investment to remain resilient and competitive. The securitisation framework can contribute to a more diversified financial system and greater risk-sharing. However, there are material impediments to the issuance of and investment in securitisations. These impediments weigh on the development of the securitisation market. The regulatory capital requirements laid down in Regulation (EU) No 575/2013 of	BE (Drafting Suggestions): (2) The Union needs significant investment to remain resilient and competitive. The securitisation framework can contribute to a more diversified financial system and greater risk-sharing. However, there are

[2] OJ C , , p. .
[3] OJ C ….
[4] OJ C , , p. .

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the European Parliament and of the Council[5] for institutions originating, sponsoring or investing in securitisations are not sufficiently risk sensitive, and they also incorporate an unjustified level of conservatism. The current requirements fail to accurately recognise the good credit performance of Union securitisations and the risk mitigants that have been implemented in the Union's regulatory and supervisory frameworks for securitisation. These frameworks have significantly reduced the agency and model risks embedded in securitisation transactions.	material impediments to the issuance of and investment in securitisations. These impediments weigh on the development of the securitisation market. The regulatory capital requirements laid down in Regulation (EU) No 575/2013 of the European Parliament and of the Council[6] for institutions originating, sponsoring or investing in securitisations are not sufficiently risk sensitive, and they also incorporate in some cases an unjustified level of conservatism. The current requirements fail to accurately recognise the good credit performance of Union securitisations and the risk mitigants that have been implemented in the Union's regulatory and supervisory frameworks for securitisation. These frameworks have significantly reduced the agency and model risks embedded in securitisation transactions. NL (Drafting Suggestions): (2) The Union needs significant investment to remain resilient and competitive. The securitisation framework can contribute to a more diversified financial system and greater risk-sharing. However, there are material impediments to the issuance of and investment in securitisations. These impediments weigh on the development of the securitisation market. The regulatory capital requirements laid down in Regulation (EU) No 575/2013 of the European Parliament and of the Council for institutions originating, sponsoring or investing in securitisations are not sufficiently risk

[5] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/575/oj).

[6] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/575/oj).

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	sensitive~~, and they also incorporate an unjustified level of conservatism~~. The current requirements fail to accurately recognise the good credit performance of Union securitisations and the risk mitigants that have been implemented in the Union's regulatory and supervisory frameworks for securitisation. These frameworks have significantly reduced the agency and model risks embedded in securitisation transactions. NL (Comments): NL: we do think that is appropriate to refer to risk-sensitivity, but not to an unjustified level of conservatism.
(3) Capital requirements for securitisations under Regulation (EU) No 575/2013 should be amended to increase the risk sensitivity and reduce excessive capitalisation by better aligning the capital treatment with the underlying risks. In addition, targeted amendments should be introduced to mitigate undue discrepancies between the capital requirements under two different approaches: the securitisation internal ratings-based approach (SEC-IRBA) and the securitisation standardised approach (SEC-SA). Such mitigation should increase the participation of smaller and medium-sized credit institutions that make use of the standardised approach.	DE (Drafting Suggestions): (3) Capital requirements for securitisations under Regulation (EU) No 575/2013 should be amended to increase the risk sensitivity and reduce excessive capitalisation by better aligning the capital treatment with the underlying risks. In addition, targeted amendments should be introduced to mitigate undue discrepancies between the capital requirements under two different formula-based approaches: the securitisation internal ratings-based approach (SEC-IRBA) and the securitisation standardised approach (SEC-SA). Such mitigation should increase the participation of smaller and medium-sized credit institutions that make use of the standardised approach. DE (Comments): We support the goal of opening securitisations to a wider range of market participants by the adressing the gap between the SEC-IRBA and SEC-SA. This being said, we believe that the complexity associated with the proposed concept of resilience may create new entry barriers elsewhere.

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	BE (Comments): We are sceptical that amending SEC-SA will really increase participation of smaller and medium-sized credit institutions. We feel that many issues for smaller institutions will remain, namely the complexity of the framework, having different legislations across the EU (contract law, insolvency law, …) and no means to make use of any economies of scale as their portfolios might be to small to issue a sufficiently sizable transaction. SE (Comments): It would be interesting to have more discussion as to why the discrepencies between the SEC-IRBA and SEC-SA are considered to be unduly wide. Has this conclusion been based on other types of differences between internal and external models? It is difficult to assess what the gap between the two should be. PT (Comments): We agree with the overall policy goal of mitigating undue discrepancies between the capital requirements under two different approaches: the

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	securitisation internal ratings-based approach (SEC-IRBA) and the securitisation standardised approach (SEC-SA). NL (Drafting Suggestions): Capital requirements for securitisations under Regulation (EU) No 575/2013 should be amended to increase the risk sensitivity ~~and reduce excessive capitalisation~~ by better aligning the capital treatment with the underlying risks. In addition, targeted amendments should be introduced to mitigate undue discrepancies between the capital requirements under two different approaches: the securitisation internal ratings-based approach (SEC-IRBA) and the securitisation standardised approach (SEC-SA). Such mitigation should increase the participation of smaller and medium-sized credit institutions that make use of the standardised approach. NL (Comments): NL: we do think that is appropriate to refer to risk-sensitivity, but do not think that it is appropriate to paint capital as a problem.
(4) Risk weight floors are minimum risk weights that credit institutions must apply to their senior securitisation exposures, even where the capital calculations suggest a lower risk weight could be applied. Risk weight floors for senior positions of securitisations should be made more risk sensitive, making it possible to reflect the riskiness of the underlying pool of exposures of each specific securitisation. Senior securitisation positions of securitisation of low-risk portfolios should be allowed to benefit from lower risk weight floors than senior securitisation positions in securitisations of higher-risk portfolios. This new approach, which would mean that risk weight floors are calculated based on a specific formula, should replace the existing approach where risk weight floors are set at flat levels, irrespective of the credit quality of the underlying pool of exposures. The new formula should make it possible	DE (Drafting Suggestions): Risk weight floors are minimum risk weights that credit institutions must apply to their securitisation exposures, even where the capital calculations suggest a lower risk weight could be applied. Overly conservative calibration of the risk weight floors hampers securitisation of high-qualify portfolios. To increase the risk sensitivity, the risk weight floor is calibrated downwards allowing high risk portfolios to benefit from the securitisation. . DE

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to reflect the simple, transparent and standardised (STS) or non-STS status of a securitisation. To avoid excessive reductions of the capital requirements, a minimum threshold to the risk weight floors should be introduced.	(Comments): We would caution against introducing a floating floor. The risk sensitivity of the framework can be increased by simply lowering the current (fixed) RW floors. Our suggestion would be to lower the floors to 7% for Senior-STS and 10% for non-STS. Thereby, we keep the differentiation between senior and non-senior introduced by COM, while avoiding the serious downsides that follow from a variable floor and the concept of "resilience". *Irrespective of whether the risk weight floor is floating or flat, the floor should apply across all securitisation tranches to avoid regulatory arbitrage. We believe that limiting the floor to the senior tranche may have been a drafting error, as we see no reason (and no explanaition) why it should not apply to the mezzanine-tranche. In fact, if the floor should be limited to just the senior tranche, this would mean that a mezzanine tranche would be allowed to carry less RW than the corresponding senior tranche, contrary to the logic of securitisations. Also, this would lead to a serious risk of arbitrage that could circumvent the RW-flooring, as banks would be able to split the current senior tranche into a mezzanine tranche and a minimal senior tranche of just 1 EUR.* BE (Drafting Suggestions): (4) Risk weight floors are minimum risk weights that credit institutions must apply to their senior securitisation exposures, even where the capital calculations suggest a lower risk weight could be applied. Risk weight floors for senior positions of resilient securitisations should be made more risk sensitive, making it possible to reflect the riskiness of the underlying pool of exposures of each specific securitisation. Senior securitisation positions of

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	resilient securitisation of low-risk portfolios should be allowed to benefit from lower risk weight floors than senior securitisation positions in securitisations of higher-risk portfolios. BE (Comments): We believe that a reduction of the risk weight floor for the senior tranche should be reserved for resilient securitisations (and originators). Non-resilient securitisations do not have to meet the same minimum thickness requirement and leaves the possibility for credit institutions to structure their transactions for maximal capital reduction by creating a thicker senior tranche without including a higher protection for the senior tranche against losses. We do not believe that such practices are prudent and therefore argue that the current RW floors should be kept for non-resilient transactions. Additionally model and agency risk are mostly reduced for originators and not for investors/sponsors therefore the scope of the preferential treatment should be limited to the originator. We propose to remove the formulae-based approach for the RW-floor, the different floors to the floors of the senior tranche as the framework has become too complex and goes against the EU agenda of simplification. We would urge to keep the current floors and adjust them more in line with the

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	JC/EBA report, only for the senior tranche of resilient transactions held by the originator. LU (Comments): LU agrees with the objective of introducing more risk sensitivity, while the review of the framework should also deliver in terms of simplification. It may be worth exploring alternatives which allow to reflect the STS status of a securitisation, without necessarily replacing the flat floors by formula-based floors.
(5) To provide for more risk sensitivity in the securitisation framework, while maintaining a prudent regulatory treatment, it is necessary to adjust, under the SEC-IRBA approach, the formula for the (p) factor to reduce the floor and to reduce the scaling factor, and to introduce a cap to the (p) factor, mainly for the senior securitisation positions of originator/sponsor credit institutions. For the same reason, under the SEC-SA approach, it is necessary to reduce the (p) factor, for senior securitisation positions. Changes to the (p) factor for non-senior securitisation positions should be minimal, to prevent undercapitalisation of these positions. Changes to the (p) factor for positions of investors in non-STS securitisations and in non-senior securitisation positions of STS securitisations should be minimal, as those positions do not feature reduced agency and model risks.	DE (Drafting Suggestions): (5) To provide for more risk sensitivity in the securitisation framework, while maintaining a prudent regulatory treatment, it is necessary to adjust, under the SEC-IRBA, the formula for the (p) factor to reduce the floor and to reduce the scaling factor for the senior securitisation positions. For the same reason, under the SEC-SA, it is necessary to reduce the (p) factor for senior securitisation positions. DE (Comments): We caution against the overcomplex system proposed by COM for the reasons set out in the policy questionnaire. In short:

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	• Risk of undercapitalisation: some of the reductions seems very far reaching (reduction of the p-factor of up to 40% compared to the current EU rules and up to 70% compared to the Base requirements for synthetic securitisations), which we are sceptical is still risk-adequate. • Undue treatment of investor position (see below) without regulatory justification/ challenges on the demand side of securitisation. **Counterproposal**: To achieve more risk-sensitivity, our preferred way would be to reduce the risk floor (see below). To reduce the elements of conservatism, our preferred choice would be to recalibrate the p-factor within the current binary system, which has proven beneficial in the past. As such, we suggest a general reduction of 20% for p for all senior positions (see below).*Above and beyond these general reservations, we like to highlight particular concern regarding the cap in the SEC-IRBA. It is our view, that the introduction of a cap in the SEC-IRBA will neither improve risk-sensitivity nor provide risk-adequate results: Introducing a cap is, by definition, not risk-sensitive as it cancels out the effects of the formula above the cap. Therefore, it mainly benefits portfolios that would otherwise (i.e. without the cap) incur a higher p-factor. As a result, the cap incentivises securitisation of higher-risk portfolios in the SEC-IRBA*. Drafting Note: “A” in SEC-IRBA and SEC-SA already stands for “approach”. BE (Drafting Suggestions): To provide for more risk sensitivity in the securitisation framework, while maintaining a prudent regulatory treatment, it is necessary to adjust, under the SEC-IRBA approach, the formula for the (p) factor to reduce the floor

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	and to reduce the scaling factor~~, and to introduce a cap to the (p) factor,~~ for the senior, mainly STSsecuritisation positions of originator/ credit institutions BE (Comments): We do not agree that the introduction of a cap to the p-factor provides more risk sensitivity, even further it completely goes against the concept of making the framework more risk sensitive. Especially since the cap will mostly be binding for non-senior tranches we find it highly inappropriate that RWA's of these non-senior tranches would be capped as non-senior tranches always have a higher risk of being hit by losses. SE (Comments): We are still not convinced of the need for a cap since this would imply moving away from a risk-based approach. Moving away from a risk based approach in introducing a floor has been accepted before since it is a prudent approach. Introducing a cap would be the opposite. With regard to the presentation circulated following the WP, we would like to learn more on the transactions which hit the cap, see slide 21-23. LU (Comments):

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	LU generally supports the objective of enhancing the risk-sensitivity of the prudential framework to foster the development of securitization markets. However, the distinction according to the nature of the holder (originator/sponsor vs. investor) may not be warranted.
(6) Senior securitisation positions are resilient if the securitisation satisfies a set of eligibility criteria at the origination date and on an ongoing basis thereafter. This set of eligibility criteria ensures the protection of the senior securitisation position and mitigates agency and model risks. Such resilient securitisation positions should benefit from additional reductions to the risk weight floors and to the (p) factor, compared with positions that do not satisfy the eligibility criteria. Positions of credit institution investors in senior securitisation positions of non-STS securitisations should not be allowed to benefit from those further reductions, as they are not characterised by reduced agency and model risk.	ES (Drafting Suggestions): (6) Senior securitisation positions are resilient if the securitisation satisfies a set of eligibility criteria at the origination date ~~and on an ongoing basis thereafter~~. This set of eligibility criteria ensures the protection of the senior securitisation position and mitigates agency and model risks. Such resilient securitisation positions should benefit from additional reductions to the risk weight floors and to the (p) factor, compared with positions that do not satisfy the eligibility criteria. Positions of credit institution investors in senior securitisation positions of non-STS securitisations should not be allowed to benefit from those further reductions, as they are not characterised by reduced agency and model risk. ES (Comments): **KEY POLITICAL ISSUE.** **We strongly support the idea of introducing the concept of resilient securitisation.** **However, the current requirement for the eligibility criteria of 'resilient' securitisations to be met on an ongoing basis renders this new framework effectively unworkable, whilst introducing significant cliff-edge risk for industry participants.** Instead, the criteria should be required to be met at the

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	closing of the transaction only, in line with other criteria already in force under Article 243. **Regarding the thickness requirement for the senior tranche in the case of traditional securitisations, we would like to highlight the following: this requirement is difficult to meet, except in transactions backed by very high-quality or short-term underlying assets.** We consider that this requirement should be reviewed for traditional securitisations in order to avoid incentives to structure an excessively thin senior tranche solely for the purpose of meeting the resilience criterion. DE (Comments): We caution against the new concept of resilience as set out in detail in our answers to the policy note. In short, we are concerned that the excess complexity will mitigate the benefits of the recalibration, increase entry barriers for smaller market participants and new markets may lead to intransparent regulatory requirements impairing supervision. Also, and in particular, we see no juustification of the differenciation between originators/sponsors on the one hand and investors on the other. . CZ (Drafting Suggestions): (6) Senior securitisation positions are resilient if the securitisation satisfies a set of eligibility criteria at the origination date ~~and on an ongoing basis thereafter~~. This set of eligibility criteria ensures the protection of the senior

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	securitisation position and mitigates agency and model risks. Such resilient securitisation positions should benefit from additional reductions to the risk weight floors and to the (p) factor, compared with positions that do not satisfy the eligibility criteria. Positions of credit institution investors in senior securitisation positions of non-STS securitisations should not be allowed to benefit from those further reductions, as they are not characterised by reduced agency and model risk. CZ (Comments): We do not see any rational reasons for a continuous review of the criteria. Indeed, no such obligation exists for either STS transactions or SRTs, and we see no reason why this should be the case for this new category. Thus, the resilient position criterion should be checked at the structuring of the transaction and no further. BE (Drafting Suggestions): (6) Senior securitisation positions are resilient if the securitisation satisfies a set of eligibility criteria at the origination date and on an ongoing basis thereafter. This set of eligibility criteria ensures the protection of the senior securitisation position. A senior position in a resilient securitisation can benefit from ~~additional~~ reductions to the risk weight floors and to the (p)

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	factor, if held by an originator as they have reduced model and agency risks. . Positions of credit institution investors or sponsors in senior securitisation positions of non-STS securitisations should not be allowed to benefit from those further reductions, as they are not characterised by reduced agency and model risk. BE (Comments): We believe that it is more appropriate to switch recital 6 and 5 as the resilient transactions mostly should relate to the lowering of the RW floor for senior tranches while the reduction of the p-factor should be more related to reduced model and agency risks. Being an originator or STS transaction reduces model and agency risk but the label resilient does not affect the model and agency risk. Futhermore model and agency risks are lower for originators than they are for sponsors or investors. SK (Comments): The amendments should not lead to the over reliance of the markets on the label itself, disincentivising due diligence, highlighting the importance of the joint discussions on SecReg and CRR. We are not convinced that the exclusion of non-STS securitisations held by investors is justified. LU

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	(Drafting Suggestions): Senior securitisation positions are resilient if the securitisation satisfies a set of eligibility criteria at the origination date and on an ongoing basis thereafter. This set of eligibility criteria ensures the protection of the senior securitisation position and mitigates agency and model risks. Such resilient securitisation positions should benefit from additional reductions to the risk weight floors and to the (p) factor, compared with positions that do not satisfy the eligibility criteria. ~~Positions of credit institution investors in senior securitisation positions of non-STS securitisations should not be allowed to benefit from those further reductions, as they are not characterised by reduced agency and model risk.~~ LU (Comments): We could support the introduction of a new category of resilient transactions, provided that it is based on a well-protected senior tranche with clearly defined maximum thickness criteria. However, the proposed implementation of this category introduces additional complexity to the prudential treatment, particularly given the partial overlap and lack of full convergence between STS and the new resilience concept. The notion that non-STS positions may or may not qualify as resilient depending on the holder is conceptually ambiguous. Resilience should ideally be an objective characteristic of an

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	exposure, independent of the holder. IFurther analysis is required to assess whether the resilient category should rather be a premium subset of STS—excluding all non-STS positions—or whether investor-held non-STS positions shall also be eligible. The Commission noted that for non-STS positions, it is difficult to assess the eligibility for the resilient category due to the difficulty to verify compliance with safeguards other than the tranche thickness. This assessment is crucial, as limited eligibility of non-STS positions could undermine the justification for the added complexity. While we concur with the PCY assessment that the actual increase in complexity is rather marginal, any added complexity must be warranted and should not compromise the consistency of the overall framework. In this regard, it may be beneficial to consider further streamlining the criteria for the resilient category to enhance clarity and coherence.
(7) Because of the changes to the risk weight floor for senior securitisation positions and to the (p) factor under the SEC-IRBA and SEC-SA approaches, the risk weights in the look-up tables under SEC-ERBA should be recalibrated accordingly.	DE (Comments): We agree that SEC-ERBA needs to be adjusted accordingly, if capital requirements of SEC-SA are lowered. These adjustments should be in line with the current hierachy of approaches, meaning that SEC-ERBA should on average yield the same level of capital requirements as the SEC-SA (as opposed to the explanatory memorandum which suggests that SEC-ERBA should be more conservative). BE

Commented [A1]: CSSF comment:
Adding complexity by adding, alongside 'STS' securitisation, a new 'resilient' securitisation category. The deployment of these assets is not guaranteed for banks of limited size

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	(Comments): Given our reservations on the calibrations of the RW-floor and p-factor we cannot agree to the recalibrated look-up tables for SEC-ERBA.
(8) Changes to the framework for significant risk transfer (SRT) should be introduced to address limitations identified in that framework in relation to the current mechanical tests measuring the significance of the risk transferred through securitisation, specific structural features of securitisation transactions that may be detrimental to complying with the SRT requirements, and processes applied by competent authorities to assess SRT, and to make that framework more consistent and predictable. The predictability of the SRT supervisory assessments should be increased by laying down the main elements of the SRT assessment in Regulation (EU) No 575/2013, including the broad design of the new SRT test. The way in which the technical details of the test should be implemented, the requirements for the structural features of the transactions, and the principles of the assessment process should all be specified in regulatory technical standards developed by the European Banking Authority (EBA).	ES (Comments): **The CRT test, as described in the 2020 EBA report, is the methodology currently used by the SSM and Joint Supervisory Teams (JSTs) for assessing Significant Risk Transfer (SRT).** In our view, a clear justification should be provided explaining why the CRT test—or an alternative methodology—has not been included in the proposal, and, if applicable, why it is not considered necessary for achieving SRT. Such an approach would enhance clarity, rather than presenting it merely as an optional tool for competent authorities, as could be inferred from the wording of Articles 244(3) and 245(3). DE (Comments): We fully agree. PT (Comments): We agree with the mandate given to the EBA to draft RTS on the SRT. LU (Comments): LU shares the objective of simplifying the process for both authorities and supervised entities. Accordingly, we broadly support the establishment of a principle-based approach. It is essential, however, to provide further

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	guidance on the practical application of the fast-track process, particularly for straightforward transactions. The potential interactions between the "resilient category" and the principles-based approach for SRTs could also be clarified (cf.explanatory memo for IRBA which notes that it is 'largely consistent with SRT expectations') LU (Comments): We consider that the objective of making the framework more consistent and predictable relies to a large extent on its technical implementation. Thus, the related RTS should be published timely after the enter in force of the Regulation.
(9) A new principle-based approach test should be introduced to replace the existing mechanical tests, to measure the significance of the risk transferred through securitisation. Given its very limited use, the current permission-based approach, where the SRT is achieved through a permission granted by the competent authority, should be removed and should no longer be allowed. To further streamline the SRT assessment, and to increase transparency and predictability for originators, a new requirement should be introduced for originators to submit a self-assessment to demonstrate that the requirements related to the SRT are met, including in stress conditions. As part of the self-assessment, originators should develop a cash-flow model analysis to provide evidence on the resilience of the SRT.	SK (Comments): We support principle-based approach. PT (Comments): We agree with the implementation of the Principles-Based Approach. LU (Comments):

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	The replacement of mechanical tests with a single principle-based SRT test seems appropriate, while it is key to ensure that it simplifies the process also for entities in practice.
(10) To increase the efficiency of the SRT supervisory assessments, the principles of SRT supervisory assessments should be harmonised at Union level. The EBA should specify such principles in the regulatory technical standards, which should also include high-level principles for a fast-track process for qualifying securitisations.	ES (Comments): **The provision in relation to a fast-track process should not be included in Level 1, CRR.** While we very much support the existance of a fast track process, it is within the discretion of the competent authority to determine whether or not and how to assess Significant Risk Transfer (SRT) through a fast track process. DE (Comments): We would prefer not to include a Level 2 mandate. In case, such mandate cannot be avoided for technical reasons, we argue for a more specific definition of the mandate.
(11) Targeted amendments should be introduced in specific provisions of Regulation (EU) No 575/2013 to improve technical consistency and provide further clarifications on the rationale underlying certain provisions of the current framework. To ensure the consistent interpretation of Article 254(2) by the competent authorities and credit institutions across the Union, it should also be specified that that Article is aimed at avoiding the mandatory use of SEC-ERBA in relation to transactions for which the rating is capped due to the sovereign ceiling – and not the risk profile of the transactions – is the prevalent driver in determining the risk weights under that approach.	DE (Drafting Suggestions): (11) Targeted amendments should be introduced in specific provisions of Regulation (EU) No 575/2013 to improve technical consistency and provide further clarifications on the rationale underlying certain provisions of the current framework. To ensure the consistent interpretation of Article 254(2) by the competent authorities and credit institutions across the Union, it should also be specified that that Article is aimed at avoiding the mandatory use of SEC-ERBA in relation to transactions for which the rating is capped due to the sovereign ceiling – and not the risk profile of the transactions – as the prevalent driver in determining the risk weights under that approach. DE

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	(Comments): editorial
(12) Regulation (EU) No 575/2013 should therefore be amended accordingly.	
(13) Since the objective of this Regulation cannot be sufficiently achieved by the Member States and, by reason of its scale and effects, can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.	DE (Drafting Suggestions): (13) Since the objective of this Regulation cannot be sufficiently achieved by the Member States and, by reason of its scale and effects, can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the Functioning of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. DE (Comments): Alignment of wording with the preamble.
(14) By 4 years after the entry into force, the Commission, after consulting the EBA, should consider whether a more fundamental change to the risk weight formulae and functions should be introduced in the medium/long-term to make it possible, in a comprehensive manner, to allow for more risk sensitivity, to achieve more proportionate levels of capital non-neutrality, to mitigate cliff effects, and to address the structural limitations of the current framework,	DE (Comments): Given the complexity of the current proposal, we suggest opening the review in both directions to have the possibility to account for possible undercapitalisation, if needed.

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HAVE ADOPTED THIS REGULATION:	
Article 1 **Amendments to Regulation (EU) No 575/2013**	
Regulation (EU) No 575/2013 is amended as follows:	
(1) in Article 238(2), the following subparagraph is added:	
'A positive incentive shall be considered to be present in time call options only when contractual clauses at origination include terms in respect of which it can be expected that such terms have been included in the transaction documentation to increase the advantageousness of exercising the time call option.';	EL (Comments): Clarity: Please define "advantageousness" to reduce ambiguity and ensure consistent application. DE (Drafting Suggestions): A positive incentive shall be considered to be present when contractual clauses at origination include terms in respect of which it can be expected that such terms have been included in the transaction documentation to increase the advantageousness of exercising the option. DE (Comments): Art. 238 (2) mentions "positive incentive" with respect to all "option[s] to terminate the protection which is at the discretion of the protection buyer". Hence, we believe the clarification of the menaing "positive incentive"

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	should be applied to all relevant cases and not only to time calls. Additionally, there is no definition of "time call" in the CRR. PT (Comments): We agree with the proposed amendment.
(2) Article 242 is amended as follows:	
(a) point (6) is replaced by the following:	
'(6) 'senior securitisation position' means a position with the attachment point above K_{IRB} or K_A and backed or secured by a first claim on the whole of the underlying exposures, disregarding for these purposes amounts due under interest rate or currency derivative contracts, fees or other similar payments, and irrespective of any difference in maturity with one or more other senior tranches with which that position shares losses on a pro-rata basis;'	ES (Drafting Suggestions): '(6) 'senior securitisation position' means a position, **assessed at the closing of the transaction,** with the attachment point above K_{IRB} or K_A and backed or secured by a first claim on the whole of the underlying exposures, disregarding for these purposes amounts due under interest rate or currency derivative contracts, fees or other similar payments, and irrespective of any difference in maturity with one or more other senior tranches with which that position shares losses on a pro-rata basis;' ES (Comments): **KEY POLITICAL ISSUE.** **This is a major issue as it may create new cliff effects.** We support the idea of reinforcing the definition of senior tranche through a risk-based approach. However, the proposal seems to introduce a dynamic definition of the senior tranche, which could evolve over time. This may create significant uncertainty for market participants and undermine the intended objectives of the reform. If investors or originators have the slightest doubt that an instrument acquired

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	as senior could lose that status merely due to the passage of time or changes in the underlying pool, both origination and demand could be seriously affected. **Therefore, it should be clearly stated that the definition of the senior tranche must be assessed and satisfied exclusively at the time of closing of the transaction.** **A wording os proposed, subject to potential revision to be more precise.** EL (Comments): EL: **Concerns for NPL transactions:** It is important to clarify that this will have **ONLY prospective effect** and not retrospective effect since some current NPLS transactions are affected by this rule of A>Ka, thus there might be issues with the senior definition for those transactions. DE (Drafting Suggestions): '(6) 'senior securitisation position' means a position backed or secured by a first claim on the whole of the underlying exposures, disregarding for these purposes amounts due under interest rate or currency derivative contracts, fees or other similar payments, and irrespective of any difference in maturity with one or more other senior tranches with which that position shares losses on a pro-rata basis;' DE (Comments): *Irrespecitive of our concerns against the concept of resilience, we oppose the inclusion of the attachment point in the definition of the senior tranche. The proposed amendment is not necessary for the concept of resilience and may*

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	give rise to additional complexity, volatility and confusion even beyond the concept of resilience. *More specifically, introducing the attachment point as a requirement for a position to qualify as a senior positions will lead to transactions that do not have a senior tranche and/or transactions that have a senior tranche at origination but loose it in the course of the transaction due to changes in K.* *Rather, presuming the concept of resilience remains, it seems preferable to have the attachment point requirement only with regard to the resilience-criteria. Then, all securitisations have senior positions with some of them meeting the resilience standard and others that do not.* SK (Comments): Though not opposing the change of the definition, we would welcome clarification on the impact on existing positions. Would there be a need to restructure existing securitisations and what share of existing senior positions would fall out of the category? SE (Comments): It is difficult to judge the impact of the forumulas on the capital requirements. It would be of great help if the Commission could illustrate this by example and show how the capital requirements would change. PT (Comments):

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	We are assessing the impact of the proposed definition. By requiring it to attach strictly above KIRB or KA, it could unintentionally result in some securitisations lacking a recognised senior tranche.
(b) point (18) is deleted;	ES (Drafting Suggestions): **“mezzanine securitisation position” means a position in the securitisation which is subordinated to the position backed or secured by a first-ranking claim on the pool of underlying exposures and more senior than the first loss tranche.** ES (Comments): **While we acknowledge that the removal of mechanical tests renders the definition of mezzanine tranche unnecessary in the context of the CRR, in our view it remains relevant to retain a conceptual, non-risk-based definition of mezzanine tranche.** This is grounded in the fact that numerous Level 2 regulations still refer to this concept. The proposed definition takes into account the new definition of senior tranche, aiming to ensure compatibility between the two. From a legal drafting perspective, we understand that maintaining a definition that is not referenced elsewhere in the text is not the ideal solution. However, in this particular case, it appears to be a more reasonable approach than amending all Level 2 acts in order to introduce the definition of mezzanine for the purposes of their application. DE (Drafting Suggestions): (b) point (18) is amended as follows:

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	‘mezzanine securitisation position’ means a position in the securitisation which is subordinated to the senior securitisation positionand more senior than the first loss tranche; (c) the following points (21) and 22 are added: (21) cash advance facilities’ means a liquidity facility that is unconditionally cancellable provided that repayment of draws on the facility are senior to any other claims on the cash flows arising from the underlying exposures. (22) ‘time call option’ means a contractual option that entitles the originator of a synthetic securitisation to terminate the credit protection by which the transfer of risk is achieved prior to its contractual maturity, on specific dates without any further conditions.” DE (Comments): Regarding Point (18): We would prefer to keep the definition of mezzanine positions. Even if the term mezzanine tranche is no longer needed in SRT context it is also used for example in COREP ITS. We suggest deleting only the last part that was only needed for SRT reasons and that is no longer neccessary under the principle based approach. Regarding Point (21): We suggest adding the definition of ‘cash advance facilities’ here and delete the corresponding explanation in Article 248 (1)(b) CRR. Regarding Point (22): We suggest adding the definition of "time call option” for the purpose of Article 245 CRR. CZ (Drafting Suggestions):

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	~~(b) point (18) is deleted;~~ CZ (Comments): We strongly prefer to retain the definition of the mezzanine securitisation position in Level 1 text. This definition is repeatedly used in the accompanying texts to EBA Regulatory Technical Standards and Guidelines.
(3) Article 243 is amended as follows:	
(a) the title of the Article is replaced by the following:	
'*Article 243*	
Criteria for differentiated capital treatment'	IE (Comments): **IE** Comment: the differentiated capital treatment for resilient transactions should only apply to senior tranches in STS labelled transactions as aligned with the findings of the JC of the ESAs in their report on the prudential treatment of securitisations. The rationale for allowing a differentiated (positive) treatment for resilient tranches reflects the higher levels of protection (thickness, large attachment points, etc.) for the entity holding the relevant tranche and thus the entity exposed to the underlying risk of default. As such, we are supportive of the

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	calibration and methodology for determining resilient tranches, but only insofar as the treatment prescribed therein applies to the senior tranche. By their nature, a tranche below the senior tranche, even one meeting the criteria of resilient, is exposed to greater levels of risk than the senior and has been designed based on the capture of any unexpected losses in the underlying portfolio. This is the risk to the overall portfolio, not just the tranche under consideration. As such, the beneficial treatment and lower capital requirements should not apply to non-senior positions, non-STS positions. DE (Drafting Suggestions): (1)(a) the underlying exposures meet, at the time of their inclusion in the ABCP programme, to the best knowledge of the originator or the original lender, the conditions for being assigned, under the Stan-dardised Approach and taking into account any eligible credit risk mitigation, a risk weight equal to or smaller than 100 % and DE (Comments):

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	For consistency reasons with deletion regarding non-ABCP in Article 243 (2) (iii), Article 243(1)(a) has to be amended accordingly. AT (Comments): Generally, we support increased risk sensitivity. However, we are not convinced that the added complexity due to the integration of the new concept of "resilient securitisations" is warranted, especially in times of simplification efforts. We are open to the new category of resilient positions; however, we are not yet convinced whether it leads to added value. Any increase in risk sensitivity should always be made on the premise of minimising potential constraints on financial stability and investor protection and in view of the low default rates of European senior securitisation positions. From an AT perspective, we need a pragmatic approach and strike a balance between over-capitalisation and taking excessive risks. Whereas the changes to the RW floors and to the p-factor increase risk-sensitivity, we are still analysing whether especially the changes to the p-factor could have new adverse effects on financial stability. In addition, the proposed cap could lead to the fact that excessive risks are cut off and are not completely represented.

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(b) in paragraph 2, point (b) is amended as follows:	
(1) point (ii) is replaced by the following:	
'(ii) 60 % on an individual exposure basis where the exposure is a loan secured by a commercial mortgage;';	
(2) point (iii) is deleted;	ES (Drafting Suggestions): **<u>Comment regarding point (iv)</u>** (iv) for any other exposures, 100% on an individual exposure basis, except for project finance exposures where the project to which the exposure is related is in the pre-operational phase, and to which a risk weight of 130% applies as per Article 122a.3.(c)(i). ES (Comments): **IMPORTANT. We consider it important that project finances in the pre-operational phase can continue to be securitised under STS.** Given the significant investment challenges the European Union is set to face in the coming years — including in areas such as defence, the green and digital transitions, and the broader objective of strategic autonomy and growth — <u>it is essential that project finance exposures, including those in the pre-operational phase, remain eligible as underlying assets in STS securitisations</u>. The legislative proposal for the CRR maintains the wording of Article 243(2)(b)(iv) CRR, under which positions in a securitisation (other than ABCP) may benefit from the preferential treatment provided that, among other conditions, the underlying exposures are assigned a risk weight equal to or below 100% under the SA at the time of inclusion in the securitisation.

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	However, this approach does not reflect the recent amendments introduced by the CRR3 package, and effectively excludes certain relevant exposures that are subject to risk weights above 100%. This is particularly the case for project finance loans where the underlying project is in its pre-operational phase, to which a risk weight of 130% is applied in accordance with Article 122a(3)(c)(i). DE (Drafting Suggestions): (2) point (iii) is deleted; (3) former point (iv) will become point (iii) new. DE (Comments): *Editorial remark*: Formal amemdment re list.
(c) the following paragraphs 3, 4 and 5 are added:	DE (Comments): We caution against the new concept of resilience as set out in detail in the answers to the policy note/recital (6).
'3. Senior position in a STS securitisation shall be eligible for the treatment set out in Article 260(2), Article 262(2), Article 264(2a) and Article 264(3a) where the following requirements are met:	BE (Drafting Suggestions): point (d) should be added: the position is not a position of investor or sponsor (d) should become (e) etc.

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	Point (h) should be added: the position is not a position of insvestor or sponsor BE (Comments): Preferential treatment for STS resilient transactions should preferably only apply to originator and not to investor/sponsors. SK (Comments): We do not oppose the introduction of the "resilient securitisaton", allowing for the more risk sensitive framework. However, the impact on smaller market players should be properly understood and balanced, to avoid potential distortion of the level playing field with respect to smaller banks, lacking extensive data and relying on SEC-SA approach and conservative proxies in formulas. PT (Comments): We are assessing the viability of this new concept. We agree that the safeguards in place give confidence to indeed lower the RW for these positions, but at the cost of added complexity.
(a) for a position in an ABCP programme or ABCP transaction:	FR (Drafting Suggestions): (a) for a position in an ABCP programme or ABCP transaction

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	FR (Comments): Suggestion to fix what seems an issue with the layout in the initial proposal. Certainly the goal is to ensure that ABCP programme or ABCP transactions respect requirements of Art. 243 (1) and non-ABCP programme or ABCP transactions requirements of Art. 243 (2), which is not implied as currently drafted. SI (Drafting Suggestions): (a)
(b) the requirements of the Article 243(1)	FR (Drafting Suggestions): ~~(b)~~ (i) the requirements of the Article 243(1) DE (Comments): We caution against the new concept of resilience as set out in detail in the answers to the policy note/recital (6) SI (Drafting Suggestions): ~~(b)~~ **(1)** …. SI (Comments):

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	For the sake of clarity, letter (b) shall be amended by point (1), letter (c) by point (2),…
(c) at the origination date and on an ongoing basis thereafter, the attachment point of the senior securitisation position is determined as follows:	FR (Drafting Suggestions): ~~(c)~~ (ii) at the origination date ~~and on an ongoing basis thereafter~~, the attachment point of the senior securitisation position is determined as follows: FR (Comments): Checking the requirements on an ongoing basis is very burdensome for institutions, introduces a lot of volatility on wether a transactions remains resilient or not, and is not consistent with STS criteria and SRT that are only checked at the origination date. For instance, meeting the granulaty criteria on an ongoing basus would introduce a lot of uncertainty, depending on the rate of early loan reimbursment or defaults. We therefore strongly believe that the resilient criteria should be designed in a way for the regulator to be comfortable with a check only at the origination date. EL (Comments): EL: **Concerns for Ongoing Monitoring and Reporting**: • Investigate whether changes to the current reporting framework are required. • Lacks clarity of the supervisory actions in case a securitisation at a point in time does not anymore fulfil this requirement (i.e., A>=1.5Ka).

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	DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we are particularly concerned that positions need to comply with the resilience criteria on an ongoing basis. This introduces a new element of volatility to the RW-requirements that lies out of the control of the banks and thus may prevent banks from using securitisations for capital concerns.* CZ (Drafting Suggestions): (c) at the origination date ~~and on an ongoing basis thereafter~~, the attachment point of the senior securitisation position is determined as follows: CZ (Comments): We do not see any rational reasons for a continuous review of the criteria. Indeed, no such obligation exists for either STS transactions or SRTs, and we see no reason why this should be the case for this new category. Thus, the resilient position criterion should be checked at the structuring of the transaction and no further. BE (Comments): We are still assessing whether the formula ensures that the non-senior tranches are sufficiently thick SI

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	(Drafting Suggestions): ~~(c)~~ **(2)**… PT (Comments): We believe the proposal is heading in the right direction and understand that the concept was designed to provide a prudent framework for reducing capital requirements, with appropriate safeguards to ensure risk remains effectively mitigated.
A >= 1.5 * K_A, when using SEC-SA or SEC-ERBA, or	FR (Drafting Suggestions): A >= 1.5 * K_{SA}, when using SEC-SA or SEC-ERBA, or FR (Comments): See above on checking the requirements at the origination date. DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we would like to better understand* • *why COM has extended resilience also to SEC-ERBA;* • *the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.*

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	Regarding SEC-ERBA: SEC-ERBA is not formula-based and therefore is not covered by COMs line of argumentation, as both agency and model risks (see recital 6) relate to a formula based approaches. Instead, SEC-ERBA involves independent third party risk estimation by an regulatory accepted ECAI, based on the specitic situation of each single transaction taking into account the actual economic risk of the individual underlying pool, the availability of existing credit enhancements and actual loss allocation mechanism – without making so many simplified assumptions as the formula based approaches need to make. *Asset classes that typically use SEC-ERBA such as Auto-ABS often display Attachment Points near to or even below K(A) and thus would not qualify as resilient, even though in reality those transactions are extremly resilient as proven by the financial crises.* *Therefore, introducing resilience (or more specifically and K(A))into the SEC-ERBA will significantly drive up costs for investors as (every single investor) has to determine K(A) to calculate the floor incuring additional expense without added benefit (regarding p-factor).* SI (Drafting Suggestions): …. **Where**:… SI (Comments): All these parameters (A, K_A, EL, WAL, UL…) should be explained here as they are intruduced much later in Articles.

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	SE (Comments): A similar comment as the previous one. It would help to have an illustrative example of the effect of this method.
A >= 1.1 * (EL * WAL of the initial reference securitised portfolio + UL), when using SEC-IRBA.	FR (Drafting Suggestions): We will come back with an alternative proposal. FR (Comments): The proposed inputs to the formula under SEC-IRBA may prove detrimental to long-term transactions since maturity would then be accounted for twice: i) Once implicitly through the UL component, since the IRB credit risk formula already incorporates maturity adjustment for non-retail exposures (: articles 153/154/162) which is thus captured in this input already; ii) Once explicitly through the WAL component. Since the formula for determining the attachment point under the SEC-SA and SEC-ERBA approaches does not factor in any of these maturity adjustments, we fear this may create an unlevel playing field for long-maturity transactions under the SEC-IRBA and negatively impact these asset classes. We are running additional analysis and aim at providing you alternative criteria by the next CWP. DE

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	(Comments): *Nonwithstanding our reservations on the concept of resilience, we would like to better understand* • *why COM has extended resilience also to SEC-ERBA (see above/our comments in the policy note* • *the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.*
(d) for a position a securitisation other than ABCP programme or ABCP transaction:	FR (Drafting Suggestions): ~~(d)~~ (b) for a position a securitisation other than ABCP programme or ABCP transaction: SI (Drafting Suggestions): (b) for a position **in** a securitisation other than ABCP programme or ABCP transaction: SI (Comments): This should be letter (b) instead of letter (d) as this is a second group of position in a securitisation.
(e) the requirements of the Article 243(2)	FR (Drafting Suggestions): ~~(e)~~ (i) the requirements of the Article 243(2)

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	SI (Drafting Suggestions): ~~(e)~~ **(1)** SI (Comments): For the sake of clarity, letter (e) shall be amended by point (1), letter (f) by point (2),…
(f) at the origination date and on an ongoing basis thereafter, the attachment point of the senior securitisation position is determined as follows:	FR (Drafting Suggestions): ~~(f)~~ (ii) at the origination date ~~and on an ongoing basis thereafter~~, the attachment point of the senior securitisation position is determined as follows: FR (Comments): See above. DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we are particularly concerned that positions need to comply with the resilience criteria on an ongoing basis. This introduces a new element of volatility to the RW-requirements that lies out of the control of the banks and thus may prevent banks from using securitisations for capital concerns.* CZ (Drafting Suggestions):

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	(f) at the origination date ~~and on an ongoing basis thereafter~~, the attachment point of the senior securitisation position is determined as follows: CZ (Comments): We do not see any rational reasons for a continuous review of the criteria. Indeed, no such obligation exists for either STS transactions or SRTs, and we see no reason why this should be the case for this new category. Thus, the resilient position criterion should be checked at the structuring of the transaction and no further. BE (Comments): We are still assessing whether the formula ensures that the non-senior tranches are sufficiently thick SI (Drafting Suggestions): ~~(f)~~ **(2)**
A >= 1.5 * K_A, when using SEC-SA or SEC-ERBA, or	FR (Drafting Suggestions): A >= 1.5 * K_{SA}, when using SEC-SA or SEC-ERBA, or FR (Comments):

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	See above. DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we would like to better understand* • *why COM has extended resilience also to SEC-ERBA (see above/our comments in the policy note)* • *the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.*
A >= 1.1 * (EL * WAL of the initial reference securitised portfolio + UL), when using SEC-IRBA.	FR (Drafting Suggestions): We will come back with an alternative proposal. FR (Comments): The proposed inputs to the formula under SEC-IRBA may prove detrimental to long-term transactions since maturity would then be accounted for twice: i) Once implicitly through the UL component, since the IRB credit risk formula already incorporates maturity adjustment for non-retail exposures (: articles 153/154/162) which is thus captured in this input already; ii) Once explicitly through the WAL component. Since the formula for determining the attachment point under the SEC-SA and SEC-ERBA approaches does not factor in any of these maturity

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	adjustments, we fear this may create an unlevel playing field for long-maturity transactions under the SEC-IRBA and negatively impact these asset classes. We are running additional analysis and aim at providing you alternative criteria by the next CWP.
4. A senior securitisation position in a non-STS securitisation shall be eligible for the treatment set out in Article 259(1b), Article 261(1b), Article 263(2a) and Article 263(3a) where the following requirements are met, at the origination date and on an ongoing basis thereafter:	FR (Drafting Suggestions): 4. A senior securitisation position in a non-STS securitisation shall be eligible for the treatment set out in Article 259(1b), Article 261(1b), Article 263(2a) and Article 263(3a) where the following requirements are met, at the origination date ~~and on an ongoing basis thereafter~~: FR (Comments): See above. EE (Comments): EE: We are cautious about the beneficial treatment of the non-STS securitisations. CZ (Drafting Suggestions): 4. A senior securitisation position in a non-STS securitisation shall be eligible for the treatment set out in Article 259(1b), Article 261(1b), Article 263(2a) and Article 263(3a) where the following requirements are met, at the origination date ~~and on an ongoing basis thereafter~~: CZ

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	(Comments): We do not see any rational reasons for a continuous review of the criteria. Indeed, no such obligation exists for either STS transactions or SRTs, and we see no reason why this should be the case for this new category. Thus, the resilient position criterion should be checked at the structuring of the transaction and no further. SK (Comments): We understand where the proposal is coming from, however we are concerned by the complexity it brings, distinguishing not only based on the underlying assets but also based on the person holding the position. Due to this, we would support exploring possibility to not distinguish between persons holding the position in case of non-STS securitisations. The conditions for a transaction to be resilient are based on explicit criteria, which must be fulfilled. Treating non-STS securitisations held by the investors automatically as non-resilient, regardless of the criteria set, partly mitigates the benefits brought by the new category and does not reflect lower risk of the underlying assets. Distinguishing between originators/sponsors and investors, even though underling assets are the same, creates asymmetric treatment and penalises long-term investors into the high-quality non-STS securitisations. If meeting of the criteria is monitored (either at the

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	origination or continuously), and the underlying assets meet the set benchmarks, the lowered riskiness should be considered warranted and thus applied with respect to investor as well.
(a) for an on-balance-sheet securitisation:	SI (Drafting Suggestions): (a) for ~~an on-balance-sheet~~ **a synthetic** securitisation: SI (Comments): In CRR a word "synthetic" securitisation is usually used instead of "on-balance-sheet" securitisation.
(1) the requirement of Article 26c(5) of Regulation (EU) 2017/2402 and the requirements of Commission Delegated Regulation (EU) 2024/920;	
(2) the requirements of Article 26(e)8, 9 and 10 of Regulation (EU) 2017/2402;	DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we note that this criterion does not add risk sensitivity and should be deleted. The credit protection applies only to the first loss tranche or the mezzanine tranche while the definition of "resilient" applies only to the senior tranche. A senior tranche, where the mezzanine tranche is protected by cash collateral, has the identical risk profile of a senior tranche, where the mezzanine tranche is not protected by cash collateral. In other words, the credit protection only determines the risk of the protected tranche, not the risk of the senior tranche.* *Wrong legal reference. It is Article 26e, not Article 26(e)*

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	BE (Drafting Suggestions): (2) the requirements of Article 26(e)8 (a),(b) or (c), 9 and 10 of Regulation (EU) 2017/2402; BE (Comments): In our opinion, in order to be a resilient transaction, the on balance sheet securitisation should not include any counterparty risk. By referring to article 26e(8) you would also allow insurers (in the current Sec Reg proposal art 26e(8)(aa))to provide this guarantee – if the proposal for the securitisation regulation is approved. We believe it is important that they are excluded from the the criteria for resilient transactions as we want to provide the senior tranche with the highest level of protection, which means there should not be any counterparty credit risk associated with the guarantee. SI (Drafting Suggestions): (2) the requirements of Article **26e (8), (9) and (10)** of Regulation (EU) 2017/2402; SI (Comments):

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	As we understand, these requirements refer to paragraphs (8), (9) and (10) of Article 26e of Regulation (EU) 2017/2402.
(3) the attachment point of the senior securitisation position is determined as follows:	BE (Comments): We are still assessing whether the formula ensures that the non-senior tranches are sufficiently thick
A >= 1.5 * K_A, when using SEC-SA or SEC-ERBA, or	FR (Drafting Suggestions): A >= 1.5 * K_{SA}, when using SEC-SA or SEC-ERBA, or FR (Comments): See above.
A >= 1.1 * (EL * WAL of the initial reference securitised portfolio + UL), when using SEC-IRBA;	FR (Drafting Suggestions): We will come back with an alternative proposal. FR (Comments): The proposed inputs to the formula under SEC-IRBA may prove detrimental to long-term transactions since maturity would then be accounted for twice: i) Once implicitly through the UL component, since the IRB credit risk formula already incorporates maturity adjustment for non-retail exposures (: articles 153/154/162) which is thus captured in this input already;

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	ii) Once explicitly through the WAL component. Since the formula for determining the attachment point under the SEC-SA and SEC-ERBA approaches does not factor in any of these maturity adjustments, we fear this may create an unlevel playing field for long-maturity transactions under the SEC-IRBA and negatively impact these asset classes. We are running additional analysis and aim at providing you alternative criteria by the next CWP. DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we would like to better understand* • *why COM has extended resilience also to SEC-ERBA (see above/our comments in the policy note)* • *the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.*
(4) the requirement of Article 243(2), point (a) of this Regulation;	
(5) the position is not a position of investor;	FR (Drafting Suggestions): We will come back with an alternative proposal. FR (Comments): We do not believe that every investor position should be excluded from resilient transactions. The differentiation between investor, originator, and

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	sponsor needs revisiting. For example, when a bank structures securitization for a third party, it possesses as much information as an originator or sponsor but might still be treated as an investor. Additionally, we should ensure that banks have sufficient flexibility for their market-making activities. This would involve a functional approach to their positions as investors in securitization within their trading book, that are hold for shorter durations. To sum up, we think all investors positions not be treated the same and not be excluded from resilient transactions, as they do not suffer from information asymmetry. We will come back with a written proposal. DE (Comments): *Above and beyond our general concerns regarding the concept of "resilient" securitisations, we see no justification for the different regulatory treatment of investors as opposed to originators and sponsors (see policy note). From a regulatory point of view, the risk of default of the product do not change when the product is sold. Therefore, a position is either resilient or not, independent of the holder of the position. Also, we see no regulatory justification why investments in STS tranches can be "resilient" while investments in non-STS tranches cannot.* BE (Drafting Suggestions): (5) the position is not a position of investor or sponsor; BE (Comments): We believe it is important to transfer the risk outside of the banking sector. The preferential treatment for the RW floor should be reserved for originators which have low model and agency risks.

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	NL (Drafting Suggestions): position is ~~not a position of investor.~~ **of an originator or sponsor.** NL (Comments): NL: does the orginal wording make sufficiently clear that this should be an originator or sponsor *in the meaning of the SECR*? As originator and sponsor are defined in the CRR with reference to the SECR, we suggest to use a positive wording.
(b) for an ABCP programme or ABCP transaction:	
(1) the requirements of Article 24(17), point (b), of Regulation (EU) 2017/2402;	
(2) the attachment point of the senior securitisation position is determined as follows:	BE (Comments): We are still assessing whether the formula ensures that the non-senior tranches are sufficiently thick
A >= 1.5 * K_A, when using SEC-SA or SEC-ERBA, or	FR (Drafting Suggestions): A >= 1.5 * K_{SA}, when using SEC-SA or SEC-ERBA, or FR (Comments): See above.

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	DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we would like to better understand* • *why COM has extended resilience also to SEC-ERBA (see above/our comments in the policy note)* • *the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.*
A >= 1.1 * (EL * WAL of the initial reference securitised portfolio + UL), when using SEC-IRBA;	FR (Drafting Suggestions): We will come back with an alternative proposal. FR (Comments): The proposed inputs to the formula under SEC-IRBA may prove detrimental to long-term transactions since maturity would then be accounted for twice: iii) Once implicitly through the UL component, since the IRB credit risk formula already incorporates maturity adjustment for non-retail exposures (: articles 153/154/162) which is thus captured in this input already; iv) Once explicitly through the WAL component. Since the formula for determining the attachment point under the SEC-SA and SEC-ERBA approaches does not factor in any of these maturity adjustments, we fear this may create an unlevel playing field for long-

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	maturity transactions under the SEC-IRBA and negatively impact these asset classes. We are running additional analysis and aim at providing you alternative criteria by the next CWP. DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we would like to better understand* • *why COM has extended resilience also to SEC-ERBA (see above/our comments in the policy note)* • *the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.*
(3) the requirements of Article 243(1), point (b) of this Regulation;	
(4) the position is not a position of investor;	FR (Drafting Suggestions): We will come back with an alternative proposal. FR (Comments): See above. DE (Comments): *Above and beyond our general concerns regarding the concept of "resilient" securitisations, we see no justification for the different regulatory treatment of investors as opposed to originators and sponsors (see policy note). From a*

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	regulatory point of view, the risk of default of the product do not change when the product is sold. Therefore, a position is either resilient or not, independent of the holder of the position. Also, we see no regulatory justification why investments in STS tranches can be "resilient" while investments in non-STS tranches cannot. BE (Drafting Suggestions): (4) the position is not a position of investor or sponsor; BE (Comments): We believe it is important to transfer the risk outside of the banking sector. The preferential treatment for the RW floor should be reserved for originators which have low model and agency risks. NL (Drafting Suggestions): position is ~~not a position of investor.~~ **<u>of</u>** **<u>an originator or sponsor.</u>** NL (Comments): NL: does the orginal wording make sufficiently clear that this should be an originator or sponsor *in the meaning of the SECR*? As originator and sponsor are defined in the CRR with reference to the SECR, we suggest to use a positive wording.
(c) for non-ABCP traditional securitisation:	

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(1) the requirements of Article 21(4), point (b), and Article 21(5) of Regulation (EU) 2017/2402;	
(2) the attachment point of the senior securitisation position is determined as follows:	BE (Comments): We are still assessing whether the formula ensures that the non-senior tranches are sufficiently thick
A >= 1.5 * K_A, when using SEC-SA or SEC-ERBA, or	FR (Drafting Suggestions): A >= 1.5 * K_{SA}, when using SEC-SA or SEC-ERBA, or FR (Comments): See above. DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we would like to better understand* • *why COM has extended resilience also to SEC-ERBA (see above/our comments in the policy note)* • *the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.*
A >= 1.1 * (EL * WAL of the initial reference securitised portfolio + UL), when using SEC-IRBA;	FR (Drafting Suggestions):

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	We will come back with an alternative proposal. FR (Comments): The proposed inputs to the formula under SEC-IRBA may prove detrimental to long-term transactions since maturity would then be accounted for twice: v) Once implicitly through the UL component, since the IRB credit risk formula already incorporates maturity adjustment for non-retail exposures (: articles 153/154/162) which is thus captured in this input already; vi) Once explicitly through the WAL component. Since the formula for determining the attachment point under the SEC-SA and SEC-ERBA approaches does not factor in any of these maturity adjustments, we fear this may create an unlevel playing field for long-maturity transactions under the SEC-IRBA and negatively impact these asset classes. We are running additional analysis and aim at providing you alternative criteria by the next CWP. DE (Comments): *Nonwithstanding our reservations on the concept of resilience, we would like to better understand* • *why COM has extended resilience also to SEC-ERBA (see above/our comments in the policy note)* • *the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA*

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	than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.
(3) the requirement of Article 243(2), point (a), of this Regulation; the position is not a position of investor.	FR (Drafting Suggestions): We will come back with an alternative proposal. FR (Comments): See above. DE (Comments): *Above and beyond our general concerns regarding the concept of "resilient" securitisations, we see no justification for the different regulatory treatment of investors as opposed to originators and sponsors (see policy note). From a regulatory point of view, the risk of default of the product do not change when the product is sold. Therefore, a position is either resilient or not, independent of the holder of the position. Also, we see no regulatory justification that investments in STS tranches can be "resilient" while investments in non-STS tranches cannot. .* BE (Drafting Suggestions): (3) the requirement of Article 243(2), point (a), of this Regulation; (4) the position is not a position of investor or sponsor; BE (Comments):

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	We believe it is important to transfer the risk outside of the banking sector. The preferential treatment for the RW floor should be reserved for originators which have low model and agency risks. SI (Drafting Suggestions): (3) the requirement of Article 243(2), point (a), of this Regulation; **<u>(4)</u>** the position is not a position of investor. SI (Comments): A separate point (4) should be introduced (now it is merged with point (3)). NL (Drafting Suggestions): the requirement of Article 243(2), point (a), of this Regulation; the position is ~~not a position of investor.~~ **<u>an originator or sponsor.</u>** NL (Comments): NL: does the orginal wording make sufficiently clear that this should be an originator or sponsor *in the meaning of the SECR*? As originator and sponsor are defined in the CRR with reference to the SECR, we suggest to use a positive wording.
5. For the purposes of paragraphs 3 and 4, the WAL (weighted average life) of the initial reference portfolio shall be calculated by time-weighting, until the	DE (Comments):

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expected maturity of the transaction, only the repayments of principal amounts from the securitised exposures, without taking into account any payments relating to fees or interest to be paid by the obligors of the securitised exposures, and, in case of synthetic securitisations, without taking into account any prepayment assumptions. For a transaction with a replenishment period, the WAL shall be the sum of the remaining replenishment period plus the remaining weighted average life of the reference portfolio measured from the end of that replenishment period. The WAL shall be no greater than five years.';	*Nonwithstanding our reservations on the concept of resilience, we would like to better understand the rationale behind the calibration of the scaling factors (why there are two different scaling factors/ why SEC-SA is calibrated more conservatively than SEC-IRBA even though SEC-SA leads to higher RWA than SEC-IRBA/why SEC-IRBA is not calculated based on K(IRB) respectively.*
(4) Articles 244 and 245 are replaced by the following:	IE (Comments): **IE** Comment: we see merit and are open to the amendments on the Significant Risk Transfer and note the proposals are closely aligned with previous EBA recommendations. However, SRT transactions result in lower capital requirements for originator banks which must be carefully managed to avoid concentration risk and over reliance on capital relief. As such and noting the EBA recommendations were from some time ago, we would request an impact assessment from the Commission regarding the potential market as was done for the RW Floors, p Factor and resilient capital implications before solidifying a position on this aspect of the proposals. DE (Comments): We fully support the idea to replace the current test by the PBA.

From: IE, FR, ES, EL, EE, DE, CZ, BE, AT, SI, SK, SE, RO, PT, NL, LU Updated: 05/09/2025 14:55

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'Article 244	AT (Comments): Regarding the SRT, we welcome changes that make the process more efficient and streamlined as proposed by the ECB and NCAs.
Traditional securitisation	
1. The originator institution of a traditional securitisation may exclude the securitised exposures from its calculation of risk-weighted exposure amounts and, where relevant, expected loss amounts where all of the following conditions are met:	ES (Drafting Suggestions): 1. The originator institution of a traditional securitisation may exclude the securitised exposures from its calculation of risk-weighted exposure amounts and, where relevant, expected loss amounts where ~~all~~ **either** of the following conditions are met: ES (Comments): We would like to point out what appears to be an inconsistency in the text. We suggest an alternative wording, which in our view provides greater clarity. Compliance shall require the fulfillment of either condition a) or condition b) in the terms provided under our suggested wordig. EL (Comments): EL: As regards Articles 244 and 245 referring to traditional and synthetic securitisations please clarify the different treatment on the conditions noted in paragraph 1 that have to be met. Specifically in Article 244 it is noted that 'where **all** of the following conditions are met' while in Article 245 'where **either** of the following conditions is met:''

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	DE (Drafting Suggestions): 1. The originator institution of a traditional securitisation may exclude the underlying exposures from its calculation of risk-weighted exposure amounts and, where relevant, expected loss amounts where all of the following conditions are met: DE (Comments): Editorial change for consistency: the current CRR refers to "underlying exposures" and so do paragraphs 2 et. seq as well as Article 254 SK (Comments): SK can support principle-based approach. PT (Comments): We agree that the operational requirements listed in paragraph 4 should also be met for positions risk-weighted at 1,250% or deducted from CET1.
(a) a significant credit risk associated with the securitised exposures has been transferred to third parties, or the originator institution applies a 1250 % risk weight to all securitisation positions that institution holds in the securitisation or deducts those securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1), point (k);	ES (Drafting Suggestions): (a) a significant credit risk associated with the securitised exposures has been transferred to third parties, **and the conditions for the effective risk transfer on the securitised exposures referred to in this article are met** ~~or the originator institution applies a 1250 % risk weight to all securitisation positions that institution holds in the securitisation or deducts those securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1), point (k)~~**;**

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	ES (Comments): In addition, all conditions set forth in this article (paragraph from 2 to 5) should be fulfilled—not only those in paragraph 4. Therefore, we kindly recommend the wording be reviewed accordingly. DE (Drafting Suggestions): (a) a significant credit risk associated with the underlying exposures has been transferred to third parties in accordance with paragraphs 2 and 3, or the originator institution applies a 1250 % risk weight to all securitisation positions the institution holds in the securitisation or deducts those securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1), point (k); DE (Comments): Editorial change for consistency: the current CRR refers to "underlying exposures" and so do paragraphs 2 et seq. as well as Article 254. SI (Comments): We propose to add a reference to a paragraph 2 (and 3?) in the wording "a significant credit risk associated with the securitised exposures has been transferred to third parties" – in order to be consistent with the following paragraph, where a reference to paragraph 4 is made.
(b) the conditions for the effective risk transfer on the securitised exposures referred to in paragraph 4 of this Article are met.	ES (Drafting Suggestions):

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	(b) ~~the conditions for the effective risk transfer on the securitised exposures referred to in paragraph 4 of this Article are met~~ **the originator institution applies a 1250 % risk weight to all securitisation positions that institution holds in the securitisation or deducts those securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1), point (k).** ES (Comments): Please refer to previous comment. DE (Drafting Suggestions): (b) the conditions for the effective risk transfer on the underlying exposures referred to in paragraph 4 of this Article are met. (c) the originator institution has notified the national comptent authority of the SRT transaction at the latest [1 month] before the expected issuance. Key information and documentation should be submitted within such ex ante notification. The originator should provide a final version of all information documentation no later than 15 days after the closing date of the transaction; DE (Comments): Editorial change for consistency: the current CRR refers to "underlying exposures" and so do paragraphs 2 et seq. as well as Article 254. A Level 1 requirement to notify the NCAs is needed. Please note that this was expressly recommended in the EBA report on SRT (EBA/Rep/2020/32) p. 65.
2. Significant credit risk shall be considered transferred to third parties where after the allocation of the lifetime expected loss of the underlying exposures to the tranches of the securitisation, the share of weighted amounts	ES (Comments):

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of unexpected losses of the underlying exposures allocated to the securitisation positions that the originator institution has transferred to third parties is at least 50% of all the weighted amounts of unexpected losses of the underlying exposures allocated to all the securitisation tranches in accordance with the following formula:	We welcome the introduction of the Principle-Based Approach (PBA) as a means to address the limitations inherent in the current quantitative tests—particularly the mezzanine test—as highlighted in the 2020 EBA Report. However, the same report also recommended the implementation of a Commensurateness of Risk Transfer (CRT) test. According to this recommendation, risk transfer should be deemed commensurate when the ratio of RWEAs to the capital reduction achieved by the originator (Ratio 1) is equal to or lower than the ratio of risk transferred to third parties (Ratio 2). We understand that this CRT test is intended to complement the PBA, at least during the initial assessment of Significant Risk Transfer (SRT), to ensure that the originator's retained exposures to the securitisation are not materially undercapitalised. If the CRT mechanism has proven ineffective in fulfilling this objective, an alternative approach should be incorporated into the CRR to support this verification process. Although paragraph 3 below refers to this objective, it is not clear if to pass CRT test is expected or not to fulfill SRT requirements. Also, if the Level 1 text introduces technical details of the PBA—such as the formula—then, for the sake of consistency and completeness, it should also include the technical elements of the CRT test. In any case, a justification should be provided in the detailed explanation of the specific provisions of the proposal, clarifying whether or not the CRT test is included. This is particularly important given that current supervisory practice is based on this test. DE (Drafting Suggestions): Significant credit risk shall be considered transferred to third parties where after the allocation of the lifetime expected loss of the underlying exposures to the tranches of the securitisation, the share of unexpected losses of the underlying exposures allocated to the securitisation positions that the originator institution has transferred to third parties is at least 50% of all the

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	unexpected losses of the underlying exposures allocated to all the securitisation tranches in accordance with the following formula: DE (Comments): We do not see any need to weight the UL by the RWEA. The PBA test requires the originator to transfer at least 50% of unexpected losses of the exposures of the underlying portfolio of the securitisation transaction to third parties therefore no further weighting is necessary. This would also be consistent to the EBA proposal in EBA/Rep/2020/32. PT (Comments): We agree with the introduction of the PBA test. We are still assessing the details of the proposals
$\frac{\sum_i RWEA_i \times UL_trans_i}{\sum_i RWEA_i \times UL_i} \geq 0.5$	DE (Drafting Suggestions): $\frac{\sum_i UL_trans_i}{\sum_i UL_i}$
where:	
– $RWEA_i$ is the risk-weighted exposure amount of tranche i	
– UL_i is the amount of unexpected losses allocated to tranche i where the unexpected loss equals the risk-weighted exposure amounts that would be calculated by the originator institution under Chapter 2 or Chapter 3, as applicable, in respect of the underlying exposures as if they had not been securitised multiplied by 8 %.	

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– UL_trans_i is the amount of UL_i allocated to the transferred securitisation positions in tranche i	
For the purposes of this formula, the risk-weighted exposure amounts that would be calculated under Chapter 3 shall not include the amount of expected losses associated with all the underlying exposures of the securitisation, including defaulted underlying exposures that are still part of the pool.	DE (Comments): We propose to delete this sub-paragraph. • The content is not fully clear => should defaulted underlying exposure i) not be included at all or ii) should the EL of defaulted exposures not be included? • If i) we would reject this proposal as economically not justified; if ii) we think the whole sentence is not necessary and redundant as the definition of RWEA under Chapter 3 does per se exclude the EL
3. By way of derogation from paragraph 2, competent authorities may require the originator institution on a case-by-case basis to transfer to third parties a weighted amount of unexpected losses larger than the 50% referred to in that paragraph, or object to the significant credit risk transfer. The measures referred to in this paragraph may be imposed to address failings in the management of systems and controls or other internal governance failures of the originator institution, including remedial action plans not yet completed following supervisory examinations, or where the competent authority deems the credit risk transferred under paragraph 2 as insufficient to address certain special or complex features of the securitisation, or leading to disproportionate capital relief.	ES (Comments): Please refer to previous comment. The review to ensure that capital relief is not disproportionate should not be optional; it should be clearly embedded in Level 1. A specific paragraph should be included to reflect this requirement. DE (Drafting Suggestions): 3. By way of derogation from paragraph 2, competent authorities may require the originator institution on a case-by-case basis to transfer to third parties an amount of unexpected losses larger than the 50% referred to in that paragraph, or object to the significant credit risk transfer. The measures referred to in this paragraph may be imposed to address failings in the management of systems and controls or other internal governance failures of the originator institution, including remedial action plans not yet completed following supervisory examinations, or where the competent authority deems the credit risk transferred under paragraph 2 as insufficient to address certain

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	special or complex features of the securitisation, or leading to disproportionate capital relief. DE (Comments): We do not see any need to weight the UL by the RWEA (see above). SK (Comments): We do not oppose the option for the competent authority to require transfer of more than 50% on case-by-case basis, subject to objective standards developed by EBA ensuring clear, predictable and proportional application across EU. PT (Comments): We agree witht the power given to competent authorities to override automatic SRT recognition when they're concerned about risk arbitrage, weak governance, or complex deal structuring.
4. In addition to the requirements set out in paragraphs 1, 2, and 3, all of the following conditions for the effective risk transfer shall be met:	ES (Drafting Suggestions): 4. ~~In addition to the requirements set out in paragraphs 1, 2, and 3, all of~~ the following conditions for the effective risk transfer shall be met: ES

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	(Comments): We suggest deleting the introductory part of this sentence, as paragraph 5 must also be complied with. Paragraph 1 should be revised to clearly state that all conditions set out in this article must be fulfilled.
(a) the transaction documentation reflects the economic substance of the securitisation;	EL (Drafting Suggestions): **Revised Text Suggestion:** (a) The transaction documentation reflects the economic substance of the securitisation, ensuring that the transfer of risk is legally enforceable. In the context of the economic substance, the originating institution provides quantitative and qualitative evidence of significant risk transfer. EL (Comments): EL: Clarity: The phrase "*reflects the economic substance*" altough not a new term, has proven in practice difficult to be assessed, raising legal comments in the context of supervisory assessment of GR NPL securitisation transactions. To this end, additional language could be inserted to ensure enforceability and legal soundness. The point could be further complemented with the clarification that the originating institution provides quantitative and qualitative evidence of significant risk transfer.
(b) the securitisation positions do not constitute payment obligations of the originator institution;	

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(c) the underlying exposures are placed beyond the reach of the originator institution and its creditors in a manner that meets the requirement set out in Article 20(1) of Regulation (EU) 2017/2402;	
(d) the originator institution does not retain control over the underlying exposures;	ES (Drafting Suggestions): (d) the originator institution does not retain control over the underlying exposures~~;~~. **It shall be considered that control is retained over the underlying exposures where the originator has the right to repurchase from the transferee the previously transferred exposures in order to realise their benefits or if it is otherwise required to re-assume transferred risk. The originator institution's retention of servicing rights or obligations in respect of the underlying exposures shall not of itself constitute control of the exposures;** ES (Comments): We suggest including this within letter d) itself rather than as another subparagrah, in order to simplify the article and to avoid confusions. LU (Comments): Point d) currently includes a clarification regarding when it shall be considered that control is retained. It is not clear why these clarifications are deleted. The L1 text shall be as clear as possible.
(e) the securitisation documentation does not contain terms or conditions that require the originator institution to alter the underlying exposures to improve the average quality of the pool or increase the yield payable to holders	

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of positions or otherwise enhance the positions in the securitisation in response to a deterioration in the credit quality of the underlying exposures;	
(f) where applicable, the transaction documentation makes it clear that the originator or the sponsor may only purchase or repurchase securitisation positions or repurchase, restructure or substitute the underlying exposures beyond their contractual obligations where such arrangements are executed in accordance with prevailing market conditions and the parties to them act in their own interest as free and independent parties (arm's length);	
(g) the securitisation transaction does not exhibit any structural features that prevent or significantly undermine the effective transfer of credit risk to third parties on a sustainable basis or, where any of those features is present, the transaction exhibits adequate safeguards;	PT (Comments): On a preliminary assessment, we agree with this safeguard against abusive or poorly designed structures that might technically meet other tests but fail to achieve real credit risk transfer.
(h) where there is a clean-up call option, that option shall also meet all of the following conditions:	DE (Drafting Suggestions): (h) where there is a clean-up call option, that option shall meet all of the following conditions: DE (Comments): Editorial change
(1) that option can be exercised at the discretion of the originator institution;	
(2) that option may only be exercised when 10 % or less of the original value of the underlying exposures remains unamortised;	DE (Drafting Suggestions):

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	(2) that option may only be exercised when 10 % or less of the original exposure value of the underlying exposures remains unamortised; DE (Comments): Editorial change, because "value" seems not defined in the CRR.
(3) that option is not structured to avoid allocating losses to credit enhancement positions or other positions held by investors in the securitisation and is not otherwise structured to provide credit enhancement;	DE (Drafting Suggestions): (3) that option is not structured to avoid allocating losses to securitisation positions held by investors and is not otherwise structured to provide credit enhancement; DE (Comments): While there is a legal definition of credit enhancement in the CRR, there is no legal definition of credit enhancement position. Moreover, by definition, investors are holding securitisation positions. Therefore, the text can be simplified as suggested
(i) the originator institution has received an opinion from a qualified legal counsel confirming that the securitisation complies with the conditions set out in point (c) of this paragraph.	
For the purposes of point (d), it shall be considered that control is retained over the underlying exposures where the originator has the right to repurchase from the transferee the previously transferred exposures in order to realise their benefits or if it is otherwise required to re-assume transferred risk. The originator institution's retention of servicing rights or obligations in respect of the underlying exposures shall not of itself constitute control of the exposures.	ES (Drafting Suggestions): ~~For the purposes of point (d), it shall be considered that control is retained over the underlying exposures where the originator has the right to repurchase from the transferee the previously transferred exposures in order to realise their benefits or if it is otherwise required to re-assume transferred risk. The originator institution's retention of servicing rights or obligations in respect of the underlying exposures shall not of itself constitute control of the exposures.~~

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	ES (Comments): We suggest moving the text to letter d) above.
5. The conditions for significant credit risk transfer referred to in paragraphs 2 and 3 shall be met at the time of origination of the securitisation covering the lifetime of the transaction in both base-case and stress-case conditions, provided that no structural changes are made to the transaction after origination. The requirements referred to in paragraph 4 shall be met on an ongoing basis. The originator institution shall submit a self-assessment to the competent authority to demonstrate the fulfilment of the conditions for effective and, where applicable, significant credit risk transfer referred to in paragraphs 1 to 4.	ES (Drafting Suggestions): 5. The conditions for significant credit risk transfer referred to in paragraphs 2 and 3 shall be met at the time of origination of the securitisation covering the lifetime of the transaction in both base-case and stress-case conditions, provided that no structural changes are made to the transaction after origination. **The development of the scenarios should take into account both the amortisation structure of the securitisation and the amortisation profile of the underlying portfolio.** The requirements referred to in paragraph 4 shall be met on an ongoing basis. The originator institution shall submit a self-assessment to the competent authority to demonstrate the fulfilment of the conditions for effective and, where applicable, significant credit risk transfer. referred to in paragraphs 1 to 4. ES (Comments): We suggest taking into consideration in the development of the base and stressed cases the different types of amortisation of both the securitisation structure and the underlying portfolio, as well as, under stress-case conditions, how the assignment of losses is distributed over the life of the transaction. DE (Drafting Suggestions): The conditions for significant credit risk transfer referred to in paragraphs 2 and 3 shall be met at the time of origination of the securitisation covering the lifetime of the transaction in both base-case and stress-case conditions, provided that the originator does not reassume any of the transferred risk and

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	no structural changes are made to the transaction after origination. If the originator reassumes any of the transferred risk or structural changes are made, a new assessment of the significant credit risk transfer based on the updated data has to be conducted. The requirements referred to in paragraphs 1, point (a), second and third condition and paragraph 4 shall be met on an ongoing basis. The originator institution shall submit a self-assessment to the competent authority to demonstrate the fulfilment of the conditions for effective and significant credit risk transfer referred to in paragraphs 1 to 4. DE (Comments): We added some language that makes clear that in certain situations the requirement shall not only be met at the time of origination but also at a later time, i.e. when the originator actively increases the share of retained risk. “Where applicable” should be deleted since significant credit risk transfer has always to be met according to paragraph 1 a) and therefore also has to be demonstrated. Even when a “full deduction” is used the origintor should demonstrate that any retained tranche is either risk weighted with 1250% or deducted. A reference to paragraph 1, point (a) “full deduction” should be added, because the “full deduction” option must also be met on an ongoing basis. PT (Comments): We are assessing the consequences of, for the first time, not requiring the SRT assessment on an ongoing basis (*vide* GL on SRT)

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	LU (Comments): The verification of the requirements "on an ongoing basis" may be overly burdensome. Further clarifications would be welcome.
6. For certain transactions that do not exhibit problematic features, competent authorities may apply a fast-track simplified assessment process.	ES (Drafting Suggestions): ~~6. For certain transactions that do not exhibit problematic features, competent authorities may apply a fast-track simplified assessment process.~~ ES (Comments): This provision should not be included in Level 1, CRR. It is within the discretion of the competent authority to determine whether to assess or not and how Significant Risk Transfer (SRT) is achieved through a fast track process. DE (Drafting Suggestions): For certain transactions that do not exhibit problematic features, competent authorities may apply a fast-track simplified assessment process. For the avoidance of doubt, originator institutions are still required to meet all requirements of paragraphs 1 to 5 for these transactions. DE (Comments): There are two shortcomings of the original proposal: • a fast track assessment process is introduced, while no regular assessment process is introduced. The regular assessment process will only

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	be introduced in the RTS. Hence, either both regular and fast track process should be prescribed in L1, or both in the RTS (our preference) • the legal implications of the fast track process are not defined. What does this relate to? Does it imply that under the fast track simplified assessment process, requirements of paragraphs 1-5 don't have to be met? Or does it mean that the requirements must be met, but the assessment process is lighter?
7. The EBA shall develop regulatory technical standards to specify:	ES (Comments): Please refer to previous comment about including CRT test or an alternative measure. If such a measure would be introduced, EBA should develop RTS to specify the details.
(a) the conditions for the fulfilment of the significant credit risk transfer requirement referred to in paragraph 2 of this Article and Article 245(2), in particular:	DE (Drafting Suggestions): (a) the conditions for the fulfilment of the significant credit risk transfer requirement referred to in paragraph 2 of this Article and Article 245(2), with respect to: DE (Comments): The mandate should clearly defined. "In particular" implies that there might other issues to be specified by the RTS, which if any, should be described in the list.
(1) the calculation of the lifetime expected losses of the underlying exposures and their allocation for the purposes of paragraph of this Article and Article 245(2);	ES (Drafting Suggestions): (1) the calculation of the lifetime expected losses of the underlying exposures and their allocation ~~for the purposes of paragraph of this Article and Article 245(2);~~

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	ES (Comments): We recommend deleting it, as the information is already contextualized in the preceding sentence (a). DE (Drafting Suggestions): (1) the calculation of the lifetime expected losses of the underlying exposures and their allocation to the tranches of the securitisation for the purposes of paragraph 2 of this Article and Article 245(2); DE (Comments): Editorial change
(2) the allocation of the unexpected losses of the securitised exposures to the securitisation tranches for the purposes of paragraph of this Article and Article 245(2);	ES (Drafting Suggestions): (2) the allocation of the unexpected losses of the securitised exposures to the securitisation tranches ~~for the purposes of paragraph of this Article and Article 245(2);~~ ES (Comments): See previous comment. DE (Drafting Suggestions): (2) the allocation of the unexpected losses of the securitised exposures to the securitisation tranches for the purposes of paragraph 2 of this Article and Article 245(2); DE

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	(Comments): Editorial change.
(3) the calculation of the weighted amounts of unexpected losses in relation to the allocation of the unexpected losses of the securitised exposures to the securitisation tranches of paragraph of this Article and Article 245(2);	ES (Drafting Suggestions): (3) the calculation of the weighted amounts of unexpected losses in relation to the allocation of the unexpected losses of the securitised exposures to the securitisation tranches ~~of paragraph of this Article and Article 245(2);~~ ES (Comments): See previous comment. DE (Drafting Suggestions): (3) the calculation of the unexpected losses in relation to the allocation of the unexpected losses of the securitised exposures to the securitisation tranches for the purposes of paragraph 2 of this Article and Article 245(2); DE (Comments): As described above the UL should not be weighted.
(b) the structural features and safeguards referred to in Article 244(4), point (g) and Article 245(4), point (f), respectively, in particular the coverage of the legal clauses for the early termination of securitisations;	ES (Drafting Suggestions): (b) the structural features and safeguards referred to in Article 244(4), point (g) and Article 245(4), point (f), respectively, in particular **the following:** - coverage of the legal clauses for the early termination of securitisations; **- amortisation structure;** **- call options;**

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	- other early termination clauses; **- excess spread;** **- cost of protection;** **- credit events.** ES (Comments): We recommend specifying the structural features that the EBA is expected to address. In particular, we consider it essential to include, at a minimum, the excess spread and the remaining structural elements outlined in the EBA's 2020 report.
(c) the minimum requirements for the self-assessment by the originator institution referred to in Article 244(5) and Article 245(5), including the specification of the scenarios to be applied;	ES (Drafting Suggestions): (c) the minimum requirements for the self-assessment by the originator institution referred to in Article 244(5) and Article 245(5), including the specification of the scenarios to be applied; **and considering that for the development of the scenarios both the amortisation structure of the securitisation and the amortisation profile of the underlying portfolio, should be taken into account.** ES (Comments): Please refer to comment in art 244(5).
(d) the conditions for the competent authorities to apply Article 244(2) and (3) and Article 245(2) and (3) in relation to securitisation transactions and originator institutions;	ES (Comments): Please refer to comment in article 244(2) to include an EBA mandate for the EBA to specify the conditions for a CRT test or an alaternative measure.

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Commission proposal	Drafting Suggestions and Comments
	DE (Drafting Suggestions): (d) the conditions for the competent authorities to apply Article 244(3) and Article 245(3) ; DE (Comments): (d) seems unclear. Please note that paragraph 2 is already covered by point (a) of the mandate. We can think of the following options what is meant here. Our best guess is that this should refer to paragraph 3. Please clarify. - Does it mean that the CA should test whether the respective requirements are met? In that case, since Art. 244 (2) will be the standard approach to evaluate the SRT and has always to be met, therefore further conditions could only be defined to determine when a NCA should apply paragraph 3. Additionally, we deem the rules text "in relation to …" is not necessary. We deem this option to be the most likely intention and have therefore provided a drafting suggestion - Or does it mean to specify the conditions of paragraphs 2 and 3 that institutions [and not NCAs] have to meet?
(e) the high level principles for the process for the review and assessment of the conditions for the fulfilment of the credit risk transfer requirement in accordance with Article 244(1) to (4) and Article 245(1) to (4), and the high level principles for certain securitisations to qualify for a fast-track simplified assessment process referred to in Article 244(6) and Article 245(6);	ES (Drafting Suggestions): (e) the high level principles for the process for the review and assessment of the conditions for the fulfilment of the credit risk transfer requirement in accordance with Article 244(1) to (4) and Article 245(1) to (4), ~~and the high level principles for certain securitisations to qualify for a fast-track simplified assessment process referred to in Article 244(6) and Article 245(6);~~ ES (Comments):

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Commission proposal	Drafting Suggestions and Comments
	In our view, the concept of "high-level principles" would benefit from further clarification particularly specifying what is to be trageted. Additionally, as noted in previous comments, no reference should be made to the fast-track process. In our opinion, the design and implementation of such a process should remain entirely at the discretion of the competent authority. DE (Drafting Suggestions): (e) the problematic features for certain securitisations to not qualify for a fast-track simplified assessment process referred to in Article 244(6) and Article 245(6); DE (Comments): The reference to paragraphs 1 to 4 seems to be very vague and overlapping with some of the previous parts of the mandate. Additionally, the mandate should not be about "principles", but about the "problematic features" mentioned in paragraph 6.
(f) the necessary adjustments for the application of Article 244 and 245 to NPE securitisations.	DE (Drafting Suggestions): (f) the necessary adjustments for the application of Article 244 and 245 to NPE securitisations. (g) the notification framework referred to in paragraph 1, point (c), in particular on (key) information and documentation prior to and after issuance of the transaction DE (Comments): We argue for a more limited mandate regarding NPE securitisations, as RTS cannot overrule Level 1 texts.

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Commission proposal	Drafting Suggestions and Comments
	Also, there should be harmonised requirements on which information has to be submitted as well as the timeline of such notification.
The EBA shall submit those draft regulatory technical standards to the Commission by [18 months after the date of entry into force].	LU (Drafting Suggestions): The EBA shall submit those draft regulatory technical standards to the Commission by [6 months after the date of entry into force]. LU (Comments): We would favour a timely submission of this draft RTS to ensure harmonisation and consistency across MS.
Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.	
8. By 31 March of each year, competent authorities shall notify to the EBA all the securitisations assessed in accordance with paragraphs 1 to 7 in the previous year. The notification shall convey all the information needed to calculate the ratio under paragraph 2 and on relevant structural features. The information shall at least provide a breakdown on the size, thickness and amounts of tranches, portfolio LGD, EL, LTEL and UL, WAL of the underlying exposures and risk weights of the tranches, and information on whether the measures referred to in paragraph 3 were applied.	ES (Comments): Typo. Paragraph 7 refers to the RTS that shall be developed by EBA. DE (Drafting Suggestions): 8. By 31 March of each year, competent authorities shall notify to the EBA all the securitisations assessed in accordance with paragraphs 1 to 6 in the previous year. The notification shall convey all the information needed to calculate the ratio under paragraph 2 and on the structural features and safeguards referred to in Article 244(4), point (g) and Article 245(4), point (f),. The information shall at least provide a breakdown on the thickness and nominal amounts of tranches, portfolio LGD, EL, LTEL and UL, WAL of

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Commission proposal	Drafting Suggestions and Comments
	the underlying exposures and risk weights of the tranches, and information on whether the measures referred to in paragraph 3 were applied. DE (Comments): Using "relevant" should be avoided and replaced by a precise reference as suggested. "Size" seems redundant, as this seems either to mean "thickness" or "nominal amount" PT (Comments): In order to enhance the efficiency of the process of the flow of information between competent authorities and EBA (whereas the competent authorities gather from the instititions the necessary info) and the study by the EBA of the overall EU securitisation market, the supervisory reporting templates present in COREP should in principle have this information available, and if not, the EBA should have a mandate to propose new or alter existing templates to have this information in an harmonised manner across the EU. LU (Drafting Suggestions):

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	8. Competent authorities shall notify to the EBA the securitisations assessed in accordance with paragraphs 1 to 6 in after the measures referred to in paragraph 3 are applied. The notification shall convey all the information needed to calculate the ratio under paragraph 2 and on relevant structural features. LU (Comments): To be deleted- The objective of this notification requirement imposed on competent authorities is unclear. We were wondering to what extent the supervisory disclosure (or issuance related documentation) would be a less burdensome way and thus more appropriate for EBA to obtain this information. If the paragraph would nevertheless be maintained, we propose to limit the notification in content and in scope to those assessments where measures referred to in paragraph 3 are applied. Additionally we would not require a reporting deadline but request a notification after application.
Article 245	
Synthetic securitisation	
1. The originator institution of a synthetic securitisation may calculate risk-weighted exposure amounts, and, where relevant, expected loss amounts	DE (Drafting Suggestions):

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Commission proposal	Drafting Suggestions and Comments
with respect to the underlying exposures in accordance with Articles 251 and 252, where either of the following conditions is met:	The originator institution of a synthetic securitisation may calculate risk-weighted exposure amounts, and, where relevant, expected loss amounts with respect to the underlying exposures in accordance with Articles 251 and 252, where all of the following conditions are met: DE (Comments): Critical editorial correction SK (Comments): SK can support principle-based approach.
(a) significant credit risk associated with the securitised exposures has been transferred to third parties, or the originator institution applies a 1250 % risk weight to all securitisation positions that institution holds in the securitisation or deducts those securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1), point (k);	ES (Drafting Suggestions): (a) ~~significant credit risk associated with the securitised exposures has been transferred to third parties, or~~ the originator institution applies a 1250 % risk weight to all securitisation positions that institution holds in the securitisation or deducts those securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1), point (k); ES (Comments): We suggest an alternative wording to enhance the clarity of the text. DE (Drafting Suggestions): (a) significant credit risk associated with the securitised exposures has been transferred to third parties in accordance with paragraphs 2 and 3, or the originator institution applies a 1250 % risk weight to all securitisation positions the institution retains in the securitisation or deducts those

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Commission proposal	Drafting Suggestions and Comments
	securitisation positions from Common Equity Tier 1 items in accordance with Article 36(1), point (k); DE (Comments): Please keep the wording of the current CRR. In a synthetic securitsation, the originator holds all tranches (for some, there is a risk transfer via a guarantee/credit derivative, for others, there is not). This distinction to a traditional securitisation is better captured by the expression “retain”. SI (Comments): We propose to add a reference to a paragraph 2 (and 3?) in the wording “a significant credit risk associated with the securitised exposures has been transferred to third parties” – in order to be consistent with the following paragraph, where a reference to paragraph 4 is made.
(b) the conditions for the effective risk transfer on the securitised exposures referred to in paragraph 4 of this Article are met.	ES (Drafting Suggestions): (b) **significant credit risk associated with the securitised exposures has been transferred to third parties, and** the conditions for the effective risk transfer on the securitised exposures referred to in ~~paragraph 4 of~~ this Article are met. ES (Comments): We suggest an alternative wording to enhance the clarity of the text.
2. Significant credit risk shall be considered transferred to third parties where after the allocation of the lifetime expected loss of the underlying exposures to the tranches of the securitisation the share of weighted amounts	ES (Comments):

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Commission proposal	Drafting Suggestions and Comments
of unexpected losses of the underlying exposures allocated to the securitisation positions that the originator institution has transferred to third parties is at least 50% of all the weighted amounts of unexpected losses of the underlying exposures allocated to all the securitisation tranches in accordance with the following formula:	Please refer to comments in article 244(2). DE (Drafting Suggestions): Significant credit risk shall be considered transferred to third parties where after the allocation of the lifetime expected loss of the underlying exposures to the tranches of the securitisation the share of unexpected losses of the underlying exposures allocated to the securitisation positions that the originator institution has transferred to third parties is at least 50% of all the unexpected losses of the underlying exposures allocated to all the securitisation tranches in accordance with the following formula: DE (Comments): We do not see any need to weight the UL by the RWEA. The PBA test requires the originator to transfer at least 50% of unexpected losses of the exposures of the underlying portfolio of the securitisation transaction to third parties therefore no furthrt weighting is necessary. This would also be consistent to the EBA proposal in EBA/Rep/2020/32.
$$\frac{\sum_i RWEA_i \times UL_trans_i}{\sum_i RWEA_i \times UL_i} \geq 0.5$$	DE (Drafting Suggestions): $$\frac{\sum_i UL_trans_i}{\sum_i UL_i}$$
where:	
– RWEA$_i$ is the risk-weighted exposure amount of tranche i	
– UL$_i$ is the amount of unexpected losses allocated to tranche i where the unexpected loss equals the risk-weighted exposure amounts that would be calculated by the originator institution under Chapter 2 or Chapter 3,	

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Commission proposal	Drafting Suggestions and Comments
as applicable, in respect of the underlying exposures as if they had not been securitised multiplied by 8 %.	
– UL_trans_i is the amount of UL_i allocated to the transferred securitisation positions in tranche i	
For the purposes of this formula, the risk-weighted exposure amounts that would be calculated under Chapter 3 shall not include the amount of expected losses associated with all the underlying exposures of the securitisation, including defaulted underlying exposures that are still part of the pool.	DE (Comments): We propose to delete this sub-paragraph (see above). • The content is not fully clear => should defaulted underlying exposure i) no be included at all or ii) should the EL of defaulted exposures not be included? • If i) we would reject this proposal as economical not justified in case if ii) we think the whole sentence is not necessary and redundant as the definition of RWEA under Chapter 3 does per se exclude the EL.
3. By way of derogation from paragraph 2, competent authorities may require the originator institution on a case-by-case basis to transfer to third parties a weighted amount of unexpected losses larger than the 50 % referred to in that paragraph, or object to the significant risk transfer. Competent authorities may impose the measures referred to in this paragraph where necessary to address failings in the management of systems and controls or other internal governance failures of the originator institution, including remedial action plans not yet completed following supervisory examinations, or where the competent authority deems the credit risk transferred under paragraph 2 as insufficient to address certain special or complex features of the securitisation, or leading to a disproportionate capital relief.	ES (Comments): Please refer to comments in article 244(3). DE (Drafting Suggestions): 3. By way of derogation from paragraph 2, competent authorities may require the originator institution on a case-by-case basis to transfer to third parties an amount of unexpected losses larger than the 50 % referred to in that paragraph, or object to the significant risk transfer. Competent authorities may impose the measures referred to in this paragraph where necessary to address failings in the management of systems and controls or other internal governance failures of the originator institution, including remedial action plans not yet completed following supervisory examinations,

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	or where the competent authority deems the credit risk transferred under paragraph 2 as insufficient to address certain special or complex features of the securitisation, or leading to a disproportionate capital relief. DE (Comments): As described above the UL should not be weighted.
4. In addition to the requirements set out in paragraphs 1, 2, and 3, all of the following conditions for the effective risk transfer shall be met:	ES (Comments): Please refer to comments in article 244(4). DE (Drafting Suggestions): 4. In addition to the requirements set out in paragraphs 1, 2, and 3, all of the following conditions for the effective risk transfer shall be met:
(a) the transaction documentation reflects the economic substance of the securitisation;	EL (Drafting Suggestions): (a) The transaction documentation reflects the economic substance of the securitisation, ensuring that the transfer of risk is legally enforceable. In the context of economic substance the originator provides quantitative and qualitative evidence of significant risk transfer. EL (Comments): EL: Similar to Article 244

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Commission proposal	Drafting Suggestions and Comments
	Clarity: The phrase "*reflects the economic substance*" although not a new term, has proved in practice difficult to assess and thus raised legal comments in the context of supervisory assessement of GR NPL securitisation transactions. Therefore, additional language could be considered to ensure enforceability and legal soundness. Moreover, the text could be further complemented with a clarification that in the context of economic substance the originator provides quantitative and qualitative evidence of significant risk transfer.
(b) the credit protection by virtue of which credit risk is transferred complies with Article 249;	
(c) the securitisation documentation does not contain terms or conditions that:	
(1) impose significant materiality thresholds below which credit protection is deemed not to be triggered if a credit event occurs;	
(2) allow for the termination of the protection due to deterioration of the credit quality of the underlying exposures;	
(3) require the originator institution to alter the composition of the underlying exposures to improve the average quality of the pool; or	
(4) increase the institution's cost of credit protection or the yield payable to holders of positions in the securitisation in response to a deterioration in the credit quality of the underlying pool;	
(d) the credit protection is enforceable in all relevant jurisdictions;	

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(e) where applicable, the transaction documentation makes it clear that the originator or the sponsor may only purchase or repurchase securitisation positions or repurchase, restructure or substitute the underlying exposures beyond their contractual obligations where such arrangements are executed in accordance with prevailing market conditions and the parties to them act in their own interest as free and independent parties (arm's length);	
(f) the securitisation transaction does not exhibit any structural features that prevent or significantly undermine the effective transfer of credit risk to third parties on a sustainable basis or, where any of those features is present, the transaction exhibits adequate safeguards;	BE (Drafting Suggestions): (f) the securitisation transaction does not exhibit any structural features that prevent or significantly undermine the effective transfer of credit risk to third parties ~~on a sustainable basis~~ or, where any of those features is present, the transaction exhibits adequate safeguards BE (Comments): We believe it should be sufficient to exclude transactions with certain structural features if at any point in time the structural feature would undermine the effective transfer of credit risk. Requiring that a structural feature would need to undermine the effective transfer on a sustainable basis seems too strict and might leave room for interpretation.
(g) where there is a clean-up call option, that option meets all the following conditions:	DE (Drafting Suggestions): (g) where there is a clean-up call option, that option meets all of the following conditions:

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Commission proposal	Drafting Suggestions and Comments
	DE (Comments): Editorial change
(1) that option may be exercised at the discretion of the originator institution;	
(2) that option may only be exercised when 10 % or less of the original value of the underlying exposures remains unamortised;	DE (Drafting Suggestions): (2) that option may only be exercised when 10 % or less of the original exposure value of the underlying exposures remains unamortised; DE (Comments): Editorial change, because "value" seems not defined in the CRR
(3) that option is not structured to avoid allocating losses to credit enhancement positions or other positions held by investors in the securitisation and is not otherwise structured to provide credit enhancement;	DE (Drafting Suggestions): (3) that option is not structured to avoid allocating losses to securitisation positions held by investors and is not otherwise structured to provide credit enhancement; DE (Comments): While there is a legal definition of credit enhancement in the CRR, there is no legal definition of credit enhancement position. Moreover, by definition, investors are holding securitisation positions. Therefore, the text can be simplified as suggested.
(h) where there is a time call option, the option is only exercisable after a period measured from the closing date of a transaction corresponding to the initial weighted average life of the securitised exposures, or after a period	DE (Comments):

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measured from the end of the replenishment period of a transaction corresponding to the weighted average life at the end of that replenishment period;	This new requirement refers to the term "time call" that was not yet used in the CRR. Therefore, a definition for the term "time call" has to be added. We have made a suggestion in Art. 242 (above): "'time call option' means a contractual option that entitles the originator of a synthetic securitisation to terminate the credit protection by which the transfer of risk is achieved prior to its contractual maturity, on specific dates without any further conditions."
(i) the originator institution has received an opinion from a qualified legal counsel confirming that the securitisation complies with the conditions set out in point (d) of this paragraph.	
5. The conditions for significant credit risk transfer referred to in paragraphs 2 and 3 shall be met at the time of origination of the securitisation covering the lifetime of the transaction in both base-case and stress-case conditions, provided that no structural changes are made to the transaction after origination. The requirements referred to in paragraph 4 shall be met on an ongoing basis. The originator institution shall submit a self-assessment to the competent authority to demonstrate the fulfilment of the conditions for effective and, where applicable, significant credit risk transfer referred to in paragraphs 1 to 4.	DE (Drafting Suggestions): The conditions for significant credit risk transfer referred to in paragraphs 2 and 3 shall be met at the time of origination of the securitisation covering the lifetime of the transaction in both base-case and stress-case conditions, provided that the originator does not reassume any of the transferred risk and no structural changes are made to the transaction after origination. If the originator reassumes any of the transferred risk or structural changes are made, a new assessment of the significant credit risk transfer based on the updated data has to be conducted. The requirements referred to in paragraphs 1, point (a), second and third condition and paragraph 4 shall be met on an ongoing basis. The originator institution shall submit a self-assessment to the competent authority to demonstrate the fulfilment of the conditions for effective and significant credit risk transfer referred to in paragraphs 1 to 4. DE (Comments): We added some language that makes clear that in certain situations the requirement shall not only be met at the time of origination but also at a later time, i.e. when the originator actively increases the share of retained risk.

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Commission proposal	Drafting Suggestions and Comments
	"Where applicable" should be deleted since significant credit risk transfer has always to be met according to paragraph 1 a) and therefore also has to be demonstrated. Even when a "full deduction" is used the origintor should demonstrate that any retained tranche is either risk weighted with 1250% or deducted. A reference to paragraph 1, point (a) "full deduction" should be added, because the "full deduction" option must also be met on an ongoing basis.
6. For certain transactions that do not exhibit problematic features, competent authorities may apply a fast-track simplified assessment process.	ES (Drafting Suggestions): ~~6. For certain transactions that do not exhibit problematic features, competent authorities may apply a fast-track simplified assessment process.~~ ES (Comments): Please refer to comment in article 244(6). DE (Drafting Suggestions): For certain transactions that do not exhibit problematic features, competent authorities may apply a fast-track simplified assessment process. For the avoidance of doubt, originator institutions are still required to meet all requirements of paragraphs 1 to 5 for these transactions. DE (Comments):

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	While we appreciate that a fast track assessment process is introduced, we note that no "regular" process is introduced on Level 1. We would argue that both processes should be based on Level 1 texts for consistency. Also, the legal implications of the fast track process are not defined. Please specify whether under the fast track simplified assessment process, requirements of paragraphs 1-5 do not have to be met or have to be met, but the assessment process is lighter.
7. By 31 March of each year, competent authorities shall notify to the EBA all the securitisations for which a self-assessment has been received in accordance with the paragraphs 1 to 6 in the previous year. The notification shall convey all the information needed to calculate the ratio under paragraph 2 and on relevant structural features. The information shall at least provide a breakdown on the size, thickness and amounts of tranches, portfolio LGD, EL, LTEL and UL, WAL of the underlying exposures and risk weights of the tranches, and information on whether the measures referred to in paragraph 3 were applied.';	DE (Drafting Suggestions): 7. By 31 March of each year, competent authorities shall notify to the EBA all the securitisations for which a self-assessment has been received in accordance with the paragraphs 1 to 6 in the previous year. The notification shall convey all the information needed to calculate the ratio under paragraph 2 and on the structural features and safeguards referred to in Article 244(4), point (g) and Article 245(4), point (f),. The information shall at least provide a breakdown on the thickness and nominal amounts of tranches, portfolio LGD, EL, LTEL and UL, WAL of the underlying exposures and risk weights of the tranches, and information on whether the measures referred to in paragraph 3 were applied.'; DE (Comments): We argue for a more precise reference than "relevant". Drafting note: "Size" seems redundant, as this seems either to mean "thickness" or "nominal amount" PT (Comments):

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	In order to enhance the efficiency of the process of the flow of information between competent authorities and EBA (whereas the competent authorities gather from the instititions the necessary info) and the study by the EBA of the overall EU securitisation market, the supervisory reporting templates present in COREP should in principle have this information available, and if not, the EBA should have a mandate to propose new or alter existing ones to have this information in an harmonised manner across the EU. LU (Drafting Suggestions): 8. Competent authorities shall notify to the EBA the securitisations assessed in accordance with paragraphs 1 to 6 in where the measures referred to in paragraph 3 were applied. The notification shall convey all the information needed to calculate the ratio under paragraph 2 and on relevant structural features. LU (Comments): To be deleted. The objective of this notification requirement imposed on the competent authorities is unclear. We were wondering to what extent the supervisory disclosure (or issuance related documentation) would be a less burdensome way and thus more appropriate for EBA to obtain this

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	information. If the paragraph would nevertheless be maintained, we propose to limit the notification in content and in scope to those assessments where measures referred to in paragraph 3 are applied. Additionally we would not require a reporting deadline but request a notification after application.
(5) Article 248(1) is amended as follows:	
(a) point (b) is replaced by the following:	
‘(b) the exposure value of an off-balance sheet securitisation position shall be its nominal value less any relevant specific credit risk adjustments on the securitisation position in accordance with Article 110, multiplied by the relevant conversion factor as set out in this point (b). The conversion factor shall be 100 %, except in the case of cash advance facilities. To determine the exposure value of the undrawn portion of the cash advance facilities, a conversion factor of 0 % may be applied to the nominal amount of a liquidity facility that is unconditionally cancellable provided that repayment of draws on the facility are senior to any other claims on the cash flows arising from the underlying exposures;’;	DE (Drafting Suggestions): ‘(b) the exposure value of an off-balance sheet securitisation position shall be its nominal value less any relevant specific credit risk adjustments on the securitisation position in accordance with Article 110, multiplied by the relevant conversion factor as set out in this point (b). The conversion factor shall be 100 %, except in the case of cash advance facilities as defined in Article 242. To determine the exposure value of the undrawn portion of the cash advance facilities, a conversion factor of 0 % may be applied to the nominal amount of a liquidity facility;’; DE (Comments): We suggest to add the following definition to Art. 242 (suggestion implemented above) and delete this explaination in Art 248: ‘cash advance facilities’ means a liquidity facility that is unconditionally cancellable provided that repayment of draws on the facility are senior to any other claims on the cash flows arising from the underlying exposures. BE

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	(Drafting Suggestions): '(b) the exposure value of an off-balance sheet securitisation position shall be its nominal value less any relevant specific credit risk adjustments on the securitisation position in accordance with Article 110, multiplied by the relevant conversion factor as set out in this point (b). The conversion factor shall be 100 %, except in the case of cash advance facilities. To determine the exposure value of the undrawn portion of the cash advance facilities, a conversion factor of 10 % may be applied to the nominal amount of a liquidity facility that is unconditionally cancellable provided that repayment of draws on the facility are senior to any other claims on the cash flows arising from the underlying exposures and there are no factors which contrain the institution's ability to cancel those unconditonally cancellable commitments, as in this case a 40% RW should be applied in line with article 111 and annex I.;'; BE (Comments): We do not believe that this would be in line with the new Annex I of CRR III. Unconditionally cancellable committment receive a 10% RW (bucket 5) (instead of the previously 0% RW) or 40% RW (bucket 3) where factors are constraining the institution's ability to cancel those unconditionally

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	cancellable commitment. We feel the requirment should be adjusted to be in line with with the new framework for off-balance sheet exposures.
(b) point (d) is replaced by the following:	
‘(d) an originator institution may deduct from the exposure value of a securitisation position which is assigned a 1 250 % risk weight in accordance with Sub-Section 3, or which is deducted from Common Equity Tier 1 in accordance with Article 36(1), point (k), the amount of the specific credit risk adjustments on the underlying exposures in accordance with Article 110, and any non-refundable purchase price discounts connected with such underlying exposures to the extent that such discounts have caused the reduction of own funds.	DE (Drafting Suggestions): ‘(d) an originator institution may deduct from the exposure value of a securitisation position which is assigned a 1 250 % risk weight in accordance with Sub-Section 3, or which is deducted from Common Equity Tier 1 in accordance with Article 36(1), point (k), the amount of the specific credit risk adjustments on the underlying exposures in accordance with Article 110, and any non-refundable purchase price discounts connected with such underlying exposures to the extent that such discounts have caused the reduction of own funds; DE (Comments): Editorial, replace full stop with semicolon
The amount of the specific credit risk adjustments may be deducted in accordance with the first subparagraph of point (d) from the exposure value of a securitisation position which is assigned a risk weight lower than 1250 %, provided the position has an attachment point lower than K_{IRB} or K_A. In that case, securitisation position shall be considered as two securitisation positions for the purposes of this point (d): the position with A equal to K_{IRB} or K_A and the junior position with A below K_{IRB} or K_A and D equal to K_{IRB} or K_A, and the specific credit risk adjustments may be deducted only from the exposure value of the securitisation position which is the junior position with A below K_{IRB} or K_A and D equal to K_{IRB} or K_A.’;	DE (Drafting Suggestions): The amount of the specific credit risk adjustments may be deducted in accordance with the first subparagraph of point (d) from the exposure value of a securitisation position which is assigned a risk weight lower than 1250 %, provided the position has an attachment point lower than K_{IRB} in case the risk weight is based on SEC-IRBA or K_A in all other cases. In the risk weight is lower than 1250 %,, the securitisation position shall be considered as two securitisation positions for the purposes of this point (d): the position with A as defined in Article 256 equal to K_{IRB} or K_A and the junior position with A below K_{IRB} or K_A and D as defined in Article 256 equal to K_{IRB} or K_A, and

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	the specific credit risk adjustments may be deducted only from the exposure value of the securitisation position which is the junior position with A below K_{IRB} or K_A and D equal to K_{IRB} or K_A.'; DE (Comments): We suggest to add a clarification when K_{IRB} and when K_A is applicable.
(c) point (e) is replaced by the following:	SI (Comments): According to EC explanation, the reference to "contractually designated SES" was moved to the introductory sentence and its deletion from point (i) to (iv), to avoid unnecessary repetition. The latter has been not done in points (1) to (4) yet.
'(e) the exposure value of a contractually designated synthetic excess spread shall include, as applicable, the following:	
(1) any income from the securitised exposures already recognised by the originator institution in its income statement under the applicable accounting framework that the originator institution has contractually designated to the transaction as synthetic excess spread and that is still available to absorb losses;	SI (Comments): Redraft by deleting "contractually designated".
(2) any synthetic excess spread that is contractually designated by the originator institution in any previous periods and that is still available to absorb losses;	SI (Comments): Redraft by deleting "that is contractually designated".

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(3) any synthetic excess spread that is contractually designated by the originator institution for the current contractual period and that is still available to absorb losses;	SI (Comments): Redraft by deleting "that is contractually designated".
(4) any synthetic excess spread contractually designated by the originator institution for future contractual periods.	SI (Comments): Redraft by deleting "contractually designated".
For the purposes of this point (e), any amount that is provided as collateral or credit enhancement in relation to the synthetic securitisation and that is already subject to an own funds requirement in accordance with this Chapter shall not be included in the exposure value.';	
(d) the second, third and fourth subparagraphs are deleted.	NL (Comments): NL: W.r.t. Art. 249(3) CRR: 201(1)(g) CRR excludes securitization positions since CRR3 implementation, but is still being referred to in 249(3) CRR. What's the intent or should this be fixed?
(6) Article 254 is amended as follows:	
(a) in paragraph 1, point (c) is replaced by the following:	
'(c) where the SEC-SA may not be used, in accordance with paragraphs 2 and 4 of this article, an institution shall use the SEC-ERBA in accordance with Articles 263 and 264 for rated positions or positions in respect of which an inferred rating may be used.';	DE (Drafting Suggestions): '(c) where the SEC-SA may not be used, an institution shall use the SEC-ERBA in accordance with Articles 263 and 264 for rated positions or positions in respect of which an inferred rating may be used.'; DE

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	(Comments): We propose to stick to the current rules text. We cannot see that the COM proposal brings any clarity. However, it has an unwanted effect => A bank that cannot apply the SEC-SA for other reasons than described in paragraph 2 or 4 - for example in the case of a rated position for which the bank cannot apply SEC-SA (because it might not be able to calculate KA – compare Art. 263 (2b) (new)) it has to risk weight the position with 1250% in accordance with paragraph 7 despite the fact that the SEC-ERBA could be applied.
(b) paragraph 5 is replaced by the following:	
'5. Without prejudice to paragraph 1, points (b) and (c), of this Article, an institution may apply the Internal Assessment Approach to calculate risk-weighted exposure amounts in relation to an unrated position in an ABCP programme or ABCP transaction in accordance with Article 266, provided that the conditions set out in Article 265 are met. Where an institution has received permission to apply the Internal Assessment Approach in accordance with Article 265(2), and a specific position in an ABCP programme or ABCP transaction falls within the scope of application covered by such permission, the institution shall apply that approach to calculate the risk-weighted exposure amount of that position.';	
(7) in Article 255, paragraph 6 is replaced by the following:	
'6. Where an institution applies the SEC-SA under Sub-Section 3, that institution shall calculate KSA by multiplying the risk-weighted exposure amounts in respect of the non-defaulted exposures that would be calculated under Chapter 2 as if they had not been securitised by 8 %, divided by the sum of the exposure values of the non-defaulted underlying exposures. KSA shall be expressed in decimal form between zero and one.	EL (Comments): EL: Clarity**:** The phrase "*in respect of the non-defaulted exposures*" is a new insertion in the text which has an impact to the NPL securitisations given that in these transactions for the calculation of KSA the majority of the exposures is defaulted. So it would be useful to clarify whether this new insertion also

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	applies to the calculation of the KSA for this type of transactions. Providing clarification for the KSA calculation of NPL securitisation will ensure legal soundness. Althernatively it is proposed to delete the specific phrase and retain the previous legal wording. Mathematical Formula Representation: The formula is proposed to be presented for better clarity and to help institutions understand the methodology at a glance. DE (Drafting Suggestions): '6. Where an institution applies the SEC-SA under Sub-Section 3, that institution shall calculate K_{SA} by multiplying the risk-weighted exposure amounts in respect of the non-defaulted underlying exposures that would be calculated under Chapter 2 as if they had not been securitised by 8 %, divided by the sum of the exposure values of the non-defaulted underlying exposures. K_{SA} shall be expressed in decimal form between zero and one. DE (Comments): Editorial
For the purposes of this paragraph, non-defaulted exposures shall exclude underlying exposures that are in default as referred to in Article 261(2).	
For the purposes of this paragraph, institutions shall calculate the exposure value of the underlying exposures gross of any specific credit risk adjustments and additional value adjustments in accordance with Articles 34 and 110 and other own funds reductions.';	ES (Drafting Suggestions): For the purposes of this paragraph, institutions shall calculate the exposure value **of the non-defaulted** underlying exposures gross of any specific credit

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	risk adjustments and additional value adjustments in accordance with Articles 34 and 110 and other own funds reductions.'; ES (Comments): We understand that there is a typo. EL (Drafting Suggestions): For the purposes of this paragraph, institutions shall calculate the **gross** exposure value of the underlying exposures without taking into consideration any specific credit risk adjustments and additional value adjustments in accordance with Articles 34 and 110 and other own funds reductions.'; EL (Comments): EL: It would be useful to clarify in the text whether the calculation takes into account exposures on a gross or net basis. For example if the exposures are on a gross basis, please have a look at the text proposed in the "Drafting Suggestions" column for your consideration.
(8) In Article 256, the following paragraph is added:	
'7. The outstanding balance of the pool of underlying exposures in the securitisation shall, for the purpose of the paragraph 1 and 2, be reduced by the amount of losses already allocated to the tranches in respect of the defaulted exposures that are included in the securitised portfolio.';	DE (Drafting Suggestions): '7. The outstanding balance of the pool of underlying exposures in the securitisation shall, for the purpose of the paragraph 1 and 2, be reduced by

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	the amount of losses already allocated to the tranches in respect of the defaulted exposures that are still included in the securitised portfolio.'; DE (Comments): We would like to get a better understanding of the intention behind this proposition. As of yet, we do not see an added value of introducing another category for the treatment of defaulted but not worked out loans (in addition to the existing categories), but would be interested in further information/evidence provided by COM.
(9) Article 259 is amended as follows:	IE (Comments): **IE** Comment: The proposals have not yet provided rationale or empirical evidence to justify the lowering of p Factors. We also have concerns in respect of Basel deviations and the level playing field as noted in the 2022 report. Our concern here is strongest on reductions to non-senior tranches, but concerns exist throughout the proposals related to p Factor adjustments. The reduction in p Factors is the most significant proposal regarding capital relief and without any associated guardrails on said capital relief, there are no guarantees the relieved capital will be channelled into additional lending or to further the general aims of SIU/CMU.
(a) the introductory wording is replaced by the following:	
'Under the SEC-IRBA, the risk-weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position	FR

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calculated in accordance with Article 248 by the applicable risk weight determined as follows:'	(Drafting Suggestions): 'Under the SEC-IRBA, the risk-weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position calculated in accordance with Article 248 by the applicable risk weight determined as follows**, and for non-senior positions, in all cases subject to a floor of 15%:**' FR (Comments): In redrafting the structure of the article, the proposal unvoluntarily (probably?) removes the existence of a risk weight floor for all securitisations. While the risk weight floor is reintroduced below, it is solely for senior transactions, which could bear an impact on the RW of mezzanine tranches in case of aggressive structuring practices. Suggestion to reinstate a minimum RW floor which would in practice only concern mezzanine tranches. DE (Comments): *Please be aware that compared to the currently applicable CRR the wording "in all cases subject to a floor of 15 %" was deleted. We are not sure, if this is intentional. If it was, we strongly advice against it (see recital 4). This applies irrespective of whether the RW floor is floating or flat.* *We have made respective drafting changes in the corresponding Articles.* BE (Drafting Suggestions):

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	Under the SEC-IRBA, the risk-weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position calculated in accordance with Article 248 by the applicable risk weight determined as follows, in all cases subject to a floor of 15%:' BE (Comments): Very important error: we believe that the floor of 15% for non-senior tranches was deleted by accident in the Commission's proposal. We recommend re-introducing the floor as it opens up the transactions for regulatory arbitrage risk where the RW of the mezzanine tranche could fall below the RW of the senior tranche. We believe we can keep the original wording as specific situations for senior tranches are always elaborated upon in this and the following articles. SK (Comments): We do not oppose the reduction of the p-factor in principle. We support the aim to increase the risk sensitivity in principle.
(b) the text 'where: p = max [0,3; (A + B*(1/N) + C*K_{IRB} + D * LGD + E*M_T)] is replaced by the following:	
'Where:	

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p = min (1, max [0.3; 0.7 *(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]) for an originator or sponsor exposure to a senior securitisation position, or	FR (Drafting Suggestions): **p = min (0.5, max [0. 2; 0. 3 *(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]) for an exposure to a senior securitisation position that complies with the criteria referred to in Article 243(4), or** p = min (1, max [0.3; 0.7 *(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]) for an originator or sponsor exposure to a senior securitisation position, or FR (Comments): From a financial stability standpoint, we consider that a resilient transaction is safer than STS non resilient transactions and should therefore benefit from the adequate treatment. It is all the more so true considering the minimum credit enhancement criteria that exists for resilient transaction and not for STS transactions. Moreover, the treatment disctinction between originator, sponsor and investor needs to be reviewed as explained above on resilient criteria. DE (Drafting Suggestions): p = max [0.3; 0.8 *(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)] for an exposure to a senior securitisation position, or DE (Comments): We refer to our comments in recital (5). We advice against the overcomplex COM framework as set out above and would argue to a risk-adequate reduction based on the current binary STS/Non-STS framework. Also, for the

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	reasons stated above, we do not see a justification for differentiating against originators/sponsors on the one hand and investors on the other. BE (Drafting Suggestions): p = ~~min (1,~~ max [0.3; ~~0.7~~ 0.8 $*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]$~~)~~ for an originator ~~or sponsor~~ exposure to a senior securitisation position, or BE (Comments): We are of the opinion that 0.7 is too low and would prefer a reduction of the p-factor to 0.8, additionally we do not agree with the introduction of the cap as this makes the framework less risk senstive and goes against the overall principle of the Commission to make it more risk-sensitive. We do not support the proposal to only make it risk-senstive on the side of capital reductions. As mentioned before we only support the reduction for the originator. AT (Comments): Any increase in risk sensitivity should always be made on the premise of minimising potential constraints on financial stability and investor protection and in view of the low default rates of European senior securitisation positions. From an AT perspective, we need a pragmatic approach and strike a balance between over-capitalisation and taking excessive risks. Whereas

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	the changes to the RW floors and to the p-factor increase risk-sensitivity, we are still analysing the potential effects of reducing the p-factor. Potential cliff effects raise strong concerns over financial stability, capital volatility as well as the impact of model uncertainties and should be therefore avoided and mitigated. In addition, the proposed cap could lead to the fact that excessive risks are cut off and are not completely represented. NL (Comments): NL: for non-resilient transactions, the scaling-factor is a significant reduction in capital, without a guarantee on the thickness of the senior tranche. We suggest only applying it to resilient transactions and applying a higher scaling factor to senior non-resilient non-STS.
$p = \min(1, \max[0.3; 1 * (A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)])$ for other exposures.';	DE (Drafting Suggestions): $p = \max[0.3; A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT]$ for other exposures.'; DE (Comments): This corresponds to the current formular under Art. 259. We refer to our arguments above/in recital (5). BE (Drafting Suggestions):

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	p = ~~min (1,~~ max [0.3; 1 *(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]~~)~~ for other exposures. BE (Comments): Removal of the cap for non-senior positions or senior positions held by investor or sponsor. Non-senior positions are always exposed to potential losses, given this elevated risk – we believe it is extremely inappropriate and not risk sensitve at all to place a cap on the p-factor for those tranches. AT (Comments): See above.
(c) the following paragraphs 1a and 1b are inserted:	DE (Drafting Suggestions): (c) the following paragraph 1ais inserted: BE (Drafting Suggestions): the following paragraphs 1a ~~and 1b are~~ is inserted:
‘1a. The risk-weighted exposure amount for a senior securitisation position calculated in accordance with paragraph 1 shall be subject to a floor calculated as follows:	DE (Drafting Suggestions): ‘1a. The risk weight for a securitisation position calculated in accordance with paragraph 1 shall be subject to a floor calculated as follows: DE (Comments):

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	We advice against introducing a variable floor for the reasons set out in recital (4)/our comments on the policy note. *This applies irrespective of whether the RW floor is floating or flat, the floor should apply to all tranches as it does today; it must apply to the risk weight, not to the RWA.* BE (Drafting Suggestions): ~~'1a. The risk-weighted exposure amount for a senior securitisation position calculated in accordance with paragraph 1 shall be subject to a floor calculated as follows:~~ SI (Drafting Suggestions): …subject to a **risk weight** floor… SI (Comments): It is unclear to what a floor refers to (risk weight or RWEA?). It should be specified.
Floor = max (12%; 15% *K_{IRB}*12.5)	FR (Drafting Suggestions): Floor = ~~max (~~12%~~; 15% *K_{IRB}*12.5)~~ FR (Comments):

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	We believe that non resilient non STS transactions should not benefit from risk sensitive risk weight floor. We therefore come back to the ESAs proposal for non STS transactions. DE (Drafting Suggestions): Floor = 12% BE (Drafting Suggestions): ~~Floor = max (12%; 15% * K_{IRB} *12.5)~~ BE (Comments): We believe that the risk weight floor of a non-STS and non-resilient securitisation should remain as has always been the case = 15%. There is no justification for reducing the risk weight floor for these transactions. Given that the general floor should be re-introduced see point a of article 259 – on the basis of our proposal point 1a could be deleted. SI (Drafting Suggestions): **Risk weight** floor = max... SI (Comments): What kind of floor is meant?

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1b. The risk-weighted exposure amount for a senior securitisation position calculated in accordance with paragraph 1 that complies with the criteria referred to in Article 243(4) shall be subject to a floor calculated as follows:	DE (Comments): Please see comment on recital (6). BE (Drafting Suggestions): 1~~b~~a. The risk-weighted exposure amount for a senior securitisation position calculated in accordance with paragraph 1 that complies with the criteria referred to in Article 243(4) shall be subject to a floor calculated as follows: SI (Comments): See a comment above.
Floor = max (10%; 15% * K_{IRB}*12.5).’;	FR (Drafting Suggestions): Floor = max (~~10~~ 5%; ~~15~~ 7% * K_{IRB}*12.5).’; FR (Comments): With a proportional coefficient of 15%, the floor of 10% is reached for underlying assets with RW at 67%. That means that for underlying assets with RW higher than 67%, the proposal is more concervative than the ESAs proposal of a simple floor at 10% for STS, whereas the saveguards for being a resilient transaction ensures a better quality of risk than STS. We suggest to move up that threshold RW to 100%, which would mean a proportional coefficient of 7%.

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	Moreover, the floor of the floor at 10% for resilient would empede SME securitisation from being economical for banks, without real financial risk justification. We therefore advocate for a floor of the floor at 5%, which will already be reached for underlying assets with a risk weight of 5/7=72% and therefore will still introduce a margin of conservatism for loans with a RW below the SME supporting factor. As explained above, from a financial stability standpoint, we consider that a resilient transaction is safer than STS non resilient transactions and should therefore benefit from the adequate treatment. It is all the more so true considering the minimum credit enhancement criteria that exists for resilient transaction and not for STS transactions. It will therefore strike the right balance between financing the economy and financial stability. DE (Comments): Please see comment on recital (6). BE (Drafting Suggestions): Floor = 12% BE (Comments): Here we believe it would be more appropriate to introduce a absolute floor of 12% for the originator retaining the senior position of a non-STS resilitent securitisation. SI (Comments): See a comment above.

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(d) paragraph 7 is replaced by the following:	
‘7. Where the position is backed by a mixed pool and the institution is able to calculate K_{IRB} on at least 95 % of the underlying exposure amounts in accordance with Article 258(1), point (a), the institution shall calculate the capital charge for the pool of underlying exposures as:	
$d \cdot K_{IRB} + (1 - d) K_A$‘;	
(10) Article 260 is replaced by the following:	EE (Comments): EE: We are cautious about the suggested approach, which seems too complex and unjustifiably relaxed (not risk-based enough). We are not convinced that the floor-to-floor approach, especially 5% and 7% floors, is justified and appropriately risk-based. Likewise, we are cautious about a general reduction to the p-factors (not convinced that the proposed calibration of the p-factor is correct and justified).
‘Article 260	
Treatment of STS securitisations under the SEC-IRBA	IE (Comments): **IE** Comment: per comments above.
1. Under the SEC-IRBA, the risk weight for a position in an STS securitisation shall be calculated in accordance with Article 259, subject to the following modifications:	SK (Comments):

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	We do not oppose the reduction of the p-factor in principle. We support the aim to increase the risk-sensitivity of the framework, however it has to be carefully calibrated to not to risk the adverse impacts on the financial stability. We are not in favour of the introduction of cap on p-factor to SEC-IRBA methodology, which contradicts he overall direction of the proposal. Introduction of the cap would undermine the goal of increasing the risk-sensitivity of the framework and could encourage the riskier securitisations by capping the p-factor to the arbitrary values not reflecting the real risk of underlying assets. LU (Comments): The proposed methodology indeed enhances the ability to capture actual portfolio risk, particularly in cases involving less granular or non-standard asset pools. Therefore, the proposal broadly succeeds in improving the risk-sensitivity of the risk weight floors. Nevertheless, LU questions whether the proposed methodology truly achieves the intended simplification, given its reliance on a formula-based approach for calculating the RW floor and the use of a 'floor-to-the-floor'.
$p = \min(0.5, \max[0.2; 0.3*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)])$ for a senior securitisation position of originator or sponsor	FR (Drafting Suggestions): $p = \min(0.5, \max[0.2; 0.3*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)])$ for a senior securitisation position of originator or sponsor **position**

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	FR (Comments): The treatment disctinction between originator, sponsor and investor needs to be reviewed as explained above on resilient criteria. DE (Drafting Suggestions): $p = \max [0.2; 0.4*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)]$ for a senior securitisation position DE (Comments): We refer to our comments in recital (5) and advice against the concept. As an alternative we suggest the simple reduction, where the cap and the distinction for originators is removed. For details, please see our comments on recital (5). BE (Drafting Suggestions): ~~p = min (0.5,~~ max [0.2; 0.3*(A + B*(1/N) + C*KIRB + D*LGD + E*MT)]~~)~~ for a senior securitisation position of originator ~~or sponsor~~ BE (Comments): 1) We don't agree with adding a cap to the p-factor as it is not risk senstive 2) It should only apply to the originator as we do not believe they always have the same level of model and agency risk as a sponsor

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	AT (Comments): Any increase in risk sensitivity should always be made on the premise of minimising potential constraints on financial stability and investor protection and in view of the low default rates of European senior securitisation positions. From an AT perspective, we need a pragmatic approach and strike a balance between over-capitalisation and taking excessive risks. Whereas the changes to the RW floors and to the p-factor increase risk-sensitivity, we are still analysing the potential effects of reducing the p-factor. Potential cliff effects raise strong concerns over financial stability, capital volatility as well as the impact of model uncertainties and should be therefore avoided and mitigated. In addition, the proposed cap could lead to the fact that excessive risks are cut off and are not completely represented.
p = min (0.5, max [0.2; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)]) for a non-senior originator or sponsor position	FR (Drafting Suggestions): p = min (0.5, max [0.2; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)]) for a non-senior originator or sponsor position FR (Comments): The treatment disctinction between originator, sponsor and investor needs to be reviewed as explained above on resilient criteria. DE

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Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): p =max [0.3; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)] for a non-senior position DE (Comments): We refer to our comments in recital (5) and advice against the concept. As an alternative we suggest the simple reduction, where the cap and the distinction for originators is removed. For details, please see our comments on recital (5). BE (Drafting Suggestions): p = ~~min (0.5,~~ max [0.3~~2~~; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)]~~)~~ for a non-senior originator ~~or sponsor~~ position BE (Comments): 1) We don't agree with adding a cap to the p-factor as it is not risk sensitive 2) It should only apply to the originator as we do not believe they always have the same level of model and agency risk as a sponsor 3) We do not agree with lowering the p-factor floor for non-senior tranches. The goal should be to transfer the riskier tranches and we do not see from a risk perspective why the floor to the p-factor should be lowered.

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Commission proposal	Drafting Suggestions and Comments
	AT (Comments): See above.
p = min (0.5, max [0.3; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)]) for other positions	DE (Comments): For the reasons stated above and in the our comments on the policy questionnaire, we do not think that the investor should receive higher capital requirements than originators. BE (Drafting Suggestions): p = ~~min (0.5,~~ max [0.3; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*M_T)]~~)~~ for other positions BE (Comments): 1) We don't agree with adding a cap to the p-factor as it is not risk sensitive. AT (Comments): See above.
The risk-weight floor for a senior securitisation position = max (7%; 10% *K_{IRB}*12.5).	DE (Drafting Suggestions): The risk-weight floor for a senior securitisation position = 7% and for a non-senior securitisation position = 12%.

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Commission proposal	Drafting Suggestions and Comments
	DE (Comments): Please see comment on Article 259 (c) point 1a. BE (Drafting Suggestions): The risk-weight floor for a senior securitisation positions = 10 % BE (Comments): a) We believe the RW floors should remain the same for non-resilient positions. non-resilient tranches do not have to comply with the minimum thickness requirement which means that the senior tranche is not sufficiently protected against losses.
2. Under the SEC-IRBA, the risk weight for a position in an STS securitisation compliant with the criteria laid down in the Article 243(3) shall be calculated in accordance with Article 259, subject to the following modifications:	DE (Comments): We have concerns regarding the proposed new concept of resilience (see our comments on recital 6/ policy paper).
$p = \min(0.5, \max[0.2; 0.3*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)])$ for a senior securitisation position of originator, sponsor or investor	FR (Drafting Suggestions): $p = \min(0.5, \max[0.2; 0.3*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)])$ for a senior securitisation position ~~of originator, sponsor or investor~~ FR (Comments): Proposition of simplification.

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Commission proposal	Drafting Suggestions and Comments
	DE (Comments): For our concerns regarding the new concept of resilience see recital (6). BE (Drafting Suggestions): p = ~~min (0.5,~~ max [0.2; 0.3*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]~~)~~ for a senior securitisation position of originator, sponsor or investor BE (Comments): 1) We don't agree with adding a cap to the p-factor as it is not risk senstive. AT (Comments): Any increase in risk sensitivity should always be made on the premise of minimising potential constraints on financial stability and investor protection and in view of the low default rates of European senior securitisation positions. From an AT perspective, we need a pragmatic approach and strike a balance between over-capitalisation and taking excessive risks. Whereas the changes to the RW floors and to the p-factor increase risk-sensitivity, we are still analysing the potential effects of reducing the p-factor. Potential cliff effects raise strong concerns over financial stability, capital volatility as well

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Commission proposal	Drafting Suggestions and Comments
	as the impact of model uncertainties and should be therefore avoided and mitigated. In addition, the proposed cap could lead to the fact that excessive risks are cut off and are not completely represented.
p = min (0.5, max [0.2; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]) for a non-senior originator or sponsor position	FR (Drafting Suggestions): p = min (0.5, max [0.2; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]) for a non-senior originator or sponsor position FR (Comments): The treatment disctinction between originator, sponsor and investor needs to be reviewed as explained above on resilient criteria. DE (Comments): Should be deleted due to inconsistency. By definition "resilient" positions must be senior tranches. Thus no need to define p for non-senior "resilient" tranches. BE (Drafting Suggestions): ~~p = min (0.5, max [0.2; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)])~~ ~~for a non-senior originator or sponsor position~~ BE (Comments):

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	1) We don't agree with adding a cap to the p-factor as it is not risk sensitive 2) It should only apply to the originator as we do not believe they always have the same level of model and agency risk as a sponsor 3) The p-factor for non-senior tranches should remain the same as in the current framework as we want the non-senior/riskier tranches to be transferred outside the banking sector, therefore we do not consider it appropriate to lower the floor to the p-factor for those tranches. AT (Comments): See above.
p = min (0.5, max [0.3; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]) for other positions	DE (Comments): For our concerns regarding the new concept of resilience see recital (6). BE (Drafting Suggestions): p = ~~min (0.5,~~ max [0.3; 0.5*(A + B*(1/N) + C*K_{IRB} + D*LGD + E*MT)]~~)~~ for other positions BE (Comments): 1) We don't agree with adding a cap to the p-factor as it is not risk senstive

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Commission proposal	Drafting Suggestions and Comments
	AT (Comments): See above.
The risk weight floor for a senior securitisation position = max (5%; 10% * K_{IRB}*12.5).;	IE (Drafting Suggestions): The risk weight floor for a senior securitisation position = max (~~5~~ **7%;** 10% * K_{IRB}*12.5).; IE (Comments): **IE** Comment: The JC of the ESAs has considered the allowance of a reduction in RW Floors for senior securitisation tranches with resilient characteristics and noted 7% as an appropriate benchmark under the SEC-IRBA. As such and pending further evidence from the Commission, this technical advice should be headed given the expert analysis provided therein. FR (Drafting Suggestions): The risk weight floor for a securitisation position = max (~~5~~ **2**%; ~~10~~ **7**% * K_{IRB}*12.5).; FR (Comments): With a proportional coefficient of 10%, the floor of 5% is reach for underlying assets with RW at 50%. For underlying assets with RW higher than 70%, the proposal is more concervative than the ESAs proposal of a simple floor at 7% STS. We suggest to move up that threshold RW to 100%,

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	which would mean a proportional coefficient of 7%. Moreover, the floor of the floor at 5% for STS would prevent mortgage securitisation from being economical for banks, without real financial risk justification as these underlying transactions with very low RW are by definition the less risky on banks balance sheets. We therefore advocate for a floor of the floor at 2%, which will already be reached for underlying assets with a risk weight of 2/7=29% and therefore will still introduce a margin of conservatism for mortgage loans. It will strike the right balance between financing the economy and financial stability. DE (Comments): For our concerns regarding the new concept of resilience see recital (6). For our concerns regarding the variable floor see recital (4) *In any case, a RW floor for all tranches is needed (e.g. mezzanine positions).* Therefore the floor definiton should be changed to "The risk-weight floor for a senior securitisation position = 7% and for a non-senior securitisation position = 12%. BE (Drafting Suggestions): The risk weight floor for a senior securitisation position = 7% BE (Comments): 1) We find the reduction to 5% to be excessively low and cannot be justified when compared to similar instruments like covered bonds. This proposal would claim that the performance of a senior tranche of resilient STS securitisation would be double (or would imply half the

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	risk) compared to a premium european covered bond (which receives a 10% RW) 2) We believe the formulae based approach is too complex and 3) propose to lower the fixed RW-floor to 7% for senior tranches in resilient STS transactions held by the originator. We modified article 243(3) to include the requirement that the position needs to be held by an originator. Therefore no additional clarification is needed here. NL (Drafting Suggestions): The risk weight floor for a senior securitisation position = max (**7**%; 10% * K_{IRB}*12.5).; NL (Comments): NL: 5% as the value for the floor of the floor is low from a historical and comparitive perspective. We suggest another level, 7%.
(11) Article 261 is amended as follows:	
(a) paragraph 1 is amended as follows:	
(1) the introductory wording is replaced by the following:	
'Under the SEC-SA, the risk-weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position	FR (Drafting Suggestions):

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calculated in accordance with Article 248 by the applicable risk weight determined as follows:’	‘Under the SEC-SA, the risk-weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position calculated in accordance with Article 248 by the applicable risk weight determined as follows, <u>and **for non-senior positions**, in all cases **subject to a floor of 15%:’**</u> FR (Comments): Please see above: While the risk weight floor is reintroduced below, it is solely for senior transactions, which could bear an impect on the RW of mezzanine tranches in case of aggressive structuring practices. Suggestion to reinstate a minimum RW floor which would in practice only concern mezzanine tranches. DE (Comments): Please see comment on Article 259 (a) BE (Drafting Suggestions): ‘Under the SEC-SA, the risk-weighted exposure amount for a securitisation position shall be calculated by multiplying the exposure value of the position calculated in accordance with Article 248 by the applicable risk weight determined as follows, in all cases subject to a floor of 15%:’ BE (Comments):

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	Very important error: we believe that the floor of 15% for non-senior tranches was deleted by accident in the Commission's proposal. We recommend re-introducing the floor as it opens up the transactions for regulatory arbitrage risk where the RW of the mezzanine tranche could fall below the RW of the senior tranche. We believe we can keep the original wording as specific situations for senior tranches are always elaborated upon in this and the following articles.
(2) 'p = 1 for a securitisation exposure that is not a re-securitisation exposure' is replaced by the following:	AT (Comments): Any increase in risk sensitivity should always be made on the premise of minimising potential constraints on financial stability and investor protection and in view of the low default rates of European senior securitisation positions. From an AT perspective, we need a pragmatic approach and strike a balance between over-capitalisation and taking excessive risks. Whereas the changes to the RW floors and to the p-factor increase risk-sensitivity, we are still analysing the potential effects of reducing the p-factor. Potential cliff effects raise strong concerns over financial stability, capital volatility as well as the impact of model uncertainties and should be therefore avoided and mitigated. In addition, the proposed cap could lead to the fact that excessive risks are cut off and are not completely represented.

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‘For a securitisation position that is not a re-securitisation exposure, p = 0.6 for a senior securitisation position of originator or sponsor; 1 for other securitisation position’.;	FR (Drafting Suggestions): ‘For a securitisation position that is not a re-securitisation exposure, p = 0.6 for a senior securitisation position of originator or sponsor; 1 for other securitisation position’.; FR (Comments): Please see above on the treatment difference between originator, sponsor and investor positions. ES (Comments): **In the case of corporate trade receivables securitisations, we believe it would be worth considering an alignment of the treatment applied to originator/sponsors in Club Deal structures.** It does not seem justified to overly penalise institutional investors participating in the primary issuance, especially when they have had the opportunity to negotiate the documentation on equal terms with the sponsor. In such structures, the same treatment could reasonably apply to both the sponsor and the original investors. A common example is that of corporates refinancing their trade receivables portfolio through multiple banks—given the revolving nature of these assets—in order to diversify their funding sources. DE (Drafting Suggestions): ‘For a securitisation position that is not a re-securitisation exposure, p = 0.8 for a senior securitisation position ; 1 for other securitisation position’.; DE (Comments):

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	We have concerns regarding the complexity. Also, some of the calibrations max no longer be risk adequate. As an alternative, we suggest the simple reduction, where p is reduced to 0.8 and the distinction for originators is removed. For details, please see our comments on recital (5). BE (Drafting Suggestions): 'For a securitisation position that is not a re-securitisation exposure, p = ~~0.6~~ 0.8 for a senior securitisation position of originator ~~or sponsor~~; 1 for other securitisation position' BE (Comments): 1) we find a 40% reduction in the p-factor for a non-STS transaction held by an originator too high. The only reduction in in model and agency risk is the fact that the transaction is held by an originator however it is still a non-STS transaction. We find it more risk appropriate if the reduction would be limited to 0.8 2) we are not of the opinion that model and agency risks are in all case the same for sponsors as for originators. We therefore propose limiting the preferential treatment to originators. NL (Comments): NL: for non-resilient transactions, the p-factor is a significantly reduced, without a guarantee on the thickness of the senior tranche. We suggest only

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	applying it to resilient transactions, and applying a higher p-factor for senior non-resilient non-STS transactions.
(b) the following paragraphs 1a and 1b are inserted:	DE (Drafting Suggestions): (b) the following paragraph 1a is inserted:
‘1a. The risk-weighted exposure amount for a senior securitisation position calculated in accordance with paragraph 1 shall be subject to a floor calculated as follows:	FR (Drafting Suggestions): ‘ DE (Drafting Suggestions): ‘1a. The risk weight for a securitisation position calculated in accordance with paragraph 1 shall be subject to a floor calculated as follows: DE (Comments): Please see comment on Article 259 (c) point 1a. BE (Drafting Suggestions): ~~‘1a. The risk-weighted exposure amount for a senior securitisation position calculated in accordance with paragraph 1 shall be subject to a floor calculated as follows:~~ BE (Comments):

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Commission proposal	Drafting Suggestions and Comments
	For non-resilient, non-STS transactions we are of the opinion that the overall risk weight floor should remain 15%. There is no justification to lower it to 12% as b) non-resilient tranches do not have to comply with the minimum thickness requirement which means that the senior tranche is not sufficiently protected against losses c) investors/sponsors do not have sufficient reduction in model and agency risk to justify a reduced RW floor SI (Comments): See a comment above.
Floor = max (12%; 15% *K_A*12.5).	FR (Drafting Suggestions): Floor = ~~max (~~12%~~; 15% *K_A*12.5)~~. FR (Comments): Please see above : We believe that non-resilient non-STS transaction should not benefit from risk sensitive risk weight floor. We therefore come back to the ESAs proposal for non STS transactions. DE (Drafting Suggestions): Floor = 12% DE

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	(Comments): Please see comment on recital (4). BE (Drafting Suggestions): ~~Floor = max (12%; 15% *K_A*12.5).~~ SI (Comments): See a comment above.
1b. The risk-weighted exposure amount for a senior securitisation position calculated in accordance with paragraph 1 that complies with the criteria set out in Article 243(4) shall be subject to a floor calculated as follows:	DE (Comments): Please see comment on recital (6). SI (Comments): See a comment above.
Floor = max (10%; 15% * K_A*12.5).’;	FR (Drafting Suggestions): Floor = max (~~10~~ 5%; ~~15~~ 7% * K_{SA}*12.5).’; FR (Comments): As explained above, from a financial stability standpoint, we consider that a resilient transaction is safer than STS non resilient transactions and should therefore benefit from the adequate treatment. It is all the more so true considering the minimum credit enhancement criteria that exists for resilient transaction and not for STS transactions. It will therefore strike the right balance between financing the economy and financial stability.

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	With a proportional coefficient of 15%, the floor of floor of 10% is reached for underlying assets with RW at 66%. For underlying assets with RW higher than 12/15=80%, the proposal is more concervative than the ESAs proposal of a simple floor at 12%, and well above the ESAs proposal of a simple floor at 7% for STS transactions that we consider at least as safe as resilient transactions. We suggest to move up that threshold RW to 120%, which would mean a proportional coefficient of 10%. Moreover, the floor of the floor at 10% for resilient transactions would prevent underlying transactions of RW less than 100% to benefit from a better treatment, including SME loans and gigh rating corporates. We therefore suggest to lower the floor to 7%, which would put the threshold in terms of RW for underlying assets at 70%, that is just below the SME supporting factor. In addition, as resilient transaction already take into accong the width of the senior tranche, we do not believe there is any need to use KA in the formula and would therefore go for KSA. DE (Comments): Please see comment on recital (6). BE (Drafting Suggestions): Floor = 12% ~~max (10%; 15% * K_A*12.5).';~~ BE (Comments): In line with the EBA proposal we believe that the RW-floor of the senior tranche of a non-STS, resilient securitisation held by an originator could be

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	lowered to 12%. As the formulae based approaches are too complex in our opinion we would prefer to keep the fixed RW floors and limit the reduction to resilient transactions held by originators. SI (Comments): See a comment above.
(c) In paragraph 2, the following sub-paragraph is added:	
'For the purpose of this paragraph, the nominal amount of the underlying exposures in default is the accounting value of the exposures in default minus any amounts by which the tranches have already been written down to absorb the losses on those exposures in default, or losses which have been absorbed by excess spread.';	EL (Comments): EL: Clarity**:** The phrase "*minus any amounts by which the tranches have already been written down to absorb the losses on those exposures in default*," is a new term and could benefit from furhter clarifications so as to ensure enforceability and legal soundness. DE (Comments): We propose to delete this sub-paragraph: i) the reference to the "accounting value" seems problematic as in many cases the institution does not hold the underlying exposure on its balance sheet and hence there is no accounting value. ii) If the accounting value would be available, it should allready reflect the expexted losses. If the accounting value would be further reduced by losses allocated to the tranches, this might lead

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	to a double counting as thoses losses might/should be reflected in the accountuing value.
(12) Article 262 is replaced by the following:	EE (Comments): EE: We are cautious about the suggested approach, which seems too complex and unjustifiably relaxed (not risk-based enough). We are not convinced that the floor-to-floor approach, especially 5% and 7% floors, is justified and appropriately risk-based. Likewise, we are cautious about a general reduction to the p-factors (not convinced that the proposed calibration of the p-factor is correct and justified).
'Article 262	
Treatment of STS securitisations under the SEC-SA	SK (Comments): We do not oppose the reduction of the p-factor. We support the aim to increase the risk-sensitivity of the framework.
1. Under the SEC-SA the risk weight for a position in an STS securitisation shall be calculated in accordance with Article 261, subject to the following modifications:	
p = 0.3 for a senior securitisation position of originator or sponsor	FR (Drafting Suggestions): p = 0.3 for a senior securitisation position ~~of originator or sponsor~~ FR (Comments):

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	Please see above on the treatment difference between originator, sponsor and investor positions DE (Drafting Suggestions): p = 0.4 for a senior securitisation position DE (Comments): See our arguments in recital (5) for our concerns. The proposal seems overly complex. As an alternative we suggest the simple reduction, where p is reduced to 0.4 and the distinction for originators is removed. For details, please see our comments on recital (5). BE (Drafting Suggestions): p = 0.3 for a senior securitisation position of originator ~~or sponsor~~ BE (Comments): we are not of the opinion that model and agency risks are in all case the same for sponsors as for originators. We therefore propose limiting the preferential treatment to originators. AT (Comments): Any increase in risk sensitivity should always be made on the premise of minimising potential constraints on financial stability and investor protection and in view of the low default rates of European senior securitisation

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	positions. From an AT perspective, we need a pragmatic approach and strike a balance between over-capitalisation and taking excessive risks. Whereas the changes to the RW floors and to the p-factor increase risk-sensitivity, we are still analysing the potential effects of reducing the p-factor. Potential cliff effects raise strong concerns over financial stability, capital volatility as well as the impact of model uncertainties and should be therefore avoided and mitigated. In addition, the proposed cap could lead to the fact that excessive risks are cut off and are not completely represented.
p = 0.5 for other securitisation exposures	ES (Comments): **In the case of corporate trade receivables securitisations, we believe it would be worth considering an alignment of the treatment applied to originators/sponsors in Club Deal structures.** It does not seem justified to overly penalise institutional investors participating in the primary issuance, especially when they have had the opportunity to negotiate the documentation on equal terms with the sponsor. In such structures, the same treatment could reasonably apply to both the sponsor and the original investors. A common example is that of corporates refinancing their trade receivables portfolio through multiple banks—given the revolving nature of these assets—in order to diversify their funding sources. AT (Comments): See above.

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risk weight floor for a senior securitisation position = max (7%; 10% * K_A*12.5).	IE (Drafting Suggestions): risk weight floor for a senior securitisation position = max (~~7~~ **10%;** 10% * K_A*12.5). IE (Comments): **IE** Comment: per comments above. DE (Drafting Suggestions): risk weight floor for a senior securitisation position = 7% and for a non-senior securitisation position = 12%. DE (Comments): Please see comment on Article 259 (c) point 1a. BE (Drafting Suggestions): risk weight floor for a senior securitisation position = 10% ~~max (7%; 10% * K_A*12.5).~~ BE (Comments): The risk weight floor for STS transactions should remain 10% as the transaction is non-resilient , which means that the senior tranche does not receive the highest level of protection therefore a reduction of the RW-floor

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	cannot be justified. We are of the opinion that the formulae based approached adds to much complexity to the framework.
2. Under the SEC-SA the risk weight for a position in an STS securitisation that complies with the criteria set out in Article 243(3) shall be calculated in accordance with Article 261, subject to the following modifications:	DE (Comments): Please see our comments on recital (6)
p = 0.3 for a senior securitisation position of originator, sponsor or investor	DE (Comments): We caution against introducing a new concept of "resilient" positions for the reasons stated in recital 5 and the policy note. *Above that, we are particularly concerned that some of the reductions proposed by COM may not be risk adequate.* As an alternative we suggest the simple reduction, where p is reduced to 0.4 for a senior position (see Art. 262 (1)) and the distinction for originators (which in our view is not justified from a regulatory point of view) is removed. For details, please see our comments on recital (5): AT (Comments): See above.
p = 0.5 for other securitisation exposures	DE (Comments): Please see our comments on recital (6) AT (Comments):

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	See above.
risk weight floor for a senior securitisation position = max (5%; 10% * K_A*12.5).';	IE (Drafting Suggestions): risk weight floor for a senior securitisation position = max (~~5~~ **10%;** 10% * K_A*12.5).'; IE (Comments): **IE** Comment: per comments above. FR (Drafting Suggestions): risk weight floor for a senior securitisation position = max (~~7~~ 2%; ~~10~~ 7% * K_A*12.5). FR (Comments): See comments on risk weight floor STS IRBA. DE (Comments): Please see comments on recital (4) and (6). BE (Drafting Suggestions): risk weight floor for a senior securitisation position = 7% ~~max (5%; 10% * K_A*12.5).'~~

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	BE (Comments): 1) we believe the formulae based approaches are too complex and would prefer keeping the fixed RW-floors 2) We find the reduction to 5% to be excessively low and cannot be justified when compared to similar instruments like covered bonds. This proposal would claim that the performance of a senior tranche of resilient STS securitisation would be double (or would imply half the risk) compared to a premium european covered bond (which receives a 10% RW) 3) We therefore to lower the RW-floor to minimum 7% for for senior tranches in resilient STS transactions held by the originator. We modified article 243(3) to include the requirement that the position needs to be held by an originator. Therefore no additional clarification is needed here. NL (Drafting Suggestions): risk weight floor for a senior securitisation position = max (**7**%; 10% * K_A*12.5).'; NL (Comments): NL: 5% as the value for the floor of the floor is low from a historical and comparitive perspective. We suggest another level, 7%.

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(13) Article 263 is amended as follows:	IE (Comments): **IE** Comment: per comments above.
(a) paragraph 2 is replaced by the following:	
'2. For exposures with short-term credit assessments or where a rating based on a short-term credit assessment may be inferred in accordance with paragraph 7, the following risk weights shall apply:	
Table 1	
[see annex]	FR (Comments): Please see above on the treatment difference between originator, sponsor and investor positions. See comments above on risk weight floor for IRBA and SA. DE (Comments): *We do not see a regulatory justification for the differentiation between originators/sponsors on the one hand and investors on the other. Instead, one risk weight should apply for all institutions. [for details see annex]* BE (Drafting Suggestions): CQS1 = 15% The old table should be kept. BE (Comments):

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	We don’t agree with to the modifications to CQS 1 short term exposures of non-STS, non-resilient exposures. As mentioned above, there is no justification to lower RW of the senior tranche for exposures which are non-STS and non-resilient as there is no additional protection introduced to the senior tranche compared to the current framework.
(b) the following paragraphs 2a and 2b are inserted:	
‘2a. For a position in senior tranche with CQS1 in a securitisation that complies with the criteria set out in Article 243(4), the risk weight shall be calculated as follow:	DE (Comments): Please see comment on Article 259 (c) point 1b. The risk weight should be 12% right away. We have included this in Table 1 [see annex] BE (Comments): A resilient, non-STS senior tranche position could have a RW of 12% but should not go as low as 10% in line with our proposal for SEC-SA and SEC-IRBA The treatment should only apply to originators. For sponsors or investors 15% should apply as they have higher model and agency risk.
Max (10 %; 15% $*K_A*12.5$)	FR (Drafting Suggestions): Max (~~10~~ **5** %; ~~15~~ **7**% $*K_{SA}*12.5$)

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Commission proposal	Drafting Suggestions and Comments
	FR (Comments): See comments on risk weight floors for resilient transactions. DE (Comments): The risk weight should be 12% right away. We have included this in Table 1 [see annex] BE (Drafting Suggestions): ~~Max (10 %; 15% *K_A*12.5)~~ CQS 1 = 12%
2b. Where an institution is not able to use the formula set out in the Table 1 or under paragraph 2a, because it is not able to calculate K_A, a risk weight of 15 % shall apply to the relevant exposure.';	DE (Comments): Not needed anymore, because a risk weight of 12% should apply right away. BE (Drafting Suggestions): ~~2b. Where an institution is not able to use the formula set out in the Table 1 or under paragraph 2a, because it is not able to calculate K_A, a risk weight of 15 % shall apply to the relevant exposure.';~~ BE (Comments): We believe the formulae based approach is too complex and would prefer keeping the current flat RW approach.
(c) paragraph 3 is replaced by the following:	

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Commission proposal	Drafting Suggestions and Comments
'3. For exposures with long-term credit assessments or when a rating based on a long-term credit assessment may be inferred in accordance with paragraph 7, the risk weights set out in Table 2 shall apply, adjusted as applicable for tranche maturity (M_T) in accordance with Article 257 and paragraph 4 of this Article and for tranche thickness for non-senior tranches in accordance with paragraph 5 of this Article:	DE (Drafting Suggestions): '3. For exposures with long-term credit assessments or when a rating based on a long-term credit assessment may be inferred in accordance with paragraph 7, the risk weights set out in Table 2 shall apply, adjusted as applicable for tranche maturity (MT) in accordance with Article 257 and paragraph 4 of this Article and for tranche thickness for non-senior tranches in accordance with paragraphs 5 and 6 of this Article: DE (Comments): Note: Article 263 (6) please change the risk weight also from 15% to 12%.
Table 2	
[see annex]	FR (Drafting Suggestions): The figures in Table 2 should also be modified accordingly. FR (Comments): Please see above on the treatment difference between originator, sponsor and investor positions. See comments above on risk weight floor for IRBA and SA. DE (Comments):

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Commission proposal	Drafting Suggestions and Comments
	As explained above we have concerns with regards to the introduction of variable floors. BE (Drafting Suggestions): ~~*[see annex]*~~ BE (Comments): We don't support the new table based on • Too low p-factors • Formulae basd approach • Too low RW-floors • RW-floors reductions which are not sufficiently justified from a risk perspective
(d) the following paragraphs 3a and 3b are inserted:	
'3a. For in position by originator or sponsor in senior tranche with CQS1, or CQS2 with tranche maturity of 1 year, in a securitisation that complies with the criteria set out in Article 243(4), the risk weight shall be calculated as follows:	DE (Comments): Please see comment on Article 259 (c) point 1b. The risk weight should be 12% right away. We have included this in Table 2 [see annex] BE (Drafting Suggestions):

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Commission proposal	Drafting Suggestions and Comments
	3a. For in position by originator ~~or sponsor~~ in senior tranche with CQS1, or CQS2 with tranche maturity of 1 year, in a securitisation that complies with the criteria set out in Article 243(4), the risk weight shall be calculated as follows: BE (Comments): We would propose to limit the preferential treatment to originators.
Max (10 %; 15% *K_A*12.5)	FR (Drafting Suggestions): Max (~~10~~ **5** %; ~~15~~ **7**% *K_{SA}*12.5) FR (Comments): See comments on risk weight floors for resilient transactions. BE (Drafting Suggestions): ~~Max (10 %; 15% *K_A*12.5)~~ 12%
3b. Where an institution is not able to use the formula set out in the Table 2 or under the paragraph 3a, because it is not able to calculate K_A, a risk weight of 15 % shall apply to the relevant exposure.';	DE (Drafting Suggestions): (e) paragraph 6 is amended as follows: 6. The risk weights for non-senior tranches resulting from paragraphs 3, 4 and 5 shall be subject to a floor of 12%. In addition, the resulting risk

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Commission proposal	Drafting Suggestions and Comments
	weights shall be no lower than the risk weightcorresponding to a hypothetical senior tranche of the same securitisation with the same credit assessment and maturity DE (Comments): Not needed anymore, because a risk weight of 12% should apply right away. Corresponding change in Article 263 (6): change risk weight also from 15% to 12%. BE (Drafting Suggestions): ~~3b. Where an institution is not able to use the formula set out in the Table 2 or under the paragraph 3a, because it is not able to calculate K_A, a risk weight of 15 % shall apply to the relevant exposure.';~~ BE (Comments): We believe the formulae based approach is too complex and would prefer keeping the current flat RW approach.
(14) Article 264 is amended as follows:	IE (Comments): **IE** Comment: per comments above.

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Commission proposal	Drafting Suggestions and Comments
	EE (Comments): EE: We are cautious about the suggested approach, which seems too complex and unjustifiably relaxed (not risk-based enough). We are not convinced that the floor-to-floor approach, especially 5% floor, is justified and appropriately risk-based.
(a) paragraph 2 is replaced by the following:	
'2. For exposures with short-term credit assessments or where a rating based on a short-term credit assessment may be inferred in accordance with Article 263(7), the following risk weights shall apply:	
Table 3	
[See annex]	FR (Drafting Suggestions): The figures in Table 3 should also be modified accordingly. FR (Comments): Please see above on the treatment difference between originator, sponsor and investor positions. See comments above on risk weight floor for IRBA and SA. DE (Comments): We have concerns regarding the introduction of variable floors and therefore propose a flat floor of 7% (see above/see our comments on policy note).

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Commission proposal	Drafting Suggestions and Comments
	Also, we are concerned that RW below the RW during the financial crises may be too low. BE (Drafting Suggestions): CQS 1 = 10% The old table should be kept BE (Comments): We don't agree with to the modifications to CQS 1 short term exposures of STS, non-resilient exposures. As mentioned above, there is no justification to lower RW of the senior tranche for non-resilient transactions as there is no additional protection introduced to the senior tranche compared to the current framework.
(b) the following paragraphs 2a and 2b are inserted:	
'2a. For a position in senior tranche with CQS1 in a securitisation that complies with the criteria set out in Article 243(3), the risk weight shall be calculated as follows:	DE (Comments): Please see comment on Article 259 (c) point 1b. The risk weight should be 7% right away. We have included this in Table 2 [see annex] BE (Comments):

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Commission proposal	Drafting Suggestions and Comments
	A resilient, STS senior tranche position could have a RW of 7% but should not go as low as 5% in line with our proposal for SEC-SA and SEC-IRBA The treatment should only apply to originators.
Max (5%; 10%* K_A*12.5)	IE (Comments): **IE** Comment: per comments above. FR (Drafting Suggestions): Max (~~5~~ **2**%; ~~10~~ 7% * K_{SA}*12.5) FR (Comments): See comments on risk weight floors for STS transactions. BE (Drafting Suggestions): ~~Max (5%; 10%* K_A*12.5)~~ CQS 1 = 7%
2b. Where an institution is not able to use the formula set out in Table 3 or under the paragraph 2a, because it is not able to calculate K_A, a risk weight of 10 % shall apply to the relevant exposures.';	DE (Comments): Not needed anymore, because a risk weight of 7% should apply right away. BE (Drafting Suggestions):

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Commission proposal	Drafting Suggestions and Comments
	~~2b. Where an institution is not able to use the formula set out in Table 3 or under the paragraph 2a, because it is not able to calculate K_A, a risk weight of 10 % shall apply to the relevant exposures.';~~ BE (Comments): We believe the formulae based approach is too complex and would prefer keeping the current flat RW approach.
(c) paragraph 3 is replaced by the following:	
'3. For exposures with long-term credit assessments or where a rating based on a long-term credit assessment may be inferred in accordance with Article 263(7), risk weights shall be determined in accordance with Table 4, adjusted for tranche maturity (M_T) in accordance with Article 257 and Article 263(4) and for tranche thickness for non-senior tranches in accordance with Article 263(5):	DE (Drafting Suggestions): '3. For exposures with long-term credit assessments or where a rating based on a long-term credit assessment may be inferred in accordance with Article 263(7), risk weights shall be determined in accordance with Table 4, adjusted for tranche maturity (M_T) in accordance with Article 257 and Article 263(4) and for tranche thickness for non-senior tranches in accordance with Article 263 paragraphs (5) and (6):
Table 4	
[See Annex]	FR (Drafting Suggestions): The figures in Table 4 should also be modified accordingly. FR (Comments): Please see above on the treatment difference between originator, sponsor and investor positions.

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Commission proposal	Drafting Suggestions and Comments
	See comments above on risk weight floor for IRBA and SA. DE (Comments): We have concerns regarding the introduction of variable floors for the reasons stated above/in the policy note. BE (Drafting Suggestions): ~~*[See Annex]*~~ BE (Comments): We don't support the new table based on • Too low p-factors • Formulae basd approach • Too low RW-floors • RW-floors reductions which are not sufficiently justified from a risk perspective
(d) the following paragraphs 3a and 3b is added:	
'3a. For a position in senior tranche with CQS1, or CQS 2 with tranche maturity of 1 year, in a securitisation that complies with the criteria set out in Article 243(3), the risk weight shall be calculated as follows:	DE (Comments): Please see comment on Article 259 (c) point 1b. The risk weight should be 7% right away. We have included this in Table 2 [see annex]

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Commission proposal	Drafting Suggestions and Comments
	BE (Comments): A resilient, STS senior tranche position could have a RW of 7% but should not go as low as 5% in line with our proposal for SEC-SA and SEC-IRBA The treatment should only apply to originators.
Max (5 %; 10% *K_A*12.5)	IE (Comments): **IE** Comment: per comments above. FR (Drafting Suggestions): Max (~~5~~ 2%; ~~10~~ 7% * K_{SA}*12.5) FR (Comments): See comments on risk weight floors for STS transactions. DE (Comments): The risk weight should be 7% right away. We have included this in Table 2 [see annex] BE (Drafting Suggestions): ~~Max (5 %; 10% *K_A*12.5)~~ 7%

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Commission proposal	Drafting Suggestions and Comments
3b. When an institution is not able to use the formula set out in Table 4, because it is not able to calculate K_A, a risk weight of 10 % shall apply to the relevant exposure.';	DE (Comments): Not needed anymore, because a risk weight of 7% should apply right away. BE (Drafting Suggestions): ~~3b. When an institution is not able to use the formula set out in Table 4, because it is not able to calculate K_A, a risk weight of 10 % shall apply to the relevant exposure.';~~ BE (Comments): We believe the formulae based approach is too complex and would prefer keeping the current flat RW approach.
(15) Article 268 is amended as follows:	
(a) paragraph 1 is replaced by the following:	
'1. An institution may apply a maximum capital requirement for the securitisation position it holds equal to the capital requirements that would be calculated under Chapter 2 or 3 in respect of the underlying exposures had they not been securitised.	PT (Comments): We agree to extend the cap to all types of institutions and approaches.
For the purposes of this Article, the IRB Approach capital requirement shall include the amount of the expected losses associated with those exposures calculated under Chapter 3 and that of unexpected losses. For originator institutions, the expected losses shall be net of any specific credit risk adjustments on the underlying exposures.';	

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Commission proposal	Drafting Suggestions and Comments
(b) paragraph 3 is replaced by the following:	
'3. The maximum capital requirement shall be the result of multiplying the amount calculated in accordance with paragraphs 1 or 2 by the largest proportion of interest that the institution holds in the relevant tranches (V), expressed as a percentage and calculated as follows:	
(a) for an institution that has one or more securitisation positions in a single tranche, V shall be equal to the ratio of the nominal amount of the securitisation positions that the institution holds in that given tranche to the nominal amount of the tranche;	
(b) for an institution that has securitisation positions in different tranches, V shall be equal to the maximum proportion of interest across tranches.	
For the purposes of point (b), the proportion of interest for each of the different tranches shall be calculated as set out in point (a).	
By way of derogation from the first and second subparagraphs, institutions may disregard the interest of any tranche whose securitisation positions held by the institution are assigned a 1250 % risk weight in accordance with Subsection 3 or are deducted from Common Equity Tier 1 in accordance with Article 36(1), point (k). In that case, the maximum capital requirements shall be the sum of the amount calculated in accordance with paragraphs 1 or 2, net of the exposure values of the securitisation positions which were disregarded in the determination of V, multiplied by V plus the sum of the exposure values of the securitisation positions which were disregarded in the determination of V.';	PT (Comments): We agree with the proposal to of securitisation positions already fully capitalised via deduction or 1250% RW.
(16) in Article 270, paragraphs 2, 3 and 4 are deleted;	
(17) Article 506b is deleted;	SI

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Commission proposal	Drafting Suggestions and Comments
	(Comments): From EC explanation it stems that the transitional measure in Article 465(13) have been largely addresed, which also suggests that the transitional measure, which is in any case set to expire after 31 December 2032, is not necessary to the same extent. Should Article 465(13) be deleted/amended accordingly?
(18) Article 506d is replaced by the following:	
'Article 506d	
Prudential treatment of securitisation	
1. By [*4 years after the date of entry into force*], the Commission, after having consulted the EBA, shall assess the overall situation and dynamics of the Union securitisation market, and report on the appropriateness and effectiveness of the Union prudential securitisation framework, including on the financing of the real economy, differentiating between different types of securitisations, including between synthetic, traditional and NPE securitisations, between originators and investors, between STS and non-STS transactions, and between different methods for calculation of risk-weighted exposure amounts.	SK (Comments): We support the introduction of the review mechanism. NL (Comments): NL: why 4 years instead of the usual 5?
As part of the review, the Commission shall assess the impact on financial stability. The Commission shall also monitor the use of the transitional arrangement referred to in Article 465(13) and assess the extent to which the application of the output floor to securitisation exposures would affect the capital reduction obtained by originator institutions in transactions for which a significant risk transfer has been recognised, would excessively reduce the risk sensitivity and would affect the economic viability of new securitisation transactions.	ES (Comments): **We have reservations regarding the temporal overlap—lasting until 31 December 2032—between the transitional provision regulated in current Article 465(13) CRR and the newly proposed calibration of the non-neutrality factors within the legislative proposal.** In our view, these elements should not coexist, and the transitional provision should be removed

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Commission proposal	Drafting Suggestions and Comments
	from the CRR text. For existing or pipeline transactions, a grandfathering approach could be considered. EE (Comments): EE: We would welcome further discussion and review of this provision later in negotiations. DE (Comments): *It is too early to commit to a position regarding the transitional arragement. We should to see where we land with the other amendments first (whether and to what extend the proposed adjustments to the SEC-SA and the reduction of the difference between SEC-IRBA and SEC-SA adresses the original motivation for the introduction of the transitional arrangement in Art. 465 (13)).* BE (Drafting Suggestions): As part of the review, the Commission shall assess the impact on financial stability. ~~The Commission shall also monitor the use of the transitional arrangement referred to in Article 465(13) and assess the extent to which the application of the output floor to securitisation exposures would affect the capital reduction obtained by originator institutions in transactions for which a significant risk transfer has been recognised, would excessively reduce the~~

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Commission proposal	Drafting Suggestions and Comments
	~~risk sensitivity and would affect the economic viability of new securitisation transactions.~~ BE (Comments): We are very concerned about the current direction of the output floor. First, there is no legal clarity on when the new SEC-SA framework will start to apply (perhaps 2032, perhaps after the review in 4 years), which will create market uncertainty and will lead to banks structuring deals on the basis of the current transitional. Second, and in our opinion most concerning, cumulative application of the way too low p-factors of the transitional arrangement in combination with the reduced risk weight floors for the senior tranche is inappropriate and not risk-sensitive at all. Given that the new framework addresses the shortcomings of the SEC-SA framework we do not see the need to keep the transitional arrangement for the output floor.
In particular, the Commission shall consider whether a more fundamental change to the risk-weight formulas and functions would make it possible to achieve more risk sensitivity, achieve more proportionate levels of capital non-neutrality, mitigate cliff effects and address structural limitations of the current framework, taking into account the historic credit performance of securitisation transactions in the Union and the reduced model and agency risks of the securitisation framework.	PT (Comments): We agree with the overall mandate, and in particular with the need to study in depth the current formulaic approaches.

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Commission proposal	Drafting Suggestions and Comments
	We would however recommend to aling the deadline with the overall assessment of the SECR regulation.
The Commission shall submit that report to the European Parliament and the Council, together with a legislative proposal, where appropriate.	
2. The EBA shall submit a report to the Commission, by [2 years after entry into force], to monitor the developments and dynamics of the Union securitisation market resulting from the amended prudential framework, focusing on the role of the credit institutions as originators of SRT transactions and as investors. The analysis shall differentiate between different types of securitisations, including between synthetic, traditional and NPE securitisations, and between STS and non-STS transactions. The report shall also analyse the impact of the amended prudential framework on additional lending by credit institutions to households and businesses, including SMEs.	IE (Drafting Suggestions): 2. The EBA shall submit a report to the Commission, by [~~2~~ **3** years after entry into force], to monitor the developments and dynamics of the Union securitisation market resulting from the amended prudential framework, focusing on the role of the credit institutions as originators of SRT transactions and as investors. The analysis shall differentiate between different types of securitisations, including between synthetic, traditional and NPE securitisations, and between STS and non-STS transactions. The report shall also analyse the impact of the amended prudential framework on additional lending by credit institutions to households and businesses, including SMEs. IE (Comments): **IE** Comment: The EBA should be given further time to draft the noted report, given the changes proposed here will take time to affect the market. FR

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Commission proposal	Drafting Suggestions and Comments
	(Drafting Suggestions): 2. The EBA shall submit a report to the Commission, by [2 years after entry into force], to monitor the developments and dynamics of the Union securitisation market resulting from the amended prudential framework, focusing on the role of the credit institutions as originators of SRT transactions and as investors. The analysis shall differentiate between different types of securitisations, including between synthetic, traditional and NPE securitisations, and between STS and non-STS transactions. The report shall also assess the relevance and viability of the criteria introduced for differentiated capital treatment, including as regards the determination of the attachment point of the senior securitisation position, the relevance and viability of the revised functioning of the risk weight floors for senior securitisation positions, inclduing as regards the metrics used to determine the final capital charge, and analyse the impact of the amended prudential framework on additional lending by credit institutions to households and businesses, including SMEs. FR (Comments): We deem it warranted to explicitly mandate the EBA to undertake an analysis of the viability and relevance of the resilience criteria and new determinants of the risk-sensitive risk weight floors, focusing on how the market has seized them on and how they impacted level playing field between credit institutions from various countries and using various approaches. CZ (Drafting Suggestions): 2. The EBA shall submit a report to the Commission, by [2 years after entry into force], to monitor the developments and dynamics of the Union

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Commission proposal	Drafting Suggestions and Comments
	securitisation market resulting from the amended prudential framework, focusing on the role of the credit institutions as originators of SRT transactions and as investors. The analysis shall differentiate between different types of securitisations, including between synthetic, traditional and NPE securitisations, and between STS and non-STS transactions. The report shall also analyse the impact of the amended prudential framework on**:** **(a)** additional lending by credit institutions to households and businesses, including SMEs and**;** **(b) frequency and amount of dividends paid by credit institutions and its corelation with point (a)**. CZ (Comments): At the same time as easing the prudential framework and requirements for banks, we consider it appropriate to monitor whether the capital relief is actually used for the purpose of financing the real economy and whether the capital relief is not being dissolved in the form of additional profits for shareholders. SK (Comments): We support the reporting obligation. PT

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Commission proposal	Drafting Suggestions and Comments
	(Comments): We believe that issue of the SRT assessment in case of securitisations with multiple originators (or multi-seller securitisations) can be assessed in this negotiation. The current L1 text seems to be unclear (*vide* EBA Q&A 2022_6494), and the complexity involved in this topic may not allow us to already make a specific policy proposal. These structures have the advantage of: i) economies of scale: Smaller sellers can access the securitisation market jointly, thereby reducing costs. ii) Risk diversification: A broader pool from multiple originators can reduce idiosyncratic risk. iii) Access to capital markets: these would be especially useful for originators who wouldn't be able to securitise on their own due to size or limited volume. iv) Standardisation: Makes it easier for investors to assess and compare risks across pooled portfolios.

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Commission proposal	Drafting Suggestions and Comments
	Having clarity on the SRT assessment on these types of securitisations could even facilitate the creation of securitisation platforms, if they were to materialize. LU (Drafting Suggestions): 2. The EBA shall submit a report to the Commission, by [2 years after entry into force], to monitor the developments and dynamics of the Union securitisation market resulting from the amended prudential framework, focusing on the role of the credit institutions as originators of SRT transactions and as investors. The analysis shall differentiate between different types of securitisations, including between synthetic, traditional and NPE securitisations, and between STS and non-STS transactions. The report shall also analyse the impact of the amended prudential framework on additional lending by credit institutions to households and businesses, including SMEs. Finally, the report shall also analyse the adequacy of the risk-weight formulas and functions; the analysis shall conclude based on the framework implementation whether the framework is risk sensitive, has proportionate levels of capital non-neutrality, mitigates cliff effects, has no structural limitations, does not incentivise excessive risk-taking and is simple in its application. LU (Comments): In order to prepare the discussion on a more fundamental change of the framework, we propose that the EBA mandate should include an analysis of the adequacy of the current risk-weight formulas and functions.

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Commission proposal	Drafting Suggestions and Comments
Article 2	BE (Drafting Suggestions): (19) article 465 (13) should be deleted BE (Comments): We do not see the point of keeping the output floor. The transitional was introduced – without any investigation on the appropriatness of its calibration – to address the sometimes conservative nature of SEC-SA. This proposal was created to address these shortcomings which means there no longer is a need to keep the transitional arrangement for the output floor. Furthermore cumulative application of the way too low p-factors of the transitional arrangement in combination with the reduced risk weight floors for the senior tranche is inappropriate and cannot be justified from a risk perspective.
This Regulation shall enter into force on the […] day following that of its publication in the *Official Journal of the European Union*.	ES (Comments): **NEW PROVISION.** **It may be worth considering whether a grandfathering provision in the CRR is necessary.** However, it is currently difficult to determine this with certainty due to the remaining uncertainties in certain areas -for instance, the calculation of the PBA test. CZ

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Commission proposal	Drafting Suggestions and Comments
	(Comments): **Possible need for transitional provision** – we question whether, in the view of the fact that securitisation entities are unable to amend existing securitisations, an originator should be given the option to continue applying the existing CRR treatment to securitisation positions it already holds when the new regulations come into effect.
This Regulation shall be binding in its entirety and directly applicable in all Member States.	LU (Comments): The CRR amendments do not include grandfathering rules or transitional provisions for existing transactions, except for the continued reference to the output floor transitional measure already present in the CRR. There is no phase-in period for legacy transactions. However, it may be helpful to clarify the impact for existing transactions
Done at Strasbourg,	
For the European Parliament *For the Council*	
The President	