

COMMENT LETTER

May 11, 2015

Response to EC Consultation on an EU Framework for Simple, Transparent and Standardised Securitisation (pdf)

1Case Id: 11b53c4b-b776-4e09-a0bc-51080448df14 Date: 11/05/2015 18:04:00 Public consultation on an EU framework for simple, transparent and standardised securitisation Fields marked with * are mandatory. Introduction This consultation represents a first step towards a possible initiative on creating an EU framework for simple, transparent and standardised securitisation. Its aim is to gather information and views from stakeholders on the current functioning of European securitisation markets and how the EU legal framework can be improved to create a sustainable market for high-quality securitisation. On the basis of the feedback received, the Commission will reflect further on how to reach that objective. Please note: In order to ensure a fair and transparent consultation process only responses and included in thereceived through our online questionnaire will be taken into account report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact .fisma-securitisation-consultationec.europa.eu More information: on this consultation on the consultation document on the protection of personal data regime for this consultation 1. Information about you 2*Are you replying as: a private individual an organisation or a company a public authority or an international organisation *Name of your organisation: ICI Global Contact email address: The information you provide here is for administrative purposes only and will not be published emykolenko@ici.org *Is your organisation included in the Transparency Register? (If your organisation is not registered, , although it is not compulsorywe invite you to register here to be registered to reply to this consultation.)Why a transparency register? Yes No *If so, please indicate your Register ID number: 296711210890-30 *Type of organisation: Academic institution Company, SME, micro-enterprise, sole trader Consultancy, law firm Consumer organisation Industry association Media Non-governmental organisation Think tank Trade union Other *Where are you based and/or where do you carry out your activity? United Kingdom *What is your role in securitisation markets? Issuers / originators Investors / potential investors Services providers (infrastructures, ancillary services providers, ...) Other 3*Field of activity or sector ()if applicable at least 1 choice(s) Academia / research Accounting Auditing Banking Credit rating Insurance Pension provision Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities) Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges) Social entrepreneurship Other Not applicable Important notice on the publication of responses *Contributions received are intended for publication on the Commission's website. Do you agree to your contribution being published? ()see specific privacy statement Yes, I agree to my response being published under the name I indicate

(name of your)organisation/company/public authority or your name if your reply as an individual No, I do not want my response to be published 2. Your opinion 2.1 Identification criteria for qualifying securitisation instruments Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 1: A. Do the identification criteria need further refinements to reflect developments taking place at EU and international levels? If so, what adjustments need to be made? 4ICI Global* appreciates the opportunity to provide feedback to the European Commission ("Commission") on its consultation on an EU framework for simple, transparent and standardised securitisation ("Consultation"). ICI Global members include regulated funds in jurisdictions around the world (collectively, "Regulated Funds," or "Funds").** Regulated Funds, as significant purchasers of asset-backed securities ("ABS") in the global markets, support the Commission's goal of developing a strong EU securitization framework. As the Commission recognizes in its paper, there are other efforts regarding the criteria for and identification of simple, transparent and comparable securitisations ("STC securitisations") taking place currently in the EU and on an international level, most notably the October 2014 European Banking Authority's consultation and the December 2014 joint Basel Committee on Banking Supervision and the International Organization of Securities Commissions consultation. We encourage the Commission to take into consideration the work of these bodies, together with stakeholder responses to their respective consultations, and to coordinate with them as needed.*** Consistency in the identification of and criteria for STC securitisations at a European and international level is important for markets and investors. * ICI Global, the international arm of the Investment Company Institute, is a global fund trade organization with offices in London, Hong Kong, and Washington, DC. ICI Global serves a fund membership that includes regulated funds publicly offered to investors in jurisdictions worldwide, with combined assets of US\$19.4 trillion. ICI Global seeks to advance the common interests and promote public understanding of regulated investment funds, their managers, and investors. Its policy agenda focuses on issues of significance to funds in the areas of financial stability, cross-border regulation, market structure, and pension provision. ** For purposes of this letter, the term "regulated fund" refers to any fund that is organized or formed under the laws of a nation, is authorized for public sale in the country in which it is organized or formed, and is regulated as a public investment company under the laws of that country. Generally, such funds are regulated to make them eligible for sale to the retail public, even if a particular fund may elect to limit its offering to institutional investors. Such funds typically are subject to substantive regulation in areas such as disclosure, form of organization, custody, minimum capital, valuation, investment restrictions (e.g., leverage, types of investments or "eligible assets," concentration limits and/or diversification standards). Examples of such funds include: U.S. investment companies regulated under the Investment Company Act of 1940; "Undertakings for Collective Investment in Transferable Securities," or UCITS, in the European Union; Canadian mutual funds; and Japanese investment trusts. *** ICI Global's response to the BCBS-IOSCO consultation is available at: <http://www.iciglobal.org/pdf/28693.pdf>. 5B. What criteria should apply for all qualifying securitisations ("foundation criteria")? In its proposed modular approach to qualifying securitisations, the Commission identifies three basic characteristics as the foundation criteria: simple, transparent, and standardised/comparable. While we understand the reasons that the Commission has included simplicity among the proposed STC criteria, we believe that this element, if included in the criteria, should be utilized and interpreted cautiously. Securitisations, by their nature, contain a measure of complexity. It would be unfortunate and potentially harmful to the growth of the EU securitisation markets if the STC criteria were applied in a manner that suggested that securitisations that do not meet the STC criteria should be avoided. Many investors, including Regulated Funds, may benefit from investing in such

securitisations. These investments may be appropriate as long as they are consistent with the investor's investment mandate and the investor has sufficient information to make an informed investment decision. Further, although we support the development of an EU framework for STC securitisations, we believe it is important that the EC (and other regulators and policymakers addressing this topic) make clear that the failure of any adopted or approved STC criteria to capture any particular securitisation is not in any way intended to reflect on the merits or appropriateness of that securitisation offering as a potential investment for a particular investor.

2.2 Identification criteria for short term instruments

Please to read some context refer to the corresponding section of the consultation document information before answering the questions. Question 2: 6A. To what extent should criteria identifying simple, transparent, and standardised short-term securitisation instruments be developed? What criteria would be relevant? Similar to the BCBS-IOSCO Consultation, the Commission paper explains that the criteria under discussion do not cover short term securitisation instruments (such as asset-backed commercial paper, "ABCP") because such securitisations are very different in their specificities and structures, making the application of the criteria not feasible. As we stated in our BCBS-IOSCO response, we do not believe development of criteria for ABCP and other short-term securitisations would be useful at this time. Regulated Funds are important investors in ABCP.* ICI Global members are experienced investors in the ABCP markets, and are comfortable with the structure of ABCP programs, and the frequent, comprehensive disclosure that is provided in connection with these programs. We believe it would be confusing and would add unnecessary complexity to the STC criteria to attempt to tailor them to ABCP programs, which have unique characteristics. Similarly, other short-term securitisations have distinct characteristics and the tailoring of the contemplated criteria or the creation of separate applicable criteria would create unnecessary complexity without a corresponding benefit at this point in time. We believe the best approach is to identify and create a framework for medium and long term securitisations that meet STC criteria and to put aside consideration of criteria for short term securitisations until a later time. In any event, the Commission should make clear that the failure of the STC criteria that are developed to capture any particular ABS offering or other securitisation is not in any way intended to reflect on the merits or appropriateness of that offering as a potential investment for a particular investor. * In the United States, for example, as of October 2014, taxable U.S. money market mutual funds held \$88 billion, or approximately 40% of total ABCP outstanding. In the United States, ABCP typically is sold to investors in private offerings in reliance on Section 4(2) of the Securities Act of 1933, and almost all ABCP programs provide for resales of ABCP in reliance upon Rule 144A under the Securities Act. Source: Investment Company Institute tabulations of SEC Form N-MFP data.

7B. Are there any additional considerations that should be taken into account for short-term securitisations?

2.3 Risk retention requirements for qualifying securitisation

Please to read some context refer to the corresponding section of the consultation document information before answering the questions. Question 3: A. Are there elements of the current rules on risk retention that should be adjusted for qualifying instruments? B. For qualifying securitisation instruments, should responsibility for verifying risk retention requirements remain with investors (i.e. taking an "indirect approach")? Should the onus only be on originators? If so, how can it be ensured that investors continue to exercise proper due diligence? We believe that it would be appropriate to remove any requirement for investors to verify that the originator has met its risk retention requirements for qualifying securitisations. As currently contemplated, by definition, a securitisation instrument will qualify as a "qualifying securitisation" only if it fulfils the risk retention requirements. Requiring investors to engage in verification of this is therefore not necessary. It is much more efficient to place such an obligation on originators, as an originator is in a much

better position to determine if it has met its retention requirements. Further, an investor would then not need to expend resources (the cost of which is borne by shareholders in the case of Regulated Funds) solely for purposes of confirming appropriate risk retention by the originator prior to investment. Investors have a vested interest in making wise investment decisions and we firmly believe they will continue to conduct the appropriate level of due diligence needed for the investment, including to ascertain the value of the underlying assets.

2.4 Compliance with criteria for qualifying securitisation Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 4: A. How can proper implementation and enforcement of EU criteria for qualifying instruments be ensured? B. How could the procedures be defined in terms of scope and process? C. To what extent should risk features be part of this compliance monitoring?

2.5 Elements for a harmonised EU securitisation structure Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 5: A. What impact would further standardisation in the structuring process have on the development of EU securitisation markets? We support the Commission's consideration of a standardized securitization structure, and agree that it may bring benefits for originators, investors and the European securitisation markets as a whole. We suggest that the Commission initially focus its efforts on developing the identification criteria for qualifying securitisations, including through coordination and cooperation with other European and/or international bodies as needed, and turn its attention to the creation of a standardized securitisation structure only after those efforts are well-advanced or completed if appropriate at that time. 9B. Would a harmonised and/or optional EU-wide initiative provide more legal clarity and comparability for investors? What would be the benefits of such an initiative for originators? C. If pursued, what aspects should be covered by this initiative (e.g. the legal form of securitisation vehicles; the modalities to transfer assets; the rights and subordination rules for noteholders)? D. If created, should this structure act as a necessary condition within the eligibility criteria for qualifying securitisations?

2.6 Standardisation, transparency and information disclosure Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 6: A. For qualifying securitisations, what is the right balance between investors receiving the optimal amount and quality of information (in terms of comparability, reliability, and timeliness), and streamlining disclosure obligations for issuers/originators? As purchasers of asset-backed securities and other types of securitisations, Regulated Funds devote substantial time and resources to analyzing offerings of these types of securities. In order for investors such as Regulated Funds to truly reap the benefits of the designation of certain securitisations as qualifying securitisations, it is essential that the regulatory framework balance the required disclosure to ensure that it is meaningful to investors without overwhelming them with less relevant information. 10 B. What areas would benefit from further standardisation and transparency, and how can the existing disclosure obligations be improved? C. To what extent should disclosure requirements be adjusted – especially for loan-level data – to reflect differences and specificities across asset classes, while still preserving adequate transparency for investors to be able to make their own credit assessments? Question 7: A. What alternatives to credit ratings could be used, in order to mitigate the impact of the country ceilings employed in rating methodologies and to allow investors to make their own assessments of creditworthiness? B. Would the publication by credit rating agencies of uncapped ratings (for securitisation instruments subject to sovereign ceilings) improve clarity for investors?

2.7 Secondary markets, infrastructures and ancillary services Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 8: 11 A. For qualifying securitisations, is there a need to

further develop market infrastructure? B. What should be done to support ancillary services? Should the swaps collateralisation requirements be adjusted for securitisation vehicles issuing qualifying securitisation instruments? C. What else could be done to support the functioning of the secondary market? 2.8 Prudential treatment for banks and investment firms Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 9: With regard to the capital requirements for banks and investment firms, do you think that the existing provisions in the Capital Requirements Regulation adequately reflect the risks attached to securitised instruments? Question 10: 12 If changes to EU bank capital requirements were made, do you think that the recent BCBS recommendations on the review of the securitisation framework constitute a good baseline? What would be the potential impacts on EU securitisation markets? Question 11: How should rules on capital requirements for securitisation exposures differentiate between qualifying securitisations and other securitisation instruments? Question 12: Given the particular circumstances of the EU markets, could there be merit in advancing work at the EU level alongside international work? 2.9 Prudential treatment of non-bank investors Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 13: Are there wider structural barriers preventing long-term institutional investors from participating in this market? If so, how should these be tackled? Question 14: 13 A. For insurers investing in qualifying securitised products, how could the regulatory treatment of securitisation be refined to improve risk sensitivity? For example, should capital requirements increase less sharply with duration B. Should there be specific treatment for investments in non-senior tranches of qualifying securitisation transactions versus non-qualifying transactions? Question 15: A. How could the institutional investor base for EU securitisation be expanded? B. To support qualifying securitisations, are adjustments needed to other EU regulatory frameworks (e.g. UCITS, AIFMD)? If yes, please specify. Yes. As noted by the Commission in the Consultation, and as discussed further in response to Question 17, the EU securitisation framework is regulated by a large number of EU legal acts. The Commission's goal of restarting the EU securitisation markets on a more sustainable basis utilizing qualifying securitisations will be greatly hindered if the various legislative texts that address securitisation are not amended to ensure a coherent, clear and consistent regime. 2.10 Role of securitisation for SMEs Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 16: 14 A. What additional steps could be taken to specifically develop SME securitisation? B. Have there been unaddressed market failures surrounding SME securitisation, and how best could these be tackled? C. How can further standardisation of underlying assets/loans and securitisation structures be achieved, in order to reduce the costs of issuance and investment? D. Would more standardisation of loan level information, collection and dissemination of comparable credit information on SMEs promote further investment in these instruments? 2.11 Miscellaneous Please to read some contextrefer to the corresponding section of the consultation document information before answering the questions. Question 17: 15 To what extent would a single EU securitisation instrument applicable to all financial sectors (insurance, asset management, banks) contribute to the development of the EU's securitisation markets? Which issues should be covered in such an instrument? As noted by the Commission in the Consultation, the EU securitisation framework is regulated by a large number of EU acts. While each of these acts serves a purpose, the existing legal framework is overly complex and confusing, with potential for inconsistency. We believe that there would be significant benefits for originators, investors, and the EU securitisation markets as a whole, if the EU adopted a clear and harmonized set of pan-EU rules on securitisations that apply to all financial sectors in a single piece of legislation. Developing a single legislative framework for EU

securitisations would be a significant undertaking that would require considerable effort and engagement with stakeholders to ensure the creation of an understandable and workable framework. In particular, the scope of the instrument, including the issues that should be covered, will be important to the ultimate success of the framework. We recommend that the Commission consult on this issue in detail in the future. Question 18: A. For qualifying securitisation, what else could be done to encourage the further development of sustainable EU securitisation markets? B. In relation to the are there any other changes to securitisation requirementstable in Annex 2 across the various aspects of EU legislation that would increase effectiveness or consistency? 3. Additional information Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) here: 16 Useful links Consultation details (http://ec.europa.eu/finance/consultations/2015/securitisation/index_en.htm) Consultation document (http://ec.europa.eu/finance/consultations/2015/securitisation/docs/consultation-document_en.pdf) Specific privacy statement (http://ec.europa.eu/finance/consultations/2015/securitisation/docs/privacy-statement_en.pdf) More on the Transparency register (<http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en>) Contact fisma-securitisation-consultation@ec.europa.eu

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