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23. May 2001

Directorate General Internal Market/Generaldirektion Binnenmarkt
Europäische Kommission/European Commission/Commission Européenne
107 Cortenbergstraat
B-1049 Brüssel/Bruxelles
Belgie

Re: Commission Services Second Consultative Document on Review of Regulatory Capital for Credit Institutions and Investment Firms (the "Second Consultative Document")

The European Securitisation Forum (the "**Forum**")¹ welcomes the ability to comment on the Second Consultative Document and this letter contains some of the Forum's comments on the securitisation proposals. The Forum has also commented in detail on the Basel Second Consultation and as requested by the Second Consultative Document we will not repeat those comments in this letter but commend them to you. We have included for your information a copy of the Forum's letter to the Basel Committee.

COMMENTS

Securitisation Market Background

As the Commission Services recognise securitisation practices can contribute to the goal of efficient capital markets and enhance an institution's risk management capabilities. The Forum also believes that securitisation has proven its value as an efficient funding and capital management mechanism and an effective means for institutions to re-distribute the inherent market risks they face to investors and the broader capital markets.

For these reasons the Forum endorses the recognition that regulations should be permissive of institutions undertaking securitisation transactions. However, it is the view of the Forum that while it is prudent for regulators to consider risks associated with any regulated activity, securitisation does not create any unique concerns. Indeed, the discipline of the securitisation process and its focus on asset and

¹ The European Securitisation Forum is a European financial markets trade association sponsored by The Bond Market Association. The European Securitisation Forum was established to promote the continued growth and development of securitisation and to advocate the positions and represent the interests of the securitisation market throughout Europe. The Forum has a diverse membership which includes banks, securities houses, issuers, investors, rating agencies, legal and accounting firms and other professional participants active in the European securitisation markets. More information about the Forum, including its purpose and mission, its full membership and its current projects and activities, can be obtained from its website at www.europeansecuritisation.com.



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operational management is a powerful external factor in ensuring perceived risks are addressed.

EU Framework

The Forum concurs with the view expressed by Commission Services that no EU Framework for prudential regulation of securitisation currently exists and notes that part of the role of the Forum is to promote the development of consistent and appropriate securitisation practices and regulations throughout Europe. To this end the Forum comments that the promotion of common features and the removal of unnecessarily differing national practices or regulations in order to encourage a "level playing field" across Europe should be regarded as a general goal of Commission Services in respect of the regulation of institutions in the area of securitisation.

Specific EU Issues

The Forum considers that the proven benefits of securitisation significantly outweigh any perceived risks. It would also note that securitisation has been contemplated by certain regulations for regulated European institutions for many years.² Furthermore, asset transfers between regulated institutions have taken place for an even longer period of time, and the Forum notes that European regulators have progressively taken steps to permit and encourage securitisations in their respective national jurisdictions. During this time, the Forum is unaware of any particular transactions by institutions that have given rise to institutions suffering losses or exposures as a result of the perceived risks associated with securitisation. The Forum believes, therefore, that appropriate consideration should be given to securitisations as a financing form with a proven track record over a substantial period of time, and should not be characterised or treated as a novel or inherently risky financing technique.

As far as the overall risk profile of an institution is concerned, the Forum considers that this is a function of general prudential supervision and not an issue unique to securitisation. Clearly, if an institution retains risk on assets of a particular type (because, for example, it has sold other assets via a securitisation transaction), that should be accounted for when regulators examine the general risk profile of the institutions they supervise. Such a supervisory appraisal should not, however, differ because such institution may decide to exit a particular market (choosing to re-deploy capital elsewhere) or to securitise assets on its balance sheet, instead of remaining in that market (again re-deploying capital elsewhere).

Rather than being an inherently transitory and risky market, the Forum strongly believes that the existence of efficient securitisation markets has measurably increased the availability of (and simultaneously reduced the cost of) financing in the primary lending markets. While the Forum would not disagree that prudential supervision must include an analysis of available funding sources for an institution, it does not concur that securitisation funding should be treated as including increased risks by comparison with other funding mechanisms of comparable tenor.

² For example, the Bank of England Notice on Securitisations and Loan Transfers in 1989 BSD/1989/1 and [•]



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Finally, the Forum welcomes the continuing work of the Basel Committee with respect to various aspects of its current proposals on asset securitisation. In this respect the Forum considers the further consideration and consultation on the IRB approach to be of particular significance for the development of the securitisation proposals. The Forum looks forward to the opportunity to comment on the results of the further work of the Basel Committee as soon as it is available.

Claims secured on mortgages as a commercial property

The Forum supports the current position set out in the transitional provisions in current EU legislation that loans secured on commercial property may obtain a 50% weighting. In the view of the Forum it is anomalous and detrimental to the development of efficient parallel securitisation markets for residential and commercial property that residential property backed loans could obtain a 50% weighting whereas a commercial property backed loan could not. Indeed, the Forum believes that where this is the current position under national legislation for commercial property backed loans, it should be changed to the 50% weighting permitted under the transitional provisions.

Implementation

We believe that following publication of the final Basel Accord, a further period of consultation should be permissible in respect of the EU position prior to implementation of EU proposals based on the final Basel Accord. Should you wish to communicate with the Forum on any issue related to this letter, please feel free to contact me at +44.20.77 43 93 00 or via email at srankin@bondmarkets.com.
Respectfully submitted,

Scott-Christopher Rankin
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