

Clients & Friends Memo

The Basel Committee and IOSCO Issue Criteria to Identify “Simple, Transparent and Comparable” Short-Term Securitisations

01 June 2018

Introduction

On 14 May 2018, the Basel Committee on Banking Supervision (the “**Basel Committee**”) and the Board of the International Organization of Securities Commissions (“**IOSCO**”) issued criteria for identifying “simple, transparent and comparable” (“**STC**”) short-term securitisations (the “**Short-Term STC Criteria**”).¹

The criteria build upon the principles in the “Criteria for identifying simple, transparent and comparable securitisations” issued by the Basel Committee and IOSCO in July 2015 (the “**July 2015 STC Criteria**”). Given that the structures of short-term securitisations, notably those using an asset-backed commercial paper (“**ABCP**”) conduit to issue commercial paper, differ from those of term securitisations, the July 2015 STC Criteria have been amended so as to make them applicable to short-term securitisations.

On the same day, the Basel Committee issued a Standard on the capital treatment of STC short-term securitisations (the “**Standard**”). The Standard sets out additional guidance and requirements regarding applying preferential regulatory capital treatment for banks acting as investors in, or as sponsors of, STC short-term securitisations.²

What is meant by “Simple, Transparent and Comparable”?

The purpose of the various Basel STC criteria is to identify those securitisations that are simple, transparent and comparable, there being lower regulatory capital requirements relating to banks’ exposures to securitisations that are STC-compliant. “Simplicity” refers to the homogeneity of underlying assets with simple characteristics and to a transaction structure that is not overly complex. “Transparent” refers to providing investors with sufficient information on the underlying assets, the structure of, and the parties in, the transaction. This is with the aim of ensuring that investors have a comprehensive understanding of the risks involved in the transaction. The

¹ <https://www.bis.org/bcbs/publ/d441.pdf>

² <https://www.bis.org/bcbs/publ/d442.pdf>

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“comparable” requirement is intended to enable a more straightforward comparison across securitisations within an asset class, taking into account differences between jurisdictions.

Background - The Revised Securitisation Framework

In 2014, the Basel Committee published its “Revisions to the Securitisation Framework” Basel III document,³ which set out revised methodologies for the calculation of regulatory capital requirements for securitisation exposures held by banks in their banking book, in order to address certain shortcomings identified by the Basel Committee under the previous securitisation framework.⁴ A revised version of this document was published in July 2016⁵ and included an alternative regulatory capital treatment for securitisation transactions which meet the criteria for identifying STC securitisations (the “**July 2016 Framework**”). We discussed this document in our Clients & Friends Memorandum dated 3 August 2016.⁶

Background - The July 2015 STC Criteria

The July 2015 STC Criteria were intended to identify and assist in the development of simple and transparent securitisation structures. The 14 STC criteria, if satisfied, could indicate that a securitisation possesses a level of simplicity, transparency and comparability that could assist market participants in evaluating the risks of a securitisation transaction. The criteria were divided into three categories: (a) generic criteria relating to the underlying asset pool (“asset risk”); (b) transparency around the securitisation structure (“structural risk”); and (c) governance of key parties to the securitisation process (“fiduciary and servicer risk”). The criteria were set out and discussed in our Clients & Friends Memo dated 3 August 2016. These criteria apply only to term securitisations, hence the need for specific criteria applicable to short-term securitisations.

The July 2017 Consultations

Given that short-term securitisations, which typically use an ABCP conduit to issue commercial paper, differ in structure from term securitisations, the July 2015 STC Criteria cannot be applied to them without amendment. Therefore, in July 2017, the Basel Committee and IOSCO published consultation papers on the criteria for identifying STC short-term securitisations⁷ and on the capital treatment for STC short-term securitisations.⁸ The May 2018 publications took account of feedback received to these consultations.

The May 2018 Short-Term STC Securitisation Publications

In their May 2018 Short-Term STC Criteria paper, the Basel Committee and IOSCO developed 17 Short-Term STC Criteria focusing on exposures related to ABCP conduits. At the same time,

³ <https://www.bis.org/bcbs/publ/d303.pdf>

⁴ Please see our Clients & Friends Memo entitled “Revisions to the Securitisation Framework: Final Rules published by the Basel Committee” dated 15 May 2015.
<https://www.cadwalader.com/uploads/cfmemos/56318c38ce234a2e026229f5af2adb1.pdf>

⁵ <https://www.bis.org/bcbs/publ/d374.pdf>

⁶ <https://www.cadwalader.com/uploads/cfmemos/0bc491b52c899119ffbbd747d3a6a572.pdf>

⁷ <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD572.pdf>

⁸ <https://www.bis.org/bcbs/publ/d413.pdf>

the Basel Committee issued its Standard setting out how the Short-Term STC Criteria would be incorporated into the capital framework.

Amendments to the July 2015 STC Criteria for Short-Term STC Securitisations

Application of the Short-Term STC Criteria to ABCP conduits

The Short-Term STC Criteria cover ABCP conduits that mainly finance themselves by the issue of commercial paper, normally involving one or more sellers of assets (such as short-term trade receivables) to the ABCP conduit, and so focus on the characteristics of the ABCP conduit and the underlying transactions. The criteria do not depend on the legal form of the instruments used to fund the ABCP conduit (e.g. whether it issues short-term commercial paper or accepts loans from lenders secured against the underlying assets/transactions) and do not prevent single-seller conduits from qualifying for STC status.

Reflection of the Characteristics of ABCP Conduits

The principles underlying the July 2015 STC Criteria are relevant for short-term securitisations, but some criteria have been amended to reflect specific aspects of ABCP conduits, notably: (a) the short maturity of the commercial paper issued by ABCP conduits; (b) the different forms of programme structures (multi-seller, single seller); and (c) the existence of multiple forms of liquidity and credit support facilities on different levels of the ABCP structure (i.e. conduit level or transaction level).

Reflection of the Significance of Sellers and Sponsors in ABCP Conduits

The Short-Term STC Criteria also differ from the July 2015 STC Criteria so as to reflect the roles played by the sellers and the sponsor in ABCP Conduits.

The sellers are: (a) (i) the original lenders who entered into the original agreement that created the obligations (e.g. receivables) of an obligor, or (ii) the parties who purchased the obligations from the original lenders; and who (b) transferred those assets through a transaction (or passed on the interest) to the ABCP conduit.

The sponsor is key in: (a) establishing and managing the ABCP conduit; (b) providing credit and liquidity support for the ABCP conduit; and (c) assuming a fiduciary responsibility as regards the investors (e.g. holders of the commercial paper or the lenders to the ABCP conduit) in ensuring that the transactions financed by the ABCP conduit and their underlying assets meet the transaction-level standards, and in reporting to investors on how these criteria are met.

Transaction level and Conduit level Criteria

As well as taking account of the roles played by the sellers and the sponsor in ABCP conduits, the Short-Term STC Criteria distinguish between criteria relevant at the transaction level (which must be separately met by each transaction in the conduit) and at the conduit level (which must be met by the ABCP conduit as a whole). Most criteria are relevant at both levels, but have a slightly different focus to reflect the differences in risk, parties and structure at each level. The obligations of the sponsor at the conduit level in large part relate to the information, representation and warranties to be provided to investors regarding its compliance with its various obligations.

Changes made to the Short-Term STC Criteria following Feedback received to the July 2017 Consultation

The 17 Short-Term STC Criteria included a number of minor changes to the criteria proposed in July 2017 to address the feedback received. The amendments made included: (i) expanding the definition of “seller” so that it does not only refer to original lenders, but also to those who purchased obligations from original lenders; (ii) adding a footnote to clarify that the criteria do not automatically exclude securitisations of equipment leases and securitisations of auto loans and leases from the short-term STC framework; and (iii) in Criterion 16 (“Fiduciary and contractual responsibilities”) that the sponsor’s role is limited to ensuring that it has received the relevant representations from the sellers (as regards well documented procedures, strong systems and reporting capabilities), rather than having to make the verification itself.

The Short-Term STC Criteria

The 17 Short-Term STC Criteria broadly follow those criteria set out in the July 2017 consultation and are summarised in Appendix A to this memorandum.

Basel Committee Standard for the Capital treatment for Short-Term STC Securitisations

The Short-Term STC Criteria have implications for the regulatory capital requirements in relation to Short-Term STC securitisations. Accordingly, also on 14 May 2018, the Basel Committee issued its Standard on the capital treatment for STC short-term securitisations. The Standard sets out additional guidance and requirements in relation to applying preferential regulatory capital treatment for banks acting as investors in, or as sponsors of, STC short-term securitisations.

The Standard explained that, whilst the Short-Term STC Criteria are sufficiently detailed to serve as guidance for good practice, the use of the criteria for the setting of alternative regulatory capital requirements requires greater prescriptiveness. Furthermore, the Short-Term STC Criteria focus more on the perspective of investors of notes issued under an ABCP programme rather than on the role of a bank as a sponsor, which is normally the main role played by banks in ABCP structures. The Basel Committee therefore supplemented the Short-Term STC Criteria with additional criteria for the specific purpose of applying preferential capital treatment for banks acting as investors and sponsors (the “**Short-Term STC Capital Criteria**”).

The Standard provides that the scope and identification of STC securitisations for the purposes of alternative capital treatment in the July 2016 Framework is expanded to include exposures to ABCP conduits and/or transactions financed by ABCP conduits, where the conduit and/or transactions financed by it meet the Short-Term STC Capital Criteria. In other words, such exposures are STC-compliant for the purposes of alternative capital treatment for STC securitisations in the July 2016 Framework.

Short-Term STC Capital Criteria: Additional Criteria for Capital Purposes

The additional criteria for capital purposes in the Short-Term STC Capital Criteria (being either guidance or a requirement depending on the criteria) are outlined in Appendix B to this memorandum. There are two additional Short-Term STC Capital Criteria, making 19 in all.

Banks' Compliance with the Short-Term STC Capital Criteria*Banks' Exposures at the Conduit Level*

For banks' exposures at the conduit level (e.g. exposures arising from investing in the commercial paper issued by the ABCP programme, or sponsoring at the conduit/programme level), the Short-Term STC Capital Criteria have to be complied with fully at *both* the conduit level and the transaction level. The requirement for compliance with the Short-Term STC Capital Criteria for both the conduit and for all the transactions in the ABCP conduit will make compliance at this level difficult to achieve in practice (particularly as regards the compliance of any existing transactions).

Banks' Exposures at the Transaction Level

For banks' exposures at the transaction level to qualify for STC capital treatment, compliance with the transaction-level Short-Term STC Capital Criteria *alone* would suffice (ie independently of whether the overall conduit/other transactions underlying the conduit qualified) (the "**Transaction Level Approach**").

This contrasts with the preferred approach set out in the July 2017 consultative paper in which the Basel Committee proposed that the Short-Term STC Capital Criteria would have to be fully complied with at both the conduit level and the transaction level (with an exception regarding the full support criterion for sponsors' exposures) (termed by the Basel Committee as the "**Baseline Approach**").

One of two alternatives to the Baseline Approach set out in the July 2017 consultative paper was the Transaction Level Approach subsequently adopted in the May 2018 Standard. Advantages of such a Transaction Level Approach, as set out in the July 2017 consultation, are: (i) that assessing STC capital treatment on a transaction-by-transaction basis provides an incentive to structure STC-compliant transactions (i.e. there continues to be an incentive to be STC-compliant even when other transactions under the ABCP structure are not); (ii) any increase in risk exposure resulting from non-STC transactions under the ABCP structure has no impact on the transaction sponsored by the sponsor bank; and (iii) it provides an incentive to transaction-level participants to reinforce the sponsor's STC attestation by carrying out their own due diligence regarding the transactions to which they are exposed.

The adoption of the Transaction Level Approach over the Baseline Approach is to be welcomed, as the former would have made it difficult in practice for banks' exposures at transaction level to have been eligible for STC capital treatment.

Determination of Compliance with the Short-Term STC Capital Criteria

The Standard provides that the bank must disclose to investors and relevant parties the information necessary to allow them to determine whether the exposure is compliant with the Short-Term STC Capital Criteria. The determination of compliance with the Short-Term STC Capital Criteria depends on the relationship of the party concerned with the ABCP conduit:

(a) Notes issued by the ABCP conduit

As regards the notes issued by the ABCP conduit, the determination of compliance with the Short-Term STC Capital Criteria is performed by the investor only. The sponsor, though not required to assert that the Short-Term STC Capital Criteria are met, must make sufficient disclosures to enable the investor to make the assessment that the criteria are met at both the transaction and the conduit level. Requiring the investor to make its own assessment helps ensure that the investor conducts the necessary due diligence. The Basel Committee did not proceed with one of the alternatives put forward in its July 2017 consultation which would have required the sponsor also to have assessed compliance with the Short-Term STC Capital Criteria.

(b) For other exposures to an ABCP structure

As regards a sponsor's exposure to an ABCP structure, only the main sponsor would need to assess that the criteria have been met. In the case of a third-party support provider, it must undertake its own due diligence to assess whether the criteria are met.

Capital treatment for Exposures to ABCP Conduits or Transactions that are Compliant with the Short-Term STC Capital Criteria

The Standard stated that since the Short-Term STC Capital Criteria have been designed to be as stringent as the STC capital criteria for term securitisations, exposures to ABCP conduits or transactions that are compliant with the Short-Term STC Capital Criteria should benefit from the same extent of capital reduction as exposures to STC-compliant term securitisations.

The Basel Committee points out that, in its capacity as an investor, a bank's exposure to notes issued by an ABCP conduit is economically the same as its exposures to a term securitisation tranche and so that as long as the ABCP conduit meets the Short-Term STC Capital Criteria, the capital treatment for the exposures to the issued notes should be equal to that of risk positions of comparable maturity within STC term securitisations published in the July 2016 Framework.⁹

The Standard explains that a bank providing liquidity and/or credit facilities to an ABCP structure is akin to taking a position in a term STC securitisation and so the capital treatment would follow the treatment for STC term securitisations in the July 2016 Framework.

⁹ The capital treatment for Simple, Transparent and Comparable Securitizations was explained in our Clients And Friends memorandum dated 3 August 2016:
<https://www.cadwalader.com/uploads/cfmemos/0bc491b52c899119ffbbd747d3a6a572.pdf>

EU Initiatives on Simple, Transparent and Standardised Securitisation.

In a separate process, the EU has developed its own regime in the Securitisation Regulation (Regulation (EU) 2017/2402)¹⁰ for what are termed simple, transparent and standardised (“**STS**”) securitisations. The Securitisation Regulation and a parallel CRR Amendment Regulation (Regulation (EU) 2017/2401)¹¹ entered into force in January 2018 and will apply to securitisations, the securities of which are issued on or after 1 January 2019.

The Securitisation Regulation sets out the criteria for identifying STS securitisations, while the CRR Amendment Regulation sets out a framework for a more risk-sensitive regulatory treatment of exposures to securitisations complying with such criteria. As with the Basel STC criteria, the Securitisation Regulation provides for different STS criteria for term (i.e. non-ABCP) securitisations, as distinguished from short-term (i.e. ABCP) securitisations. Although the criteria are similar, those for ABCP securitisations focus on the distinction between transaction, sponsor and programme level criteria.

The Securitisation Regulation provides that by 18 October 2018 the European Banking Authority (the “**EBA**”) shall adopt guidelines and recommendations on the harmonised interpretation and application of the STS requirements for both ABCP and non-ABCP securitisations. On 20 April 2018 the EBA published consultation papers on its draft guidelines for ABCP and non-ABCP securitisations¹². The EBA noted that where possible and appropriate the existing recommendations in the Basel July 2016 Framework had been taken into account when developing their interpretation.

Conclusion

The STC framework is generally welcome for both term and short-term securitisations. However, there are practical points that may preclude against the regime being applied widely.

First, the Basel STC framework has to a large extent been superseded in the EU by the STS criteria in the EU's new Securitisation Regulation. These STS criteria are already set out in EU law and are similar to, but not identical to, the STC criteria. There is some scope for the EBA's new guidelines to reflect aspects of the STC criteria, but the Basel Short-Term STC Criteria were published after the EU primary legislation on this subject had already been finalised.

Furthermore, the criteria may be too restrictive, and the regulatory benefits may not be sufficiently significant, for the criteria to be widely adopted. The adoption of the Transaction Level Approach over the Baseline Approach for banks' exposures at the transaction level is to be welcomed, but there remain practical difficulties in complying with all the applicable Short-Term STC Capital Criteria. We await to see whether the regulatory capital benefits justify banks' compliance costs in complying with the short-term STC framework. In addition, although the short-term STC

¹⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2402&from=en>

¹¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2401&from=EN>

¹² <https://www.eba.europa.eu/-/eba-consults-on-its-guidelines-interpreting-the-sts-criteria-in-securitisation>

framework takes effect immediately, its implementation is not mandatory and jurisdictions which consider that the implementation costs outweigh the potential benefits retain the option not to implement the STC framework.

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Appendix A - Criteria for Identifying STC Short-Term Securitisations

(NB This is a summary only. The full criteria are set out in the May 2018 criteria for identifying “simple, transparent and comparable” short-term securitisations.)

A. Asset Risk**1. Nature of assets (relevant to the conduit and transaction level)**

The underlying assets should be homogeneous, in terms of asset type. The underlying assets should not be composed of “securitisation exposures”. Any referenced interest payments or discount rates should be based on commonly encountered market interest rates, but should not reference complex or complicated formulae or exotic derivatives. Credit claims or receivables underlying a transaction in a conduit should have contractually identified periodic payment streams.

At the conduit level, the sponsor should make representations and warranties to investors that the transaction level criteria are met

2. Asset performance history (relevant to the conduit and transaction level)

The sponsor should make available to investors sufficient loss performance data on claims and receivables with substantially similar risk characteristics, such as delinquency and default data on similar claims, and for a sufficiently long period to allow investors to carry out their evaluation of expected loss.

3. Payment status (relevant to the conduit and transaction level)

The sponsor should obtain representations from sellers that the credit claims or receivables underlying each individual transaction are not in default, or delinquent, or subject to a material increase in expected losses or enforcement actions.

At the conduit level, the sponsor should make representations and warranties to investors that the transaction level criteria are met

4. Consistency of underwriting (relevant to the conduit and transaction level)

The sponsor should ensure that sellers (in their capacity as original lenders) in transactions with the conduit demonstrate to it that any credit claims or receivables being transferred to the conduit have been originated in the ordinary course of the seller’s business and are subject to underwriting standards no less stringent than those applied to credit claims and receivables retained on the balance sheet of the seller and that the obligors have been assessed as having the ability and volition to make timely payments.

At the conduit level, the sponsor should make representations and warranties to investors that the transaction level criteria are met

5. *Asset selection and transfer (relevant to the conduit and transaction level)*

The sponsor should ensure that credit claims or receivables transferred to the conduit satisfy clearly defined eligibility criteria; and are not actively selected after the closing date, actively managed or otherwise cherry-picked.

The sponsor should ensure that the transactions effect true sale such that the underlying credit claims or receivables are enforceable against the obligor and are not subject to material re-characterisation or clawback risks. Re-securitisations are excluded.

At the conduit level, the sponsor should make representations and warranties to investors that the transaction level criteria are met

6. *Initial and ongoing data (relevant to the conduit and transaction level)*

The sponsor should ensure that the individual sellers (in their capacity as servicers) provide it with sufficient asset-level data or, in the case of granular pools, summary stratification data on the relevant risk characteristics of the underlying pool before transferring any credit claims or receivables to such underlying pool and on an ongoing basis.

At the conduit level, to assist investors in conducting due diligence and ongoing monitoring of their investments' performance, the sponsor should provide sufficient aggregated data that convey the relevant risk characteristics of the underlying pools at least monthly.

B. Structural risk

7. *Full support (relevant to the conduit level only)*

The sponsor should provide the liquidity facilities and the credit protection support for any ABCP programme issued by a conduit so that investors should be able to rely on the sponsor to ensure timely and full repayment of the commercial paper.

8. *Redemption cash flow (relevant to the transaction level only)*

The sponsor should ensure that, unless the pool is sufficiently granular, there is no reliance on the sale or refinancing of underlying credit claims or receivables to repay the liabilities and that repayment relies primarily on the general ability and willingness of the obligor to pay.

9. *Currency and interest rate asset and liability mismatches (relevant to the conduit and transaction level)*

The sponsor should ensure that any interest rate and foreign currency risks are appropriately mitigated. The sponsor should also ensure that derivatives are used for genuine hedging purposes only and that hedging transactions are documented according to industry-standard master agreements.

At the conduit level, the sponsor should provide sufficient information to investors to allow them to assess how the payment risk arising from the different interest rate and currency profiles of assets and liabilities is appropriately mitigated

10. Payment priorities and observability (relevant to the conduit and transaction level)

To prevent the conduit from being subjected to unexpected repayment profiles from the transactions, the sponsor should ensure that priorities of payments are clearly defined and appropriate legal comfort regarding the enforceability is provided.

All triggers affecting the cash flow waterfall, payment profile or priority of payments should be clearly and fully disclosed to the sponsor.

For any of the transactions where the conduit holds a securitisation position, the sponsor should ensure that any subordinated positions do not have inappropriate payment preference over payments to the conduit (which should always rank senior to any other position).

Transactions featuring a revolving period should include provisions for appropriate early amortisation events and/or triggers of termination of the revolving period.

Policies and procedures, remedies and actions relating to delinquency, default, dilution or restructuring of underlying debtors should be provided so that the sponsor can identify debt forgiveness, forbearance, payment holidays, restructuring, dilution and other asset performance remedies on an ongoing basis.

The sponsor should ensure that it receives cash flow analysis or information allowing analysis of the cash flow waterfall of securitisations in which the conduit has a beneficial interest.

At the conduit level, the commercial paper issued by the ABCP programme should not include extension options or other features which may extend the final maturity of the asset-backed commercial paper, where the right to trigger does not belong exclusively to investors. At the conduit level, the sponsor should make representations and warranties to investors that the transaction level criteria are met.

11. Voting and enforcement rights (relevant to the conduit and transaction level)

The sponsor should ensure that all voting and enforcement rights related to the credit claims or receivables are clearly defined

At the conduit level, the sponsor should make sufficient information available in order for investors to understand their enforcement rights on the underlying credit claims or receivables in the event of insolvency of the sponsor.

12. *Documentation disclosure and legal review (relevant to the conduit level only)*

The sponsor should ensure that offering documentation for the ABCP programme is provided to investors prior to issuance, so that investors are provided with full information needed to make informed investment decisions. The sponsor should ensure a legal review of the terms and documentation of a conduit and the ABCP programme it issues prior to publication.

13. *Alignment of interest (relevant to the conduit level only)*

To align the interests of those underwriting the credit claims and receivables with those of investors, a material net economic exposure should be retained by the sellers or the sponsor at the transaction level, or by the sponsor at the conduit level. The sponsor should disclose to investors how a material net economic exposure is retained and demonstrate the existence of a financial incentive in the performance of the securitised assets.

14. *Cap on maturity transformation (relevant to the conduit level only)*

The sponsor should verify and disclose to investors that the weighted average maturity of all the transactions financed under the ABCP conduit is three years or less.

C. *Fiduciary and servicer risk*

15. *Financial institution (relevant to the conduit level only)*

The sponsor should be a financial institution licensed to take deposits and subject to appropriate prudential standards and levels of supervision.

16. *Fiduciary and contractual responsibilities (relevant to the conduit and transaction level)*

The sponsor should ensure that it receives representations from the sellers (and all other parties responsible for originating and servicing the asset pools) that they have; (i) well documented procedures and policies in place to ensure appropriate origination and servicing of the underlying assets; and (ii) expertise in the origination of assets similar to those in the asset pools; and (iii) extensive servicing expertise.

At the conduit level, the sponsor should make representations and warranties to investors that the transaction level criteria are met and that the sellers have strong systems and reporting capabilities in place to ensure appropriate origination and servicing of the underlying assets.

The sponsor should be able to demonstrate expertise in providing liquidity and credit support in the context of ABCP conduits. The sponsor should have well documented policies, procedures and risk management controls and act in accordance with reasonable and prudent standards. The party or parties with fiduciary responsibility should act in the best interests of the investors.

17. Transparency to investors (relevant to the conduit level only)

The sponsor should ensure that the contractual obligations, duties and responsibilities of all key parties to the conduit are defined clearly in the initial offering and in any relevant underlying documentation of the conduit and the ABCP programme it issues. The sponsor should ensure that the initial offering documentation contains provisions regarding the replacement of key parties (eg bank account providers and derivatives counterparties) in the event of failure or non-performance of such parties.

The sponsor should also make representations and warranties to investors that these duties and responsibilities are clearly defined and that the replacement of key counterparties at the transaction level are well documented.

The sponsor should provide information to investors about the liquidity facilities and credit support provided to the ABCP programme, so that they can understand its functioning and key risks.

Appendix B - Short-Term STC Capital Criteria: Additional Criteria for Capital Purposes

(NB This is an outline summary only. The full criteria are set out in the May 2018 Standard on the capital treatment for short-term “simple, transparent and comparable” securitisations.)

The additional criteria for capital purposes (being either guidance or a requirement depending on the criteria) are outlined below - these are *in addition* to the Short-Term STC Criteria summarised in Appendix A above.

A. Asset Risk**1. Nature of assets**

The additional guidance for capital purposes concerns: the bases for assessing homogeneity; examples of “commonly encountered market interest rates”; clarification of “exotic derivatives”; and a clarification of the requirement that the underlying assets should not be composed of “securitisation exposures”.

2. Asset performance history

To meet the Short-Term STC Capital Criteria, investors must request confirmation from the sponsor on the performance history of the originator and the original lender for claims or receivables substantially similar to those being securitised has been established for a period of at least five years for non-retail exposures, and of at least three years for retail exposures.

3. Payment status

To prevent credit claims or receivables arising from credit-impaired borrowers from being transferred to the securitisation, the original seller or sponsor should verify that the credit claims or receivables meet prescribed conditions for each transaction mainly concerning the creditworthiness of the obligor.

4. Consistency of underwriting

The sponsor of the securitisation is expected, where underlying credit claims or receivables have been acquired from third parties, to review the underwriting standards of these third parties and to ascertain that they have assessed the obligors’ “ability and volition to make timely payments” on their obligations.

5. Asset selection and transfer

A legal opinion must support the claim that the true sale and the transfer of assets satisfy clearly defined eligibility criteria and are not actively selected after the closing date, actively managed or otherwise cherry-picked at the transaction level.

6. *Initial and ongoing data*

The standardised investor reports which are to be made readily available to current and potential investors at least monthly should include prescribed information.

B. Structural risk

7. *Full support*

Under the terms of the liquidity facility agreement: (a) upon specified events affecting its creditworthiness, the sponsor shall be obliged to collateralise its commitment in cash to the benefit of the investors or otherwise replace itself with another liquidity provider; and (b) if the sponsor does not renew its funding commitment for a specific transaction or the conduit in its entirety, the sponsor shall collateralise its commitments regarding a specific transaction or, if relevant, to the conduit in cash at the latest 30 days prior to the expiration of the liquidity facility, and no new receivables should be purchased under the affected commitment.

8. *Redemption cash flow*

For capital purposes, sponsors cannot use support provided by their own liquidity and credit facilities towards meeting the criterion that there is no reliance on the sale or refinancing of underlying credit claims or receivables to repay the liabilities and that repayment relies primarily on the general ability and willingness of the obligor to pay.

9. *Currency and interest rate asset and liability mismatches*

The term “appropriately mitigated”, in the context of the requirement that the sponsor should ensure that any interest rate and foreign currency risks are appropriately mitigated, must be demonstrated by making available quantitative information on the hedge used.

10. *Payment priorities and observability*

N/A

11. *Voting and enforcement rights*

N/A

12. *Documentation disclosure and legal review*

Prior to including a new transaction in the ABCP conduit, the sponsor should ensure a legal review of the terms and documentation of the transaction.

13. *Alignment of interest*

N/A

14. *Cap on maturity transformation*

N/A

C. *Fiduciary and servicer risk*

15. *Financial institution*

N/A

16. *Fiduciary and contractual responsibilities*

A third-party review for sellers who are non-banking entities may be utilised in substantiating that they have “strong systems and reporting capabilities” in place to ensure appropriate origination and servicing of the underlying assets (to ensure an assessment that is comparable with that of banking entities).

17. *Transparency to investors*

N/A

D. *Additional Criteria for Capital purposes*

There are two further STC criteria for capital purposes.

18. *Credit risk of underlying exposures*

At the date of acquisition of the assets, the underlying exposures have to meet the conditions under the Standardised Approach for credit risk. The Basel Committee was concerned that inconsistent underwriting practices across jurisdictions could result in different risk characteristics within a single asset class. It also considered that criterion based on regulatory risk weights under the Standardised Approach for credit risk: (a) has the merit of using globally consistent regulatory risk measures; and (b) has the benefit of applying a filter to ensure that higher-risk underlying exposures are not granted an alternative capital treatment as STC-compliant transactions.

19. *Granularity of the pool*

At the date of acquisition of any assets securitised by one of the conduits' transactions, the aggregated value of all exposures to a single obligor shall not exceed 2% of the aggregated outstanding exposure value of all exposures in the programme (subject to a possible increase to 3% for corporate exposures subject to the satisfaction of specified conditions).

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