EBA publishes Opinion on the regulatory treatment of non-performing exposure securitisations

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**The European Banking Authority (EBA) published today an Opinion on the regulatory treatment of securitisations of non-performing exposures (NPE). Securitisations can play an instrumental role in reducing NPE stocks in credit institutions’ balance sheets but such a role may be hindered by certain provisions in the EU law securitisation framework. This Opinion recommends various amendments to the Capital Requirements Regulation (CRR) as well as to the Securitisation Regulation to remove the identified constraints. The Opinion is addressed at the European Commission and contributes to the objectives of the Council of the EU’s “Action plan to tackle non-performing loans in Europe”. A copy of the Opinion has been sent to the European Parliament and the Council.**

NPE securitisations are transactions backed by pools comprised exclusively or almost exclusively of NPE at the time of inception. Though structurally similar to other securitisations, the underlying assets have distinctive features that set NPE securitisations apart from those from an economic substance perspective, namely due to the large discount on their nominal value and their specific underlying risks.

The Opinion explains that the regulatory framework imposes certain constraints on credit institutions using securitisation technology to dispose of NPE holdings, namely:

* Very high capital requirements on investor credit institutions under the CRR: the pre-eminent securitisation capital methods (the SEC-IRBA and the SEC-SA) and the look-through approach lead to disproportionately high capital charges on NPE securitisation positions when compared to relevant benchmarks and, as a result, tend to overstate the actual risk embedded in the portfolio;
* Compliance challenges as regards certain risk retention and due diligence requirements under the Securitisation Regulation.

The Opinion recommends that the Commission consider a number of targeted amendments to the CRR and the Securitisation Regulation to remove these constraints whilst maintaining the integrity of the prudential framework. The recommendations should be viewed as preliminary and subject to additional analytical work, namely the amendments to the CRR that may require limited calibration. Furthermore, the potential amendments to the CRR should be, to the extent possible, consistent with comparable international standards.

**Legal basis**

The Opinion has been drafted in accordance with Article 34(1) of Regulation (EU) No 1093/2010, by virtue of which the Authority may, on its own initiative, provide opinions to the European Parliament, the Council and the Commission on all issues related to its area of competence. The regulatory treatment of NPE securitisations falls within the remint of the EBA’s areas of competence.