



Recommendations on global developments in securitisation regulation. November 2012.

IOSCO Board has published, the 9th October, a final report on Global Developments in Securitisation Regulation which proposes a series of recommendations aimed at ensuring securitisation markets development. This document has been issued as a response to a Financial Stability Board (FSB)´s request which, at the same time, is part of the FSB ongoing work for the G20 on the shadow banking area. This final report builds on earlier IOSCO work and on the responses to a consultation paper published in June 2012.

Securitisation is a valuable financing tool that contributes to the economic growth and the efficient diversification of risk. However, the 2008 global financial crisis is recognised as having damaged investor confidence in these markets and its activity has suffered a significant downturn. IOSCO issues 10 recommendations with the aim of contributing to restore investor confidence based on certain aspects of securitisation giving prominence to risk retention, transparency and standardization.

1. Risk retention.

Risk retention is a mechanism to improve securitised product´s buyers confidence on these products through the seller´s commitment to the securitised product sold that consists of retaining in the seller´s balance sheet part of the securitised product´s risk.

In the EU, risk retention requirements have been implemented for credit institutions through the Capital Requirements Directive and these requirements are to be extended to other types of institutions such as insurance companies. In the EU, the acquirer checks the effective risk retention and the law considers only one exemption related to public guaranteed securities. However, in USA risk retention requirements are still being developed through the implementation of the Dodd Frank Wall Street Reform and Consumer Protection Act, the risk retention check rests on both parts (seller and acquirer) and law exceptions seem to be so relevant that risk retention requirements could become contentless.

To assist in harmonisation, IOSCO proposes a road map intended to support incentive alignment in global securitisation markets, particularly through risk retention requirements, while reducing the risk that potential barriers to cross border securitisation markets may emerge.

Recommendations numbered 1 to 3 detail the incentive alignment and risk retention.

In jurisdictions where risk retention is mandated, the following elements should be addressed:

1. The party on which obligations are imposed. For example, direct and/or indirect regime (if it is direct the obligations are imposed on the seller, whereas if it is indirect, the obligations rest on the acquirer) based on an assessment of the most efficient and effective way of achieving risk retention.
2. Permitted forms of risk retention requirements (for example, horizontal, vertical etc.).
3. Exceptions or exemptions from the risk retention requirements, and alternatives to maintain a part of the risk in the balance sheet.

Where a jurisdiction chooses not to mandate risk retention, its regulations would be jointly revised by other IOSCO members performing a peer review and national authorities should explain which measures have been adopted to achieve risk retention in their regulations and/or through market practices.

IOSCO pretends the development of general principles on forms or risk retention (with particular regards to specific asset classes) and exemptions and/or adjustments, that should be finalised by mid-2013. In addition, once jurisdictions have concluded the implementation of their approaches -no later than mid-2014-, the IOSCO Assessment Committee will conduct a peer review on all members jurisdictions to assess implementation of

incentive alignment approaches.

2. Transparency and Standardisation.

IOSCO considers that it is essential to give investors the suitable means to assess securitisation issuers disclosure regarding securitised products structure and its underlying risks. Hence, IOSCO recommends that investors should: a) receive information in relation to the base case and risk/reward profile of a product; b) be provided with modelling tools (spreadsheets etc) that enable investors to conduct cash flow analyses of an underlying of a given securitisation transaction through its life; and c) receive any relevant documents and relevant data provided, in such a case, to Credit Rating Agencies (CRAs) that are necessary to analyse a product's creditworthiness consistent with applicable privacy and confidentiality laws. A better data availability would help to diminish the excessive reliance on CRA ratings.

Recommendation number 4 points out that, to improve the detail of information to be made available to investors, works must be continued to achieve templates standardisation by end 2013 and the issuing of general principles to ensure as much convergence as possible of these templates across jurisdictions by 2014.

According to recommendation number 5, Regulators should consider ways issuers may be required to provide investors, at the point of sale and on an ongoing basis, information necessary to make an informed investment decision.

3. Further issues to be considered.

IOSCO states other recommendations (numbers 6 to 10) and invites further consideration on work on: the relative prudential treatment of securitisation products (assessment of differences in the capital requirements and liquidity treatment facing other types of structured products); accounting convergence to ensure that risk retention requirements do not penalise originators; measures to eliminate or reduce the potentially negative effects of differences in national regulation on cross border transactions; standardisation of less complex and more liquid securitisation products; and, finally, the implementation of FSB's principles for sound residential mortgage underwriting practices.

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