13 February 2025
ESMA12-2121844265-4735

Reply form

Consultation Paper on the revision of the disclosure framework for private securitisation under Article 7 of the Securitisation Regulation

Responding to this paper

ESMA invites comments on all matters in the Consultation Paper and in particular on the specific questions in this reply form. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **31 March 2025.**

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in this reply form.
- Please do not remove tags of the type <ESMA_QUESTION_VALID_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
- When you have drafted your responses, save the reply form according to the following convention: ESMA_VALID_nameofrespondent.

  For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA_VALID_ABCD.
- Upload the Word reply form containing your responses to ESMA's website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and heading 'Data protection'..

1. General information about respondent

Name of the company / organisation	Structured Finance Association
Activity	Other Financial service providers
Are you representing an association?	☒
Country/Region	International

2. Questions

Q1 Do you agree with the proposed approach to disclosing information on private securitisations? If not, please specify any alternative approaches you would recommend, including their advantages and potential drawbacks.

<ESMA_QUESTION_PRSE_1>

The Structured Finance Association ("**SFA**") represents over 360 members from all sectors of the securitisation market, and our core mission is to support a robust and liquid securitisation market. SFA provides an inclusive network for securitisation professionals to collaborate and, as industry leaders, drive necessary changes, be advocates for the securitisation community, share best practices and innovative ideas, and educate industry members through conferences and other programs. In balancing the interests of our diverse membership, SFA values consistency and clarity across applicable regulations.

The SFA would like to thank ESMA for its engagement on this issue, and the publication of this thoughtful Consultation Paper. We very much appreciate and support the principle of simplifying securitisation disclosure requirements under the SECR, particularly for private transactions. We believe a reduction in the scale of the regulatory burden is a critical step in the journey towards more open capital markets capable of providing much needed finance to the real economy.

We support the general principle of simplification ESMA is aiming to implement with this Consultation Paper, and for that reason we have reservations about the specific methods ESMA is proposing to achieve it.

ESMA's stated goal in this consultation is to "strike a balance between maintaining transparency, ensuring an adequate level of protection for investors and reducing unnecessary regulatory burdens…while ensuring that supervisory authorities have access to the necessary data for effective market monitoring". SFA supports striking this balance, but we are of the view that ESMA have set themselves a virtually impossible task by trying to achieve all of these outcomes in a disclosure

annex rather than appropriately taking account of, and relying on, the significant surrounding corpus of regulation. In the case of private securitisations which, as the Consultation Paper points out, "generally involve sophisticated investors who already access detailed transaction-level data through bilateral arrangements", it is appropriate to rely on that corpus to achieve the investor protection purpose. The ban on selling securitisations to retail investors, the regulatory due diligence requirements and the nature of private transactions involving a small number of sophisticated investors with significant commercial negotiating power creates a situation where concerns around investor protection are adequately met by means other than prescriptive disclosure rules.

Indeed, private securitisations include a wide range of situations in which the institutional investor(s) involved may have both a higher level of sophistication and more negotiating power than the relevant sell-side entities. An example of this particularly relevant to SFA is the example of European banks wishing to lend in securitisation format to U.S. corporates in order to reduce the cost of credit. In this situation, the lending bank is unlikely to need (or indeed make use of even if provided) prescribed disclosure templates. They have their own credit models that require particular inputs and the bank will work with the corporate in question to match up the information the corporate has with the model's input requirements in a flexible way. The effect of requiring the European bank to obtain particular regulatory templates is simply to make them less competitive, and therefore less able to grow their business and generate returns for their stakeholders. A similar concern would apply where it was a European fund manager, or indeed an American fund manager managing European money.

It is therefore not necessary or helpful to add investor protection to the list of objectives for Annex XVI disclosure. Indeed, doing so creates a regulatory reporting burden with no meaningful corresponding investor protection function, since investors will have access to far more detailed – and more useful – information pursuant to contractual arrangements. The data required by Annex XVI would not, in any case, be sufficient to make an investment decision, meaning they serve no meaningful investor protection function. Instead, the proposed Annex XVI should focus solely on providing the information required by supervisors for effective market monitoring.

Some of our principal concerns (each of which is further elaborated in later questions) are as follows:

1. One principal reason the Commission suggested a simplified disclosure template for private securitisations in its 10 October 2022 report was to facilitate investment by EU institutional investors in third-country securitisations. Limiting the proposal in the Consultation Paper so that it applies only when all sell-side parties (the originator, original lender, sponsor and SSPE) are established in the EU prevents the proposed simplified template from achieving this purpose.

2. The proposed new template, while inspired by existing templates prescribed by other authorities, contains new disclosure items that are not currently envisaged under the Article 7 SECR RTS and is in a different format to the format of the templates that inspired it. This will require originators to amend their systems to collect and report the relevant information, a costly exercise that market participants would prefer only to do once, after any changes

to the level 1 SECR text are known. For sell-side entities that are not systemically significant banks, the SSM template used as a starting point for the proposed new Annex XVI will be entirely new.

3. Some of the information required by the proposed Annex XVI has historically only been provided to supervisors by sell-side entities who are systemically significant banks. Making that information available to investors and potential investors is potentially problematic because some of that information may be confidential or otherwise competitively or commercially sensitive.

4. The proposed Annex XVI is mandatory (where it is applicable) and ESMA do not appear to have proposed any transitional provisions, meaning that existing transactions done on the basis of the current law would be subject to the new disclosure requirements. This is problematic for legacy transactions as some reporting entities may not be in a position to fill in all the relevant fields in the proposed new Annex XVI, the information may be confidential or otherwise commercially sensitive and in any case there would be unforeseen costs required to adapt to the new templates. Legacy transactions should therefore be "grandfathered" out of any new reporting obligations for their lives.

5. The Consultation Paper suggests at paragraph 22 that the full set of "public" disclosure information would still need to be provided upon request. If true, this would defeat the point of any simplification. It would mean that the sell-side parties of any "European private securitisations" would need to continue collecting all of the information required for the "public" templates and have the reports ready to be produced in case they were requested. This would be in addition to the new Annex XVI information, leading to an overall increase in reporting burden, rather than the decrease that was presumably intended. We note that there does not appear to be any provision for the requirement to produce public templates upon request in the draft amending RTS appended to the Consultation Paper. We hope this means that the statement in paragraph 22 of the Consultation Paper was included in error. In any case, no such obligation to produce the "public" templates should exist for transactions subject to a private reporting template.

We would suggest the following alternative approaches:

1. Wait for any revisions of the level 1 SECR text to be certain before undertaking this simplification exercise; or

2. Proceed now, but on the following basis:

    a. The use of Annex XVI disclosure is made available to any "private" securitisation, without geographical limits.

    b. Annex XVI is significantly pared back so that it consists only of fields already required under existing annexes, or fields that consist of producing outputs obtainable through simple arithmetic manipulation of existing required fields (e.g., weighted averages, stratification tables, etc.). As discussed further below, ideally this would

consist only of a limited set of key details relating to the securitisation to be provided to supervisory authorities.

c. The use of Annex XVI is made voluntary, so that market participants may continue with their current reporting if they wish.

d. The use of Annex XVI should replace not only the loan-level reports under Article 7(1)(a) of SECR otherwise required, but also the investor reports required under Article 7(1)(e) of SECR;

e. Annex XVI should not apply to ABCP at all, meaning the ABCP reporting requirements would remain unchanged. To be clear, ABCP programmes/transactions should still be treated as "private", as they would be under the level 1 SECR text. As we understand it, though, the existing ABCP reporting arrangements already work for both European supervisors and for market participants so they should be left undisturbed.

f. If reports on Annex XVI are provided there is no obligation to produce the "public" disclosure upon request or otherwise – but it would be fine for supervisors to have the power to require a copy of the contractually negotiated investor disclosure upon request.

<ESMA_QUESTION_PRSE_1>

Q2 Do you agree with the proposed scope of application, which requires all of the originators, sponsors, original lenders and SSPEs to be established in the Union? Alternatively, do you see any merit in applying the new template when at least the originator and sponsor are established in the Union? Please provide specific examples where the application of the proposed scope might present practical challenges.

<ESMA_QUESTION_PRSE_2>

No, we do not agree, nor do we see merit in restricting the use of the template to situations when at least the originator and sponsor are established in the Union. The SFA values open, efficient capital markets able to provide the funding required for the real economy. To this end, it is important than cross-border flows of capital should be encouraged in order to produce the best returns for European stakeholders and to maximise the ability of European companies to diversify their investments, including by doing business in third countries, including the United States.

Including a geographical constraint on the use of any simplified private template would defeat an important objective the Commission set out in its 10 October 2022 Report on the functioning of the Securitisation Regulation. In that Report (see page 21), the Commission noted the competitive disadvantage faced by EU institutional investors imposed by the requirement that they obtain the information prescribed to be provided by EU sell-side parties under Article 7 SECR, regardless of

whether the securitisation in question had sell-side parties established in the Union. They went on to note that their proposal to create a simplified private securitisation template "might help reduce the competitive disadvantage for EU institutional investors. This is because this will make it easier also for sell-side parties from third-countries to provide the required information."

What is more, we cannot see a legal basis in the level 1 text of SECR for restricting the use of a simplified private template on the basis of the jurisdiction of establishment of the sell-side parties to a transaction. Indeed, in its 10 October 2022 Report, the Commission stated that "differentiating the scope of information to be provided, depending on whether the securitisation is issued by EU entities or by entities based in third-countries, is not in line with the legislative intent, since it does not matter for the proper performance of the EU based institutional investors' due diligence whether a securitisation originated inside or outside the EU." They made this statement in the context of interpreting Article 5(1)(e) of SECR in a way that required EU institutional investors to obtain the same information from EU and non-EU sell-side parties, but the exact same principle applies here, suggesting the intent of the level 1 text of SECR would actually prohibit ESMA from taking the approach suggested in the Consultation Paper. This outcome would also run completely contrary to the market's expectations based on the Commission's Report and would do nothing to mitigate this significant issue for EU institutional investors with operations outside the Union, or who otherwise wish to invest in securitisations with non-EU issuers/originators. EU investors in non-EU transactions would be required to obtain more detailed reporting templates than for EU private transactions, which is precisely the situation where it is more difficult for EU investors to obtain such information.

We would further note that the articulation of the geographical requirement creates legal uncertainty where there are multiple, e.g., originators, some of which are in the EU and some of which are not. Taking a multinational enterprise's trade receivable financing arrangements as an example, it is entirely plausible that a private securitisation could have originators both in and out of the EU. It is unclear whether such a transaction could take advantage of Annex XVI. Worse, it is entirely plausible that that transaction could start out with all only EU originators but then add a non-EU originator later, or vice-versa. In that case, would the reporting templates have to change mid-transaction? That would, of course, be completely impractical and may even be impossible to comply with in practice.

<ESMA_QUESTION_PRSE_2>

Q3 Do you agree that the simplified template should be made available in CSV format, or should ESMA adopt a more flexible approach proposing a machine-readable format to be determined by the CA? Please specify which alternative format(s) you would recommend and provide your rationale.

<ESMA_QUESTION_PRSE_3>

SFA supports flexibility in the format used to provide information under prescribed reporting templates. CSV format is commonly used in the industry and we believe providing it as an option for reporting is a positive development.

<ESMA_QUESTION_PRSE_3>

Q4 Do you agree with the disclosure frequency proposed in the Consultation Paper? Please provide your rationale.

<ESMA_QUESTION_PRSE_4>

No. To establish the right balance for private securitisations the reporting regime should provide supervisors with the appropriate data to be aware of broad market trends without over-burdening market participants. Accordingly, initial disclosure of broad information to supervisors is appropriate in order to ensure that they have knowledge of the transactions that are taking place and their main features, such as size, currency, asset class, tenor, capital structure and STS status. Ideally this would be initial disclosure only for private transactions, and while we acknowledge this is not currently possible in the context of the existing SECR level 1 requirement for periodic reporting pursuant to Articles 7(1)(a) and (e), we hope it will be achievable following review of the level 1 text. It is also sensible that if there is an unexpected change in any of these items (e.g., an extension of maturity, early redemption, redenomination in a new currency), that an update should be provided to ensure that the previously provided reporting does not become misleading, so periodic reporting can fulfil the function of providing these updates.

That said, we accept that authorities need the ability to access further information in specific circumstances where the information provided as a matter of course is not sufficient. In such cases, we would support competent authorities having the power to request the disclosure of the reporting information contractually agreed with investors and contemplated in the transaction documentation.

<ESMA_QUESTION_PRSE_4>

Q5 Do you agree with the structure of the simplified template, specifically the relevance of Section A to D for private securitisations? If not, please suggest any changes to the template's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_5>

SFA has no objection to the general structure of the template proposed. We would, however refer you to our proposed organising principle above that Annex XVI should consist only of fields already required under existing annexes, or fields that consist of producing outputs obtainable through simple arithmetic manipulation of existing required fields (e.g., weighted averages, stratification tables, etc.).

<ESMA_QUESTION_PRSE_5>

Q6 Do you consider the use of ND Options in the template for private securitisations to be useful? Please provide your rationale.

<ESMA_QUESTION_PRSE_6>

Yes. It is essential that ND options be made available as widely as possible for Annex XVI. Private securitisations are precisely the kinds of transactions most likely to involve sell-side parties who are less able to collect and report the kind of detailed information currently required for private securitisations. This currently represents a material barrier to entry for market participants wishing to make use of securitisation as a funding tool, including European banks wishing to lend in securitisation format to SMEs in order to reduce the cost of credit. Where the SMEs in question are in the EU, this type of asset-backed lending is either not available or only becomes available after significant work is done to ensure collection and reporting of the appropriate data is possible. For European banks seeking to expand their businesses by lending to U.S. corporates, the requirement that they obtain templated reporting information is a significant competitive disadvantage.

Accordingly, the broad availability of ND options would represent a step in the right direction when it comes to making securitisation funding accessible for a broader range of market participants, and – assuming the proposed geographic limitations are dropped – towards reducing the competitive disadvantage imposed on European lenders/investors when doing business in third countries.

<ESMA_QUESTION_PRSE_6>

Q7 Do you agree with the fields proposed in Table 1? If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_7>

We would refer you to our proposed organising principle in response to question 1 above that Annex XVI should consist only of fields already required under existing annexes, or fields that consist of producing outputs obtainable through simple arithmetic manipulation of existing required fields (e.g., weighted averages, stratification tables, etc.). We would also refer you to the principle articulated in response to question 6 above that it is critical for ND responses to be available as widely as possible. In table 1, this is especially important for the fields requiring disclosure of LEIs, since – assuming the removal of the proposed geographical restrictions – not all entities involved on securitisation transactions will be required to have LEIs.

<ESMA_QUESTION_PRSE_7>

Q8 Do you agree with the fields proposed in Table 2? If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_8>

SFA would recommend the deletion of table 2 entirely. Templated disclosure for significant events is not currently required and we can see no reason why additional fields should be included in the template and add to the regulatory burden. We are not aware of any difficulties presented by the absence of a template for significant event disclosure on private transactions in the time since the SECR became applicable on 1 January 2019. Provided that competent authorities get the same information provided to investors, then they should have all the information they need for supervision.

<ESMA_QUESTION_PRSE_8>

Q9 Do you agree with the securitisation characteristics fields proposed in Table 3? If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_9>

We have no specific comments on this table other than to refer you to our proposed organising principle in response to question 1 above that Annex XVI should consist only of fields already required under existing annexes, or fields that consist of producing outputs obtainable through simple arithmetic manipulation of existing required fields (e.g., weighted averages, stratification tables, etc.).

<ESMA_QUESTION_PRSE_9>

Q10 Do you agree with the instrument/securities characteristics fields proposed in Table 4? If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_10>

We have no specific comments on this table other than to refer you to our proposed organising principle in response to question 1 above that Annex XVI should consist only of fields already required under existing annexes, or fields that consist of producing outputs obtainable through simple arithmetic manipulation of existing required fields (e.g., weighted averages, stratification tables, etc.). We would also refer you to the principle articulated in response to question 6 above that it is critical for ND responses to be available as widely as possible. In table 4, this is especially important for the field requiring disclosure of an ISIN. We note that the field is marked "ISIN (if applicable)" but ND5 is not permitted as a response and the proposed amending ITS provides the input has to be an ISIN, so it is unclear to us how a reporting entity should complete this field in the case where there is no ISIN.

<ESMA_QUESTION_PRSE_10>

Q11 ESMA is not aware of significant issues with the current disclosure framework for ABCP transactions. Do you agree with maintaining this approach (i.e., Annex 11), or do you consider that disclosure via the simplified template would be more appropriate for ABCP transactions? Please provide your rationale.

<ESMA_QUESTION_PRSE_11>

As set out in our response to question 1 above, we believe that the current reporting regime works well for both market participants and competent authorities. On that basis, we would advocate maintaining the current approach to ABCP reporting.

<ESMA_QUESTION_PRSE_11>

Q12 If you support the use of the simplified templates for ABCP transactions (Question 10), do you also agree with the specific fields proposed in Table 5? If not, please suggest any changes to the content or structure of the table, along with the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_12>

We do not support changes to the current ABCP reporting regime.

<ESMA_QUESTION_PRSE_12>

Q13 Do you agree with the proposed approach for ABCP transactions, which focuses on information at the programme level? Alternatively, do you consider that disclosure should be based on transaction-level information to ensure alignment with the disclosure requirements for public transactions? Please provide your rationale.

<ESMA_QUESTION_PRSE_13>

We do not support changes to the current ABCP reporting regime. Moreover, our feedback from members has been that transaction-level information is neither practical to provide nor helpful.

<ESMA_QUESTION_PRSE_13>

Q14 Do you agree with the contact information collected under Table 6? If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_14>

We would refer you to our proposed organising principle in response to question 1 above that Annex XVI should consist only of fields already required under existing annexes, or fields that consist of producing outputs obtainable through simple arithmetic manipulation of existing required fields (e.g., weighted averages, stratification tables, etc.). We would also refer you to the principle articulated in response to question 6 above that it is critical for ND responses to be available as widely as possible. In table 6, this is especially important for the fields requiring disclosure of LEIs, since – assuming the removal of the proposed geographical restrictions – not all entities involved on securitisation transactions will be required to have LEIs. ND5 should also be made available for the fired "full legal name of the trust office (if applicable)". ND5 is not currently permitted as a response, so it is unclear how this should be completed if there is no trustee on the transaction. Similarly, ND5 should be made available for the "Registered address of the SSPE" field. Not all private securitisations will have an SSPE (indeed, many won't), so it must be possible to reflect this in reporting. Finally, it is not clear to us why the name of the law firm would be relevant to be reported, and would suggest this field is deleted. If it is retained, more precision will be required, as there are sometimes multiple law firms providing legal services in relation to a single private securitisation.

<ESMA_QUESTION_PRSE_14>

Q15 Do you agree with the fields on the underlying exposures proposed in Table 7? If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_15>

We would refer you to our proposed organising principle in response to question 1 above that Annex XVI should consist only of fields already required under existing annexes, or fields that consist of producing outputs obtainable through simple arithmetic manipulation of existing required fields (e.g., weighted averages, stratification tables, etc.). We would also refer you to the principle articulated in response to question 6 above that it is critical for ND responses to be available as widely as possible. In table 7, this is especially important for the fields about defaulted and restructured exposures and EPCs, since – assuming the removal of the proposed geographical restrictions – neither of which are likely to be straightforward for non-EU originators/sellers. These both rely on fairly specific EU concepts information relating to which may not be readily available to non-EU parties. As a more technical note, we would recommend making ND5 available for all of the "2nd most relevant" and "3rd most relevant" fields in Tables 7.2, 7.3 and 7.4. This is for the simple reason that there may well only be one currency, jurisdiction or exposure class relevant to a given private securitisation. Where this is the case, there is no 2nd or 3rd most relevant currency, jurisdiction or exposure class, as the case may be.

<ESMA_QUESTION_PRSE_15>

Q16 Do you believe that a minimum set of information should be made available to users to monitor the evolution of the underlying risks? If so, do you consider that the fields proposed in Table 7 to be relevant for this purpose? If not, please indicate which alternative indications should be used and provide the rationale for your suggestions.

<ESMA_QUESTION_PRSE_16>

SFA members believe that information relating to the performance of the underlying exposures is relevant to investors but that this forms part of the information that we would expect to be in the negotiated disclosure package provided to investors pursuant to contractual arrangements. Consistent with our view that Annex XVI ought to fulfil the function of notifying authorities of the existence of a transaction and of its main features, we do not believe these fields need to be included in Annex XVI.

<ESMA_QUESTION_PRSE_16>

Q17 ESMA proposes the inclusion of fields to capture information on underlying assets to be reported at an aggregated level. Some of this information is also included in the Investor Report for non-ABCP transactions. Do you agree that such information should be provided in both the template for private securitisations and the Investor Report for non-ABCP transactions? Alternatively, would you support introducing the option to flag such fields as 'not applicable' in the Investor Report when used in the context of private securitisations? Please provide your views.

<ESMA_QUESTION_PRSE_17>

SFA believes that the Annex XVI reporting should cover both the Article 7(1)(a) loan-level requirements as well as the Article 7(1)(e) investor reporting requirements, which would mean this question no longer arises. If ESMA chooses not to integrate private securitisation reporting into Annex XVI, then we would suggest deleting fields that will anyway be required by Annex XII and XIII investor reporting from Annex XVI so as to avoid duplication.

<ESMA_QUESTION_PRSE_17>

Q18 Do you agree with the inclusion in table 7.5 of fields related to restructured exposures or do you consider that the information included in the investor reports is sufficient? Please provide your rationale for agreeing or disagreeing.

<ESMA_QUESTION_PRSE_18>

SFA members believe that information relating to the performance of the underlying exposures is relevant to investors but that such information is already included in the negotiated disclosure package provided to investors pursuant to contractual arrangements. Consistent with our view that

Annex XVI ought to fulfil the function of notifying authorities of the existence of a transaction and of its main features only, we do not believe these fields need to be included in Annex XVI.

<ESMA_QUESTION_PRSE_18>

Q19 If you agree with the inclusion of restructured exposure fields (Question 17), do you also agree with the specific fields proposed in Table 7.5? If not, please suggest any changes to the structure or content of Table 7.5, along with the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_19>

We do not agree with the inclusion of restructured exposure fields for the reasons set out in response to question 18.

<ESMA_QUESTION_PRSE_19>

Q20 Do you agree with the inclusion in table 7.6 of fields related to energy performance? Please provide your rationale for agreeing or disagreeing.

<ESMA_QUESTION_PRSE_20>

See our response to question 15. This is generally unobjectionable provided the ND responses are available for these fields.

<ESMA_QUESTION_PRSE_20>

Q21 If you agree with the inclusion of energy performance fields (Question 19), do you also agree with the specific fields proposed in Table 7.6? If not, please suggest any changes to the structure or content of Table 7.6, along with the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_21>

See our response to question 15. This is generally unobjectionable provided the ND responses are available for these fields.

<ESMA_QUESTION_PRSE_21>

Q22 Do you agree with the inclusion of the proposed fields related to risk retention, considering that this information is already covered in the investor reports? Please provide your rationale for agreeing or disagreeing.

<ESMA_QUESTION_PRSE_22>

SFA members have no objection in principle to a disclosure requirement that confirms confirmation with risk retention rules and the general way in which that is being done (e.g., which option from Article 6(3)(a)-(e) of SECR is being used, which legal entity is retaining and in what capacity). This information is already available via investor reporting required under Annexes XII and XIII and we are of the view that it would be appropriate to reproduce the existing disclosures in Annex XVI which, as we suggest, should combine any reporting required under Article 7(1)(a) and (e) of SECR to avoid duplication. To the extent that ESMA is not minded to include the Article 7(1)(e) reporting requirement in Annex XVI then we see no need to include a risk retention section here as it is duplicative, increasing the reporting burden rather than reducing it. We would note that, to the extent further information is required, this will of course be available in the legal documentation required to be disclosed to investors – and which investors will generally actively negotiate on a private securitisation. We would object to it being included in regulatory reporting.

<ESMA_QUESTION_PRSE_22>

Q23 If you agree with the inclusion of risk retention fields (Question 21), do you also agree with the specific fields proposed in Table 8? If not, please suggest any changes to the structure or content of Table 8, along with the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_23>

SFA members are of the view that the level of disclosure proposed in Table 8 is excessive and should be reduced to match the current disclosure required in Annexes XII and XIII. The proposed fields are more detailed than currently required in those annexes and also more detailed than that required by the ECB's SSM template. That would result in an increase in the reporting burden, rather than a decrease, which is ESMA's stated objective. We would therefore suggest fields requiring the disclosure of which option (from Article 6(3)(a)-(e) of SECR) is being used, which legal entity is retaining and in what capacity (originator, sponsor or original lender). A requirement to explain compliance with Article 6(2) requires the originator to explain how they are ***not*** doing something (i.e., engaging in adverse selection), which is inherently difficult, if not impossible to do. This is also not an obligation applicable to non-EU originators, sponsors or original lenders and not something investors are required to do due diligence on, so ND5 needs to be made available as an option assuming the proposed geographical limits are dropped. A requirement to explain compliance with Article 6(4) and the enhanced requirements to explain compliance with the detailed provisions contained in Commission Delegated Regulation 2023/2175 are not similarly difficult or impossible, but do add to the reporting burden for no clear benefit.

<ESMA_QUESTION_PRSE_23>

Q24 Do you agree with the fields proposed for the position level information in Table 9? If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_24>

SFA have the following comments on Table 9:

(a) The use of the term "position" is confusing if what ESMA would like disclosed is information about the tranches of liabilities in the transaction. This is because "position" suggests the position of an individual investor, rather than the full tranche. We would suggest using "tranche" instead.

(b) The information about the amount of the transaction actually retained is unnecessary and can be commercially sensitive information the risk retainer would not wish to disclose for legitimate reasons – it should therefore not be required at all.

(c) The way of dealing with net nominal amounts for NPE securitisations is confusing as net nominal amounts will generally relate to underlying exposures, not tranches. Net nominal amounts can be calculated via tranche information pursuant to the final sentence of Article 6(3a) of SECR, but this in our experience is the exception, rather than the rule. Perhaps this could be replaced with a disclosure of the non-refundable purchase price discount.

(d) As with our comments elsewhere, it is critical that ND options be made as widely available as possible here. In particular, the field requiring disclosure of an ISIN says "where applicable" but does not allow "ND5" as a response where there is no ISIN.

<ESMA_QUESTION_PRSE_24>

Q25 Do you agree with the fields proposed for synthetic securitisation in Table 9? If not, please suggest any changes to the Table's structure and provide the rationale for your proposed modifications.

<ESMA_QUESTION_PRSE_25>

SFA has the following comments on Table 10:

(a) It may not always be possible to identify the protection provider(s), so it should be possible to respond to this field accordingly with an ND response. This may be the case where credit linked notes are used, where notes are settled in, e.g. Euroclear and Clearstream, etc.

(b) There may be multiple protected tranches in a single synthetic securitisation, so it should be possible to reflect an attachment point and detachment point for each tranche. Table

10 currently implicitly assumes there will only be one protected tranche (and therefore a single attachment point and a single detachment point).

(c) A single transaction may have protection in multiple currencies. It is therefore important to amend the table to permit accurate disclosure of this. The current table contemplates only one currency.

(d) We would also note that the fields described in the consultation paper do always not match those in the attached draft RTS. For example, the consultation paper says the "type of synthetic securitisation" field "[s]pecifies whether the synthetic securitisation is funded or unfunded with credit protection". By contrast, the "Content to report" column for the "type of synthetic securitisation" field asks the question "Is this a 'balance sheet synthetic securitisation'?". These are very different questions. Whatever is being asked, the instructions should be clear so market participants can respond with the correct information.

(e) As with the rest of the disclosure tables, the availability of ND responses should be as wide as possible to avoid a situation where market participants simply cannot comply because their transaction does not fit the expected structure assumed by the templates.

<ESMA_QUESTION_PRSE_25>

Q26 Do you foresee any operational challenges or implications arising from the implementation of the simplified template for EU private securitisations? If so, please describe the challenges you anticipate and suggest any measures that could mitigate them.

<ESMA_QUESTION_PRSE_26>

The main challenges are those identified in our answer to Question 1. Principal among those challenges is the limited geographic scope of the proposals making it impossible for the proposed simplified template to fulfil one of the goals for it set out in the Commission's report of 10 October 2022. We consider that this is a serious flaw in the proposals and risks undermining their ability to achieve their goals. As mentioned above, we cannot see a legal basis in the level 1 text of SECR for restricting the use of a simplified private template on the basis of the jurisdiction of establishment of the sell-side parties to a transaction, and the Commission's report suggests that the approach of doing so is, in fact, contrary to the purpose of the level 1 text.

Beyond that, the proposals would require reporting entities to collect and report new information they do not currently collect and report, so adaptations of reporting systems will be required in order to comply. Given that such adaptations are costly, we would recommend postponing changes to the reporting system until after any forthcoming changes to the level 1 SECR text are complete so that they can all happen at once.

In addition, while we appreciate that ESMA intends to coordinate closely with the Commission to ensure alignment with potential Level 1 changes, it is extremely difficult for market participants to

assess the current proposals given the ongoing review of the level 1 SECR text, which could have an impact on various matters such as the definitions of public and private securitisations (although in our view third country deals should remain private), investor due diligence requirements (where a principles-based approach could be adopted, similar to that in the UK) and reporting requirements.

Further, the proposals contain no transitional provisions, meaning that such new information would need to be reported even on existing transactions that have been done before the need to having such reporting systems was known. This would risk forcing costly and premature redemptions, forcing costly exercises in gathering new data or simply an inability to comply when neither a redemption nor a gathering of the relevant data is possible.

Finally, the requirement stated in the Consultation Paper to provide full "public" disclosure upon request would – if enacted – mean that the proposals would have the opposite of their intended effect. Rather than simplifying and reducing the compliance burden associated with reporting, the result would be an increased reporting burden because Annex XVI would need to be prepared in addition to the existing "public" disclosure so that the latter was ready should a request be made.

<ESMA_QUESTION_PRSE_26>

Q27 What are the projected implementation costs for sell-side parties for transitioning to the simplified template for private securitisations, and how do these compare to the reduction of reporting burden?

<ESMA_QUESTION_PRSE_27>

We have not been able to estimate these costs in the time allowed, However, we would note that there would be an increase in the reporting burden, rather than a reduction, if the proposals set out in the Consultation Paper are implemented.

<ESMA_QUESTION_PRSE_27>

Q28 To what extent does the simplified disclosure framework for private securitisation improve the usefulness of information for investors while maintaining their ability to perform due diligence?

<ESMA_QUESTION_PRSE_28>

SFA would respectfully submit that Annex XVI should not be expected to do this and so this is not a reasonable basis for evaluating it. The assumption underlying the proposals is that investors would get negotiated, and bilaterally communicated, information needed to make investment decisions, so the templates should not be designed with investors' needs in mind.

<ESMA_QUESTION_PRSE_28>

Q29 Does in your view the introduction of the simplified template enhance the effectiveness of supervisory oversight without imposing disproportionate costs on market participants?

<ESMA_QUESTION_PRSE_29>

SFA would suggest that this is too ambitious a benchmark to set for any changes made at this stage. The goal of any changes made before the introduction of any level 1 modifications should simply be to preserve the effectiveness of supervisory oversight while reducing disclosure costs. Measured by that performance indicator, this proposal fails for the reasons already mentioned, but could succeed if our suggestions are taken onboard.

<ESMA_QUESTION_PRSE_29>