



## **Appendix CA-24**

**Simple, transparent and comparable  
term securitisations:  
Criteria for regulatory capital purposes**



## Simple, transparent and comparable term securitisations: Criteria for regulatory capital purposes

Below are all criteria that must be satisfied in order for a non-ABCP traditional securitisation to receive alternative regulatory capital treatment:

### 1. Asset Risk

#### Criterion A1: Nature of assets

In simple, transparent and comparable securitisations, the assets underlying the securitisation should be credit claims or receivables that are homogeneous. In assessing homogeneity, consideration should be given to asset type, jurisdiction, legal system and currency. As more exotic asset classes require more complex and deeper analysis, credit claims or receivables should have contractually identified periodic payment streams relating to rental, principal, interest, or principal and interest payments. 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.

1. For capital purposes, the “homogeneity” criterion should be assessed taking into account the following principles:
  - a. The nature of assets should be such that investors would not need to analyse and assess materially different legal and/or credit risk factors and risk profiles when carrying out risk analysis and due diligence checks.
  - b. Homogeneity should be assessed on the basis of common risk drivers, including similar risk factors and risk profiles.
  - c. Credit claims or receivables included in the securitisation should have standard obligations, in terms of rights to payments and/or income from assets and that result in a periodic and well-defined stream of payments to investors. Credit card facilities should be deemed to result in a periodic and well-defined stream of payments to investors for the purposes of this criterion.
  - d. Repayment of noteholders should mainly rely on the principal and interest proceeds from the securitised assets. Partial reliance on refinancing or re-sale of the asset securing the exposure may occur provided that re-financing is sufficiently distributed within the pool and the residual values on which the transaction relies are sufficiently low and that the reliance on refinancing is thus not substantial.
2. Examples of “commonly encountered market interest rates” would include:
  - a. Interbank rates and rates set by monetary policy authorities, such as the London Interbank Offered Rate (Libor), the Euro Interbank Offered Rate (Euribor) and the fed funds rate; and



- b. Sectoral rates reflective of a lender's cost of funds, such as internal interest rates that directly reflect the market costs of a bank's funding or that of a subset of institutions.
3. Interest rate caps and/or floors would not automatically be considered exotic derivatives.

### **Criterion A2: Asset performance history**

In order to provide investors with sufficient information on an asset class to conduct appropriate due diligence and access to a sufficiently rich data set to enable a more accurate calculation of expected loss in different stress scenarios, verifiable loss performance data, such as delinquency and default data, should be available for credit claims and receivables with substantially similar risk characteristics to those being securitised, for a time period long enough to permit meaningful evaluation by investors. Sources of and access to data and the basis for claiming similarity to credit claims or receivables being securitised should be clearly disclosed to all market participants.

1. In addition to the history of the asset class within a jurisdiction, investors should consider whether the originator, sponsor, servicer and other parties with a fiduciary responsibility to the securitisation have an established performance history for substantially similar credit claims or receivables to those being securitised and for an appropriately long period of time. It is not the intention of the criteria to form an impediment to the entry of new participants to the market, but rather that investors should take into account the performance history of the asset class and the transaction parties when deciding whether to invest in a securitisation.
2. The originator/sponsor of the securitisation, as well as the original lender who underwrites the assets, must have sufficient experience in originating exposures similar to those securitised. For capital purposes, investors must determine whether the performance history of the originator and the original lender for substantially similar claims or receivables to those being securitised has been established for an "appropriately long period of time". This performance history must be no shorter than a period of seven years for non-retail exposures. For retail exposures, the minimum performance history is five years.

### **Criterion A3: Payment status**

Non-performing credit claims and receivables are likely to require more complex and heightened analysis. In order to ensure that only performing credit claims and receivables are assigned to a securitisation, credit claims or receivables being transferred to the securitisation may not, at the time of inclusion in the pool, include obligations that are in default or delinquent or obligations for which the transferor<sup>11</sup> or parties to the securitisation<sup>12</sup> are aware of evidence indicating a material increase in expected losses or of enforcement actions.

1. To prevent credit claims or receivables arising from credit-impaired borrowers from being transferred to the securitisation, the originator or sponsor should verify that the credit claims or receivables meet the following conditions:



- a. The obligor has not been the subject of an insolvency or debt restructuring process due to financial difficulties within three years prior to the date of origination; and
  - b. The obligor is not recorded on a public credit registry of persons with an adverse credit history; and
  - c. The obligor does not have a credit assessment by an ECAI or a credit score indicating a significant risk of default; and
  - d. The credit claim or receivable is not subject to a dispute between the obligor and the original lender.
2. The assessment of these conditions should be carried out by the originator or sponsor no earlier than 45 days prior to the closing date. Additionally, at the time of this assessment, there should to the best knowledge of the originator or sponsor be no evidence indicating likely deterioration in the performance status of the credit claim or receivable.
  3. Additionally, at the time of their inclusion in the pool, at least one payment should have been made on the underlying exposures, except in the case of revolving asset trust structures such as those for credit card receivables, trade receivables, and other exposures payable in a single instalment, at maturity.

#### **Criterion A4: Consistency of underwriting**

Investor analysis should be simpler and more straightforward where the securitisation is of credit claims or receivables that satisfy materially non-deteriorating origination standards. To ensure that the quality of the securitised credit claims and receivables is not affected by changes in underwriting standards, the originator should demonstrate to investors that any credit claims or receivables being transferred to the securitisation have been originated in the ordinary course of the originator's business to materially non-deteriorating underwriting standards. Where underwriting standards change, the originator should disclose the timing and purpose of such changes. Underwriting standards should not be less stringent than those applied to credit claims and receivables retained on the balance sheet. These should be credit claims or receivables which have satisfied materially non-deteriorating underwriting criteria and for which the obligors have been assessed as having the ability and volition to make timely payments on obligations; or on granular pools of obligors originated in the ordinary course of the originator's business where expected cash flows have been modelled to meet stated obligations of the securitisation under prudently stressed loan loss scenarios.

1. In all circumstances, all credit claims or receivables must be originated in accordance with sound and prudent underwriting criteria based on an assessment that the obligor has the "ability and volition to make timely payments" on its obligations.
2. The originator/sponsor of the securitisation is expected, where underlying credit claims or receivables have been acquired from third parties, to review the underwriting standards (ie to check their existence and assess their quality) of these third parties and to ascertain that they have assessed the obligors' "ability and volition to make timely payments on obligations".



### **Criterion A5: Asset selection and transfer**

Whilst recognising that credit claims or receivables transferred to a securitisation will be subject to defined criteria, the performance of the securitisation should not rely upon the ongoing selection of assets through active management on a discretionary basis of the securitisation's underlying portfolio. Credit claims or receivables transferred to a securitisation should satisfy clearly defined eligibility criteria. Credit claims or receivables transferred to a securitisation after the closing date may not be actively selected, actively managed or otherwise cherry-picked on a discretionary basis. Investors should be able to assess the credit risk of the asset pool prior to their investment decisions.

In order to meet the principle of true sale, the securitisation should effect true sale such that the underlying credit claims or receivables:

1. Are enforceable against the obligor and their enforceability is included in the representations and warranties of the securitisation;
2. Are beyond the reach of the seller, its creditors or liquidators and are not subject to material recharacterisation or clawback risks;
3. Are not effected through credit default swaps, derivatives or guarantees, but by a transfer of the credit claims or the receivables to the securitisation;
4. Demonstrate effective recourse to the ultimate obligation for the underlying credit claims or receivables and are not a securitisation of other securitisations; and
5. For regulatory capital purposes, an independent third-party legal opinion must support the claim that the true sale and the transfer of assets under the applicable laws comply with the above 4 points.

In applicable jurisdictions, securitisations employing transfers of credit claims or receivables by other means should demonstrate the existence of material obstacles preventing true sale at issuance and should clearly demonstrate the method of recourse to ultimate obligors. In such jurisdictions, any conditions where the transfer of the credit claims or receivable is delayed or contingent upon specific events and any factors affecting timely perfection of claims by the securitisation should be clearly disclosed. The originator should provide representations and warranties that the credit claims or receivables being transferred to the securitisation are not subject to any condition or encumbrance that can be foreseen to adversely affect enforceability in respect of collections due.



### **Criterion A6: Initial and ongoing data**

To assist investors in conducting appropriate due diligence prior to investing in a new offering, sufficient loan-level data in accordance with applicable laws or, in the case of granular pools, summary stratification data on the relevant risk characteristics of the underlying pool should be available to potential investors before pricing of a securitisation. To assist investors in conducting appropriate and ongoing monitoring of their investments' performance and so that investors that wish to purchase a securitisation in the secondary market have sufficient information to conduct appropriate due diligence, timely loan-level data in accordance with applicable laws or granular pool stratification data on the risk characteristics of the underlying pool and standardised investor reports should be readily available to current and potential investors at least quarterly throughout the life of the securitisation. Cut-off dates of the loan-level or granular pool stratification data should be aligned with those used for investor reporting. To provide a level of assurance that the reporting of the underlying credit claims or receivables is accurate and that the underlying credit claims or receivables meet the eligibility requirements, the initial portfolio should be reviewed for conformity with the eligibility requirements by an appropriate legally accountable and independent third party, such as an independent accounting practice or the calculation agent or management company for the securitisation.

## **2. Structural risk**

### **Criterion B7: Redemption cash flows**

Liabilities subject to the refinancing risk of the underlying credit claims or receivables are likely to require more complex and heightened analysis. To help ensure that the underlying credit claims or receivables do not need to be refinanced over a short period of time, there should not be a reliance on the sale or refinancing of the underlying credit claims or receivables in order to repay the liabilities, unless the underlying pool of credit claims or receivables is sufficiently granular and has sufficiently distributed repayment profiles. Rights to receive income from the assets specified to support redemption payments should be considered as eligible credit claims or receivables in this regard.

### **Criterion B8: Currency and interest rate asset and liability mismatches**

To reduce the payment risk arising from the different interest rate and currency profiles of assets and liabilities and to improve investors' ability to model cash flows, interest rate and foreign currency risks should be appropriately mitigated at all times, and if any hedging transaction is executed the transaction should be documented according to industry-standard master agreements. Only derivatives used for genuine hedging of asset and liability mismatches of interest rate and / or currency should be allowed.



1. For capital purposes, the term “appropriately mitigated” should be understood as not necessarily requiring a completely perfect hedge. The appropriateness of the mitigation of interest rate and foreign currency through the life of the transaction must be demonstrated by making available to potential investors, in a timely and regular manner, quantitative information including the fraction of notional amounts that are hedged, as well as sensitivity analysis that illustrates the effectiveness of the hedge under extreme but plausible scenarios.
2. If hedges are not performed through derivatives, then those risk-mitigating measures are only permitted if they are specifically created and used for the purpose of hedging an individual and specific risk, and not multiple risks at the same time (such as credit and interest rate risks). Non-derivative risk mitigation measures must be fully funded and available at all times.

### **Criterion B9: Payment priorities and observability**

To prevent investors being subjected to unexpected repayment profiles during the life of a securitisation, the priorities of payments for all liabilities in all circumstances should be clearly defined at the time of securitisation and appropriate legal comfort regarding their enforceability should be provided. To ensure that junior noteholders do not have inappropriate payment preference over senior noteholders that are due and payable, throughout the life of a securitisation, or, where there are multiple securitisations backed by the same pool of credit claims or receivables, throughout the life of the securitisation programme, junior liabilities should not have payment preference over senior liabilities which are due and payable. The securitisation should not be structured as a “reverse” cash flow waterfall such that junior liabilities are paid where due and payable senior liabilities have not been paid. To help provide investors with full transparency over any changes to the cash flow waterfall, payment profile or priority of payments that might affect a securitisation, all triggers affecting the cash flow waterfall, payment profile or priority of payments of the securitisation should be clearly and fully disclosed both in offering documents and in investor reports, with information in the investor report that clearly identifies the breach status, the ability for the breach to be reversed and the consequences of the breach. Investor reports should contain information that allows investors to monitor the evolution over time of the indicators that are subject to triggers. Any triggers breached between payment dates should be disclosed to investors on a timely basis in accordance with the terms and conditions of all underlying transaction documents.

Securitisations featuring a replenishment period should include provisions for appropriate early amortisation events and/or triggers of termination of the replenishment period, including, notably:

1. Deterioration in the credit quality of the underlying exposures;
2. A failure to acquire sufficient new underlying exposures of similar credit quality; and
3. The occurrence of an insolvency-related event with regard to the originator or the servicer.



Following the occurrence of a performance-related trigger, an event of default or an acceleration event, the securitisation positions should be repaid in accordance with a sequential amortisation priority of payments, in order of tranche seniority, and there should not be provisions requiring immediate liquidation of the underlying assets at market value

To assist investors in their ability to appropriately model the cash flow waterfall of the securitisation, the originator or sponsor should make available to investors, both before pricing of the securitisation and on an ongoing basis, a liability cash flow model or information on the cash flow provisions allowing appropriate modelling of the securitisation cash flow waterfall.

To ensure that debt forgiveness, forbearance, payment holidays and other asset performance remedies can be clearly identified, policies and procedures, definitions, remedies and actions relating to delinquency, default or restructuring of underlying debtors should be provided in clear and consistent terms, such that investors can clearly identify debt forgiveness, forbearance, payment holidays, restructuring and other asset performance remedies on an ongoing basis.

#### **Criterion B10: Voting and enforcement rights**

To help ensure clarity for securitisation note holders of their rights and ability to control and enforce on the underlying credit claims or receivables, upon insolvency of the originator or sponsor, all voting and enforcement rights related to the credit claims or receivables should be transferred to the securitisation. Investors' rights in the securitisation should be clearly defined in all circumstances, including the rights of senior versus junior note holders.

#### **Criterion B11: Documentation disclosure and legal review**

To help investors to fully understand the terms, conditions, legal and commercial information prior to investing in a new offering and to ensure that this information is set out in a clear and effective manner for all programmes and offerings, sufficient initial offering<sup>23</sup> and draft underlying<sup>24</sup> documentation should be made available to investors (and readily available to potential investors on a continuous basis) within a reasonably sufficient period of time prior to pricing, or when legally permissible, such that the investor is provided with full disclosure of the legal and commercial information and comprehensive risk factors needed to make informed investment decisions. Final offering documents should be available from the closing date and all final underlying transaction documents shortly thereafter. These should be composed such that readers can readily find, understand and use relevant information. To ensure that all the securitisation's underlying documentation has been subject to appropriate review prior to publication, the terms and documentation of the securitisation should be reviewed by an appropriately experienced third-party legal practice, such as a legal counsel already instructed by one of the transaction parties, e.g. by the arranger or the trustee. Investors should be notified in a timely fashion of any changes in such documents that have an impact on the structural risks in the securitisation.





### **Criterion B12: Alignment of interest**

In order to align the interests of those responsible for the underwriting of the credit claims or receivables with those of investors, the originator or sponsor of the credit claims or receivables should retain a material net economic exposure and demonstrate a financial incentive in the performance of these assets following their securitisation.

### **Criterion C13: Fiduciary and contractual responsibilities**

To help ensure servicers have extensive workout expertise, thorough legal and collateral knowledge and a proven track record in loss mitigation, such parties should be able to demonstrate expertise in the servicing of the underlying credit claims or receivables, supported by a management team with extensive industry experience. The servicer should at all times act in accordance with reasonable and prudent standards. Policies, procedures and risk management controls should be well documented and adhere to good market practices and relevant regulatory regimes. There should be strong systems and reporting capabilities in place.

1. In assessing whether "strong systems and reporting capabilities are in place" for capital purposes, well documented policies, procedures and risk management controls, as well as strong systems and reporting capabilities, may be substantiated by a third-party review for non-banking entities.
2. The party or parties with fiduciary responsibility should act on a timely basis in the best interests of the securitisation note holders, and both the initial offering and all underlying documentation should contain provisions facilitating the timely resolution of conflicts between different classes of note holders by the trustees, to the extent permitted by applicable law. The party or parties with fiduciary responsibility to the securitisation and to investors should be able to demonstrate sufficient skills and resources to comply with their duties of care in the administration of the securitisation vehicle. To increase the likelihood that those identified as having a fiduciary responsibility towards investors as well as the servicer execute their duties in full on a timely basis, remuneration should be such that these parties are incentivised and able to meet their responsibilities in full and on a timely basis.



### **3. Fiduciary and servicer risk**

#### **Criterion C14: Transparency to investors**

To help provide full transparency to investors, assist investors in the conduct of their due diligence and to prevent investors being subject to unexpected disruptions in cash flow collections and servicing, the contractual obligations, duties and responsibilities of all key parties to the securitisation, both those with a fiduciary responsibility and of the ancillary service providers, should be defined clearly both in the initial offering and all underlying documentation. Provisions should be documented for the replacement of servicers, bank account providers, derivatives counterparties and liquidity providers in the event of failure or non-performance or insolvency or other deterioration of creditworthiness of any such counterparty to the securitisation. To enhance transparency and visibility over all receipts, payments and ledger entries at all times, the performance reports to investors should distinguish and report the securitisation's income and disbursements, such as scheduled principal, redemption principal, scheduled interest, prepaid principal, past due interest and fees and charges, delinquent, defaulted and restructured amounts under debt forgiveness and payment holidays, including accurate accounting for amounts attributable to principal and interest deficiency ledgers.

1. For capital purposes, the terms "initial offering" and "underlying transaction documentation" should be understood in the context defined by Criterion B11.
2. The term "income and disbursements" should also be understood as including deferment, forbearance, and repurchases among the items described.

### **4. Additional criteria for capital purposes**

#### **Criterion D15: Credit risk of underlying exposures**

At the portfolio cut-off date, the underlying exposures have to meet the conditions under the Standardised Approach for credit risk, and after taking into account any eligible credit risk mitigation, for being assigned a risk weight equal to or smaller than:

1. 40% on a value-weighted average exposure basis for the portfolio where the exposures are "regulatory residential real estate" exposures as per Chapter CA-3;
2. 50% on an individual exposure basis where the exposure is a "regulatory commercial real estate" exposure, an "other real estate" exposure or a land ADC exposure as per Chapter CA-3;
3. 75% on an individual exposure basis where the exposure is a "regulatory retail" exposure, as per Chapter CA-3; or
4. 100% on an individual exposure basis for any other exposure.



### Criterion D16: Granularity of the pool

At the portfolio cut-off date, the aggregated value of all exposures to a single obligor shall not exceed 1% of the aggregated outstanding exposure value of all exposures in the portfolio.

#### **Simple, transparent and comparable short-term securitisations: criteria for regulatory capital purposes**

This section describes the 19 criteria that must be met in order for a securitization exposure to an ABCP conduit or transaction financed by an ABCP conduit to qualify for the alternative capital treatment.

The following definitions apply:

1. ABCP conduit/conduit – ABCP conduit, being the special purpose vehicle, which can issue commercial paper;
2. ABCP programme – the programme of commercial paper issued by an ABCP conduit;
3. Assets/asset pool – the credit claims and/or receivables underlying a transaction in which the ABCP conduit holds a beneficial interest;
4. Investor – the holder of commercial paper issued under an ABCP programme, or any type of exposure to the conduit representing a financing liability of the conduit, such as loans;
5. Obligor – borrower underlying a credit claim or a receivable that is part of an asset pool;
6. Seller – a party that:
  - a. Concluded (in its capacity as original lender) the original agreement that created the obligations or potential obligations (under a credit claim or a receivable) of an obligor or purchased the obligations or potential obligations from the original lender(s); and
  - b. Transferred those assets through a transaction or passed on the interest<sup>26</sup> to the ABCP conduit.
7. Sponsor – sponsor of an ABCP conduit. It may also be noted that other relevant parties with a fiduciary responsibility in the management and administration of the ABCP conduit could also undertake control of some of the responsibilities of the sponsor; and
8. Transaction – An individual transaction in which the ABCP conduit holds a beneficial interest. A transaction may qualify as a securitisation, but may also be a direct asset purchase, the acquisition of undivided interest in a replenishing pool of asset, a secured loan etc.



For exposures at the conduit level (e.g. exposure arising from investing in the commercial papers issued by the ABCP programme or sponsoring arrangements at the conduit/programme level), compliance with the short-term STC capital criteria is only achieved if the criteria are satisfied at both the conduit and transaction levels.

In the case of exposures at the transaction level, compliance with the short-term STC capital criteria is considered to be achieved if the transaction level criteria are satisfied for the transactions to which support is provided.

#### **A. Asset Risk**

##### **Criterion A1: Nature of assets (conduit level)**

The sponsor should make representations and warranties to investors that the criterion set out in Criterion A1: Nature of assets (transaction level) are met and explain how this is the case on an overall basis. Only if specified should this be done for each transaction. Provided that each individual underlying transaction is homogeneous in terms of asset type, a conduit may be used to finance transactions of different asset types. Programme wide credit enhancement should not prevent a conduit from qualifying for STC, regardless of whether such enhancement technically creates resecuritisation.

##### **Criterion A1: Nature of assets (transaction level)**

The assets underlying a transaction in a conduit should be credit claims or receivables that are homogeneous, in terms of asset type. The assets underlying each individual transaction in a conduit should not be composed of “securitisation exposures”. Credit claims or receivables underlying a transaction in a conduit should have contractually identified periodic payment streams relating to rental, principal, interest, or principal and interest payments. Credit claims or receivables generating a single payment stream would equally qualify as eligible. 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.



### **Additional guidance for Criterion A1**

The “homogeneity” criterion should be assessed taking into account the following principles:

1. The nature of assets should be such that there would be no need to analyse and assess materially different legal and/or credit risk factors and risk profiles when carrying out risk analysis and due diligence checks for the transaction.
2. Homogeneity should be assessed on the basis of common risk drivers, including similar risk factors and risk profiles.
3. Credit claims or receivables included in the securitisation should have standard obligations, in terms of rights to payments and/or income from assets and that result in a periodic and well-defined stream of payments to investors. Credit card facilities should be deemed to result in a periodic and well-defined stream of payments to investors for the purposes of this criterion.
4. Repayment of the securitisation exposure should mainly rely on the principal and interest proceeds from the securitised assets. Partial reliance on refinancing or re-sale of the asset securing the exposure may occur provided that re-financing is sufficiently distributed within the pool and the residual values on which the transaction relies are sufficiently low and that the reliance on refinancing is thus not substantial.

Examples of “commonly encountered market interest rates” would include:

1. Interbank rates and rates set by monetary policy authorities, such as Libor, Euribor and the fed funds rate; and
2. Sectoral rates reflective of a lender’s cost of funds, such as internal interest rates that directly reflect the market costs of a bank’s funding or that of a subset of institutions.

Interest rate caps and/or floors would not automatically be considered exotic derivatives.

The transaction level requirement is still met if the conduit does not purchase the underlying asset with a refundable purchase price discount but instead acquires a beneficial interest in the form of a note which itself might qualify as a securitisation exposure, as long as the securitisation exposure is not subject to any further tranching (i.e. has the same economic characteristic as the purchase of the underlying asset with a refundable purchase price discount).



**Criterion A2: Asset performance history (conduit level)**

In order to provide investors with sufficient information on the performance history of the asset types backing the transactions, the sponsor should make available to investors, sufficient loss performance data of claims and receivables with substantially similar risk characteristics, such as delinquency and default data of similar claims, and for a time period long enough to permit meaningful evaluation. The sponsor should disclose to investors the sources of such data and the basis for claiming similarity to credit claims or receivables financed by the conduit. Such loss performance data may be provided on a stratified basis.

**Criterion A2: Asset performance history (transaction level)**

In order to provide the sponsor with sufficient information on the performance history of each asset type backing the transactions and to conduct appropriate due diligence and to have access to a sufficiently rich data set to enable a more accurate calculation of expected loss in different stress scenarios, verifiable loss performance data, such as delinquency and default data, should be available for credit claims and receivables with substantially similar risk characteristics to those being financed by the conduit, for a time period long enough to permit meaningful evaluation by the sponsor.

**Additional requirement for Criterion A2**

The sponsor of the securitisation, as well as the original lender who underwrites the assets, must have sufficient experience in the risk analysis/underwriting of exposures or transactions with underlying exposures similar to those securitised. The sponsor should have well documented procedures and policies regarding the underwriting of transactions and the ongoing monitoring of the performance of the securitised exposures. The sponsor should ensure that the seller(s) and all other parties involved in the origination of the receivables have experience in originating same or similar assets and are supported by a management with industry experience. For the purpose of meeting the short-term STC capital criteria, investors must request confirmation from the sponsor that the performance history of the originator and the original lender for substantially similar claims or receivables to those being securitised has been established for an "appropriately long period of time". This performance history must be no shorter than a period of five years for non-retail exposures. For retail exposures, the minimum performance history is three years.

**Criterion A3: Asset performance history (conduit level)**

The sponsor should, to the best of its knowledge and based on representations from sellers, make representations and warranties to investors that CRE40.109 is met with respect to each transaction.

**Criterion A3: Asset performance history (transaction level)**

The sponsor should obtain representations from sellers that the credit claims or receivables underlying each individual transaction are not, at the time of acquisition of the interests to be financed by the conduit, in default or delinquent or subject to a material increase in expected losses or of enforcement actions.



### **Additional requirement for Criterion A3**

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 the following conditions for each transaction:

1. The obligor has not been the subject of an insolvency or debt restructuring process due to financial difficulties in the three years prior to the date of origination;
2. The obligor is not recorded on a public credit registry of persons with an adverse credit history;
3. The obligor does not have a credit assessment by an external credit assessment institution or a credit score indicating a significant risk of default; and
4. The credit claim or receivable is not subject to a dispute between the obligor and the original lender.

The assessment of these conditions should be carried out by the original seller or sponsor no earlier than 45 days prior to acquisition of the transaction by the conduit or, in the case of replenishing transactions, no earlier than 45 days prior to new exposures being added to the transaction. In addition, at the time of the assessment, there should to the best knowledge of the original seller or sponsor be no evidence indicating likely deterioration in the performance status of the credit claim or receivable. Further, at the time of their inclusion in the pool, at least one payment should have been made on the underlying exposures, except in the case of replenishing asset trust structures such as those for credit card receivables, trade receivables, and other exposures payable in a single instalment, at maturity.

### **Criterion A4: Consistency of underwriting (conduit level)**

The sponsor should make representations and warranties to investors that:

1. It has taken steps to verify that for the transactions in the conduit, any underlying credit claims and receivables have been subject to consistent underwriting standards and explain how.
2. When there are material changes to underwriting standards, it will receive from seller's disclosure about the timing and purpose of such changes.
3. The sponsor should also inform investors of the material selection criteria applied when selecting sellers (including where they are not financial institutions).



#### **Criterion A4: Consistency of underwriting (transaction level)**

The sponsor should ensure that sellers (in their capacity of original lenders) in transactions with the conduit demonstrate to it that:

1. Any credit claims or receivables being transferred to or through a transaction held by the conduit have been originated in the ordinary course of the seller's business subject to materially non-deteriorating underwriting standards. Those underwriting standards should also not be less stringent than those applied to credit claims and receivables retained on the balance sheet of the seller and not financed by the conduit; and
2. The obligors have been assessed as having the ability and volition to make timely payments on obligations.

The sponsor should also ensure that sellers disclose to it the timing and purpose of material changes to underwriting standards.

#### **Additional requirement for Criterion A4**

In all circumstances, all credit claims or receivables must be originated in accordance with sound and prudent underwriting criteria based on an assessment that the obligor has the "ability and volition to make timely payments" on its obligations. The sponsor of the securitisation is expected, where underlying credit claims or receivables have been acquired from third parties, to review the underwriting standards (ie to check their existence and assess their quality) of these third parties and to ascertain that they have assessed the obligors' "ability and volition to make timely payments" on their obligations.

#### **Criterion A5: Asset selection and transfer (conduit level)**

The sponsor should:

1. Provide representations and warranties to investors about the checks, in nature and frequency, it has conducted regarding enforceability of underlying assets.
2. Disclose to investors the receipt of appropriate representations and warranties from sellers that the credit claims or receivables being transferred to the transactions in the conduit are not subject to any condition or encumbrance that can be foreseen to adversely affect enforceability in respect of collections due.





**Criterion A5: Asset selection and transfer (transaction level)**

The sponsor should be able to assess thoroughly the credit risk of the asset pool prior to its decision to provide full support to any given transaction or to the conduit. The sponsor should ensure that credit claims or receivables transferred to or through a transaction financed by the conduit:

1. Satisfy clearly defined eligibility criteria; and
2. Are not actively selected after the closing date, actively managed or otherwise cherry-picked on a discretionary basis.

The sponsor should ensure that the transactions in the conduit effect true sale such that the underlying credit claims or receivables:

1. Are enforceable against the obligor;
2. Are beyond the reach of the seller, its creditors or liquidators and are not subject to material re-characterisation or clawback risks;
3. Are not effected through credit default swaps, derivatives or guarantees, but by a transfer of the credit claims or the receivables to the transaction; and
4. Demonstrate effective recourse to the ultimate obligation for the underlying credit claims or receivables and are not a re-securitisation position.

The sponsor should ensure that in applicable jurisdictions, for conduits employing transfers of credit claims or receivables by other means, sellers can demonstrate to it the existence of material obstacles preventing true sale at issuance (e.g. the immediate realisation of transfer tax or the requirement to notify all obligors of the transfer) and should clearly demonstrate the method of recourse to ultimate obligors (e.g. equitable assignment, perfected contingent transfer). In such jurisdictions, any conditions where the transfer of the credit claims or receivables is delayed or contingent upon specific events and any factors affecting timely perfection of claims by the conduit should be clearly disclosed.

The sponsor should ensure that it receives from the individual sellers (either in their capacity as original lender or servicer) representations and warranties that the credit claims or receivables being transferred to or through the transaction are not subject to any condition or encumbrance that can be foreseen to adversely affect enforceability in respect of collections due.



### **Additional requirement for Criterion A5**

An in-house legal opinion or an independent third-party legal opinion must support the claim that the true sale and the transfer of assets under the applicable laws comply Criterion A5: Asset selection and transfer (transaction level) at the transaction level.

### **Criterion A6: Initial and ongoing data (conduit level)**

To assist investors in conducting appropriate due diligence prior to investing in a new programme offering, the sponsor should provide to potential investors sufficient aggregated data that illustrate the relevant risk characteristics of the underlying asset pools in accordance with applicable laws. To assist investors in conducting appropriate and ongoing monitoring of their investments' performance and so that investors who wish to purchase commercial paper have sufficient information to conduct appropriate due diligence, the sponsor should provide timely and sufficient aggregated data that provide the relevant risk characteristics of the underlying pools in accordance with applicable laws. The sponsor should ensure that standardised investor reports are readily available to current and potential investors at least monthly. Cut off dates of the aggregated data should be aligned with those used for investor reporting.

### **Criterion A6: Initial and ongoing data (transaction level)**

The sponsor should ensure that the individual sellers (in their capacity of servicers) provide it with:

1. Sufficient asset level data in accordance with applicable laws 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.
2. Timely asset level data in accordance with applicable laws or granular pool stratification data on the risk characteristics of the underlying pool on an ongoing basis. Those data should allow the sponsor to fulfil its fiduciary duty at the conduit level in terms of disclosing information to investors including the alignment of cut off dates of the asset level or granular pool stratification data with those used for investor reporting.

The seller may delegate some of these tasks and, in this case, the sponsor should ensure that there is appropriate oversight of the outsourced arrangements.

### **Additional requirement for Criterion A6**

The standardised investor reports which are made readily available to current and potential investors at least monthly should include the following information:

1. Materially relevant data on the credit quality and performance of underlying assets, including data allowing investors to identify dilution, delinquencies and defaults, restructured receivables, forbearance, repurchases, losses, recoveries and other asset performance remedies in the pool;



2. The form and amount of credit enhancement provided by the seller and sponsor at transaction and conduit levels, respectively;
3. Relevant information on the support provided by the sponsor; and
4. The status and definitions of relevant triggers (such as performance, termination or counterparty replacement triggers).

## **B. Structural Risk**

### **Criterion B7: Full support (conduit level only)**

The sponsor should provide the liquidity facility(ies) and the credit protection support for any ABCP programme issued by a conduit. Such facility(ies) and support should ensure that investors are fully protected against credit risks, liquidity risks and any material dilution risks of the underlying asset pools financed by the conduit. As such, investors should be able to rely on the sponsor to ensure timely and full repayment of the commercial paper.

### **Additional requirement for Criterion B7**

While liquidity and credit protection support at both the conduit level and transaction level can be provided by more than one sponsor, the majority of the support (assessed in terms of coverage) has to be made by a single sponsor (referred to as the “main sponsor”). An exception can however be made for a limited period of time, where the main sponsor has to be replaced due to a material deterioration in its credit standing.

The full support provided should be able to irrevocably and unconditionally pay the ABCP liabilities in full and on time. The list of risks provided in CRE40.127 that have to be covered is not comprehensive but rather provides typical examples.

Under the terms of the liquidity facility agreement:

1. 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.
2. 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.

The sponsor should provide investors with full information about the terms of the liquidity facility (facilities) and the credit support provided to the ABCP conduit and the underlying transactions (in relation to the transactions, redacted where necessary to protect confidentiality).



**Criterion B8: Redemption cash flow (transaction level only)**

Unless the underlying pool of credit claims or receivables is sufficiently granular and has sufficiently distributed repayment profiles, the sponsor should ensure that the repayment of the credit claims or receivables underlying any of the individual transactions relies primarily on the general ability and willingness of the obligor to pay rather than the possibility that the obligor refinances or sells the collateral and that such repayment does not primarily rely on the drawing of an external liquidity facility provided to this transaction.

**Additional requirement for Criterion B8**

Sponsors cannot use support provided by their own liquidity and credit facilities towards meeting this criterion. For the avoidance of doubt, the requirement that the repayment shall not primarily rely on the drawing of an external liquidity facility does not apply to exposures in the form of the notes issued by the ABCP conduit.

**Criterion B9: Currency and interest rate asset and liability mismatches (conduit level)**

The sponsor should ensure that any payment risk arising from different interest rate and currency profiles not mitigated at transaction-level or arising at conduit level is 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. 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 are appropriately mitigated, whether at the conduit or at transaction level.

**Criterion B9: Currency and interest rate asset and liability mismatches (transaction level)**

To reduce the payment risk arising from the different interest rate and currency profiles of assets and liabilities, if any, and to improve the sponsor's ability to analyse cash flows of transactions, the sponsor should ensure that 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.



### **Additional requirement for Criterion B9**

The term “appropriately mitigated” should be understood as not necessarily requiring a completely perfect hedge. The appropriateness of the mitigation of interest rate and foreign currency risks through the life of the transaction must be demonstrated by making available, in a timely and regular manner, quantitative information including the fraction of notional amounts that are hedged, as well as sensitivity analysis that illustrates the effectiveness of the hedge under extreme but plausible scenarios. The use of risk-mitigating measures other than derivatives is permitted only if the measures are specifically created and used for the purpose of hedging an individual and specific risk. Non-derivative risk mitigation measures must be fully funded and available at all times.

### **Criterion B10: Payment priorities and observability (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 of trigger does not belong exclusively to investors. The sponsor should:

1. Make representations and warranties to investors that the criterion set out in CRE40.138 to CRE40.143 is met and in particular that it has the ability to appropriately analyse the cash flow waterfall for each transaction which qualifies as a securitisation; and
2. Make available to investors a summary (illustrating the functioning) of these waterfalls and of the credit enhancement available at programme level 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 at the time of acquisition of the interests in these transactions by the conduit; and appropriate legal comfort regarding the enforceability is provided.

For all transactions which qualify as a securitisation, the sponsor should ensure that all triggers affecting the cash flow waterfall, payment profile or priority of payments are clearly and fully disclosed to the sponsor both in the transactions’ documentation and reports, with information in the reports that clearly identifies any breach status, the ability for the breach to be reversed and the consequences of the breach. Reports should contain information that allows sponsors to easily ascertain the likelihood of a trigger being breached or reversed. Any triggers breached between payment dates should be disclosed to sponsors on a timely basis in accordance with the terms and conditions of the transaction documents.

For any of the transactions where the beneficial interest held by the conduit qualifies as 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) and which are due and payable.



### **Criterion B10: Payment priorities and observability (transaction level)**

Transactions featuring a replenishment period should include provisions for appropriate early amortisation events and/or triggers of termination of the replenishment period, including, notably, deterioration in the credit quality of the underlying exposures; a failure to replenish sufficient new underlying exposures of similar credit quality; and the occurrence of an insolvency related event with regard to the individual sellers.

To ensure that debt forgiveness, forbearance, payment holidays, restructuring, dilution and other asset performance remedies can be clearly identified, policies and procedures, definitions, remedies and actions relating to delinquency, default, dilution or restructuring of underlying debtors should be provided in clear and consistent terms, such that the sponsor can clearly identify debt forgiveness, forbearance, payment holidays, restructuring, dilution and other asset performance remedies on an ongoing basis.

For each transaction which qualifies as a securitisation, the sponsor should ensure it receives both before the conduit acquires a beneficial interest in the transaction and on an ongoing basis, the liability cash flow analysis or information on the cash flow provisions allowing appropriate analysis of the cash flow waterfall of these transactions.

### **Criterion B11: Voting and enforcement rights (conduit level)**

To provide clarity to investors, 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.

### **Criterion B11: Voting and enforcement rights (transaction level)**

For each transaction, the sponsor should ensure that, in particular upon insolvency of the seller or where the obligor is in default on its obligation, all voting and enforcement rights related to the credit claims or receivables are, if applicable:

1. Transferred to the conduit; and
2. Clearly defined under all circumstances, including with respect to the rights of the conduit versus other parties with an interest (eg sellers), where relevant.

### **Criterion B12: Documentation, disclosure and legal review (conduit level only)**

To help investors understand fully the terms, conditions, and legal information prior to investing in a new programme offering and to ensure that this information is set out in a clear and effective manner for all programme offerings, the sponsor should ensure that sufficient initial offering documentation for the ABCP programme is provided to investors (and readily available to potential investors on a continuous basis) within a reasonably sufficient period of time prior to issuance, such that the investor is provided with full disclosure of the legal information and comprehensive risk factors needed to make informed investment decisions. These should be composed such that readers can readily find, understand and use relevant information.



The sponsor should ensure that the terms and documentation of a conduit and the ABCP programme it issues are reviewed and verified by an appropriately experienced and independent legal practice prior to publication and in the case of material changes. The sponsor should notify investors in a timely fashion of any changes in such documents that have an impact on the structural risks in the ABCP programme.

#### **Additional requirement for Criterion B12**

To understand fully the terms, conditions and legal information prior to including a new transaction in the ABCP conduit and ensure that this information is set out in a clear and effective manner, the sponsor should ensure that it receives sufficient initial offering documentation for each transaction and that it is provided within a reasonably sufficient period of time prior to the inclusion in the conduit, with full disclosure of the legal information and comprehensive risk factors needed to supply liquidity and/or credit support facilities. The initial offering document for each transaction should be composed such that readers can readily find, understand and use relevant information. The sponsor should also ensure that the terms and documentation of a transaction are reviewed and verified by an appropriately experienced and independent legal practice prior to the acquisition of the transaction and in the case of material changes.

#### **Criterion B13: Alignment of interest (conduit level only)**

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

#### **Criterion B14: Cap on maturity transformation (conduit level only)**

Maturity transformation undertaken through ABCP conduits should be limited. 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. This number should be calculated as the higher of:

1. The exposure-weighted average residual maturity of the conduit's beneficial interests held or the assets purchased by the conduit in order to finance the transactions of the conduit; and
2. The exposure-weighted average maturity of the underlying assets financed by the conduit calculated by:
  - a. Taking an exposure-weighted average of residual maturities of the underlying assets in each pool; and
  - b. Taking an exposure-weighted average across the conduit of the pool-level averages as calculated in Step 2a.



### **C. Fiduciary and contractual responsibilities**

#### **Criterion C15: Financial institution (conduit level only)**

The sponsor should be a financial institution that is licensed to take deposits from the public and is subject to appropriate prudential standards and levels of supervision. National supervisors should decide what prudential standards and level of supervision is appropriate for their domestic banks. For internationally active banks, prudential standards and the level of supervision should be in accordance with the Basel framework. Subject to the determination of the national supervisor, in addition to risk-based regulatory capital this may include liquidity, leverage capital requirements and other requirements, such as related to the governance of banks.

#### **Criterion C16: Fiduciary and contractual responsibilities (conduit level)**

The sponsor should, based on the representations received from seller(s) and all other parties responsible for originating and servicing the asset pools, make representations and warranties to investors that:

1. The various criteria defined at the level of each underlying transaction are met, and explain how;
2. Seller(s)'s policies, procedures and risk management controls are well-documented, adhere to good market practices and comply with the relevant regulatory regimes; and that strong systems and reporting capabilities are 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 and is supported by a management team with extensive industry experience. The sponsor should at all times act in accordance with reasonable and prudent standards. Policies, procedures and risk management controls of the sponsor should be well documented, and the sponsor should adhere to good market practices and relevant regulatory regime. There should be strong systems and reporting capabilities in place at the sponsor. The party or parties with fiduciary responsibility should act on a timely basis in the best interests of the investors.

#### **Criterion C16: Fiduciary and contractual responsibilities (transaction level)**

The sponsor should ensure that it receives representations from the sellers(s) and all other parties responsible for originating and servicing the asset pools that they:

1. Have well-documented procedures and policies in place to ensure appropriate servicing of the underlying assets;
2. Have expertise in the origination of same or similar assets to those in the asset pools;
3. Have extensive servicing and workout expertise, thorough legal and collateral knowledge and a proven track record in loss mitigation for the same or similar assets;
4. Have expertise in the servicing of the underlying credit claims or receivables; and
5. Are supported by a management team with extensive industry experience.





### **Additional requirement for Criterion C16**

In assessing whether “strong systems and reporting capabilities are in place”, well documented policies, procedures and risk management controls, as well as strong systems and reporting capabilities, may be substantiated by a third-party review for sellers that are non-banking entities.

### **Criterion C17: Transparency to investors (conduit level)**

The sponsor should ensure that the contractual obligations, duties and responsibilities of all key parties to the conduit, both those with a fiduciary responsibility and the ancillary service providers, are defined clearly both in the initial offering and any relevant underlying documentation of the conduit and the ABCP programme it issues. The “underlying documentation” does not refer to the documentation of the underlying transactions.

The sponsor should also make representations and warranties to investors that the duties and responsibilities of all key parties are clearly defined at transaction level.

The sponsor should ensure that the initial offering documentation disclosed to investors contains adequate provisions regarding the replacement of key counterparties of the conduit (e.g. bank account providers and derivatives counterparties) in the event of failure or non-performance or insolvency or deterioration of creditworthiness of any such counterparty.

The sponsor should also make representations and warranties to investors that provisions regarding the replacement of key counterparties at transaction level are well-documented.

The sponsor should provide sufficient information to investors about the liquidity facility(ies) and credit support provided to the ABCP programme for them to understand its functioning and key risks.

The sponsor should conduct due diligence with respect to the transactions on behalf of the investors. To assist the sponsor in meeting its fiduciary and contractual obligations, the duties and responsibilities of all key parties to all transactions (both those with a fiduciary responsibility and of the ancillary service providers) should be defined clearly in all underlying documentation of these transactions and made available to the sponsor.

The sponsor should ensure that provisions regarding the replacement of key counterparties (in particular the servicer or liquidity provider) in the event of failure or non-performance or insolvency or other deterioration of any such counterparty for the transactions are well-documented (in the documentation of these individual transactions).



**Criterion C17: Transparency to investors (transaction level)**

The sponsor should ensure that for all transactions the performance reports include all of the following: the transactions' income and disbursements, such as scheduled principal, redemption principal, scheduled interest, prepaid principal, past due interest and fees and charges, delinquent, defaulted, restructured and diluted amounts, as well as accurate accounting for amounts attributable to principal and interest deficiency ledgers.

**D. Additional criteria for capital purposes**

**Criterion D18: Credit risk of underlying exposures (transaction level only)**

At the date of acquisition of the assets, the underlying exposures have to meet the conditions under the Standardised Approach for credit risk and, after account is taken of any eligible credit risk mitigation, be assigned a risk weight equal to or smaller than:

1. 40% on a value-weighted average exposure basis for the portfolio where the exposures are "regulatory residential real estate" exposures as per Chapter CA-3;
2. 50% on an individual exposure basis where the exposure is a "regulatory commercial real estate" exposure, an "other real estate" exposure or a land ADC exposure as per Chapter CA-3;
3. 75% on an individual exposure basis where the exposure is a "regulatory retail" exposure as per Chapter CA-3; or
4. 100% on an individual exposure basis for any other exposure.

**Criterion D19: Granularity of the pool (conduit level only)**

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 at that date shall not exceed 2% of the aggregated outstanding exposure value of all exposures in the programme.