



Brussels, 8 February 2017

Dear Madam / Sir,

Ref: Treatment of derivatives associated with the cover pool of covered bonds or with securitisations in the draft proposal for a Regulation on simple, transparent and standardised (STS) securitisation as published by the European Commission (COM (2015) 472 final)

The European Covered Bond Council (ECBC)¹ represents the covered bond industry, bringing together covered bond issuers, analysts, investment bankers, rating agencies and a wide range of interested stakeholders. The ECBC was launched by the European Mortgage Federation (EMF) to promote the interests of covered bond market participants at international level. As of February 2017, the ECBC brings together over 100 members from more than 30 active covered bond jurisdictions representing over 95% of covered bonds outstanding, which were worth nearly 2.5 trillion EUR at the end of 2015.

We are writing to you concerning the draft proposal for a Regulation on simple, transparent and standardised (STS) securitisation as published by the European Commission (COM (2015) 472 final).

We would like to draw your attention particularly to article 27 of the draft regarding the treatment of derivatives associated with the cover pool of covered bonds. The proposal for amending Regulation 648/2012/EU (EMIR) interferes directly with the provisions on covered bonds derivatives, which are already effective as part of the framework regarding the clearing obligation under EMIR (Delegated Regulation (EU) 2015/2205, Article 1 paragraph 2) and the risk mitigation techniques, amongst which the obligation to exchange collateral (Delegated Regulation (EU) 2016/2251, Article 30).

In addition, and more generally, the proposal interferes with the current definition of covered bonds which is contained in the UCITS directive and not in the CRR which mostly addresses capital treatment issues.

As such, we encourage you to avoid legal inconsistencies, as the one described above, between the proposed and the existing regulations. Therefore, we would appreciate if, during the trilogue negotiations, you would consider the provisions of the existing Delegated Regulations when formulating the final draft of the first level legislation. The rules for a preferential treatment of derivatives linked to STS securitisation should be aligned with existing rules for derivatives linked to covered bonds in order to ensure a level playing field.

Additionally, both STS securitisation and the harmonisation of the covered bond framework are part of the Capital Markets Union action plan. As a consequence, we would recommend a high degree of coordination between these two files. With respect to covered bonds harmonisation, the European Banking Authority (EBA) in its report published in December 2016 aims to carry out a 'holistic review' of the regulatory framework for these products. For the sake of consistency with the EBA aims, we would suggest to limit the scope of the STS proposal to securitisation avoiding overlaps with different procedures, such as covered bond harmonisation.

We remain at your complete disposal should you have any further questions. Please do not hesitate to contact us. We would be pleased to discuss this matter with you or your colleagues in more detail.

Yours sincerely,

Luca Bertalot
Secretary General

¹ The European Covered Bond Council (ECBC) is registered in the European Institutions' Transparency Register under ID Number 24967486965-09.