

ZENTRALER KREDITAUSSCHUSS

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Annex

EUROPEAN CENTRAL BANK CONSULTATION ON THE PROVISION OF ABS LOAN-LEVEL INFORMATION IN THE EUROSISTEM COLLATERAL FRAMEWORK

The German banking industry has the following comments on the concrete questions raised by the ECB:

1. What would be in your view the foreseeable benefits and costs of having loan-level data available on an ongoing basis to market participants? Do you see alternative ways of achieving a major improvement in ABS transparency?

The banking industry represented within the ZKA generally agrees the objective of the European Central Bank (ECB) to increase transparency and thereby strengthen investor confidence. Achieving these objectives will be able to provide an appreciable positive impetus to the ABS market.

In principle, data protection issues must also be clarified. Dealing sensitively with customer data is of the greatest importance for the financial services sector. In this respect, in the field of tension of market transparency and customer confidence and protection – banking secrecy as a European location factor – pragmatic solutions must be found.

Last, but not least, in principle it should further be pointed out that it is not yet clear how the Eurosystem will penalise non-100% implementation of new ABS requirements. In principle, this could lead to rejection of the securities by the ECB or to more significant haircuts if the requirements are not satisfied. The consequences of non-fulfilment, partial fulfilment or defective fulfilment should be presented. It would be unjustified, for example, if, despite considerable effort, non-delivery of just one single (mandatory) field in a data set is liable to the same penalty as complete non-fulfilment. In this respect, a clear regulation should certainly be adopted from the start on the introduction by the Eurosystem.

It remains important for the financial services institutions in the ZKA to introduce new structures for refinancing by ABS gradually and with close coordination. Immediate introduction of the transparency requirement at the proposed frequency and depth of detail could have an adverse impact on the quality of the information. An appropriate transitional period could be useful at the initial stage. The background reasons for this fundamental requirement by the credit sector are:

- A great deal of information will not be available to start with and possibly will first have to be collected and/or compiled at considerable expense.
- New processes for the continuous data supply and its quality assurance still have to be established.

- Further parties to be involved (auditors, external IT service providers, SPV management companies, trustees etc.) first have to deal with processes, data content and data quality before publication can take place.
- The provision of data beyond the relevant and necessary extent would be contrary to the principle of data minimisation resulting from data protection and call for high additional costs in IT and personnel measures (in particular where dynamically modifiable data are involved, which have to be collected and entered manually on a regular basis). This could also give rise to new operational risks. In addition, care should be taken to minimise the cost burden to the extent that the bank customer does not end up bearing an additional burden.
- Below the line, the necessary measures must in any case be taken to avoid the securitisation market being allocated a further penalty, i.e. that of the “too transparent borrower”. The reforms must therefore be designed as far as possible so that they provide the basis for the growth in confidence in these markets.

In this respect, additional information to the degree required is usable by investors only to a marginal extent without considerable costs and system adjustments, especially as in many cases a considerable volume of information is already available today, the analysis of which must be discussed together with the Eurosystem. Therefore the most relevant information could be prioritised in a gradual procedure and as a result use and expense for investors and originators can be optimised to the same extent. A massive extension of the data set to be disclosed alone is under no circumstances sufficient for this, but harbours the risk of “information overkill” for investors (also see IOSCO Report on Unregulated Financial Markets and Products, September 2009). In principle, it must be avoided that ABS Investments (and especially MBS) become unattractive.

2. Is the concept of different but standardised loan-level reporting templates for all European ABS transactions and for each asset class valid (see the attached document “RMBS loan-level reporting template - Version 9”)? For what ABS classes could there be problems?

The proposed standardisation for and differentiation according to types of claim in principle achieves the objective. In the case of securitised commercial mortgages, such standardisation represents a challenge however on account of the wide range of underlying types of collateral. In addition, it should be pointed out that not only differences between asset classes, but also between individual jurisdictions have to be considered. Standardised specifications should therefore be built on a modular basis (i.e. basic data fields for all, specialised data fields differentiated according to asset classes and jurisdictions). Furthermore, problems are seen in particular in the case of portfolios like CMBS and balance-sheet CLOs. In the case of SME loan securitisations too, practicable presentation possibilities would have to be developed. In addition, there are also various country-specific data protection and bank secrecy requirements which in any case must be observed. We therefore welcome the planned gradual procedure in which asset class by asset class are introduced in succession with reporting requirements. The various templates can be developed in this context.

3. In relation to the RMBS loan-level reporting template, what fields would not be applicable in certain national markets? Why? What additional fields would be required, if any?

Our replies to these questions are based on the “New Assets” tables, field numbers 108, 109, 114, 115 and the “Dynamic Fields” tables, field numbers 44, 45.

The data fields are not applicable in Germany, since the automated valuation method is not an established procedure in property valuation.

In principle, it should again be pointed out here that certain data required in the templates can be communicated by German banks only with a great deal of effort and the associated high costs. For instance, difficulties may arise in the regular collection of income data, since these are often not available in the desired form (e.g. if a loan was not extended by the house bank holding the salary account or if no obligation to disclose financial circumstances on an ongoing basis exists for certain types of loan).

The differences between the data requirements of the credit institutions and the ECB are explained by the mismatch of the data warehouse required in principle. In particular, information on the performance of the selected portfolio and cash-flow projections are processed differently in the analysis approaches of the ECB and the rating agencies than in the loan analyses and credit monitoring of the credit institutions.

In general, all data needed for the direct automatic processing of the loan are available in full. The more detailed the data requirements concerning the collateral and the borrower (especially with regard to the optional specifications listed, but also some of the mandatory specifications), the lower the probability that the data are available in full. Historical time series are likewise problematic, with the evaluation of the stock data usually only being possible at certain points in time (e.g. end of the month). Making this information available represents considerable expenditure on programming and the representation of developments.

An approach towards solving this problem could lie in the categorisation of the required data in accordance with the data warehouses of the banks. Loan data and basic collateral and borrower data at the time of granting the loan could be mandatory or optional. Detailed dynamic collateral and borrower data, such as, for example, preferences on immovable property over time or debt/income ratio of the borrower since the loan was granted, must represent additional optional fields.

In any case, the question of penalties is problematic, in so far as individual data fields cannot be supplied. Does the securitisation transaction still meet the requirements if only one data input is not supplied or is there a higher certification body which then decides on a case-by-case basis?

4. What impediments, if any, would originators face in submitting loan-by-loan information to fulfil the loan-level data requirements?

In total, considerable extra IT costs are to be expected, which the credit institutions, as originators, have to bear if the Eurosystem requirements contribute to strengthening the market for ABS. In particular, at an initial phase, problems could potentially also arise in the reporting for technical IT reasons, for which a pragmatic procedure should be agreed in dialogue with the financial services industry.

In principle, it should also be pointed out that in future new transactions, a distinction should be made between:

- a) transactions, where the underlying loans were already filled in to the necessary extent with loan-by-loan data when the loan was granted and
- b) transactions based on loans for which the final publication requirements were not yet compulsory at the time they came into being. The causes are on the one hand purely practical (data collection and compilation costs) and on the other legal (debtor advice, data protection, etc.).

In the case of existing transactions, on account of lack of knowledge or because of the necessary costs or processing effort, conversion can only take place successively or only over a long transitional period. Flexible, ample transitional possibilities should therefore be provided for this.

- 5. Which of the scenarios presented, or combination thereof, would provide the best solution to the market, taking into account considerations such as data consistency and quality, competition, governance, cost, ease of data transmission, etc.?

The existence of several portals is advantageous in terms of implementation speed, maintenance costs and quality of service. Moreover, the operational risk is reduced in the case of failure by a provider or the technical platform.

For these reasons, a comparable approach to that for the recognition by rating agencies for the purposes of the prudential capital adequacy should also be chosen here (only reliable partners, quality requirements specified in advance, new: supervision by regulator/State). In the end, it also emerged from the financial market crisis that multiple structures on the financial markets boost stability and in this respect oligopolistic structures on the markets of the rating agencies should also at least be scrutinised.

- 6. Is an envisaged preparation time of 12 months after the announcement date sufficient to adapt to the loan-level data requirements? If not, why?

With regard to the replies to question 4, an implementation period of 12 months is considered sufficient for direct claim-related data (amount, duration, arrears, etc.). For more extensive data relating to the financial soundness of the borrower or the collateral, distinctly longer implementation periods of about 3-5 years are needed.

For existing transactions, the approximately 2,000 German institutions of the banking industry in principle advocate a grandfathering arrangement, since conversions in existing business would generate disproportionately high cost.