

## **BDI/DAI/VDT: Proposed securitisation market regulations will impair the refinancing of the German real economy**

**Berlin / Frankfurt, 13 December 2013**

The German securitisation market plays a pivotal role especially with regard to sales and working capital financing in the German industry. Bundesverband der Deutschen Industrie (BDI)<sup>1</sup>, Deutsches Aktieninstitut (DAI)<sup>2</sup> and Verband Deutscher Treasurers (VDT)<sup>3</sup> are very concerned that upcoming legislations will impair this market and will decrease capabilities of German corporates to use securitisation for financing purposes.

In particular we want to draw your attention on the following rules which we assume as highly problematic:

### **1) New liquidity rules / liquidity coverage ratio (CRR, Art 424 et seq.)**

On the basis of a BCBS proposal dating from January 2013 on the structure of the liquidity coverage ratio (LCR), in February 2013 the EBA published a discussion paper on the definition of liquid assets and in October 2013 conducted a public consultation. As far as we are aware, auto ABS would not represent “liquid assets” within the meaning of the LCR, in contrast to government bonds, covered bonds and (with high haircuts) corporate bonds.

In addition, the securitisation of trade and leasing receivables would also be affected. The LCR compels banks that operate platforms for the securitisation of trade and leasing receivables to set aside liquid assets for their obligations arising from the liquidity cover requirements in ABCP programmes. At present, these requirements mark a distinct departure from those for direct credit and liquidity facilities to non-financial customers, although there is no reason for this distinction.

In their capacity as investors, banks would find it far more difficult to invest in auto ABS than at present. In their capacity as sponsors of ABCP programmes, they would find it very unattractive to maintain corresponding platforms for the securitisation of trade or leasing receiv-

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1 The BDI communicates the interests of German industry to those in positions of political responsibility. It primarily addresses policy-makers and the government in Germany and at EU level. The BDI provides political flanking for the opening up of international markets and provides information and economic policy advice on all topics relevant to industry.

2 Deutsches Aktieninstitut represents the entire German economy interested in the capital markets. Its about 200 members are listed corporations, banks, stock exchanges, investors and other important market participants. Deutsches Aktieninstitut keeps offices in Frankfurt am Main and Brussels.

3 Verband Deutscher Treasurers e.V. is the official German association of Corporate Treasurers representing more than 1200 treasury professionals from 530 companies.

ables. At present, platforms of this kind are used by more than 100 enterprises in Germany. The total volume of resources generated via such platforms is around EUR 12 billion.

**Therefore: Under the LCR, high-quality German auto ABS should be explicitly included in Level II at least, and the liquidity lines in ABCP programmes should not be placed in a worse position than corresponding liquidity facilities directly applied for non-financial customers.**

## **2) Current proposals on the new rules applicable to underlying capital assets in bank securitisation investments (“Revision of the Basel II securitisation framework”)**

According to a discussion paper by the Basel supervisory authority dated December 2012 (Basel III.5), new capital adequacy requirements for banks with regard to securitisation positions are expected to be introduced as of 2015. This would result in a huge increase in capital requirements for ABS investments as well as for liquidity facilities in ABCP programmes.

In the first case, higher capital adequacy requirements would apply in many cases to the sum of all tranches than to the unsecuritised credit portfolio underlying a transaction. In the latter case, more capital would generally be required compared to the underlying unsecured credit lines to the enterprises themselves. From the perspective of capital adequacy, ABCP programmes would thus be uneconomic for offering banks as opposed to unsecured loans.

Viewed in the light of risk history, this makes little sense as the usual recovery rate for loans in the case of company insolvency is around 40-60%. However, in finance transactions based on securitising trade receivables, in the case of originator insolvency the normal recovery rate is 100%. This kind of revised framework for securitisations would also make it far more difficult for banks to invest in auto ABS than at present. At the same time, it would make it very unattractive for banks, as sponsors, to maintain ABCP platforms for their corporate clients.

**Therefore: The capital adequacy requirements for high-quality auto ABS should not differ from the previous requirements for securitisation positions or from the capital requirements for comparable products (covered bonds, corporate bonds). The same should apply to the provision of liquidity lines for ABCP programmes.**

## **3) Solvency II**

New capital adequacy rules for insurance companies investing in securitisations are considerably diminishing the attractiveness of securitisation investments by enterprises in the insurance sector. For example, according to the most recent draft of Solvency II, ABCPs covered by trade or leasing receivables would have to have underlying assets of at least 19% of the company equity. By comparison, an AA-rated covered bond with a (residual) term of one year would have to have underlying assets of only 0.9% and commercial paper issued by an A-rated enterprise of only 1.4%. Investment in ABCP would therefore become unattractive,

which is likely to make this instrument far more expensive for companies using this financing instrument.

The relations in the case of investments in AAA auto ABS compared to covered bonds or corporate bonds would be similar.

The result of introducing Solvency II without amending the present draft would therefore be that, to the extent that they apply the standard model, insurance companies would cease to invest in securitisations.

**Therefore: The capital adequacy requirements for high-quality auto ABS and ABCPs should not differ from the capital adequacy requirements for comparable products (covered bonds, corporate bonds).**

#### **4) Shadow banking regulation / Money market funds (Draft MMF Regulation, Art. 7 and 8)**

New investment guidelines for money market funds or securitisations in the present European Commission draft will make it more difficult to invest in auto ABS and ABCP programmes. Auto financing and leasing, even in the form of leasing of capital goods, are explicitly ruled out as underlying assets. Corporate receivables are allowed in certain circumstances, although the applicable conditions still have to be defined by the ESMA.

**Therefore: Auto ABS and ABCPs with underlying auto financing should also be included on the list of investments permitted for money market funds.**

#### **5) CRA 3 (Art. 8)**

The revised European regulation of rating agencies is intended to oblige banks in their role as originators or sponsors to publish detailed information on their securitisation transactions (ABCP and ABS) on a publicly accessible website. The extent of this publication and review obligation represents, first, a duplication of obligations already in existence (CRR Art. 406 et seq. and the ECB's loan-level data requirements). Second, as per the current state of the debate, the requirements far exceed what is necessary and practically feasible, particularly as far as the inclusion of ABCPs in the rule is concerned.

**Therefore: No duplication and extension of existing tried and tested rules in Art. 407 et seq. of the CRR and the ECB's loan-level data requirements.**