

Memorandum

Subject: ALFI response to ESAs Consultation on Amendments to Delegated Regulation (EU) 2016/2251 on risk mitigation techniques for OTC-derivative contracts not cleared by a CCP under Article 11(15) of regulation (EU) No 648/2012 in the context of the STS securitisations under Regulation (EU) 2017/2402.

Working Group: G6 EMIR OTC Derivatives

Date: 1 June 2018

Question 1:

Do stakeholders agree with the amendments for Delegated Regulation (EU) No 2251/2016 suggested in this CP?

Response 1:

ALFI supports this initiative that represents a simplification of the current collateral exchange obligation rules.

Question 2:

Are there any additional or alternative requirements for securitisations that stakeholders view should be introduced in Delegated Regulation (EU) No 2251/2016 following the amended mandate in Article 11(15) of EMIR?

Response 2:

We have not identified additional requirements. We understand that the aspects regarding the exemption of variation margin exchange for physically settled FX OTC derivatives not cleared by a CCP will be covered in an amended version of the RTS 2016/2251, as communicated by the ESAs in December 2017.

Question 3:

Do stakeholders consider that the condition in draft Article 30a(2)(a) results in a treatment consistent with that provided in Article 30(2)(b) of Delegated Regulation (EU) No 2251/2016?

Response 3:

As our industry is not materially exposed to this type of transaction we do not express any specific opinion on this subject.

Question 4:

Do stakeholders consider that the non consideration of the waiver of the pari-passu rank, in conjunction with the minimum 2% credit enhancement, results in a similar protection of the OTC counterparty in the cases of STS securitisations as in the case of covered bonds? Or would it instead be necessary to retain the waiver currently available for covered bonds also for exceptional situations under STS securitisations?

Response 4:

As our industry is not materially exposed to this type of transaction, we do not express any specific opinion on this subject.