Chris Dalton | Chief Executive Officer

3 Spring Street, Sydney NSW 2000

T +61 2 8243 3906
M +61 403 584 600
E cdalton@securitisation.com.au

www.securitisation.com.au

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Financial Services Agency
The Central Common Government Office No. 7
3 -2-1 Kasumigaseki, Chiyoda-Ku, Tokyo 100-8967
Japan
submitted via email

Dear Sir/Madam

Response to FSA Proposed Securitisation Regulations

The Australian Securitisation Forum (ASF) appreciates the opportunity to respond to the notices published by the Japanese Financial Services Agency (FSA) on 28 December 2018 which provide detail on proposed changes in the regulatory capital requirements applicable to Japanese banks and certain other financial institutions that invest in securitisation transactions (the JFSA Proposal). As the notices have not been translated into English, we understand the JFSA Proposal includes proposed changes relating to:

(i) the risk retention rule for investors investing in securitisation transactions;

(ii) the revised securitisation framework (as agreed by the Basel Committee on 16th December 2014); and

(iii) the term simple, transparent and comparable (STC) framework (as agreed by the Basel Committee on 13th July 2016).

The ASF was formed in 1989 and is the peak industry body representing participants in the Australian securitisation market. A primary role of the ASF is to facilitate the development of industry views and to represent those to policy makers and regulators in Australia and globally. Key objectives of the ASF include supporting the enhancement of market standards and practices, delivering professional development workshops to build the professional standards of industry participants and to promote the Australian securitisation market to local and global stakeholders. The ASF, in representing a successfully operating regional securitisation market, supports any proposal that strengthens global securitisation markets.

Japanese based investors have become an important component of the Australian securitisation market. We believe there are mutual benefits for Australian issuers and Japanese financial institutions that invest in Australian residential mortgage-backed securities (RMBS) and asset-backed securities (ABS). Australian issuers can benefit by diversifying their funding base through issuing RMBS and ABS to Japanese financial institutions and fund managers. Japanese investors can benefit by diversifying their RMBS and ABS portfolios to include high credit quality, well performing Australian RMBS and ABS that offer a relatively attractive yield.

The following section:

- provides background to the Australian securitisation market;
- outlines the ASF's interest in the new JFSA Proposal relating to risk retention and STC securitisation; and
- some general comments.

A. Australian Market Background

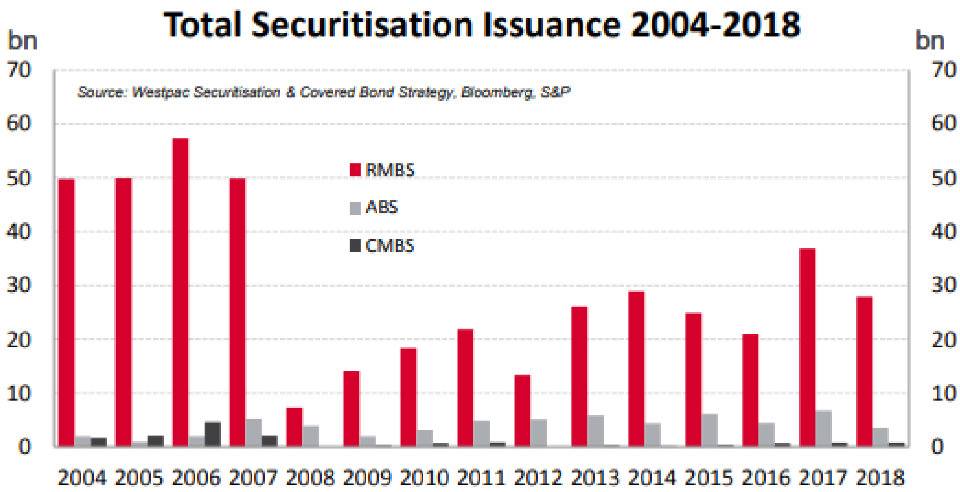
The Australian securitisation market has a history extending back more than two decades. In 2018 public Australian securitisations totalled A$32.3 billion (approx. JPY 2,511 billion). The dominant asset class is RMBS which represented 87% of all 2018 public securitisations. The remaining 13% includes consumer and SME ABS and commercial mortgage-backed securities (CMBS).

A variety of Australian issuers use securitisation to fund their businesses including banks and other Authorised Deposit Taking Institutions (ADIs) and non-ADI lenders. All are regulated by either the Australian Prudential Regulation Authority (APRA) or the Australian Securities and Investments Commission (ASIC).

There is a strong domestic investor base including banks, insurance companies, pension funds and fund management companies. Additionally, global investors from the UK, Europe, US, Japan and Asia are significant investors in Australian RMBS and ABS.

The following chart illustrates annual issuance in the Australian securitisation market

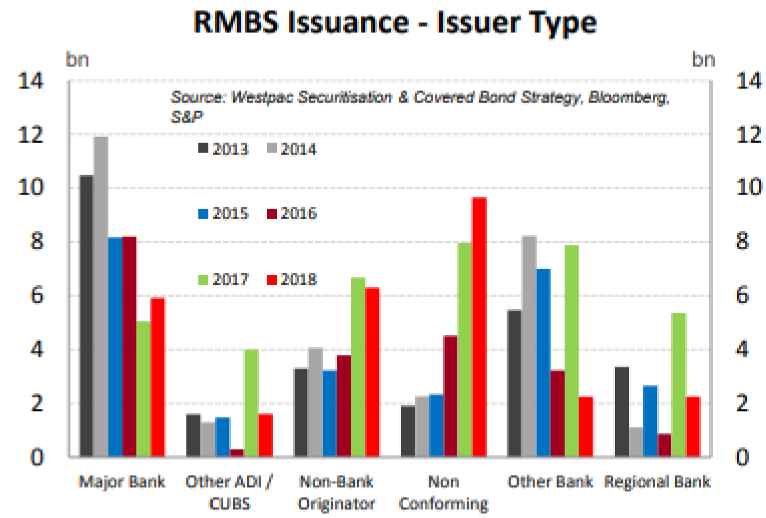
Chart 1



Source: Westpac Banking Corporation

Issuer diversity of Australian RMBS is illustrated in the following chart:

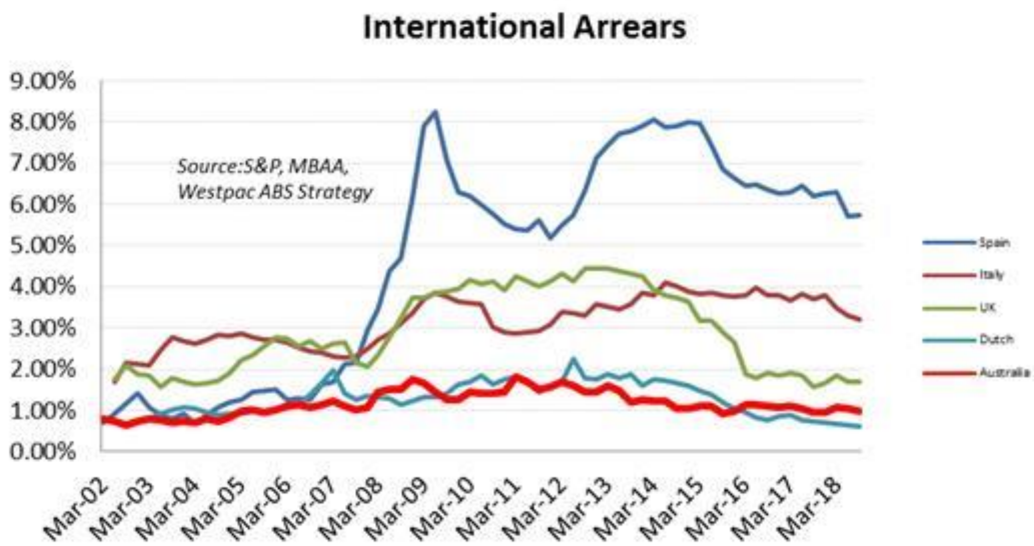
Chart 2



Source: Westpac Banking Corporation

The credit performance of Australian securitisation has been strong and consistent over the last 16 years. Investors have not incurred any loss in an Australian RMBS or ABS with an investment grade credit rating. The credit performance of the largest asset class RMBS is illustrated below

Chart 3



In Australia, the key regulation of securitisation is Australian Prudential Standard 120 which is administered by the prudential regulator, APRA. This Standard was reviewed several years ago and an updated Standard came into effect in January 2018. APS 120 reflects Australia's adoption of the Basel reforms of regulatory governance of securitisation.

More generally APRA and ASIC take a proactive regulatory approach to securitisation but have a supportive policy position towards the role and benefits of securitisation in funding Australia's economic growth.

B. Risk Retention Requirement

We understand the JFSA Proposal requires investors to:

1. Satisfy a set of comprehensive due diligence requirements with respect to a securitisation exposure. The JFSA Proposal requires an investor to implement a reporting/due diligence "system" that will have several features including:
   a) continuous collection of information concerning the risk characteristics of a securitisation exposure;
   b) timely collection of information concerning the risk characteristics and performance of the underlying assets;
   c) identification of structural characteristics of the securitisation; and
   d) control rules to implement the system.

Question: The ASF requests that the JFSA Final Rule provide further clarity on what is required and whether the requirement is equivalent in scope to the European Union's due diligence requirements for securitisations?

2. Establish that the "originator" of the securitisation has retained an exposure equal to and not less than 5% of the total of the original assets being securitised. The retained exposure can be held vertically or horizontally or a combination if the most subordinate tranche is less than 5%.

Can you please confirm that the requirement for risk retention can also be satisfied by other options including where the originator holds a representative sample, of at least 5% of similar loans to those in the securitisation, on its balance sheet?

3. We understand the JFSA Proposal will allow an investor to invest in a securitisation where the 5% risk retention by the originator has not been satisfied without an increased capital charge being applied to the securitisation exposure. We understand that this exemption can apply so long as the assets underlying the securitisation were not "originated inappropriately". We understand Article 248 Paragraph 3 of JFSA Proposal stipulates that the risk retention rule will not apply if an investor can judge the underlying assets of a securitization were not originated inappropriately based on:
   - the originator's involvement in underlying assets,
   - the quality of the underlying assets, and
   - other relevant circumstances.

Question: Can you please confirm it is proposed that an exemption to the risk retention will be allowed and the extent of the exemption? If so, can you provide further detail and clarity as to what will be required for an investor to claim exemption to being satisfied that an originator has retained a 5% interest in the securitisation?

Question: The ASF would also like to understand if the 5% risk retention requirement is based on the value of the underlying pool of assets at any point in time and is not fixed based on the *original value of the pool of assets? Our query is raised given amortising securitisation transactions are a feature of the Australian market.*

C. Simple Transparent and Comparable Securitisation

The majority of Australian securitisations are simple, transparent and comparable in their structure and characteristics. Australian issuers have adopted transaction structures that are well understood by domestic and global investors. These structures have been tested and proven through the market difficulties of the 2008/2009 financial crisis and its aftermath. In particular, Australian securitisation transactions never experienced a misalignment of interests that were a problem with US subprime transaction before the financial crisis.

Most Australian securitisation structures are pass through amortising structures that have a floating rate coupon. Typically, where securities are issued to overseas investors the originator retains an economic interest in the transaction by retaining the most junior subordinated notes, a 5% vertical slice or retaining a representative closed pool of assets on its balance sheet of at least 5% of the initial pool.

Since 2015 a formalised template of loan level reporting for RMBS has been established by Australia's central bank, the Reserve Bank of Australia (RBA) which is a requirement for RMBS transactions to be eligible for repurchase arrangements with the RBA.

The RBA has also established standardised reporting templates containing transaction level and security level data.

The RBA requires that this data is available to investors and other interested parties subject to a non-disclosure document being executed. A non-disclosure document is required under Australia's privacy of information laws.

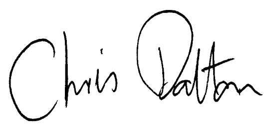
The ASF understands that the JFSA Proposal does not restrict STC recognition to only Japanese securitisations or transactions where the underlying pools contain Japanese assets.

Question: The ASF asks that the Final Rule confirm that investors can verify that securitisation transactions issued by a non-Japanese issuer or those which have an underlying pool of non-Japanese assets can still meet the STC criteria of the JFSA Proposal?

Certain RMBS and ABS are eligible collateral for repurchase arrangements with the RBA. The ASF suggests the JFSA STC framework recognise, as a proxy for STC certification by Japanese investors, that Australian securitisations which satisfy and are listed by the RBA as acceptable for repurchase agreements with the RBA, are STC compliant.

We would be happy to discuss the views set out in this response with you by conference call.

Yours sincerely,



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