



**ASIC**

Australian Securities & Investments Commission

# Australian securitisation 2013

*A speech by Greg Tanzer, Commissioner,  
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## **CHECK AGAINST DELIVERY**

### **Introduction**

Thank you to the Australian Securitisation Forum (ASF) for inviting me back to speak at this event.

I would like to take this opportunity to outline:

- some thoughts on the importance of securitisation markets
- developments in securitisation regulation, and ASIC's work in this area from an international perspective
- some recent developments in over-the-counter (OTC) derivatives regulation
- ASIC's work to support debt and securitisation markets.

### **Why securitisation markets are important**

Globally, securitisation has traditionally been an important market-based source of finance. Before the global financial crisis (GFC), it was generally acknowledged as playing an important role in funding activity in the real economy.

Six years on from the events which led to the GFC, there is a lot to be said for supporting the emergence of sustainable orderly securitisation markets – markets which can, in turn, support economic growth.

This need is all the more pressing in those jurisdictions where bank deleveraging, due in part to regulatory changes, is encouraging businesses to turn to market-based financing solutions.

The emerging significance of market-based finance is something both the Group of Twenty (G20) and the Financial Stability Board (FSB) have both recognised in recent statements and initiatives. It has also been highlighted recently by the ASIC Chairman in his work as the Chairman of the International Organization of Securities Commissions (IOSCO) and as a representative on the FSB.

At ASIC we continue to believe that sustainable and orderly securitisation markets can, and should, play an important role in achieving the right balance in funding sources between markets and the banking sector, and in facilitating economic recovery.

We also believe that regulation has a role to play in supporting the recovery of these markets both domestically and globally.

And there are signs of these markets recovering – although not uniformly:

- Securitisation activities in the United States are slowly picking up.
- Australian securitisation markets have experienced something of a revival in 2013, with investor demand increasing both domestically and internationally.
- European markets have seen little recovery since the GFC.

Our views in this regard are shared by our regulatory colleagues in a number of other jurisdictions, and are underpinning work being led by IOSCO.

Let me now turn to what IOSCO has done in guiding work in this area – and what it has on its forward work agenda.

## **International regulatory reform work**

Securitisation, as a part of the shadow banking agenda, continues to be a key focus of international reform work being driven by the G20 and FSB. ASIC has been actively involved in international securitisation workstreams through its participation in the work of IOSCO and the FSB.

ASIC Chairman, Greg Medcraft, commenced his term as IOSCO Board Chairman in March 2013. As IOSCO Board Chairman, Greg is also a member of the FSB Steering Committee and FSB Plenary, the two peak bodies of the FSB.

There are two sets of developments on the work agenda since we spoke last year:

- IOSCO's work, published late last year, on global developments in securitisation regulation
- proposed further work in addressing impediments to recovery of securitisation markets.

## **Global developments in securitisation regulation**

Last November, IOSCO published its report on global developments in securitisation regulation. The report was prepared following a request from the FSB.

As part of this work, IOSCO actively consulted with industry through various roundtables and discussions to understand their perspective on securitisation issues. We greatly appreciated the ASF's input into that consultation process.

The final report made 10 recommendations in relation to:

- incentive alignment and risk retention
- transparency and standardisation.

The report also listed a number of areas that warranted further consideration, such as the differences in prudential treatment of securitised and collateralised products, and accounting issues regarding the consolidation of special purpose vehicles.

On incentive alignment and risk retention, the report recommended:

- the formulation and implementation of incentive alignment approaches in a globally harmonised manner, including through risk retention
- that risk retention requirements address who should retain the risk and how they should retain the risk, and that any exemptions be consistent with the objectives of incentive alignment and should achieve equivalent regulatory outcomes.

Good progress has been made in many jurisdictions:

- in the European Union, through the Capital Requirements Directives, as well as obligations regarding risk retention requirements being extended to alternative investment managers and insurers
- in the United States, the US Joint Agencies,<sup>1</sup> including the Federal Reserve Board, the Securities and Exchange Commission and the Office of the Comptroller of Currency, have recently issued revised proposed rules, requiring sponsors of securitisation transactions to retain risk in those transactions.

These two jurisdictions are taking forward requirements for the sponsor, issuer or originator to retain 5% of the risk in a securitised transaction. There are, however, some differences of approach.

IOSCO's final report also recommended a review of the implementation of the incentive alignment approaches set out in the report, including reviewing any differences that may have a material adverse effect on cross-border transactions. The G20 Leaders Summit in St Petersburg asked for a report on this review to the G20 Leaders Summit in Brisbane, in November of next year.

Work on this review will be led by ASIC which chairs the IOSCO Assessment Committee. Work will start on this project in the next month.

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<sup>1</sup> The US Joint Agencies are the Federal Reserve Board, Office of the Comptroller of Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, the Federal Housing Finance Agency, and the Department of Housing and Urban Development.

On transparency and standardisation issues, the final report recognised the good work already gone into standardising reporting. The report recommended that:

- jurisdictions should continue to work to develop standardised reporting templates
- IOSCO should work with the Basel Committee on Banking Supervision to ensure convergence of standardised templates across jurisdictions
- investors should receive from issuers essential information to assess a securitisation product's performance
- investors should be provided, at no cost, with modelling tools that enable investors to conduct cash flow analysis
- investors should receive equal access to all documents and data relevant to assessing the creditworthiness of a given securitisation product that is provided to credit rating agencies.

## **IOSCO's forward work plan**

IOSCO's forward work plan is being undertaken in light of recent discussions at the FSB on the shadow banking agenda. At recent meetings, the FSB has discussed the best way to take forward work on securitisation to facilitate the recovery of these markets, particularly in Europe.

The general thinking is that slow recovery in securitisation markets is worth further analysis. There is a sense that it is timely for regulators and policy makers to work with industry to understand how these markets are evolving post-GFC and whether there are impediments to recovery of sustainable securitisation markets.

Industry has also been reflecting on these issues. The Association of Financial Markets in Europe (AFME), for instance, recently published a report on unlocking funding for European investment and growth, which found that from both a credit and secondary market price performance perspective, the European investor base for securitisations has severely contracted.

The report outlined a number of possible reasons for this, including macroeconomic uncertainty as well as the impact of regulatory developments.<sup>2</sup>

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<sup>2</sup> The AFME report points to potential unintended consequences affecting investors in securitisation markets. Basel III/CRDIV means banks and credit institutions 'will now be forced to increase capital, deleverage and change the mix of assets they have available to meet regulatory standards; as a consequence, a reduction in their exposure to securitized products is likely.' The AFME reports also points to Solvency II, through which it says 'harsh capital requirements are likely to eliminate altogether demand for securitised products from insurance companies.'

To consider these concerns IOSCO is developing a proposal to establish a cross-sectoral working group to conduct an economic and financial analysis of securitisation markets. The aim of this analysis is to understand how securitisation markets are evolving in different parts of the world in order to encourage recovery.

The issues will be complex and will need the input of a range of experts from across global standards setters, regulators and, critically, will need to involve industry and key market participants in trying to unpack a solution for recovery.

The concept is at a very early stage, but a key element of the project will involve working with industry to understand and analyse investor appetite and views on impediments to recovery of securitisation markets.

This work is commencing this year and IOSCO is aiming to publish a final report by the end of 2014.

## **Developments in OTC derivatives market regulation**

Since the GFC, another area of significant reform work has been in OTC derivatives market regulation. The FSB has been coordinating international work in relation to OTC derivatives markets in order to meet the G20 commitments that:

- all OTC derivatives contracts are reported to trade repositories
- all standardised contracts are traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties
- non-centrally cleared contracts are subject to higher capital requirements, and minimum margining requirements are developed.

A discussion on the changes in derivatives markets regulation is a speech in itself, but given the relevance of derivatives to securitisation transactions, it is worth noting a few points on recent developments.

## **Trade reporting**

ASIC has recently implemented a mandatory trade reporting regime in Australia for OTC derivative transactions.

The first phase of reporting has commenced with the five major Australian banks, and much valuable information is being provided.

The next phases, commencing 1 April 2014 and 1 October 2014, will involve financial groups with outstanding OTC derivative notionals of

greater than \$50 billion, followed by all authorised deposit-taking institutions (ADIs) and Australian financial services (AFS) licensees, respectively.

There is likely to be some impact on securitisations as derivative transactions entered into in relation to a securitisation will ultimately need to be reported. However, given the structured nature of these deals and the nature of the counterparties, consideration needs to be given to each arrangement, who must report and what might be the most efficient way to report.

We encourage entities that may be affected to consider the impact early, and engage with ASIC early through our ongoing consultation process.

## **Margin for non-centrally cleared derivatives**

Other aspects of the international reform agenda involve margining and mandatory clearing requirements. After significant consultation, IOSCO and the Basel Committee on Banking Supervision published the margining principles for non-centrally cleared derivatives in August of this year.

Governments and regulators are now beginning to work on implementation of these principles in their domestic regimes, as they are to be implemented between December 2015 and December 2019.

By 2019, the principles will extend to groups with more than €8 billion in notional value for non-centrally cleared derivatives, but they recommend margining only applies where both sides to a transaction are subject to the requirements.

For ASIC, the Australian Government, and other domestic regulators, the focus now turns to how the principles might be implemented, and the impact these reforms have on liquidity, transactions costs, macroeconomics, together with other OTC reforms.

We will be monitoring these issues and will continue to seek open engagement with industry throughout the process, as well as remaining closely involved with international work.

## **Mandatory clearing**

Another critical aspect of the global derivatives reform agenda has been mandatory clearing.

As you will be aware, mandatory clearing has started to be implemented in the United States and Japan, and is expected in the European Union next year.

In our market, ASIC, the Australian Prudential Regulatory Authority (APRA) and the Reserve Bank of Australia (RBA), have recommended mandatory clearing for US dollar, euro, British pound and yen denominated swaps for internationally active dealers – largely for international consistency.

These recommendations are with the Australian Government and ASIC stands ready to consult on draft implementation rules as and when government consults on a clearing mandate.

The next critical aspect of the developing landscape will be client clearing. Work towards another OTC market assessment will be commenced around the end of this year by the RBA and ASIC, and among other issues, it will consider client clearing.

Given the importance of OTC derivatives transactions to securitisation, there is likely to be some impact on the market due to these wide-ranging reforms. However, the structured nature of securitisation transactions and the entities involved, means that the application of the various new reforms are more complicated than for more standardised transactions. I therefore encourage you to participate in the various ongoing consultations as ASIC seeks to engage in discussions with industry.

## **Ongoing work supporting debt markets**

We've also continued our work to support the development of debt markets. Since May 2013, retail investors have been able to buy and sell Australian Government Bonds (AGBs) on the Australian Securities Exchange (ASX) as easily as they can buy and sell shares.

Having an active retail market in AGBs is an important step in establishing a wider retail corporate bond market, by providing a visible pricing benchmark for retail investors in corporate bonds. It is also a step to encourage retail investors to diversify into fixed-income products.

The launch of trading in these bonds increased the amount of ASX-quoted assets for retail investors in the interest rate category from \$35 billion to approximately \$280 billion, an eight-fold increase.

There has been active trading of these products in the five months since the launch, and trading is increasing. As at 30 September 2013, just over 180,000 Chess Depository Interests (CDIs) in exchange-traded AGBs had



been issued. This has grown from a total number of approximately 100,000 CDIs in exchange-traded AGBs just five months earlier in, May 2013.

In September 2013, just over 30,000 units were traded across the 23 bond series, representing over \$3 million in monthly traded value. August 2013 saw the highest figures so far with around 37,000 units of AGBs traded at a total value of \$4 million for the month.

## Credit providers

ASIC also continues to be involved in other areas of work which indirectly promote the restoration of confidence in securitisation markets, for example, through our regulation of credit rating agencies and credit providers.

Earlier this year we published the results of our review into how credit licensees are supervising the activities of their mortgage broker representatives and ensuring they are complying with responsible lending.

We made a number of recommendations for good practice in this area. We also noted an interesting decline in the instance of brokers recommending 'low doc' loans at the time the responsible lending laws commenced.

We have followed this work with a review of compliance with responsible lending in the low doc space. We selected 14 providers, active in the low doc space, from across the spectrum of ADIs, non-ADI credit providers, wholesale funders and mortgage managers. The results have been interesting and we expect to release our findings and recommendations for good practice shortly.

## Conclusion

In conclusion, solving the issue of funding for Australia's future and, more generally, of driving future global economic growth is an important issue. We see the recovery of sustainable securitisation markets as an important part of a wider solution.

ASIC remains actively involved in work, both domestically and internationally, and focused on facilitating the recovery of securitisation markets. We will continue to rely on our collaborative relationship with the ASF to maximise our prospects of revitalising investor confidence in securitisation markets, while minimising regulatory burden on industry.

Thank you for your time today.