# Contents

1. Securitization - a global financing technique 3
   1.1. Introduction 4
1.2. The European securitization markets 5
1.3. Trends in the policy makers dimension 7
1.4. Selected European securitization institutions and initiatives 9
1.5. Securitization benefits 10
   1.5.1. Macro-economic benefits 10
   1.5.2. Benefits for originators and investors 10
1.6. Securitization types 11
   1.6.1. The underlying asset class 11
   1.6.2. The risk transfer method 12
   1.6.3. Static versus managed securitizations 13
   1.6.4. The transaction term 13
1.7. Securitization parties 14
1.8. Selected key securitization mechanisms 17
   1.8.1. Limited recourse 17
   1.8.2. Waiver of rights/non petition clauses 17
   1.8.3. Credit enhancement 17
   1.8.4. Priority-of-payments/waterfall 19
2. The Luxembourg securitization environment 21
   2.1. The securitization market development 22
   2.2. The Securitization Law and the CSSF regulatory guidance 24
      2.2.1. The Luxembourg securitization definition 24
      2.2.2. Two layer securitization 25
      2.2.3. Legal structures 26
      2.2.4. Compartments 28
      2.2.5. Authorization 28
      2.2.6. Investment rules 32
      2.2.7. Risk transfer 34
      2.2.8. Risk management 34
      2.2.9. Issued securities 35
      2.2.10. Investor protection 36
      2.2.11. The AIFMD position on securitizations 38
      2.2.12. Accounting regime 39
      2.2.13. Audit 39
      2.2.14. Liquidations 40
Glossary 42
Your contacts 43
Dear reader,

We are pleased to present EY Luxembourg’s technical guide *Securitization and Structured Finance in Luxembourg* dedicated to provide insight into the Luxembourg securitization and structured finance environment.

The major law underlying this technical guide is the Luxembourg Law on Securitization dated 22 March 2004 as subsequently amended (the *Securitization Law*) that allows both:

- Traditional securitization transactions in accordance with the European securitization definition(s)
- Structured finance transactions provided they fulfil the criteria defined in the Securitization Law

The Luxembourg securitization environment is embedded into multiple laws and regulations that are newly enacted or amended from time to time. For promoters, (potential) investors and other parties involved in securitization, the maintenance of an appropriate oversight is important and requires information to be available on a timely basis. In order to effectively provide useful and up-to-date information, EY decided to publish a series of distinctive publications that deal separately with multiple securitization topics. This technical guide represents the first out of the series of these publications being dedicated to the international market development, the Securitization Law and related supervisory guidance. Together with the other upcoming series of securitization related publications, this technical guide shall provide a detailed and comprehensive insight into securitization and structured finance transactions in Luxembourg.

Chapter one *Securitization – a global financing technique* provides an introductory summary of selected global and European securitization topics, key facts, events, trends and statistics.

Chapter two *The Luxembourg securitization environment* highlights the historic Luxembourg market development and various technical topics that we preselected as being most relevant for an interested securitization promoter or investor. The building block for the continuing Luxembourg securitization track record is formed by the Securitization Law which is complemented by a supervisory securitization guidance provided by Luxembourg’s Financial Sector Supervisory Commission, (the *Commission de Surveillance du Secteur Financier*, CSSF).

We hope you enjoy reading this technical guide and use it in your day-to-day business to make well informed decisions. We look forward to receiving your feedback as well as discussing the challenges and opportunities with you and our subject matter experts.

Kind regards,

Oliver Cloess
Securitization Leader
EY Luxembourg, Financial Services Assurance, Directeur Associé
1. Securitization - a global financing technique
1. Securitization - a global financing technique
1. Securitization - a global financing technique

1.1. Introduction

The era of securitization began in the United States of America (US) back in the 1970s when the Government National Mortgage Association sold securities backed by a portfolio of mortgage loans. In 1971 the first conventional loan securitization was issued and in 1977 the first private label residential mortgage pass-through bond was created. Throughout the 1970s, the securitization markets developed more and more sophisticated securitization transactions. Being able to package assets in off-balance sheet vehicles, thereby creating regulatory capital relief for financial institutions and raising capital available to fund consumer demand, led to the creation of other types of asset securitization in the US and as well in other countries.

For instance, in the 1980s the securitization of automobile loans, bank credit card receivables. Commercial banks developed the first asset-backed commercial paper conduits (ABCPs) to provide trade receivables financing to bank corporate customers. As from the end of the 1980s throughout the 1990s, the securitization market boomed through supporting legislation and an increasing demand by various investor groups searching for these types of investment. Securitization transactions were originally undertaken by commercial and savings banks, but plenty of other (unregulated) parties began to enter specifically into the consumer credit arena using securitization to finance their activities. As a consequence, lending standards were often weakened.

In the early 1990s the next historic milestone was realized, the first securitization of sub-prime residential mortgages, created a high issuing activity fueled by a substantial demand in this asset class continuing for more than a decade. Securitization became the funding and risk transfer mechanism of choice and the originate-to-distribute model became attractive to certain involved parties and formed the way towards the 2006 subprime-crisis resulting in the financial crisis. Banks failed, deals defaulted, bankruptcy proceedings started, investors sued and financial regulators in many jurisdictions proposed plenty of regulations to cope with various dimensions of the collapse. Securitization was since affected by a significantly negative reputation in the public and among the traditional investor.

Post 2008, the originate-to-distribute model failed to align the originators’ and investors’ interests. Statistics have proven that complex and non-transparent securitization transactions had been significantly affected by default rates. Simple and transparent securitization transactions, especially in European securitization transactions, had significantly lower default rates which were close to zero (see graph 1).

![Graph 1: Default rates in Europe 2007-2013 - Source: Standard & Poors](image-url)
1.2. The European securitization markets

In the statistics, the international trend of a surge in issuing activity materialized also in Europe in the years 2000 to 2008 reaching almost a new historic issuance peak each year (see graph 2).

In the years following 2009, the European securitization issuance activity collapsed as a consequence of the significantly negative reputation in the public and among the traditional investor types and other factors. The securitization issuance volumes settled at a low but relatively stable level at around €200b since 2012.

The European securitization markets were affected by another trend of significantly higher retention of the securitization issuance starting in 2008. When extracting retained securitizations, the issuance volumes placed with external parties reduced to a significantly lower but stable level of around €100b per year. One major cause was the key motivation of originators initiating a securitization transaction shifted. Securitization transactions mainly aimed to be subscribed by the originator itself in order to receive liquidity from the European Central Bank (ECB). Since 2008, the level of retention significantly decreased, but today the level of retention is still notably above the levels pre 2008 (see graph 3).
Having noticed a steady decrease and a significant lower issuance activity for the past five years, EY Luxembourg performed in early 2014 a survey among senior decision makers within the European securitization industry comprising originators, sponsors, investment banks, investors and service providers. One major survey result was the positive outlook maintained by those participants predicting a turnaround in the issuing activity (see graph 4).

Graph 4: Issuance expectations for the three years starting 2014 - Source: EY Luxembourg Securitization Survey 2014

Comparing the asset classes of 2015 with the asset classes of 2007, it materializes that the securitization markets lost confidence in certain asset classes, i.e., commercial mortgage backed securities (CMBS) and collateralized debt obligations (CDO), which in return lost market share of 7% and 13% respectively.

In 2015, the most favorable asset class was clearly the residential mortgage backed securities (RMBS) representing almost half of the European securitization issuances. However, the RMBS segment lost 10% of market share. The asset backed securities (ABS) and the small and medium-sized entities (SME) were the winners in comparison and had a market share in 2015 of 30% and 13% respectively.

The ABS segment is comprised of a broad variety of collateral such as car loans, credit cards, leasing receivables, commercial loans, trade receivables and other similar underlying.

Graph 5: Issuance by collateral - Source: AFME

In 2014, the European securitization statistics reported a 20% increase in issuance activity compared to the prior year. Consequently, 2014 was the first year since 2008 that an increase in issuance activity was noticed. While the 2015 issuance activity remains stable, it has not yet demonstrated the additional growth.

The changed demand from traditional securitization investors resulted in both a significant decrease in issuance volumes and significantly higher retention levels. Furthermore, the changes in investor demand had an impact on the preferred securitization asset classes (see graph 5).
1.3. Trends in the policy makers dimension

As a consequence of the 2008 financial crisis, various European laws and regulations established additional requirements on securitizations (the Securitization Regulation) aiming to make securitizations safer and simpler, to ensure appropriate incentives are in place to manage risk, including higher regulatory capital requirements, due diligence and conduct of business requirements as well as mandatory risk retention requirements. As a result, all securitizations in the European Union (EU) are strictly regulated to address the risks inherent in highly complex, opaque and risky securitizations. The Securitization Regulation has been established by various authorities in many financial sectors (e.g., banking, insurance, alternative investment funds) based on their specific lessons learned. As a result, the Securitization Regulation was not harmonized across the authorities and was not distinctive by asset class or structural elements.

Without starting a root cause analysis, the US securitization markets recovered quickly while the European securitization markets continued to be impaired. Not surprisingly, the issuance activity in both markets developed with a different pace (see graph 6).

European securitizations have evidenced strong credit resilience (see graph 1) accompanied with low market pricing fluctuations. It has been well demonstrated by facts that securitizations can be structured of higher quality and hence can form a relevant, reliable and trusted segment of the capital markets.

Through continuing discussions between European authorities, including inter alia the European Commission, the European Banking Authority (EBA), the ECB, and the securitization industry with statistical evidence over years, the European authorities notably reconsidered the approach for Securitization Regulation from 2014.

The ECB and the Bank of England (BoE) jointly published in the first half of 2014 a paper entitled *The impaired EU Securitization market: causes, roadblocks and how to deal with them* and a discussion paper entitled *The case for a better functioning securitization market in the EU*. Both emphasized that the securitization market in the EU continued to be impaired resulting in a market decline. ECB and BoE were seriously concerned because appropriate structured and regulated securitization can complement other long-term wholesale funding sources for the real economy, including SMEs, as well as a diversified funding source for banks and potentially transfer credit risk to non-bank financial institutions. This in turn provides capital relief that could be used to generate new lending to the real economy. Criteria identifying qualifying securitizations that are simpler, more structurally robust and transparent should be defined that enable investors to model and understand with confidence the risks incurred.

In October 2014, the EBA published its discussion paper *EBA Discussion Paper on simple standard and transparent securitizations* presenting three pillars of simplicity (criteria 1 to 6), standardization (criteria 7 to 14) and transparency (criteria 15 to 22) for qualifying securitizations.

In its work program for 2015, the European Commission announced that it would develop an EU framework for high-quality securitization. On the 26 November 2014, the European Commission presented the Investment Plan for Europe, in which creating a sustainable market for high-quality securitization, without repeating the mistakes made before the crisis, was identified as area where short-term action was needed.
In February 2015, the European Commission issued its Green Paper entitled *Building a Capital Markets Union* with the general objective to develop stronger capital markets to complement banks as a source of financing. The Green Paper outlined the European Commissions' short term priority to develop proposals to encourage high-quality securitization and free up bank balance sheets to lend with the aim to build a sustainable European high-quality securitization market relying on simple, transparent and standardized securitization instruments.

The Green Paper followed in May 2015 by a consultation document called *An EU framework for simple, transparent and standardized securitization*. The identified criteria for qualifying securitizations are summarized in graph 7 and explained below:

**Simplicity criteria:** includes provisions that require the underlying exposures to be homogeneous (i.e., ensuring no mixed pool of asset types). The use of derivatives is restricted to hedging purposes only. Re-securitizations are explicitly excluded, as they are typically complex with a loss waterfall that is difficult to understand due to re-tranching (e.g., in collateralized debt obligations squared).

**Transparency criteria:** includes provisions that require transactions to comply with transparency and disclosure requirements, such as providing loan-level data.

**Standardization criteria:** includes provisions that require the transfer of the underlying exposures to the securitization vehicle is legally robust (e.g., there is a *true sale*).

**Additional risk factors:** includes provisions that require the creditworthiness of borrowers to be assessed thoroughly, in accordance with the Mortgage Credit Directive2 or the Consumer Credit Directive3. Minimum levels of credit quality and seniority of the tranches are needed. For the liquidity-coverage-ratio, metrics of liquidity (such as minimum issue size and maximum weighted average time to maturity) must be met. The instruments should also be listed on a regulated market, recognized exchange, or be admitted to trading on another organized venue, with robust market infrastructure.

The development of a simple, transparent and standardized (STS) securitization market constitutes a building block of the European Capital Markets Union (CMU). A high-quality framework for EU securitization can promote integration of EU financial markets helps to diversify funding sources and unlock capital, making it easier for credit institutions and lenders to lend to households and businesses. In terms of building a market for STS securitization, the first step shall be the identification of sound instruments based on clear eligibility criteria (the STS Criteria) and the second step shall be the adjustment of the regulatory framework to allow a more risk-sensitive approach.

Consequently, in September 2015, the European Commission published the following proposals:

- *Regulation of the European Parliament and of the Council* - Laying down common rules on securitization and creating a European framework for simple and transparent securitization and amending Directives ...  
- *Regulation of the European parliament and of the council* - amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms.

The first proposal reflects the European Commissions' emphasis for the harmonization of securitization definitions among various regulations and for a catalogue of STS criteria. The second proposal created a preferred regulatory capital treatment for investments in STS securitizations.

Overall, the European Commission does more than ever before emphasize on high quality European securitization as a capital market complement to traditional bank lending. An efficient and high quality securitization market is considered to be of utmost importance in the European capital markets to support continuous growth within the European economy. This in turn provides a good starting point towards the revitalization of the European securitization market.

---


1.4. Selected European securitization institutions and initiatives

Certain initiatives have been initiated in order to define and promote quality standards and securitization best practices. Apart from the international and European authorities, there are European organizations that in EY’s point of view have an important role for further reshaping the European securitization market.

The selected organizations and initiatives mentioned below are considered to be important for the further development of the European securitization markets.

AFME Securitization division

The Association for Financial Markets in Europe (AFME) was formed in 2009 through the merger of the London Investment Banking Association (LIBA) and the European arm of the Securities Industries and Financial Markets Association (SIFMA) among others, e.g., the European securitization forum that is now part of the AFME Securitization division. AFME is an industry organization representing leading global and European banks and other significant market players, bringing together policy and technical expertise and constructive influence with global and European policymakers. The AFME securitization division focuses on financial markets policy issues and development of best practices. It frequently provides statistical data on the development of securitization markets. Since 2008, AFME securitization division played an important and active role in the communication with European policy makers.

Prime Collateralized Securities initiative

Located in the United Kingdom, the aim of the Prime Collateralized Securities (PCS) initiative is to strengthen the ABS markets as sustainable investment and funding tools for both investors and originators with the aim to improve market resilience in Europe, promote growth in the real economy and at all times maintain the standards of quality, transparency, simplicity and liquidity. By building on the lessons of the past, the independent PCS initiative seeks to define and promote standards of best practice in the ABS market with regards to the standards of quality, transparency, simplicity and liquidity. Through its role in helping define these standards, its advocacy role in promoting them and its label which is awarded to securitizations that meet the strict criteria, PCS seeks to revitalize a healthy ABS market that directly benefits the real economy. While the PCS label is no statement on the creditworthiness of a securitization, the PCS label is awarded to the most senior tranche of ABS that fully meet the eligibility criteria set down by the PCS Association. Eligibility criteria are compiled by general criteria (e.g., criteria on alignment of interest, credit tranching, maturity, transparency, liquidity, true sale) and asset specific criteria (e.g., auto loans and leases, consumer loans, credit card receivables, non-auto leases, residential mortgage loans and SME loans).

True Sale International

Located in Germany, the True Sale International GmbH (TSI) grants the certificate Certified by TSI - Deutscher Verbriefungsstandard. This label is founded on clearly defined rules for transparency, disclosure, lending and loan processing. In scope of the TSI certification are:

- Collateralized Loan Obligations (CLOs) and small and medium sized entities (SMEs)
- Residential Mortgage Backed Securities (RMBS)
- Consumer loans including auto loans and leases and commercial leasing

European DataWarehouse

Located in Germany, the European DataWarehouse GmbH (ED) was created in 2012 as part of the implementation of the ECB ABS loan level initiative and is the first central data warehouse in Europe for collecting, validating and making available for download, detailed standardized and asset class specific loan level data (LLD) for ABS transactions. Developed, owned and operated by the market, and endorsed by the Eurosystem, ED helps to facilitate risk assessment and to improve transparency standards for European ABS deals. The ECB and national central banks participate as observers to the ED Board.
1. Securitization - a global financing technique

1.5. Securitization benefits

1.5.1. Macro-economic benefits

Securitization is a funding technique converting illiquid balance sheet exposures into tradable securities placed by the originator with the aim of raising funds in the capital markets. Well-functioning and prudently sound securitization markets contribute to strengthening the resilience of the European financial system to banking crises by providing an alternative funding channel to fund the economy and realizing increasing levels of credit risk transfer including risk sharing in the financial system. It allows to free up bank balance sheets to allow for further bank lending to the economy. Overall, it can improve efficiencies in the financial system and provide additional investment opportunities. Securitization can bridge banks and capital markets with an indirect benefit for businesses and citizens (e.g., less expensive loans, mortgages and credit cards). Therefore, securitization remains a crucial element of functioning financial markets.

1.5.2. Benefits for originators and investors

Establishing and operating a securitization company requires the involvement of several service providers and will incur external costs. To justify those costs for the originator or other involved parties, there needs to be other financial and non-financial benefits inherent to the securitization transaction. The below is a non-exhaustive list of securitization benefits that justify the eternal cost. While one or more of these benefits may apply to a specific securitization, the listed benefits have a varying degree of importance in the decision making process for different securitizations.

1.5.2.1. Benefits for originators

Transfer risk to third parties: assets (true sale transactions) or risks (synthetic transactions) are transferred from the originator to the securitization company and are partially borne by the subscribers of the securitization position.

Create liquidity: on-balance-sheet assets create cash flows over a certain period of time that may vary between a few years (e.g., auto loans) and decades (e.g., mortgage loans). The assets itself are illiquid, but may be pooled in a securitization and funded by securities issued to external investors. The asset sales price is paid in cash from the securitization entity to the originator and as a consequence the illiquid assets are turned into liquid cash. Another indirect method to create liquidity is to pool the assets in a securitization entity as described above, but the originator itself subscribing the securities issued. The originator may then include the securitization in the ECB collateral pool to obtaining liquidity from the ECB Eurosystem.

Diversify funding activity: European financing markets are highly exposed to traditional bank lending. Through securitization capital markets funding channels can be exploited by maintaining or reaching out to new funding sources, investor base and/or funding instruments.

Expand core business activity: through securitization, assets can be removed from balance sheets and regulatory capital relief allows to expand core business activities.

Reduce funding cost: an originator can be considered as an aggregate of various cash flows of which some are more risky and some are less risky, but at the end the aggregated cash flow risk determines the originators overall credit rating (e.g., BB) and hence the originator’s funding cost. Securitization transactions transfer a pool of assets from the originator to the securitization company and hence transfer certain potentially less risky (e.g., AAA) cash flows to the securitization company. Consequently, the securitization risk is separate from the remaining originator’s cash flows risks and the securitization can be structured with senior ratings on the majority of the issued debt and the overall funding costs can be reduced.

Increase fund raising ability: the willingness of banks and other investors to grant loan or equity to a company depends on various factors. These comprise of but not being limited to, market conditions or funding terms and conditions. Companies being unable or limited to receive additional funding may be able to fund themselves through a securitization.

Raise capital without prospectus-type disclosure: when the issuer is a special purpose entity, the issuer’s information when published in a prospectus or private placement memorandum is limited to information on the special purpose entity. This avoids publishing confidential information about the originator’s business activities.

Realize results: a true-sale securitization between the originator and the securitization company takes place at-arms-length in regards to the assets fair value, and may eventually realize results in the financial reporting period of the transaction.
1.5.2.2. Benefits for investors

**Manufactured yield, risk and maturity profiles:** securitizations are usually structured to meet investors investment-strategies, risk appetite and yield requirements. Securitized exposures offer a range of particular risks profiles and expected cash flows. These securitizations are usually structured in tranches providing for different risk profiles that are remunerated with distinctive yields per tranche that reflects the level of attached risk. Consequently, multiple risk/yield combinations are available to meet the investor objectives.

**Tailored investment classes:** securitizations are backed by the underlying assets. Investors who cannot (e.g., licensing requirements) or do not want to invest (e.g., operating hurdles) directly in the securitized assets have the option to invest in the underlying asset class through the securitization.

**Broader investment base:** investors who would not invest directly in the (unsecured) securities of an issuer, e.g., through the related issuer risk, would tend to take a different view on securitization positions and might be convinced by the elimination of issuer risk or other characteristics of asset backed securities.

**Portfolio diversification:** certain investor types, like hedge funds or institutions, may tend to invest securitization positions backed by asset classes that are less correlated or uncorrelated to their existing investments.

**Higher yield:** securitization positions often offer a higher yield/return on investment.

**Higher liquidity:** an investor might be able and willing to invest into a particular asset class, but these assets are often illiquid and cannot be sold on the short term. The investment in a securitization position allows to participate within the characteristics of the particular asset class while investing into securities that are more liquid and/or tradable.

1.6. Securitization types

Securitization transactions are to a certain degree individually structured. To have a common understanding of a securitization subject, the industry is using a specific nomenclature which is determined by various criteria. Those criteria provide a class for distinction. For example, by the asset class underlying the securitization transaction, the risk-transfer method, the managed or static securitized asset pool, and the term of the securitization.

1.6.1. The underlying asset class

Historically, securitization started with the most important asset class being comprised of mortgages (Mortgage Backed Securities, MBS). A second significant asset class was Collateralized Debt Obligations (CDO) and in order to cover any remaining asset class without being prohibitive to potentially new asset classes becoming subject to securitization in the future, a third cluster, the Other Asset-Backed-Securities or Other ABS was established. While additional definitions exist, this tri-fold clustering is broadly used in the securitization industry (see graph 8).
Mortgage-Backed-Securities include transactions whose underlying assets are comprised of mortgage loans secured by real estate property. Interest and principal payments due on the issued securities are sourced through collections received on the underlying mortgage loans. These collections may comprise of scheduled interest and principal payments, but also extraordinary cash for example due to foreclosures. Due to the distinctive nature of mortgages and their repayment pattern, MBS have been sub-clustered into Residential MBS (RMBS) with underlying mortgages granted to individuals/households and Commercial MBS (CMBS) with underlying mortgage loans granted to commercial properties.

Collateralized-Debt-Obligations are notably based on corporate risks: bonds, loans, assets or credit derivatives. CDOs are usually sliced into tranches with different seniority/risk-profile. So called Cash-Flow-CDOs generate payments to tranche holders through the cash flows produced by the CDO assets and to likely manage the credit quality of the securitized assets. So called Market-Value-CDOs generally do the same, but try to enhance investor return through managed trading activity in the securitized assets. Two sub-clusters are usual, the Collateralized Loan Obligations (CLO) and Collateralized Bond Obligations (CBO). CLOs are securitization positions with corporate loans (often granted to medium or large businesses) as underlying assets and CBOs are securitization positions with a variety of high-yield junk bonds or other bonds as underlying assets.

Other Asset-Backed-Securities represent the remaining part of the securitization market, which is not backed by mortgages or corporate risk. The assets underlying these ABS transactions derive from a broad band of underlying activities and may comprise, e.g., auto loans and receivables, auto leases, consumer loans, credit card receivables, trade receivables, student loans, life-insurance policies, intangibles or any other asset class that is not mortgage loans or corporate risk.

1.6.2. The risk transfer method

Regards to the transfer of rights of the securitized assets, there are basically two forms of securitization transactions:

- **True Sale**
  
  In a True Sale securitization, the originator transfers an asset or a pool of assets through an asset sale agreement from its (originator) balance sheet to a Securitization Special Purpose Entity (SSPE). The originator therefore transfers the legal and economic title to the assets to the SSPE. Through subscription of the securitization position, the security holder may receive access to the legal and economic rights of the securitized asset pool (see graph 9).

![Graph 9: True Sale securitization](image)

- **Synthetic securitization**

  ![Graph 10: Synthetic securitization](image)
In a synthetic securitization (see graph 10), the originator is and remains to be the owner of the legal and economic title to the securitized assets. However, through entering into one or more derivative financial instrument(s) with the securitization company as counterparty, the securitization company (the protection seller) provides risk protection to the originator (the protection buyer) on the securitized assets (the reference entity or the reference portfolio). Consequently, synthetic transactions transfer solely the contractually agreed risk, usually the credit risk attached to the reference portfolio, from the originator to the securitization company. The originator typically does not receive liquidity out of a synthetic transaction, but can reduce its risk weighted assets in order to free regulatory capital.

Financial instruments which transfer the risk related to the reference portfolio may comprise credit default swaps, total return swaps, or other derivative financial instruments. The basic payment mechanism is that the protection seller shall pay to the Protection Buyer upon the occurrence of a predefined credit event either as the amount of defaulted payment losses incurred or the amount of fair value losses incurred on the reference portfolio.

Alternatively, the protection buyer may issue credit-linked notes (CLN) to the protection seller. These CLNs are usually structured so that the repayment obligation of the protection buyer reduces upon the occurrence of a predefined credit event. In substance the CLN represents a note with an embedded derivative.

Another alternative to transfer risk is by way of guarantee.

1.6.3. Static versus managed securitizations

In a static securitization structure, the portfolio of securitized assets is fixed as at the closing date of the securitization transaction. Consequently, the assets are clearly identified and selected and are not actively exchanged.

In actively managed or dynamic securitization transactions, the appointed asset manager may or must replace one or more underlying assets in order to adjust the securitized asset pool credit risks back to initially agreed credit risk levels. As a matter of fact, the securitized assets can be exchanged based on initially agreed selection and replacement criteria.

1.6.4. The transaction term

Term securitizations are long-term issuances on the capital market. When the underlying securitized assets are fully repaid, the securitization reaches its economic maturity and is closed.

Short-term securitizations are often referred to as an Asset-Backed-Commercial-Paper (ABCP) with a revolving period and an original maturity of less than one year. ABCPs allow for short-term financing on a roll-over basis on the money market. These transactions are regularly set up for an unlimited period and should provide for early amortization events and triggers for termination regarding the revolving period.
1.7. Securitization parties

Securitization involves various parties rendering particular services (see graph 11). The following is a broad overview of selected key parties involved in securitizations and is sorted by alphabetical order:

<table>
<thead>
<tr>
<th>Asset view</th>
<th>Governance view</th>
<th>Liability view</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arranger</td>
<td>Accounting adviser</td>
<td>Bourse</td>
</tr>
<tr>
<td>Asset manager</td>
<td>Administrative agent</td>
<td>Calculation agent</td>
</tr>
<tr>
<td>Custodian</td>
<td>Auditor</td>
<td>Credit enhancement provider</td>
</tr>
<tr>
<td>Debtor/obligor/borrower</td>
<td>Domiciliation agent</td>
<td>Investor</td>
</tr>
<tr>
<td>European DataWarehouse</td>
<td>European central bank</td>
<td>Liquidity provider</td>
</tr>
<tr>
<td>Originator/sponsor</td>
<td>Financial regulator</td>
<td>Paying agent</td>
</tr>
<tr>
<td>Servicer/backup servicer</td>
<td>Legal Adviser</td>
<td>Rating agency</td>
</tr>
<tr>
<td>Trustee</td>
<td>Securitization company</td>
<td>Reporting agent</td>
</tr>
<tr>
<td></td>
<td>Tax adviser</td>
<td></td>
</tr>
</tbody>
</table>

**Arranger**

The arranger is typically an investment bank involved in planning, organizing and structuring a securitization transaction together with the originator. In this role, it mainly assists, advises and supports the securitization setup, the ideal asset selection, in liaising with the rating agencies (see section 1.7 - Rating agency) and lawyers (see section 1.7 - Legal advisor) and the preparation of the issuance documentation. The arranger is usually acting as an underwriter during the closing of the securitization and distributes the securitization positions to investors and remains being involved in the ongoing processing and supervision of the transaction.

**Asset manager**

The asset manager is responsible for selecting and monitoring the asset exposure and, when contractually allowed, replacing single assets based on contractually pre-defined eligibility criteria.

**Auditor**

The financial statements/annual accounts of SSPEs are often mandatorily subject to statutory audit requirements to be performed by one or more independent auditors.

**Calculation and reporting agent**

The calculation and reporting agent means an entity that calculates and reports the distribution of interest, principal and other payments due to Investors and other creditors out of the funds available under the securitization in accordance with the predefined securitization waterfall.

**Credit enhancement provider**

A credit enhancement provider means a third-party that agrees to support the credit quality of another involved party or of the exposure. The credit enhancement provider usually makes a payment, up to a pre-agreed amount given the event that the other party defaults on its payment obligation, or if the exposure generated cash flow is insufficient to settle the amounts due under the securitization.

**Custodian**

A custodian, means a specialized financial institution being responsible for safeguarding the securitization company's financial assets. The role of a custodian would at least be to: hold in safekeeping assets, arrange settlement of any purchases and sales, and administer related tax withholding.

**Debtor/obligor/borrower**

The debtors/obligors/borrowers owe payments to the originator based on a contractual agreement. The debtor/obligor/borrower creditworthiness and ability to pay according to their contractual agreement mainly determines the quality and future performance of the securitization.

The originator (see section 1.7 - Originator) usually maintains the direct debtor relationship as typically it is not made transparent to the debtors/obligors/borrowers that their payment obligations are assigned to a SSPE. Thus, the debtors/obligors/borrowers continue to pay directly to the originator who collects these payments and transfers the payments frequently to the securitization company (see section 1.7 - Servicer/backup servicer).

**Investor**

The investor subscribes the security issued by the securitization company and is consequently entitled to receive the payments due under the securitization position. Payments due under the securitization position are usually distributed according to the terms and conditions when funds are available at the respective payment date.

Typically investors in securitization positions are institutional investors, for example banks, insurance companies, investment funds, alternative investment funds or pension funds. Securitizations are usually not designed for and subscribed by retail investors.

**Legal advisor**

The legal structuring is very important for securitizations to meet the needs and requirements of the originator and the investors as well as to ensure certain regulatory requirements. Legal securitization documentation covers offering documents, *inter alia*, including the terms and conditions of the issued securitization, asset sale and purchase agreements, trustee agreements. During the closing of the transaction, the legal advisor also provides legal opinions on certain crucial elements.
Liquidity provider

A liquidity provider is usually a bank which provides to the securitization company a short-term-liquidity-facility in order to reduce the potential impact of non-timely asset cash flows due to investors (bridge financing). The liquidity facility must not be used to cover defaults within the exposure.

Originator

The originator means an entity which itself or through related entities, directly or indirectly, was involved in the original agreement which created the obligations or potential obligations of the debtor or potential debtor giving rise to the exposures being securitized. The originator is typically the entity that originates assets and/or risks (the exposure) based on its business activity and underwriting standards and who assigns this exposure to the securitization. The originator also means an entity which purchases a third party’s exposure for its own account and then securitizes them.

Typical originators comprise of commercial banks, leasing companies, insurance companies and other financial institutions, as well as real economy related entities like auto banks, commercial companies, trade companies and/or telecommunication companies.

Paying agent

The paying agent is the bank which has accepted the responsibility to properly settle interest and principal payments due on the issued securitization position with its investors. Payments are usually made via clearing systems.

Rating agency

The rating agency, e.g., Standard & Poor’s, Moody’s Investors Service, Fitch Ratings and DBRS and others, essentially analyze the asset quality as well as the transaction structure in order to award a rating for the issued securities or distinctive ratings for securities issued in tranches. For this purpose, a rating agency will mainly review the repayment ability, maturity diversification, expected defaults and recovery rates in the securitized exposure. The strengths and weaknesses of involved parties are also taken into consideration, but mainly the originators/servicers legal risk analysis (e.g., effective transfer of asset title); existence and quality of credit enhancements are also investigated. It is common practice to consult with two rating agencies with considerable rating experience. To enable them to carry out their analysis, they are given all agreements and detailed data on the exposure. Once the rating is awarded, the rating agencies continuously monitor the issue and the underlying exposure.
Securitization company

The securitization company or also known as a SSPE means a corporation, trust or other legal entity, other than the originator or sponsor, established for the purpose of carrying out one or more securitizations, the activities of which are limited to those able to fulfill that objective, the structure of which is intended to isolate the obligations of the SSPE from those of the originator, and in which the holders of the beneficial interests have the right to pledge or exchange those interests without restriction. To isolate the obligations of the SSPEs from those of the originator, the SSPE subscribed capital is frequently owned by an orphan structure (Dutch Stichting or similar vehicle).

Typically and frequently used securitization companies are for example the securitization companies subject to the Luxembourg Securitization Law (see chapter two - The Luxembourg securitization environment).

Servicer/backup servicer

The servicer means an entity that manages a pool of purchased receivables or the underlying credit exposures on a day-to-day basis subsequent to the closing of the securitization transaction. The main responsibility of the Servicer is the collection of the payments due by the debtors and transfer of the collected funds to the securitization company. Often the originator is acting as servicer, as the originator was the original lender and typically continues to maintain the debtor relationship. Therefore, the exposure/debtor administration (default management, collateral liquidation, etc.) is often performed by the servicer who is well informed about the debtors contractual obligations.

In some securitization transactions, for example securitizations with exposure in non-performing-loans, often specialized servicers (not necessarily the originator) render the cash collection service.

The servicing quality determines the quantity and timing of collections available for distribution to investors. Thus, the servicer performs a key role in each securitization. It may happen that a selected Servicer is not capable in fulfilling its servicing responsibilities, e.g., through insolvency or other circumstances. To avoid that a failure of the servicer will impact the performance of the securitization usually a so called backup servicer is already appointed at the closing of the securitization with the aim to take over as backup servicer once the initial servicer fails or is close to failure.

Servicer and backup servicer frequently prepare servicer reports providing investors with information on collected funds and additional information (e.g., delinquencies, defaults).

Sponsor

The sponsor means an entity (typically a credit institution or investment firm) other than an originator that establishes and manages a securitization that purchases exposures from third-party entities.

Typical sponsors are comprised of banks who initiated an ABCP platform under which third-party exposures are purchased and securitized on behalf of the ABCP platform.

Tax and accounting advisor

The tax and accounting advisor provides support to mitigate in full or at least in substantial part potential tax or accounting implications in the contemplated securitization e.g., when asset cash flows are subject to withholding taxes or SSPE income is subject to taxation, the contemplated structure is likely to not be marketable to investors.

Trustee

The trustee is a fiduciary mainly preserving investor rights based on a trust agreement that outlines the detailed set of trustee responsibilities. In this role it assumes control of the securities and the proper processing of all payment flows in the interest of the investors. It holds the securities in trust for the investors i.e., in their own name, but on another account. The trustee also monitors other involved parties on their compliance with agreements.

Upon the occurrence of unfavorable events, for example covenant breaches, the trustee is responsible to declare defaults and other events in accordance with the respective securitization terms and conditions.
1.8. Selected key securitization mechanisms

1.8.1. Limited recourse

One major requirement in securitization transactions is that the securitization company provides for insolvency remoteness to insulate the securitization from claims of creditors. Securitization companies are frequently separate commercial companies. While these newly funded securitization companies, by definition, have had no previous operating activities, they do not have previous contingent liabilities and hence there are no prior claims. To further support insolvency remoteness, the transaction issuance documents typically include limited recourse clauses.

The security holders (the subscribers of the securitization position) accept the terms and conditions of the securitization position that provides for the limited recourse. Typically the recourse of the security holders is limited to the net proceeds of enforcement or disposal activities in the securitized exposure.

The payment obligations owed by the issuer pursuant to the issuance terms and conditions constitute obligations only to pay out the available distribution amount in accordance with the applicable priority of payments. The issued securities do not give rise to any payment obligations in excess of the amounts resulting from the available distribution amount.

The amount of principal and interest which the securitization company is obliged to pay under the issued securities is, therefore, solely dependent on the performance of the portfolio.

1.8.2. Waiver of rights/non petition clauses

Security holders have typically certain investor rights, dependent on the jurisdiction under which the securities are issued. Those investor rights typically grant the right to initiate bankruptcy, insolvency, liquidation or similar actions when interest and principal payment obligations are not entirely fulfilled. For the avoidance that these investor rights are used to counter the intention of the securitization transaction as described above under limited recourse, the issuance terms and conditions include also non-petition/waiver of rights clauses to ensure the investors waive these rights in order to support the intention of the transaction.

Throughout the term of the securitization transaction, none of the involved parties or transaction creditors (nor any other person acting on behalf of any of them) shall be entitled to institute against the securitization company in regards to bankruptcy, examinership, reorganization, arrangement, insolvency, winding-up or liquidation proceedings or other proceedings under any applicable bankruptcy or similar law in connection with any obligations of the securitization company.

1.8.3. Credit enhancement

Generally, credit enhancement is a method whereby a borrowing entity attempts to improve its debt or credit worthiness. Through credit enhancement, the lender is provided with reassurance that the borrowing entity will honor its payment obligation through additional support. Credit enhancement reduces credit/default risk of a debt, thereby increasing the overall credit rating and lowering interest rates. In the narrower context of securitization, credit enhancement means any mechanism implemented into the securitization to enhance the credit worthiness of the securitization positions with the aim of investor protection (see graph 12).

Most securitizations comprise of a combination of one or more of the enhancement techniques described below.

Graph 12: Credit enhancement

- **Internal CE**
  - Over-collateralization
  - Subordination
  - Excess spread
  - Reserve fund

- **External CE**
  - Guarantees
  - Letter of Credit
  - Surety bonds
  - Cash collateral account

**Internal credit enhancements**

**Over-collateralization**

Over-collateralization is a commonly used credit enhancement in securitizations. With this support structure, the face value of the underlying exposure is larger than the securitization position it backs, thus the issued security is over-collateralized. Should some of the payments from the underlying exposures be late or in default, principal and interest payments on the securitization security can still be made.
1. Securitization - a global financing technique

Subordination

Subordination represents the most popular technique to create internal credit enhancement. Cash flows generated by the securitized exposure are allocated with different priority to securities of different seniority (priority-of-payments). The subordination thus consists of several tranches, from the most senior to the most subordinated (or junior). The subordinated tranches function as protective layers of the more senior tranches. While all classes are entitled to the securitized exposure, the class of highest seniority has priority on the available funds. This structural protection is also called the waterfall structure. The priority for the cash flows comes from the top, while the distribution of the losses rise from the bottom. If an asset in the pool defaults, losses incurred are allocated bottom up (inverse order of priority-of-payments). The senior tranche remains unaffected unless losses exceed the accumulative amount of the subordinated (mezzanine and junior) tranches (see graph 13).

<table>
<thead>
<tr>
<th>Securitized asset portfolio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior (AAA) tranche</td>
</tr>
<tr>
<td>Mezzanine (BB) tranche</td>
</tr>
<tr>
<td>Unrated Junior/equity tranche</td>
</tr>
</tbody>
</table>

Graph 13: Tranched securitizations

Excess Spread

The excess spread is the difference between the interest rate received on the underlying exposure less the coupon on the issued security. Even if some of the underlying exposure payments are late or defaulted, the coupon payment can still be made. Thus, the excess spread is the first line of defense against losses. The remaining excess spread, after deduction of external expenses, can be applied to outstanding classes for principal repayment or to build up reserve funds for loss coverage.

Reserve fund

A reserve fund is created to protect the securitization company for losses up to the amount allocated into the reserve fund. The reserve fund is allocated initially at the securitization closing or over the duration of the securitization by allocating the remaining excess spread to the reserve fund. To increase credit support, the reserve fund will often be non-declining throughout the life of the securitization, with the consequence that the reserve fund will relatively increase proportionally up to a certain specified level as the outstanding debt is repaid.
1.8.4. Priority-of-payments/waterfall

The transaction structuring is one of the key elements of each securitization transaction. As explained in the section on credit enhancement, securitization is usually split into distinctive tranches with different yield-risk profiles.

**External credit enhancements**

**Guarantees**

A guarantee received from a third-party or, in some cases, the originator/sponsor is to reimburse the securitization company for losses up to a pre-defined amount. This may also include agreements to advance principal and interest or to buy back any defaulted loans. The third-party guarantees are typically provided by AAA-rated financial guarantors or monoline insurance companies.

**Letters of credit**

With a letter of credit (LoC), a financial institution, usually a bank, provides a specified cash amount to reimburse the securitization company for any cash shortfalls from the exposure, specifically up to the agreed credit support amount.

**Surety bonds**

Surety bonds are insurance policies that reimburse the securitization for any losses and thus provide investor protection on principal and interest payments. Securitizations paired with surety bonds have ratings that are the same as that of the surety bond’s issuer.

**Cash collateral account**

With a cash collateral account (CCA), credit enhancement is achieved when the securitization company borrows the required credit support amount from a commercial bank (the CCA provider) and then deposits this cash in short-term commercial paper that has the highest available credit quality. Because a CCA is an actual deposit of cash, a downgrade of the CCA provider would not result in a similar downgrade of the securitization.

**Graph 14: The waterfall mechanism**

The most senior tranche is usually awarded an AAA-Rating, because it is substantially protected from credit losses while being the highest ranking, except for payment of taxes and operational cost, in the distribution of available funds.

The more subordinated tranches are designed to absorb credit losses while receiving available fund distributions only after the distribution to the senior tranche and when there are remaining funds available.

This cash flow structuring concept is named the priority-of-payments or also known as the waterfall principle. A typical waterfall is comprised of the following distribution steps (see graph 15), but may include many more details.

**Graph 15: The waterfall structure**

Securitization and Structured Finance in Luxembourg | 19
2. The Luxembourg securitization environment
2. The Luxembourg securitization environment
2. The Luxembourg securitization environment

2.1. The securitization market development

In 2009, the ECB introduced a reporting regime named the financial vehicle corporation (FVC) regime of which formed a public source for statistical information on the number of securitization entities and transactions domiciled in the euro-area countries and reports on securitizations regardless of their legal form. The reporting is carried out on a quarterly frequency.

As of 31 December 2015 and according to the FVC reporting, there are four significant euro-area countries who represent 76% of domiciled securitization entities. The remaining 24% are recently shared across eight other countries. Out of the reported countries, Luxembourg was a steadily growing securitization market and has continuously increased its country market share since 2009 up to recently 26% and represents the largest domicile for euro-area securitizations (see graph 16).

Graph 16: Country market share - Source: ECB

The Securitization Law established a favorable securitization environment in Luxembourg and hence Luxembourg has become a leading domicile for European securitization and structured finance transactions. This represents a growing market since the inception of the Securitization Law.

Presenting the development of the Luxembourg market since the introduction of the Securitization Law, EY used the public statistics as from 2009 and extrapolated the data for prior years based on our market insight and other available information (see graph 17).

Graph 17: Luxembourg securitization undertakings 2004-2015 - Source: ECB, EY

The continuous growth by number of securitization undertakings, with the exception of a few liquidations in 2010 and 2011, verifies that Luxembourg offers an attractive legal, regulatory and tax framework for securitization.

The undertaking count on a stand-alone basis does not properly reflect the significant number in Luxembourg securitizations, because Luxembourg securitization undertakings may create one or more compartments within the legal entity and administer one or more transactions within one compartment. Thus, the number of securitization transactions is significantly higher than the undertaking count. As at 31 December 2015, EY estimated there were more than 4,000 securitization transactions existing in Luxembourg.
As of 31 December 2015, out of the total of 899 reported securitization undertakings, only 32 securitization companies representing less than 4% of the reported securitization undertakings (but representing 39% of the reported securitization transactions) were authorized by the CSSF (see graph 18). The issuance volumes of those authorized securitization companies increased continuously and have more than doubled post the 2008 financial crisis (see graph 19). Authorized securitization companies are frequent issuers. The issuance activity in authorized securitization companies was between 10 and 17 times higher than in unregulated securitization undertakings (see graph 20). The relatively stable number of authorized securitization transaction is due to net effects in the statistics; during 2015 there was one authorized securitization company reporting more than 200 transactions less than in the previous year and is hence not representative for the development of the market. Considering this effect, the issuance activity increased by more than 10%.

<table>
<thead>
<tr>
<th>Year</th>
<th>Authorized SUs</th>
<th>Change in SUs</th>
<th>Transactions</th>
<th>Change in Transactions</th>
<th>Transactions per SU</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>32 (3.6 %)</td>
<td>0 (0.0 %)</td>
<td>1,526 (39.0 %)</td>
<td>-24 (-1.5 %)</td>
<td>47.7</td>
</tr>
<tr>
<td>2014</td>
<td>32 (4.9 %)</td>
<td>1 (3.2 %)</td>
<td>1,550 (40.4 %)</td>
<td>449 (40.8 %)</td>
<td>48.4</td>
</tr>
<tr>
<td>2013</td>
<td>31 (5.0 %)</td>
<td>1101 (35.0 %)</td>
<td></td>
<td></td>
<td>35.5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Unregulated SUs</th>
<th>Change in SUs</th>
<th>Transactions</th>
<th>Change in Transactions</th>
<th>Transactions per SU</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>867 (96.4 %)</td>
<td>52 (8.4 %)</td>
<td>2,384 (61.0 %)</td>
<td>93 (4.1 %)</td>
<td>2.7</td>
</tr>
<tr>
<td>2014</td>
<td>619 (95.1 %)</td>
<td>3 (0.5 %)</td>
<td>2,291 (59.6 %)</td>
<td>242 (11.8 %)</td>
<td>3.7</td>
</tr>
<tr>
<td>2013</td>
<td>616 (95.0 %)</td>
<td>1101 (35.0 %)</td>
<td></td>
<td></td>
<td>3.3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Total SUs</th>
<th>Change in SUs</th>
<th>Total Transactions</th>
<th>Change in Transactions</th>
<th>Transactions per SU</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>899 (8.0 %)</td>
<td>52 (8.0 %)</td>
<td>3,910 (1.8 %)</td>
<td>69 (1.8 %)</td>
<td>4.3</td>
</tr>
<tr>
<td>2014</td>
<td>651 (0.6 %)</td>
<td>4 (0.6 %)</td>
<td>3,841 (21.9 %)</td>
<td>691 (21.9 %)</td>
<td>5.9</td>
</tr>
<tr>
<td>2013</td>
<td>647</td>
<td>3,150</td>
<td></td>
<td></td>
<td>4.9</td>
</tr>
</tbody>
</table>

The outlook for securitization and structured finance in Luxembourg is positive. While the authorized securitization companies continue their issuing activity, additional securitization companies are in the approval process to be authorized by the CSSF. The recent efforts of the European Commission on STS securitizations and the Solvency II driven investor demand for structured products tailored to the requirements of insurance companies also support the further growth of securitization in Luxembourg.
2. The Luxembourg securitization environment

2.2. The Securitization Law and the CSSF regulatory guidance

The following paragraphs explain selected key elements of the Luxembourg Securitization Law, related regulatory guidance provided by the CSSF and additional content that EY considers relevant in order to overlook the Luxembourg securitization environment and its opportunities.

Graph 21: Securitization key pillars

The Securitization Law provides three key pillars: flexibility, reliability and tax neutrality. The CSSF, the Luxembourg authority for the prudential supervision of securitization companies in Luxembourg, has never published any regulatory circular on securitization. However, on 23 October 2013, the CSSF published the document *Frequently Asked Question Securitisation* (the FAQ) that explains certain elements on the practice of prudential supervision of securitization undertakings. The FAQ is aimed at authorized securitization undertakings only, but it has become a best market practice also for unregulated securitization undertakings. Furthermore, in this FAQ, the CSSF published its position whether securitization undertakings are subject to the Alternative Investment Fund Manager Directive (AIFMD) and this position forms an additional key pillar of the Luxembourg securitization environment (see graph 21).

2.2.1. The Luxembourg securitization definition

In the European context, securitization means a transaction or scheme, whereby the credit risk associated with an exposure or pool of exposures is tranched, having both of the following characteristics:

- Payments in the transaction or scheme are dependent upon the performance of the exposures or pool of exposures
- The subordination of tranches determines the distribution of losses during the ongoing life of the transaction or scheme

The securitization definitions based on the Securitization Law:

*Securitization* means the transaction by which a securitization undertaking acquires or assumes, directly or through another undertaking, risks relating to claims, other assets, or obligations assumed by third parties or inherent to all or part of the activities of third parties and issues securities, whose value or yield depends on such risks.

Securitization undertakings are undertakings which carry out the securitization in full, and undertakings which participate in such a transaction by assuming all or part of the securitized risks, the acquisition vehicles, or by the issuing of securities to ensure the financing thereof, the issuing vehicles, and whose articles of incorporation, management regulations or issue documents provide that they are subject to the provisions of the Securitization Law.

Consequently, the Securitization Law provides securitization definitions which do not limit securitization to credit risk nor require any tranche requirement. Hence, the Luxembourg securitization definitions are broader and fit to securitizations according to the European definition, but also fit for structured finance transactions that securitize non-credit risk exposures and/or allow the issuance of non-tranched securities.

Both definitions offer a broad range of structuring possibilities to securitization undertakings. However, the main purpose of a securitization must, in principle, always be an economic transformation of risk into issued securities.

*Securitization undertakings* with a registered seat in Luxembourg that meet the requirements of the Luxembourg securitization definition are governed by and benefit from the specific legal framework to carry out their securitization activity.
2.2.2. Two layer securitization

A securitization transaction virtually consists of two parts executed by the securitization undertaking:

- The acquisition or assumption of assets or risks and
- The issuance of securities

The securitization undertaking itself is the instrument to constitute the necessary link between the acquired or assumed risks and the issued securities (see graph 22a).

Graph 22a: Direct (One Layer) Securitization

The Securitization Law does not require that the securitization must be carried out through one single securitization undertaking only. Consequently, the Securitization Law allows for that assets or risks might be acquired or assumed by one undertaking (the acquisition vehicle) which is separate from the undertaking in charge of issuing the securities (the issuing vehicle), provided that the two undertakings are fully linked (two layer securitization) (see graph 22b). There is no requirement that the acquisition vehicle needs to have its registered seat in Luxembourg.

Graph 22b: Two layer securitization

There is no requirement that both acquisition vehicle and issuing vehicle must be subject to the Luxembourg Securitization Law. Therefore, to benefit from the Securitization Law it shall be sufficient when solely the issuing vehicle qualifies as a Luxembourg securitization undertaking.

The two layer securitizations structure may support the setup of cross country securitizations where the country of asset origin prohibits the sale of assets to foreign entities and where it is not intended to transfer the return from the assets through a derivative from the originator to the Luxembourg securitization undertaking. Instead, the acquisition vehicle can be established in the country of asset origin and the true sale occurs between the originator and the acquisition vehicle. The latter is entirely financially linked to the issuing vehicle and the financial link ensures that all returns from the acquired assets are transferred to the issuing vehicle.
2. The Luxembourg securitization environment

2.2.3. Legal structures

The Securitization Law enables the foundation of securitization undertakings either in the form of a securitization company or a securitization fund managed by a management company.

2.2.3.1. Securitization companies

Securitization companies must be set up either as:

- A public limited company (société anonyme, S.A.)
- A corporate partnership limited by shares (société en commandite par actions, S.C.A.)
- A private limited liability company (société à responsabilité limitée, S.à r.l.) or
- A co-operative company organized as a public limited company (société cooperative organisée comme une société anonyme, S.C.O.S.A.)

Out of the securitization undertakings reported under the ECB FVC regime the largest number are securitization companies in comparison to few securitization funds (see graph 23).

![Graph 23: Legal forms of securitization undertakings](image)

The low number of securitization funds should be explained mainly by the relatively high operating costs associated with the securitization fund itself and its related management company. In the segment of securitization companies, there is a clear preference for the legal form S.A. followed by the legal form S.à r.l. The other legal forms S.C.A. and S.C.O.S.A. are used less frequently. The main reason to choose the legal form S.A. should derive from the fact that an S.A. may publicly list its issued securities on a bourse/ market including European regulated markets, while securitization companies established in the legal form of S.à r.l. cannot.

Certain other structural characteristics are determined by the selected legal form and are summarized in graph 24.

<table>
<thead>
<tr>
<th>Criteria/Legal Form</th>
<th>S.A.</th>
<th>S.à r.l.</th>
<th>S.C.A.</th>
<th>S.C.O.S.A.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum subscribed capital</td>
<td>€31,000</td>
<td>€12,500</td>
<td>€31,000</td>
<td>N/A</td>
</tr>
<tr>
<td>Number of shareholders/members</td>
<td>At least 1</td>
<td>At least 1/ Maximum 40</td>
<td>At least 2</td>
<td>At least 2</td>
</tr>
<tr>
<td>Capital entirely subscribed</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Capital paid-in</td>
<td>At least 1/4</td>
<td>Fully paid-in</td>
<td>At least 1/4</td>
<td>No requirements</td>
</tr>
<tr>
<td>Corporate governance</td>
<td>Board of Directors or Management and Supervisory Board</td>
<td>General Partner or Board of Managers and Supervisory Board</td>
<td>Board of Directors or Management and Supervisory Board</td>
<td></td>
</tr>
<tr>
<td>Number of directors/managers</td>
<td>At least 3 (1 in case of sole shareholder)</td>
<td>At least 1</td>
<td>At least 1</td>
<td>At least 3</td>
</tr>
<tr>
<td>Public offering of securities</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Graph 24: Additional characteristics due to the selected legal form

The minimum subscribed capital has to be subscribed at the establishment of the legal entity and refers only to the legal entity and not to each compartment (see section 2.2.4 - Compartments).
The articles of incorporation of a securitization company, and any amendment to them, must be recorded in a special notarial deed. The articles of incorporation of a securitization company generally contain provisions on the following:

- The name, registered office, duration, and object/purpose of the securitization company
- The share capital, shares terms and conditions, provisions for the transfer of shares
- General meetings and provisions on notice, quorum, powers of attorney and convening notices
- The governing body and/or management of the securitization company and its administration
- Binding signatures and conflict of interest provisions
- The financial year and allocations of profits
- Audit provisions
- Segregation of assets including provisions on compartments (creation and liquidation)
- Prohibition to petition for bankruptcy and subordination
- Applicable law

The articles of incorporation of a securitization company may authorize the board of directors/managers to create and liquidate compartments (see section 2.2.4 - Compartments).

2.2.3.2. Securitization funds and their management companies

Securitization undertakings may be organized without a legal personality like a securitization fund and according to its management regulations as co-ownership or fiduciary estate. They are managed by a dedicated management company that is subject to the Luxembourg company law and has legal personality. Securitization funds are not subject to minimum capital requirements.

Like a securitization company, securitization funds can create multiple compartments (see section 2.2.4 - Compartments) each corresponding to a distinct co-ownership or fiduciary estate. Each compartment can be governed by distinctive management regulations and can be liquidated without liquidation of any other compartment or the securitization fund itself.

The rights of investors in the securitization fund are represented by securities issued in accordance with the respective management regulations. Additionally, debt instruments may be issued on behalf of the securitization fund or one of its compartments.

The management regulations of a securitization fund, which must be lodged with the trade and company registry, shall contain at least the following provisions:

- An indication whether the fund is set up in the form of a co-ownership or fiduciary estate
- The name, object and duration, limited or unlimited, of the securitization fund
- The name of the management company
- The specific administration and management rules which apply to it
- The possibility for the securitization fund to consist of several compartments
- The circumstances in which the fund or one of its compartments will be in, or may be put into liquidation
- The respective rights and obligations of the management company and, as the case may be, of the investors
- The rules governing the assumption of risks and/or the issuance of securities
- The procedures for amending the management regulations

The provisions of such management regulations are deemed to be accepted by the investors in the securitization fund by the mere acquisition of securities issued by the fund or one of its compartments.

Management companies

The management company is a commercial company whose object is to manage securitization funds and, if applicable, to act as a fiduciary of funds consisting of one or more fiduciary properties. As a commercial company, the management company has to comply with the minimum capital requirements attached to its chosen legal form.

The management company is responsible for drawing up the management regulations for the securitization fund and acts on behalf of the securitization fund and its investors. By doing so, the management company must perform its duties in an independent manner and in the sole interest of the securitization fund and the investors. It is liable towards the investors and third parties for the proper performance of its duties. The creditors of the management company or of the investors have no rights of recourse against the assets of the securitization fund.
2. The Luxembourg securitization environment

2.2.4. Compartments

The Securitization Law allows securitization undertakings to create one or more compartments that represent a distinct part of their assets and liabilities and that benefit from an independent management of its respective assets and liabilities (see graph 25). The number of compartments is theoretically unlimited.

Graph 25: Multi-compartment securitization platform

The right to create compartments must be laid down in the articles of incorporation or the management regulations of the securitization undertaking. The formal decision to create compartments which lies solely with the board of directors or the management company of the securitization undertaking and may be exercised throughout the existence of the securitization undertaking.

The assets of a compartment are exclusively available to satisfy the rights of investors in relation to the specific compartment, and, between investors, each compartment shall be treated virtually as a separate entity, except otherwise provided for in the constitutional documents.

To be precise, the Securitization Law prohibits third-party creditors whose claims have arisen in connection with the creation, the operation or the liquidation of one compartment to act on the assets of any another compartment.

The multiple-compartment concept within one legal entity represents one of the main advantages of the Luxembourg legal securitization environment. This concept allows to establish frequent-issuer platforms enabling new issuance in a time efficient manner through board decisions and without creating additional timing constraints or legal setup costs (e.g., share capital, notary cost). Issuance timing and cost of additional transactions are reduced to a minimum.

2.2.5. Authorization

Authorization requirements

Luxembourg securitization undertakings are generally not regulated and there is no authorization requirement except for certain specific circumstances. Securitization undertakings which issue securities to the public on a continuous basis must be authorized by the CSSF to exercise their activities. Despite the fact that less than 4% of the Luxembourg securitization undertakings are authorized by the CSSF, a contemplated securitization undertaking should carefully assess under its own responsibility whether both criteria issue to the public and on a continuous basis are likely to be simultaneously fulfilled. If so, the securitization undertaking should contact the CSSF and apply for authorization before starting its public and continuous issuing activity.

The Securitization Law does not specify the meaning of the two above mentioned criteria. However, the CSSF has published its understanding of each of them by providing guidance on how they will exercise the authorization procedure.

The issuance of securities is deemed to be carried out on a continuous basis when the securitization undertaking performs more than three times issuance to the public per year. The count is executed on the level of the securitization undertaking and not on the level of compartments. Frequent issuers do often exercise their issuing activity under an issuance program. Multiple series issued under an issuance program must be counted as distinctive unless an examination of the nature of the program and of the different issued series’ reveal the characteristics of these different issued series constitute as one single issue.

The assessment of issuance to the public is based on the below criteria:

- Issues to professional clients within the meaning of Annex II to the Markets in Financial Instruments Directive (MiFID) are not qualified as issues to the public
- Issues whose denominations are equal or exceed €125,000 (or equivalent) are assumed not to be issues to the public
- The listing of an issue on a regulated or alternative market does not ipso facto mean that the issue is to be considered as an issue to the public
- Issues distributed as private placements, whatever their denomination may be, are not considered as issues to the public. Whether an issue can be regarded as a private placement will be assessed by the CSSF on a case-by-case basis according to the communication means and the technique used to distribute securities
- The subscription of securities by an institutional investor or financial intermediary for a subsequent placement of these securities with the public constitutes a public offering
Generally speaking, continuous issues
- To institutional investors that will not be further distributed to the public,
- As private placements or
- Of high denomination

do not require CSSF authorization.

Further, securitization undertakings fulfilling the first criterion of issuing securities to the public but not fulfilling the second criterion of continuous (at least four) issuances per calendar year to the public do also not require CSSF authorization.

Securitization undertakings should be structured to comply with the Securitization Law itself and its spirit. Securitizations should not be structured to circumvent other more restrictive regulatory regimes. In the light of the above and in cases of doubt on the subsequent number of issuances to the public per calendar year, EY recommend a prudent approach to contact the CSSF in order to discuss the authorization criteria and the potential authorization needed.

While the general rules on the application process also apply to existing securitization undertakings that already issued securitizations not requiring CSSF authorization before (but that planned additional issues to the public on a continuous basis), the CSSF has in its prudential supervisory practice recommended on a case by case basis, to setup an additional authorized securitization undertaking for the contemplated public issuances.

Securitization undertakings which do not intend to issue securities to the public on a continuous basis are recommended to specify that fact in their constitutional documents. However, it is clear that such a statutory clause cannot circumvent any authorization requirement where both criteria’s are subsequently fulfilled in practice.

Securitization undertakings awarded with the authorization shall be entered on a publicly available list maintained by the CSSF and such entries shall be tantamount to authorization and shall be notified to the securitization undertaking. The entering and the maintaining on the publicly available list shall also be subject to compliance with all the provisions of laws, regulations and agreements which govern the securitization undertaking, the operation of its bodies and the distribution, placing or sale of the securities issued by the securitization undertaking. An additional requirement is the sufficiently good reputation and the experience of the members of the administrative, management and supervisory bodies of a securitization company or a management company of an authorized securitization undertaking, as well as its shareholders which are in a position to exercise a significant influence over the conduct of the business of such a company. Persons that are not considered to have the sufficient good repute or the required experience or means to fulfill their duties will be rejected by the CSSF.

---

The CSSF will analyze, for the securitization undertakings subject to its supervision, in particular the structure of the transaction as well as the origin and nature of the risk being securitized. In this respect, the application file must include all the relevant elements relating to the planned transactions and the applicants must be completely transparent vis-à-vis the CSSF. The CSSF focus is on the administrative and accounting structure to ensure appropriate organization as well as appropriate human and material resources of the securitization undertaking to perform its activity properly and in a professional manner and will be assessed by the CSSF on a case-by-case basis.

The structuring of the technical aspects of the securitization transactions may be delegated, including to foreign professionals. In that case, an appropriate information exchange mechanism between the delegated functions and the Luxembourg entity administering the securitization undertaking must be set up as from its incorporation. The organizational and administrative structure in Luxembourg must enable both:

- The board of directors of the securitization undertaking to perform their coordination and supervision role in relation to the delegated functions activity
- The approved statutory auditors (réviseur d’entreprises agréé) and the CSSF to perform their controls

All administrative information and all key information relating to the technical aspects must be maintained in Luxembourg, and (i.e., the accounting documents and other documents which constitute the key documentation of the securitization undertaking) available upon the first request of the CSSF.

In its supervisory practice the CSSF invited the arranger of a securitization to present the intended securitization structure and transactions in the premises of the CSSF.

Supervision of authorized securitization undertakings

According to the Securitization Law, authorized securitization undertakings are supervised by the CSSF from the moment of their incorporation up to the close of its liquidation. The CSSF’s prudential supervision is exercised to ensure compliance with the statutory obligations under the Securitization Law as well as the contractual obligations.

Ad hoc reporting to the CSSF

Subsequent to the initial authorization of the securitization undertaking, the CSSF must also be notified about the following changes which are subject to prior approval:

- Changes to the constitutional documents of the securitization undertaking
- Changes to its managing body
- Changes to its approved statutory auditors
- Changes to the control of the Securitization Company or the management company

As soon as finalized, securitization undertakings must provide the CSSF with the following documents:

- Final issue documents relating to any issue of securities, irrespective of a possible prior notification for approval of the prospectus
- Financial reports drawn up by the securitization undertaking for its investors and rating agencies, where applicable
- Information on any change of service provider and substantive provisions of a contract, including the conditions applicable to the issued securities
- Information on any change relating to fees and commissions

Half yearly reporting

The authorized securitization undertaking must provide the CSSF with the following documents on a half-yearly basis within 30 days following the reporting date:

- A listing of
  - The new issues of securities
  - Other outstanding issues and
  - Issues which matured over the period under review
- This report must indicate for every issue the nominal amount issued and the nature of the securitization transaction, the investor profile and, where applicable, the compartment concerned.
- In connection with every issue, information should be included regarding
  - The initial issue price and the market price on the reference date (if available) in the case of outstanding issues, or
  - On the redemption price in the case of matured issues, as well as
  - Information on any issue (or certain tranches of an issue) which have been restructured or for which the securitization undertaking was not able to realize the projected yield rate or to guarantee the final redemption price that were initially scheduled. In such cases, details on the effective yield or redemption value are to be provided; and a summary of the financial situation of the securitization undertaking, including notably a breakdown of its assets and liabilities as well as the profit and loss accounts, by compartment, where applicable

The CSSF has not yet imposed detailed requirements regarding the submission format or data medium.
Yearly reporting
On the financial year closing date, a draft balance sheet and profit and loss account of the securitization undertaking, where applicable, by compartment is to be provided within 30 days.

Furthermore, once the audit is accomplished, a copy of the annual report and the documents issued by the approved statutory auditors within the context of the audit of the annual accounts (audited annual accounts and management letter) has to be provided to the CSSF.

CSSF investigative powers
According to the Securitization Law, the CSSF was entrusted with broad investigative powers and may require communication of any information or carry out on-site-investigations. Through the communication or an on-site-investigation, the CSSF may inspect all the documents of a securitization company, a management company or a credit institution entrusted with the deposit of the assets of an authorized securitization undertaking, which relates to the organization, administration, management, or operation of such undertaking or to the valuation of and return on the assets. The CSSF aims to verify compliance with the provisions of the Securitization Law and the provisions set out in the constitutional documents, and in the agreements relating to the issuance of securities, and the accuracy of the information it has been provided with.

The legal provisions reviewed by the CSSF during the scrutiny of the application file of the securitization undertaking must necessarily be complied with throughout the exercise of the activities of the authorized securitization undertaking.
2. The Luxembourg securitization environment

CSSF remedial actions and sanctions

In case the CSSF concludes that an authorized securitization undertaking is not complying with the provisions of the Securitization Law, the constitutional documents or the agreements relating to the issuance of securities, or the rights attached to the securities issued by the securitization undertaking may be impaired, the CSSF may summon the securitization undertaking to remedy the situation within a period it determines. If non-compliant with, the CSSF may:

- Render its position regarding the public's findings
- Prohibit any issuance of securities
- Request the listing of the securities issued by the securitization undertaking to be suspended
- Request the presiding judge of the chamber of the district court dealing with commercial matters to appoint a provisional administrator for the securitization undertaking
- Withdraw its authorization

Duration of the CSSF supervision

Once authorized, the securitization undertaking remains in principle under the supervision of the CSSF until the closing of its liquidation. However, if the securitization undertaking stops issuing new securities to the public on a continuous basis and provided that all the securities that the securitization undertaking had issued to the public while it was subject to CSSF supervision have matured and been refunded, the securitization undertaking may request the CSSF to be withdrawn from the official list of authorized securitization undertakings.

2.2.6. Investment rules

Flexibility is one of the key pillars of the Luxembourg Securitization Law. Regarding investment rules, the Securitization Law does neither limit asset classes nor requires any diversification rule. Thus, the Securitization Law provides for tremendous investment flexibility and is supportive to all potential securitization transactions.

The following risks are capable of being securitized:

- Risks related to the holding of assets, whether movable or immovable, tangible or intangible,
- Risks resulting from the obligations assumed by third parties or
- Risks relating to all or part of the activities of third parties

The flexibility in securitized assets is one of the main reasons, why securitization undertakings are also setup across various industries or sectors from banking, insurance, leasing, asset management, commercials, real estate, private equity, hedge funds, Islamic finance and other structured finance structures.

Existing and future claims

The Securitization Law enables to securitize existing and future claims. Future claims arising out of an existing or future agreement may be assigned to or by a securitization undertaking provided that it can be identified as being part of the assignment at the time it comes into existence or at any other time agreed between the parties.
Securitization of financial assets

Existing Luxembourg securitizations are very often engaged in the securitization of traditional claims (financial assets) acquired from an originator (e.g., performing and non-performing loans, mortgages, auto/lease/trade/credit-card-receivables or student loans).

Repackaging transactions consist, in general, of the securitization of one or more financial assets, often bonds or similar instruments, certain characteristics of which (e.g., the currency, the interest rate) are converted through the use of the securitization techniques to better accommodate with investor preferences. While these repackaging deals are accepted by the CSSF, there are certain structures that are assessed by the CSSF on a case-by-case basis. Those repackaging transactions are structures that securitize equity indices or other financial assets, pools of shares or units of funds, especially structures that securitize shares or units of one single fund.

Not only but mainly used regarding to the authorized securitization undertakings are the so called tracker certificates. In a significant number those trackers have been established in the recent past years for structures replicating the performance of a certain underlying (i.e., index, basket).

Excursus: Acquisition versus granting loans

Structures in which the securitization undertaking does not acquire loans in the secondary market but itself grants the loans may also be regarded as securitization and approved by the CSSF on a case-by-case basis. These securitizations are only acceptable should they fulfill certain specific and restrictive requirements: the securitization undertaking does not allocate the funds raised from the public to a credit activity on own account and the documentation relating to the issue, either:

- Clearly defines the assets on which the service and the repayment of the loans granted by the securitization undertaking will depend, or
- Clearly describes:
  - The borrower(s)
  - The criteria according to which the borrowers will be selected.

The objective is to have investors adequately informed of the risks, including the credit risks and the profitability of their investment at the time securities are issued.

In both cases, information on the characteristics of the loans granted must be included in the issuance documents. In the light of the pending international shadow banking discussions, this option should clearly be understood as a clarification that the Luxembourg Law supports managed CDO transactions, securitization of existing portfolios of partially drawn credits and of automatically revolving credits under pre-agreed conditions rather than allows shadow banking activities, especially as the involved parties are responsible for ensuring that any other applicable legal provisions are complied with.

Securitization of commodities

In recent years the securitization of commodities (e.g., railcars, precious metals, diamonds, champagne, gas, art) and intangibles (e.g., intellectual property and economic rights) have gained momentum. A securitization can take the form of an acquisition of these commodities, provided that such an acquisition aims to provide for a financing or refinancing, whereby the commodities constitute a guarantee of repayment to third parties of the funds they have made available. The securitization undertaking must not engage in any activity which would involve being considered as an undertaking within the meaning of the European legislation.

A securitization undertaking may also issue structured products providing the investor with an exposure on the price fluctuations of the underlying commodities. For these types of products, the directors/managers of the securitization undertaking have to implement and communicate to the investors an exit strategy which will not force the securitization undertaking to operate on a regular and significant basis through purchase and sale transactions on the markets.

Securitization related to all or part of the business of a third party (whole business securitization) is similar to a project financing under which the repayment of the credit facility granted to an undertaking is based on the income generated by the funded activity. The risk assumed by the securitization undertaking within the context of such transactions is also related to the profitability of the activity carried out by the third party to which the undertaking provides its support. But, unlike a mainstream lender, the securitization undertaking directly transfers this risk to investors.
2.2.7. Risk transfer

The two fundamental risk transfer techniques, true sale securitization and synthetic securitization, have been introduced and explained in the previous chapter of this brochure (see section 1.6.2 - The risk transfer method).

Risks related to the holding of assets, resulting from the obligations assumed by third parties or related to all or part of the activities of third parties are capable of being securitized. The securitization undertaking may assume those risks by acquiring the assets, guaranteeing the obligations or by committing itself in any other way (e.g., hedging transactions through derivatives). Hence, the Securitization Law enables the application of both risk transfer techniques in Luxembourg.

The CSSF clarified that securitization results in the transfer of the risks that an undertaking assumes by holding claims to the capital or money market. From an economic point of view a securitization appears as a transformation of claims into securities. Securitization is however not limited to claims but is likely to apply to all types of risks which may be isolated in specific assets which will constitute the exclusive guarantee of the investors who had funded the transfer thereof.

Within the context of such a securitization, the transfer of risks to the securitization undertaking no longer necessarily involves an assignment of claims or other assets. The risk transfer can be achieved through hedging offered by the securitization undertaking to the debtor of the obligation(s) which is to be securitized. The techniques established are to ensure that the risk transfer may range from traditional forms of guarantees and sub-participations to the modern financial techniques, such as, inter alia credit derivatives, total return swaps.

The Securitization Law is therefore open to securitization of all kinds of risk. In the broadest sense, whether they are inherent in claims or any other types of assets or obligations or activities. It is also open to any risk transfer technique whether or not it is done by way of a transfer of assets or other types of hedging which is likely to satisfy the undertaking that wishes to be discharged thereof.

2.2.8. Risk management

Securitization results in the transfer to the capital or money market of the risks that a securitization undertaking assumes in connection with the holding of one or several risks. It appears from an economic point of view as a transformation of risks into securities. When risks are transformed into securities, the articles of incorporation or the documents relating to the issue of securities must describe the selection criteria, as well as the composition of the securitized portfolio, where applicable, according to the risks. When the securitization of risks is possible, it should be pointed out that these risks must be managed. For this purpose the securitization undertaking may entrust the assignor or a third party with the collection of claims it holds as well as with any other tasks relating to the management thereof. The cash flows cannot be generated by the securitization undertaking or result as a whole or in part from the securitization undertaking’s activity itself as performed by an entrepreneur.

Assignment of assets

A securitization undertaking cannot assign its assets except in accordance with the provisions laid down in its articles of incorporation or its management regulations. The documents relating to the issue of securities must also lay down the conditions and criteria according to which the assets composing this portfolio can be assigned.

Security interest over assets

In respect of security interests which are likely to be created over assets, the Securitization Law provides that a securitization undertaking may not, by any means, create security interests over its assets or transfer its assets for guarantee purposes. Except to secure the obligations it has assumed for their securitization or in favor of its investors, their fiduciary-representative or the issuing vehicle participating in the securitization. Security interests and guarantees created in breach of this rule are void by operation of law.
Asset management

A securitization undertaking has to avoid any activity likely to qualify the securitization undertaking as an entrepreneur, such as for example the provision of services to third parties. Any management by the securitization undertaking of claims, assets or activities of third parties that creates an additional risk owing to the activity of the securitization undertaking compared to the risk attached to these claims, assets or activities or which aims to create additional assets or results in the commercial development of the securitization undertaking’s activities, is, in principle, incompatible with the purpose of the Securitization Law.

In view of the nature of a securitization activity, the securitization undertaking’s action must be limited to a prudent man passive management of the securitized portfolio, irrespective of whether or not this management is delegated to a professional acting on behalf of the securitization undertaking. In certain cases, this management may include for example the re-negotiation of the schedule of the repayments or the credit terms in the event of financial difficulties of a debtor, but it can under no circumstances consist of either active management of the portfolio aiming to take advantage of short-term fluctuations of market prices and resulting in an ongoing activity of claim acquisition and assignment or, as mentioned above, a professional credit activity performed by the securitization undertaking on its own account.

This management is subject to the provisions of the Securitization Law which notably require that the constitutional documents of the securitization undertaking provide for, at least in principle, the possibility and terms of sale of securitized assets and risks guaranteeing the investors’ rights. However, the CSSF accepts that the constitutional documents refer to the issued documents that must provide for, in respect of each issue, both the decision-making procedure, as well as the terms of sale of securitized assets and risks.

2.2.9. Issued securities

A securitization undertaking issues securities, whose value or yield depends on the related securitized risks. These securities can be issued in registered or bearer form.

Typically, securities issued by a securitization undertaking are debt securities. The articles of incorporation may nevertheless reserve the right for the securitization undertaking to carry out securitization through the issuance of shares or other types of securities, e.g., warrants, certificates, etc.

Regarding the nature of the financing by issuing securities, the Securitization Law allows the securitization undertaking to issue trackers, i.e., securities whose yield or value is linked either to one or several specific compartments, or to certain risks assumed by the securitization undertaking regardless of the value and yield of the undertaking or of its compartments.

The securitization undertaking may also issue subordinated securities using the technique of tranching, i.e., by issuing securities whose repayment is subordinated to the prior repayment of other securities, certain claims or certain classes of shares.

The Securitization Law also allows securitization undertakings to issue shares and bonds that do not have an equal value. In that case, the attached voting right must be proportionate to the portion of the share capital or bonds represented.

According to the principle of lex contractus (debt securities) and of lex societatis (equity-type securities,) respectively under international private law, securities subject to foreign law which are recognized as securities under applicable law or which constitute securities within the meaning of MiFID are deemed as securities under the Securitization Law.

Units and bonds issued by a securitization undertaking set up as a limited liability company (S.à r.l.) are also deemed as securities under the Securitization Law.

The activities of the securitization undertaking, in particular in connection with asset management, but also as regards to the frequency and conditions of repurchase of the securities issued by the undertaking must be such that they do not fall within the scope of the regulations governing the operation and management of undertakings for collective investment in transferable securities (UCITS) and alternative investment funds (AIF).
2.2.10. Investor protection

Investor protection is a key element of the Securitization Law.

Investor restrictions or investor eligibility criteria
Securitizations are generally intended to be subscribed by institutional investors. Their structuring and the asset classes are typically not straightforward hence the related risks would not be intentionally clear to retail investors. However, the Securitization Law provides a broad definition and also allows the issuance of structured securities that are intended to be distributed to retail investors. Accordingly, the Securitization Law does not impose investor restrictions or investor eligibility criteria. Consequently, all types of investors including retail investors may in principle subscribe the securities issued by securitization undertakings. Therefore, the Securitization Law provides enhanced investor protection through various mechanisms introduced by operation of law.

Ring-fencing
In a typical securitization and as provided by the Securitization Law, the rights of the investors and of the creditors are limited to the assets of the securitization undertaking. Where such rights relate to a compartment or have arisen in connection with the creation, the operation or the liquidation of a compartment, they are limited to the assets of that compartment. The assets of a compartment are exclusively available to satisfy the rights of investors in relation to that compartment and the rights of creditors whose claims have arisen in connection with the creation, the operation or the liquidation of that compartment.

Between investors, each compartment shall be treated as a separate entity, except if otherwise provided for in the constitutional documents.

Compartment segregation therefore provides for fully ring-fenced compartments and each compartment is hence separated from all other compartments and the securitization undertaking itself. In an insolvency case of one compartment it does not affect any other compartment or the securitization undertaking itself.

Voting rights
Notwithstanding any provision to the contrary, the voting rights attached to shares which do not have an equal value is proportionate to the portion of the share capital represented by such shares. The voting rights attached to notes and other debt instruments are always proportionate to the portion of the debt they represent. Consequently, this gives shareholders and debtholders proportionate voting rights aligned with their investment volume.

Subordination clauses
The articles of incorporation, the management regulations of a securitization undertaking and any agreement entered into by the securitization undertaking may contain provisions by which investors and creditors accept to subordinate the maturity or the enforcement of their rights to the payment of other investors or creditors or undertake not to seize the assets of the securitization undertaking. The same applies to securitizations where issuing and acquisition vehicles are separate legal entities (see section 2.2.2 - Two layer securitization). Subordination clauses are a crucial legal aspect in the appropriate structuring of tranched securitizations (see section 1.8.3 - Credit enhancement).

Non-petition clauses
The articles of incorporation, the management regulations of a securitization undertaking and any agreement entered into by the securitization undertaking may contain provisions by which investors and creditors accept not to petition for bankruptcy or request the opening of any other collective or reorganization proceedings against the securitization undertaking. Proceedings initiated in breach of such provisions shall be declared inadmissible.

Bankruptcy remoteness
The bankruptcy remoteness principle means that securitized exposures are separated from the insolvency risk of the originator or servicer. The Securitization Law outlines, in the event that the originator or the third party to which the collection of claims has been entrusted, becomes subject to insolvency proceedings (such as bankruptcy, controlled management, judicial liquidation or any other proceedings affecting the rights of creditors generally). The securitization undertaking is entitled to claim any sums collected on its behalf prior to the opening of such proceedings, without the other creditors (of the originator or the third party) having any rights to such amounts, and notwithstanding any claims raised by the bankruptcy receiver, the controlled management commissioner or the liquidator.

The bankruptcy remoteness principle also applies to future claims. The Securitization Law states: the assignment of a future claim is conditional upon its coming into existence, but when the claim comes into existence, the assignment becomes effective between parties and against third parties as from the moment the assignment is agreed on, unless the contrary is provided for in such agreement, notwithstanding the opening of bankruptcy proceedings or any other collective proceedings against the assignor before the date on which the claim comes into existence.
Custodian

Another way of securing investor rights is the obligation for authorized securitization undertakings to entrust the custody of their liquid assets and securities with a credit institution established or having its registered office in Luxembourg.

Non-authorized securitization undertakings do not have a similar requirement, but it is best market practice that non-authorized securitization undertakings entrust the custody of their liquid assets and securities with a credit institution, but not necessarily established or having its registered office in Luxembourg.

Luxembourg does not provide for a specific regime for custody of assets within a securitization transaction. Consequently, the custodian appointed by the securitization undertaking has no other duty than the proper safekeeping of the asset under custody. The securitization undertaking may select a custodian on the compartment level with the effect that for each compartment a different custodian may be appointed.

Fiduciary representative

The investors and the creditors of a securitization undertaking may entrust the management of their interests to one or more fiduciary-representatives.

Fiduciary representatives are professionals of the financial sector who need a specific authorization, and need to be a stock company with a share capital and own funds of at least €400,000 that have their registered office in Luxembourg and that may not exercise any activity other than their principal activity except on an accessory and ancillary basis.

The fiduciary-representative may also be granted by the investors and the creditors the power to act in their interest in a fiduciary capacity, in accordance with the legislation on the trust and on fiduciary contracts. The fiduciary-representative may in particular in such capacity accept, take, hold and exercise all security interests and guarantees and receive all payments to be made to the investors and the creditors which have granted such powers to it.

The fiduciary representative needs to enter into a contract with the securitization undertaking that will define its rights and its powers, specify the groups of investors or creditors on behalf of which it acts and provide for a procedure for its replacement. That instrument is binding, without any other formality being required, on all investors and creditors which have accepted the fiduciary-representative. The subscription or the acquisition of a security issued by a securitization undertaking designating a fiduciary-representative constitutes acceptance of the fiduciary-representative and of its mission.

Recently, no fiduciary representative was or is registered in Luxembourg.
2.2.11. The AIFMD position on securitizations

Following the European Alternative Investment Fund Managers Directive (the AIFMD), Luxembourg enacted on 12 July 2013 the Law on Alternative Investment Fund Managers (the AIFM Law). Within AIFMD, securitization companies were exempted from the application of the AIFMD. However, while the Luxembourg securitization definition is broader than the European equivalent, the question occurred to which extent Luxembourg securitization companies should be exempted from the AIFM Law.

The following reproduces the position adopted by the CSSF published on 23 October 2013 which is hereafter subject to any future development or clarification at European level.

A securitization undertaking which meets the SSPE definition under the AIFM Law, cannot qualify as an alternative investment fund (AIF) within the meaning of the AIFM Law, as Article 2(2)(g) of the AIFM Law provides that SSPEs are excluded from the scope of the AIFM Law.

SSPEs are defined as entities whose sole purpose is to carry on a securitization (or securitizations) within the meaning of Article 1(2) of Regulation (EC) No 24/20095 of the ECB and other activities which are appropriate to accomplish that purpose (the ECB Regulation). According to the ECB Regulation, securitization means a transaction or scheme whereby an asset or pool of assets is transferred to an entity that is separate from the originator and is created for or serves the purpose of the securitization and/or the credit risk of an asset or pool of assets, or part thereof, is transferred to the investors in the securities, securitization fund units, other debt instruments and/or financial derivatives issued by an entity that is separate from the originator and is created for or serves the purpose of the securitization, and

- In case of transfer of credit risk, the transfer is achieved by: the economic transfer of the assets being securitized to an entity separate from the originator created for or serving the purpose of the securitization. This is accomplished by the transfer of ownership of the securitized assets from the originator or through sub-participation, or the use of credit derivatives, guarantees or any similar mechanism, and
- Where such securities, securitization fund units, debt instruments and/or financial derivatives are issued, they do not represent the originator’s payment obligations

According to the clarifications provided by the ECB in its Guidance note on the definitions of “financial vehicle corporation” and “securitization” under Regulation ECB/2008/30, point 4.1, page 3, a securitization vehicle issuing CLOs would indeed meet the definition of the ECB Regulation, so that these vehicles do not qualify as AIFs.

On the other hand, according to the same Guidance note (points 4.1 and 4.3 on pages 3 f.), securitization undertakings whose core business is the securitization of loans which they grant themselves (securitization undertakings acting as first lender) do not meet the definition of the ECB Regulation and thus cannot benefit from the exclusion. The same applies to securitization undertakings that issue structured products that primarily offer a synthetic exposure to assets other than loans (non credit-related assets) and where the credit risk transfer is only ancillary.

Irrespective of whether or not they meet the definition of SSPE under the AIFM Law, securitization undertakings that only issue debt instruments do not qualify as AIFs, as it seems it was not the intention of the European legislator to qualify undertakings that issue such instruments as AIFs. In this respect, reference is made to the questions and answers documents issued by the European Commission on 25 March 20136 in which the European Commission considered that any type of instrument not representing an ownership interest in the securitization undertaking should be excluded from the scope of Directive 2011/61/EU.

Irrespective of whether or not they meet the definition of SSPE under the AIFM Law, securitization undertakings that are not managed according to an investment policy within the meaning of Article 4(1) (a) of the AIFM Law do not qualify as AIFs. To determine whether they are managed according to an investment policy within the meaning of the AIFM Law, reference is made to the Guidelines on key concepts of the AIFMD published by the European Securities and Markets Authority (ESMA) on 13 August 2013. Subject to the criteria laid down in the ESMA Guidelines, securitization undertakings that issue structured products that offer a synthetic exposure to assets (e.g., shares, indices, commodities), based on a pre-established formula, and that acquire underlying assets and/or enter into swap agreements with the sole purpose of hedging their payment obligations under the issued structured products (hedging), may be considered as not being managed according to an investment policy.

According to the CSSF’s clarification in its FAQ document mentioned above, a Luxembourg securitization company should be exempted from the AIFM Law and only in exceptional circumstances the securitization company should qualify as an AIF.

It is recalled that each securitization undertaking must perform a self-assessment in order to determine whether it qualifies as an AIF.

---


6 Questions on Single Market Legislation/Internal Market; General question on Directive 2011/61/EU; ID 1169. Scope and exemptions
2.2.12. Accounting regime

The Securitization Law integrates the accounting obligation of a securitization undertaking into the existing accounting obligations of other commercial companies or funds.

Securitization companies must comply with the provisions of Chapters II and IV of Title II of the Law of 19 December 2002 on the trade and companies register and the accounting and the annual accounts of companies (the Commercial Accounting Law). Their management reports must contain all material information relating to their financial situation which could affect the rights of investors.

Securitization funds are subject to the accounting and tax provisions applicable to undertakings for collective investment provided for by the Law of 17 December 2010 relating to undertakings for collective investment (the Fund Accounting Law).

The Commercial Accounting Law and the Fund Accounting Law are in principle very flexible and straightforward. However, as there are various aspects to be considered in the accounting context, EY decided to describe these implications in a separate brochure.

2.2.13. Audit

The annual accounts of a securitization undertaking are mandatorily subject to a statutory audit to be rendered by an approved statutory auditor in accordance with the Luxembourg Law of 18 December 2009 concerning the audit profession, as subsequently amended.

The approved statutory auditor of an authorized securitization undertaking must be authorized by the CSSF in the meaning that its planned appointment must be communicated to and approved by the CSSF. Consequently, it should be understood that the auditor shall be suitably qualified in terms of relevant experience. The appointment of a suitably qualified auditor forms a regulatory requirement for authorized securitization undertakings and best practice for unregulated securitization undertakings.

The responsibility for the appointment of the approved statutory auditor remains with the management body of the securitization company or the management company of the securitization fund.

The CSSF may set rules regarding the scope of the audit mandate and the content of the reports and written comments of the approved statutory auditors without prejudice to the legal provisions governing the content of the audit report.

The statutory audit is conducted in accordance with International Standards on Auditing (ISA) issued by the International Federation of Accountants (IFAC), as adopted for Luxembourg by the CSSF.

The approved statutory auditors entrusted with the auditing of the annual accounts of a securitization undertaking shall inform the management of the securitization company or of the management company of the securitization fund of any irregularities and inaccuracies which they detect during the accomplishment of their duties. As regards authorized securitization undertakings, the CSSF also has to be informed. This reporting should cover at least situations where information provided to investors or the CSSF does not truly describe the financial situation and or any fact or decision, which the auditor has become aware of during the audit of a securitization undertaking, which is liable to:

- Constitute a substantial breach of laws or regulations
- Affect the continuous functioning of the securitization undertaking
- Lead to a refusal to certify the annual accounts or to the expression of qualifications thereon

Authorized securitization undertakings must spontaneously communicate to the CSSF the reports and written comments issued by the approved statutory auditors in the framework of its audit of the annual accounting documents. This covers the audit report, the management letter and any other written communication received from the approved statutory auditors in this context.
2.2.14. Liquidations

Liquidation of securitization undertakings

When a securitization transaction matures, or in case of a multi-compartment securitization company, the last securitization transaction matures, the issued security has been fully repaid in accordance with the issuance terms and conditions and it is not intended to use the securitization company for a new securitization transaction, the securitization company is normally dissolved and then liquidated.

Dissolution constitutes the death of the securitization company which is then no longer a legal entity. After the dissolution, securitization companies are deemed to exist for the purpose of their liquidation and all documents issued by a securitization company in liquidation shall indicate that it is in liquidation.

The term liquidation refers to the realization of all remaining assets and liabilities of the securitization company. In order to initiate the liquidation procedure, an extraordinary general meeting (EGM) of the shareholders needs to appoint a liquidator who may bring and defend all actions on behalf of the securitization company, receive all payments, grant releases with or without discharge, realize all the assets of the securitization company and re-employ the proceeds therefrom, issue or endorse any negotiable instruments, compound or compromise all claims and distribute any remaining cash position to the entitled parties. Sums and assets payable to investors who failed to present themselves at the time of the closure of the liquidation, shall be paid to the public trust office (Caisse de Consignation) to be held for the benefit of the persons entitled thereto.

The usual steps for the voluntary liquidation procedure are:

- First general meeting to deliberate on the liquidation and appointment of the liquidator(s)
- Preparation of an accounting statement (i.e., balance sheet as at the date of the liquidation opening and interim profit or loss account for the period from the last audited financial year end to the date of the liquidation opening)
- Realization of remaining assets and liabilities
- Preparation of the liquidator report
- Convene a second general meeting appointing the liquidation commissioner (Commissaire à la liquidation) that needs to be a Luxembourg approved statutory auditor
- Preparation of the report of the liquidation commissioner on the liquidator report
- Convene a third general meeting to close the liquidation
- Notice of the liquidation completion

The liquidation may be forced by a court. While the forced liquidation procedure differs from the voluntary liquidation procedure, EY believes a forced liquidation of securitization undertakings should be rare and hence does not elaborate on this procedure in detail.

Liquidation of compartments

A compartment of a securitization company may be separately liquidated without such liquidation resulting in the liquidation of any another compartment or the securitization company itself. The liquidation of the last compartment of the securitization company does not automatically result in the liquidation of the securitization company itself.

In the absence of any requirement for the liquidation of a compartment, the liquidation of a compartment can be affected merely through a decision of the managing body of the securitization company that shall be documented in a meeting minute.

The liquidation of a compartment within a securitization fund follows the same general principles that can be affected merely through a decision of the management company of the securitization fund with the exception that the liquidation of the last compartment of a securitization fund, which has no legal personality, entails the liquidation of the securitization fund itself as the latter does not consist of any other assets and liabilities than those of its compartments.

Liquidation of authorized securitization undertakings

For authorized securitization undertakings, the Securitization Law introduces a voluntary and a forced liquidation procedure.

The Securitization Law requires for the voluntary liquidation procedure to qualify the liquidator of the authorized securitization undertaking with the following criteria:

- Have the necessary good repute (professional standing) and professional qualification
- Be authorized by the CSSF. During the liquidation procedure, the authorized securitization undertaking remains subject to the CSSF supervision

The district court dealing with commercial matters shall upon request from the public prosecutor, acting ex officio or at the request of the CSSF, pronounce the dissolution and order the liquidation of authorized securitization undertakings whose entry on the list of authorized securitization undertakings has been definitely refused or withdrawn.
## Glossary

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABCP</td>
<td>Asset Backed Commercial Paper</td>
</tr>
<tr>
<td>ABS</td>
<td>Asset Backed Securities</td>
</tr>
<tr>
<td>AFME</td>
<td>Association for Financial Markets in Europe</td>
</tr>
<tr>
<td>AIF</td>
<td>Alternative Investment Fund</td>
</tr>
<tr>
<td>AIFM</td>
<td>Alternative Investment Fund Manager</td>
</tr>
<tr>
<td>AIFMD</td>
<td>Alternative Investment Fund Managers Directive</td>
</tr>
<tr>
<td>Approved statutory auditor</td>
<td>Réviseur d’entreprises agréé</td>
</tr>
<tr>
<td>BoE</td>
<td>Bank of England</td>
</tr>
<tr>
<td>CBO</td>
<td>Collateralized Bond Obligations</td>
</tr>
<tr>
<td>CCA</td>
<td>Cash collateral account</td>
</tr>
<tr>
<td>CDO</td>
<td>Collateralized Debt Obligations</td>
</tr>
<tr>
<td>CLN</td>
<td>Credit Linked Notes</td>
</tr>
<tr>
<td>CLO</td>
<td>Collateralized Loan Obligations</td>
</tr>
<tr>
<td>CMBS</td>
<td>Commercial Mortgage Backed Securities</td>
</tr>
<tr>
<td>CMU</td>
<td>Capital Markets Union</td>
</tr>
<tr>
<td>CSSF</td>
<td>Commission de Surveillance du Secteur Financier</td>
</tr>
<tr>
<td>EBA</td>
<td>European Banking Authority</td>
</tr>
<tr>
<td>ECB</td>
<td>European Central Bank</td>
</tr>
<tr>
<td>ED</td>
<td>European DataWarehouse</td>
</tr>
<tr>
<td>EGM</td>
<td>Extroardinary General Meeting</td>
</tr>
<tr>
<td>ESMA</td>
<td>European Securities and Markets Authority</td>
</tr>
<tr>
<td>EU</td>
<td>European Union or European</td>
</tr>
<tr>
<td>FAQ</td>
<td>Frequently Asked Questions</td>
</tr>
<tr>
<td>FVC</td>
<td>Financial Vehicle Corporation</td>
</tr>
<tr>
<td>IFAC</td>
<td>International Federation of Accountants</td>
</tr>
<tr>
<td>ISA</td>
<td>International Standards on Auditing</td>
</tr>
<tr>
<td>LIBA</td>
<td>London Investment Banking Association</td>
</tr>
<tr>
<td>Liquidation Commissionner</td>
<td>Commissaire à la liquidation</td>
</tr>
<tr>
<td>LLD</td>
<td>Loan Level Data</td>
</tr>
<tr>
<td>LoC</td>
<td>Letter of credit</td>
</tr>
<tr>
<td>MBS</td>
<td>Mortgage Backed Securities</td>
</tr>
<tr>
<td>MIFID</td>
<td>Markets in Financial Instruments Directive</td>
</tr>
<tr>
<td>NCB</td>
<td>National Central Banks</td>
</tr>
<tr>
<td>PCS</td>
<td>Prime Collateralized Securities</td>
</tr>
<tr>
<td>Public Trust office</td>
<td>Caisse de Consignation</td>
</tr>
<tr>
<td>RMBS</td>
<td>Residential Mortgage Backed Securities</td>
</tr>
<tr>
<td>S.A.</td>
<td>Société anonyme (Public limited company)</td>
</tr>
<tr>
<td>S.à r.l.</td>
<td>Société à responsabilité limitée (Private limited company)</td>
</tr>
<tr>
<td>S.C.A.</td>
<td>Société en commandite par actions (Partnership limited by shares)</td>
</tr>
<tr>
<td>S.C.O.S.A.</td>
<td>Société Cooperative Organisée comme une Société Anonyme (Co-operative company organized as a public limited company)</td>
</tr>
<tr>
<td>SIFMA</td>
<td>Securities Industries and Financial Markets Association</td>
</tr>
<tr>
<td>SME</td>
<td>Small and medium-sized entities</td>
</tr>
<tr>
<td>SSPE</td>
<td>Securitization Special Purpose Entity</td>
</tr>
<tr>
<td>STS</td>
<td>Simple, transparent and standardized securitization</td>
</tr>
<tr>
<td>TSI</td>
<td>True Sale International</td>
</tr>
<tr>
<td>UCITS</td>
<td>Undertakings for Collective Investment in Transferable Securities</td>
</tr>
<tr>
<td>US</td>
<td>United States of America</td>
</tr>
</tbody>
</table>
## Your contacts

### Assurance

EY combines a highly customized audit approach with deep securitization knowledge around accounting, reporting and key industry issues. We emphasize robust project management to ensure timely finalization within agreed deadlines.

Our services:
- Statutory and contractual audit
- Specific scope assurance reports (limited reviews and agreed upon procedures)
- Control reports (ISAE 3402)
- Securitization trainings

---

### Accounting and Corporate Secretarial Services

Our team of experts helps to redesign and upgrade investor reporting to gain a competitive advantage.

Our services:
- Advise on complex accounting issues and critical judgment and estimates
- Securitization Vehicles accounting
- Corporate secretarial services
- Consolidation
Securitization and Structured Finance in Luxembourg
About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

© 2016 Ernst & Young S.A.
All Rights Reserved.

ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.

ey.com/luxembourg