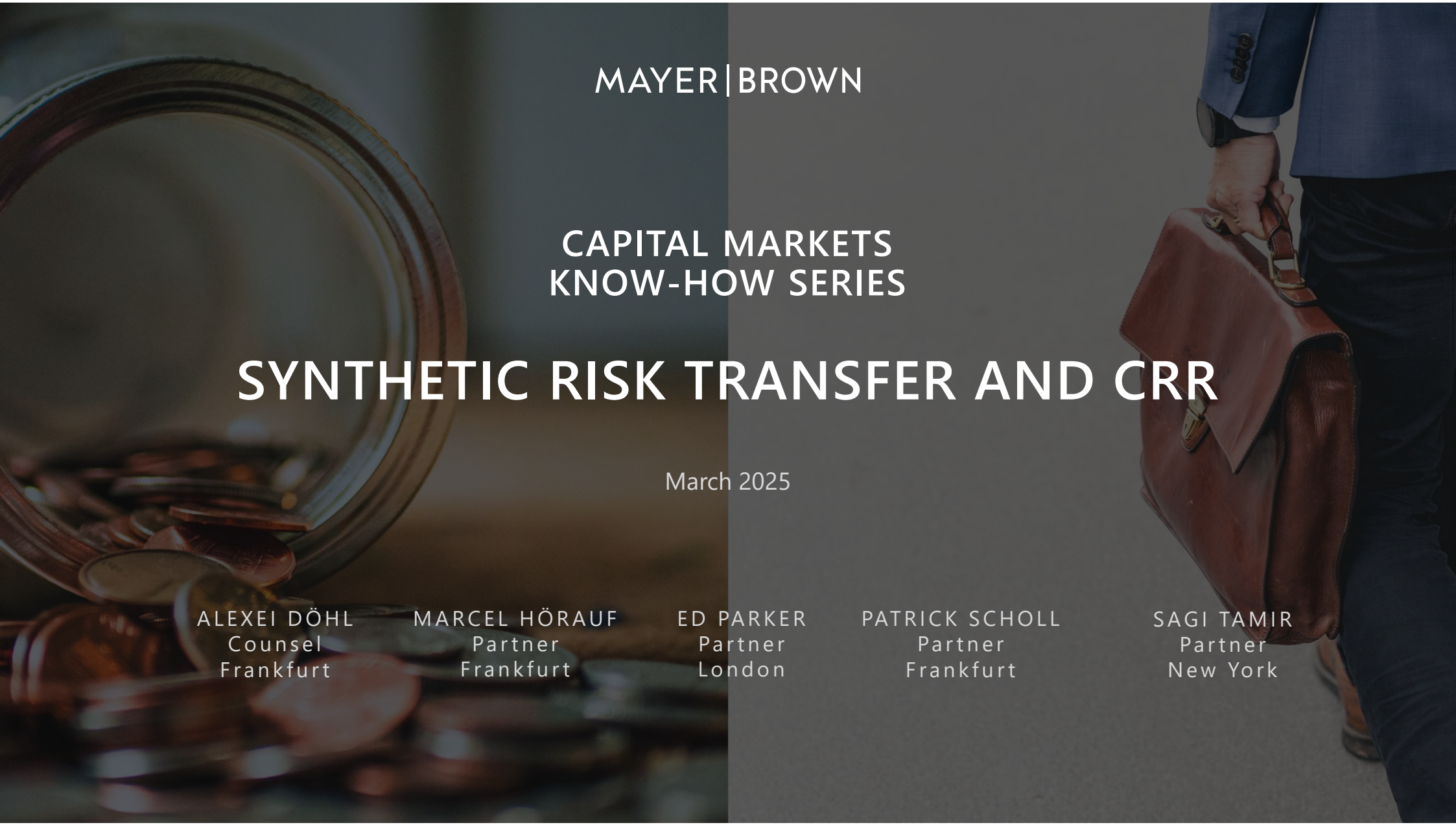


MAYER|BROWN

CAPITAL MARKETS KNOW-HOW SERIES

SYNTHETIC RISK TRANSFER AND CRR

March 2025

ALEXEI DÖHL
Counsel
Frankfurt

MARCEL HÖRAUF
Partner
Frankfurt

ED PARKER
Partner
London

PATRICK SCHOLL
Partner
Frankfurt

SAGI TAMIR
Partner
New York

AGENDA

1. What is a Synthetic Risk Transfer?
2. Regulatory Requirements in the EU
3. Credit Risk Mitigation and Risk Transfer Instruments
4. Trends in the US
5. Practical Considerations

01

WHAT IS A SYNTHETIC RISK TRANSFER

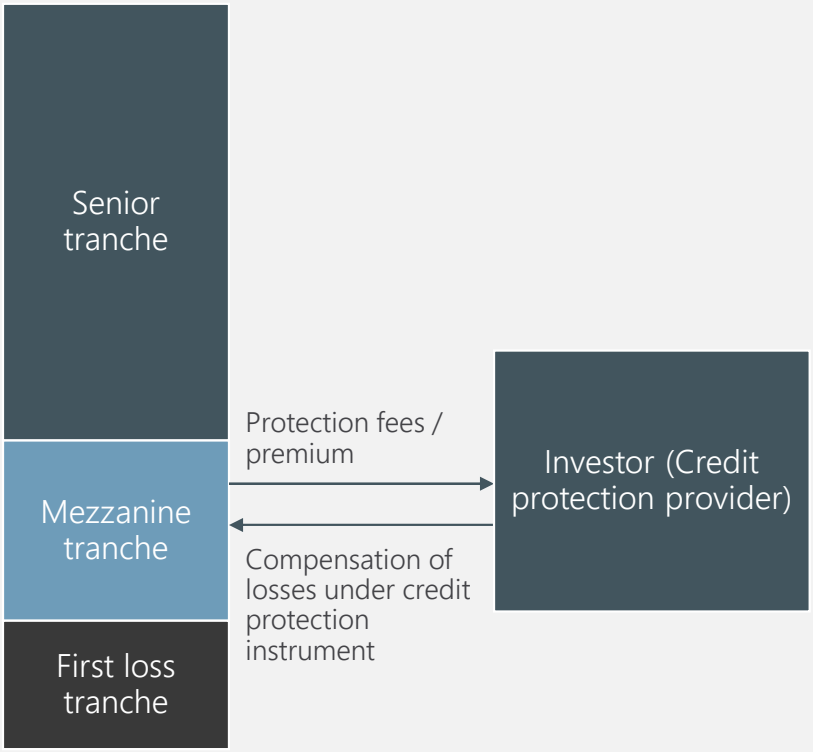
OVERVIEW ON SRT TRANSACTIONS

- Different terms used for SRT/CRT Transactions
  - Synthetic Risk Transfer (SRT), Credit Risk Sharing Transaction, Synthetic Securitisation, Credit Risk Transfer (CRT), Significant Risk Transfer (SRT), Capital Relief Transactions, On-Balance Sheet Transactions
- Typical SRT transaction structures
  - Direct (unfunded) SRT Structure (see slide 5)
  - Direct Issue of CLN by Originator (unfunded) (see slide 6)
  - Direct (funded) structure (see slide 7)
  - Funded structure with an SPV issuing a CLN (see slide 8)
- Art 4 CRR:

(58) 'funded credit protection' or 'FCP' means a technique of credit risk mitigation where the reduction of the credit risk on the exposure of an institution is derived from the right of that institution, in the event of the default of the obligor or the credit facility, or on the occurrence of other specified credit events relating to the obligor, to liquidate, or to obtain transfer or appropriation of, or to retain certain assets or amounts, or to reduce the amount of the exposure to, or to replace it with, the amount of the difference between the amount of the exposure and the amount of a claim on the institution;

(59) 'unfunded credit protection' or 'UFCP' means a technique of credit risk mitigation where the reduction of the credit risk on the exposure of an institution is derived from the obligation of a third party to pay an amount in the event of the default of the obligor or the credit facility, or the occurrence of other specified credit events;

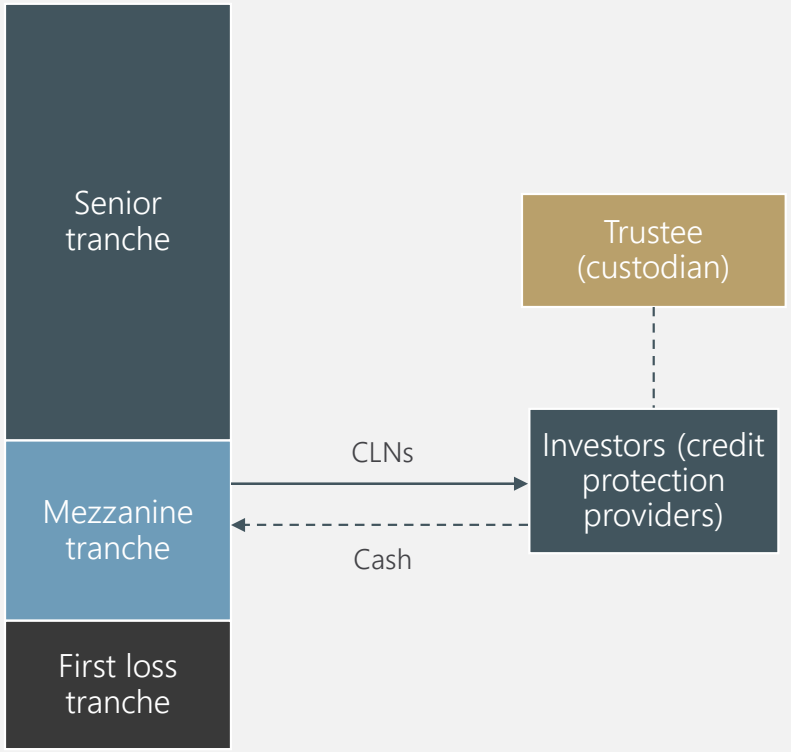
UNFUNDED SRT STRUCTURE



- Bilateral transaction between originator and investor (guarantee or credit derivative)
- No collateral is provided by the investor
- Simple, cheap and flexible
- Only available for limited number of investors with high credit quality (e.g. governments, international organisations with 0 % risk weight, insurance companies etc.)
- Originator is subject to credit risk of the investor
- Risk wight of the protected tranche is substituted with risk wight of the investor
- Less capital efficient unless investor has a risk weight of zero
- Risk to lose SRT befits in case of downgrade or default of investor

Source : Own illustration based on ESRB Occasional Paper Series No 23

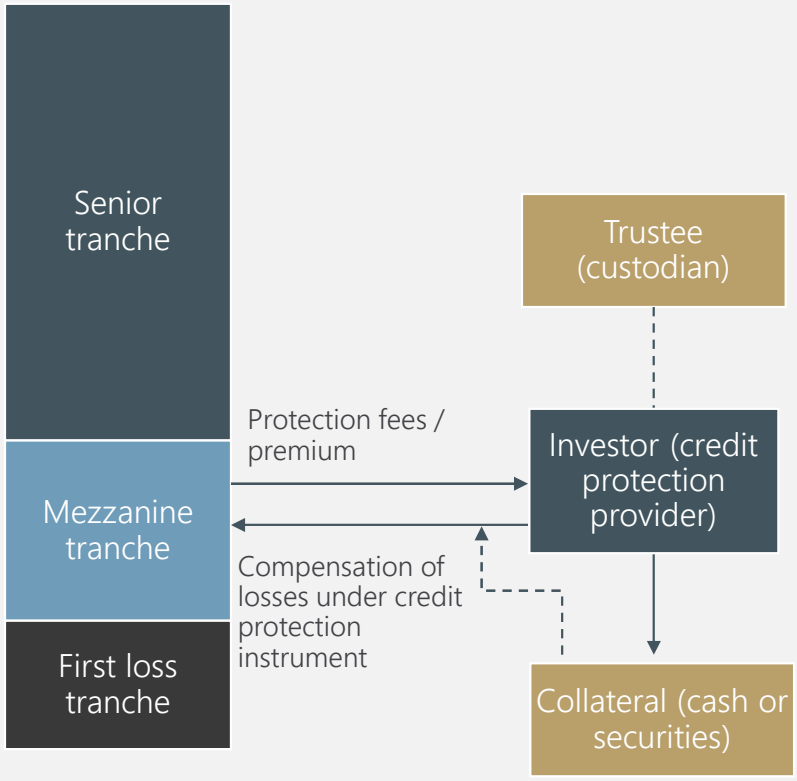
DIRECT ISSUE OF CLN BY ORIGINATOR



- Simpler structure, capital efficient, may be beneficial from a tax perspective
- Principal Amount of CLN is written down by the amount allocated to the protected asset tranche in case of a default
- CLNs issued by the originator are transferable and repo-able
- Investors are subject to credit risk of the originator
- Capital relief will not work in certain jurisdictions, for example where the relevant regulatory capital rules have not been introduced
- Securities laws and potential disclosure requirements apply to CLN issue
- Facilitates risk transfer to with multiple investors

Source : Own illustration based on ESRB Occasional Paper Series No 23

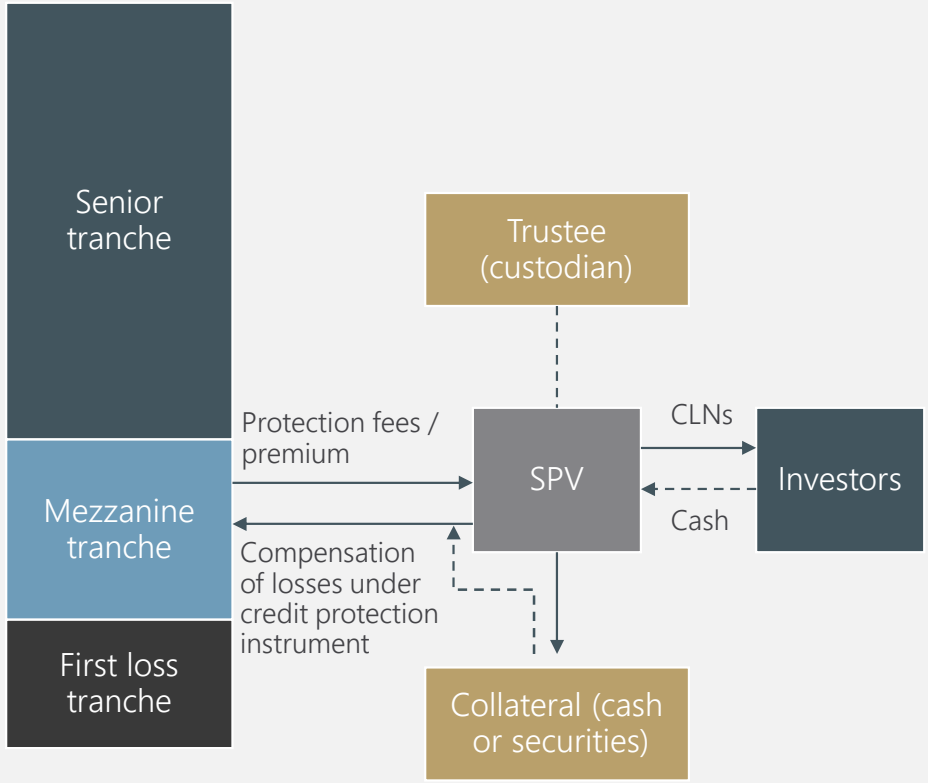
DIRECT (FUNDED) STRUCTURE



- Bilateral transaction between originator and investor (guarantee or credit derivative)
- Collateral is provided to reduce credit risk of investor and reduce capital requirements at the originator
- Trustee or custodian may be required to hold the collateral; alternatively, outright transfer of collateral to originator
- If cash collateral is held by a third- party the originator faces credit risk of such third-party

Source : Own illustration based on ESRB Occasional Paper Series No 23

FUNDED STRUCTURE WITH AN SPV ISSUING A CLN



Source : Own illustration based on ESRB Occasional Paper Series No 23

- Originator enters into a financial guarantee, credit derivative or other credit risk transfer instrument (e.g. risk participation agreement) with an SPV
- SPV issues a CLN with a nominal amount equal to protected amount under the risk transfer instrument; Issuance proceeds are held by a deposit bank and used as collateral to secure the obligations under the risk transfer instrument
- If there is a reference obligation default which touches the protected tranche allocated to the SPV, the SPV pays loss amounts under the risk transfer instrument (noting risk retention)
- Principal Amount of CLN issued by the SPV is written down by the same amount
- If cash collateral is held by a third- party the originator faces credit risk of such third-party
- Securities laws and potential disclosure requirements apply to CLN issue
- CLNs issued by the SPV are transferable and repo-able
- CLNs are preferable if there are multiple investors

ECONOMIC REASONING

From an originator's perspective:

- Freeing-up balance sheet for new lending
- More efficient capital deployment
- Manage risk/reduce risk concentrations
- Reducing exposure to NPL portfolios
- Improve quality of the balance sheet

From an investors perspective:

- Participation in a portfolio on a leveraged basis
- Diversification of investments
- Exposure to otherwise not available exposures without licensing and servicing requirements
- No balance sheet expansion

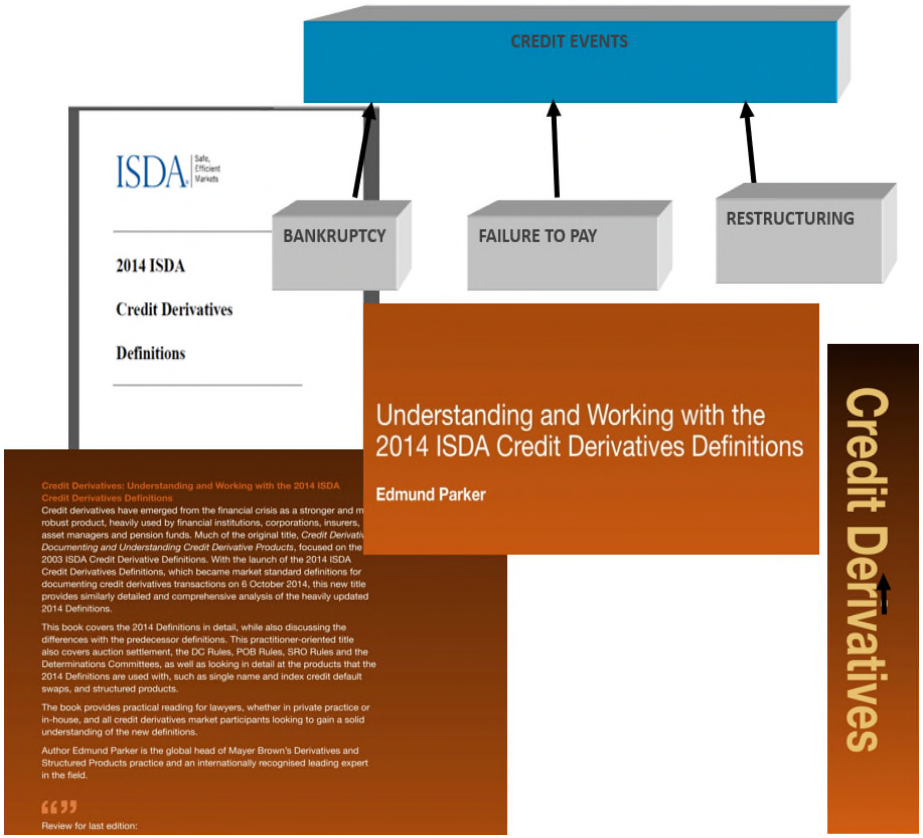
KEY STRUCTURAL FEATURES (OVERVIEW)

- Applicable capital rules drive structures and features of the transaction
- Credit Events (i.e. events that trigger payments under the credit protection)
- Allocation of losses/Loss settlement mechanism (timings, refunds)
- Definition of eligibility criteria for the assets
- Replenishment arrangements (if any)
- Amortisation structures (revolving vs. immediate amortisation; pro rata vs. sequential approach)
- Termination rights (regulatory calls, clean-up calls, time calls, subject to regulatory restrictions)
- Cost of protection (contingent vs. non-contingent premiums, payment schedules, rebate mechanisms)
- Arrangements to address potential credit risk of originator
- Regulatory requirements depending on the instrument (e.g. securities laws, reporting and margining requirements, license requirements, securitization regulation)

KEY STRUCTURAL FEATURES - LOSS SETTLEMENT MECHANISM

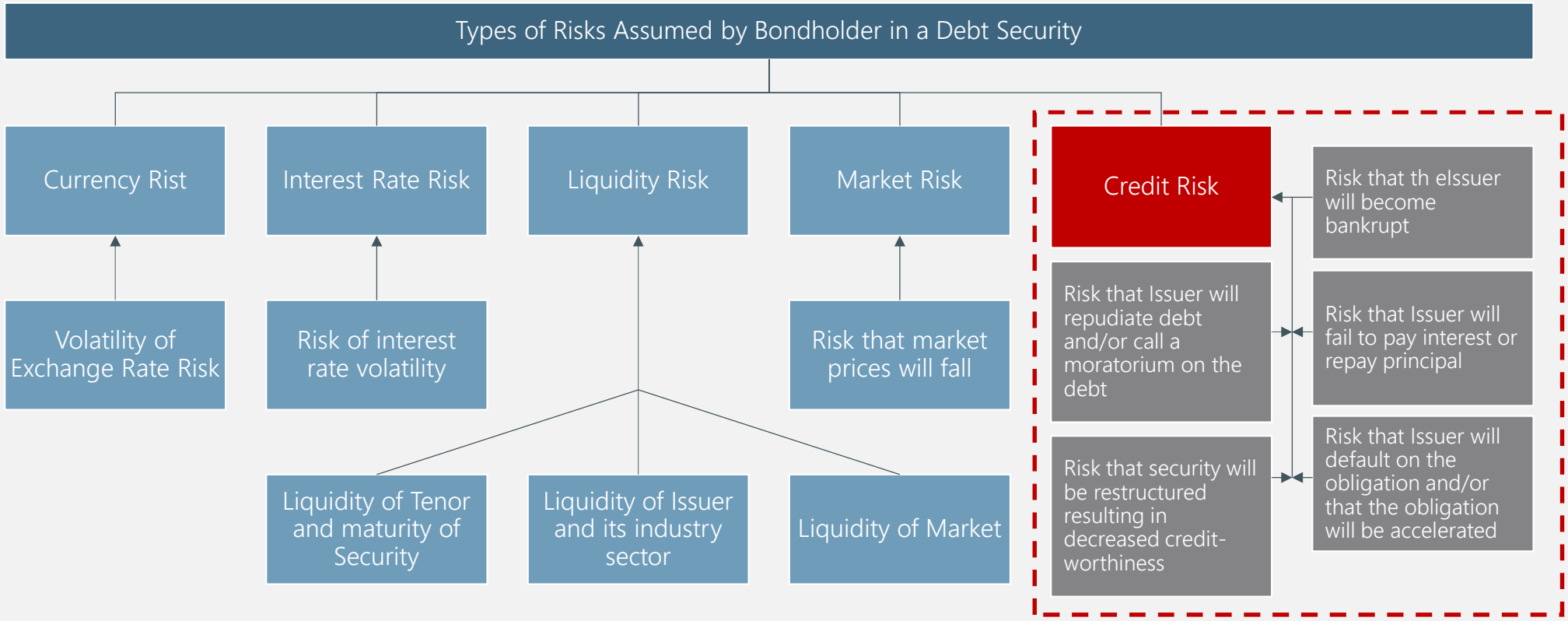
- A final credit protection amount is the final settlement amount that is transferred for a reference obligations, based on the actual recoveries
- The final credit protection amount is determined after a Work-out Period
- The length of the work-out period depends on the underlying Asset
- The final credit protection amount may be higher or lower than the estimated credit protection amount, depending on the recovery value of the reference obligation
- The difference between the estimated and final credit protection amounts may result in a true-up payment, which re-balances the tranches
- To mitigate the moral hazard issue arising in a setting where originator acts as calculation agent a verification agent may be used (who independently verifies the final credit protection amount)

KEY STRUCTURAL FEATURES – CREDIT EVENTS

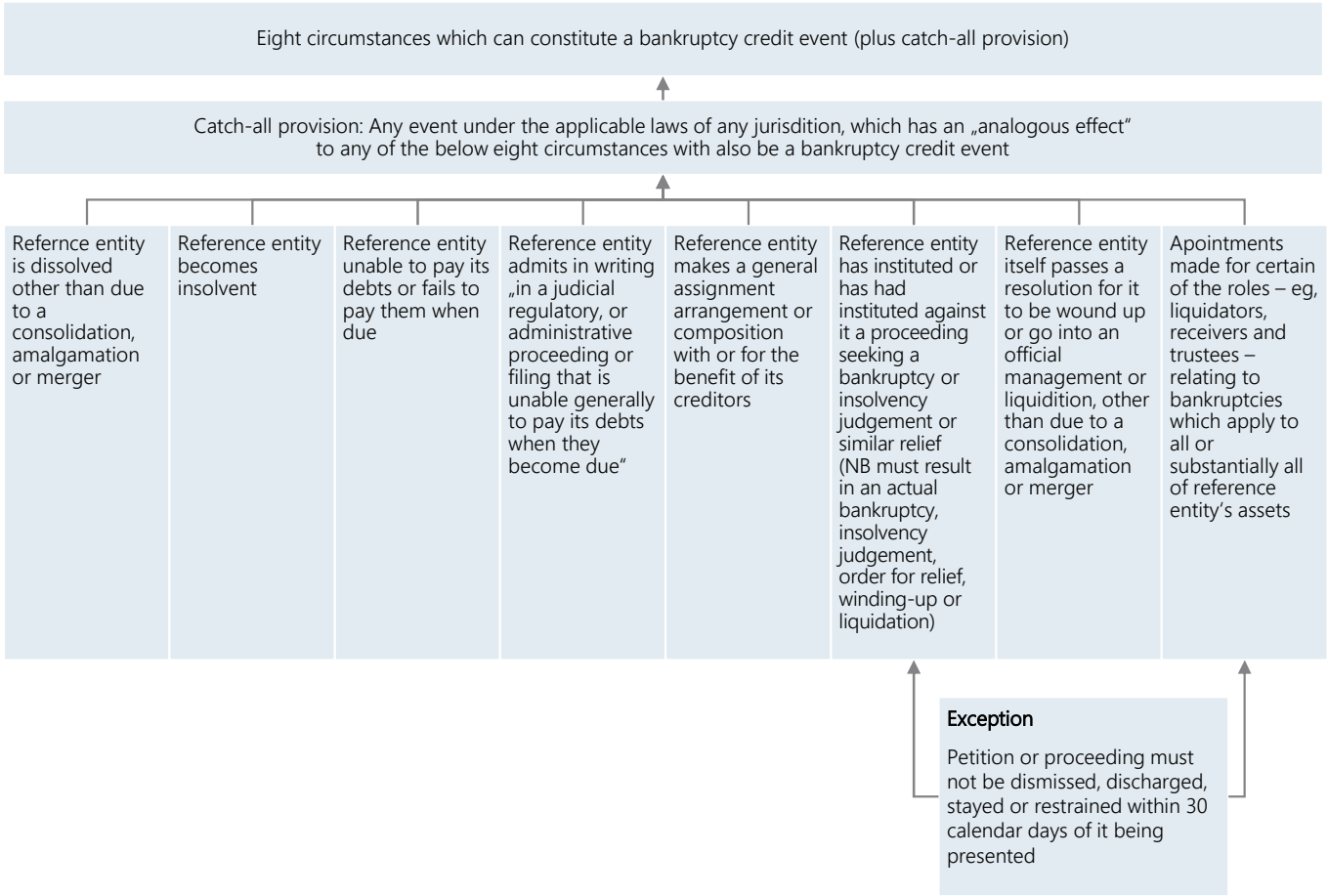


CREDIT EVENTS: ISOLATING CREDIT RISK

ISOCATION AND SEPARATE TRADING OF CREDIT RISK



CREDIT EVENT: BANKRUPTCY (2014 DEFINITIONS) V SRT TRANSACTIONS



"Bankruptcy" means, in respect of a Reference Entity, that the Reference Entity:

(a) is dissolved (other than pursuant to a consolidation, amalgamation, or merger);

(b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;

(c) makes a general assignment, arrangement or composition with or for the benefit of its creditors;

(d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition:

(i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or

(ii) is not dismissed, discharged, stayed or restrained in each case within thirty calendar days of the institution or presentation thereof;

(e) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

(f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets (excluding, for the avoidance of doubt, the appointment by the Reference Entity of a trustee, custodian, fiscal agent or similar representative solely for the purpose of the issue of securities by the Reference Entity);

(g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty calendar days thereafter; or

(h) causes or is subject to any event with respect to which it, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in (a) to (g) above (inclusive).

CREDIT EVENT: FAILURE TO PAY (2014 DEFINITIONS) V SRT TRANSACTIONS

Section 4.5. Failure to Pay. "Failure to Pay" means, after the expiration of any applicable Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by the Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations, in accordance with the terms of such Obligations at the time of such failure.

"**Failure to Pay**" means, with respect to any Debt Obligation, that payments pursuant to the agreement from which the relevant Debt Obligation arises and in accordance with the terms thereof have not been made when and where due, within the longer of:

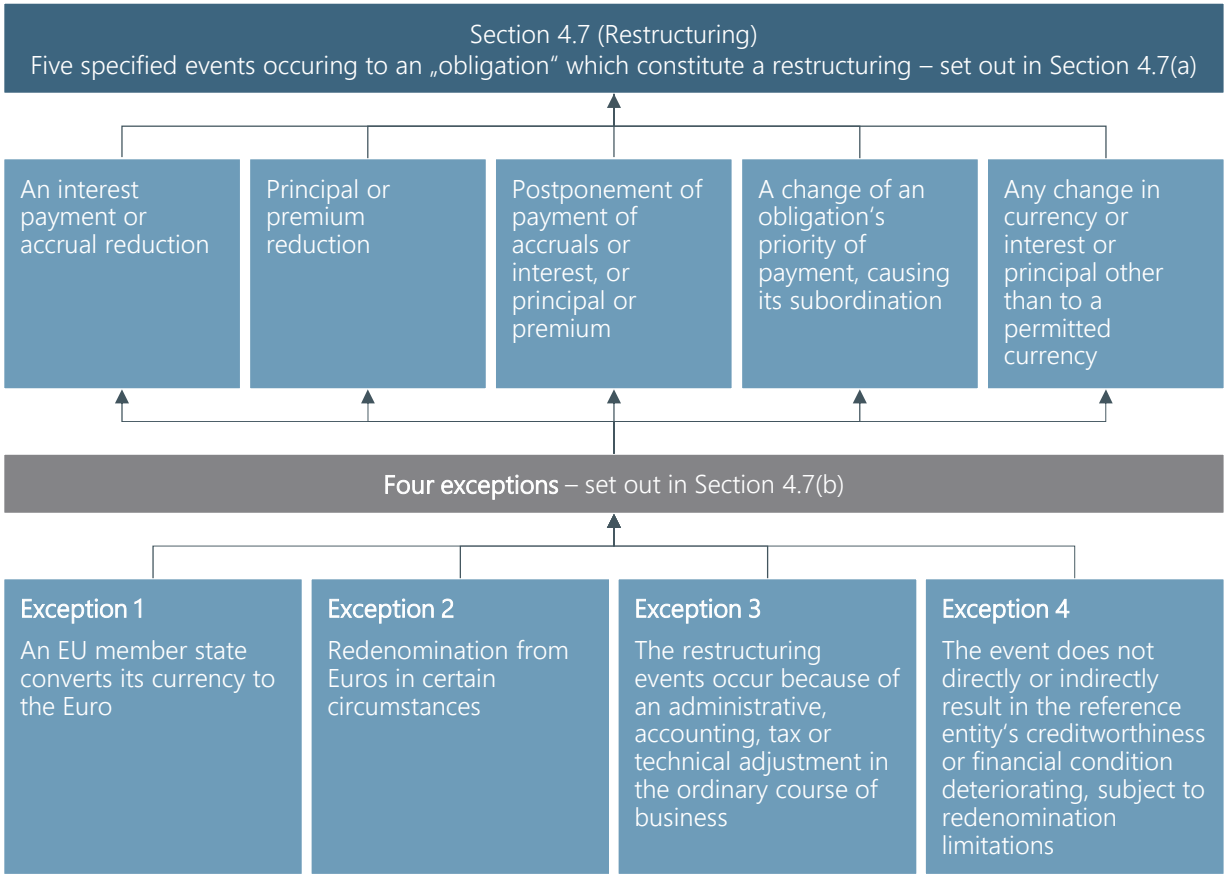
(a) any applicable grace period under the terms of the relevant Debt Obligation; and

(a) 90 calendar days from the due date,

in an aggregate amount greater than EUR 1,000 and the Adjusted Reference Obligation Notional Amount of such Debt Obligation.

"Cured Reference Obligation" means in respect of a Defaulted Reference Asset in respect of which a Failure to Pay Credit Event had occurred, where the Beneficiary determines that all overdue amounts in respect of the Defaulted Reference Asset have been paid by the Reference Entity in full, the Defaulted Reference Asset shall become a Cured Debt Obligation and shall remain in the Reference Portfolio.

CREDIT EVENT: RESTRUCTURING (2014 DEFINITIONS) V SRT TRANSACTIONS



"Restructuring" means, in respect of a Reference Obligation, the forgiveness or postponement of principal that results in a value adjustment or other similar debit to the profit and loss account of the Relevant Lender in respect of such Debt Obligation, provided that the same is effected:

(a) with regard to the standards of a reasonable and prudent lending bank; and

(b) with the intent that such Restructuring is to minimise any expected loss in respect of the Reference Obligation, and occurs in circumstances where such event directly or indirectly results from a deterioration in the creditworthiness or financial condition of the Reference Entity, , and **provided further that** the Beneficiary will provide certification from a Managing Director of the Relevant Lender that the Restructuring is agreed with the intent referred to in the preceding paragraph (b).

"**Restructuring**" means, with respect to a Reference Obligation, the forgiveness, reduction or postponement of principal, interest or fees payable in respect of a Reference Obligation, that results in a value adjustment or debit to the profit and loss account of the Relevant Lender which the Relevant Lender determines is permanent and irreversible; provided that the Relevant Lender has taken (or caused to be taken) such action in respect of such Reference Obligation: (a) with regard to the standards of a reasonable and prudent lending bank; and (b) with the intent that such Restructuring is to minimize any expected loss in respect of such Reference Obligation.

TYPICAL INVESTORS

PENSION FUNDS

CREDIT FUNDS

LARGE ASSET MANAGERS

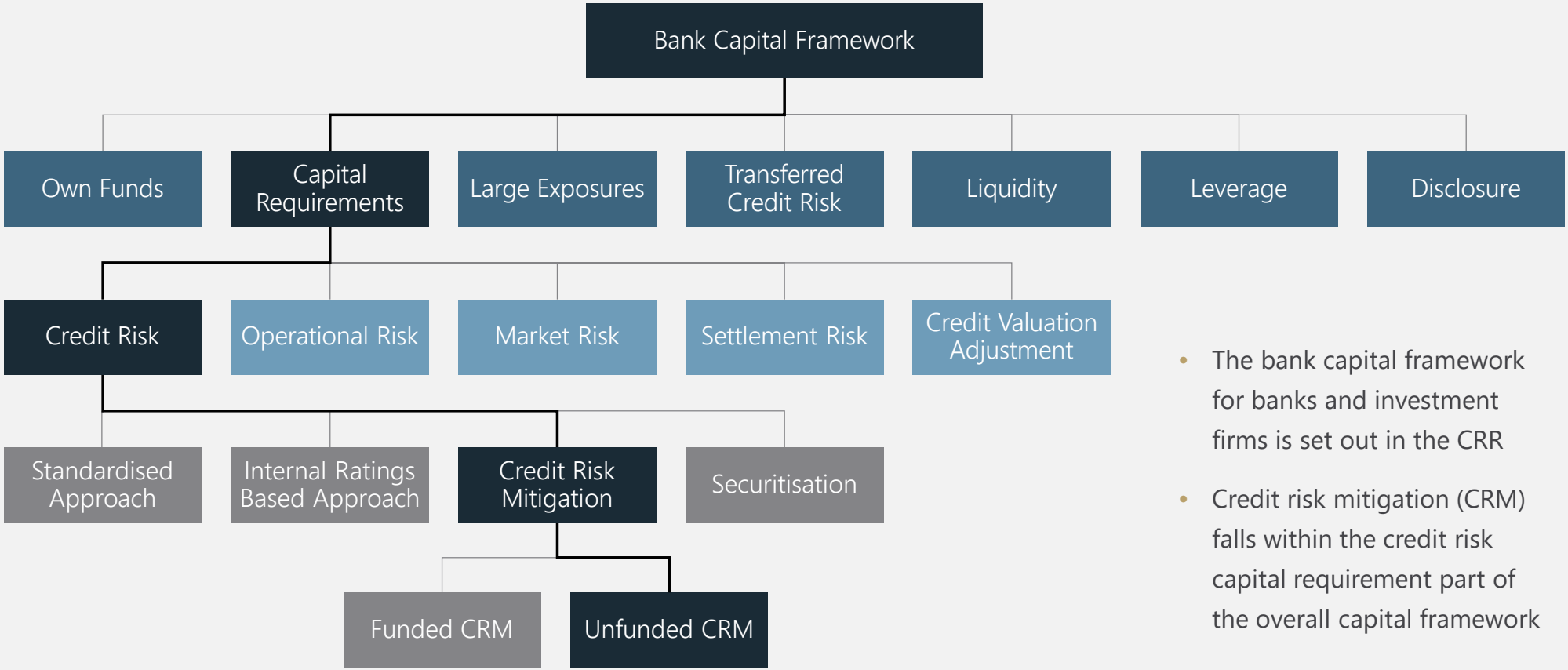
INSURANCE COMPANIES

SUPRANATIONAL INSTITUTIONS (E.G. EIF)

02

REGULATORY BACKGROUND IN THE EU

THE BANK CAPITAL FRAMEWORK AND CREDIT RISK MITIGATION



- The bank capital framework for banks and investment firms is set out in the CRR
- Credit risk mitigation (CRM) falls within the credit risk capital requirement part of the overall capital framework

SYNTHETIC SECURITISATION IN THE EU: CRR APPROACH

The EU bank capital rules on capital requirements for credit risk are set out in Part Three, Title II of the CRR.

Three different complex and intersecting parts of the credit risk capital framework are potentially relevant to Bank

1. Internal Ratings Based Approach: Bank uses the A-IRB foundation approach, within this allowing use of its own probability of default ("**PD**") and loss given default ("**LGD**") estimates for calculations of the qualifying capital it must hold.

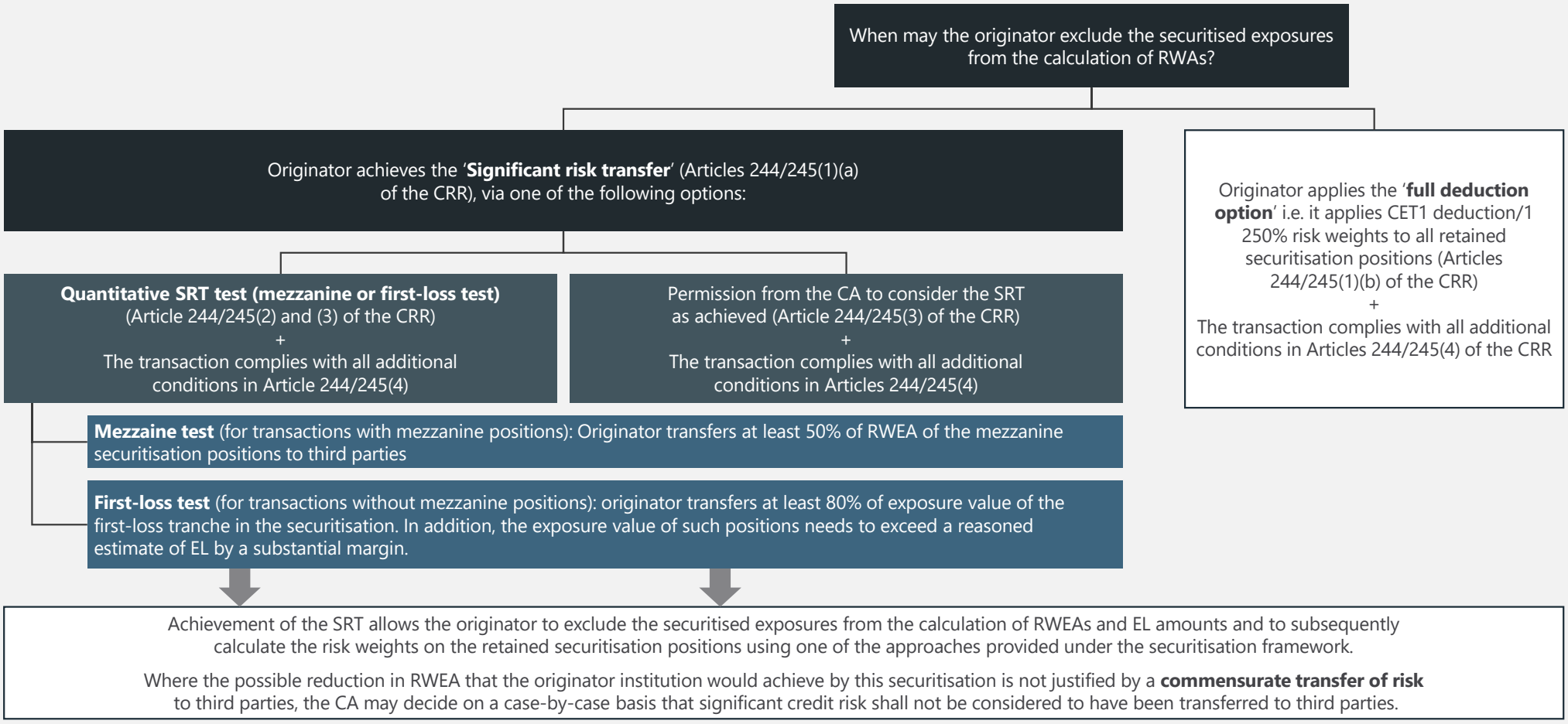
2. Securitisation: The Securitisation Framework interacts with the Internal Ratings Based approach, with the **"Securitisation Internal Ratings Based Approach",** which takes into account the Internal Ratings Based Approach capital requirement for the relevant underlying asset (for example an SME loan).

3. Credit Risk Mitigation/"CRM": the CRM framework sets out CRM rules for the A-IRB framework. CRM reduces credit risk associated with an exposure, and when the CRM creates credit risk tranching, it constitutes synthetic securitisation.

SRT REGULATORY FRAMEWORK IN THE EU

- CRR
- EBA Report on Significant risk transfer in securitisations (EBA/Rep/2020/32)
- EBA Guidelines on SRT for securitisation transactions dated 17 March 2014
- Public guidance on the recognition of significant credit risk transfer dated 24 March 2016
- Final Draft RTS specifying the determination by originator institutions of the exposure value of synthetic excess spread dated 24 April 2023
- EBA Final draft RTS specifying the requirements for originators, sponsors, original lenders and servicers relating to risk retention pursuant to Article 6(7) of Regulation (EU) 2017/2402 dated 1 April 2022
- Public consultation on revisions to the ECB Guide on options and risk retention available in Union law dated November 2024
- Securitisation Regulation

CRR REQUIREMENTS FOR SYNTHETIC SECURITISATION



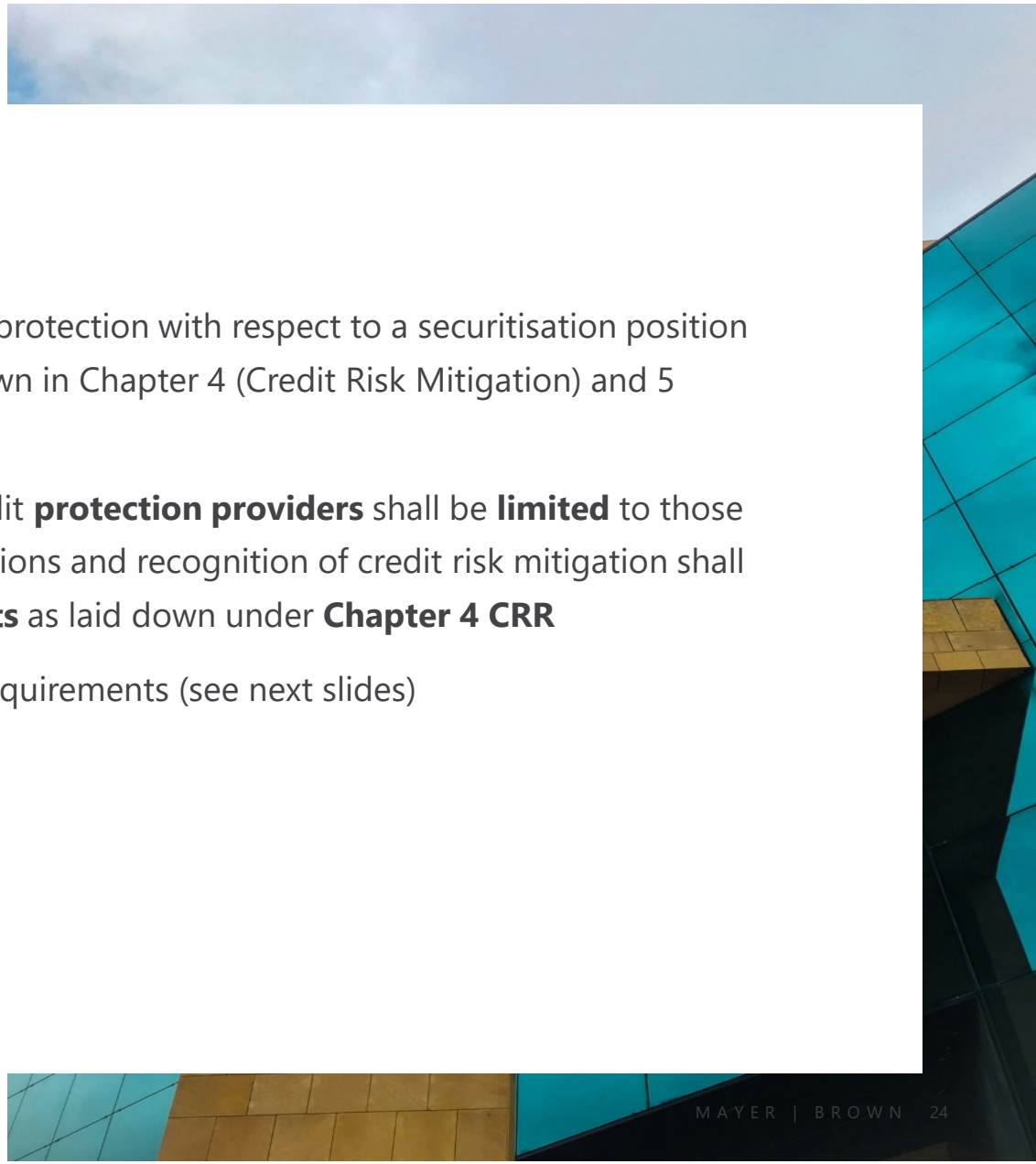
Source: EBA Report on SRT

03

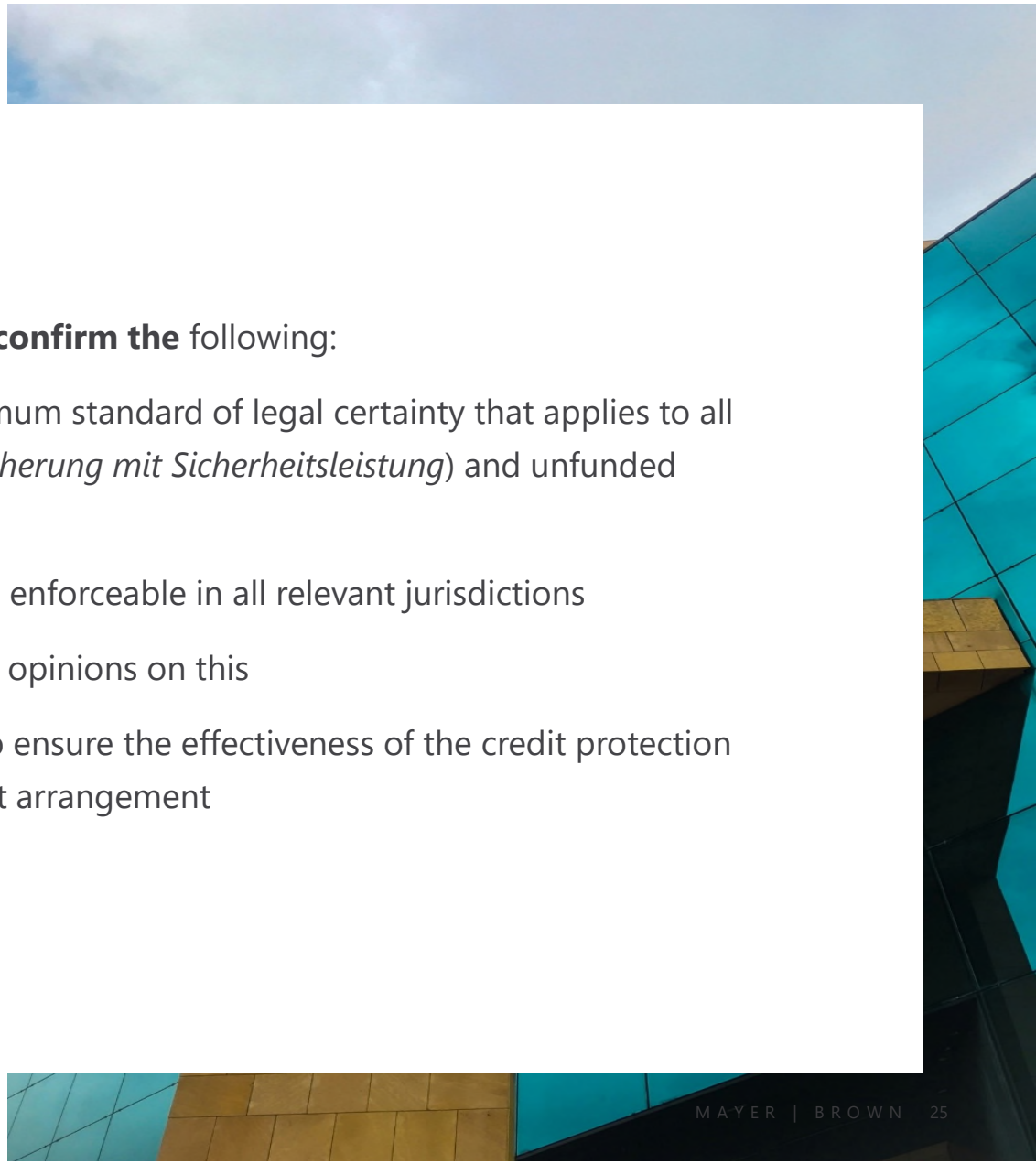
CREDIT RISK MITIGATION AND RISK TRANSFER INSTRUMENTS

RECOGNITION OF CREDIT RISK MITIGATION FOR SECURITISATION POSITIONS

- An institution may recognise funded or unfunded credit protection with respect to a securitisation position where the requirements for credit risk mitigation laid down in Chapter 4 (Credit Risk Mitigation) and 5 (Securitisation) CRR are met
- **Eligible unfunded credit protection** and unfunded credit **protection providers** shall be **limited** to those which are eligible under the Credit Risk Mitigation provisions and recognition of credit risk mitigation shall be subject to compliance with the **relevant requirements** as laid down under **Chapter 4 CRR**
- In practice: A **Legal opinion** is required to confirm the requirements (see next slides)



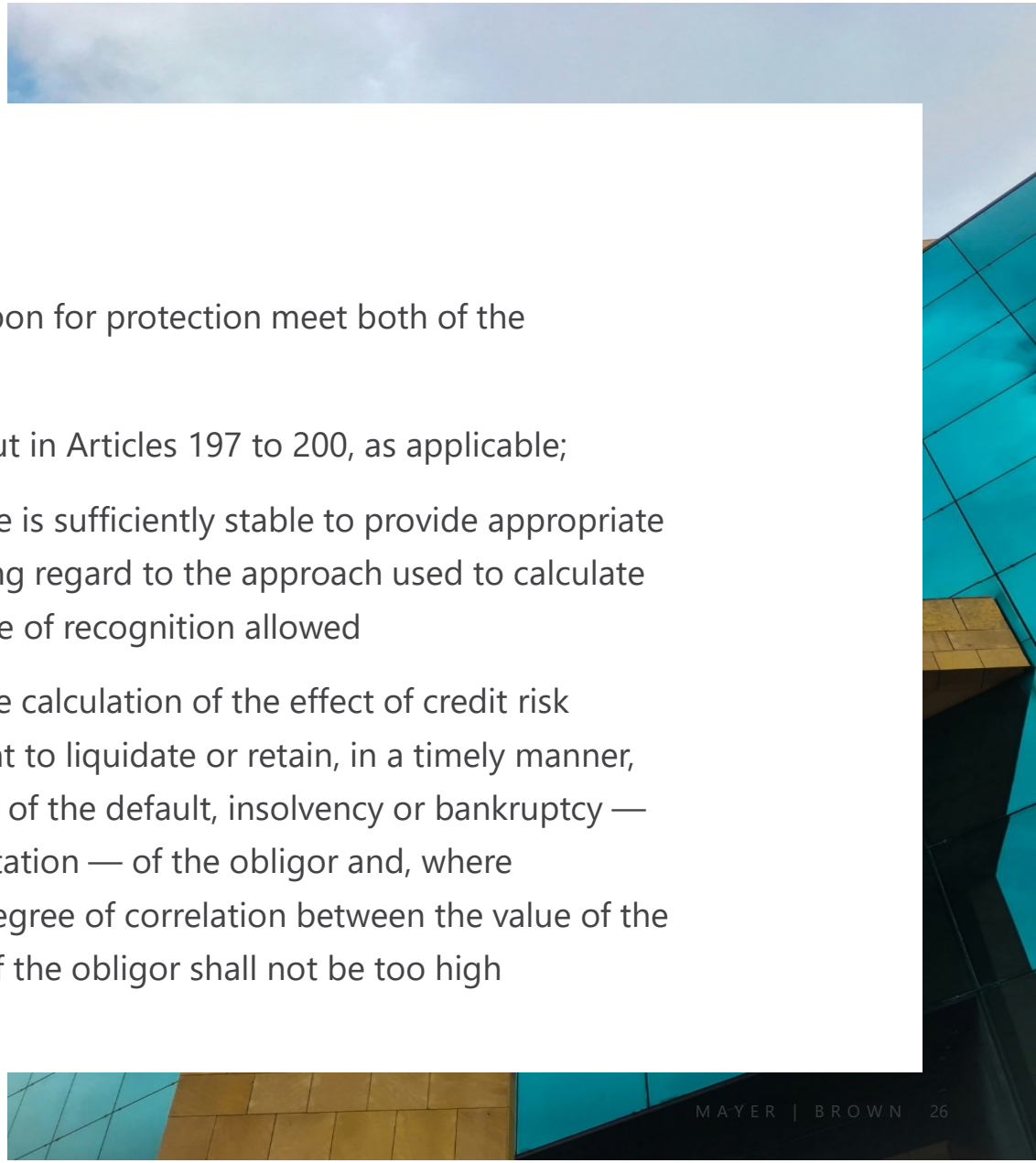
CRR RISK MITIGATION REQUIREMENTS – GENERAL (1/4)



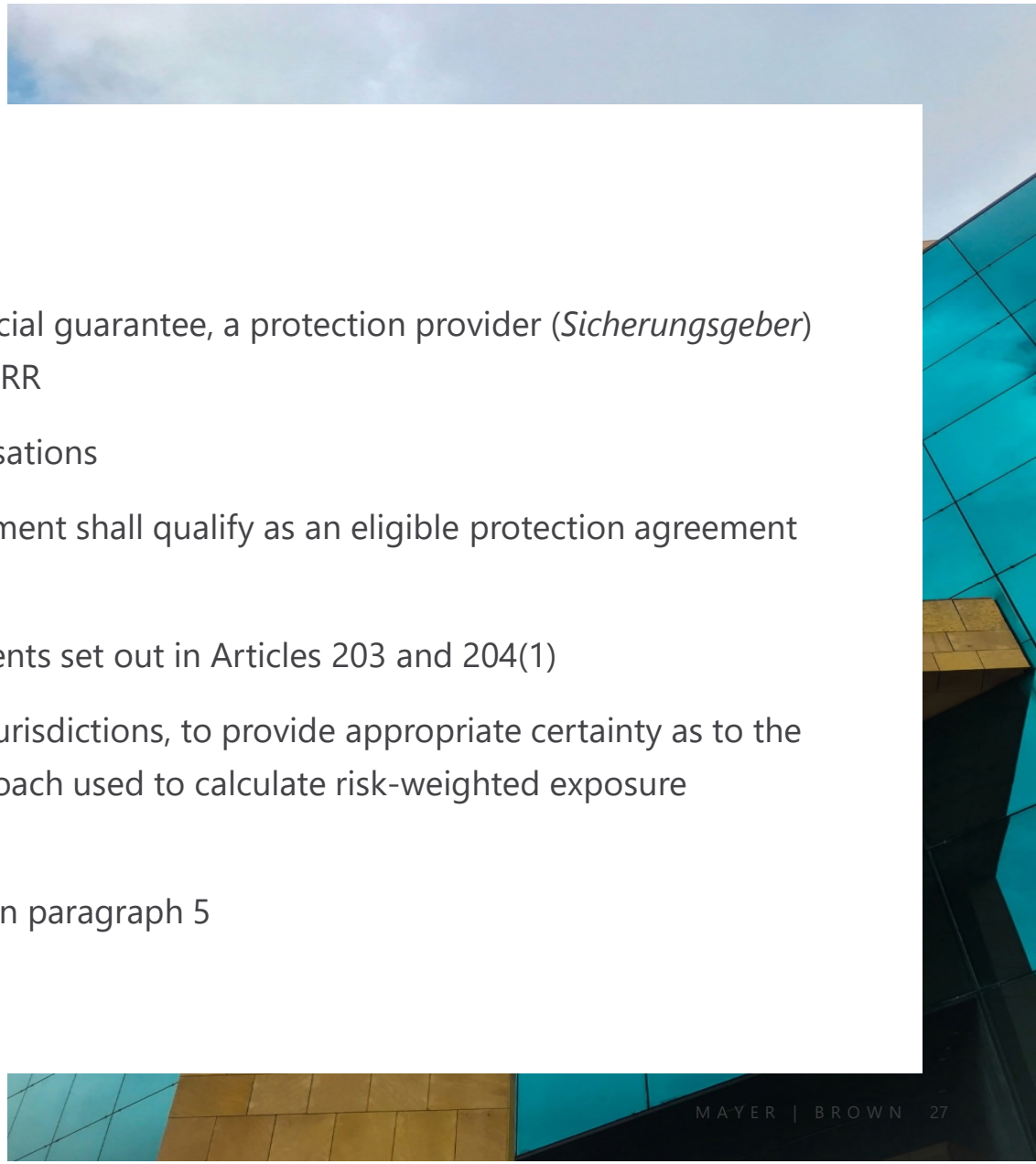
- **Legal opinion** from a **qualified legal counsel** needs **to confirm the** following:
- Pursuant **to Art. 194 para. 1 and 2 CRR**, there is a minimum standard of legal certainty that applies to all credit risk mitigation techniques relying on funded (*Besicherung mit Sicherheitsleistung*) and unfunded (*Absicherung ohne Sicherheitsleistung*) credit protection
  - credit protection arrangements legally effective and enforceable in all relevant jurisdictions
  - independent, written and reasoned legal opinion or opinions on this
  - lending institution shall take all appropriate steps to ensure the effectiveness of the credit protection arrangement and to address the risks related to that arrangement

CRR RISK MITIGATION REQUIREMENTS – GENERAL (2/4)

- Pursuant **to Art. 194 para. 3 and 4 CRR**, assets relied upon for protection meet both of the following conditions:
    a) they are included in the list of eligible assets set out in Articles 197 to 200, as applicable;
    b) they are sufficiently liquid and their value over time is sufficiently stable to provide appropriate certainty as to the credit protection achieved having regard to the approach used to calculate risk-weighted exposure amounts and to the degree of recognition allowed
- Institutions may recognise funded credit protection in the calculation of the effect of credit risk mitigation only where the lending institution has the right to liquidate or retain, in a timely manner, the assets from which the protection derives in the event of the default, insolvency or bankruptcy — or other credit event set out in the transaction documentation — of the obligor and, where applicable, of the custodian holding the collateral; The degree of correlation between the value of the assets relied upon for protection and the credit quality of the obligor shall not be too high



CRR RISK MITIGATION REQUIREMENTS – GENERAL (3/4)



- Pursuant to **Art. 194 para. 5 CRR**, with regard to a financial guarantee, a protection provider (*Sicherungsgeber*) can only be recognized if it is named in Art. 201 or 202 CRR
- **Art. 249 para. 3 CRR** makes certain changes for securitisations
- **Art. 194 para. 6 CRR** requires that the protection agreement shall qualify as an eligible protection agreement only where it meets both the following conditions:
  a) it is included in the list of eligible protection agreements set out in Articles 203 and 204(1)
  b) it is legally effective and enforceable in the relevant jurisdictions, to provide appropriate certainty as to the credit protection achieved having regard to the approach used to calculate risk-weighted exposure amounts and to the degree of recognition allowed
  c) the protection provider meets the criteria laid down in paragraph 5

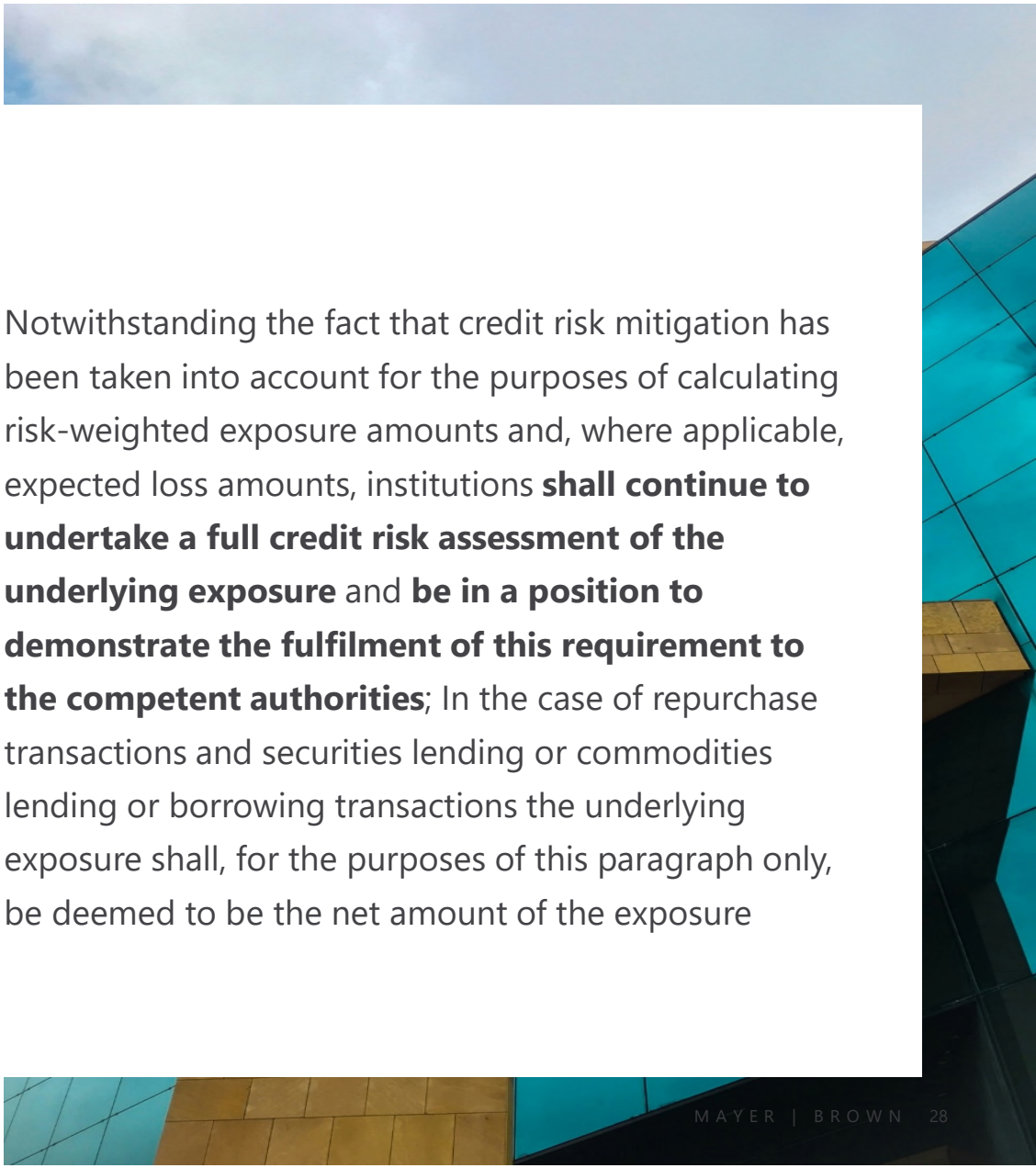
CRR RISK MITIGATION REQUIREMENTS – GENERAL (4/4)

- Pursuant to **Art. 194 para. 7, 8 and 9 CRR**

  7. Credit protection shall comply with the requirements set out in Section 3, as applicable

  8. An **institution** shall be able to **demonstrate to competent authorities that it has adequate risk management processes** to control those risks to which it may be exposed as a result of carrying out credit risk mitigation practices

9. Notwithstanding the fact that credit risk mitigation has been taken into account for the purposes of calculating risk-weighted exposure amounts and, where applicable, expected loss amounts, institutions **shall continue to undertake a full credit risk assessment of the underlying exposure** and **be in a position to demonstrate the fulfilment of this requirement to the competent authorities**; In the case of repurchase transactions and securities lending or commodities lending or borrowing transactions the underlying exposure shall, for the purposes of this paragraph only, be deemed to be the net amount of the exposure



GUARANTEE (1/2)

Requirements set out in Art. 245(4)(b) CRR in connection with Art. 249 CRR and Art. 204, 215 CRR

Guarantees shall qualify as eligible unfunded credit protection where all the conditions in **Article 213 CRR** and all the following conditions are met:

a) on the qualifying default of or non-payment by the obligor, the lending institution has the right to pursue, in a timely manner, the guarantor for any monies due under the claim in respect of which the protection is provided

b) the guarantee is an explicitly documented obligation assumed by the guarantor

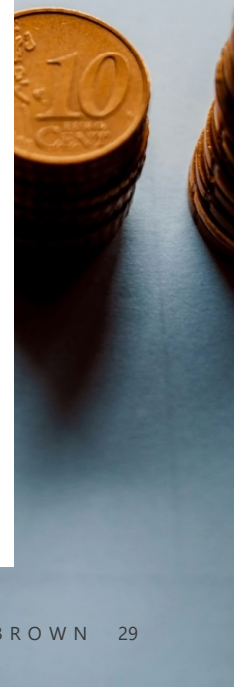
c) either of the following conditions is met:

   i. the guarantee covers all types of payments the obligor is expected to make in respect of the claim

   ii. where certain types of payment are excluded from the guarantee, the lending institution has adjusted the value of the guarantee to reflect the limited coverage

The payment by the guarantor shall not be subject to the lending institution first having to pursue the obligor

Further requirements in case (i) the case of unfunded credit protection covering residential mortgage loans and (ii) of guarantees provided in the context of mutual guarantee schemes or provided by or counter-guaranteed by entities as listed in Article 214 para. 2 CRR



GUARANTEE (2/2)

Art. 213 CRR requires for **Guarantees** and **Credit Derivatives** that

a) the credit protection is direct

b) the extent of the credit protection is clearly set out and incontrovertible

c) the credit protection contract does not contain any clause, the fulfilment of which is outside the direct control of the lending institution, that:

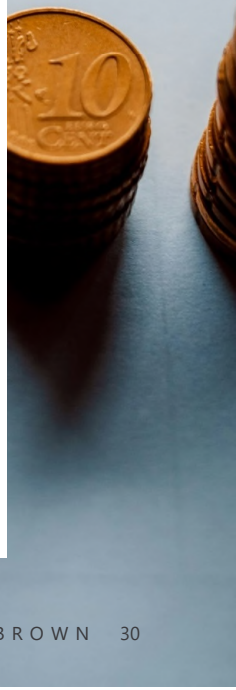
   i. would allow the protection provider to cancel or change the credit protection unilaterally

   ii. would increase the effective cost of the credit protection as a result of a deterioration in the credit quality of the protected exposure

   iii. could prevent the protection provider from being obliged to pay out in a timely manner in the event that the original obligor fails to make any payments due, or where the leasing contract has expired for the purpose of recognising guaranteed residual value under Articles 134(7) and 166(4) CRR

   iv. could allow the maturity of the credit protection to be reduced by the protection provider

d) the credit protection contract is legally effective and enforceable in all jurisdictions which are relevant at the time of the conclusion of the credit agreement



CREDIT DEFAULT SWAP (1/2)

Requirements of Art. 213 CRR discussed in previous slide plus

Requirements set out in Art. 245(4)(b) CRR in connection with Art. 249 CRR and Art. 216 CRR:

a) the credit events specified in the credit derivative contract include:

   i. the failure to pay the amounts due under the terms of the underlying obligation that are in effect at the time of such failure, with a grace period that is equal to or shorter than the grace period in the underlying obligation

   ii. the bankruptcy, insolvency or inability of the obligor to pay its debts, or its failure or admission in writing of its inability generally to pay its debts as they become due, and analogous events

   iii. the restructuring of the underlying obligation involving

CREDIT DEFAULT SWAP (2/2)

b) where credit derivatives allow for cash settlement:

   i. institutions have in place a robust valuation process in order to estimate loss reliably

   ii. there is a clearly specified period for obtaining post-credit-event valuations of the underlying obligation

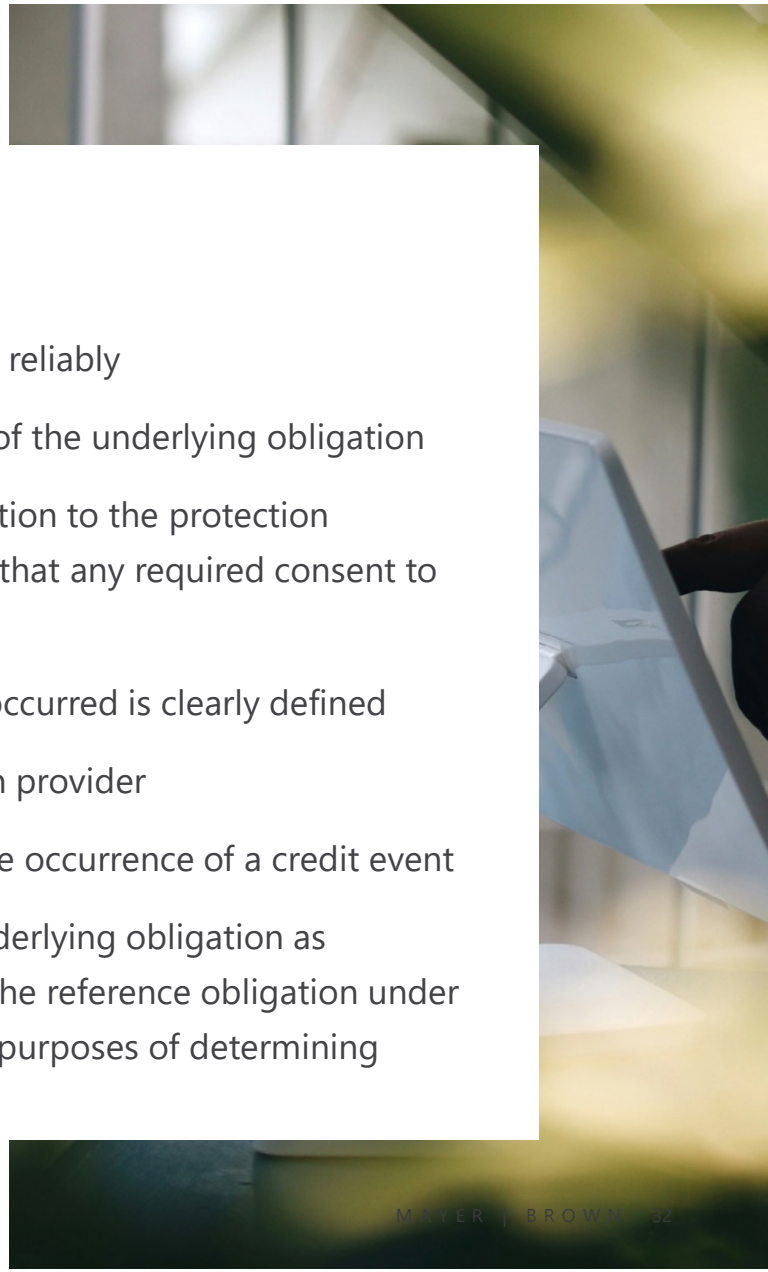
c) where the protection purchaser's right and ability to transfer the underlying obligation to the protection provider is required for settlement, the terms of the underlying obligation provide that any required consent to such transfer shall not be unreasonably withheld

d) the identity of the parties responsible for determining whether a credit event has occurred is clearly defined

e) the determination of the credit event is not the sole responsibility of the protection provider

f) the protection buyer has the right or ability to inform the protection provider of the occurrence of a credit event

Further requirements (i) where the credit events do not include restructuring of the underlying obligation as described in point (a)(iii) and for (ii) mismatch between the underlying obligation and the reference obligation under the credit derivative or between the underlying obligation and the obligation used for purposes of determining whether a credit event has occurred



CREDIT-LINKED NOTE

- Requirements set out in Art. 245(4)(b) CRR in connection with Art. 249 CRR and Art. 216 CRR
- See previous slides on requirements

04

TRENDS IN THE US CRT MARKET

US CRT MARKET IN 2024

- The US share of the global CRT market has roughly doubled to 30% in 2024
- Trends in US CRT market in 2024
  - Demand by investors has out-paced issuance with many investors competing for deals (up to 1:10 issuer/investors ratio)
  - Reduced returns (resulting from high investor demand) has lead investors to be more selective and to increase use of leverage
  - Bifurcation of US CRT market into:
    - asset classes for which discussion is shifting to relative value of CRTs versus CLOs and other asset classes
    - bespoke asset classes and new ways to apply CRT technology where bank-protection seller "partnership model" is still relevant

EXPECTATIONS FOR US CRT MARKET IN 2025

- Volume of US CRT issuance will likely be flat compared to 2024
- Biggest factors and uncertainties we expect to dictate US CRT market direction in 2025
  - Almost all largest US banks already in CRT market
  - Canadian banks already issuing in the US
  - Pace of adoption of CRT technology by regional US banks will be key
  - Trump's uncertain regulatory agenda and likely delay in the Basel Endgame
  - New asset classes and new jurisdictions being explored
  - CRT technology applied to more esoteric asset classes where the technology may be used more for risk sharing than capital relief, offering greater risk and higher yields

INCREASE IN US REGIONAL BANK MARKET?

- There are a number of reasons why the regional bank CRT market in the US has been slow to develop:
  - Different learning curve / initial investment
  - Often need the help of a structuring agent
  - Can the bank benefit from repeat transactions that will justify the initial investment?
  - Are CRT economics superior to alternative financing options available to the bank?
  - Ultimately, whether a US regional bank will move forward turns on size of portfolio and whether it has capital constraints that needs immediate attention

FUTURE OF LEVERAGE MARKET FOR US CRT TRANSACTIONS

- How prevalent is leverage in US CRT structures, and will this be a growing market in 2025?
  - Size of leverage market for US CRT transactions is opaque, which is a frequently cited area of concern by its critics
- Commentary from both bank regulators and congress increasing during last 4 months of 2024, accompanied by a number of news reports questioning whether the practice of obtaining leverage on US CRTs is a bridge too far
- Can we expect regulatory action to curb bank leverage on US CRTs?

05

PRACTICAL CONSIDERATIONS

PROCESS FOR ACHIEVING SRT

- Process described in public guidance on the recognition of significant credit risk transfer dated 24 March 2016
  - Notification of ECB three months in advance of the expected closing date
  - Informal dialogue on specific features of a transaction between originator and the relevant JST possible once a transaction has been notified to the ECB
  - Originators shall provide a declaration confirming that they take full responsibility for the transaction, which meets the respective conditions in the CRR
  - For repeat transactions changes to previous transaction should be highlighted
  - Detailed information on the transaction to be provided to ECB (see next slides)
  - Conditions for SRT have to be met on a continuous basis over the life of the transaction (continuous review of ECB)
  - Regular updates of information on securitised exposures and securitisation positions recommended
  - Originators are obliged to notify the ECB of any event affecting or likely to affect the effectiveness of an SRT for a particular transaction.

PROCESS FOR ACHIEVING SRT (CONT.)

A. General information on the transaction

1. The nature of the transaction (whether it is a traditional or a synthetic securitisation, as defined in Article 242 of the CRR).
2. The legal provisions that the originator institution relies on to claim a significant risk transfer, together with a declaration by the originator institution that the transaction meets the conditions of Articles 243(2) or 244(2) of the CRR, when applicable, and an explanation of how these conditions are met.
3. The deal's notional value in euro.
4. The weighted average life of the transaction and the longest maturity of any exposure being securitised.
5. The initial public documentation or investor documentation for the transaction, and any additional information covering in particular the structure of the transaction (number, respective size, seniority and thickness of all tranches and their respective attachment and detachment points, including all credit enhancements such as funded or unfunded reserve accounts, funded or unfunded guarantees provided on certain tranches in the case of traditional securitisations, and liquidity facilities) and a breakdown of all securitisation positions whether retained or transferred to third parties.
6. Information on the amount sold on the primary market to investors who have close links with the originator institution (using the definition of "close links" provided in Article 4(38) of the CRR.
7. In the case of a privately placed transaction, the name, type, legal form and country of establishment of potential/actual investors, and whether any of these investors have close links with the originator institution.

B. Information on the securitised exposures

1. The type(s) and asset class(es) of the securitised exposures.
2. The originator institution needs to provide full details of the underlying assets/reference portfolio either in the form of loan-level data or detailed stratification tables, depending on the concentration risk or granularity of the underlying portfolio, as well as on the methodology used to select exposures to be securitised.
3. The currency (or currencies) of issuance and the currency (or currencies) of the securitised exposures.
4. The reference portfolio size in euro.
5. The total risk-weighted exposure amounts (RWEAs) of the securitised exposures before the securitisation.
6. If the originator institution uses the Supervisory Formula Method of Article 262 of the CRR, the K_{IRB}, corresponding to the IRB capital charges on the securitised exposures had they not been securitised.
7. The amount and percentage of expected losses and unexpected losses and the methodology applied to determine them, in particular for non-IRB originator institutions.

C. Information on the securitisation positions

1. The total RWEA equivalent of the capital post-securitisation for the entire securitisation and the approach used to calculate it (Standardised Approach for non-IRB banks; the Ratings Based Method or the Supervisory Formula Method for IRB banks with approved IRB models for exposure classes corresponding to the securitised exposures).
2. The amount of capital deductions relating to securitisation exposures retained by the originator institution.
3. The magnitude of the risk transferred by the originator institution as a proportion of RWEAs post-securitisation.
4. The attachment and detachment points of positions transferred to third parties.

PROCESS FOR ACHIEVING SRT (CONT.)

D. Other aspects of the transaction

1. If and how the originator institution will comply with the retention requirement, in accordance with Article 405 of the CRR, and in particular which form of retention will be used.
2. The existence and modalities of specific features, in particular:
    a. revolving or rechargeable pool structure(s) where securitised exposures can be added to the pool after closing over the life of the transaction;
    b. early amortisation provisions;
    c. discount rate for securitised exposures;
    d. time calls and clean-up calls;
    e. excess spread;
    f. obligations or options for the originator institution to repurchase securitised exposures;
    g. any other triggers related to the performance of the securitised exposures or the transaction;
    h. liquidity or credit facilities granted to the special purpose vehicle in the case of a traditional securitisation and any other feature that could represent implicit support from the originator institution as described in Article 248 of the CRR.
3. For traditional securitisations, an opinion from a qualified legal counsel confirming that the securitised exposures are put beyond the reach of the originator institution and its creditors, including in bankruptcy and receivership.
4. For synthetic transactions, an opinion from a qualified legal counsel confirming the enforceability of the credit protection in all relevant jurisdictions.
5. The concentration of securitised exposures by geographical origin, by exposure class, by business sector and by outstanding balance (as a proportion of the total outstanding balance of all securitised exposures).
6. The originator institution should provide full details of any periodic FX resets and any relevant information on how currency exposure is to be hedged and managed.

In addition, the originator institution should submit the following documents:

7. An economic rationale for the transaction from the originator institution's perspective.
8. Details of the internal approval process for the transaction, in line with the institution's governance and risk management policies and arrangements.
9. A description of the risks retained by the originator institution.
10. A copy of the SRT policy applied to the transaction, and in particular how the originator institution will ensure that the significant transfer of risk is effective on a continuous basis.
11. Information on ratings provided by external credit assessment institutions on the securitisation positions, or an explanation of why external ratings have not been solicited for part or all of the securitisation positions.
12. A modelling of cash flows covering the entire life of the transaction, with differentiated modelling in the case of time calls and other options affecting the final maturity of the transaction.
13. Only for synthetic transactions, an assessment of how the protection complies with the requirements of Article 247 of the CRR and the legal documentation of instruments by which the risk is effectively transferred (particularly when the transfer is effected via credit default swaps).

LEGAL OPINIONS

- **Synthetic** Securitisations, **Art. 245(4)g) CRR**: Requirement that the originator institution has received an opinion from a **qualified legal counsel confirming** that the credit protection is enforceable in all relevant jurisdictions

CURRENT DEVELOPMENTS – ECB'S FAST-TRACK PROCESS

- ECB currently tests the fast-track process for certain SRT transactions available for Significant Institutions which intend to achieve SRT under Art. 244(2) or 245(2) CRR
- Fast-track process follows EBA's recommendation in the 2000 EBA Report on SRT
- Dual track process, i.e. regular SRT process runs in parallel
- Only available for eligible transactions: e.g. aggregated notional amount less that EUR 8 bn, capital relief in CET1 no more than 25bp, credit protection premiums should be contingent on the outstanding amount of protected tranche, transaction complies with minimum criteria set out in the CRR, etc.
- Not eligible: First-time SRTs, NPL transactions, transactions with synthetic Excess Spreads, leveraged transactions, transactions with non-standard termination clauses, etc.
- Pre-notification period reduced from tree to one months
- Six months testing phase intended which started on 1 January 2025

The team consists of experienced lawyers as well as young, ambitious and inquisitive talents. This also makes it clear to the clients how important it is to the partners to provide well founded training for the up and coming talent. In addition, all team members are incredibly friendly, so working together is a lot of fun, even beyond the technical side

THE LEGAL 500 DEUTSCHLAND (Client)

THE SPEAKERS

COUNSEL
ALEXEI DÖHL

FRANKFURT +49 69 7941 1105
ADOEHL@MAYERBROWN.COM

PARTNER
MARCEL HÖRAUF

FRANKFURT +49 69 7941 2236
MHOERAUF@MAYERBROWN.COM

PARTNER
ED PARKER

LONDON +44 20 3130 392
EPARKER@MAYERBROWN.COM

PARTNER
DR. PATRICK SCHOLL

FRANKFURT +49 69 7941 1060
PSCHOLL@MAYERBROWN.COM

PARTNER
SAGI TAMIR

NEW YORK +212 506 2583
STAMIR@MAYERBROWN.COM

OUR SRT/CRT TEAM

PARTNER

MATT BISANZ

+1 202 263 3434
MBISANZ@MAYERBROWN.COM

COUNSEL

ERI BUDO UERKWITZ

+1 212 506 2350
EUERKWITZ@MAYERBROWN.COM

COUNSEL

ALEXEI DÖHL

+49 69 7941 1105
ADOEHL@MAYERBROWN.COM

PARTNER

STEVEN GARDEN

+1 312 701 7830
SGARDEN@MAYERBROWN.COM

PARTNER

JULIE GILLESPIE

+1 312 701 7132
JGILLESPIE@MAYERBROWN.COM

PARTNER

NEIL HAMILTON

+44 20 3130 3708
NHAMILTON@MAYERBROWN.COM

PARTNER

MARCEL HÖRAUF

+49 69 7941 2236
MHOERAUF@MAYERBROWN.COM

PARTNER

NANAK KESWANI

+44 20 3130 3710
NKESWANI@MAYERBROWN.COM

PARTNER

ED PARKER

+44 20 3130 3922
EPARKER@MAYERBROWN.COM

PARTNER

DR. PATRICK SCHOLL

+49 69 7941 1060
PSCHOLL@MAYERBROWN.COM

PARTNER

SAGI TAMIR

+1 212 506 2583
STAMIR@MAYERBROWN.COM

PARTNER

ANGELA ULUM

+1 312 701 7776
AULUM@MAYERBROWN.COM