

Luxembourg securitisations: “Strict segregation of assets makes allocation of risks extremely straightforward”

Luxembourg, 22 March 2022 – Affirming its pioneering role, the Luxembourg Parliament has just modernised its securitisation law, rendering securitisations as investment vehicles more attractive. The recent amendments primarily address the increasing requirements of market participants and create legal certainty in structuring securitisations and the underlying assets.

The amendments remove obstacles that had recently slowed down the structuring of Luxembourg securitisation transactions in some areas: borrowing, corporate form, licensing, regulation and the authorisation for active management. All of these topics have now been addressed and adapted, making Luxembourg securitisations global leaders. “Transparency, flexibility and cost are all arguments for securitisation to make assets or strategies investable”, said Levke Hansen, Board Member at FAIR ALPHA. “But there is one key point in particular: securitisations continue to allow assets to be strictly segregated, so that risks can be allocated extremely easily.”

The key question for many investors is issuer solvency. In case of securities that are issued for capitalisation (shares) or refinancing (corporate bonds) purposes, creditors are paid in a certain order in the event of insolvency or when a company is in financial difficulties: social security funds, employees, financial authorities, suppliers, lenders (banks and bondholders) and, at the very end, the entrepreneurs, i.e., the shareholders. “Normal issuers do not look separately at individual parts of the company”, Hansen pointed out. “But many institutional investors in particular want this for risk management.”

Luxembourg securitisations are not focusing on the securitisation platform as a company. “The law, and the by-laws of the securitisation companies, stipulate that the rights of investors and creditors are limited to the assets of the respective issue or compartment,” said Hansen. The compartment assets are only liable for claims of their investors and those creditors whose claim arose with establishment, administration or liquidation of the relevant compartment. “Compartments can be defined very narrowly, such that they can be a single asset, a targeted strategy or a single investment”, Hansen added. “If such a compartment fails to generate returns, neither the securitisation company itself nor its other compartments will be harmed.”

By law and in the terms of issue, compartments are documented and classified as separate entities. “In this way, the issuer risk is ‘ring-fenced’ to the individual compartment”, said Hansen. “This reduces the risk of the individual issue of a securitisation platform exclusively to the relevant compartment.” Under insolvency law, a financial distress or insolvency of the securitisation company or of one of its other compartments can therefore legally not have any impact on the investors of its own compartment.

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About FAIR ALPHA

FAIR ALPHA offers financial market solutions for (semi-)institutional investors and asset managers through its subsidiaries. Investment ideas and trading strategies are implemented in investable and custodial securities. In addition, the company pursues digital approaches, which focus on creating and issuing crypto assets (tokens) that are held in specific wallets. With the help of customised issuance vehicles, structures are created that exclude issuer risk. In each case, FAIR ALPHA assumes the entire value creation process ranging from product set-up to administration and ongoing life cycle management.

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