Securitisation

The flexibility of the securitisation regime allows for an extensive range of assets, including future receivables, which may be securitised through a Maltese vehicle.

In any form of securitisation, an originator such as a bank or an insurer, transfers an asset or liability to a Special Purpose Vehicle (SPV) – or a securitisation vehicle as termed in the Securitisation Act – which issues securities to investors who in turn fund the asset or liability transferred. The key benefit of securitisation is that it can provide non-traditional sources of capital market financing and in this way complements traditional debt and equity financing available to businesses.

Securitisation vehicles can be setup for:
- **Sale transactions:** the originator transfers a pool of assets to the securitisation vehicle
- **Synthetic transactions:** the securitisation vehicle assumes the credit risk of the originator through credit derivatives
- **Loan transactions:** the securitisation vehicle grants secured loans or other secured facilities to the originator

**Insurance-linked securities and RSPVs**
The current challenging environment across Europe has increased the need to maximise returns and has stimulated new ways of transferring risk and financing reinsurance. Malta is targeting the insurance-linked securities (ILS), catastrophe bond and reinsurance convergence sector by providing the use of Reinsurance Special Purpose Vehicles (RSPVs). The regulation allows for RSPVs to be authorised, formed and regulated in Malta, and is a move that is expected to attract ILS issuers to the domicile – particularly European based transactions. As of February 2012, securitisation vehicles have had the option to have their securities listed on the European Wholesale Securities Market (EWSM), a European regulated market based in Malta. Listing on the EWSM is advantageous to the issuer as it enhances the publicity and credibility of the securities offering.

**RSPV Regulatory Framework:**
- The Insurance Business Act allows for the making of regulations which provide for the establishment of special purpose vehicles within the meaning of the Reinsurance Directive (Directive 2005/68/EC).
- The RSPV Regulatory framework provides for the authorisation and regulation of RSPVs. Applies the Insurance Business Act (Cap.403) and the Securitisation Act (Cap 484)
- Aligned with EIOPA Advice for Level 2 Implementing Measures on Solvency II (Directive 2009/138/EC)

**Authorisation Process:**
Procedures for the authorisation of an RSPV for specific use/s. Includes Mandatory Conditions required for all Contractual Arrangements to ensure that claims of the providers of capital to the RSPV are at all times subordinated to the reinsurance obligations of the RSPV to the insurance or reinsurance company.

**Governance Requirements:**
Qualifying shareholders and key functionaries must be fit and proper persons and the RSPV’s system of governance needs to be appropriate to the nature, scale and complexity of the risk that the RSPV assumes.

**Solvency Requirements:**
RSPVs must be fully funded at all times. The value of its assets must be equal to or exceed the aggregate maximum risk exposure, so that the RSPV is able to pay the amounts it is liable for as they fall due.

**Supervisory Reporting:** The RSPV is required to report to the MFSA on the value of its assets, its aggregate maximum exposure, any conflicts of interest, as well as any significant transactions entered into within a reporting period.
What are the uses of a securitisation cell company? A cell company may be used for all kinds of securitisation transactions, such as:

- Asset-backed securities in various asset classes including loans, receivables, and residential and commercial mortgages
- Whole business securitisations
- Synthetic securitisations
- Insurance-linked securities transactions including catastrophe bonds, longevity risk transfer transactions, hedge-fund backed reinsurers and platform structures

How are cells ring-fenced from the SCC and from other cells?
The SCC Regulations provide that each cell constitutes a separate patrimony of the SCC. The claims in respect of one cell may only be met out of assets of that cell. No recourse to the non-cellular assets applies.

How do you establish a cell in a SCC?
A cell is established by means of a resolution of the board of directors of the SCC resolving to establish a cell for the purpose of a securitisation transaction. An SCC requires two shareholders and must be administered by two directors. No prior regulatory approval is required for the establishment of SCCs or cells in SCCs, unless the company issues financial instruments to the public on a continuous basis or accepts insurance risks as part of an insurance securitisation transaction.

What is the set-up timeframe?
The set-up timeframe varies according to the approvals required for the particular form of Securitisation Cell Company. The MFSA aims at processing all applications for licensing or approval as speedily as possible and is prepared to work to the timeframes agreed with individual applicants, subject to the Authority being provided with accurate and complete information. Further timeframes apply where a securitisation cell company lists its securities on the EWSM.

What are the minimum capital requirements?
An SCC incorporated as a public company is required to have a minimum share capital of €46,588 (which may be at least 25% paid-up) held by at least 2 shareholders. No minimum capital requirement applies for the establishment of a cell.

Can SCC be used in reinsurance-linked transactions?
Prior regulatory approval is required in the event of establishment of a securitisation cell company that will enter into insurance-linked securities transactions that fall within the scope of the Reinsurance Special Purpose Vehicles Regulations.

Are multi-currency deals possible?
Yes, it is possible to establish cells in different currencies, each with a separate accounting base currency. The SCC is required to prepare accounts in only one of the currencies.

Are multi-originator structures possible?
Yes, it is possible to establish multiple-originator structures provided that each originator transacts through a separate cell. In the case of SCC used for the issuance of insurance-linked securities, ceding undertakings belonging to the same group may transact through a single cell.

What is the key difference between a Protected Cell Company (PCC) and the SCC?
In broad terms, a key difference between the Protected Cell Company (PCC) and the SCC is that creditors of a cell of an SCC have no recourse to the assets of other cells or the non-cellular assets of the SCC.

FAQ: Securitisation Cell Company (SCC)

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Niche Areas for Securitisation

- Insurance
- Life settlement policies
- Raising finance for intellectual property structures and environment and transportation projects