

ÍNDICE

CHAPTER 1 - SECURITISATION: ECONOMIC FUNCTION, ADVANTAGES AND DISADVANTAGES

- 1.1. What securitisation is
- 1.2. The advantages of securitisation
 - 1.2(a). Increasing the amount of bank funding available
 - 1.2(b). The diversification of credit risk
- 1.3. Problems with securitisation
 - 1.3(a). Information asymmetry and the need for due diligence
 - 1.3(b). Misaligned incentives
- 1.4. Financialisation and Shadow Banking
 - 1.4(a). Financialisation
 - 1.4(b). Financialisation and Neo-Liberalism
 - 1.4(c). Financialisation and the rise of household debt in the U.S
- 1.5. Shadow Banks
 - 1.5(a). The use of securitisation by banks
 - 1.5(b). Asset-Backed Commercial Paper
 - 1.5(c). Security Lending
 - 1.5(d). Repurchase Agreements
- 1.6. Summary

CHAPTER 2 - FROM TAX FARMING TO THE PRIVATE LABEL MBS: A BRIEF HISTORY OF SECURITISATION BEFORE THE GREAT FINANCIAL CRISIS

- 2.0. Tax farming
- 2.1. The “compera”
- 2.2. British sovereign debt in the 18th century
- 2.3. Dutch Plantation Loans in the 18th Century
- 2.4. The Prussian Pfandbriefe
- 2.5. The Consolidated Association of the Planters of Louisiana
- 2.6. U.S Farm mortgage debentures in the 1880s
- 2.7. U.S Real Estate Bonds, guaranteed mortgages and participation certificates
 - 2.7(a). Real Estate Bonds
 - 2.7(b). Participation certificates and guaranteed mortgages
- 2.8. The Federal Land Banks

- 2.9. Government Intervention in the U.S mortgage market
- 2.10. The Birth of Government Sponsored Enterprises in the U.S
- 2.11. The use of securitisation by the U.S GSEs
 - 2.11(a). Pass-through structures
 - 2.11(b). Bond-like structures
- 2.12. The creation of Freddy Mac
- 2.13. The growth of MBS guaranteed by the GSEs
- 2.14. The development of the private MBS market
- 2.15. The creation of the REMIC

CHAPTER 3 - THE DEVELOPMENT OF DERIVATIVE REGULATION IN THE USA

- 3.0. The basic types of modern derivative contract
- 3.1. A brief history of derivative contracts
- 3.2. The growth of derivatives in England
- 3.3. The rise of derivatives on stocks in England and the first English legislation on derivative trading
- 3.4. The South Sea Company
- 3.5. The Bubble Act
- 3.6. The bursting of the South Sea Bubble and the stock-jobbing Act
- 3.7. The influence of Barnard's Act in the U.K.
 - 3.7(a). The internal organisation of the London Stock Exchange
 - 3.7(b). The steady clarification and delimitation of the terms of the Act by case law
 - 3.7(c). The repeal of Barnard's Act in 1860
- 3.8. The effect of gaming laws on derivative contracts
- 3.9. The influence of UK statutes and case-law on the statutes and case-law of the U.S
 - 3.9(a). Statutes
 - 3.9(b). Case-Law
- 3.10. Problems with the intent to deliver rule
 - 3.10(a). The problem of interpretation
 - 3.10(b). The conflict with Common Law principles
- 3.11. Exchanges and Bucket Shops
- 3.12. The Christie case and the serious purpose test
- 3.13. The Future Trading Act

3.14. The Grains Futures Act

3.15. The Commodity Exchange Act

CHAPTER 4 - THE ROLE OF MORTGAGE-BACKED SECURITISATION, DERIVATIVES, SHORT TERM FUNDING AND RISK MODELS IN THE GREAT FINANCIAL CRISIS

Part 1: The role of credit default swaps and collateralised debt obligations

4.1. The development of new types of derivatives and the steady erosion of the U.S regulatory framework

4.1(a). The extension of the term commodity

(i). The conflict of jurisdiction with the SEC

4.1(b). The creation of swaps

4.1(c). The legal nature of commodity futures

4.1(d). The legal nature of swaps and hybrid instruments

4.1(e). The terms of the CFTC's swap exemption

4.1(f). Cementing the exemptions in federal law

4.1(g). Warnings of the dangers of deregulation

4.1(h). The movement to exclude all OTC derivatives from CFTC regulation

4.1(i). The Commodities Futures Modernization Act of 2000

4.1(j). The provisions of the CFMA 2000 and its link to the GFC

4.2. Credit Default Swaps were not considered to be insurance contracts

4.3. Collateralised Debt Obligations and Credit Default Swaps

4.3(a). Credit derivatives applied to securitisation structures

4.3(b). Super senior tranches

4.3(c). Performing due diligence on CDOs

4.3(d). The risk weights of Super–Senior tranches

4.3(e). “Insuring” CDOs

4.3(f). Monoline Insurance Companies

Part 2: From the housing boom to subprime

4.4. The securitization of Subprime mortgages

4.4(a). Subprime

4.4(b). The change in housing prices, and the increase of mortgage originations and refinancing

4.4(c). The rapid decline of the housing market

4.4(d). Legal developments and alternative mortgages

4.4(e). The decline in U.S underwriting standards

- 4.4(f). Government sponsored enterprises
- 4.4(g). Private Label Securitisations
- 4.4(h). The gradual erosion of Glass–Steagall and the Vertical Integration of the Securitisation Chain

Part 3: Financing securitisation through short-term funding

- 4.5. Asset Backed Commercial Paper
 - 4.5(a). The opacity of SIVs
 - 4.5(b). Repurchase agreements

Part 4: Modelling errors and securitisation

- 4.6. Modelling CDOs
 - 4.6(a). VaR

CHAPTER 5 - THE EUROPEAN SECURITISATION FRAMEWORK

Part 1: European securitisation and the European response to the crisis

- 5.1. The performance of European and U.S Securitisation
- 5.2. Responses to the crisis – the E.U risk retention rule
 - 5.2(a). Initiatives to improve the quality of securitisation
 - 5.2(b). The Basel STC framework
 - 5.2(c). STC criteria relating to asset risk
 - 5.2(d). STC criteria relating to structural risk
 - 5.2(e). STC criteria relating to fiduciary and servicer risk
 - 5.2(f). The EMIR, Securitisation and OTC derivatives
- 5.3. The European Securitisation Regulation
 - 5.3(a). The stated objectives of the Regulation
 - 5.3(b). Securitisation
 - 5.3(c). Originator
 - 5.3(d). Sponsors
 - 5.3(e). The Special Purpose Entity
 - 5.3(f). A tranche
 - 5.3(g). Traditional and synthetic securitisations
 - 5.3(h). Investors
 - 5.3(i). A servicer
 - 5.3(j). Key provisions that are applicable to all securitisations
 - (i). Due diligence requirements – Article 5
 - (ii). Transparency requirements – Article 7

- 5.3(k). The risk retention requirement – Article 6
- 5.3(l). Transparency requirements – Article 7
- 5.3(m). The ban on resecuritizations – Article 8
- 5.3(n). Loan granting criteria – Article 9

5.4. STS Securitisation

- 5.4(a). The use of the STS designation – Article 18
- 5.4(b). The simplicity requirements – Article 20
 - (i). True sale
 - (ii). No clawback provisions
 - (iii). Unencumbered assets
 - (iv). Clear eligibility criteria
 - (v). Homogenous assets
 - (vi). The specific homogeneity factors for residential mortgages
 - (vii). Defined periodic payment streams
 - (viii). Exposures originated in the ordinary course of business
 - (ix). No exposures in default
 - (x). At least one payment made
- 5.4(c). Standardisation requirements – Article 21
 - (i). Mandatory hedging of currency and interest rate risks
 - (ii). Referenced interest payments
 - (iii). Enforcement notices
 - (iv). Sequential payments and the prohibition of market value triggers
 - (v). Triggers for priority payments in non-sequential securitisations
 - (vi). Early amortisation triggers in revolving securitisations
 - (vii). Clearly defined contractual duties
- 5.4(d). The transparency criteria
 - (i). A liability cash-flow model
 - (ii). Energy performance

5.5. Simple, transparent and standardised on-balance – sheet synthetic securitisations

- 5.5(a). The Prime Collateralised Securities Risk Transfer Criteria
- 5.5(b). Common eligibility criteria for PCS synthetic securitisations
 - (i). Balance sheet criteria
 - (ii). Alignment of interests
 - (iii). No resecuritisations

- (iv). No embedded maturity transformation
 - (v). Transparency Standards
 - (vi). Risk transfer securitisation quality standards
 - (vii). Risk transfer standards
 - (viii). General underlying asset standards
 - (ix). Warranty standards
- 5.5(c). The decision to promote an STC framework for on-balance sheet synthetic securitisations
- 5.5(d). The assets used in synthetic securitisations
- 5.5(e). The focus of regulation in synthetic securitisations
- 5.5(f). The STS synthetic regime in EU Regulation 2017/2402
- 5.5(g). Key Synthetic Securitisation Definitions in the EU Regulation
- 5.5(h). The STS balance-sheet synthetic securitisation simplicity requirements
- 5.6. The STS synthetic standardisation criteria
- 5.6(a). Listing the underlying exposures
 - 5.6(b). Transaction documentation
- 5.7. The STS synthetic transparency criteria
- 5.7(a). Specific Synthetic Securitisation Criteria
 - 5.7(b). Specified credit events
 - 5.7(c). The credit protection payment
 - 5.7(d). The protection premium
 - 5.7(e). Early termination of the credit protection agreement
 - 5.7(f). Synthetic excess spread
 - 5.7(g). The credit protection agreement
 - 5.7(h). Unfunded credit risk protection agreements
 - 5.7(i). Funded credit risk protection agreements
- 5.8. The type of securities eligible for funded synthetic securitisations

Part 2: Current issues with the European securitisation framework

- 5.9. The criticisms that have been directed at the European Securitisation framework
- 5.9(a). (i) The prudential framework for securitisations
 - 5.9(a). (ii) Criticisms of the prudential framework for securitisations
 - (a). Credit institutions
 - (b). Insurance and Reinsurance undertakings
 - 5.9(b). Criticisms of disclosure and transparency requirements