LMA Loan Market Association

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Submitted via email to the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA)

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Re: Consultation Paper CP2/26 of the Financial Conduct Authority and Prudential Regulation Authority

The Loan Market Association ("**LMA**") welcomes the opportunity to respond to the consultation paper (CP2/26) published by the Financial Conduct Authority and the Prudential Regulation Authority on 17 February 2026 (the "**Consultation**").

The LMA is generally very supportive of the reform proposals set out in the Consultation, which it considers would facilitate UK investment in and issuance of securitisation, through: (i) the establishment of focused due diligence rules that protect investors whilst maintaining their international competitiveness; and (ii) targeted disclosure requirements that promote transparency and market efficiency without stifling securitisation issuance.

The collateralised loan obligations ("**CLO**") market (in connection with the financing of both broadly syndicated bank-originated loans and loans originated by non-bank direct lenders), in particular, provides an important securitisation-based solution for financing the UK economy, enabling investment from outside the banking sector both from within the UK and globally into non-investment-grade companies operating in a diverse range of sectors (and at the same time, unlocking additional bank lending potential). The LMA's detailed responses below are focused on the impact of the Consultation's reform proposals on CLOs (and other securitisations of leveraged loans).

The LMA represents the interests of the loan markets across the UK, Europe, the Middle East and Africa ("**EMEA**"). Today, with over 850 members in 69 jurisdictions, we represent an ever-growing diversity of participants in international capital markets, including institutional investors, private and

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public sector issuers, banks, asset managers, non-banks, technology solution platforms and market infrastructure providers.

The LMA's responses to those questions that are of most relevance to our members are set out below. We would welcome the opportunity to discuss these further.

Please contact Jesse Beardsworth (jesse.beardsworth@lma.eu.com) and Evelien Alblas (evelien.alblas@lma.eu.com) to discuss this response in more detail.

Yours faithfully,

Scott McMunn

Chief Executive Officer, Loan Market Association

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Question 1: Do you agree with our proposals and their focus on ensuring that institutional investors obtain sufficient information from the manufacturer of the securitisation?

Question 2: Do you agree with the proposal to remove the table at SECN 4.2.1 R (1)(e) and the addition of corresponding guidance?

Our members with a buy-side focus are very supportive of the (continued) framing of due diligence rules on the basis of "investor need" i.e., rather than requiring investors to verify whether or not sell-side parties (wherever located) have complied with certain prescriptive requirements, the focus of the rules should instead be on ensuring that investors have the information they need to make an adequate risk assessment (both at the time of investment and on an ongoing basis).

Focusing on investor need will ensure that the policy objectives of investor protection and enhanced market transparency and efficiency are achieved directly and will also avoid placing UK investors at a significant competitive disadvantage. In particular, a prescriptive approach risks effectively imposing additional disclosure obligations on non-UK sell-side parties (for example, on US CLO sponsors and issuers) considering marketing transactions to UK investors. This may cause them to turn away from UK investors. As a result, UK investors could be deprived of valuable diversification opportunities. Over time, this may also dampen appetite for securitisation generally, ultimately leading to a reduction in UK securitisation issuance as well.

In that regard, the clarification that investors "must be satisfied" that sufficient information has been and will be made available (as opposed to framing the requirement in terms of "verification" by investors of sell-side compliance) is to be welcomed.

Similarly, we strongly support the proposed removal from the rules of the list of information required to be made available at a minimum (and the presence of which prospective investors must therefore verify) and its replacement with guidance and an explicit reference to the due diligence assessment being "proportionate to the risk profile of the securitisation position".

While difficult to quantify precisely, our buy-side members anticipate that the cost savings associated with the proposed move away from a highly prescriptive set of due diligence requirements to an investor-led principles-based framework, will be significant.

On a related point, we note that investment in securitisation positions by UK UCITS is also subject to the limit set out in paragraph (2) of COLL 5.2.29R under which a UCITS scheme must not acquire more than 10% of the debt securities issued by any single body. Buy-side members view this limit as workable when applied to corporate issuers, due to the relatively large issuance sizes involved. They also consider it justifiable on policy grounds. However, when applied to securitisation issuers, our members are concerned that the limit represents a significant constraint. This is because total issuance for standalone securitisation transactions is often relatively small by comparison, making the limit on investment in the relevant transaction potentially too small to make any investment by the relevant fund economically feasible. In these circumstances, the limit does

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not appear justified on policy grounds, since a securitisation special purpose entity has no broader business purpose over which an investing fund could exert influence or control in the ordinary course. Similarly, concerns as to concentration and liquidity do not in general carry through to (even relatively large) positions in particular securitisation issuers. Regarding concentration, such positions typically represent diverse exposures by reference to the underlying assets. As to liquidity, investors in senior securitisation positions (those typically held by UCITS) generally trade by "sector" (e.g. AAA CLO or RMBS) rather than by unique issuer, which supports liquidity even for relatively large positions.. We would therefore recommend - consistent with the proposed refocusing of the due diligence rules away from requiring compliance with prescriptive verification obligations and towards the adequacy of investors' own risk assessments – that this externally-imposed investment limit be removed (or at least substantially lifted) in so far as it applies to debt issued by securitisation special purpose entities. We also note that while reform of the EU UCITS regime in this regard will likely be of more immediate and direct benefit to UK investors investing through UCITS in CLOs and ABS, we consider it important that similar reforms are pursued under the UK rules in order to show an alignment of policy objectives and to facilitate ongoing equivalence.

Question 3: Do you agree with our proposals to require institutional investors to form their own view on the robustness of the credit granting processes without prescribing how this should be done?

For the reasons given above in relation to the application of the due diligence rules to information disclosures and the "sufficient information" test, we agree with the principles-based approach here too, focusing on investors' assessments of credit granting processes (as opposed to verification of sell-side adherence to particular rules).

Question 4: Do you agree with our proposal to replace the requirement for institutional investors to verify manufacturers' compliance with the 5% risk retention rule with a requirement that the investor satisfy itself that a mechanism exists that aligns their commercial interest to that of the manufacturer of the securitisation?

Question 5: Do you agree with our proposed guidance in SECN 4.2.1B G on how such alignment can be achieved?

Our members are strongly supportive of the movement away from investor verification of sell-side compliance here too. In particular, this change would mean that certain transactions would not need to comply with EU, UK or US risk retention rules. These include, for example, US transactions (assuming US risk retention rules don't apply to them). They also include European transactions such as CLO warehouse facilities (or asset-backed lending to credit funds) entered into by US asset managers. In each case, this reflects scenarios involving UK investors rather than EU investors. We consider this to be the appropriate outcome, i.e. we do not consider that the (non-UK) sell-side in such cases should be foisted with an indirect obligation to comply with foreign (i.e. UK) retention rules.

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As to the "alignment of interest" test, we welcome the reference to performance-related management fees as an example of such alignment. In the context of broadly syndicated CLOs, it is important to recognise that CLO managers are purchasing loans in the open market and not originating loans for securitisation. It is not an "originate-to-distribute" model. In addition, CLO managers receive the bulk of their fees (being the "subordinated" management fee that is only paid if the debt coverage tests are passing, and the "incentive" management fee that is only paid once equity investors receive a hurdle rate of return) only when the CLO is performing. As their compensation for the deal is performance-dependent, there is already a strong alignment of interest with CLO investors (both debt and equity). It is also important to our members to retain the proposed wording that provides flexibility to show "alternative means". As mentioned above, it should be for UK investors to determine whether sufficient alignment of interest exists in respect of any potential structure that is put in front of them. For completeness, we note that the presence of EU investors (or the need to contemplate their potential future investment) in a transaction would nevertheless necessitate compliance with EU risk retention rules. Despite this, our members appreciate the significance of the proposed change and the lead taken on this point by the FCA and PRA.

Question 6: Do you agree with our proposal to no longer prescribe the list of structural features investors are required to assess and to simplify due diligence requirements for STS securitisations?

Question 7: Do you agree with our proposal to remove the prescriptive elements in the due diligence requirements whilst holding a securitisation position

We welcome the move to a fully principles-based approach as regards the initial assessment of a transaction structure and the requirement to monitor ongoing risks.

Question 8: Do you agree with our proposal to move to a more principles-based approach for disclosure of underlying exposures for certain asset classes and delete SECN 11 and 12 Annexes 3, 4, 7 and 9?

Question 9: Do you agree with our proposed changes to SECN 11.3?

The perspective of our members from both the buy- and sell-sides of leveraged loan securitisation transactions is that market participants place little importance or emphasis on the "corporate loan" templates. This is because all required information is already contained in the reporting framework under the applicable transaction documentation. The content of these reports has long been a focus of UK institutional investors considering investing in such transactions. As sophisticated investors subject to their own regulatory regimes and investment mandates, they regularly provide detailed comments on these reports.

Accordingly, we do not consider the continued use of reporting templates to be justified on the basis of enhancing information availability and market efficiency.

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We therefore welcome the removal of the "corporate loan" template for leveraged loan securitisations, and its replacement with a far less prescriptive list of information that is required to be disclosed (in relation to the content and applicability of the proposed new CLO template, please see responses below).

Question 11: Do you agree with our proposal to replace the investor report and inside information or significant event templates (SECN 11 and 12 Annexes 12, 13, 14 and 15) with more principles-based requirements?

For the reasons mentioned above in relation to the collateral templates, we also strongly support the removal of the investor report and inside information / significant event templates (and their replacement with a less prescriptive set of informational requirements).

Question 12: Do you agree with our proposals to (i) stop requiring that transparency templates be made available in XML and (ii) no longer impose a uniform file format?

Question 13: Do you agree with our proposals as regards the format in which the various data fields within the retained templates are to be populated?

We agree with these proposals, although please see our comments below in relation to the proposed new CLO template.

Question 18: Do you agree that this proposed new template SECN 11 Annex 4A is better suited to CLOs than the current one in SECN 11 and 12 Annex 4? Please elaborate on your response.

Question 19: Do you have any comments on the proposed fields included in (or excluded from) the proposed new SECN 11 Annex 4A for CLOs?

Question 20: Should the requirement to complete SECN 11 Annex 4A apply during the warehouse phase of a CLO?

Further to our responses to Questions 8 and 9 above, our members consider that a dedicated CLO template is unnecessary from a market transparency and efficiency perspective, as CLO investors already negotiate for all the information that they need through contractual reporting frameworks.

Not only is the necessary information already being made available through the contractual frameworks, but for "public" CLOs of broadly syndicated loans in particular, such framework has become very standardised, enabling investors to easily make comparisons across CLOs based on such reports. Requiring an additional set of reports would therefore not facilitate comparability between transactions, nor would it enhance market transparency and efficiency as it would not meaningfully add to the set of data already considered relevant by investors.

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By contrast, for the sell-side, a further set of required reports would mean having to run up to three parallel reporting systems (the contractual framework utilised by investors, as well as those required by both EU and UK regulations). This would require the building out of internal reporting systems and validation rules to accommodate compliance with additional calculation and reporting methodologies, which would be costly and time-consuming for our members (with no benefit in terms of transparency and market efficiency as mentioned above).

If a dedicated CLO reporting template were ultimately required we would strongly suggest a targeted approach. In particular, for transactions involving EU investors, sell-side parties will already be required to prepare EU templates (assuming the indirect obligation remained under the EU rules). In those circumstances, the applicable EU templates should be recognised as equivalent. As a result, no additional CLO reporting template should be required under the UK rules for such transactions.

We make two further points below as regards the current form of proposed CLO template and its scope of application (were it to apply, despite our objections above):

Firstly, the inclusion of the obligor name field as “mandatory” is likely to be problematic, since obligor names would then be required to be disclosed and in so doing linked to obligor financial data that is already a feature of the existing corporate loan annex and has been carried over into the proposed new CLO template.

Disclosing the identity of obligors in CLO portfolios may not necessarily be a concern (particularly in the case of CLOs of broadly syndicated loans where obligor names are typically required to be disclosed under contractual reporting frameworks), however disclosure of names linked to obligor financial data will effectively make public financial information which may be commercially sensitive and not otherwise publicly available (especially for mid-market and private credit obligors).

Confidentiality clauses in loan terms (particularly for mid-market and private credit loans, as broadly syndicated loan terms typically permit disclosure if required by law or regulation) could also prohibit disclosure of names and/or financial data of the type required by the proposed template, putting the CLO manager in a difficult position (especially since contractual confidentiality is not being proposed as a justification for non-disclosure under the rules).

On the other hand, we do not consider adding the obligor name field to be required from a market efficiency standpoint.

In the broadly syndicated CLO market, as mentioned above, it is already customary to disclose the identity of obligors in the trustee reports. In the case of mid-market and private credit CLOs however, most of the underlying loans are private by nature. The resulting characteristics of these transactions — including relatively lower levels of transparency and liquidity (affecting both the CLO securities and the underlying loans) — are inherent features of the product and are well understood by investors, as reflected in their more limited and specialised investor base. At the

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same time, private credit and mid-market CLOs are an important and growing channel for the financing of the mid-cap corporate sector. Their development should not be discouraged by the imposition of additional disclosure requirements. While these structures are, by their nature, relatively less liquid and transparent than CLOs of broadly syndicated loans, this should not be of concern from a policy standpoint provided investors are adequately appraised of the associated risks. From a regulatory standpoint, this is already effectively addressed through the applicable due diligence requirements.

Accordingly, we recommend that the obligor name field not be included in any CLO template should one ultimately be required.

At a more granular level, our members have also requested the following clarifications relating to the proposed CLO template:

- CLO 16 (origination date): clarify that reference is being made to the original date of the credit agreement.
- CLO 27 (market value): clarify when the market value would be "applicable" (per the reference in the description of this field in the template).
- CLO 28 (total credit limit): clarify the reference in the fifth line is to not being "drawn down" in full.
- CLO 54 (defaulted obligations): align with the CLO definition (rather than the definition for regulatory capital purposes).

Secondly, if the new CLO template were ultimately required, it would be critical to consider the boundary between "CLO" and "non-CLO" corporate loan securitisations (since no template requirement would apply under the current proposals to the latter).

In this regard – and noting the removal of the distinction between public and private securitisation more generally (which we support) - we would strongly recommend that truly "private" transactions (such as CLO warehouses and asset-backed lending transactions) are specifically excluded from the definition of "CLOs".

As there is no material secondary market for investments in such transactions, we do not consider it justifiable to require a reporting template on the basis of enhancing market efficiency. Nor do we consider it necessary from an investor protection standpoint, given that investors in such transactions are parties to the transaction documentation and play an active role in negotiating its terms, including those relating to information provision and reporting. We also note that, due to the private nature of these transactions, their terms and structures are often highly bespoke, making comparability across transactions by reference to a single standardised template infeasible and, more importantly, putting client confidentiality significantly at risk.

Question 21: Do you think that some significant information will be lost by making this simplification to the no data rules as they apply to completion of underlying exposure templates?

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We agree with the approach, although please see our comments above in relation to the inclusion of the proposed new CLO template.

Question 22: Do you agree with our proposal to remove the distinction in treatment between public and private securitisations regarding the majority of the transparency requirements?

We agree with the removal, although please see our comments above in relation to the applicability of any CLO-specific template to truly private leveraged loan securitisation transactions.

Question 24: Do you agree with our proposed changes to SECN 6.2.1R(2) which require the provision of all transaction documents as well as the offering circular, prospectus or term sheet?

Question 25: Do you agree with the deletion of the list of documents in sub-paragraphs (b) to (g) of SECN 6.2.1R(2)? Please elaborate on your response and indicate which documents are critical in order to reach an investment decision prior to investing in a securitisation.

Question 26: Do you agree with our proposal regarding the timing to provide the final documents in SECN 6.2.2R(2)?

Question 27: Do you agree with our proposal to remove the requirement to make a transaction summary available as per SECN 6.2.1R(3)? Please elaborate on your response and explain the circumstances in which the transaction summary is useful.

Question 28: Do you agree with the changes we propose to SECN 5 and SECN 6.2.1R(2) regarding disclosure of risk retention as a result of the proposed removal of the requirement to provide a transaction summary?

We agree with referring simply to "transaction documentation" in terms of the initial disclosure requirements. We would expect that the key CLO documentation would be covered here (i.e., the Trust Deed, Collateral Management Agreement, Agency Agreement, Risk Retention Letter, and any Hedging Agreements).

We agree with the extension provided for in relation to post-closing transaction documents.

We also agree with the removal of the transaction summary requirement.

We have no strong view on the rules relating to placement of the risk retention disclosure – CLO offering circulars will continue to include a summary of the risk retention letter and the trustee reports will continue to confirm retention compliance to investors on an ongoing basis.

Question 29: Do you disagree with any of the changes we propose for private notifications?

We have no comments on the proposed changes to the regulatory notification form.

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Question 30: Do you agree with our proposal to clarify the frequency of reporting for securitisations with a long first interest period?

We agree with the clarification in relation to reporting for a "long" first period.

Question 31: In light of the proposals set out in this paper, does the current formulation of SECN 6.2.5R create barriers to the issuance of securitisations by limiting its application to confidentiality and data protection laws which apply in the UK only?

Question 32: If you disagree with our proposals on the transparency requirements, how could we change them?

Our main concern here is the potential for CLOs, particularly of mid-market and private credit loans, to be adversely affected by the additional requirement to include obligor names that is contained in the proposed new CLO reporting template (and the potential for conflict with contractual confidentiality provisions) mentioned above.

Question 36: Do you agree with our proposals to clarify the rules surrounding credit granting in SECN 8.2? Please elaborate on your response and what alternatives should we consider?

We agree with the proposals (i.e., the focus should be simply on requiring sound credit-granting practices).

Question 37: Do you agree with the proposal to allow L-shaped risk retention as an eligible form of risk retention?

We welcome the flexibility provided by this additional retention option. In particular, the proposal appears to permit such composite holding (by a single retention holder such as a CLO manager) in any combination, including a scenario where relatively more than 5% of the total were held across the rated CLO tranches (and relatively less in the CLO equity tranche). We would welcome clarification of this.

Question 38: Is the proposed period of 6 months between publication of the final SECN instrument and the new requirements coming into force reasonable, assuming we proceed broadly as proposed?

If a CLO template were ultimately required (a proposal that we disagree with for the reasons given above), we would suggest a period of at least six months following entry into force and before application, to enable the sell-side and their agents to make the necessary adjustments to report using the new template. A grandfathering option (i.e., an opt-out right) would also be useful for transactions executed before the application date, for those sell-side parties for whom moving to

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a new (albeit simplified) reporting template would be prohibitively costly to implement (or to implement ahead of the application date).

Question 39: Do you agree with the proposal to allow use of the current EU underlying exposure templates for certain asset classes instead of the new SECN 11 underlying exposure templates?

We agree with this and would recommend that this be applied to CLOs as well (were the proposed new CLO template to be ultimately required) as mentioned in our responses above.

Question 41: Do you have any views on the application of specific conduct rules (e.g. risk retention, credit granting standards) in regulating CLOs? What possible improvements, if any, do you consider could be made to address some of the concerns and criticisms articulated above?

Our members strongly support the exclusion of CLOs of broadly syndicated loans from the scope of the securitisation framework's conduct regulations.

The basis for such an exclusion is two-fold:

Firstly, participants at each "layer" of the broadly syndicated loan CLO structure are already subject to regulation outside of the securitisation framework (such that CLOs of broadly syndicated loans are already heavily regulated from a conduct perspective). That is, CLO investors currently regulated under the securitisation framework (i.e., institutional investors such as banks, insurers, and asset managers of various types of investment funds) are each already subject to applicable sectoral regulation. UK CLO managers (the entities primarily responsible for asset selection and CLO portfolio management) are also subject to FCA conduct of business rules, and the broadly syndicated loans themselves that are acquired by the CLO manager for the CLO, will have been originated by banks to whom credit-granting rules apply (whether in the UK, the EU or elsewhere).

Secondly, the CLO structure itself points against additional regulation at the "product" level – in particular, CLOs of broadly syndicated loans experience both low "model" and low "agency" risks.

In terms of model risks: CLOs are simple structures under which a portfolio of broadly syndicated leveraged loans (bank-originated loans for which a liquid secondary market exists) is actively managed by the CLO manager for the benefit of investors. There are no additional "layers" between the securitised exposures on the one hand and the liabilities issued by the securitisation issuer on the other, such that investors can easily assess (including with the assistance of data services providers who will have access to information reported by the CLO) the dependency of the cash flows due to them as holders of securitisation positions (on the securitised exposures). In addition, the collateral itself - broadly syndicated leveraged loans and high yield bonds – can be bought and sold by the CLO manager on liquid markets and reliable collateral values are therefore also straightforward to ascertain.

In the years following the global financial crisis ("**GFC**") in particular, investors in the CLO market have come to expect simpler ("**2.0**") structures. In these structures, all of the classes of CLO

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liabilities have more easily understandable risk profiles and reference more liquid and easily understood and valued underlying collateral. This distinguishes them from pre-GFC ("**1.0**") structures, even though such structures were not themselves a contributor to the GFC and have performed robustly since. In our view, regulatory reforms should acknowledge and support this shift in market practice. In particular, they should respond positively to the move from "1.0" to "2.0" structures, including by offering an exclusion from securitisation conduct rules for broadly syndicated loan CLOs.

In terms of agency risks: CLOs of broadly syndicated loans are in economic terms managed credit funds, and are therefore without the mis-alignment of incentives or informational asymmetries of a typical "balance sheet" securitisation (due to there being no single loan "originator" in a managed CLO, whose incentives may become misaligned with those of investors when selling the originated assets into the securitisation).

Consistent with the investment fund analogy, the CLO manager is responsible for selecting assets for the CLO from the market for bank loans. The CLO management fee structure ties management fees to performance, both directly through the incentive management fee and indirectly through fees taken on a senior and subordinated basis by reference to portfolio size (and in the case of the subordinated management fee, due to such fee only being paid if debt coverage tests are passing). In addition, significant reputational concerns - driven by the CLO manager's need to secure repeated investment from a relatively limited set of regular CLO investors - further reinforces this alignment. Taken together, these factors ensure a strong alignment of interests between CLO managers and CLO investors (both debt and equity). CLO managers and their related funds will also often invest significantly in the CLO's "equity" position (i.e., its first loss tranche).

Incentive alignment was also central to the distinction drawn by the US courts on the basis of which the US CLO market has now operated for several years. This distinction is between securitisations where the sponsoring entity commences the securitisation process by transferring assets that it has been responsible for originating on the one hand, and an "open market" CLO on the other. In an open market CLO, no single loan originator exists and the CLO manager acquires assets in the broadly syndicated bank loan market. On this basis, CLOs of broadly syndicated loans are exempted from the requirement to comply with the US risk retention rules.

CLO managers receive the bulk of their fee compensation (being the subordinated and incentive fees referenced above) only when the CLO has performed and (in the case of the incentive fee) delivered a rate of return to the most subordinated class of debt issued in the CLO. If the CLO is not performing the CLO manager will only receive a nominal "senior" management fee. The absence of an "originate-to-distribute" model and the built-in performance fee structure already creates a significant alignment of interest between CLO investors and the CLO manager.