SECURITIZATION IN SPAIN: AN ANALYSIS FROM THE U.S.

ECONOMIC AND LEGAL EXPERIENCE

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ABSTRACT

Securitization is a modern form of structured financing which consists, in essence, in the separation and assignment of a pool of credit rights of little liquidity to a Special Purpose Vehicle ("SPV"). The SPV acquires them from the financing obtained from the investors, by issuing securities, which may be negotiable in secondary markets. This structure “transforms” the payments of the obligors of the credit rights and “transfers” them to the holders of the asset-backed securities, thus transforming the cash flow patterns.

In the United States, where this structure originated, the asset securitization has proved to be an efficient way of financing. This new financing structure has been recently adopted in Spain through different partial regulations.

The thesis proposed explores, from an economic perspective, the benefits and risks of the structure. Concerning its legal regime, the thesis analyzes and evaluates the adequacy of the current Spanish legislation for developing securitization in Spain as an efficient way of financing. Such analysis is done in light of (i) the economic reasons and risks underlying the existence of this structure and (ii) the experience of the United States, the country where the structure has found the highest development in the world.
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