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Consultation response regarding the European Commission's proposal on improving transparency and efficiency in secondary markets for non-performing loans

Svensk Inkasso has been given the opportunity to submit comments regarding the European Commission's proposal on improving transparency and efficiency in secondary markets for non-performing loans.

Svensk Inkasso is a non-profit industry organisation that was founded in 2007 and represents the debt collection industry in Sweden. The organisation has today 46 members, which includes a majority of the debt collection companies operating in Sweden. As many of Svensk Inkasso's members operate within the non-performing loans market today, the Commission's proposal regarding improving transparency and efficiency is therefore of great interest to both Svensk Inkasso and its members.

Background

The European Commission ("The Commission") aims to create a secondary market for non-performing loans ("NPLs") to enable banks and credit institutions to reduce their NPL stocks by selling them to third-party investors in an easy and effective manner. The Commission is of the opinion that if banks and credit institutions are better able to off-load non-performing assets from their balance sheets via secondary markets, this would help them to focus on their core activities, free up space in their balance sheets for new lending and hence enable them to fund economic recovery.

The Commission's view is that one of the key actions in fostering secondary markets for NPLs is to improve the quantity, quality, and comparability for NPL data. The Commission's view is also that the secondary markets could be broader and more efficient if market participants had access to more extensive and better-quality data.

The Commission's main objective is to increase the flow of available information that is conducive for liquid NPL markets and believes that the data hub and additional disclosure under Pillar 3 rules (Regulation (EU) 575/2013 (CRR)) could help maximise the potential of NPL data.

Svensk Inkasso is generally in favour of increased transparency

The secondary market for NPLs that exists today is well-functioning, with many financial companies from different European countries participating in the trade. However, one of the challenges that companies operating within the NPL market struggles with, is the determination of the price for the NPLs. Therefore, Svensk Inkasso shares the Commission's view that increased transparency and aligned procedures within the secondary market for NPL could contribute to a more harmonized and accurate valuation of the loans, which would be positive for all companies operating within the NPL market as well as for competition in general.

The proposed disclosure of information is too extensive

Svensk Inkasso is however of the opinion that the Commission's suggestion to extend the disclosure requirements under Pillar 3 is too extensive. Many of Svensk Inkasso's members would be reluctant to disclose post-trade transaction data, specifically data relating to their recovery performance and other proprietary data as they consider it to be commercially sensitive data.

Most credit purchasers that operate within the NPL market today has invested a large amount of money, resources, and time to develop their strategies for collection and recovery and it is likely that many credit purchasers would rather withdraw from purchasing bank receivables – and would instead persist on purchasing other receivables, where such information sharing is not required in order to avoid disclosing the suggested data – than to comply with the Commission’s proposal.

This would most likely have a decreasing effect on the number of operating credit purchasers within the NPL market, which would lead to reduced competition within the market. That is in turn also likely to result in lower purchasing prices. The advantages with extensive disclosure of the suggested data would thus not be greater compared to the long-term disadvantages of disclosing.

Especially sharing of data relating to recovery performance would be considered by most credit purchasers to put them in a disadvantage in terms of trading position, which goes against the Commissions aim with the suggestion. The fact that the identity of the seller, buyer or borrower would not be disclosed at the data hub is unlikely to affect this prediction as this information will be disclosed either way, for example in connection with the purchasers’ notices of assignments of claims.

The presented suggestion from the Commission is likely to not only affect the credit purchaser in a negative manner but also the credit servicers. Svensk Inkasso is of the opinion that many credit servicers will be just as reluctant to disclose data relating to recovery performance and NPL’s quality, as disclosing this information could influence their trading position on the NPL market in a negative manner.

Svensk Inkasso would therefore like to suggest that the mandatory disclosure should instead be limited to a pre-defined data set. The pre-defined data set should include data such as the mandatory disclosure information to supervisory authorities following the NPL Directive, which then could be provided to potential investors and sellers in the NPL sales process. This information should be enough to establish the desirable level of transparency that the Commission aims for, and at the same time provide investors, sellers, and buyers with the information needed to establish a more accurate valuation.

Svensk Inkasso therefore believes that the Commission could reach their aim without affecting the competition within the NPL market in a negative manner.

A centralised data hub

Svensk Inkasso does support the Commissions view that a centralised data hub at EU level could contribute to an increased market transparency, with the presumption that it is easy to share the data on the hub and that the data to be shared is standardised at EU level, by only containing basic information about NPL trades that could help with the price setting. Any excessive data should not be required to be shared on the data hub nor with any other company that operates within the NPL market.

As many of the companies that operates within the NPL market have invested both money and resources to indirectly create their own internal data hub, it would be considered an unfair advantage to give companies, that have not contributed nor invested within the NPL market, access to the data hub. Given this, Svensk Inkasso is of the opinion that the Commission should establish restrictive access guidelines regarding the data hub before the data hub is incorporated.

However, for a data hub on EU level to be effective and work in the indented way while fulfilling the requirements following the General Data Protection Regulation (EU) 2016/679 (“GDPR”) strict operating guidelines must also be established. The guidelines should govern both how the intended responsible organisation should operate as well as how the infrastructure is to be set up, to ensure that the data hub is a secure platform to use for sharing data. Svensk Inkasso believes that with such strict and established guidelines, companies will be less reluctant to share standardised sets of data on the data hub.

Data protection

To fully comply with bank secrecy, general confidentiality, and personal data protection requirements the Commission has suggested that such compliance could be achieved by ensuring relevant data aggregation and anonymisation. However, anonymising extended amount of data will be costly, both monetary and timewise, as every company operating within the NPL market would have to develop new organisational and technical routines. Therefore, to avoid applying further distress into companies that operates within the NPL market, the information to be provided should be limited to the pre-defined data sets as suggested above.

It is important for all licenced debt collection companies operating within Sweden to be able to fully comply with the GDPR as they are the data controller of all data processed within their operation and would continue to be even if the data would be transferred to the suggested data hub.

It should be taken into consideration that it is challenging for credit servicers as well as credit purchasers to achieve full anonymisation, which is why Svensk Inkasso suggests that all data is only shared on an aggregated level. Furthermore, to avoid that any data falls within the definition of personal data Svensk Inkasso suggest that data to be shared on the data hub should only be on portfolio level and not on individual level as the Commission has suggested previously.

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