

2021.08.08

**FBF RESPONSE TO THE TARGETED CONSULTATION ON IMPROVING  
TRANSPARENCY AND EFFICIENCY IN SECONDARY MARKETS FOR NON-  
PERFORMING LOANS**

**Comments on the consultation.**

1. *Do you agree that increased market transparency would render NPL secondary markets more efficient?*

We fundamentally disagree with the assumption that NPL sellers (i.e., banks) retain information and that such alleged “asymmetry of information” reduces the efficiency of NPL secondary markets, thus making “increased transparency” necessary. Once again, we stress the fact that because we are active and regular sellers in the NPL secondary markets, it is in our own interest to disclose all the relevant information we have: the more (and the better) data we provide, (i) the better the price we get, (ii) the better our commercial relationship with investors/buyers.

We also warn against the view that “increased transparency” would miraculously unify fragmented NPL secondary markets and enhance their efficiency. The fact that there is not a single NPL secondary market is due, amongst other factors, to the differences in national insolvency laws and in jurisdictional systems. NPL markets work very differently across EU countries, e.g., in Belgium (where wage assignment is very efficient and quick, allowing good recoveries) or in Italy (with a longer, less predictable recovery process). Creating a pan-EU data hub will not help them work any better.

We believe that establishing a data hub and provide standardized data to all market participants could reduce the liquidity and depth of the NPL secondary markets. Investors coming to the secondary markets know which kind of distressed debt they want to acquire; they have good reasons to do so and are able to price it. We sometimes get better prices from one investor that is more eager to acquire certain type of debt than other investors: making transactions details public could prevent this from happening.

We also want to stress out that as EU credit institutions are already inserted in a very tight established regulatory and supervisory system that enables EU authorities to impose relatively easily new obligations to them, the risk is thus that only banks would be bound to contribute for their part (with all related costs and constraints). On the contrary, it is highly unlikely that transparency could benefit from quick and exhaustive access to the other parts of the information promoted by the EU Commission data hub project, i.e., information to be contributed by actors of the NPL markets that are not most of the time EU credit institutions (funds, foreign investors, servicers....). All this population is not homogeneous, not necessarily regulated or regulated by very fragmented national regulations: this means that there are currently very few regulatory or supervisory levers to influence the participation of these actors in the data hub.

2. *What other policy measures should be considered to enhance market transparency?*

We do not believe that market transparency should be enhanced any further.

3. *Do you agree that market transparency could be improved by establishing a centralised NPL data hub at EU level?*

NO.

We are very skeptical about this proposal to establish a central NPL data hub and we very much doubt it would have any net positive impact, considering the time and cost it would require.

NPL sellers already provide a lot of public information via Pillar 3 disclosure, which has been reinforced recently, and via heightened requirements for high-level NPL entities. They also provide all the relevant information they have to get the best possible price. EBA NPL templates, which will become mandatory, will further increase standardization of NPL data. The proposed NPL hub thus seems at best redundant to us.

Also, we believe the risks of leaks of personal and/or commercially sensitive information largely outweigh the potential benefit of increased transparency. There are not that many NPL transactions taking place in the secondary markets, especially with significant volumes: even if data is anonymized, it is probable that names of distressed companies could be identified. This could have very serious consequences notably for firms that are still viable but whose debt one bank wants to sell, while other banks may not have recognized it as non-performing counterparties. Another example would be individuals, consumers or small corporates living/established in underpopulated areas that could be identified via the postal code, combined with other data fields.

We want to stress that establishing such centralized data hub would probably take a long time as very important questions are not even on the table and would have to be discussed thoroughly: scope of participants, type of data, governance, public or private sponsorship, mandatory or voluntary tool, investments and costs, fees, etc. A very concrete example of the multitude of practical questions raised by this proposal relates to claims and potential buybacks i.e. disagreements between sellers and buyers. Usually, these are confidential: how would this be treated within a NPL data hub?

In addition to the doubt we express about the efficiency of such a tool to develop the NPL secondary market, this also raises the fundamental question of the adequacy of such project to address it in the right timing. Indeed, the “time to market” would certainly be extremely long, which, combined to its uncertain results, makes it little more than a dilatory initiative.

Finally, the fundamentally new idea of the data hub is to open it to trade and post-trade information, that is to say, information to be contributed by actors of the NPL markets that are not most of the time EU credit institutions (funds, foreign investors, servicers....). All this population is not homogeneous, not necessarily regulated or regulated by very fragmented national regulations; this means that there are currently very few regulatory or supervisory levers to influence the participation of these actors in the data hub. On the contrary, EU credit institutions are already inserted in a very tight established regulatory and supervisory system that enables EU authorities to impose relatively easily new obligations to the banks. The risk is thus once more that only the banks will be bound to contribute for their part (basically information corresponding to the EBA NPL templates) – with all related costs and constraints - , while there will be little possibility to rapidly and exhaustively get access to the other parts of the information promoted by the EU Commission data hub project. The proposal of the EU Commission does not address in a convincing manner the ways and means that to include all the actors in the data hub project, casting doubt on the sheer feasibility of the project in all its intended dimensions.

4. *What would in your view be the biggest added value of the NPL EU data hub for the overall market?*

The only type of information that is not currently reported, although it could contribute to reducing the bid-ask spread, is data on recoveries by NPL buyers and servicers. So far, only NPL sellers have been subject to very precise, heavy, and costly reporting requirements, while NPL buyers do not have to disclose information on their performance. This is probably the only “asymmetry” that constitutes a market failure in NPL secondary markets. However, it should be noted that performance on a given portfolios is not necessarily transposable to future recoveries.

Also, we doubt that market transparency could benefit from quick and exhaustive access to information contributed by actors of the NPL markets that are not most of the time EU credit institutions (funds, foreign investors, servicers....). All this population is not homogeneous, not necessarily regulated or regulated by very fragmented national regulations: this means that there are currently very few regulatory or supervisory levers to influence the participation of these actors in the data hub.

5. *In your opinion, how important are each of the potential benefits (listed below) of the NPL EU data hub for your organisation? (please rate each from 1 to 5, 1 standing for “not important factor” and 5 for “very important factor”)*

	1	2	3	4	5	No opinion
Diminishing information asymmetries	X					
Supporting market liquidity	X					
Fostering wider investor participation, including more medium and small investors	X					
Helping price discovery for NPL sales transactions	X					
Enabling new investors to get familiar with the NPL asset classes across different jurisdictions	X					
Addressing coordination issues	X					
More efficient NPL transactions	X					
Lenders and servicers to make more efficient recovery and disposal decisions	X					
Other: ...						

## 1.2. Scope of the data hub

6. *On what information should the data hub focus?*

Solely information on transactions that have taken place (e.g. transaction price, asset class, legal jurisdiction and structure of the agreement).	NO
Information on transactions and on post-trade performance (i.e. data on the recovery).	YES
The data hub should go beyond the two options above.	NO

### 1.2.1. Data on NPL transactions

7. Would you see that the transaction data for the data hub should cover; (please rate each from 1 to 5, 1 standing for “not helpful” and 5 for “very helpful”)

	1	2	3	4	5	Comment
all data fields in the revised EBA NPL templates	X					
critical fields in the revised EBA NPL templates	X					
a subset of (critical) data fields in the revised EBA NPL templates			X			We do not see value in establishing a NPL data hub. If it were to be created anyway, we believe that sharing data on post-execution recoveries might be useful to reduce the bid-ask spread.
Other						

8. Would you agree that the data on NPL transactions should be provided on portfolio level, as well as on individual exposure level, when appropriate?

N/A

9. Which of the following data categories should be covered by the data hub? (please rate each from 1 to 5, 1 standing for “not helpful” and 5 for “very helpful”)

	1	2	3	4	5	Comment
Country (where loan was originated)	X					
Trading category	X					
Overall gross book value sold	X					
Transaction price	X					
Average ticket	X					
Days overdue	X					
Asset type	X					
Number of borrowers	X					
Borrower category (enterprise, private individual, public, other)	X					
Insolvency rate	X					
Maturity	X					
Loan-to-value (where applicable)	X					

10. *Would you see any specific confidentiality concerns or other impediments in sharing this information with the data hub?*

YES.

We believe the risks of leaks of personal and/or commercially sensitive information largely outweigh the potential benefit of increased transparency. There are not that many NPL transactions taking place in the secondary markets, especially with significant volumes: even if data is anonymized, it is probable that names of distressed companies would be identified. This could have very serious consequences notably for firms that are still viable but whose debt one bank wants to sell, while other banks may not have recognized it as a non-performing counterparty. Another example would be individuals, consumers or small corporates living/established in underpopulated areas that could be identified via the postal code, combined with other data fields.

11. *Would it be valuable for the data hub to collect other transaction-related information? If so, what specific information should be covered?*

If a data hub were to be established, a sub-set of critical fields from the NPL templates would be sufficient.

### **1.2.2. Post-trade information on recovery efficiency**

12. *What would be the most important benefits of gaining insights into information on recovery rates via the data hub?*

So far, NPL buyers and servicers do not have to report any information on post-transaction performance. This “black box” constitutes the only “asymmetry of information” that exists in the secondary market: knowing more about performance would allow adjusting the price (upwards if performance is good, but also downwards if justified).

In some cases, NPL sellers and buyers agree on sharing information on post-transaction recovery. This happens mostly in the context of long-term commercial relationships, and we would rather keep this informal rather than having it reported in a centralized data hub.

Also, we doubt that market transparency could benefit from quick and exhaustive access to information contributed by actors of the NPL markets that are not most of the time EU credit institutions (funds, foreign investors, servicers....). All this population is not homogeneous, not necessarily regulated or regulated by very fragmented national regulations: this means that there are currently very few regulatory or supervisory levers to influence the participation of these actors in the data hub.

13. *Would you consider provision of data on recovery rates at loan level to be feasible? If not, would you consider that provision of such data at an aggregate level would still deliver benefits?*

No comments

14. *What specific information on recovery efficiency would you consider valuable and/or feasible to be provided to the data hub **at an aggregate level**?*

	Valuable	Feasible
Progressive value of assets, aggregated by:		
• asset class		
• country/jurisdiction		

• industry/sector		
• borrower characteristics		
• legal process		
Recovery rates, aggregated by:		
• asset class		
• country/jurisdiction		
• industry/sector		
• borrower characteristics		
• legal process		
Recovery time, aggregated by:		
• asset class		
• country/jurisdiction		
• industry/sector		
• borrower characteristics		
• legal process		
Information about workout and recovery in the relevant legal reviews		
Other: ...		

15. *For the kind of information that you would consider valuable and feasible to be provided to the data hub, what reporting timeframe would be most appropriate, and why?*

N/A

16. *In case you would not be in favour of providing information on recovery efficiency to the data hub, what would be the main reasons for this?*

N/A

17. *Would you agree that data on recovery efficiency should be specifically requested for loans benefiting from any form of public support? In your view, which loans would fall within the scope?*

We have no specific views on this.

18. *Would you agree that ESMA securitisation disclosures for private or public structured transactions, where relevant, could be provided to the data hub?*

We have no specific views on this.

### 1.3. Asset perimeter: types of transactions to be distinguished

19. For which categories of transactions should data be provided to the data hub (i.e. after a specific cut-off date)?  
(Please rate each from 1 to 5, 1 standing for “fully disagree” and 5 for “fully agree”).

	1	2	3	4	5	Comments
Segments that may be better prepared to comply with the data requests, such as securitisations	X					
Any sale involving an asset with a direct government subsidy	X					
Transaction types that are more frequent across the EU (such as loans secured by commercial real estate)	X					
Segments where most market activity / stress is likely in the context of the COVID-19 crisis	X					
Other: ...						

20. For which categories and under what conditions would you consider it feasible to also provide historical data (at least for 1-3 years)?

No comments.

21. Would you agree with the following criteria for transactions to be provided to the data hub? (please rate each from 1 to 5, 1 standing for “fully disagree” and 5 for “fully agree”)

	1	2	3	4	5	Comments
Sales with a purchase price exceeding a minimum threshold	X					
Notional size of a portfolio exceeding a minimum threshold	X					
Portfolios consisting of a minimum number of borrowers	X					
Other: ...						

22. Bearing in mind your answer(s) to question 21, what should be:

	Response
The minimum threshold in terms of purchase price	n/a
The minimum threshold in terms of notional portfolio size	n/a
The minimum number of borrowers in a portfolio	n/a



## 1.4. Data protection

23. *Provided that relevant confidential information (sellers, buyers and borrowers) would be anonymised and aggregated, would you have any concerns with respect to data protection?*

YES

We believe the risks of leaks of personal and/or commercially sensitive information largely outweigh the potential benefit of increased transparency. There are not that many NPL transactions taken place in the secondary markets, especially with significant volumes: even if data is anonymized, it is probable that names of distressed companies could be identified. This could have very serious consequences notably for firms that are still viable but whose debt one bank wants to sell, while other banks may not have recognized it as a non-performing counterparty. Another example would be individuals, consumers or small corporates living/established in underpopulated areas that could be identified via the postal code, combined with other data fields.

24. *Would you agree that it would be possible to deliver insights at the level of postcode or NUTS3 geographic region of buyers, sellers and borrowers?*

NO.

We don't agree, for the reason explained above.

25. *Taking into account that GDPR requirements would be respected, would you agree that data anonymisation and protected access would be sufficient to prevent any potential misuse of the data (e.g. for M&A purposes)? If not, what other safeguard should be considered?*

We believe the risks of leaks of personal and/or commercially sensitive information largely outweigh the potential benefit of increased transparency. There are not that many NPL transactions taken place in the secondary markets, especially with significant volumes: even if data is anonymized, it is probable that names of distressed companies could be identified. This could have very serious consequences notably for firms that are still viable but whose debt one bank wants to sell, while other banks may not have recognized it as a non-performing counterparty. Another example would be individuals, consumers or small corporates living/established in underpopulated areas that could be identified via the postal code, combined with other data fields.

## 1.5. Responsible organization

26. *Who should be responsible for the establishment and management of the data hub?*

We have no specific view on this as we oppose the creation of a data hub.

Existing market infrastructure, possibly in cooperation with existing industry-led initiatives	
A public entity (existing or newly established) should take up this responsibility	
A new private entity should take up this responsibility	

*Please elaborate on your preferred approach: what entity should be responsible and why?*

We believe that discussing such important governance questions would take time, which is incompatible with the stated objective of this consultation: "addressing a renewed build-up



of NPLs on banks' balance sheets as early as possible is a key lesson from the last economic crisis." Governance issues go far beyond this question on the kind of entity that should take up the responsibility of establishing and managing the data hub.

27. *Bearing in mind your answer to the previous question, would you consider a public tender appropriate to determine the most suitable candidate?*

We have no views on this question as we oppose the establishment of a NPL data hub.

## 1.6. Sharing data with the hub

28. *In order for the data hub to reach critical mass, would you consider an obligation to report relevant data to the data hub necessary/useful?*

Yes, there should be an obligation for all relevant market participants to provide data	
Yes, there should be an obligation for relevant market participants to provide data, but only for a specific sub-set of critical data.	
No, provision of data to the data hub should remain voluntary and the prospect of gaining access to the European-wide data pool of the hub should be sufficient.	X

29. *Under what conditions would you consider such an obligation to share specific data acceptable? Would regulatory action be necessary in your view?*

We believe there are enough reporting requirements applying to NPL sellers and that there is no need to create additional obligation to share specific NPL data.

29.1 *If regulatory action would be needed, what approach should be chosen for your market segment?*

N/A

## 1.7. Data hub governance and services

30. *What would be an appropriate data governance structure for the hub? Are you aware of best-practice examples in related areas, national or EU-wide, that the hub should strive to emulate?*

N/A

31. *What would you consider the most effective way to stimulate stakeholders to provide data?*

N/A

A scheme of layered access, whereby stakeholders could gain access to different levels of detailed data only if one shares one's own data	
A 'credit point system', whereby a certain number of deliveries would grant the right to receive the same number of queries	
Other: ...	

32. *If access to the hub's data is restricted in this manner, how could new participation in the NPL market be encouraged?*

No comments

33. *What specific analyses could the hub perform on its data pool that would be conducive to market transparency and data comparability? What specific market benchmarks would you consider most useful?*

No comments

34. *Would you consider it useful if the data hub would provide information on NPL investors (preferences and general profiles) and/or general information on judicial processes?*

No comments

35. *Should the hub be able to charge fees to cover administrative costs? If yes, how should these fees be determined? Under what conditions would you be willing to pay such fees?*

Reporting requirements are already too costly, and we oppose the creation of any new fees. In any case, should the data hub be implemented despite its limited impact on NPL secondary market efficiency, we consider that no fees should be charged to the banks, as feeding the data hub would be already expensive for the banks and should give right to access post sale information. Fees should be charged only to the users.

## 1.8. Mobilising existing data sources

36. *Are you aware of existing (market-driven) initiatives that pool and process data to gain better insights into credit risks and the management thereof? If so, what are the names of these initiatives and what services do they provide?*

N/A

37. *Would you consider that there could be valuable synergies between the data hub and such existing data pooling initiatives? If so, which synergies?*

N/A

38. *Would you consider it valuable if the data hub would provide insights into the following data in an aggregated manner? (please rate each from 1 to 5, 1 standing for "not valuable" and 5 for "very valuable")*

	1	2	3	4	5	No opinion
Supervisory reporting on credit risk, non-performing exposures and forbearance						
• COREP supervisory reporting	X					
• FINREP supervisory reporting	X					
• Credit risk benchmarking exercise	X					

	1	2	3	4	5	No opinion
Judicial information:						
• efficiency data <sup>5</sup>	X					
• detailed timing of different in-court bankruptcy and foreclosure processes	X					
• judicial auction outcomes (number of auctions required by property type and region)	X					
• sales haircut vis-à-vis initial bank or court valuation (CTU)	X					
• relative frequency of main insolvency procedures and court driven restructuring measures	X					

	1	2	3	4	5	No opinion
Securitisations:						
• ECB ABS loan level initiative <sup>6</sup>	X					
• ESMA reporting for securitisations	X					
• Data collected in the GACS reporting template (Italy only)	X					

	1	2	3	4	5	No opinion
Data pools of existing industry initiatives (to be explored in cooperation with these initiatives and their members):						
• Existing data pooling initiatives	X					

	1	2	3	4	5	No opinion
Bank risk parameters on forbearance, loss given default (LGD), realised loss, time to recovery, and cure rate data by regulatory asset class and country, as aggregated from:						
• the AnaCredit database	X					
• bank Pillar 3 disclosures	X					

## 2. TAILORING PILLAR 3 DISCLOSURE REQUIREMENTS

### 2.1. General

### 2.2. Pillar 3 disclosure and market efficiency

39. *Do you agree that additional Pillar 3 disclosures could help to improve functioning of NPL secondary markets and increase their efficiency?*

We do not agree. P3 disclosures are already very burdensome and costly. As mentioned in this consultation paper, a series of additional templates has been introduced very recently via Commission Implementing Regulation (EU) 2021/637 of 15 March 2021. It really would not be appropriate to create additional P3 disclosures.

More specifically, in our opinion NPE strategy should not be public information. It could be detrimental to banks to disclose it, as it can modify borrowers' or potential investors' decisions. Should the Commission assess that this information is useful for the market,

which we do not think, then this information would have to be generic and broadly formulated.

### 2.3. Targeted areas for more detailed disclosures

40. Which types of information, in general, could additional Pillar 3 disclosure requirements target to maximise efficiency of NPL markets?

We strongly believe no additional P3 disclosure is necessary.

41. More specifically, in your opinion, which of the following types of information should be introduced in the Pillar 3 disclosure framework? (please rate each from 1 to 5, 1 standing for “not important factor” and 5 for “very important factor”)

	1	2	3	4	5	No opinion
Recovery rate (average)	X					
Recovery rates (by asset class)	X					
Recovery rates (by past due days)	X					
Recovery rates (by country)	X					
Time to recovery (average)	X					
Time to recovery (by asset class)	X					
Time to recovery (by country)	X					
Judicial costs (average)	X					
Judicial costs (by asset class)	X					
Judicial costs (by country)	X					
Others: ...						

A balance should be found between the benefit of additional information and the burden and costs of producing this information.

### 2.4. Extension of the scope of disclosures

42. Would you agree that the scope of disclosures might be extended to cover all CRR institutions?

We strongly oppose it. Additional, “high-NPL” disclosure is extremely burdensome to produce. Extending it to all CRR institutions/entities that do not have high levels of NPL would not make sense from a cost-benefit standpoint: the costs are certain (and high), while the potential benefit are extremely limited (low-NPL entities do not sell much NPLs; the value of additional reporting on the transaction price is highly uncertain and most probably very low).

Besides, new NPE templates introduced by EBA in 2018 for Pilar 3 created a significant gap in quantity and quality of information published by credit institutions. We think that the Pilar 3 information scheme should maintain the rules of 2018 EBA Guidelines as being proportionate to the importance of NPL stock. In particular, the information to be published by institutions whose NPL ratio is below 5% should be lighter than the one to be published

by other institutions. Finally, here as well, a balance between the costs and the benefit of the information should be found.

43. *Would you agree that the scope of disclosures might be extended beyond credit institutions, for instance to credit purchasers and/or credit servicers operating in the secondary market?*

YES.

This could be a good idea, as credit purchasers and servicers, so far, have not been subject to reporting requirements. A reporting on recoveries might help reduce the bid-ask spread.

Beyond reporting on recoveries, from a financial stability point of view, we believe that transferring NPL outside the banking system will not make risk disappear and as a result, heightened supervision and reporting requirements on credit purchasers and servicers would be necessary to monitor indebtedness levels and NPL volumes in the EU regardless of who holds the debt.

44. *Would you consider it useful to assign an ID to an NPL and to track and monitor such NPL?*

NO.

We do not believe this is a good idea as managing a tag is costly.

45. *What could be the proportionality criteria for new disclosures?*

	1	2	3	4	5	No opinion
Size and complexity of the credit purchaser (cross border activities, NPL securitisation)	X					
Size and nature of the portfolios (consumer loans, corporate loans)	X					
Simple threshold of total NPLs				X		
Other: ...						

## 2.5. Keeping reporting burdens manageable and avoiding regulatory overlap

46. *How large do you estimate the costs and efforts for banks and other entities to adjust to additional targeted requirements as part of Pillar 3 adjustments? Would additional disclosures add a significant cost?*

Given the accumulated experience, we believe that additional Pillar 3 requirements in this area would lead to large additional costs and efforts.

47. *Which of the items related to NPLs mentioned above would likely lead to small and manageable reporting increase in reporting costs, and which would be more time-consuming and costly to disclose?*

No items would lead to small and manageable increase in reporting costs. Indeed, each item requires large additional costs and efforts, and the cost-benefit analysis cannot be in favor of additional reporting requirements, especially regarding the objective of EBA and EC to limit costs of compliance with supervisory reporting and disclosure requirements.

NB: for the record, the EBA report named “Study of the Cost of Compliance with Supervisory Reporting Requirements” sets out 25 recommendations to further improve the significant proportionality that already exists in the supervisory reporting. It also specifies that the combined effect of the identified recommendations could reduce the reporting costs faced by up to 15-24%.

48. *How should a balance be struck between larger data transparency and reporting costs? Would more data, resulting from targeted Pillar 3 changes, with a high degree of certainty add more value than costs to the market?*

We believe that additional P3 disclosures is not necessary and that the cost-benefit analysis cannot be in favor of additional reporting requirements.