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EU NPL Data Hub – Joint Paper

As three major European Credit Purchasers and Credit Servicers who are represented in the vast majority of Member States and who together employ ca. 18,000 persons in Europe alone; we are the signatories of this joint statement. Together, we cover 24 of the Member States.

One of the major benefits of specialised Credit Servicers is that we are able to assist the borrower with a tailored, long-term and holistic payment plan and more efficiently resolve his/her debt situation. We also have a longer time perspective than the Credit originator, because to us NPLs are not a distraction but the core of our business model and we have staffed our operations to manage a large number of NPLs over time. We operate under strict ethical provisions for treating borrowers fairly.

In the context of the latest European Commission Non-Performing Loans (NPLs) Action Plan[1], proposals for a European Data Hub for NPL transactions are being drawn up. We understand that wide-ranging transparency is being discussed, i.e., mandatory disclosures of both sales data (volume of the portfolio, price etc.) as well as post-sales data (mostly realisation data over time) to (all) other (potential) market participants. Please find herewith our joint observations on the initiative.

- **We welcome the development of an NPL secondary market**: We would like to underline from the outset that we support the development of harmonised EU rules regarding the secondary market including harmonised rules on consumer protection.
- **There is strong competition in the Credit Purchasing market**: We do not share the Commission's view regarding the lack of competition in the NPL market. On the contrary, we note that transactions and competition have increased significantly in recent years (please see Appendix).
- **Transparency is positive**: We agree that transparency and data quality are important elements overall for accurate NPL prices. We encourage initiatives on pre-defined data sets to be provided to potential investors in NPL sales processes as well as best practice sales processes to ensure the Originators/Sellers get the best possible prices for their portfolios.
- **However, commercially sensitive data should not be shared**: Our view is that Credit Purchasers should not be required to share either transactional or performance related data, such as sales and realisation data, valuation, performance, or data referring to workout strategies, in a future Data Hub for the following specific reasons:
  - **Releasing proprietary data would jeopardise Credit Purchasers' business models and discourage them from investing in NPL assets:** The principle of data sharing in this sense, however laudable as a general concept, would be harmful from a competitive perspective. As in any other industry where market participants do not share their proprietary data, investors do not want to, and should not be asked to, share sensitive information when they have spent years, or even decades, and significant sums to optimise valuations and processes to arrive at this point of sophistication.
  - **It would be contrary to antitrust principles**: The exchange of competitively sensitive information amongst competitors (such as pricing, margin, costs) would raise antitrust concerns as under basic antitrust rules each market participant must determine its commercial strategy independently and autonomously. Even if antitrust rules could possibly be overridden by legal disclosure obligations, we wish to point out that there

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0822, 16 December 2020

is a reason for antitrust restrictions and that is that in a free market economy, uncertainty about the market behaviour of competitors is one of the basic principles to ensure a competitive environment and to avoid artificial market distortion.

- **NPL transactions are complex and include many parameters**: Although standards per se are typically welcome, most NPL transactions are **not standardised,** and the Credit Purchaser's portfolio valuation combines both quantitative and qualitative elements. The data from one transaction cannot be directly used to forecast another without specific adjustments and/or the wider business context. All of the undersigned have made the experience that even seemingly comparable portfolios can lead to very different post-sale realisations.
- **It would mean important data privacy challenges**: The prerequisite for data sharing would be to anonymise the data before the transfer to the Data Hub. However, such anonymisation of personal data is difficult to achieve, especially considering the amounts of data, the number of data subjects and data points, the sensitivity of the information, and the potentially different techniques that would be used. Thus, there would be substantial risks involved for the data subjects, and costs for the parties responsible for the anonymisation.
- **There is a risk of market destabilisation**: Experienced Credit Purchasers know that to use anonymised data as a benchmark is dangerous and could only serve as a broad indication. In effect, an EU Data Hub might attract unsophisticated Credit Purchasers, thereby creating potential issues, e.g., if such investors purchase NPL portfolios at excessively high prices. This could, in turn, lead to increased pressure on Credit Servicers, and to inflated bid prices that could impact financial markets.
- **Market intervention is unwarranted**: An obligation on Credit Purchasers to disclose data to the market, where such data derives from private and confidential contracts (Sales Data) or even from business operations (Realisation Data), would mean a significant intervention into a market where there is no evidence of lack of competition, quite the contrary.
- **Confidentiality of private transactions and propriety information should prevail**. It is paramount to respect business transactions between private entities.
- **Credit Purchasers should not be discouraged from investing in new assets**: Data comes at a cost. Any obligation to share the data will disincentivise the Credit Purchaser from investing in potential new products, assets classes, or portfolios if the data then must be shared. All currently active and successful Credit Purchasers have not only paid the purchase prices for the NPL portfolios which they acquired, but in addition sometimes paid "R&D" costs at the same time when investing in a new product and then potentially realising that their assumptions were unfortunately incorrect. This is how a competitive market works when a market participant enters into a new field of business: They have to spend money in order to make money.
- **The administrative costs and burden would increase**: Sharing data would be both cumbersome and costly. Overall, the Commission argues that "any new measures should not decrease the incentives for, e.g., any purchasers to continue buying portfolios of debt". We would claim that the envisaged measures would unfortunately do just that. Depending on the product type and country, realisations on a portfolio can come as late as 15 years after purchase – the burden to report on one portfolio potentially for two decades would not be adequate or commercially viable under any circumstances. It becomes even less relevant when the problem it shall solve (lack of competition) is one that has not been objectively established.

We would like to recall the underlying goal of the NPL Action Plan, i.e., to promote the secondary market including all its participants. This means establishing an ecosystem in which fair and compliant Credit Institutions, Credit Purchasers and Credit Servicers can maintain viable business operations. If market participants value the confidentiality of their contractual arrangements higher than the potential advantages of a Data Hub, the market participants should be heard in this assessment. In the debate, the argument has been made that Credit Institutions should be allowed to **decide which approach is most efficient based on a costs vs. benefits analysis.** We believe that this approach is equally valid for Credit Purchasers. As stated by the Commission, the "benefits [of the Data Hub] should outweigh the costs".

A data sharing obligation on Credit Purchasers would negatively impact the business models of EU companies which are currently active in the secondary market. As a result, experienced Credit Purchasers who are also active in Servicing, and who have established strong consumer protection processes, could effectively be **instigated to leave the Purchasing side** and either become pure Servicers or leave the market altogether. This would not only be **contrary to the NPL Action Plan's objective but also to the Commission's ambition of building a stronger domestic market** and making Europe autonomous in strategic value chains, including the economic and financial system. If currently active EU Credit Purchasers and potentially even Servicers abandon their business, this could lead to a loss of employment across the EU and the risk that more non-EU specialised Credit Purchasers (using data provided by the EU Credit Purchasers) enter and dominate the market. It is neither in the interest of the regulator nor the internal market nor of the consumers that law-abiding EU companies which strive for a fair treatment of borrowers and embrace compliance be driven from the market. **In conclusion, we would urge the Commission to revisit the idea of imposing data sharing requirements on Credit Purchasers**.

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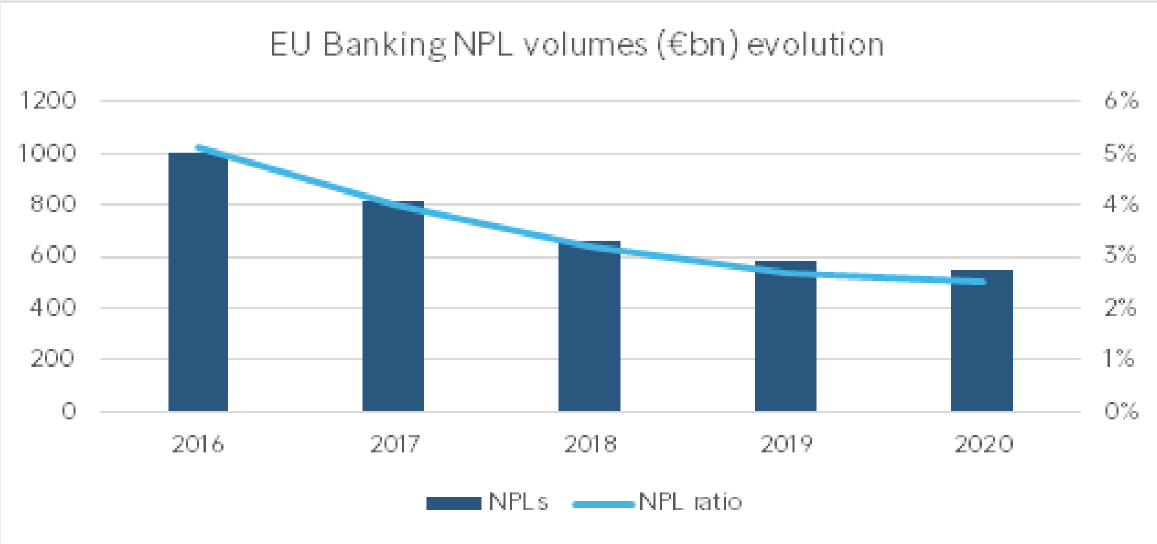
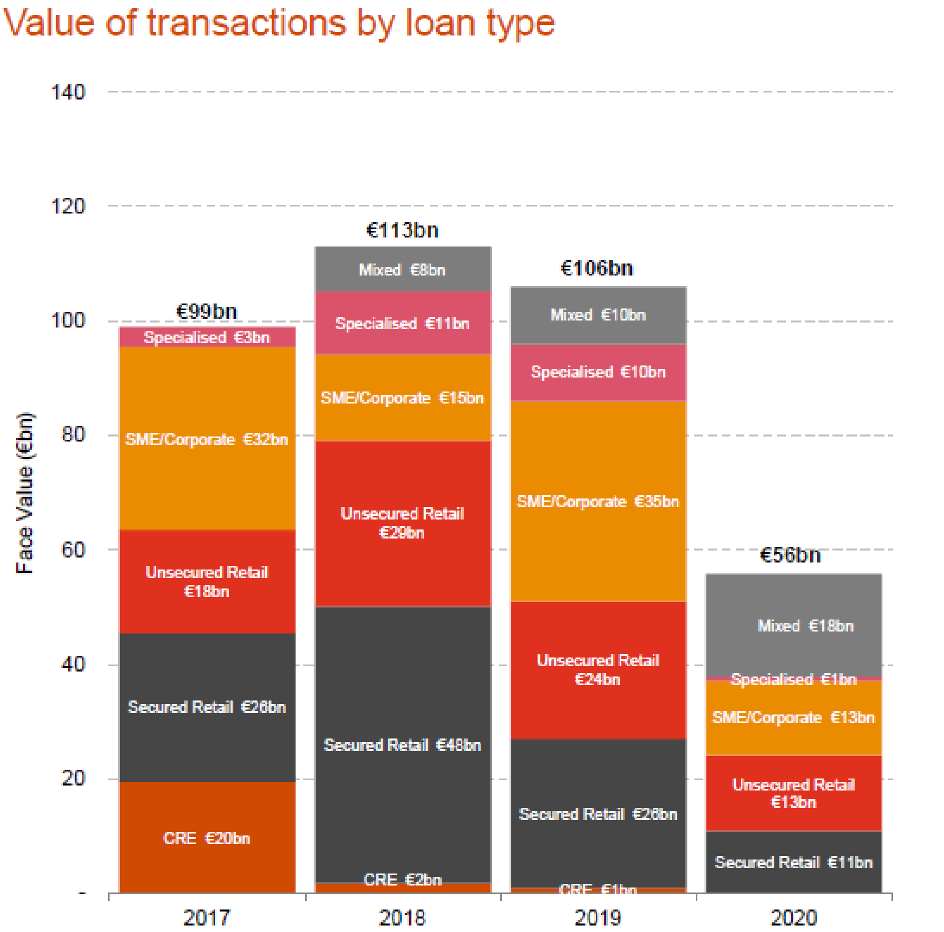
APPENDIX: NPL MARKET DEVELOPMENT AND COMPETITION

The EU NPL Banking volumes in steady decrease: Volumes have decreased by more than 40% over the last 4 years according to EBA statistics.



Source: EBA website.

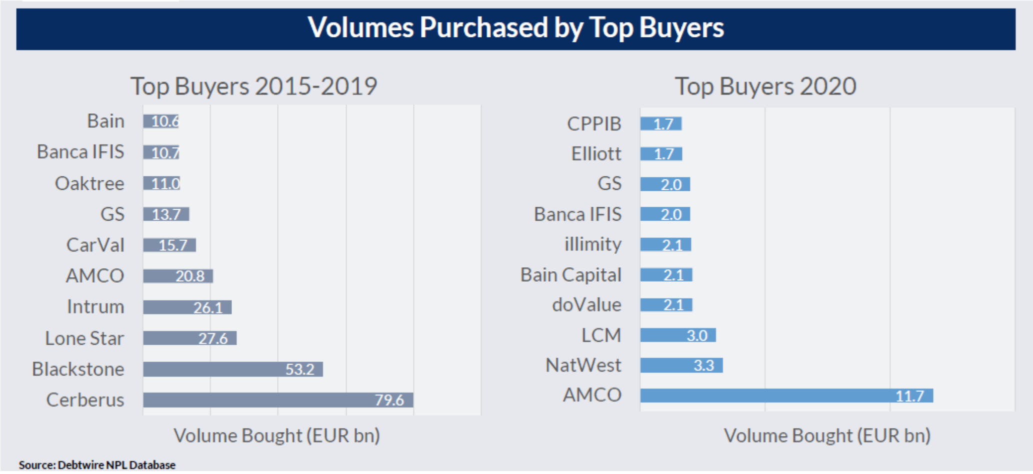
NPL sales activities increase: Even though NPL volumes have decreased, the market activity and transaction volumes have increased with the exception of the highly uncertain year of 2020.



Note: 'Specialised' includes certain structured and asset backed products, shipping, infrastructure, energy and aviation

Source: PWC Financial Services Lead Advisory, Portfolio Advisory Group, Market update Q4 2020, January 2021.

Healthy competition: Significant changes in the top 10 buyer list in 2020, vs 2015-2019 suggest that the market attracts many large investors.



Source: Debtwire European NPLs Report FY 20, published 22nd January 2021.