



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY,  
FINANCIAL SERVICES AND CAPITAL  
MARKETS UNION

Financial systems and crisis management EU/Euro area financial system

### **ESBG's response to the:**

#### **CONSULTATION DOCUMENT TARGETED CONSULTATION ON IMPROVING TRANSPARENCY AND EFFICIENCY IN SECONDARY MARKETS FOR NON-PERFORMING LOANS**

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The responses to this consultation paper will provide important guidance to the Commission when preparing, if considered appropriate, a formal Commission proposal.

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## CONSULTATION QUESTIONS

### 1. ESTABLISHING AN NPL DATA HUB AT EUROPEAN LEVEL

#### 1.1. Overarching principle and added value of an EU data hub

Policymakers in the EU have recently made renewed efforts to address the NPL problem. In this context, experts and policymakers agree is that there is a lack of transparency, and details of NPL reporting are rather inconsistent across Member States. Firstly, transparency is a prerequisite for the provision of sufficient information to potential buyers to close the bid-ask gap. Second, while comprehensive asset quality reviews have been performed for many banks, enhanced transparency is still needed for efficient policy making and supervision in order to gain better insights into the risks and severity of the NPL issue, both within particular institutions and the banking system as a whole.

The current data situation presents a real obstacle to the further development of NPL secondary markets, and thereby to a speedy response to the challenge of potentially rising NPLs at large. Part of the solution is therefore to improve the transparency of NPL portfolios in order to reduce asymmetric information and hence establish more efficient secondary markets for NPLs. When it comes to exploring the possible avenues to establish an EU framework for NPL data in view of fostering the development of secondary markets for distressed debt in Europe, the EU seems to be best placed to ensure the coordination of all relevant stakeholders.

To increase market transparency at granular level, a central data hub could be established at EU level. Such a hub would act as a data repository underpinning the NPL market. It would operate a comprehensive electronic database (updated regularly), assess the information and provide access to market participants. On the basis of the information delivered to the data hub, the latter could also perform specific analyses and provide analytical products.

Increased market transparency could help overcome a number of market failures. Standardisation and centralisation would be important principles. Centralised and standardised information in an EU-wide data hub with non-discriminatory access would help mitigate information asymmetries between banks willing to sell NPLs and potential investors. This would support more objective valuation and price setting mechanism of NPL portfolios and potentially increase the number of transactions/participants (lower market entry barriers). More confidence of investors in the data would inspire more accurate pricing that better reflects the underlying asset. This would also create lower risk premiums, as more investors enter the market.

Increased amounts of data (including post-trade information) at any level of obfuscation would aid both sellers and buyers in price discovery. The greater the granularity of the transaction information, the more informed buyers/sellers would be in the next transaction. The availability of a structured database at EU level would increase cross border comparisons and lower entry barriers. Buyers would be attracted to markets in which transactions are happening.

From the sellers' perspective, the EU data hub could be an important data source for NPL loan market benchmark parameters, which could contribute to banks' internal decision on whether to sell or to service. This would also allow sellers to benchmark their trades and

maybe allow better visibility into the underlying causes for discrepancies (quality of portfolio, etc.).

## **Questions:**

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

Overall, we do not support the statement that increase of market transparency will have desired impact on efficiency of NPL secondary markets. We believe that proposed data structure regarding the revised NPL templates is too wide, including a lot of non-essential data and that revised templates will make it more time consuming for investors to conduct on the NPLs market.

We would like to clearly indicate that we do not support the obligation to provide data on NPLs, especially not for low NPL banks (which have an NPL ratio lower than 5%), as they have no or little need to sell NPLs. It would make neither economic sense (costs will surpass the benefits), nor would it materially support the build-up of an NPL trading market (as low NPL banks would not contribute to it). Furthermore, it would be against any proportionality consideration with regards to NPL size.

An increase in the transparency of secondary markets could compromise the proper functioning of certain market agents and the additional information published might be sensitive information. With regard to the latter, it is important to note that there are many intangible parameters that have an impact on the price and purchase/sales volumes that cannot be collected in a Data Hub (for example, the accuracy and controls regarding the NPLs portfolio information, the need / motivation for entities to sell a certain amount of a portfolio of NPLs, etc). A partial analysis of the provided information could lead to infer wrong and undesirable conclusions. Furthermore, the disclosure of certain information may discourage the activity of some participants in tertiary markets.

We strongly believe in the fact that the obligation to provide data on NPLs does not consider the role of all involved market participants and thus may have a negative impact for some of them – like the templates provide huge administrative burdens on the seller side but do not provide any incentive for buyers.

An additional difficulty is related to the availability of information. Considering that information may not be promptly available in a digital form (i.e. information may only be available in a paper form) or it may not be available at all.

What must be pointed out is the fact that the lack of a single NPL market is evident, amongst other factors, due to the differences in national insolvency laws and in jurisdictional systems. NPL markets work very differently across EU countries. It is our perspective that creating a pan-EU data hub will not help NPL markets function any better. Our conclusion is also aligned with the latest in-debt analysis published<sup>1</sup> by the Economic Governance Support Unit of the European Parliament (March 2021), where it is stated “Data on past NPL transactions, however, may not be very useful to price new NPLs in the case of opaque borrowers, as is the case for many SMEs. Unfortunately, NPLs to SMEs especially are likely to be prevalent in the near future”.

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<sup>1</sup> [https://www.europarl.europa.eu/RegData/etudes/IDAN/2021/659648/IPOL\\_IDA\(2021\)659648\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2021/659648/IPOL_IDA(2021)659648_EN.pdf)

Furthermore, our members have extensive know-how, experience, and expertise in the workout segment, which is recognized in historically traceable successful dealing with NPL due to internal capacities derived both from the systematic approach (starting with Early Warning Signals and monitoring activities on the portfolio side and functioning workout / collection units) and using various stages in the NPL workout process (whereof NPL sales is only one of them and not the first option). Due to all the points mentioned above, they have a high level of operational readiness to deal with the increase in NPLs, when (and if) the need emerges. Accordingly, we firmly believe that banks – or at least low level NPL banks – should be given a discretion to decide on the use of the NPL data templates even in this revised format in case of a sale. As sellers of NPLs it is in the interest of banks to disclose relevant information in line with the characteristics of the product. Establishing a data hub with standardized data for all market participants could even reduce the liquidity and depth of the NPL secondary markets.

**T04.02.1 Asset quality: non-performing loans and advances by reference period**  
(EUR billions; percentages)

Source: ECB.

Notes: Significant institutions at the highest level of consolidation for which common reporting (COREP) and financial reporting (FINREP) are available. Specifically, there are 112 in the first and second quarter of 2020, 110 in the third quarter of 2020, 112 in the fourth quarter of 2020 and 114 in the first quarter of 2021. The number of entities per reference period reflects changes resulting from amendments to the list of SIs following assessments by ECB Banking Supervision, which generally occur on an annual basis, and mergers and acquisitions.

1) Loans and advances in the asset quality tables are displayed at gross carrying amount. In line with FINREP: i) held for trading exposures are excluded, ii) cash balances at central banks and other demand deposits are included.

([https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.supervisorybankingstatistics\\_first\\_quarter\\_2021\\_202107~26652c2b08.en.pdf](https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssm.supervisorybankingstatistics_first_quarter_2021_202107~26652c2b08.en.pdf))

The following solution will work for Retail but not for the corporate segment as there are deal-based transactions in general

As we understand the rationality of aiming to increase the market transparency by making available the NPL secondary market data, our proposal is to require the debt collections agencies and investors to start reporting the same set of data as the banks. For this purpose, we strongly recommend that the implementation solution has to be done without bringing additional complexity, investments and effort for all players, using existing regulatory and legal framework and IT infrastructure. Therefore

- in case this initiative will be continued, we are proposing to use the already existing Credit Bureaus EU infrastructure at least for the retail segment- solution which may fulfil the original objective and does not require new reporting requirements for the banks.

When assessing alternatives for sharing more NPL data, one feasible solution **for the retail segment** can be the use of already existing public and private Credit Bureaus (CB), which are well established in Europe, members of ACCIS, which might be **enlarged by allowing other players** (e.g. debt collection agencies) to report the repayment history once a loan is taken over in their portfolio management.

- ✓ The existing CB are already operating for decades and respect the local and EU specific legislation (e.g. banking laws, consumer protection, GDPR) and
- ✓ have proper IT infrastructure and reconciliation processes.

Share data are used by the participants online and off-line in their Underwriting and Collection IT systems, both at individual account and client level but also aggregated anonymized statistics are provided to the CB's participants.

**Equity and reciprocity principles** are followed within CB systems - participants who are sharing data may access only the same information type shared by other participants.

As example, by allowing debt collection agencies to report the repayment history at account level, the immediate benefits will be the following:

**Client perspective:** by having all the repayment data shared by the debt collection agencies to the Credit Bureau, clients will have single overview and better control of their financial situation and also ability to access for future loans in better conditions.

**Debt collection agencies perspective:** by sharing (for own portfolio) the same information as the banks, according to the standard reporting requirements of the Credit Bureau operating in the EU, will be able to access the same type of information available in the region where they operate. Credit risk internal models can be enhanced and also aggregated anonymized portfolio statistics will be available, as basis and indication for future debt selling offer.

**Banks & financial institutions perspective:** by having access to repayment behavior data of its former clients, after the debt selling is performed, banks will be able to improve their own credit risk internal rating models, enhance the underwriting rules and better estimate the selling price of future receivables (e.g. keep or sale models).

**Regulators' perspective:** can better control and steer the secondary NPL portfolio market, currently "hidden", not regulated as for the banking system. Portfolio performance can be fully assessed and used for defining regulatory requirements or portfolio steering indicators, via aggregated portfolio statistics provided by the Credit Bureau.

As NPL portfolio requires an extensive set of data to be shared and processes to be defined in order to comply with customer protection laws, GDPR, banking secrecy, IT security, data reconciliation etc. we find imperiously necessary to use existing infrastructures in place (e.g. CB reporting channels or current NPL regulatory data set without extension). Additionally, we are strongly suggesting to balance the effort vs benefit, as well as plan timeline for implementing this initiative.

If all relevant players will share the same set of information as the banks already do, at account level (without price transaction), we believe that CB platforms might assure the confidentiality of the debt selling transaction conditions, while serving the ultimate purpose of providing integrated client view data and making more transparent the portfolio quality and

characteristics, in a safe IT and regulatory environment, though positively influencing the NPL secondary market.

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

Overall, we don't see any need to enhance market transparency any further.

If anything, it would be useful to have at market participants' disposal a list of players with information on where they are acting from sellers, buyers, advisors, servicers, etc.

Nevertheless, we would like to draw your attention to a contradicting way of the European Commission (EC) in its policy measures:

The EC proposal to extensively review the Consumer Credit Directive (CCD) shows currently a clear priority to strengthen consumer protection by banning unsolicited credit sales: The review prohibits selling credit without consumers' explicit demand and approval. The same is true for certain national banking acts in some Member States (e.g. Austria) which prevent an efficient sales process in a similar manner: each single client has to explicitly agree to a sale of his loan.

In our understanding, this is in clear contradiction to the European Commission's NPL Action Plan and its intention to further develop secondary markets for distressed assets, which will allow banks to move NPLs off their balance sheets.

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

In addition to our response to question 1, we would like to mention here the already given information disclosure via Pillar 3, which has been reinforced recently with heightened requirements for high-level NPL entities. They do provide all the relevant information they have, to get the best price possible. EBA NPL templates will further increase standardization of NPL data. The risks of leaks of information largely outweighs the potential benefit of increased transparency. Even if data is anonymized, 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. Furthermore, establishing such centralized data hub would take a long time as very important questions are not even on the table and would have to be discussed, such as scope of participants, type of data, governance, mandatory or voluntary tool, investments, costs etc. Ultimately it will therefore depend on the structure that is finally adopted and the type of information requested.

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

One type of information that is currently not reported, although it could be an added value, is also 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. Recovery rates are in any case very sensitive for investors and depend on the strategy of each investor and of the servicer selected. So any number could be misleading because any other strategy or servicer would obtain a different result, and this is not due to the portfolio or the seller.



**Question 5:** In your opinion, how important are each of the potential benefits (listed below) of the NPL EU data hub for your organization? (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: ...						x

## 1.2. Scope of the data hub

The data hub could collect and store anonymized data on two main categories:

1. **NPL transactions** that have taken place; and
2. Post-trade information on the **recovery of assets**.

The data hub could provide such transaction details and post-trade information to market participants. This would allow these to gain insights into the actual pricing of assets and market liquidity on a systematic basis. As explained below (in sections 1.2.1 and 1.2.2), the collection and dissemination of actual workout performance data might be more delicate than that of data on NPL transactions that have taken place.

**Question 6:** On what information should the data hub focus?

Solely information on <b>transactions that have taken place</b> (e.g. transaction price, asset class, legal jurisdiction and structure of the agreement).	
Information on transactions and on <b>post-trade performance</b> (i.e. data on the recovery).	
The data hub should go beyond the two options above.	

### ***1.2.1. Data on NPL transactions***

The data hub would primarily focus on and collect post-trade transaction data. Such information on completed transactions with indications in terms of pricing would enable comparisons across different regions, segments, market participants, etc. The data on NPL transactions could be provided on (1) portfolio level; and/or (2) individual exposure level, when appropriate. The level of information should be geared towards assuaging concerns over data protection and/or commercially sensitive information.

In terms of the specific data, there would be a wide range of options for the data hub to cover. Much of this information (if not all) could be derived from the revised EBA NPL transaction templates, which would provide a standardised data format for NPL transactions. If providing all of this information contained in the templates to the data hub would be too elaborate, the data hub could resort to more basic information about the NPL trades (e.g. in trade summary document).



**Question 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					We believe the proposed templates are far too granular and that the benefits do not surpass the costs.
critical fields in the revised EBA NPL templates	x					
a subset of (critical) data fields in the revised EBA NPL templates		x				Very limited and generic information.
Other						

**Question 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?

The remaining amount of information in the revised data templates is still too high and contains significantly more information than the current market standard. Some of the information fields also go beyond the information that is relevant for portfolio valuation. Providing a very granular data could entail operational problems that might not outweigh the potential benefits. Please, also refer to answer in Q1. Data should be provided on portfolio level.

**Question 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				Especially the transaction price should not be disclosed to assure free

						market competition and avoid antitrust agreements.
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					

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

Existing barriers that prevent disclosing information to third parties without breaching data confidentiality rules. In order to protect data of a natural person's portfolio, such information will have to be encrypted. However, encrypting information on the collateral does defeat the purpose of sharing such information.

We believe that a specific analysis should be done to determine all the potential issues that can arise from the disclosure of some information before putting the Data Hub in place. It should be guaranteed that financial institutions will not incur in any confidentiality conflict. Price should not be disclosed as each transaction is different and any comparative analysis could be wrong.

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

No. See answers to questions from 7 to 10.

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

Beyond information on transactions, post-trade information provided by NPL buyers on recovery cash flow for the assets that they have purchased could deliver crucial insights into the market for NPLs. Publicly available data on recovery efficiency are key information that investors currently lack. In particular, information on recovery and expense cash flows would support the decision-making process of investors interested in similar assets and help them in determining the prices they are willing to pay, and help diminish uncertainty. The incentive for NPL buyers to submit this information *ex post* would mainly be the prospect that they would gain access on the other side, providing them with insights into recovery efficiency of comparable assets. This would provide a benchmark and would improve their estimations of fair prices/bids in future transactions.

The data hub could focus on collecting data on gross cash flows, i.e. recovery time, recovery vs. price (ideally with a breakdown by recovery strategy). Such data could be provided on (1) portfolio level; and/or (2) individual exposure level, when appropriate.

However, information on actual recovery cash flows and portfolio performance could be considered a more delicate matter, and more proprietary to the companies, when compared to information on the transactions themselves.

A distinction could be made between loans where a government guarantee or ownership stake is involved (e.g. the sale by a nationalised bank, asset management company under state ownership, or the assets being sold have some form of state guarantee (cf. GACS)) and other loans. One might consider that these sales have a direct economic impact on the finances of the government, higher transparency should lead to higher accountability, which would hopefully lead to higher proceeds. Hence, posting performance data might be considered a more valid idea for sales of loans with government involvement.

For transactions between private entities, a balance may need to be struck between supporting transparency and respecting private business transactions. Banks, servicers and investors could provide data on recovery rates at an aggregate level by asset class and country. Additional breakdown by industry sector, legal process or borrower characteristics could offer more value while still reducing the reporting burden significantly compared to loan level information.

### ***Questions 12ff:***

**Question 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 have not had to report any information on post-transaction performance. Recovery rates are in any case very sensitive for investors and depend on the strategy of each investor and of the servicer selected. So any number could be misleading because any other strategy or servicer would obtain a different result, and this is not due to the portfolio or the seller.

**Question 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?

Please refer to our answer to question 12.

**Question 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?

No answer/table not filled

	Valuable	Feasible
Progressive value of assets, aggregated by:		
<input type="checkbox"/> asset class		
<input type="checkbox"/> country/jurisdiction		
<input type="checkbox"/> industry/sector		
<input type="checkbox"/> borrower characteristics		
<input type="checkbox"/> legal process		

Recovery rates, aggregated by:		
<input type="checkbox"/> asset class		
<input type="checkbox"/> country/jurisdiction		
<input type="checkbox"/> industry/sector		
<input type="checkbox"/> borrower characteristics		
<input type="checkbox"/> legal process		
Recovery time, aggregated by:		
<input type="checkbox"/> asset class		
<input type="checkbox"/> country/jurisdiction		
<input type="checkbox"/> industry/sector		
<input type="checkbox"/> borrower characteristics		
<input type="checkbox"/> legal process		
Information about workout and recovery in the relevant legal reviews		
Other: ...		

**Question 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?

As stated above, we believe that the proposed templates are already far too granular and the benefits do not surpass the related costs.

**Question16:** 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?

The main reason would relate to the sensitivity of the information and the existing barriers that prevent disclosing information to third parties without breaching data confidentiality rules.

**Bearing in mind your answer to the previous question, how could these reasons against providing information to the hub be overcome?**

N.A.

**Question 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?

From a market perspective, all loans should be treated equally.

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

Securitisations have their own disclosures and report. If we are talking about NPLs, the information should be equal to other NPL's transactions. The main information should be if the transaction has been done by securitisation or direct sale.

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

There could be a wide range of assets covered by the data hub. In order to support the feasibility and efficiency of the concept, there could ideally be a number of focal areas. Initially, the data hub could focus on:

- *Those segments that may be better prepared to comply with the data requests.* For instance, this would be the case for securitisations, which have a lot of mandatory disclosure and may make new detailed disclosures on the database easier.<sup>2</sup>
- *Any sale involving an asset benefiting from any form of public support*, which needs to be disclosed.
- *Transaction types that are more frequent across the EU*, where more data are available (e.g. loans secured by commercial real estate).
- *In addition, the segments where most market activity / stress is likely would deserve more attention.*

Conversely, small secondary market transactions might prove difficult to track, and perhaps only if less sensitive data were required for the data hub, market participants would feel comfortable providing data. Data regarding sales could be provided when the purchase price exceeds a minimum threshold (e.g. EUR 1 million or equivalent), or for portfolios with a minimum number of borrowers, to avoid undue reporting costs on small exposures.

The scope might be expanded gradually, further supported by the roll-out of the revised EBA NPL transaction templates. In terms of structuring the data, they could be split into two main categories: loan-level and aggregate information. Standardised loan-level data could be provided in the form of standardised formats, cf. EBA NPL and/or ESMA NPL securitisation data templates.<sup>3</sup>

#### **Questions 19ff:**

**Question 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`				

<sup>2</sup> The [Securitisation Regulation \(EU\) 2017/2402](#) already stipulates a detailed disclosure framework for securitisations containing NPEs by leveraging the ESMA reporting templates.

<sup>3</sup> Existing post trade reporting obligation should be reviewed to avoid any additional burden for sellers already reporting post trade information (e.g. Bank of Italy reporting).

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: ...						

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

As already stated above, we believe that the proposed templates are already far too granular and the benefits do not surpass the related costs.

**Question 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: ...	x					

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

	Response
The minimum threshold in terms of purchase price	None.
The minimum threshold in terms of notional portfolio size	100 million
The minimum number of borrowers in a portfolio	1000

#### 1.4. Data protection

A crucial requirement is to fully comply with bank secrecy, general confidentiality and personal data protection requirements (cf. the General Data Protection Regulation

(GDPR)).<sup>4</sup> This could be addressed by ensuring relevant data aggregation and anonymisation within the data hub. For post-trade transaction data, the information about the traded NPL portfolios (underlying exposure information, relevant documentation, etc.) can be made available in an anonymised fashion in a standardised data format via the data hub to potential investors. This would be similar to existing regulatory initiatives (e.g. the ECB ABS loan level initiative).

To overcome concerns from stakeholders and to comply with legal requirements, the identity of the seller, buyer or borrower should not be disclosed by the data hub, nor the names, addresses or other confidential details of the buyers, sellers, borrowers or collaterals; only postcode level or small geographic region. It would also be possible to feed information to the data hub anonymously and for the hub output to be provided in aggregate form, albeit with a minimum level of granularity.

The data hub would also need to guarantee, by adequate data anonymisation and a proper data governance, that the information provided to third parties would only be used to promote the NPL secondary market and not to collect data on banks' balance sheets for other purposes (e.g. M&A processes). It would also need to be ensured that the data hub would not give way to antitrust issues.

Lastly, the data hub should take particular care when dealing with consumer NPLs. Close attention should be paid that the personal data and privacy of consumer borrowers is duly protected. Any sharing of post-transaction data in relation to consumer loans should be sufficiently high-level and anonymised to ensure that the consumer's privacy is duly protected. Personal data should not be processed as part of the EU data hub.

#### ***Questions 23ff:***

**Question 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?**

Some of these information might not be explicitly disclosed but it might be inferred, thus, triggering potential concerns on data protection. Please refer to our reply for question 10.

**Question 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?**

We do not agree. Especially in smaller portfolios / countries one can draw conclusions on client level from certain regional data or even jeopardize the successful restructuring of companies. 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.

**Question 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?**

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<sup>4</sup> The data would need to be anonymised in the sense of the GDPR. Recital 26 of the GDPR clarifies when data can be considered anonymous.



As already stated, data anonymization makes pricing of the collateral almost impossible to perform. Furthermore, potential leaks or identification are still possible despite data anonymization.

### 1.5. Responsible organisation

Another important issue pertains to the question on who should be responsible for the establishment and management of the data hub. In this respect, a number of avenues could be explored. Existing market infrastructure could perform this task, possibly in cooperation with existing industry-led initiatives. Alternatively, a new public entity could be established to take up this responsibility. Another option would be to have a new private entity to assume the role of the European data hub.

In the first instance, as outlined in its [action plan](#), the Commission would look at existing infrastructure and existing organisations that could take up these responsibilities. There are a number of such entities that would be able to do so. However, the establishment of a new piece of market infrastructure should not be ruled out. Based on the feedback received to this consultation, the Commission would consider the best way forward, including what policy measures would be needed. Among other elements, the Commission could consider a public tender procedure.

#### ***Questions 26ff:***

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

No answer / Table not filled.

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?**

ESBG does not consider the Data Hub as a positive development. Discussing important governance questions would take time, which is incompatible with the stated objective of the consultation.

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

N.A.

### 1.6. Sharing data with the hub

The data hub would be a multi-party cooperation that meets a common information need in a mutually beneficial way. A range of market participants would need to provide relevant information to the data hub. As outlined above, this information could pertain to transactions that have taken place and, potentially, on the post-trade performance of assets.

In return, these data providers would gain access to the pool of anonymised data and to the services offered by the data hub.

The aspect of stakeholders delivering/sharing data is crucial. many stakeholders would be induced to share data with the data hub by the inherent benefit of gaining privileged access to a valuable pool of data. Nevertheless, regulatory action might be warranted to enable the data hub to reach critical mass. In this context, an appropriate “carrot” and “stick” approach could support participation and thereby allow the hub to maximise its efficiency in delivering its financial market utility.

On the nature of participation, voluntary participation would be the least intrusive option. However, this might not guarantee sufficient degree of data provision, and mandatory approach might be necessary. Between the options of voluntary and mandatory reporting, a mixed approach could be considered, whereby a subset of critical data would need to be provided to the data hub. Disclosure of other relevant data could then still be done on a voluntary basis.

Data availability and the cost of the data collection process need to be duly considered. The cost for the collection of data for granular portfolios with small individual exposures and low expected recovery values (e.g. credit cards) needs to be balanced against the expected benefit. In order for the data hub to be an effective tool, benefits should generally outweigh the “costs”.

***Questions 28ff:***

**Question 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

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

No, information should be given on a voluntary basis, and it should only be provided if the information is very limited and it is agreed for all players to be compulsory. Existing reporting requirements for NPL seller do suffice in our view. We therefore see no need to create any additional obligation to share specific NPL data in general. With regard especially to the selling price or specific debt selling transactions clauses that should be not shared in any case.

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

Identify clearly the information to report (standard information, same definition for everyone, easy to report not to do any IT development etc.).

## 1.7. Data hub governance and services

The data hub would need to ensure robust data governance, effectively managing the availability, usability, integrity and security of the data in enterprise systems. A harmonised data definition and structure would be key for the data hub. One of the main objectives for the data hub would be to establish itself as a provider of valuable harmonised data on NPL markets that many market participants use. In this respect, it would be beneficial to strive towards creating a common data taxonomy (using as much as practically possible already existing common data taxonomies). This would support efficiency and effectiveness of all sorts of data exchanges, including across different jurisdictions.

In terms of utilising the data hub, the principle should be ‘usage by contributors’, ideally also applicable to non-financial institutions currently servicing NPLs post transaction. Access to the hub should be limited to banks/originators and NPE operators. It would be important to ensure that all stakeholders contribute to the database on equal terms, providing post-trade information that is considered essential. Only when agreeing to contribute, one could gain access.

On the other hand, an important objective for the data hub would be to stimulate new market participants to enter into the market. The data should therefore ideally find an acceptable way to make the information (at least partially) available to market entrants, even though they would not yet be in a position to contribute (a significant amount of) information to the data hub themselves.

As regards the provision of services by the data hub, it would be conceivable that certain fees would be needed to cover the hub’s relevant operating costs, whilst maintaining its overall not for profit business model.

The data hub could also be an NPL digital ecosystem between professionals and regulators. The data hub could provide a section dedicated to investors, where they can register their interest and investment preferences or highlight their investment experience, professional standard and available capital.

### *Questions 30ff:*

**Question 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.

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

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: ...	

N.A.

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

Bearing in mind your response to the question above, would you consider that special treatment would be appropriate for market entrants to gain partial access to the data hub?

N.A.

**Question 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?

N.A.

**Question 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?

N.A.

**Question 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?

We strongly oppose the creation of any new fees as the existing reporting requirements are already very costly.

## **1.8. Mobilising existing data sources**

A clear and important objective for the data hub would be to mobilise and re-use available (regulatory) NPL data much as much as possible. In this respect, it could be explored how the data hub could access and aggregate existing supervisory reporting and disclosures related to NPLs, and benchmarks for NPE monitoring metrics<sup>5</sup>. For aggregate data, the data hub should seek to connect with and leverage a number of data sources (see question 38 below).

**Question 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?

We know that Debtwire is recurrently asking about transactions, but we don't know what are they doing with information.

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

We aren't sure if the information would be useful as the goals are different.

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<sup>5</sup> Including, FINREP - [Commission Implementing Regulation \(EU\) No 680/2014](#); [EBA guidelines on disclosure of non-performing and forborne exposures \(EBA/GL/2018/10\)](#); [ITS on institutions' public disclosures of the information](#) referred to in Titles II and III of Part Eight of [Regulation \(EU\) No 575/2013](#); [EBA GL on management of non-performing and forborne exposures \(EBA/GL/2018/06\)](#); [ECB guidance on NPLs](#)

**Question 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, nonperforming exposures and forbearance						
<input type="checkbox"/> COREP supervisory reporting	x					
<input type="checkbox"/> FINREP supervisory reporting	x					
<input type="checkbox"/> Credit risk benchmarking exercise	x					

	1	2	3	4	5	No opinion
Judicial information:						
<input type="checkbox"/> efficiency data <sup>6</sup>	x					
<input type="checkbox"/> detailed timing of different in-court bankruptcy and foreclosure processes	x					
<input type="checkbox"/> judicial auction outcomes (number of auctions required by property type and region)	x					
<input type="checkbox"/> sales haircut vis-à-vis initial bank or court valuation (CTU)	x					
<input type="checkbox"/> relative frequency of main insolvency procedures and court driven restructuring measures	x					

	1	2	3	4	5	No opinion
Securitisations:						
<input type="checkbox"/> ECB ABS loan level initiative <sup>7</sup>	x					
<input type="checkbox"/> ESMA reporting for securitisations	x					
<input type="checkbox"/> 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):						
<input type="checkbox"/> Existing data pooling initiatives	x					

<sup>6</sup> Cf. the [2020 EBA benchmark study](#), which could become a recurrent exercise. Data could provide indications on time to resolution, cost of recovery and recovery rates by asset class, country and workout procedure.

<sup>7</sup> Data available via [European DataWarehouse](#).

	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:						
<input type="checkbox"/> the AnaCredit database	x					
<input type="checkbox"/> bank Pillar 3 disclosures	x					

## **2. TAILORING PILLAR 3 DISCLOSURE REQUIREMENTS**

### **2.1. General**

Pillar 3 of the Basel framework, as implemented in the EU by [Regulation \(EU\) 575/2013 \(CRR\)](#) and the [Directive 2013/36/EU \(CRD IV\)](#), aims at promoting market discipline by requiring public, structured, consistent and comparable disclosures. These disclosures provide market participants key figures and information relating to credit institutions' risk exposures and management policies.

Credit risk is a central part of the prudential supervision of credit institutions. It therefore features importantly in disclosures requirements in the banking sector. Article 442 of Regulation (EU) 575/2013 modified on disclosure of exposures to credit risk and dilution risk sets out a list of requirements as regards non-performing and forborne exposures. Article 434a of Regulation (EU) 575/2013 mandates the EBA to develop draft implementing technical standards to ensure access to sufficient comprehensive and comparable information by the means of uniform and standardised disclosures formats.

On this basis, the [Commission Implementing Regulation \(EU\) 2021/637 of 15 March 2021](#) provides for a series of new templates for disclosures on credit risk, credit quality of assets, performing and non-performing exposures and related provisions, maturity of exposures, changes in the stock of non-performing loans and advances, credit quality of forborne exposures, credit quality of performing and non-performing exposures by past due days, by geography, and by industry, collateral obtained by taking possession. In addition, large institutions having a gross NPL ratio above 5% will also have to disclose information on the net accumulated recoveries and cash flows related to all changes in the stock of non-performing loans and advances, the quality of forbearance, the collateral valuation and the valuation over time of the collateral recovered. The Commission Implementing Regulation (EU) 2021/637 is applicable from 28 June 2021<sup>8</sup>.

### **2.2. Pillar 3 disclosure and market efficiency**

Credit institutions are a key segment of the secondary markets. More granular information on the NPE strategies and the exposures of the credit institutions disclosed under Pillar 3 requirements could benefit the functioning of secondary markets. It would in particular enhance the transparency of credit institutions and would allow a detailed analysis by market participants of their individual situation.

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

No, information for Pillar 3 has different objectives and it falls within a global view. When a bank is selling portfolios it has to do a specific analysis of each portfolio since characteristics are different from the global portfolio of the bank.

Pillar 3 disclosures are in any case already very detailed and costly. As a series of additional templates has been introduced recently via the Commission Implementing Regulation (EU) 2021/637 of March 2021 we strongly believe no additional Pillar 3 disclosure is necessary.

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<sup>8</sup> Commission Implementing Regulation (EU) 2021/679 is largely consistent with the EBA guidelines on disclosure of non-performing and forborne exposures (EBA/GL/2018/10).



In our view, the Pillar 3 disclosure should not be seen as a main tool in improving the NPL secondary market, due to its availability on the websites of individual institutions, hence there is no centralized data collection which would allow any further analysis of the potential NPL market volume.

Therefore, we stand by the opinion that the currently existing disclosure requirement is sufficient, with appropriate differentiates between low-NPL and high-NPL institutions.

As for the disclosure of post-transactions, it is assumed that certain threshold on NPL volume purchase will be triggered for disclosure obligation, which could indicate the institution's NPL strategy, which shouldn't be public information. It could be detrimental to banks to disclose it, as it can modify borrowers or potential investors' decisions.

### 2.3. Targeted areas for more detailed disclosures

Credit institutions are required to disclose information on their NPEs. However, as the principal players of the loan market and as original owners of the loans turning nonperforming, they have a significant amount of data on NPLs, which could be leveraged.

In this regard, we could consider the expansion of Pillar 3 disclosure requirements in some specific areas.

Taking into consideration the existing disclosures requirements and the upcoming templates provided by the Commission Implementing Regulation (EU) 2021/637, credit institutions could disclose some further information, for example, on their recovery performance. This would provide very useful insight to the market and could support the estimations of potential investor and give them a more comprehensive benchmark to value assets.

Since the operational constraints to recover value from distressed assets are essential to consider, the new areas to include into the Pillar 3 disclosure framework could focus in particular on recovery cash flows and the costs associated to the recovery process.

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

In addition to the answer to question 39, the value added of supplementary disclosure would be insignificant, due to individual Pillar 3 data availability, high level of aggregation, as well as could bring potential lower clarity of existing Pillar 3 requirement. Information should be specific for portfolios.

#### **Question 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: ...	x					

## 2.4. Extension of the scope of disclosures

As of today, the Pillar 3 disclosure requirements are limited to credit institutions, and some important NPL-related disclosures requirements only apply to large institutions having significant amounts of NPLs on their balance sheets. Therefore, only a part of the market will provide an extensive and complete view of their non-performing exposures and their recovery (although the disclosure has been extended and improved for all credit institutions by the ITS on disclosures). In the context of the COVID-19 crisis, a broader scope for the NPL disclosures and more transparency for the market could help to tackle NPLs quickly and efficiently.

The extension of disclosures could also target some segments of the market where the transparency could be improved and where the market discipline is limited. Given that Pillar 3 disclosure requirements apply to credit institutions only, we could envisage the creation of new disclosure requirements for credit purchasers and/or credit servicers operating on secondary markets. Enhancing the transparency of the market participants would support the development of sound and efficient secondary markets.

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

As previously advocated, we oppose such proposal, since the implementation of such disclosure, potentially in contradiction with the proportionality principle, would bring additional burden and costs that surpass any supposed benefits.

**Question 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?**

In view of creating transparency on overall NPL secondary market, these disclosure requirements might bring additional light on recoveries of post-transaction NPLs, but still the costs would be too high in comparison to supposed benefits.

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

We believe that assigning an ID would lead to additional costs, while at the same time depending on the sale/purchase strategy could be volatile hence bring no information value added.

**Question 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**

The Commission is aware that providing more disclosures entails costs for the entities concerned. Therefore, the Commission is determined that reporting costs associated with such additional disclosures will stay manageable, and that the benefit of more disclosures to foster market transparency is greater than the costs and efforts that institutions have to cope with. However, it is worth to note in this regard that the costs of additional disclosures could be significantly reduced if these are consistent with existing supervisory reporting framework, under which banks report information to the competent authorities on a regular basis. Yet, it will be important to ensure that the additional data provided by institutions will not overlap with other requirements, in order to avoid unnecessary burden where the information is already available.

**Question 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 fact that CRR/EBA recently introduced new disclosure requirements on NPLs, as well as alignment with regulatory reporting templates (COREP and FINREP), additional metrics would bring significantly larger costs than benefits, given that new requirement diverges from the already implemented structure of disclosure, which recently suffered significant changes aiming efficiency.

**Question 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?**

Please refer to our answer to question 46.

**Question 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?

Please refer to our answer to question 46.