EC Consultation on Improving Transparency and Efficiency in Secondary Markets for Non-Performing Loans

September 2021

On behalf of the Association for Financial Markets in Europe ("AFME") and its members, we welcome the opportunity to comment on the Consultation on Improving Transparency and Efficiency in Secondary Markets for Non-Performing Loans (NPL), dated 16 June 2021. In this letter we set out our high level comments on the proposal for the European NPL Data Hub and on the proposals for Pillar III Disclosure Requirements.

1. Comments on establishing European NPL Data Hub.

Our members do not support the creation of NPL Data Hub as mandatory venues to exchange NPLs and are highly sceptical about any added value of such new infrastructure, for the following key reasons:

- Asymmetry of information will remain. This is because the NPLs secondary market exceeds the EU market and EU players. The NPLs EU Data Hub seems to be a partial solution as the majority of NPL buyers are outside the EU, they are not subject to EU rules, hence, they have no incentives or obligation to share post trade information.

- Data protection issues may arise. We are highly concerned that although the data would be provided at aggregated level to the data hub, there exist risks of cross-referencing this data and accessing information that should be protected.

- The burden and cost of collecting the data will ultimately fall on end users.

The creation on NPL platforms is based on an erroneous assumption that NPLs are commoditised assets, whereas in reality every NPL has distinct characteristics with individual clients of businesses in difficulties. Underlying conditions are highly atomised, varying significantly across different countries and transactions, by definition, need the buyer to devote time and resources to understand the challenges and assess realistic recovery expectations.

NPL platforms, as such Data Hub, could provide valuable services to banks but they should remain an option available to sellers not an obligation, and the seller should be free to decide what information they provide, acknowledging that this may affect the price achieved.

Furthermore, mechanisms already exist for NPL transactions, namely securitisation, whereby NPLs are bundled according to the risk they represent.

It is helpful to see that the Commission recognises that securitisations are already subject to NPL reporting under the EU Securitisation Regulation, using ESMA templates and therefore we would like

to emphases the need to avoid duplication and additional burdens for institutions and transactions already in-scope of onerous reporting under the EU Securitisation Regulation regime.

The public NPL securitisations are already required to report via an EU-authorised securitisation repository. Therefore, the suggestion for NPL securitisations to report essentially the same information to another platform such as NPL Data Hub, will create an unnecessary duplication of the reporting obligation and additional administrative burden.

We strongly believe that the securitisation reporting should continue to be done once and via the EU-authorised securitisation repositories as mandated under the EU Securitisation Regulation. The EU NPL Data Hub, if established, should simply include a cross-reference of where relevant NPL securitisation information is made available.

2. Comments on the Extension of CRR Pillar 3 disclosures to all CRR institutions as well as to non-CRR credit purchasers and credit servicers operating in secondary markets

The Commission is seeking views on what could be the proportionality criteria for such new disclosures, including whether relevant consideration should be the size and complexity of the credit purchaser (e.g., cross-border activities, NPL securitisations). The Commission has also noted that it will be important to ensure that additional data provided will not overlap with other requirements in order to avoid additional burden.

We do not see value in establishing additional Pillar 3 disclosures. 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. We also note that in relation to extending the scope to include recovery cash flows, the EBA insolvency paper from 2020[1] provides granular analysis of this, hence demonstrating that it is possible to obtain this information without amendment to pillar 3 disclosures. Hence, before requiring additional data, it should be analysed to what extent it is already possible to obtain this type of information.

The proportionality criteria should consider factors such as size and complexity of the credit purchaser, taking account of the fact that limiting the information by setting a size threshold, would make the information partial because data on small portfolios, and therefore data on small buyers, would be left out.

Once again, we emphases the existing reporting obligations, such as securitisation disclosures and urge the Commission to ensure that any additional disclosures that may be introduced in due course take that into account the requirements existing under the current EU rules.

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[1] EBA publishes Report on benchmarking of national insolvency frameworks across the EU | European Banking Authority (europa.eu)