

Council conclusions on Action plan to tackle non-performing loans in Europe

"The Council:

1. NOTES that the financial crisis and ensuing recessions, together with structural factors, sometimes accompanied by inadequate loan origination practices, have left the banks in some Member States with high ratios of non-performing loans (NPLs);
2. RECOGNISES that although in the majority of Member States high NPL ratios did not emerge in recent years, the negative effects of current high NPL ratios in a substantial number of Member States can pose risks of cross-border spill-overs in terms of the overall economy and financial system of the EU and alter market perceptions of the European banking sector as a whole, especially within the Banking Union;
3. STRESSES that while banks are primarily responsible for restructuring their business models and resolving their NPLs issues in a timely manner, further measures to address the existing stock of NPLs and to prevent the future emergence and accumulation of NPLs would be beneficial for the EU as a whole by contributing to enhanced growth and reducing financial fragmentation;
4. NOTES that, given their magnitude, the current high NPL ratios in some Member States may not decline at a satisfactory pace notwithstanding the context of economic recovery and WELCOMES the steps that have already been taken and significant progress made by certain concerned Member States and EU institutions and bodies to address this legacy issue and prevent its re-emergence; NOTES that supervisors have currently the ability to make use of specific tools, such as where appropriate, assessing incurred or likely losses through proper asset valuations; STRESSES that more efforts are needed to restore NPL ratios to sustainable lower levels and that incentives for all EU credit institutions to deal with NPLs pro-actively should be enhanced while at the same avoiding the disruptive effects of fire sales;
5. EMPHASIZES that EU post crisis regulatory reforms, including steps taken to establish the Banking Union, mark a change of system to protect taxpayers' money, ensure the preservation of financial stability in the euro area and the EU as a whole, and enhance market mechanisms in the banking sector, to which resolution tools and in particular bail-in are essential. Dealing with the issue of NPLs, which may entail lifting impediments to further restructuring in the banking sector, should be consistent with these rules, including Directive 2014/59/EU (BRRD) and State Aid rules;
6. STRESSES that a comprehensive approach combining a mix of complementing policy actions, at national level and at the European level where appropriate, is the most effective way to address the existing stocks of NPLs as well as the emergence and accumulation of new NPLs on bank balance sheets, in particular in all of the four following policy areas: (i) supervision, (ii) structural reforms of insolvency and debt recovery frameworks, (iii) development of secondary markets for distressed assets, and (iv) fostering restructuring of the banking system;
7. WELCOMES therefore the report on NPLs^[1] produced by the Subgroup of the Financial Services Committee (NPL Report) and CALLS on Member States, EU institutions, bodies and agencies to take work forward on policy options included therein, on the basis of these Council conclusions;
8. In this context, INVITES in particular:

the Commission to issue, in summer 2017, an interpretation of existing supervisory powers laid down in EU legislation with a view to clarifying their usability as regards banks' provisioning policies for NPLs under Article 16 of Council Regulation (EU) No 1024/2013 and under Article 104 of Directive 2013/36/EU (CRD IV); following the Commission's interpretation, the Council will, if appropriate and following a full pros and cons analysis, consider an amendment to Article 104 of the CRD IV in the context of the ongoing review of the CRR/CRD IV, in line with policy options set out in the NPL Report;

the Commission to consider, within the framework of the ongoing review of the CRR/CRD IV, prudential backstops addressing potential under-provisioning which would apply to newly originated loans; these statutory backstops could take the shape of

compulsory prudential deductions from own funds of NPL, following an assessment of the most appropriate calibrations in line with international practice;

the ECB Banking Supervision, together with national competent authorities within the Banking Union, to implement, by the end of 2018, with regard to less significant institutions in the Banking Union a guidance similar to "Guidance to banks on Non-Performing Loans" issued by the Single Supervisory Mechanism (SSM Guidance) for significant institutions, with targeted adaptations where appropriate;

the European Banking Authority (EBA) to issue, by summer 2018, general guidelines on NPL management, consistent with the afore mentioned Guidance, with an extended scope applying to all banks in the entire EU;

the EBA to issue, by summer 2018, detailed guidelines on banks' loan origination, monitoring and internal governance which could in particular address issues such as transparency and borrower affordability assessment; these guidelines should leverage on existing national experiences where relevant;

the European Systemic Risk Board to develop, by the end of 2018, macro-prudential approaches to prevent the emergence of system-wide NPL problems, while taking due consideration of procyclical effects of measures addressing NPLs' stocks and potential effects on financial stability;

the EBA, in consultation with the ESMA, and competent authorities to implement, by the end of 2018, enhanced disclosure requirements on asset quality and non-performing loans to all banks;

the EBA to issue, by the end of 2017, guidelines for banks on loan tapes monitoring, specifying minimal detailed information required from banks on their credit exposures in the banking book;

the EBA, the ECB and the Commission, to propose by the end of 2017, initiatives to strengthen the data infrastructure with uniform and standardised data for NPLs and consider the setting-up of NPL transaction platforms in order to stimulate the development of this secondary market;

the Commission to develop, by the end of 2017, in cooperation with all relevant institutions and bodies and taking into account successful national experiences so far, a "blueprint" for the potential set-up of national asset management companies (AMCs), which would set out common principles for the relevant asset and participation perimeters, asset-size thresholds, asset valuation rules, appropriate capital structures, the governance and operational features, both private and public; it should also clarify the permissible design, consistent with the EU legislative framework, including Directive 2014/59/EU (BRRD) and Regulation (EU) No 806/2014 (SRMR) and State Aid rules, for asset relief measures and the use of AMCs;

the Commission to develop, by summer 2018, a European approach to foster the development of secondary markets for NPLs, in particular to remove impediments to the transfer of NPLs by banks to non-banks and to their ownership by non-banks, while safeguarding consumers' rights, as well as to simplify and potentially harmonise the licensing requirements for third-party loan servicers and to take legislative initiative in this respect, as appropriate;

the Commission to publish, before the end of 2017, the results of the benchmarking exercise on the efficiency of national loan enforcement (including insolvency) regimes from a bank creditor perspective, providing comparable metrics, as precise as possible, for recovery rates, recovery times and recovery costs across Member States, and to further develop the focus on insolvency issues in the European Semester, taking into account on-going reforms;

Member States, to consider, while building closely upon the benchmarking exercise, by the end of 2018 to carry out dedicated peer-reviews on insolvency regimes across the EU. acknowledging that legal systems and insolvency frameworks differ widely between Member States;

the Commission to further analyse the possibility of enhancing the protection of secured creditors;

9. AGREES to revert to this issue regularly and initially after six months, in order to take stock of the evolution of NPLs in Europe, the restructuring of banking sectors in this context and the development of secondary markets for NPL transactions, to assess the progress made on the basis of a stock-take from the Commission, and to co-ordinate the communication on NPLs in Europe."

[1] doc. 9854/17