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FBF RESPONSE TO THE EBA DISCUSSION PAPER
“REVIEW OF THE NPL TRANSACTION DATA TEMPLATES”

I- General comment

The French Banking Federation (FBF) represents the interests of the banking industry in France. Its membership is composed of all credit institutions authorised as banks and doing business in France, i.e. more than 340 commercial, cooperative and mutual banks. FBF member banks have more than 38,000 permanent branches in France. They employ 340,000 people in France and around the world and serve 48 million customers.

The FBF welcomes the opportunity to respond to the Discussion Paper EBA/DP/2021/02 on the review of the NPL transaction data templates.

Within the context of the European Commission’s action plan to tackle NPLs in the aftermath of the COVID-19 pandemic, the Discussion Paper (DP) proposes several changes to the existing templates such as notably restructuring of the data categories, reduction of data fields, categorisation of the data fields as critical and non-critical. While we appreciate the reduction of total data fields from 462 in the existing templates to 230 and the reduction of the number of critical cells, we still have the following major concerns.

- We believe that the number of data fields remains too high as regards to the need expressed by investors and the regulatory reporting requirements, or disclosures requested on that matter. Therefore, we advocate to exclude some data fields from the suggested list proposed by the DP as some of them are not requested by investors or would not contribute to the expected simplification of the template. Thus, data fields previously considered as “non-critical” data should not be reclassified as “critical” data.
- Mandatory templates could discourage transactions through excessive administrative burden or significant associated costs. Moreover, it could create an unlevel playing field with non-banking market players not subject to the same constraints. Therefore, such an option should be disregarded. NPL templates should define core information that should be provided
- It is of utmost importance that data fields presented in the data dictionary and their definitions are aligned with existing regulatory definitions and data already required for reporting purposes to avoid overlaps and increased reporting burden.
- The question of proportionality is not so much a question of defining thresholds by loan amounts and volume or type of buyers as it is a question of the number of required data fields and the number of appropriate data to be provided to ensure appropriate valuation of the NPL transactions. Therefore, focus should be put on a common minimum set of necessary data, no less but no more, that are applicable for all transactions regardless of the value and complexity of the NPL transactions.

Our detailed feedback is provided below within our responses to the EBA discussion paper.

II- Comments on the consultation

Scope and structure

Question 1.

Do you agree with the proposed data structure and the relationship between templates? If not, please provide explanation.

We agree with the proposed scope and the proposed data structure.

Question 2.

Do you agree with the deletion of data categories 'NPL portfolio' and 'Swap'? If not, please provide explanation.

We agree with the deletion of data categories NPL Portfolio and Swap.

Template 1. Counterparty

Question 3.

Do you think the suggested list of data fields capture all the relevant information on the counterparty needed for NPL valuation and financial due diligence? If not, please indicate which other data fields should be included and provide explanation for this.

While we agree that relevant information on the counterparty is adequately captured, we believe that the number of "critical" data fields could be reduced as explained in question 4.. It should be noted that most of the fields are not applicable for Unsecured Consumer.

Question 4.

Do you think any specific data fields should be excluded from the template? If yes, please specify the data fields and give explanation to your answer.

We believe that the following "critical" data fields should be excluded from the template, notably for the reasons mentioned and as not required by investors on NPLs' transactions.

- *Cross Default in Counterparty Group (1,02), Cross Collateralisation in Counterparty Group (1,03), Cross Default for Counterparty (1,44), Cross Collateralisation for Counterparty (1,45): the information is deemed too complex to be delivered in a template.*
- *Annual Income (1,09); Currency of Annual Income (1,10); Income Self-Certified (1,12); Employment Status (1,12): the information might not be updated for NPLs, or it could be collected from external sources.*
- *Internal Credit Rating at Origination (1,3)*
- *External Credit Rating at Origination (1,14); Source of External Credit Rating at Origination (1,15); External Credit Scoring at Origination (1,16); Source of External Credit Scoring at Origination (1,17); Current External Credit Rating (1,21); Source of Current External Credit Rating (1,22); Current External Credit Scoring (1,19); Source of Current External Credit Scoring (1,20); the information might not be available and is considered as not necessary for assessing credit quality of the counterparty.*
- *Basis of Financial Statements (1,29); Financial Statements Type (1,30); Date of Latest Annual Financial Statements (1,31); Currency of Financial Statements (1,32); Fixed*

Assets (1,33); Current Assets (1,34); Cash and Cash Equivalent Items (1,36); Total Assets (1,37); Total Liabilities (1,38); Total Debt (1,39); Annual Revenue (1,41); Annual EBIT (1,42); Financials Audited (1,43); : the information is available in the financial statements.

- *Market Capitalisation (1,40):* it would be more appropriate to collect the information from external sources.
- *Proof of Claim Filed by the seller (1,54); Date of Obtaining Order for Possession (1,58);*

Besides, the following data fields should not be considered as “critical”:

- *“Eligibility for deposit to offset” (1,48)* was considered as “important”, not as “critical” in the previous NPL templates. It is neither a regulatory requirement nor a critical field.
- In the case of unsecured NPLs (under litigation):
 - *Cross Collateralisation for Counterparty (1,45)*
 - *Distribution made to the Seller (1,55)*
 - *Jurisdiction of Court (4,47)*
 - *Stage Reached in Insolvency/Restructuring procedure (1,53)*

Question 5.

Do you agree that data fields on current external and internal credit scores and current external and internal credit scores at origination should be included in the template (for both private individual and corporate counterparties)?

We believe that the following data fields should be excluded from the template as not required by investors on NPL transactions.

- Internal Credit Rating at Origination (1,13);
- External Credit Rating at Origination (1,14);
- Source of External Credit Rating at Origination (1,15);
- External Credit Scoring at Origination (1,16);
- Source of External Credit Scoring at Origination (1,17);
- Current Internal Credit Rating” (1,18);
- Current External Credit Rating (1,19);
- Source of Current External Credit Rating (1,22);
- Current External Credit Scoring (1,21)
- Source of Current External Credit Scoring (1,20)

Question 6.

Do you agree that data fields on corporate’s latest available financial statement amounts should be included in the template?

We do not believe that data fields on corporate’s latest available financial statement amounts should be included as the investors have to analyse the financial statements as a whole anyway and this analysis is part of their due diligence.

Question 7.

Do you agree that data fields related to corporate counterparties’ assets and liabilities, market capitalisation should be included in the template?

We do not believe that data fields related to market capitalisation are a relevant information as it does not contribute to assess the borrowing capacity of the entity. Therefore, this data field should not be required.

Template 2. Relationship

Question 8.

Do you agree with the proposed Template 2 of Annex I? If not, please provide explanation to your answer.

We do not oppose with the proposed Template 2 as these fields are or will become mandatory as per reporting requirements.

The field "Lease Identifier" (2,03) could be merged with the field "Counterparty Identifier" (2,00), modifying the field description to allow to have lessee ID.

Template 3: Financial instrument

Question 9.

Do you agree with the inclusion of the data fields related to interest rates and other information as per contractual agreement for the valuation and financial due diligence of NPLs, especially when they are not more than 90 days past due? Please provide data field- specific explanation to your answer.

We believe that the following data fields should be excluded from the templates as neither mandatory as per reporting requirements nor requested by investors in NPL transactions:

- Governing Law of Loan Agreement (3,05)
- Final Bullet Repayment (3,08)
- Accrued Interest Balance (Off book) (3,13)
- Legal Balance (3,14)
- Accounting stages of Asset Quality (3,15)
- Loan Commitment (3,16)
- Current Interest Rate (3,17)
- Current Interest Rate Type (3,18)
- Description of Current Interest Rate Type (3,19)
- Current Interest Base Rate (3,20)
- Current Interest Margin (3,21)
- Current Interest Rate Reference (3,22)
- Start Date of Interest Only Period (3,23)
- End Date of Interest Only Period (3,24)
- Start Date of Current Fixed Interest Period (3,25)
- End Date of Current Fixed Interest Period (3,26)
- Type of Reversion Interest Rate (3,27)
- Current Reversion Interest Rate (3,28)
- Interest Cap Rate (3,29)
- Interest Floor Rate (3,30)
- Next Principal Scheduled Repayment Amount (3,33)
- Next Interest Scheduled Repayment Amount (3,34)
- Next Principal Scheduled Repayment Date (3,35)
- Next Interest Scheduled Repayment Date (3,36)
- Interest Payment Frequency (3,37)
- Principal Payment Frequency (3,38)
- Time in Past-Due (3,41)
- Number of Past-Due Events (3,42)
- Balance at default (3,45)
- Internal Credit Rating at Origination (3,50)

- External Credit Rating at Origination (3,51)
- Source of External Credit Rating at Origination (3,52)
- Current Internal Credit Rating (3,53)
- Current External Credit Rating (3,54)
- Source of Current External Credit Rating (3,55)
- Specialised Product (3,56)
- Start Date of Lease (3,62)
- End Date of Lease (3,63)
- Lease Break Option (3,64)
- Type of Lease Break Option (3,65)
- Currency of Lease (3,66)
- Type of Lease (3,67)

Question 10.

Do you agree with the inclusion of the data fields related to forbearance measures for the valuation and financial due diligence of NPLs?

We believe that the following data fields should be excluded from the templates as neither mandatory as per reporting requirements nor requested by investors in NPL transactions:

- Type of Forbearance (3,68)
- Principal Forgiveness (3,69)
- Date of Principal Forgiveness (3,70)
- Start Date of Forbearance (3,71)
- End Date of Forbearance (3,72)
- Repayment Amount Under Forbearance (3,73)
- Repayment Frequency Under Forbearance (3,74)
- Interest Rate Under Forbearance (3,75)
- Clause to Stop Forbearance (3,76)
- Description of the Forbearance Clause (3,77)

Question 11.

Do you think the suggested list of data fields capture all relevant information on financial instrument needed for NPL valuation and financial due diligence? If not, please indicate which other data fields should be included and provide explanation for this.

While most of data fields are relevant to capture information on financial instrument, we believe that some of them should be excluded from the template as detailed in question 12.

Question 12.

Do you think any specific data fields should be excluded from the template? If yes, please specify the data fields and give explanation to your answer.

We believe that the template should only contain the data fields that are essential for valuation and that are commonly requested by investors in NPLs transactions or mandatory as per reporting requirements. Therefore, we recommend excluding from the template the data fields listed in questions 9 and 10.

Question 13.

Do you agree with the data fields related to lease? Please provide data field-specific explanation to your answer.

While these data fields are reasonable, we do not agree with their classification as critical.

Template 4: Collateral and enforcement**Question 14.**

Do you think the suggested list of data fields capture all relevant information on collateral needed for NPL valuation and financial due diligence? If not, please indicate which other data fields should be included and provide explanation for this.

While we consider that most of all relevant information on collateral needed for NPL valuation is adequately captured, we believe that the number of “critical” fields can be further reduced as detailed in question 15.

Question 15.

Do you think any specific data fields should be excluded from the template? If yes, please specify the data fields and give explanation to your answer.

The following data fields should be excluded from the template as they are neither mandatory as per reporting requirements nor requested by investors.

- Register of Deeds Number (4,06)
- Type of Occupancy (4,08)
- Condition of Property (4,09)
- Year of Construction (4,15)
- Year of Refurbishment (4,16)
- Number of Lettable Units (4,18)
- Number of Units Vacant (4,19)
- Number of Units Occupied (4,20)
- Land Area (M2) (4,21)
- Number of Car Parking Spaces (4,22)
- Current Annual Passing Rent (4,29)
- Amount of VAT Payable (4,30)
- Percentage complete (4,32)
- Value of Energy Performance Certificate (4,33)
- Enforcement Status Third Parties (4,35)
- Latest Residual Value (4,38)
- Date of the Latest Residual Valuation (4,39)
- Estimated Useful Life (4,40)
- Year of Manufacture (4,41)
- Manufacturer of Non-Property Collateral (4,42)
- Name or Model of Non-Property Collateral (4,43)
- Engine Size (4,44)
- Collateral Insurance (4,45)
- Collateral Insurance Coverage Amount (4,46)
- Costs at End of Sale (4,58)
- Net Sale Proceeds (4,59)
- Sold Date (4,61)
- Amount of Outstanding Liabilities (4,68)

Question 16.

Do you agree with the data fields on the characteristics of non-property collateral? Please provide data field-specific explanation to your answer.

The data fields “*Manufacturer of Non-Property Collateral*” (4,42) and “*Name or Model of Non-Property Collateral*”(4,43) should be excluded from the templates as they are not requested by investors thus could not be considered as “critical”.

Question 17.

Do you agree with the data fields related to the enforcement of collateral? Please provide data field-specific explanation to your answer.

The following fields should be required as requested by investors.

- Jurisdiction of Court (4,47)
- Currency of Enforcement (4,48)
- Indicator of Enforcement (4,49)
- Court Auction identifier (4,51)
- Court Appraisal Amount (4,52)
- Date of Court Appraisal (4,53)
- Next Auction Date (4,62)
- Court Auction Reserve Price for Next Auction (4,63)
- Last Auction Date (4,64)
- Court Auction Reserve Price for Last Auction (4,65)
- Number of Failed Auctions (4,66)
- Indicator of Receivership (4,67)

It should be noted that the following fields are operationally burdensome to provide.

- Enforcement Description (4,50): manual verification needed
- Current Market Status On Market Price: (4,54): manual verification needed
- Sale Agreed Price (4,56): manual verification needed
- Gross Sale Proceeds (4,57) : manual verification needed
- Collateral Repossessed Date (4,60): manual verification needed

Template 5: Collection and repayment**Question 18.**

Do you agree with the proposed Template 5 of Annex I for NPL valuation and financial due diligence? Please provide data field-specific explanation to your answer.

The following fields should not be included in the template as they are neither mandatory as per reporting requirements nor requested by investors.

- Contract Identifier (5,00)
- Instrument Identifier (5,01)
- Legal Entity Identifier of the Agent (5,04);
- Costs Accrued (5,06)
- Principal Forgiveness (5,07)
- Repayment Plan Description (5,09)
- Total Repayment Schedule (5,10)
- Principal Repayment Schedule (5,11)
- Interest Repayment Schedule (5,12)

- History of Legal Unpaid Balances (5,13)
- History of Past-Due Balances (5,14)
- History of Repayments - Not From Asset Sales (5,16)
- History of Repayments - From Asset Sales (5,17)

Data dictionary

Question 19.

Do you agree with description of data fields presented in data dictionary?

We believe it is of utmost importance that the data fields presented in data dictionary and their definition should be aligned with existing regulatory definitions and data already required for reporting purposes. This will ensure data quality and avoid undue additional reporting costs to collect data.

More specifically, we would like to stress the following

- The definition of "Borrower Group" should be defined exactly in the same way as a "group of related clients" as per in Article 4(1)(39) of Regulation (EU) No 575/2013 (CRR) (CRR).
- the definition of "Default" should be strictly aligned with Article 178 of Regulation (EU) No 575/2013 (CRR) and accompanying EBA's Guidelines on the application of the definition of default (CRR).

Question 20.

Do you agree with criticality (and non-criticality) of data fields presented in data dictionary? If not, please provide suggestions and explanations related to specific data fields.

We consider that 127 data fields out the 230 data fields listed by the EBA are not in reality required and needed by the investors in a NPL portfolio transaction as experienced by business representatives interacting on a day-to-day basis with NPL investors.

Moreover, some fields might be available to the banks, but banks would rather not share them with potential investors because it would bias the formation of the bid price (typically, data that give an indication on the internal valuation of the NPL by the bank).

Accordingly, we urge excluding the following fields related to latest valuation of collateral from the templates as they would distort fair competition:

- Currency of collateral (4,23)
- Latest Valuation Amount (4,24)
- Date of Latest Valuation (4,25)
- Internal / External Latest Valuation (4,26)
- Type of Latest Valuation (4,27)
- Latest Estimated Rental Value (4,28)

Question 21.

Do you agree with confidentiality aspects of data fields? If not, please provide explanation.

Generally speaking, data raising confidentiality issues should not be required, such as data protected by banking secrecy, data protected by confidentiality undertakings or data related to internal credit scoring.

Question 22.

Do you agree with excluding no data options for data fields? If not, please provide suggestions and explanations related to specific data fields.

In a context of NPL templates becoming mandatory, it would be inappropriate to exclude a “no data” option, as in some circumstances, the information is not available or not applicable and may be missing.

Proportionality

Question 23.

*Please provide your views on how proportionality considerations **regarding the size of the exposures or portfolios** being sold should be incorporated in the implementation of NPL data templates.*

In our views, the question of proportionality is not so much a question of defining thresholds by amounts, volume or size of portfolios or type of buyers, as it is a question of the number of required data fields and the number of appropriate data to be provided to ensure appropriate valuation of the NPL transactions.

Considering that out of the 230 data fields listed by the EBA, 127 are not in reality required by the investors in a NPL portfolio deal, the proportionality considerations should be based on the common minimum set of necessary data, no less but no more, that are applicable for all transactions regardless of the value and complexity of the NPL transactions. As mentioned in our responses to the above questions of the EBA discussion paper, the NPL templates could be improved and streamlined by selecting relevant data fields to provide core information to be exchanged between buyers and sellers of NPLs.

In other words, we believe that focus should be put on core information, i.e., data fields that are essential for the NPL transactions and therefore necessarily included in mandatory templates, if templates were to be mandatory.

Core information could be based on i) the asset classes and the relevance of the data, ii) whether the data are critical vs non-critical, and iii) whether the information is publicly available to the investors, in this case the seller should not be obliged to provide the information.

Question 24.

*Should there be **a threshold (e.g. in monetary terms)** for the application of the proportionality principle? If yes, then how should this be defined?*

We are not convinced by using thresholds in monetary terms because this may introduce a bias regarding the size of portfolios where banks may be tempted to use the size of their portfolio to minimize the information they need to produce. Proportionality is not such a question of the volume of the single loans than number of data to be provided and the relevance of these data as explained in question 23.

Question 25.

Do you agree that the proposed approach takes into account, in an adequate way, the proportionality principle? If not, which additional elements should be considered?

Please refer to question 23.

Asset classes

Question 26.

Please provide your views on the asset classes covered and whether any specific data fields, other than already foreseen, should be included in the templates for ensure full coverage of certain asset classes.

No comments

Question 27.

In your view, is the structure and coverage of the templates adequate for both portfolio transactions and transactions where an individual exposure is traded? Please explain your answer.

No comments

Question 28.

Please add any additional comments, remarks or observations you may wish to include in your feedback to the discussion paper.

No comments