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SPECIALISED CONSUMER CREDIT PROVIDERS IN EUROPE

**European Commission**

**Brussels, 27 October 2017**

*Re: Developments of secondary markets for non-performing loans and distressed assets and protection of secured creditors from borrowers' default*

Dear Sir/Madam,

We take note of the European Commission's objective to facilitate the reduction of Non-Performing Loans (NPLs) in banks' balance sheets. We understand the background of this initiative and support the ongoing work in this field. In this context, we welcome the European Commission's workstreams on the development of secondary markets for non-performing loans and distressed assets as well as the improvement of the protection of secured creditors from borrowers' default.

Eurofinas agrees that a high-stock of NPLs has microprudential, macroprudential, financial stability and legal implications. Against this background, we believe it is important to address the causes of non-performing exposures and not to restrict action to consequences. As pointed out by the European Systemic Risk Board in its July 2017 report on the resolution of NPLs in Europe, NPL ratios differ significantly across jurisdictions as well as across banks:

- **The NPL ratio is highly dispersed across EU countries**, ranging from 1% to circa 50%.
- **NPL ratios are the highest in medium-sized banks**. Larger and smaller institutions have been able to contain the growth of NPLs at around 3% (compared to an average 7% for medium-sized institution).
- **The NPL ratio of exposures in SMEs (15.5%) is significantly higher** than exposures in large corporates (7%) and households (4.6%). This may point out to the health of non-financial corporations across Europe but also to applicable standards in some jurisdictions.

We believe these findings are critical and should be considered when designing policies concerning the resolution of NPLs. It is important to ensure that the strategy and methodologies adopted are indeed consistent with firms' technical abilities and resources.

**Secondary markets for loans**

**Q. 1** The efficiency of secondary markets differs across jurisdictions and their improvement would certainly help lending institutions in their management of NPLs.

**Q. 2** We believe that the following considerations are taken into account when deciding to opt for a loan sale:

- Internal factors such as the characteristics of the NPL portfolio, recovery potential, internal costs and human resources
- External factors such as the legal environment incl. enforcement rules, fiscal policies, reputational impact and investment demand

**Q. 3**
**Q. 4** We think the following measures could be promoted:

- Improve data access, data quality of NPLs and sale documentation
- Ensure a stable and clear legal ecosystem (particularly in relation to cross-border/multi-jurisdictional situations)
- Introduce fiscal incentives
- Assist smaller institutions for example in pooling resources and accessing expertise

**Q. 7** We think there are indeed a number of risks from a public policy standpoint when considering the legal framework for secondary markets for loans and especially NPLs.

We would rank the specific dimensions as follows:

1. Debtor protection
2. Privacy
3. Data secrecy
4. Equal treatment of investors

**Q.8** We do not necessarily see these risks as insurmountable. For example, the issue of debtor protection can surely be addressed by clarifying that loan transfer/sale does not impact in any way a debtor’s rights and obligations.

We think that a unified regulation for investors in the EU (i.e. applicable to EEA NPLs portfolios) together with clear transparency standards would help strike a balance between these dimensions.

**Q.9**
**Q.10** It is difficult to assess whether all local specificities should remain, and we cannot exclude that some differences between local frameworks can be an obstacle to the development of secondary markets. However, we think the most important element here remains the fiscal treatment of operations.

**Q. 14** Eurofinas would support further European work aiming at facilitation loan transfers/sales. We think this should be facilitated for all asset classes and should benefit both credit and financial institutions.

**Potential mechanism to better protect secured creditors from borrower default**

**Q.32** Eurofinas would support the introduction of an "accelerated loan security facility" aiming at better protecting secured creditors from borrower default. We think this mechanism should be available to all secured creditors (i.e. both credit and financial institutions).

**Q. 33** We do not think this measure alone will avoid the future accumulation of NPLs in banks' balance sheets but can contribute to an improved business ecosystem.

**Q.36** We understand the European Commission's concerns in relation to households' exposures, in particular concerning primary family residences. We would recommend further assessing the impact of a fast-track facility for retail exposures secured against movable assets (whose values are well known by the creditor and determined by third parties) such as in the case of motor finance agreements.

I remain at your disposal, should you be interested in discussing any specific issue. Alternatively feel free to contact my colleague Alexandre Giraud (a.giraud@eurofinas.org - tel: + 32 2 778 05 64).

Yours sincerely,

Leon Dhaene
Director General

**Eurofinas is entered into the European Transparency Register of Interest Representatives with ID n° 83211441580-56**