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EBF COMMENTS TO THE EBA CONSULTATION PAPER ON THE DRAFT ITS ON NPL TRANSACTION DATA TEMPLATES

The European Banking Federation (EBF) welcomes the outreach performed by the EBA hosting roundtables and hearings as well as launching consultations aiming to get a better understanding of the industry's viewpoints, needs and constraints. Such interaction is also very helpful for the industry to understand EBA's thinking, objectives and constraints (including legal mandate, overarching policy objectives) when designing the templates. Furthermore, we acknowledge and welcome the efforts made to streamline the templates compared to their initial 2017 version.

In this context, we welcome the current consultation as a timely opportunity to provide new elements of context since we consider that, in particular, the number of mandatory fields remains too excessive with, for example, many that are irrelevant for NPLs and some others relating to public data that the investor could collect bearing the cost if needed. We sincerely hope this new interaction with the industry will lead to targeted changes which can have a positive impact on NPL sales.

A key aspect we consider very important to emphasize and explain is the fact that the industry is not asking for a reduction of mandatory data fields simply as a way to minimize disclosure requirements. The aim is to achieve the best possible balance between templates standardization and NPL sales efficiency, bearing in mind that the ultimate objective, shared by the EBA, investors and sellers, is to make NPL disposals easier, with a reduced bid-ask spread.

We hope our responses to the questions raised in the consultation paper as well as our detailed assessment of the data templates glossary are useful in the further development of the templates.

1. Do the respondents agree that these draft ITS fits for the purpose of the underlying directive?

No, since we identify a number of critical outstanding aspects including:

- The number of mandatory fields remains too excessive, and in some cases, irrelevant for the value of the agreement, particularly when the data field is considered privacy sensitive.
- EBA states with regard to the templates "*To avoid duplication and reduce the data processing costs for credit institutions, the data glossary is built, to the extent possible, on existing common EU definitions set out in the EU regulatory, supervisory, and reporting framework (FINREP), the European Central Bank's AnaCredit and the ESMA templates used for the NPL securitisation purposes*." We notice that almost all of the

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data fields which also form part of the ESMA NPL template (Annex X) are actually marked as non-mandatory fields by ESMA. EBA could explain why it considers these data fields mandatory while ESMA doesn't, while alignment with ESMA templates Annex 2 securitizations would be appreciated (e.g. on collateral types).

- The structure of the overall framework of templates should be reviewed, since the buyer typically has its own information needs in these one-on-one sales.
- The existence of a dichotomy between the Directive 2021/2167 (Article 16 paragraph 3) - where in relation to proportionality it is explained that the draft implementing technical standards shall be proportionate to the nature and size of credits and credit portfolios - and the EBA proposal for the draft ITS - where proportionality principle is declined only for type and size of credits and not for credit portfolios.
- The tape should not be requested for single names since market practice does not consider them. For this reason, data templates should have application in case of loans' portfolio transactions.
- There is a material risk of creating a disincentive to disposals for smaller banks that would require to do IT investments as well as for plain vanilla transactions, like consumer loan portfolio sales that are statistically evaluated by investors based on few key data points and, that now would require additional irrelevant data.
- Current framework does not take into account local legal requirements (e.g. on mortgages).
- Some banks have business practices which might be difficult to capture into these tables. Some banks have portfolios/products, which are on continuous sale meaning that there is no specific point-in-time portfolio to be sold and reported in these templates, but the whole portfolio is rolling on sale all the time. It would be good to have clear instructions, how banks should use the templates with "rolling sales".
- Current framework excludes use of the NPL templates in case of "transfers of non-performing loans as part of an ongoing restructuring operation of the selling credit institution within insolvency, resolution, or liquidation proceedings. We interpret this as a "resolution" situation of the credit institution. Could EBA explain why a "recovery" situation of the credit institution (e.g., the sale of only NPL as recovery instrument) is not being excluded?
- Current framework excludes securitization. We assume that the templates are not obligatory in case of a sale of NPL loans whereby the selling credit institution will keep performing the servicing activities (please note, this is not a securitisation), since the servicing will still be provided by a credit institution as mentioned in Directive 2021/2167 (article 2 sub (5.a.i)). Could EBA confirm this please?
- Current framework only excludes non-EU subsidiaries and not non-EU branches from the use of the NPL templates. Directive 2021/2167 (recital 41) on which the NPL templates are based, seems to aim to protect the Union Borrower to rely on their rights under Union law. Could EBA explain why a Brazilian borrower from a Brazilian branch of an EU credit institution falls within the scope of this protection and as a result has the same protection as a Union Borrower, whereas the Brazilian borrower of a Brazilian subsidiary of a EU credit institution doesn't, especially when the agreement with the Brazilian borrower is regulated by Brazilian law?

Accordingly, please find below elements of context that we consider essential to understand current NPL sales and that could usefully serve as a basis for modification of the NPL transactions templates:

- First, banks are already regular sellers and intending to even increase NPL disposals in the future. As such, we are strongly convinced that quality of information is key in order to sell in good conditions.

- Second, depending on the practices used in different countries, banks may use two sets/templates in NPL sales. The first one contains the information necessary to price the NPL portfolios. The second one is provided to the buyer before closing, and contains more information, notably data protected by the GDPR and necessary to the good management of sold NPLs. As currently drafted, the EBA NPL transaction templates mix these two types of templates, with information useful for valuation and personal information (and regulatory and accounting information). In our view, the EBA NPL transaction templates, as their name indicates, should only contain information necessary to price correctly NPLs, also enabling banks to meet the GDPR requirements. For this purpose, certain information can be provided on pool level whereas information may not be provided on client level due to GDPR. The same is applicable in case the NPL loans are sold but servicing activities do remain at the selling credit institution. If EBA doesn't follow this suggestion, could EBA please explain how banks should deal with mandatory information that may not be provided under GDPR?

- Third, all the information we have on NPLs is not provided under the same format. Schematically, there are three categories of information:

    - Core data fields (with the number varying depending on the type of NPLs) are typically available in a standardized way and are key inputs for NPL valuation. Thus, they can be considered as mandatory in the transaction templates.

    - The format of the remaining information varies, typically according to the type (segment) of NPL, to EU Member States specificities, etc. This information can be provided in nearly all sales, but under various formats, and should not be required to be produced under one standard format in the transaction templates.

    - In addition, sellers can work on 'enriched data' i.e., banks can produce additional information tailored to a buyer's needs, if the sales process is sufficiently advanced and if we consider this could create additional value. Producing such information requires however significant resources and time in order to fulfill all required data fields. This information, typically, cannot be provided for each NPL / NPL portfolio. Those enriched data can be very specific to one project. They may add valuable information for one transaction but may be irrelevant (and not available) for another kind of debt.

Forcing data fields into pre-defined, standard labels would be counterproductive. The content of the information would not exactly meet the label and adapting banks' IT systems to transform the data and make it fit the existing label would be unduly costly. Overall, the impact on NPL sales would be negative.

It would also, in our view, unduly transfer the 'burden of proof' from buyers to sellers. While today, potential buyers analyze the data based on the definitions and explanations provided by the sellers, once the ITS enters into force, the responsibility to interpret ITS definitions will be on sellers, who will have to match the information they have with data fields that are almost similar but may not match exactly.

This is the reason we have been advocating for a reduction of mandatory fields. As mentioned above, this should not be understood that we want to limit the information we would provide to sellers. Banks will provide all the relevant information we have on NPLs in order to get the best possible price, even in different ways than a Data Tape (for example, Q&A process on portfolios with limited number of files but higher individual exposure such as Corporate/ Large Corporate counterparts). However, we cannot provide all this information in a standard format. Therefore, we suggest the following two approaches:

1. Reducing the number of mandatory fields to the 'core data fields' to be identified via industry's feedback to this consultation. Other information could be provided separately, under no pre-defined format/label.

2. Keeping the templates in current format but to allow the use of 'N/D' option. This would mean that if we have the information under the format specified in the NPL template, we will provide it. In the case we have it but under a different format, we will provide it separately. At the very least, sellers should be allowed to use 'N/D' and explain why they do so, beyond the very restrictive possibilities detailed in the draft ITS. It would be useful to get informed whether there are any negative consequences involved by using ND option.

Additional remarks on the specific subject of mandatory fields and NDs:
There is no reason to block the sales of NPLs if the requested mandatory information is not fully (or easily) available at bank's level as the bidders may take some assumptions / proxies on its sides (which, all other things being equal, will negatively impact the price). As mentioned by several parties during the EBA public hearing held on 15 June 2022, a large number of NPL sale transactions are done in Europe with data tape having less than 20 information. For this reason, EBA shall authorize banks/credit institutions to have a minimum mandatory information, that should be well below the 95/135 minimum fields indicated in the last draft of the transaction, to sell its portfolio of NPLs to prospective buyers in order to develop the secondary markets for NPLs in the EU, even if they do not have the full mandatory information. As we can imagine, the price proposed by the buyers, as adjustment variable, will be negatively affected and so will, in a medium term, encourage all banks/credit institutions to improve over time the quality and availability of their data tape (in particular by providing the optional information). In this vein, it is paramount that, should the fields indicated as "to be removed" be finally kept, they remain optional; otherwise, additional high hurdles would be put on the path of the selling of NPLs.

Lastly, we have the following comments in other aspects of the templates:

- We reiterate that we are not in favor of a data hub.
- It is suggested that the cut-off date should be as close as possible to closing. For complex transactions, we believe that keeping a fixed cut-off date may be useful to secure the execution of the sale, since it allows everybody to align on the same situation. Later updates can lead to new bargain based on the changes in the portfolio plus additional work to update all valuations. We believe the cut-off date should be as close as the start of the tender (in line with the current market practice).
- When it comes to data which is of public domain e.g., financial statements, or data over companies which in the meantime have become gone concern, the EBA should prudently consider whether it makes sense to require such data from sellers. In any case, such data should not be mandatory.

- Concerning valuations performed by the seller (not publicly available), these are subjective and depend on various assumptions, therefore it should remain a matter to be established by the buyer itself. This is the how things currently work i.e., investors rely on their own valuations (applying their own IRR).
- In order to have time for adapting the banks' IT reporting systems and be able to meet the requirements set out in the final Draft Technical Standards, we recommend the postponement of the entry into application date of the ITS and the adoption of appropriate phase-in arrangements for credit institutions, especially with regard to UTP portfolios which could require a longer testing phase since the number of such transactions in the market is still limited compared to bad loan portfolio sales and sellers might need time to implement the EBA templates for such asset class. Although EBF and other banking associations had highlighted the need for a phase-in arrangement in their responses to the consultation on the EBA Discussion Paper on the review of the NPL Transaction Data Template (EBA/DP/2021/02), we noted that EBA did not analyze potential related costs and benefits of this option on the Impact Assessment (IA) Section 5.2. We emphasize that a very clear example of the hurdles related to data standardization is the experience which have so far accompanied the adoption of the templates for securitized performing loans required by the European Central Bank and by the ESMA. Given these considerations, and also reflecting the fact that the adoption of the reporting requirements proposed may require substantial time and effort and that collective benefits of a transitional period outweighs the costs for market participants in terms of making the necessary adaptation of their reporting systems, we strongly support the assumption of such phase-in approach over at least 15-18 months. Such proposed duration is based on old several relevant experiences, one for all, the one of the ECB in establishing its loan-level disclosure templates for ABS in 2013. At that time, market participants were given 15 months to implement the templates, which was then extended by a further 4 months with the introduction of the 'comply-or-explain approach'. We urge EBA to carefully consider this proposal that, addressing industry's needs, would give a boost to the acceptance and effectiveness of EBA NPL data transaction templates that aim to the goals of transparency and development of functioning secondary markets for NPLs in the EU, with as little extra effort and burden on banks as possible. To this end, the no data options could be applied as time is needed in some cases to feed into systems certain fields that have been turned compulsory, while for the rest of the loans, we would suggest completing the data on a best effort basis. Having said that, given the lack of synchronization between Article 32 of the Directive and Article 9 of the draft ITS Regulation, we would suggest amending the latter one, in order to ensure that the ITS Regulation does not enter into force before the Directive's regime is applicable in all Member States or, at least, before the deadline defined in article 32 of the Directive.

2. What are the respondents' views on the content of Template 1? Please provide any specific comment you may have on the data fields in the dedicated columns of the data glossary (Annex II to the draft ITS) added for your feedback.

Counterparty Template is still too granular and detailed, and not in line with market practice. There are several data fields on information that is very residual or that may not be present at all on bank's IT systems. For this reason, while the extraction process being too onerous, the costs would overcome the benefits, thus we suggest removing some of those fields or, at least keeping them as optional.
As a general comment, data on balance sheet are neither relevant nor market standard, and they should be collected by the buyer, if needed, bearing the related cost (public data).

If the bank is obliged to collect them, it would have to do so for all the counterparties, while buyers would focus the collection of such data only on what is relevant for them.
Given these considerations, we suggest removing data fields from the mandatory fields – as for example financial statements- that could be retrieved by public data sources considering that those data fields have no impact on reducing the claimed information asymmetry. In addition, from our point of view, simplifications and little changes could be made so as to reduce repetitions in the data fields' filling-in process.
Finally, with reference to the counterparty's residence data field, we point out that only the residence declared and known to the bank at the time of the establishment of the relationship can be reported, with no obligation to check continuously for changes. In most cases, the residence is a field that is reported by province or city rather than by registered address. Residence information does not have a real-time update because in many cases, especially for bad loans, contact with client is no longer so frequent. Additionally, with regard to nationality, also in order not to discriminate against the customer, the simple indication of "resident" or "non-resident" is suggested.

Please refer to the Excel file for specific comments on each data field.

3. What are the respondents' views on the content of Template 3? Please provide any specific comment you may have on the data fields in the dedicated columns of the data glossary (Annex II to the draft ITS) added for your feedback.

Loan Template is still too granular and detailed, and not in line with market practice. Many data fields are not usually being exchanged by market players and could therefore be excluded. Moreover, Templates 3 contains some fields that require sensitive information, that it is not appropriate to disclose, also because these data are not relevant either for the purposes of data quality and data transparency, or they are internal evaluations that are not significant from an investor point of view.

As a general comment, the template should be simplified by:

- avoiding including fields on joint counterparties which should be in the related sheet;
- reducing the number of mandatory fields, in particular those fields not being relevant for bad loans (e.g., loan interest data);
- avoiding fields that can be calculated based on other data (e.g., days of default).

Please refer to the Excel file for specific comments on each data field.

4. What are the respondents' views on the content of Template 4? Please provide any specific comment you may have on the data fields in the dedicated columns of the data glossary (Annex II to the draft ITS) added for your feedback.

As a general comment, the template currently includes data on guarantees, mortgages, movable/immovable properties and proceedings which should be separated. This approach generates various issues such as:

- a multiplication of rows since a mortgage can be linked to assets linked to other mortgages with different lien, thus both mortgages and assets can appear different times;
- proceedings are not always related to assets and are usually linked to debtors. This also generates multiplication of rows.

We consider that guarantees/mortgages, assets and proceedings should have dedicated templates. Lastly, many fields are mandatory, but these provide excessive detail that do not fit the concept expressed in first answer of key basic data e.g., energy classification of the asset.
Please refer to the Excel file for specific comments on each data field.

5. What are the respondents' views on the content of Template 5? Please provide any specific comment you may have on the data fields in the dedicated columns of the data glossary (Annex II to the draft ITS) added for your feedback.?

As a general comment, details on the external servicer recoveries are not needed nor being in line with market standard. We consider that the sheet should report the recoveries pre cutoff and post classification as mandatory fields, while the indication of whether the recovery was internal or external should be non-mandatory. The IT systems do not collect such data, and if a debtor moved among various servicers, the details of the collections pertaining to such different servicers would be very difficult to retrieve.

Also, there are no data relating to the type of extrajudicial agreement in place (repayment plan, dpo), which instead should be foreseen.

Please refer to the Excel file for specific comments on each data field.

6. Do the respondents agree on the structure of Template 2 to represent the relationship across the templates? If not, do you have any other suggestion of structure?

Protection identifier should be the mortgage or the guarantee, not the collateral. Collateral instead should have its own identifier.

7. Do the respondents agree on the structure and the content of the data glossary? Please provide any specific comment you may have on the data fields in the dedicated columns of the data glossary (Annex II to the draft ITS) added for your feedback.

We believe that the descriptions of the various fields could be more detailed taking into account the legislative differences that characterize the various European players' markets. Consequently, from our point of view, the data glossary (Annex II) should have country tab link for all the fields that have specific or different description from one country to another, by giving details for those fields according to the country of reference. Moreover, it could be useful to distinguish the various non-performing loans subject to disposal by asset class and risk category (UTP vs Bad loans).
We welcome the efforts made in building the data glossary, to the extent possible, on existing common EU definitions set out in the EU regulatory, supervisory, and reporting framework (FINREP), the European Central Bank's AnaCredit and the ESMA templates used for the NPL securitization purposes. Anyway, in EBF's view, the fine-tuning of the NPL data templates should be accompanied by a comprehensive rationalization of data requests on NPLs.
As also recognized by the Directive (EU) 2021/2167, the EBA should be particularly mindful of any duplication and overlap with the existing requirements on NPLs, since certain fields are asked on multiple templates, resulting in redundancies. To the same end, EBF urges a comprehensive rationalization of data requests on NPLs. Following the principle of "report

once" shared by the European Commission as well as the banking industry and several Recommendations of EBA Cost Compliance Study, it is important to fully rationalize the different NPL information sets in order to enhance data comparability, curb overlaps, streamline and increase efficiency in the reporting processes, facilitate data sharing, advance coordination among authorities and reduce undue reporting burdens.
Given these considerations, EBF suggests that EBA should specify the final templates, also in light of future changes of the IREF, which will replace all Statistical Regulations, and with the Integrated Reporting System (post EBA Feasibility Study, Article 430c of CRR2).

Please refer to the Excel file (Annex II) for specific comments on each data field.

8. What are the respondents' views on the content of instructions?

We believe that the content of instructions could be more exhaustive and clearer in order to properly fill in the Templates.

Clarifications are needed regarding the "*appropriate internal governance arrangements that are similar to the arrangements put in place in the credit situations, for example, for supervisory or other regulatory reporting*", considering that moreover, it is stated that "*the draft ITS does not introduce any supervisory reporting requirements but they shall be used for the exchange of information by the parties potentially involved in a NPL transaction*".
We believe that the building and implementation of such processes will be a burdensome activity with negative time to market impact.
Furthermore, clarifications are needed on the one hand regarding "*the relevant management with sufficient degree of seniority that may commit the credit institution to the responsibility for the completeness, consistency and accuracy of the information provided*" and on the other hand regarding the "*appropriate managerial approval process confirming that the credit institution is responsible for the completeness, consistency and accuracy of the information provided*". We urge that further specifications have to be provided in relation to the "sufficient degree of seniority and appropriate managerial approval" stated in the draft ITS.

9. Do the respondents agree on the use of the 'No data options' as set out in the instructions?

As noted in our response to question #1, should there be no change in the current format of the templates, we consider the no-data option of significant importance since the absence of a specific data should not be an obstacle when a potential buyer is willing to price an NPL portfolio. What is more, a phase-in would be necessary to be able to cover all the new fields that were not mandatory up to now. Moreover, the availability of data can also depend on the specific type of loan under consideration.

If banks have the information under the format specified in the NPL template, we will provide it. In the case that we have the data under a different format, we will provide it separately. As already mentioned, the sole use of ND4 for the mandatory fields would be a severe issue for banks/credit institutions leading to slow down significantly or stop any future NPL sales for a certain period of time (at least the time for IT developments). For this reason, we urge EBA to extend the use of all ND options also for mandatory field.

We understand from the definition of 'ND2' that EBA implies that all data derive from banks' reporting systems. Many data actually come from operational systems (=business systems), e.g., all data extracted during the month as opposed to some reporting system that only

provides a picture at month-end. We would like to draw EBA's attention on the fact that all mandatory reporting information is not available at any time during the month, but most often, at month-end, even though NPL sales do not all occur at the end of month.

10. What are respondents' views on whether the proposed set of templates, data glossary and instructions are enough to achieve the data standardisation in the NPL transactions on secondary markets, or there may be a need for some further technical specifications or tools to support digital processing or efficient processing or use of technology (e.g., by means of the EBA Data Point Model or XBRL taxonomy)?

In line with previous comments, we believe that NPL sales cover extremely diverse situations due to market, debtors, size, products, country, legal environment, etc. Therefore, the idea to get a standard template that would embrace all situations does not seem reasonable. It must be appreciated that some fields might be mandatory for certain classification status and not for other ones (e.g., interest on loan in case of bad loans are not required). Moreover, in order to make standardization feasible, the templates structure and the mandatory fields should be aligned with market standards.

We will always have specific information on a specific portfolio that will not be replicable for all transactions. It would be time consuming to check for each transaction a never-ending list of potential criteria coming from a universal and conceptual model. Therefore, our pragmatic recommendation is to have mandatory 'core data' fields and another set of important data that can be reported with more freedom as regards their format.

11. What are the respondents' views on the approach to the proportionality, including differentiating mandatory data fields around the threshold? Please provide any specific comment you may have on the data fields in the dedicated columns of the data glossary (Annex II to the draft ITS) added for your feedback.

Our key recommendation on proportionality is that the final ITS adopts a 'portfolio view' in line with the Directive 2021/2167 (Article 16 paragraph 3) mandate. This is because banks usually do not sell single NPLs but rather portfolios of several (sometimes thousands) of NPLs. As currently worded, the ITS would put sellers in very difficult situations. For instance, if a bank sells a portfolio made up of 80% of 'old' NPL (not in scope of the ITS), does it mean that the bank would have to provide "extended" EBA templates for recent NPLs above the €25,000 threshold, "reduced" EBA templates for recent NPLs under the threshold, and another format for other NPLs? Such scenario seems very complex and inconvenient. Another example would be a portfolio largely made up of NPL below €25,000 (which is typically the case in consumer finance). It would not make much sense to impose the use of NPL transaction templates if only a few NPLs exceed the threshold.

This is the reason that in our view it would be reasonable, and consistent with real-life practices, to set a threshold at portfolio level where the template would be the same for all files even if some of them exceed the threshold. A reasonable 'portfolio threshold' could be 20% of portfolio face value. This means that (i) a bank should be allowed not to use the transaction templates if the percentage of 'in scope' NPLs is below 20% and (ii) a bank should be allowed to use the 'reduced' transaction templates if the share of NPLs above the materiality threshold is below 20%.

Moreover, we also have a remark on existing forward flow agreements where a buyer and a purchaser enter in an agreement where the data to be delivered. The price and the obligation to sell and buy have already been defined in a contract. For the avoidance of doubt, the ITS should not apply to the continuation of existing deals and would only make sense in the perspective of new deals. Having said that, we suggest skipping the mandatory fields.

12. Do the respondents agree with the proposed calibration of 25 000 euros threshold in line with AnaCredit Regulation? If not, what alternative threshold should be introduced, and why?

Once again, we believe that the proposed threshold should be considered at portfolio level. For a portfolio largely made up of NPL below €25,000 (which is typically the case in consumer finance), it would not make much sense to impose the use of the extended NPL transaction templates if only a few NPLs exceed the threshold.

Should this pragmatic approach (adapted to market practices and to economic reality) be disregarded, which we would highly regret, then we would propose a threshold of €75,000 to avoid an unnecessary and costly burden bringing very little added value.

13. What are the respondents' views on the operational procedures, confidentiality and data governance requirements set out in the draft ITS?

The draft ITS sets out requirements for the internal governance arrangements around the provision of data specified in the templates. To this end, the information provided to prospective buyers in accordance with this draft ITS are to be subject to pre-defined internal governance arrangements. We do not support the proposal in the draft ITS with the three-step approach which introduces a fragmentation among different internal functions in the context of the validation process. Financial institutions already have a credit approval framework ensuring (subject to conditions, materiality of a request and exposure levels) checks and balances on the client information and the involvement of an independent risk function. Also, ESMA does not prescribe a separate management approval process on the data provided.
We remind that sellers have the contractual obligation to provide accurate data. In addition, data accuracy and quality are essential in building our reputation as a seller. It should also be noted that banks have already well-established and effective internal governance arrangements and staff with years of experience whose expertise should not be broken up and dispersed within institutions. Therefore, there is no need to impose a specific and formal process. Moreover, the proposed validation process envisaged by EBA is not fit for time to market transactions, as it might be a more complex, bureaucratic, and less agile process without adding any value or control with respect to the current process. Additionally, it could reduce competitiveness regarding other competitors outside the EU that do not have to comply with these requirements. Needless to say, appropriate internal approval is regulated by other Regulation and Guidelines when it comes to client data.

We furthermore note that the proposed templates require data at an extremely high level of granularity with regard to the type of exposures put for sale. In the end, this could lead to potential future civil liability implications for a bank, as providing inaccurate information may expose banks to fines and damages claims from buyers. Accordingly, it is striking to

see the responsibility put on banks on the determination whether certain information to be considered as confidential versus EU and national laws.

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