

**ECONOMIC CHAMBER OF GREECE – PRESIDENT OF THE PLENARY OF THE
GREEK BAR ASSOCIATION - TECHNICAL CHAMBER OF GREECE**

Non-Performing Loans: A last chance proposition for the borrower

By the end of September 2017, the amount of Non-Performing Exposures (NPEs) amounted to €100.4 billion or 44.6% of total exposures, while the index was 43.3% for housing, 53.2% for consumer and 43.6% for business portfolios. In the third quarter of 2017, the bank loan write-offs amounted to €1.1 billion and in total, for the nine-month period of 2017, they amounted to €4.4 billion.

Loan sales reached €1.8 billion in the first three quarters of 2017. In the business portfolio, the highest concentration of NPEs is seen in the portfolio of self/employed and very small enterprises (NPEs: 66.5%). That is why we believe that our proposal comes at the best time ever and will help all Greek residents.

It is a fact that banks are obliged to make significant steps towards reducing their non-performing exposure, with the aim of reducing the remaining NPEs to €64.6 billion by December 31st, 2019.

The obstruction that is noted in dealing with this issue in order to provide a final solution does not allow for the complete and immediate consolidation of the balance sheets of credit institutions.

The main concern in this issue, is on one hand, to provide a protection shield for the primary residence of the borrower who is truly unable to cope with the repayment of his/her loan and, on the other hand, not to further disturb the functionality and balance of the country's banking system, in order for it to quickly return to its normal operation, which is to provide liquidity to the real economy.

In order to achieve the above mentioned, two specific interventions and directions are required, both of which concern the regulation of non-performing loans. The ultimate goal is to effectively solve this issue without causing turbulence in the social cohesion of the country.

The first intervention concerns the direction of the 130,000 auctions, that the Greek Government and the country's creditors have agreed to be made by 2021.

The three Institutions – Economic Chamber of Greece, Plenary of the Greek Bar Association and Technical Chamber of Greece - believe that the absolute targeting on this issue should be the traditional bad-payers.

Auctioning, or the threat of auctioning, for those who are able to, but don't want to pay, is the most effective way to ensure the banks' interests against this category of debtors.

Firstly, because no one disagrees with the auctioning of assets of debt holders who have transferred their money abroad and choose to stop repaying their loan.

Secondly, because the pressure on debt holders seems to work. It is not a coincidence that three out of ten debtors, who are under the threat of losing their property through auction, rush to the bank to settle their debt and that, at the same time, the percentage of debtors applying to settle shortly before the auction, is the same as that of bad-payers. In other words, those are the ones that end up restructuring their loans and not the ones who cannot really cope.

The second intervention concerns the direction that bank negotiations with other debtors should take. Those who are willing to, but cannot afford to pay.

As it is known, 2018 marks the complete liberalization of the market for non-performing loans, as the last ban on the transfer of loans linked to the primary residence is lifted. The sale of non-performing loans will lead NPL management companies in discussions with debtors. As provided by Law 4354/2015, non-performing loans will be sold, under the condition that the borrower and the guarantor have been invited with a non-judicial notice of default by the bank, 12 months prior to the initiation of the sale process, in order to settle the debt based on a written proposal with specific repayment terms, in accordance with the Code of Conduct of the Bank of Greece. Excluded from this condition are disputed or adjudicated receivables and claims against non-cooperative debtors, based on paragraph 2 of article 1 of Law 4224/2013, as in force.

Thus, a protective law for the primary residence is required, under which the protection will be claimed if certain criteria are met, such as the real and objective financial possibilities of the borrower, the repayment rate, the value of the property and the deceitful intention or not for non-repayment.

For this matter, the proposal of our Bodies is as follows:

Credit institutions inform the borrower (and the guarantors), as they are legally required, that the loan is placed for sale and he/she has 45 days time to contact the bank and proceed in restructuring.

If the borrower does not proceed in restructuring, then the bank will conduct the tender procedure for the sale of loans to specially licensed funds.

Participants in the competitive process will know in advance that a final opportunity will be given to the borrower to offer the same price offered by the bidder.

Following, a letter will be sent to the borrower by which the bid price offered by the fund will be made known and the borrower will be asked to reply within forty-five days if interested to match the price. If the borrower finds the financial means (cash and cash collateral), he/she should explicitly state the source of funding and the repayment period.

In this case, the loan will be redeemed, whereas if it isn't, the loan will conclusively end up at the fund.

It should be noted at this point that with the ownership of the loan, the funds actually acquire all the rights of the creditor, regardless if it's the primary residence or not, after the ban on housing loan sales was abolished in the end of 2017. In other words, their role is not exhausted in acquiring debt from old consumer loans or credit cards with no collateral that are forgotten. Instead, it extends to loans that are mortgaged, like house loans.

Based on this strategy, they also have the option of proposing to the debtor a 'one-off repayment of the debt' solution or, on the other hand, a more medium-term solution, which is a gradual repayment of part of the initial payment.

The fund, by buying a loan, is aiming to high returns, which means that the funds will assert debts in a much more coordinated and dynamic way than the banks; will be much more drastic in the commencement of enforcement proceedings for the collection of the claim; and will also be more reluctant to "haircuts".

With this proposal, two goals are achieved at the same time:

On the one hand, the debtor exhausts all the options to repay the debt without endangering his/her assets.

On the other hand, the bank will achieve better prices due to the fact that the fund will offer a higher price with this process and under the imminent competition with the borrower over the loan, since - if the borrower offers the same price - the right for a counterproposal will not again be given to the fund.

The case of Cyprus consists of a paradigm- Cyprus and Greece are the countries with the highest non-performing exposures (NPEs), 43% and 44.6% respectively - where by law, it is foreseen that when the bank sells the debtor's loan to a fund:

A letter is sent to the borrower requesting him to submit his own written offer within forty-five working days, indicating the payable amount, the period of repayment and the source of funding.

At this point, it is worth paying more attention to Law 169/2015 of the Republic of Cyprus, which regulates the purchase and sale of credit facilities and related topics,

but also to the 2016 Directive concerning the notification procedure towards borrowers and guarantors for the intention of sale of credit facilities.

In paragraph 18 of Law 169/2015, but also in “The Notification of Borrowers and Guarantors Directive of 2016”, the process and steps relating to the notification from the financial or credit institution to borrowers and guarantors of his intention to sell credit facilities is defined.

Any notification, either in the form of publication or in the form of a registered letter, must at least specify that:

- (a) within 45 working days from the date of notification, borrowers and/or guarantors will have the right to submit a written offer to the institution for the acquisition of the credit facility,
- (b) the written offer should include at least the following:

the amount of the offer to repay or acquire the credit facility, the time period during which the borrowers and/or guarantors intend to repay or acquire the credit facility and the source of financing for the repayment or acquisition of the credit facility, (e.g. by registered mail/e-mail) and the contact details (name and address) where the offer should be submitted. Also, the offer for repayment or acquisition of the credit facility by borrowers and/or their guarantors can only be submitted once and if such a proposal is not submitted within 45 working days of the day of notification, it will be considered that the debtor and the guarantors do not wish to bid.

In a similar way, this can also be done in our country.

Given that we have now reached the point where the sale of loan portfolios to funds is of immediate priority, the borrower must have one last chance.

At this point, we should strongly emphasize that we refer to the debtors who want to pay, but because of the crisis and the reduction of their income they cannot meet their needs.

The rescue of the primary residence of thousands of our fellow citizens and the prevention of the collapse of the value of real estate is necessary.

The existence of a “safety procedure” is necessary, since including bad-payers in this regulation should be avoided.

Banks have all the appropriate tools (world securities, opening accounts in Greece and abroad, but also in bank lockers) in order to trace almost all the traditional non-payers and make them repay their debts.

At first, banks may seem reluctant to our proposal, on the grounds that the process may be time consuming.

Another objection that banks may have is that they offer loans to funds at a lower price, because they sell loans as a package and do not examine each case individually, which saves time and ensures profits that are needed for the stress tests.

Our proposal will certainly lead to a price increase, both on the funds' and on the borrowers' sides.

Through this process and for the reasons explained above, the fund will offer a higher price and the borrower -on his/her part- will have one last chance to save his/her property.

Enabling the debtor to settle the debt with a large discount-haircut, even at the last moment, leads him/her to find a solution, aiming to maintain his assets.

Banks also benefit from being offered a higher price from the funds, from the immediate loan repayment by the borrower and from the reduction in NPEs.

It is equally important, with this regulation that the guarantor - along with the borrower – will also be able to restructure the loan.

In Greece, most of the time, the guarantor is a family member or friend- who, wanting to help the borrower – has reached the point of being threatened with foreclosures and account freezing, without being directly involved.

The social impact of this process is certainly very important.

Borrowers will have the ability – even at the very last minute - to restructure their debts and save their property.

But banks will also have profits from this procedure, both from the higher price that they will be offered by the funds, and from the borrowers themselves, that will rush to regulate their debts.