
EBA works for the development of a secondary market for non-performing loans (NPLs) under Directive 2021/2167

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Legal background

EBA works under Directive (EU) 2021/6176

Directive (EU) 2021/2167 on credit servicers and credit purchasers (Credit Servicers Directive – CSD) published in the OJ on 8 December 2021 and transposed by EU Members States by 29 December 2023.

Main purpose:
to foster the development of secondary markets for NPLs in the EU

Article (16)(1) CSD

Implementing Technical Standards (ITS) on NPL data templates (**Regulation (EU) 2023-2083**)

Article (5)(2) CSD

Guidelines on the assessment of adequate knowledge and experience of the management or administrative organ of credit servicers (**final**)

Article (9)(1) CSD

Consultation Paper (CP) on Guidelines on national lists or registers of credit servicers (**under finalisation**)

Article (24)(1) CSD and Article 16 (1) EBA Regulation

Consultation Paper on Guidelines on complaints-handling of credit servicers (**under finalisation**)

ITS on data standardisation for NPL transactions



EBA Mandate:

Article 16(1) of Directive on credit servicers and credit purchasers:

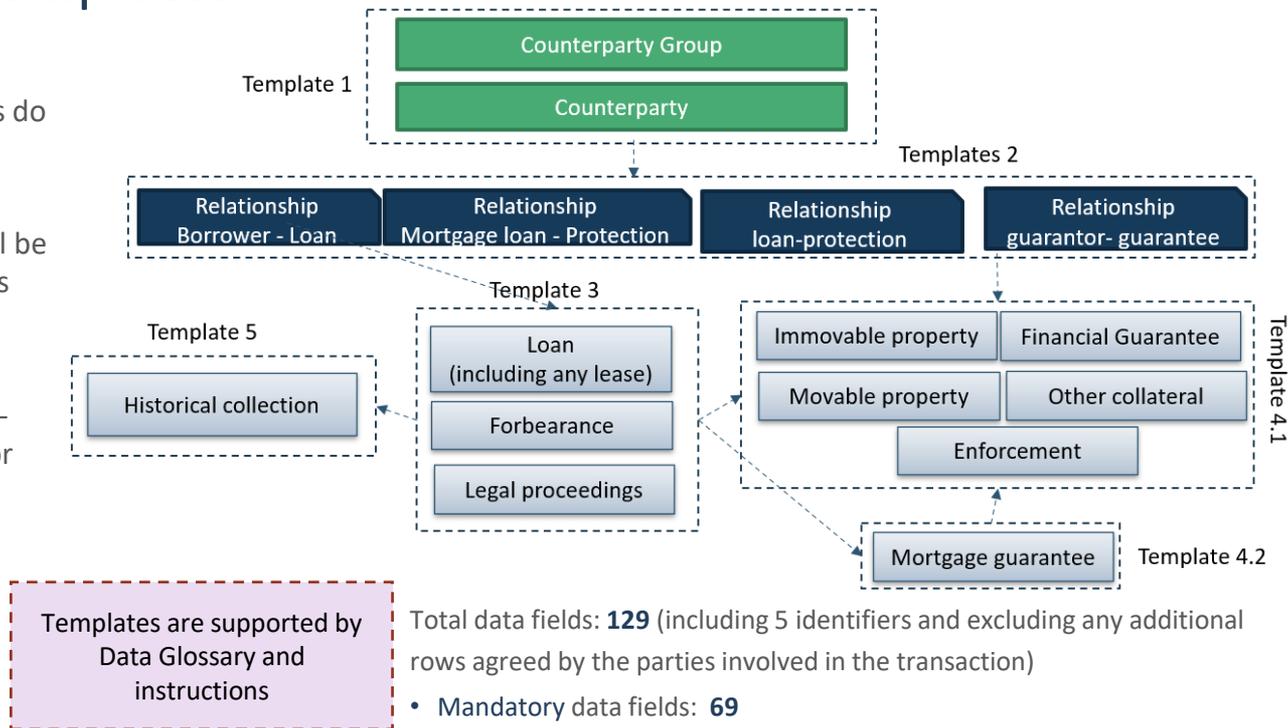
“The EBA shall develop draft **implementing technical standards** to specify the templates to be used by credit institutions for the provision of information referred to in Article 15(1), in order to **provide detailed information on their credit exposures in the banking book to credit purchasers for the analysis, financial due diligence and valuation** of a creditor’s rights under a non-performing credit agreement, or of the non-performing credit agreement itself.”

Regulation (EU) 2023/2083 - Application of the NPL data templates:

- The requirements apply for loans that are originated on or **after 1 July 2018** and that became non-performing **after 28 December 2021**
- For loans originated **between 1 July 2018** and the date of entry into force of the ITS [2023], credit institutions should **complete the data templates with the information already available to them**

ITS on data standardisation for NPL transactions: overview of the templates

- ✓ The EBA ITS on NPL data templates do not introduce any supervisory reporting requirements.
- ✓ A core data set of information shall be provided by sellers, but the parties can agree on adding rows in the templates.
- ✓ Information shall be provided loan-by-loan and not specific formats for the data submission/exchange are prescribed.



ITS on data standardisation for NPL transactions: approach to proportionality

Base case for the application of the templates

Portfolios of NPLs

Mandatory
data fields

Not
mandatory
data fields

Specific circumstances

- Single NPL or NPL towards a single borrower
- NPL under or forming a part of syndicated loan facilities;
- NPL where the borrower is a third country borrower;
- intragroup NPL transactions
- NPL that have been acquired by the credit institution from a non-bank entity;
- unsecured NPL granted to a natural person where they do not meet the criteria to be considered in the scope of Consumer Credit Directive

Not
mandatory
data fields

ITS on data standardisation for NPL transactions: accompanying requirements

Operational procedures

- Timing: before transaction
- Electronic and machine readable form

Treatment of confidential info

- Identify what information is confidential
- Protect confidentiality
- Use of NDA
- Use of secure data rooms

Treatment of personal data

- GDPR applies
- Use of NDA
- Use of secure data rooms

These operational procedures are in line (and inspired by) with the Communication from the Commission on *Guidelines for a best-execution process for sales of non-performing loans on secondary markets* (2022/C 405/01) of 21 December 2022

Guidelines on the assessment of adequate knowledge and experience of the management or administrative organ of credit servicers (final)

Legal basis

Art 5(1) (c) CSD: the credit servicer's management or administrative organ should have adequate knowledge and experience, as a whole, to conduct the business in a competent and responsible manner

Art 5 (2) CSD: mandate the EBA to issue Guidelines on the adequate knowledge and experience of the management or administrative organ of credit servicers to conduct the business in a competent and responsible manner.

Scope and content of GLs

- ✓ The GLs apply to credit servicers and to CAs (as designated) across the EU.
- ✓ The GLs specify **common criteria** to assess the collective adequate knowledge and experience of the management or administrative organ.
- ✓ The assessment will be performed **based on the individual members' assessment** by credit servicers, taking into account the principle of proportionality
- ✓ The GLs also specify the **assessment process** by credit servicers and competent authorities, which also covers the assessment of good repute of the members of the credit servicers organs.

CP on Guidelines on national lists or registers of credit servicers (under finalisation)

Legal basis

Art 9(1) CSD: mandate to the EBA to publish GLs on establishment and maintenance of national lists or registers of credit servicers

Art 9(2) CSD: the lists or registers shall be publicly accessible on the website of the CAs and updated on a regular basis.

Art 9(3) CSD: in case of withdrawal of the authorization, the lists or registers shall be updated without delay

Art 13(7) CSD: host CA's list or register shall include the credit servicers providing services in their territory and the details of the home Member State.

Main components of the draft GLs

Content of the list or register:

- ✓ Basic information (e.g. name, address, home MS); authorisation status; contact details for submitting consumer complaints, list of host MSs.

Accessibility requirements:

- ✓ be accessible 24/7, not require registration and free of charge to access.

Updates - frequency and deadline:

- ✓ regular updates once a week and 'urgent updates' by the end of the following 2 working days.

Overview of CAs handling complaints in the EU

- ✓ Publication on the EBA website of the lists of the CAs handling complaints in the EU.

CP on Guidelines on complaints-handling of credit servicers (on-going- consultation ended 09/02/2024)

Legal basis

Art 24(1) CSD: MSs shall ensure that credit servicers establish and maintain effective and transparent producers for the handling of complaints from borrowers.

Art 16(1) of EBA Founding Regulation 1093/2010: with the aim of establishing consistent, efficient and effective supervisory practices and ensuring common, uniform and consistent application of Union law, the EBA shall issues GLs and recommendations addressed to CAs or financial institutions.

Content of the draft GLs

- ✓ Apply to credit servicers (verbatim) the existing Joint Committee Guidelines (JC GLs) on complaints-handling developed by the ESAs and applicable across the banking, investment and insurance sectors since 2014.
 - ✓ Cover complaints management policy and function, registration, reporting, internal follow-up, provision of information, and procedures for responding to complaints.
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- ✓ Avoid divergent transpositions and contribute to a consistent approach to complaints handling across the 27 EU MS;
 - ✓ Ensure protection of consumers irrespective of the provider with whom they conclude the credit agreement.



Thank you!



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