Existing legal framework for distressed assets in Greece

Aggeliki ZERVA, Banking Supervision Department
NPLs in Greece: High and rising levels

NPLs/loan portfolio

Source: Bank of Greece

[Graph showing NPL levels for different types of loans (Consumer loans, Mortgage loans, Business loans) for Q4 2013 and Q3 2014]
A set of regulatory initiatives that could contribute to resolving the problem:

- strengthening institutional capacity of the judicial system,
- improving insolvency legislation,
- better coordination of out-of-court restructuring,
- developing debt counseling services and information campaigns,
- tax incentives for write-offs,
- developing an efficient market for distressed assets,
- establishing reliable data platforms,
- transparency and modernization of real estate market,
- enhancing supervision,
- fostering cooperation among policymakers and other stakeholders.

First policy reaction => Law 4224/2013: Government Council on Private Debt Management
GDP and unemployment: critical factors for the augmentation of NPLs

Factors hampering the resolution of NPLs:

**Supply factors**
- Limited incentives to sell and write off
- Suspension of judicial measures

**Demand factors**
- Lengthy and inefficient judicial process.
- Limited options for restructuring.
- Small investor base.
The role of the Bank of Greece (1)

- **the supervisory perspective**
  (BoG’s Statute, art. 55A + SSM Reg.)
  - Executive Committee Act No. 42 on arrears and NPLs management *(May 2014)*
  - CRR / CRD IV

- **transparent + effective negotiation**
  (L.4224/2013)
  - Code of Conduct on arrears handling *(August 2014)*

**stability**
The role of Bank of Greece (2)

CRR / CRD IV: the basis
A set of EU law provisions also applicable to Greek banks influence the way the institutions deal with troubled assets:

- increased capital requirements for NPLs
- reduced capital requirements for exposures secured by immovable property provided that specific valuation principles are followed
- lower risk weights for covered bonds
- provisions for securitization
- increased capital requirements for qualifying holdings outside the financial sector
- leverage ratio
- EBA ITS on Supervisory reporting on forbearance and non-performing exposures
- restructuring plans
The role of Bank of Greece (3a)

Executive Committee Act No. 42/2014: enhanced supervision at national level.

- Providing for:
  - Adoption of the EBA harmonized definitions for NPEs and Forbearance
  - Independent function for NPEs monitoring
  - KPIs to evaluate efficiency
  - Guidelines for portfolio segmentation.
  - Guidelines for debtor’s viability assessment and sustainable restructuring solutions.
  - Comprehensive reporting to the board and the supervisor

- Aiming at:
  - Better valuation of credit risk (debtor + collateral) => adequate provisioning
  - Monitoring the efficiency of the concluded restructuring solutions
  - More options for sales and securitization
The role of Bank of Greece (3b)

CRR + Executive Committee Act No. 42/2014

Potential economic effect

• repairing credit institutions’ balance sheets
• decreasing the cost of funding
• reallocation of resources to more credible and productive companies
• revitalizing real estate market.
The role of Bank of Greece (4a)

**Code of Conduct on arrears handling**

**Predefined steps within specific timeframes for both lender and borrower:**

- written communication
- exchange of information
- individual debtor’s assessment
- documented proposal of sustainable solution
- justification against co-operating borrower for any failure to conclude a sustainable solution
- right of appeal.
The role of Bank of Greece (4b)

**Code of Conduct on arrears handling**

**Covering:**
- Both natural and legal persons.

**Aiming at:**
- One more (and probably the last) chance for sustainable restructuring before foreclosure.
- Motivating more innovative restructuring solutions.
- Establishing reliable procedures for property valuation.
- Identifying (non) cooperating and (non) viable borrowers.
Neither Executive Committee Act No 42 nor the Code of Conduct may impose:

- solutions for common creditors
- write offs
- ban on foreclosures

However ...

Specific laws have been set to address these issues:

- L. 4307/2014 (known as the “law for the red loans”)
- L. 3869/2010 (known as “Katselis” Law)
- L. 4224/2013 (known as “Moratorium”)
L. 4307/2014 Business debt settlements (1)

• First pillar: **Tax incentives for settlements/write-offs for NPLs**
  - Eligible debtors: professionals and small enterprises (turnover < €2,5 mn).
  - Temporary extraordinary measure.

• Second pillar: **Settlement agreement with common creditors**
  (Out-of-court restructuring, based on COM Recommendation of 12.3.2014)
  - Eligible debtors: viable firms.
  - Binding effects for all creditors including minority.
    - Tax incentives.
    - Temporary extraordinary measure.

• Third Pillar: **Special administration procedure**
  - Simplification and acceleration of liquidation procedures for non-viable companies with binding effects for all creditors including minority.
L. 4307/2014 Business debt settlements (2)

The pool of Micro enterprises in Greece

Number of enterprises

- 96,7% EU 92,3%
- 2,8% EU 6,5%
- 0,4% EU 1,1%
- 0,1% EU 0,2%

Number of employees

- 54,5% EU 28,9%
- 15,2% EU 33,6%
- 13,6% EU 17,3%
- 16,8% EU 20,2%

Source: European Commission 2013 SBA Fact Sheet Greece
L. 3869/2010: a hybrid personal insolvency law (1)

- **Covering:**
  - Natural persons (not falling under Law 4307/2014) in permanent difficulties acting in good faith.
  - Debts to private entities.

- **Level of protection**
  - Suspension of all measures and procedural enforcement against the debtor from the date of petition until the final judicial judgment.
  - Main residence may be excluded from liquidation if specific conditions are met.
  - Possible discharge of debts (once).

- **Procedure in three phases**
  - Discretionary mediation procedure (attempt for out of court settlement).
  - Attempt for in-court compromise (>50% of creditors agreement required).
  - Judicial settlement.
L. **3869/2010 (2) large backlog of cases**

<table>
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<th>Total petitions under Law 3869/2010</th>
<th>...of which petitions to the Magistrate court of Athens</th>
<th>Decisions of the Magistrate court of Athens</th>
<th>...of which accepted</th>
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<td><strong>2010- 2014</strong></td>
<td>150.693</td>
<td>28.686</td>
<td>3.900</td>
<td>1.966</td>
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Source: Magistrate court of Athens

<table>
<thead>
<tr>
<th></th>
<th>Date of petition</th>
<th>Date for judicial hearing</th>
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<td>Magistrate court Rethymnon, Crete</td>
<td>30/12/2014</td>
<td>09/04/2030</td>
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</table>

Source: TEIRESIAS
L. 4224/2013 (“moratorium”: expired 31.12.2014. To be extended?)

- **Persons covered**:
  Natural persons and professionals if specific criteria are met:
  - Annual family disposable income < € 35.000
  - Total assets < € 270.000
  - Liquid assets < € 15.000
  - Private debts > € 200.000

- **Level of protection**
  Main residence < € 200.000 objective value

- **Conditionality**
  - Submission of financial data and evidence for eligibility.
  - Minimum monthly installment.
  - Not allowed to skip payment of 3 installments.
How the Code could interact with the other relevant laws?

• As a mandatory first stage of negotiation

• Giving evidence to be assessed by a court on:
  ✓ the situation and the prospects of the debtor
  ✓ the degree of debtors’ indebtedness
  ✓ the debtors’ willingness to cooperate

• Facilitating common creditors’ solutions where established by law
• Enhancing institutions’ discipline
• Fostering cooperation culture
Regulatory framework for transferring Distressed Assets (D.A.)

The vendor’s side

Sales / securitization of assets:
- No need for prior supervisory approval.

Outsourcing the servicing of NPLs:
- Need for prior supervisory consent (internal governance framework).

The buyer’s side

The purchase of NPLs or the servicing of NPLs:
- A regulated activity in Greece.

Investing in real estate:
- No prior authorization needed.
- A really tax friendly new framework (L. 2778/1999 + L. 4281/2014)
Who can buy NPLs?

- **Factoring companies regulated and supervised by the BoG**
  (L. 1905/1990, BoG/GA 2622/2009)

- **Consumer Credit Companies regulated and supervised by the BoG**
  (L. 4261/2014, BoG/GA 2622/2009)

- **Financial or credit Institutions without EU passport**
  (L. 4261/2014)

- **Financial or credit institutions with EU passport**
  supervised by the home competent authority
  (L. 4261/2014)

- **SPVs**
  L. 3156/2003

- **Other companies that may be established by virtue of a law**
Potential next steps

- Regulatory framework for non-bank financial institutions:
  - the proper level of the regulation/supervision (focusing rather on macro than micro risks),
  - the necessary level of consumer protection (information/behavior practices, fair treatment/confidentiality).

- A private or a public Asset Management Company (AMC)?

- A central or several Specialized Vehicles (securitization/servicing/restructuring of particular portfolios)?
A regulatory framework for AMC

Key issues

• Objectives/Potential interaction with Banking Recovery and Resolution Directive
• Status of ownership of the AMC=> risk – sharing
• Governance /strategy
• Size
• Eligibility of assets to be transferred
• Valuation of eligible assets
• Conditionality (state aid ruling)
• Duration (well defined exit strategies)
• Servicing/ financing
• Competition
• Eligibility of AMCs’ bonds as collateral for monetary policy
Is it enough?

- Prioritization and speeding up other complementary actions.
- Fostering *coordination* among authorities and institutions involved.
Coming soon......

• **EBA GLs:** harmonized practices in handling arrears

• **New IFRS 9:** achieving more prudent and timely provisioning by expected loss model

• **Shadow banking:** a series of proposals

• **Mortgage Credit Directive:** valuation of residential immovable property

• **EU green paper for a single capital union:** thoughts for harmonizing insolvency laws

• **Securitization/SMEs:** seeking alternative channels for funding while ensuring sound risk assessment and diminishing conflicts of different players
Thank you for your attention!