



Cypriot NPL regulatory environment

Recently reformed yet largely untested

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Judicial and extra-judicial environment: Why it matters

	<u>Main features</u>	<u>Key benefits</u>
Portfolio sales	<ul style="list-style-type: none">• Trading activity• AMC existence	<ul style="list-style-type: none">• Remove uncertainty around asset pricing• Leverage capital and expertise in NPL management
Debt enforcement	<ul style="list-style-type: none">• Out-of-court collateral enforcement• Foreclosure process• Public claims “super – seniority”• Bans on sales /auctions /foreclosures	<ul style="list-style-type: none">• Acts as default deterrent, increasing “willingness to pay”• Increase recovery for creditor
Corporate restructuring /insolvency	<ul style="list-style-type: none">• Restructuring framework (going-concern)• Resolution framework	<ul style="list-style-type: none">• Decrease time to recovery• Improve recovery value
Judicial system	<ul style="list-style-type: none">• Specialized courts /judges• Insolvency process timing• Insolvency practitioners /framework	<ul style="list-style-type: none">• Time to liquidation
Tax regime	<ul style="list-style-type: none">• Loan loss allowances• Tax loss carry forward mechanism• Write offs• Collateral sales	<ul style="list-style-type: none">• Favourable tax regime may act as incentive for Banks to dispose of NPLs

Portfolio sales

Benchmarking vs. EU distressed markets

	CY	IRL	IT	PT	SLO	SP
Active NPL market	✗	✓	✓	✗	✗	✓
Active AMC(s)	✗	✓	✗	✗	✓	✓
Transfer of loans w/o debtor consent	✓	✓	✓	✓	✓	✓

Main developments

- New law allowing transfer of loans to public /private AMC's as of 2015

Key challenges

- Law untested; Nil transactions to date
- Law requires 45 day notification to borrower and non binding proposal to purchase the loan
- Lack of independent servicer capacity
- Data protection for corporate borrowers may delay due diligence

Source: ECB stocktake of national supervisory practices and legal frameworks related to NPLs – September 2016; KPMG analysis

Cypriot credit acquiring companies: key requirements

Submission of application

For the purposes of obtaining authorisation for the activity of a credit acquiring company, an application must be submitted to the Central Bank, including at least:

- Memorandum and articles of association
- Identity of its shareholders, with a shareholding of 5% or more each;
- Identity of its directors;
- Questionnaires completed by the respective persons for the assessment of the fitness and probity criteria
- Organisational structure of the company;
- Program of operations of the company and
- Any additional information and/or records the Central Bank considers essential for the assessment of the application

Assessment criteria

Central Bank, is expected to assess fitness and probity of the applicant based on:

- Business plan for the first two financial years, which demonstrates ability to deploy resources, systems and procedures that are appropriate and proportionate to its activities
- Evidence that the applicant company has available the minimum capital required (€ 100,000)
- Governance framework & int. control mechanisms
- Description of the procedures for the handling and monitoring of customers' complaints
- Description of the systems that will be implemented for the collection of statistical and supervisory data
- Description of the internal control mechanisms to comply with the requirements of the Prevention and Suppression of Money Laundering Activities Law,
- Most recent audited financial statements

Debt enforcement /foreclosure

Benchmarking vs. EU distressed markets

	CY	IRL	IT	PT	SLO	SP
Out of court collateral enforcement	✓	✓	✓	✗	✓	✓
Sales or repossessed assets	✓	✓	✗	✓	✓	✓
No bans on sales /auctions /foreclosures	✓	✓	✗	✗	✓	✗

Main developments

- New laws to allow rapid out-of-court enforcement /foreclosure of collateral
- Contrary to old framework, new framework allows creditors to arrange a private auction without requirement of a government agency involvement

Key challenges

- Recent framework, effectiveness yet to be widely tested

Source: ECB stocktake of national supervisory practices and legal frameworks related to NPLs – September 2016; KPMG analysis

Corporate insolvency and restructuring

Benchmarking vs. EU distressed markets

	CY	IRL	IT	PT	SLO	SP
Ability to change mgmt. on restructuring	✗	✓	✗	✓	✗	✗
Sale of assets under restructuring	✗	✓	✓	✓	✓	✓
Out-of court mechanism	✗	✗	✓	✓	✓	✓
“Pre-pack” restructuring procedure	✗	✓	✓	✓	✓	✗

Main developments

- New corporate restructuring mechanisms (examinership); also allowing restructuring of public debt companies
- Introduction of licensed insolvency practitioner profession

Key challenges

- Examinership scheme does not allow removal of directors
- Challenging to limit shareholder decisions or change management in context or restructuring
- No pre-pack out of court restructuring procedure

Source: ECB stocktake of national supervisory practices and legal frameworks related to NPLs – September 2016; KPMG analysis

Judicial system / Tax regime

Benchmarking vs. EU distressed markets

	CY	IRL	IT	PT	SLO	SP
Specialised courts /judges	✗	✗	✗	✓	✓	✓
Set time for insolvency process	✗	✗	✗	✓	✓	✓
Tax incentives for w/off	✓	✓	✓	✗	✗	✓
Tax incentives for collateral sales	✓	✓	✓	✓	✗	✓

Main developments

- Best-in-class tax regime for:
 - Loan loss allowances
 - Write-offs
 - Collateral sales

Key challenges

- Lengthy court procedures
- Lack of specialization in insolvency issues
- No set time for insolvency procedures
- Unclear tax treatment for loans subject to collective assessment

Source: ECB stocktake of national supervisory practices and legal frameworks related to NPLs – September 2016; KPMG analysis



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