



June 2019 EU affairs newsletter

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Insolvency and second chance

Council formally adopts the directive on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures.

The Council formally adopted on 6th June the directive on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures. This decision marks the end of the legislative procedure.

The overall objective of the directive is to reduce the most significant barriers to the free flow of capital stemming from differences in member states' restructuring and insolvency frameworks, and to enhance the rescue culture in the EU based on the principle of second chance. The new rules also aim to reduce the amount of non-performing loans (NPLs) on banks' balance sheets and to prevent the accumulation of such NPLs in the future. In doing so, the proposal aims to strike an appropriate balance between the interests of the debtors and the creditors.

The key elements of the new rules include:

- **Early warning and access to information** to help debtors detect circumstances that could give rise to a likelihood of insolvency and signal to them the need to act quickly.
- **Preventive restructuring frameworks:** debtors will have access to a preventive restructuring framework that enables them to restructure, with a view to preventing insolvency and ensuring their viability, thereby protecting jobs and business activity. Those frameworks may be available also at the request of creditors and employees' representatives.
- **Facilitating negotiations on preventive restructuring plans** with the appointment, in certain cases, of a practitioner in the field of restructuring to help in drafting the plan.
- **Restructuring plans:** the new rules foresee a number of elements that must be part of a plan, including a description of the economic situation, the affected parties and their classes, the terms of the plans, etc.
- **Stay of individual enforcement actions:** debtors may benefit from a stay of individual enforcement actions to support the negotiations of a restructuring plan in a preventive restructuring framework. The initial duration of a stay of individual enforcement actions shall be limited to a maximum period of no more than four months.
- **Discharge of debt:** over-indebted entrepreneurs will have access to at least one procedure that can lead to a full discharge of their debt after a maximum period of 3 years, under the conditions set out in the directive.



This formal vote marks the end of the legislative process. The directive will now be formally signed and then published in the official journal. Member states will have two years (from the publication in the OJ) to implement the new provisions.

Link to agreed text [here](#).

The directive has been published into the EU Official Journal on 26th June 2019. Link to published text [here](#).

Public Sector Information

Formal approval by the Council of the review of the PSI directive

The Council adopted on June 6th the revision of the PSI directive , which set new rules on **open data and the reuse of public-sector data**. This will boost the EU data economy, contribute to the development of a data-based society and stimulate growth and the creation of jobs in all sectors of the economy.

- The new directive **extends the scope** of the rules on the reuse of public sector information (PSI) beyond public sector bodies so as to include public undertakings in the transport and utilities sectors.
- It also introduces the concept of **high-value datasets** which are to be made available free of charge through an application programming interface (API). The text defines six broad categories of high-value datasets: geospatial, earth observation and environment, meteorological, statistics, companies and company ownership, and mobility. The list will be updated through secondary legislation.
- The rules will cover publicly funded **research data** that is already available in public repositories. It will also encourage the dissemination of **dynamic data**, such as real-time weather or transport data.
- Overall, public sector data will be available either **free of charge or at very low cost**.
- In addition, the reform promotes the use of **open data**, meaning data in open formats that can be freely used and shared for any purpose.

A provisional agreement was reached between the Romanian presidency and the European Parliament on 22 January 2019. The Parliament voted on 4 April 2019 and Council on 6 June 2019. The legal act



will now be published in the EU Official Journal. It will enter into force 20 days after publication. Member states will then have two years in which to incorporate its provisions into national law.

- [Directive on open data and the re-use of public sector information \(full text\)](#)

The final text of the directive has been published in the EU Official Journal on 26th June 2019. Link to published text [here](#).

E-privacy

Telecom Council takes note of the progress report on e-privacy, Finnish Presidency to continue negotiations from July 1st

The Council took note of [the progress report](#) on a proposal to update privacy rules for electronic communications (ePrivacy).

[The proposed regulation](#) sets out to ensure a high level of protection of private life, communications and personal data in the electronic communications sector. It also aims to create a level playing field for providers of various services and to ensure free movement of electronic communications data and services in the EU. It will replace the current ePrivacy directive, which was last updated in 2009, and complement the general data protection regulation, which became applicable on 25 May 2018.

The Council held a policy debate on the proposal on 8 June 2018 and an exchange of views on 4 December 2019.

In the working party discussions the Romanian presidency has addressed the vast majority of the issues raised by ministers. The main issues discussed have included the way in which the ePrivacy proposal would interact with new technologies, in particular in the context of machine-to-machine communication, the internet of things or artificial intelligence; the prevention and detection of child abuse imagery; aspects related to data retention regimes and their compliance with the requirements of the EU Charter of Fundamental Rights; and giving member states sufficient flexibility in the provisions on supervisory authorities, while respecting the independence requirements stemming from the Charter.

The Commission presented its proposal in January 2017. It is one of the actions under the digital single market strategy to reinforce trust and security in the digital single market. For it to be adopted, the text will need to be approved by both the Council and the European Parliament.



Finance

Efforts to reduce risks in the EU banking sector are bearing fruit, according to new figures released by the European Commission.

In its fourth progress report on the reduction of non-performing loans (NPLs), the Commission confirms that NPL levels are continuing their downward trajectory towards pre-crisis levels. The ratio of NPLs in EU banks has come down by more than half since 2014, declining to 3.3% in the third quarter of 2018 and down by 1.1 percentage points year-on-year.

Building on the December 2018 [Euro Summit conclusions](#), the report will inform discussions on the completion of the Banking Union at the next meeting of EU finance ministers on 14 June, not least on the steps that need to be taken towards a [European Deposit Insurance Scheme \(EDIS\)](#).

In a separate Communication on the Deepening of Europe's Economic and Monetary Union released also on June 13th, the Commission invites EU leaders to finalise the changes to the Treaty establishing the [European Stability Mechanism](#) and to make a renewed effort to advance towards the completion of the [Banking Union](#). Together with the completion of the Banking Union, this is essential for the development of [Economic and Monetary Union](#), and strengthening the [international role of the euro](#).

Despite clear improvements, high ratios of NPLs do remain a challenge in some Member States and deserve continued attention. The EU Communication calls on Member States and the European Parliament to accelerate work on the outstanding proposals to complement [the EU's action to tackle this issue](#). Important strides have already been made towards full implementation of the EU's Action Plan to tackle the high stocks of NPLs. However, the Commission calls on co-legislators to quickly agree on its proposed measures around the benchmarking of national loan enforcement and insolvency frameworks, and to develop a sharper focus on insolvency in the European Semester process.

In March 2018, the Commission put forward a comprehensive package of measures as part of the EU Action Plan to tackle non-performing loans. The package contains policy actions in four areas: (i) bank supervision and regulation, (ii) further reforms of national restructuring, insolvency and debt recovery frameworks, (iii) developing secondary markets for distressed assets, and (iv) fostering, as appropriate and necessary, restructuring of banks.

Furthermore, the Commission has been working with Member States to enable case-specific solutions for banks within the framework of EU State aid and banking rules, with a clear objective of limiting costs to taxpayers whilst making sure depositors remained fully protected at all times. This enabled



transactions that removed some **€112 billion** of gross NPLs from the balance sheets of banks over the last three years (around €82 billion in Italy; around €24 billion in Portugal; around €6 billion in Cyprus).

The fourth progress report responds to the Council's expectation to complete a regular stocktake of NPLs in the EU.

Links to text and more information

Communication [“Deepening Europe's Economic and Monetary Union: Taking stock four years after the Five Presidents' Report” – June 2019](#)

Communication [“4th Progress Report on the reduction of non-performing loans and risk reduction in the Banking Union” – June 2019](#)

[Staff working document “Strengthening the International Role of the Euro: Results of the Consultations” – June 2019](#)

ICCR

FEBIS sends comments on the draft ICCR paper on credit coring and on the one on Cybersecurity.

FEBIS is a member of the ICCR (International Committee on Credit Reporting) and therefore follow-up the work that the ICCR is doing on a bunch on issues, Lately, the 2 most important draft papers for the sector have been the paper on credit scoring and the paper on cybersecurity. FEBIS Regulatory Committee has worked on both papers and provided comments on

- The importance of trade credit
- The need to clearly differentiate scoring for consumers and scoring for businesses
- The specificities of business information providers and
- The need to get access to relevant data to provide accurate reports

After a period of public consultation on the 2 papers, ICCR will publish them and use them as guidelines for the whole industry globally.



About FEBIS– Federation of Business Information Services

Benefiting from the opening of markets within Europe and overseas, world-wide business has experienced substantial growth. As business grows so does the demand for business information intelligence for cross-border business activities.

In 1973, leading European credit information agencies joined forces to form the Federation of Business Information Services FEBIS (initially known as FECRO), with its registered office in Frankfurt. Today, FEBIS has developed into a sizable organization comprising more than 100 members from all over the world involved in providing Business Information and credit information services of national and International importance.

As the industry association, FEBIS strives to look after common interests of its members. While monitoring new legislation like data protection laws and insolvency laws, FEBIS also oversees and the application of public sources and information.