

**TOWARDS THE RIGHT POLICY MIX FOR A THRIVING EUROPEAN CAPITAL
MARKET**

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**SESSION 2 : MARKET-BASED SOLUTIONS TO BANK
RESTRUCTURING**

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YOU CAN ACCESS SOME OF MY PAPERS AND REFERENCES TO ACADEMIC/RESEARCH
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*Luís Silva Morais – **All opinions and views are strictly personal and do not involve the SRB Appeal Panel in any manner whatsoever*

I – The NPL problem in the EU – general overview

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- **EBA Report on the Dynamics and Drivers of Non-performing exposures in the EU Banking Sector (July 2016)**
- **The current Public Consultation of ECB on guidance to banks on non-performing loans**

I – The NPL problem in the EU – general overview (cont)

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- **The EBA Report illustrates that the process of repair of the banking system – namely of bank's balance sheet – is far from over**
- **It also evidences the high dispersion of NPL ratios across various EU Member States**
- **And it highlights structural characteristics of certain local markets that tend to affect credit quality or recovery of distressed assets**

I – The NPL problem in the EU – general overview (cont)

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- EBA Report also emphasizes the fact that the banks are frequently confronted with limited options to transfer debt into Bad Banks...
- The ECB Consultation (based on “Draft Guidance to Banks on Non-Performing Loans”/September 2016) seems a ‘regime change’ to banks – more supervisory pressure to reduce and manage NPLs...

II – What scope for market-based solutions to NPL?

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- Different constraints and prospects in various national markets (there is no one size fits all model of solution)
- The case of Southern Europe (Portugal/Italy) vs other situations
- *Recent announcements of Portuguese PM about a ‘general Bad Bank solution’ in Portugal – but the ability to publicly fund such solution seems limited...*

III- Possible role of securitization

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- **Securitisatio**n may have a role – but a very careful approach is required...
- The idea of fostering a new kind of **Securitization** is important for banks particularly in the European context with their current limitations of access to financing and capital
- Within the same context, the idea of a **Simple – Transparent – Standardised – Securitization** - encapsulated in the 2015 Commission Proposal of EU Regulation (legislative procedure based on COM(2015)472 Final – Proposal) makes sense

III – Securitization (cont.)

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- BUT – This *mixed approach* to Securitization still lacks consistency – A new qualitative balance between industry creativity/Credit Rating Agencies/ and intervention of *public supervisory authorities* – with a more intrusive approach of these authorities – has to be found.....
- Current reluctance to deeper involvement of Regulators in the Certification process of Securitization meeting the STS Standards may stand in the way of much needed High Quality Securitization

IV – Hybrid approaches to market-based solutions

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- Should there be clearer/stronger encouragement of market-based restructuring solutions?**
- What kind of mixed approaches are possible – State incentives for market-based solutions and how to calibrate it in view of constraints arising from state aid control**

IV - Hybrid approaches (cont.)

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- **Excessive concern to avoid situations leading to Resolution if this is perceived as a too rigid/legal and financial straightjacket – that, in turn, may lead to apparent market based solutions to restructuring of banks which are not truly solid.....**
- **Need to avoid excessive forms of legal and financial engineering – Solutions involving funds/vehicles (selling bad loans to SPVs) that do not represent in the medium term a solution of the structural problems at stake – e.g. legal and financial engineering that ‘buys’ time, alleviating apparently the balance sheet of banks but not in a durable or truly consistent manner**
- **Risks inherent to such potential excesses in certain markets with difficulties to attract capital – e.g. in the case of a generic ‘Bad Bank’ solution in Portugal - *Caution required here...***

IV - Hybrid approaches (cont.)

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- In certain market environments lacking access to capital Government funded or partially funded or supported vehicles may be an alternative...**
- but to what extent? – and what is the leeway for those hybrid solutions in terms of state aid rules....**

IV - Hybrid approaches (cont.)

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- In a nutshell - What kind of mixed approaches are possible?
- State incentives for market-based solutions may represent an hybrid approach – But uncertainty about the optimal Mix in view of constraints arising from state aid control and its interaction with banking resolution rules
- Prospective adjustments in terms of state aid control? Prospective changes/fine-tuning arising from next reform of the BRRD?/More flexibility in interpretation/enforcement of state aid control on the basis of current rules?