BETTER FINANCE
The European Federation of Investors and Financial Services Users
Fédération Européenne des Épargnants et Usagers des Services Financiers

PRESS RELEASE

Better Finance brings the case of the bail-in of Slovenian banks to the attention of the European Banking Authority

Largely ignored, Slovenian investors suffer the consequences of the harshest bank rescue to date

9 December 2016 - The Managing Director of Better Finance presented the case of the bail-in of the six top Slovenian banks to the Banking Stakeholder Group of the European Banking Authority (EBA) at a meeting in London on 8 December 2016.

The actual implementation of bail-in rules in the case of the Slovenian banks is hitting non-insider retail investors really hard, and does not give them a fair shot at recovering their damages three years after their savings in those banks' subordinated bonds were completely wiped out.

The case of NLB, the biggest Slovenian bank, is astonishing and has gone largely uncovered by European media. In November 2013, the bank's published financial statements disclosed positive net equity of + € 835 million but soon after, in December 2013, the "asset quality review" (AQR) requested by the European Central Bank evaluated net equity at minus € 318 million. Too bad for retail bank investors who trusted the bank's financial statements… a painful reminder of the 2011 stress tests performed by the European Banking Authority which in the case of Cypriot banks did not identify any solvency issue at all, leading to their collapse about a year later at the expense of non-insider depositors.

No transparency for non-insider creditors

To date, NLB and the Central Bank of Slovenia have refused to disclose any information to non-insider bond investors regarding this "AQR", and this despite a legally binding order by the Slovenian Information Commissioner to do so. When non-insider bond investors complained and the Slovenian police was sent in to investigate this case, ECB chair Draghi wrote to the Slovenian prosecutor to protest against the seizure of ECB documents.

After taking a closer look at the AQR last month, the Slovenian Audit Court found that:

- the criteria for the selection of non-performing loans and their re-valuation used for the transfer to the Bank Asset Management Company in December 2013 were "neither clearly determined nor consistently followed";
- the bank "failed to establish an appropriate auditing track that would ensure the transparency of the transfer process";

- the bank's available documentation "fails to reveal who was responsible for the decision-making in the re-valuations".

The Central Bank of Slovenia argued that it was forced by the EU to trigger this bail-in (referring to EU guidelines on the issue from 1 August 2013) and subsequently changed the Slovenian banking law to allow for the forced expropriation of subordinated bond holders.

Following years of costly legal complaints from the Slovenian Investor Association VZMD (a member organisation of Better Finance), the European Court of Justice recently ruled that the 2013 EU guidelines were indeed only guidelines and not mandatory. Then the Constitutional Court of Slovenia also ruled that the revised banking law indeed violates the investors' rights to effective judicial protection.

But, three years after the "bail-in", and despite these rulings, retail bank investors in Slovenia are left with the burden of proof, without any transparency from the banks and central banks, and are saddled with legal fees in attempts to recover damages… unlike other bail-in cases to date where retail bond holders have all been, at least partially, indemnified.

Better finance asks the European Authorities to review the implementation of "bail-in" rules, shift the focus to bailing in insiders first and foremost, make the procedures transparent to non-insider creditors and ensure the protection of their rights.

Read more:

- Better Finance and VZMD Presentation to the EBA Banking Stakeholder Group of 8/12/2016
- Better Finance blog: "Misleadingly named "bail-IN", the procedure actually protects top INsiders and hits the weakest non-insider investors hard"

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