Negative interest rates: Impact on the European Savings and Retail Banks

1. Background

Setting up key policy rates at negative levels has become common practice for major central banks in developed economies. According to the ECB\(^1\), around 18% of the global economy, weighted by GDP, even operates in an environment of negative central bank rates, while the proportion rises to 40% when countries in the 0 to 1% range are included.

In the context of sluggish economic activity after the 2008 financial crisis and after years of low but positive rates, the ECB pushed its deposit facility rate for the first time into negative territory in June 2014 before revising it down several times to finally hit a record low of -0.40% in March 2016. Similar trends involving central banks opting for negative rates occurred in other European countries around the same period (Danish National Bank in July 2012, Swiss National Bank in December 2014, Swedish Risksbank since February 2015). More recently, the Bank of Japan followed this model by cutting its benchmark interest rate below zero, to -0.1% as of January 2016. Other central banks such as the US Federal Reserve or the Bank of England may be tempted to follow this path.

The rationale behind low and negative interest rates is that banks are further incentivised to lend to economic agents instead of keeping excessive reserves at their central banks. In the ECB’s case, opting for a negative interest rate strategy can be additionally explained by technical aspects in order to increase the supply of high-class bonds in the context of its quantitative easing programme. Contextual arguments may be also advanced by central banks for pursuing such unconventional monetary policies to counteract the effects of falling oil prices and of China’s GDP growth slowdown. On the other end, negative rates may have adverse effects on financial stability as banks’ profitability is negatively impacted which in turn may encourage excessive risk-taking - potentially fostering asset bubbles. Lower interest rates on deposits may also lead to non-bank financial institutions like insurance and pension companies to face serious problems in meeting their long-term liabilities at a fixed nominal rate. An additional issue that can be attributed to negative rates lies in that it may push large sections of the economy to opt for cash-based options. While regulatory requirements and significant costs incurred by banks in switching from negative-yield bonds to cash have, up to now, prevented most of them from making the jump, the financial sector as a whole seems, more than ever, ready to find reliable and efficient strategies that would counterbalance the downward spiral of monetary policies in which many central banks have engaged\(^2\).

This paper thus explains how negative and low interest rates negatively impact savings and retail banks. While the majority of financial institutions are suffering from the current interest rate environment, damages may even be accentuated depending on the bank’s profile. Because of their specific features and of their business model, savings and retail banks are particularly exposed.

Further down, focus is given to the implication of these negative rates from a bank and from a saver perspective. By looking at technical aspects such as accounting or legal implications of negative rates, the paper aims to demonstrate that extreme monetary policies are provoking side effects that are clearly counterproductive with regards to the overall objectives that central banks aim to achieve.

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\(^1\) Mario Draghi, President of the ECB, Introductory speech at the Annual Meeting of the Asian Development Bank, 2 May 2016

\(^2\) Financial Times, 8 June 2016, [https://next.ft.com/content/0d2a79e4-2daa-11e6-bf8d-26294ad519fc](https://next.ft.com/content/0d2a79e4-2daa-11e6-bf8d-26294ad519fc)
This paper finally advocates for easing current monetary policy conditions at European level by calling for a pragmatic approach regarding future decisions to be taken in this area.

2. The specificity of retail and savings banks regarding negative interest rates

a. Active in providing retail services for private customers, SMEs and local authorities

Savings and retail banks in Europe have always been especially strong in the provision of retail services to households and SMEs. As Figure 1 suggests, savings and retail banks are providing more loans to the real economy than commercial banks. Their business model is centered around the transformation of local savings into loans to their retail customers which is reflected in the higher share of outstanding loans to clients granted in regards to their total assets.

![Figure 1: Share of loans to customers in total assets in 2014 (in %) - Source: ESBG, Bankscope, Deutsche Bundesbank](image)

As a consequence, because savings and retail banks get a large share of their income from interest on loans to customers, they are mechanically affected by any downward trend on loan interest income. On the other hand, to preserve their level of profitability, lenders may benefit from the same downward trend on deposit rates thus keeping their net interest margins at similar levels.
Negative interest rates are however making this strategy quasi-impossible for savings and retail banks due to two reasons:

1. **Commercial reasons**: Banks may be hesitant to pass on negative deposit rates to their clients because this could provide incentive for these customers to find alternative options, such as cash-based, to preserve their capital and to avoid to see their savings levels being eroded by the effect of negative rates. It must also be noted that the workaround strategy of retail depositors of substituting currency for deposits is lower than for larger business and institutional investors which makes this option highly plausible.

2. **Legal reasons**: Regulatory frameworks in the EU may hinder or restrict any possible attempt of bank’s management teams to opt for a strategy of passing on negative interest rates on their customers. Despite a great diversity among EU Member States regarding regulation on that aspect, current regulation can explicitly oblige financial institutions to repay their client (at least) the same sum as the one that was deposited, like in France. In other countries like Germany or Spain, a lack of specific reference on negative rates may just bring ambiguity and oblige banks to revise their contractual general terms and conditions.

b. **Savings and retail banks’ profitability significantly relies on net interest income… which is eroding due to negative interest rates**

![Figure 2: Net interest income / total assets in 2014 (in %). Source: ESBG, Bankscope, Deutsche Bundesbank.](image-url)
As Figure 2 and Figure 3 show, savings and retail banks are proportionally drawing a largest share of their income from net interest income through their retail banking activity than commercial banks. This observation suggests that savings and retail banks are particularly hit by the current negative rates' environment imposed by the ECB as the gap between their commercial banks’ lending and deposit rates is narrowing.

In order to understand the link between market interest rates and net interest margins, it is important to notice that banks typically “lend long and borrow short.” Thus, the average maturity of the loans in a typical bank’s portfolio tends to exceed the average maturity of its deposits and other debt. Hence, when market interest rates fall (or become negative), banks’ funding costs usually fall more quickly than their interest income, and net interest margins rise.

This lag in price adjustment is particularly severe for savings and retail banks as a large share of their portfolio is driven by financial assets such as mortgages which are typically long in maturity. On the liability side however, retail deposits are typically rather liquid through demand deposits accounts and other short-term liability products.

3. Implication of negative interest rates
   
a. On consumers

As pointed out by Peter Praet, Member of the Executive Board of the ECB, in a keynote speech on 10 September 2015⁴, “the low interest rate environment in the euro area represents true challenges


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[...] that are not limited to the sectoral level [...] and could clearly have spillover effects both to financial markets and the broader economy”.

Thus, and because the European financial system does significantly rely on bank financing⁴, consumers are on the front line when it comes to the low interest rate environment. The rationale behind this can be explained by the following: If interest rates go down, the reward from saving falls. It becomes relatively more attractive to hold cash and/or spend. This is the substitution effect – with lower interest rates, consumers substitute saving for spending. However, if interest rates fall, savers see a decline in income because they receive lower income payments. A pensioner relying on interest payments from saving may feel they need to save more in order to maintain the income from savings.

Evidence of a downward pressure on the household saving ratios is given by Figure 4 and Figure 5. In average, across European countries, the household savings ratio has continuously plunged every single year from 2009 (13.2%) to its lowest point in 2014 (10.3%). While countries with a strong savings culture, such as France or Germany, have remained relatively stable, the decrease has been spectacular in some other countries such as Spain or Italy, respectively losing 38bps and 30bps to reach 9.7% and 10.5%. Putting aside factors such as the weak developments in real disposable income or high unemployment, low interest rates are directly pointed out by the ECB in its Economic Bulletin⁵ as an explanatory cause for these low savings rates.


**Figure 4** : Household Savings ratio 2009-2014 (in %). Source : Eurostat

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b. For savings and retail banks

1. From a retail perspective

From a retail perspective it should be central to the debate that the savings and retail banks are traditionally the banks for small investors and SMEs. Together with the longstanding and trusted relations with a significant customer base, savings deposits are at the heart of these business models. Staying profitable and successful in the negative interest rate environment creates new challenges and might trigger the adoption of different business models.

In the time from **February to May 2016**, the European Savings and Retail Banking Group has carried out a Country Survey (Annex 1) to gather information on how the European savings and retail banks deal with negative interest rates (1) with regard to credits and (2) with regard to savings. The ESBG survey gives a first overview on questions such as whether national law allows negative interest rates, if guidance from the national authorities exist, how banks address negative interest rates in new contracts and how they deal with existing contractual arrangements and if any court rulings exist in this area. A first assessment of the results of the ESBG survey shows that a **continuous negative interest policy will very likely have a negative impact on the creation of a single market in Europe and will lead to distortions in the European banking business**.

Conclusions that can be drawn from the ESBG survey are, for instance, that a **continuous policy of negative interest rates bears the risk of contradicting political efforts to create a single market**.

![Figure 5: Household Savings ratio 2013-2014 per country (in %). Source: Eurostat](image-url)
in Europe and can **create distortions of competition for cross border business of retail financial services.** Please see below some examples with more details:

- In Member States, national laws do not explicitly regulate whether negative interest rates are allowed or forbidden. However, at the same time, the survey clearly indicates that the legal situations (and interpretations of law) vary considerably throughout the Member States: While laws in some Member States rather indicate that negative interest rates in case of credits are allowed (Finland - with ongoing discussions, Germany - but only by contractual agreement, Norway, Sweden), laws in other Members States rather forbid such proceedings (Austria - “The borrower has to pay interest rates to the lender.”, France, Portugal - regulation issued by Portuguese Central Bank). In some Member States there is no clear tendency yet (Malta and Spain).

- While most “old” credit contracts do not refer to negative interest rates, it is now a widespread practice in the European savings and retail banks to include clauses in this regard. Taking a closer look at these clauses, however, shows a fragmented picture. The savings and retail banks in some Member States include clauses that set the floor of interest rates to zero (Austria, France, Malta, Spain - but only for some types of contracts); Finland introduced general terms and conditions due to which customers always have to pay at least the part of total rate which is added on top of the interest rate; in Germany due to the freedom of contracts even an agreement on negative interest rates is considered possible and in Portugal any caps were forbidden by the Portuguese Central Bank.

2. **From an accounting perspective**

Negative interest rates have led to accounting challenges which have never previously been considered. Along with the accounting challenges, negative interest rates also raise a number of operational issues that could result in greater costs for banks. There have been examples of banks reporting that their accounting and operating systems often do not contemplate negative interest rates. Negative interest rates do not, for instance, permit straightforward responses in bank accounting systems to queries about the rate on a loan, such as what the “interest” on a loan is or how negative rate payments should be made, if at all. This issue alone could lead to increased costs for banks as they would have to update or replace their accounting systems.

Some of the **main challenges** faced by banks are listed below:

- **Presentation of negative interest**: Where should negative interest be presented in a bank’s statement of profit or loss and other comprehensive income? Should it be included as an “interest income” or as an “interest expense”? It is thought that the appropriate presentation will require the application of judgement, taking into account the materiality of the amounts.

- **Impact of an interest floor of zero**: This can cause accounting complexities for hedge accounting and potential separation of an embedded derivative in the form of a zero-rate floor. For hedge accounting the probability of future cash flows will be questionable based on a negative interest rate. For embedded derivatives, when they meet certain criteria, they must be separated from a hybrid contract and accounted for separately as a derivative. Whether separation is required from a floating rate debt instrument with a benchmark floor of zero, whose benchmark interest rate is below zero at the time of issue of the instrument is still unclear.

- **Is cash on term deposit with negative interest rate a cash equivalent**: Cash equivalents are held for the purpose of meeting short-term cash commitments. It has been queried whether holding these on deposit with a negative interest rate, meaning that the amount
repayable will be less than that originally deposited, will still qualify them as cash equivalents under IAS 7 Cash Flows.

As with other areas the challenges being faced in accounting are new and in the case of most accounting standards the possibility of negative interest rates was never considered. There is a need for greater clarity in standards as to how to treat negative interest to ensure that banks’ accounts present a true and fair view.

3. Beyond implication... possible coping strategies to negative interest rates

In order to maintain a sustainable level of profitability, savings and retail banks need to find new ways of delivering financial services to their customers in the context of negative interest rates. These new ways of doing banking could imply opting for innovative strategies that would aim at restoring cut down interest margins by either acting on the revenue side or on the cost side.

On the revenue side, banks could encourage the expansion of fee income. While low interest rates naturally reduce the share of the net interest income in a bank’s total income, increasing the share of fee and commission income appears as a credible compensating approach. The rationale behind this strategy is that high interest rates largely contributed to the reduction of fees on deposit accounts which allowed retail banks to provide them free of charge. Raising customers’ awareness on the economics of deposit accounts would then be necessary to operate a switch of income and re-equilibrate the net interest income ratio to total income to more suitable levels in a low interest rate context. Alternatively, a diversification of proprietary investment could substantially reduce risk hence improving earnings from this type of investment. The expansion of credit lines to SMEs, taking into account risks and diversification of the portfolio, could also be deemed as appropriate to increase revenue.

Regarding the cost reducing approach, reducing expenses should be seen as paramount to remain competitive. In a competitive environment and in a context of slow growth, cost efficiency is key to ensure sustainable returns and compensate for income decreases. According to the EBA Risk Dashboard from Q1 2016, the median cost-to-income ratio for euro area banking sectors fell from over 62.8% in Q4 2015 to 66% in Q1 2016. This drop does not only point to an income reduction due to low interest rates but also to the fact that the expenses are not decreasing at the rate in the same proportion which undermines profitability. More cost savings could be achieved through reducing complexity in product portfolio or in redesigning processes to better fit operating models. Organisational change including the flattening of bank’s structure may provide additional benefits in regard to profitability. In the short term, banks could also optimize their immovable properties by better organizing surplus capacity and by reducing their building’s ownership ratio.

4. Monetary policy: assessment and call for a pragmatic approach aiming at easing the current negative rates environment

   a. The ECB’s current monetary policy has proved globally ineffective on the real economy

Through a combination of further loosening steps and the purchase of relatively low-risk securities, the ECB is hoping to prompt private households, the banking industry, financial markets and enterprises to channel more investment into the real economy. Given that the central bank’s securities purchases are pushing down the risk-free interest rate, investors ought – so the argument

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6 The assessment is based on the research made by the Chief Economists of the German Savings Banks Finance Group - https://www.dsgv.de/_download_gallery/Stellungnahmen/Standpunkte_der_Chefvolkswirte-eng-20160304.pdf
goes – to feel compelled to switch to assets carrying a higher risk such as equities or real-estate holdings, causing the prices of the latter to rise. This ought to hold true for retail investors and institutional investors alike. The consequent increase in the net assets of private households and institutional investors, and the prospect of future price gains on financial markets, ought then to have favourable effects on real variables such as investment and private consumption; in the present economic situation, however, with confidence at such a low ebb, such a line of argument is not conclusive.

Regarding structural reforms, it is certainly true that monetary policy has definitely had supportive effects, for example in the case of Spain; nevertheless, such effects have, on the whole, **proved to be insignificant.** In any case, private consumption is already shaping up very well in important Member States, such as Germany, by virtue of the favourable labour-market constellation, rising disposable incomes, low inflation rates and the weak euro exchange rate. As a consequence of this, effects via this particular transmission channel have been very limited.

Companies in the euro area are typically dependent above all on banks as sources of financing, the main conduit here being bank loans. On this score, there has definitely been a reduction in loan interest rates over the past few years. To that extent, the **ECB is hoping that low interest rates will boost lending to, and investment activity** at, small-and-medium-sized enterprises (SMEs). However, the equity position of SMEs is extremely comfortable at the moment, at least in the core countries of the European Monetary Union. Enough loans are currently being made available by banks in most member countries. This can be gauged, for instance, from the improved borrowing conditions indicated by the “Bank Lending Survey” conducted by the ECB itself. This survey demonstrates a **significant net easing of terms** in the euro zone as a whole, and shows that this has already been the case in countries like Germany or Spain for quite some time already. But we are not seeing the pronounced surge in investment which is needed: **small and medium-sized enterprises are still not confident about the sustainability of the economic trend.** The upshot is that the cyclical impact of additional interest-rate cuts remains limited, from the perspective of SMEs in particular.

**b. Inflation targets are not threatened**

In the first instance, the **ECB is using its inflation target to take aim at the decidedly low inflation rates** prevailing at the moment. However, the current data yielded by the ECB itself within the framework of its latest “Survey of Professional Forecasters (SPF)” shows that HICP inflation (which is projected to come to 1.4% in 2017 and to 1.8% in 2021) is likely to approach the 2% target again without any additional measures. These forecasts correspond, for the most part, to the projections of ESBG. In light of this, further measures, reinforcing what is already an extremely loose monetary-policy stance, are not necessary at all.

Another question which arises is whether a deviation from the 2% inflation target would not seem tolerable in the special economic situation which is prevalent at the moment both in the euro area and world-wide. The ECB should adhere, in principle, to its target of “below, but close to, 2%”; in the short term, however, in the transitional period before investment and economic activity normalise, such a target is going to continue to be difficult to achieve. Since this is the case, the **ECB could choose to proceed pragmatically** – and less dogmatically – on this score too. Proceeding in this way, the ECB could restrict the validity of the 2% target – which, in any case, is not laid down in the Maastricht Treaty and is therefore not part of the central bank’s mandate – to periods of normal

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economic activity. Moreover, if the inflation target is set at the wrong level with respect to shifting supply structures in the advanced economies or an enduring downward trend in energy prices, a monetary-policy stance that was overly expansionary could easily overshoot the mark by which the ECB is taking its bearings. To that extent, it would perhaps be wise to monitor the 2% variable from time to time in order to check whether it is still in line with the concrete economic conditions.

c. Way forward

At a recent press conference, ECB President Mario Draghi fuelled expectations of a boundlessly expansionary monetary policy. The Bund has climbed to a new all-time high. Stable or rising prices were anticipated on German government bonds in the run-up to the last meeting of the ECB Governing Council on 10th March. But it remains to be seen whether the ECB will, in fact, be able to meet all the high expectations. With interest rates already in negative territory and a flat yield curve, monetary policy is finding it scarcely possible to generate real effects. This holds true both for aggregate growth and for inflation rates. Accordingly, the central bank’s credibility threatens to be damaged if it keeps missing its own targets due to a large degree of frenetic actionism. In view of the elevated volatility on the markets and of the advent of new uncertainties, the ECB once again sees threats of deflation and a deanchoring of inflation expectations. On sober reflection, however, today’s wisdom suggests that there is only a very small risk of deflation in the euro area. It is true that nervous financial markets are beseeching monetary policy-makers to take action. But a “steady-as-she-goes” policy is preferable if the valuable asset of “confidence” is not to be undermined.

In this sense, it is also up to the heads of state and government of euro zone member countries to protect the ECB from false expectations. Instead of leaving things up to the ECB, it is imperative to push ahead with structural reforms in Europe which are designed to strengthen investment momentum across the continent and therefore to spur the forces driving growth. The ECB should not be forced to an ever greater extent into a state of duress in which it is compelled to act – a state of duress which raises far-reaching questions of principle about our economic and social system in the medium term. In particular, the ECB must not allow itself to become a prisoner of expectations or volatility on the financial markets or else of an overly dogmatic interpretation of its own inflation targets. ESBG urgently warns against further forays into a central-bank-supported fiscal policy through an expansion in the volume of the ECB’s securities purchases.
Annex 1: ESBG Negative interest rates Country Survey

### A. OVERVIEW ON NEGATIVE INTEREST RATE FOR CREDITS

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>ESBG MEMBER</th>
<th>OVERVIEW ON NEGATIVE INTEREST RATE FOR CREDITS</th>
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<tbody>
<tr>
<td>Austria</td>
<td>ÖSPV</td>
<td>1. Please describe the legal situation in your Member State. Do laws allow/forbid negative interest rates in case of credits? The only reference in Austrian law in this regard says: The borrower has to pay interest rates to the lender. (§ 988 ABGB) Currently in practice customers always pay the marginal (the part of total rate, which is added on top of the interest rate) even if the interest rate is negative. However there are discussions going on in the Department of Justice that this shall be forbidden in the future. In that case the whole rate could go below zero.</td>
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<tr>
<td>Finland</td>
<td>Savings Banks' Union Coop</td>
<td>There are several indicators in French law that forbid negative interest rates. According to the French Civil Code, the lender has two obligations towards the borrower: paying back the borrowed amount and paying interest rates. In addition, Art. 1156 underlines the importance of the parties' common attention when the parties concluded the contract. Finally, Art. 313-1 of the &quot;Code monétaire et financier&quot; defines a credit as an operation in which a person borrows or promises to lend money to another person (&quot;Constitue une opération de crédit tout acte par lequel une personne agissant à titre onéreux met ou promet de mettre les fonds à la disposition d'une autre personne (...)&quot;)</td>
</tr>
<tr>
<td>Germany</td>
<td>DSGV</td>
<td>German law does not contain any regulations in this regard. The freedom of contracts generally also allows to agree upon negative interest rates for credits.</td>
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<tr>
<td>Malta</td>
<td>Bank of Valetta p.l.c.</td>
<td>No. No, Norwegian law does not forbid negative interest rates.</td>
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<tr>
<td>Norway</td>
<td>Finance Norway</td>
<td>The Portuguese Central Bank recently issued a regulation stating that banks cannot establish rules for lower limits in interest rates. Currently, there are not regulations/standards on this subject in the Spanish legal framework. Spanish law neither allows nor forbids negative interest rates in case of credits. Please, see below for court decisions.</td>
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<tr>
<td>Portugal</td>
<td>Montepio</td>
<td>No; There are no Swedish rules forbidding negative interest rates.</td>
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<td>Spain</td>
<td>Caixa Bank / Cecabank</td>
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<td>Sweden</td>
<td>Swedbank</td>
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<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>ESBG MEMBER</th>
<th>Austria ÖSPV</th>
<th>Finland Savings Banks’ Union Coop</th>
<th>France BPCE</th>
<th>Germany DSGV</th>
<th>Malta Bank of Valetta p.l.c.</th>
<th>Norway Finance Norway</th>
<th>Portugal Montepio</th>
<th>Spain Caixa Bank / Cecabank</th>
<th>Sweden Swedbank</th>
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<tr>
<td>2. Did your banks already address these issues in their general terms and conditions? If not, what practical solutions do you see to avoid paying low interest rates? Do you consider taking negative interest rates from consumers? Did you introduce any caps, e.g. by new contractual arrangements with the consumer? How are these issues dealt with internally?</td>
<td>The Austrian savings banks usually do not address the issue of negative interest rates in their general terms and conditions. However, the contracts contain a clause due to which a negative interest indicator (e.g. EURIBOR) will be treated with a value of 0. This is how contracts are currently treated in practice. Whether this can be legally contested remains to be seen. There is a risk that said clause is void due to § 6 Abs 1 Z 5 KSchG which says, that it is not possible to agree upon a clause setting a lower limit (floor) under certain conditions without agreeing upon an upper limit (cap). Our general terms and conditions contain a clause due to which our customers always have to pay at least the marginal. Banking employers have received advice on how to communicate with clients that request negative interest rates. Contracts that have been concluded since 2014 include a clause that sets the floor of interest rates to zero. From our point of view existing contractual agreements cannot be interpreted in the sense that the lender has to pay the borrower for lending money. In loan agreements with regard to bigger companies we have set a lower limit (floor) to keep the interest rate at zero (typically EURibor/Libor). Financial Norway’s committee of revision and standardization of contracts have revised several of our contracts regarding credits. The revision is based on the possibility that the interest rate for credits might be negative. The committee members are all from the banking industry. Therefore is it, we believe, safe to say that the industry is aware of the situation and are preparing for the event that we in fact get negative interest rates on credits.</td>
<td>No.</td>
<td>See above.</td>
<td>No.</td>
<td>As far as we know national authorities did not issue any guidance in this regard.</td>
<td>Not as far as we are aware.</td>
<td>No, not to our knowledge.</td>
<td>See first answer.</td>
<td>As far as we know this topic has not been addressed. However, it seems that the national authorities consider it to be against reason if banks have to pay interest to a debtor.</td>
<td>No, not to our knowledge.</td>
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<td>3. Have your national authorities reacted so far? Did the financial authorities issue any guidance on this subject? Are the legislators working on new laws?</td>
<td>No.</td>
<td>No.</td>
<td>No.</td>
<td>No.</td>
<td>No.</td>
<td>No, not to our knowledge.</td>
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<td>4. Are negative interest rates a topic in your national consumer protection organisations? Do you know about any class action lawsuits being organised by consumer organisations?</td>
<td>Recent lawsuits have been organised by consumer protection organisations - “Verein für Konsumenteninformation (VKI)”. National consumer protection organisations consider that it would be very strange and against reason if banks would be forced to pay to the customers in case of negative interest rates. So, no pressure from their side. The “Association Française des Usagers des Banques” (AFUB) claimed that they want to contest certain contracts with banks. However, credits with variable rates are rather rare in France and only 40,000 credit contracts contain such clauses (5 % of total credit contracts). So far is seems that only about 400 persons showed an interest in getting active in this regard, which might not be enough for</td>
<td>Not as far as we know.</td>
<td>Not as far as we are aware of.</td>
<td>Not to our knowledge.</td>
<td>No action are taken as the Portuguese Central Bank has addressed the issue immediately.</td>
<td>Yes. Consumer organizations expressed the opinion in the media that consumers should be granted the benefit of negative interest, either on a monthly basis or in the overall balance of the outstanding duration/maturity of the loan. As far as we know, no class actions have been lodged up to date.</td>
<td>No, not as far as we are aware of.</td>
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<td>COUNTRY</td>
<td>ESBG MEMBER</td>
<td>Actions Initiated</td>
<td>Specific Issue to Be Addressed</td>
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<td>Austria</td>
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<td>In the first lawsuit the court has ruled that the bank cannot decide unilaterally to set a lower limit (floor) without at the same time setting an upper limit (cap). This violates the principle to do adjustments of clauses in a balanced way (“Gebot der Anpassungssymmetrie”). Interestingly, in any other court decision later on these arguments have been copied and pasted (including misspellings). So far there is no legally binding court decision. The decision of the highest Austrian court still remains to be seen.</td>
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<td>Finland</td>
<td>Savings Banks’ Union Coop</td>
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<td>So far no court rulings on this topic exist.</td>
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<td>France</td>
<td>BPCE</td>
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<td>So far no court rulings on this topic are existing.</td>
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<tr>
<td>Germany</td>
<td>DSGV</td>
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<td>We are not aware of any court rulings.</td>
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<tr>
<td>Malta</td>
<td>Bank of Valetta p.l.c.</td>
<td></td>
<td>To our current knowledge, there are no such rulings (or pending cases).</td>
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<tr>
<td>Norway</td>
<td>Finance Norway</td>
<td></td>
<td>We are not aware of any court rulings.</td>
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<tr>
<td>Portugal</td>
<td>Montepio</td>
<td></td>
<td>To our knowledge there are no court rulings on this topic.</td>
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<tr>
<td>Spain</td>
<td>Caixa Bank / Cecabank</td>
<td></td>
<td>There are some court decisions in Spain: (i) A first instance Court stated that the nature of a loan cannot convey any flow of funds from the lender to the debtor. (ii) The Madrid Court of Appeals stated that the will of the parties in a loan is that no negative interest will be provided. (iii) In addition, the Commercial Court in Madrid issued in April 2016 a decision with a link to negative interest rates according to which millions of fixed minimum rate mortgages were null and void because of the lack of transparency in the way they were sold during the property boom. The respective clauses had been introduced to protect banks from negative interest rates.</td>
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<tr>
<td>Sweden</td>
<td>Swedbank</td>
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<td>To our knowledge there are no court rulings on this matter in Sweden.</td>
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</table>
### B. OVERVIEW ON NEGATIVE INTEREST RATES FOR SAVINGS

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>ESBG MEMBER</th>
<th>Austria ÖSPV</th>
<th>Finland Savings Banks’ Union Coop</th>
<th>France BPCE</th>
<th>Germany DSGV</th>
<th>Malta Bank of Valetta p.l.c.</th>
<th>Norway Finance Norway</th>
<th>Portugal Montepio</th>
<th>Spain Caixa Bank / Cecabank</th>
<th>Sweden Swedbank</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Please describe the legal situation in your Member State. Do laws allow/forbid negative interest rates in case of savings?</td>
<td></td>
<td>It is possible to have negative interest rates for deposits even though it might be difficult to do so in practice due to competition factors. None of the banks have taken that into use with personal deposits, but some of the banks in Finland have communicated to introduce it with large corporate customers.</td>
<td>In France negative interest rates are not allowed, if not particularly regulated in a contract. In the French Code Civil (Art. 1915 and 1932) it is regulated that banks are obliged to repay their client (at least) the same sum than the one that was deposited.</td>
<td>German law does not explicitly regulate this case.</td>
<td>No. Maltese law states that the maximum which may be charged, by non-credit institutions, is 8%, but there is no provision on a minimum. In other words, negative interest rates are not explicitly mentioned and they are not prohibited by law.</td>
<td>No. Norwegian law does not forbid negative interest rates.</td>
<td>No</td>
<td>Currently, there is not regulation whatsoever.</td>
<td>Swedish law neither allows nor forbids negative interest rates in case of savings.</td>
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<tr>
<td>2. Did your banks already address this issues in their general terms and conditions? If not, what practical solutions do you see to avoid paying low interest rates? Do you consider taking negative interest rates from consumers? Did you introduce any caps, e.g. by new contractual arrangements with the consumer? How are these issues dealt with internally?</td>
<td></td>
<td>In our group customers do not have to pay for deposits at the moment. That might change if the banks are forced to pay customers for loans/credits.</td>
<td>For big corporate clients this is a topic. We are thinking about adding a contract clause (for savings accounts and current accounts) that would allow us to compensate for negative interest rates.</td>
<td>The discussion in Germany focuses less on negative interest rates and more on fees for storing money.</td>
<td>Whilst of course this cannot be excluded categorically, we are currently not charging negative interest rates on our deposits. Our terms and conditions allow us to change the interest rate by giving 2 months written notice. There is no specific provision for negative interest rates, although they are not excluded.</td>
<td>Of course, we hold some Eurobonds on which we are earning 0% because Euribor is negative. It seems that by market convention, the lender is not obliged to pay interest. We received information that in practice, in case of syndicated term loans and for so called “Schuldscheine”, floors are being introduced in loan agreements.</td>
<td></td>
<td>In this regard our business is not affected so far as savings are currently under fixed interest rate contracts.</td>
<td>We are not charging negative interest rates from the majority of our customers, neither private individuals nor companies. It has so far been deemed inappropriate to do so for ordinary customers. For some customer segments, as large corporate and financial institutions, administrative fees (covering the negative interest) can occur.</td>
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<tr>
<td>COUNTRY</td>
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<td>3. Have your national authorities reacted so far? Did the financial authorities issue any guidance on this subject? Are the legislators working on new laws?</td>
<td>- - -</td>
<td>See above.</td>
<td>No.</td>
<td>No.</td>
<td>Not as far as we are aware of.</td>
<td>No, not to our knowledge.</td>
<td>- - -</td>
<td>As far as we know this topic has not been addressed. However, it seems that the national authorities consider it to be against reason that a lender has to pay interest to a debtor.</td>
<td>No, the topic has not been raised.</td>
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<td>4. Are negative interest rates a topic in your national consumer protection organisations? Do you know about any class action lawsuits being organised by consumer organisations?</td>
<td>- - -</td>
<td>We assume that national consumer protection organisations would tolerate the case where consumers should pay for deposits. The whole business model would be upside down then.</td>
<td>- - -</td>
<td>The German Verbraucherzentrale considers such negative interest rates in the cases of new contracts for private clients to be legally possible.</td>
<td>Not as far as we are aware of.</td>
<td>No, not to our knowledge.</td>
<td>- - -</td>
<td>Yes. Consumer organizations expressed the opinion in the media that consumers should be granted the benefit of negative interest, either on a monthly basis or in the overall balance of the outstanding duration/maturity of the loan. As far as we know, no class actions have been lodged up to date.</td>
<td>We are not aware of any such actions.</td>
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<td>5. Please describe any court rulings regarding these issues in your country.</td>
<td>- - -</td>
<td>The High Court in Austria argues that savings are connected with an expectation of a positive return. Thus, for savings there has to be a positive interest rate.</td>
<td>No court rulings at this stage.</td>
<td>No court ruling in this area are existing.</td>
<td>We are not aware of any such court rulings.</td>
<td>To our current knowledge, there are no such rulings (or pending cases).</td>
<td>- - -</td>
<td>No relevant judgments up to date.</td>
<td>There are to our knowledge no court rulings on this matter in Sweden.</td>
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