CHAPTER 645

CREDIT SERVICERS AND CREDIT PURCHASERS ACT

AN ACT to provide for the establishment of a framework for the regulation of credit purchasers, as well as credit servicers acting on behalf of such credit purchasers, of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, issued by a credit institution established in the European Union; and to amend the Insurance Business Act and the Investment Services Act.

30th July, 2024

ACT XXXII of 2024, as amended by Act XI of 2025.

Short title and scope.

1. (1) The short title of this Act is the Credit Servicers and Credit Purchasers Act.

(2) The principal scope of this Act is to transpose the relevant provisions of the Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU (NPL Directive), and it shall be interpreted and applied in accordance with the said Directive.

Interpretation.

2. (1) In this Act, unless the context otherwise requires:

"applicant" means a legal person established in Malta applying to the competent authority to act as a credit servicer in accordance with article 7;

"binding legal instrument" means any directly applicable measures, including but not limited to, any implementing technical standards, regulatory technical standards or similar measures issued in accordance with European Union legislation;

"borrower" means a legal or natural person who has concluded a credit agreement with a credit institution, including its legal successor or assignee;

"competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act; Cap. 330.

"Conduct of Business Rules" means Rules, other than Credit Servicing Rules, issued by the competent authority in accordance with this Act;

"consumer" means a natural person who, in credit agreements regulated by this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business

Rules issued thereunder, is acting for purposes which are outside his trade, business or profession;

"CRD" means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"credit agreement" means an agreement as originally issued, modified or substituted, whereby a credit institution grants a credit in the form of a deferred payment, a loan or other similar financial accommodation;

"credit institution" means a credit institution as defined in point (1) of Article 4(1) of the CRR;

"credit purchaser" means any natural or legal person, other than a credit institution, that purchases a creditor's rights under a non-performing credit agreement, or the non-performing credit agreement itself, in the course of its trade, business or profession, in accordance with applicable European Union law and national law;

"credit service provider" means a third party used by a credit servicer to perform any of the credit servicing activities;

"credit servicer" means a legal person that, in the course of its business, manages and enforces the rights and obligations related to a creditor's rights under a non-performing credit agreement, or to the non-performing credit agreement itself, on behalf of a credit purchaser, and which carries out at least one (1) or more credit servicing activities;

"credit servicing activities" means one (1) or more of the following activities:

(a) collecting or recovering from the borrower, in accordance with national law, any payments due related to a creditor's rights under a credit agreement or to the credit agreement itself;

(b) renegotiating with the borrower, in accordance with national law, any terms and conditions related to a creditor's rights under a credit agreement, or of the credit agreement itself, in line with the instructions given by the credit purchaser, where the credit servicer is not a credit intermediary as defined in

Article 3(f) of Directive 2008/48/EC or in Article 4(5) of Directive 2014/17/EU;

(c) administering any complaints relating to a creditor's rights under a credit agreement or to the credit agreement itself; and, or

(d) informing the borrower of any changes in interest rates or charges or of any payments due related to a creditor's rights under a credit agreement or to the credit agreement itself;

"credit servicing agreement" means a written contract concluded between a credit purchaser and a credit servicer concerning the services to be provided by the credit servicer on behalf of the credit purchaser;

"Credit Servicing Rules" means Rules, other than Conduct of Business Rules, which may be issued by the competent authority in accordance with this Act;

"creditor" means a credit institution that has issued a credit or a credit purchaser;

"CRR" means Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, as amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder;

"designated representative" means the representative of a third-country credit purchaser designated in accordance with article 17;

"Directive 98/5/EC" means Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate the practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder;

"Directive 2008/48/EC" means Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder;

"Directive 2009/65/EC" means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder;

"Directive 2011/61/EU" means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder;

"Directive 2014/17/EU" means Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder;

"European regulatory authority" means a body or bodies designated by a Member State other than Malta in accordance with Article 21(3) of the NPL Directive to carry out the functions and duties stipulated in the said Directive;

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder;

"home Member State" means, with respect to a credit servicer, the Member State in which its registered office is situated or, if under its national law it has no registered office, the Member State in which its head office is situated or, with respect to a credit purchaser, the Member State in which the credit purchaser or its representative is domiciled, or its registered office is situated, or if under its national law it has no registered office, the Member State in which its head office is situated;

"host Member State" means the Member State, other than the home Member State, in which a credit servicer has established a branch or where it provides credit servicing activities, and in any event where the borrower is domiciled, or its registered office is situated or, if under its national law it has no registered office, the Member State in which its head office is situated;

"licence" means a licence to carry out credit servicing activities issued under this Act;

"licence holder" means a person who holds a licence;

"management body" means the body or bodies of a legal person, which is appointed in accordance with the applicable law and which is empowered to set the strategy, objectives and overall direction of the legal person, and which oversees and monitors management decision-making, and includes the persons who effectively direct the business of the legal person;

"Member State" means a Member State of the European Union and includes an European Economic Area State;

"MiFID" means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder;

"Minister" means the Minister responsible for the regulation of financial services;

"non-performing credit agreement" means a credit agreement that is classified as a non-performing exposure in accordance with Article 47a of the CRR;

"NPL Directive" means Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit servicers and credit purchasers and amending Directives 2008/48/EC and 2014/17/EU, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder;

"Regulation (EU) 2017/2402" means Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and

Regulations (EC) No. 1060/2009 and (EU) No. 648/2012;

"Regulation (EU) 2018/1725" means Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No. 45/2001 and Decision No. 1247/2002/EC, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been, or may be issued thereunder.

(2) For the purposes of this Act, unless the context otherwise requires, terms used in this Act which are not defined in the said Act shall have the same meaning as assigned to them in the NPL Directive.

(3) In the case of conflict between the English and the Maltese texts, the English text shall prevail in this Act and in any regulations made thereunder.

Applicability.

3. (1) The provisions of this Act and of any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder shall apply to the following:

(a) credit servicers acting on behalf of a credit purchaser in respect of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, issued by a credit institution; and

(b) credit purchasers of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, issued by a credit institution.

(2) The provisions of this Act and of any regulations made thereunder, Credit Servicing Rules or Conduct of Business Rules issued thereunder shall be without prejudice to any other law relating to:

(a) the transfer of a creditor's rights under a credit agreement, or of the credit agreement itself;

(b) the protection of consumers and borrowers' rights, including the provisions of Regulations (EC) No. 593/2008 and (EU) No. 1215/2012, and Directives 93/13/EEC, 2008/48/EC, 2014/17/EU as transposed in national law;

(c) any restrictions regarding the transfer of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself that is not past due, or is less than ninety (90) days past due, or is not terminated in accordance with the applicable legislation; and

(d) any requirements regarding the servicing of a creditor's rights under a credit agreement, or of the credit agreement itself, when the credit purchaser is a securitisation special purpose entity as defined in point (2) of Article 2 of Regulation (EU) 2017/2402, provided that law:

(i) does not affect the level of consumer protection provided by the NPL Directive as transposed into national law; and

(ii) ensures that the competent authority receives the necessary information from credit servicers.

Non-applicability.

4. The provisions of this Act and of any regulations made thereunder, of the Credit Servicing Rules or Conduct of Business Rules issued thereunder shall not apply to the following:

(a) the servicing of a creditor's rights under a credit agreement, or of the credit agreement itself, carried out by:

(i) a credit institution established in the European Union;

(ii) an alternative investment fund manager (AIFM) authorised or registered in accordance with Directive 2011/61/EU, or a management company, or an investment company authorised in accordance with Directive 2009/65/EC provided that the investment company has not designated a management company under the latter Directive, on behalf of the fund it manages; or

(iii) a non-credit institution subject to supervision by a competent authority of a Member State in accordance with Article 20 of Directive 2008/48/EC or Article 35 of Directive 2014/17/EU when performing activities in that Member State;

(b) the servicing of a creditor's rights under a credit agreement, or of the credit agreement itself, that was not issued by a credit institution except where the creditor's rights under the credit agreement, or the credit agreement itself, is replaced by a credit agreement issued by such credit institution;

(c) the purchase of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, by a credit institution established in the European Union;

(d) the transfer of a creditor's rights under a credit agreement, or of the credit agreement itself transferred before 30th December 2023; and

(e) the servicing of a creditor's rights under a credit agreement, or of the credit agreement itself, executed by public notaries or marshals or lawyers as defined in point (a) of Article 1(2) of Directive 98/5/EC when conducting credit servicing activities as part of their profession.

Competent authority.

5. (1) The competent authority shall carry out its functions under this Act and, in particular, shall ensure compliance with the provisions of the said Act and any regulations made thereunder, with the Credit Servicing Rules or Conduct of Business Rules issued thereunder.

(2) The competent authority shall also carry out the functions and duties as competent authority for all purposes of the NPL Directive as transposed in national law.

(3) Without prejudice to the provisions of this article, where Malta is the home Member State, the competent authority shall ensure that credit servicers and, where applicable, credit service providers to whom credit servicing activities have been outsourced in accordance with article 12, comply with the provisions of this Act and of any regulations made thereunder and with the Credit Servicing Rules or Conduct of Business Rules issued thereunder, on an ongoing basis.

(4) Without prejudice to the provisions of this article, where Malta is the home Member State, it shall be responsible for the supervision of the obligations set out in Article 10 and in Articles 17 to 20 of the NPL Directive, as transposed in national law, in respect of the credit purchaser or, where applicable, its designated representative.

PART I
CREDIT SERVICERS

Authorisation as a credit servicer.

6. (1) No legal person shall act as a credit servicer, or hold itself to act as a credit servicer, in Malta unless it is duly authorised by the competent authority or any European regulatory authority to act as a credit servicer.

(2) No legal person established in Malta shall act as a credit servicer, or hold itself to act as a credit servicer, unless it is duly authorised by the competent authority to act as a credit servicer under this Act.

(3) Where a legal person is authorised by the competent authority to act as a credit servicer, it may receive and hold funds from borrowers in order to transfer those funds to credit purchasers, provided that it shall only do so in Malta and in any host Member State that permits such receiving and holding of funds.

(4) Where a legal person is authorised by a European regulatory authority to act as a credit servicer, it may receive and hold funds from

borrowers in Malta in order to transfer those funds to credit purchasers, provided that it shall only do so if the home Member State permits such receiving and holding of funds.

Application for authorisation.

7. (1) A legal person established in Malta intending to act as a credit servicer shall apply to the competent authority for authorisation to act as a credit servicer.

(2) An applicant shall submit to the competent authority an application for authorisation to act as a credit servicer. An applicant shall also provide all the information necessary for the competent authority to verify that the applicant has satisfied all the conditions set out in article 8.

(3) Without prejudice to the provisions of sub-article (2), the application referred to in the said sub-article (2) shall be accompanied by the following:

(a) evidence of the legal status of the applicant and a copy of its certificate of registration, and its memorandum and articles of association;

(b) the address of the applicant's registered office;

(c) the identity of the members of the applicant's management or administrative body and the persons who hold qualifying holdings in accordance with point (36) of Article 4(1) of the CRR;

(d) evidence that the applicant fulfils the conditions laid down in article 8(b) and (c);

(e) evidence that the persons who hold qualifying holdings in accordance with point (36) of Article 4(1) point (36) of the CRR fulfil the conditions laid down in article 8(d);

(f) evidence of the governance arrangements and internal control mechanisms referred to in article 8(e);

(g) evidence of the policy referred to in article 8(f);

(h) evidence of the internal procedures referred to in article 8(g);

(i) evidence of the procedures referred to in article 8(h);

(j) where relevant, evidence of the existence of a separate account in a credit institution as provided for in article 8(j);

(k) any outsourcing agreement as referred to in

article 13; and

(l) where the applicant does not intend to receive and hold funds from borrowers as part of its business model, a declaration to that effect.

(4) The competent authority shall, within forty-five (45) days of receipt of the application referred to in sub-article (2), assess whether that application is complete by ensuring that the information and documentation referred to in sub-article (3) have been submitted.

(5) Where the application referred to in sub-article (2) is not complete, the competent authority shall set a deadline by which the applicant is to provide the missing information. If the said application remains incomplete after the deadline referred to in this sub-article, the competent authority may refuse to review the application and, in the event of such refusal, shall return the submitted documents to the applicant.

(6) Where an application referred to in sub-article (2) is complete, the competent authority shall immediately notify the applicant thereof.

(7) The competent authority shall, within ninety (90) days of receipt of a complete application or, if the application is considered incomplete by the competent authority, of receipt of the required information and, or documentation, notify the applicant whether the authorisation to act as a credit servicer is granted or refused, and provide reasons for refusal.

(8) In granting an authorisation under this Act, the competent authority may subject a credit servicer to such conditions as it may deem appropriate and, having granted such an authorisation, it may, from time to time, vary or revoke any condition so imposed or impose new conditions, as applicable.

(9) A credit servicer intending to extend its business to additional services not foreseen at the time of the granting of the authorisation under this Act shall submit a request in writing for the extension of its licence to the competent authority by complementing and, or updating the information and documentation referred to in this Act, as applicable.

(10) The competent authority shall establish and maintain a list of all credit servicers authorised under this Act and all credit servicers authorised in any Member State other than Malta providing services in Malta under Article 13 of the NPL Directive. The competent authority shall publish the said list on its official website and shall update it on a regular basis.

Refusal of authorisation.

8. The competent authority shall not grant an applicant

authorisation as a credit servicer in accordance with this Act unless it is satisfied that:

(a) the applicant is a legal person as referred to in Article 54 of the Treaty on the Functioning of the European Union and its registered office is in Malta;

(b) the members of the applicant's management or administrative body are of sufficiently good repute, which is demonstrated by proving that:

(i) they have a clean police record or any other national equivalent in relation to relevant criminal offences, in particular those relating to property, financial services and activities, money laundering, usuary, fraud, tax crimes, violation of professional secrecy or physical integrity, and also in relation to any other offences under laws relating to companies, bankruptcy, insolvency or consumer protection;

(ii) the cumulative effects of minor incidents do not impinge on their good repute;

(iii) they have always been transparent, open and cooperative in their past business dealings with supervisory and regulatory authorities;

(iv) they are not subject to any ongoing insolvency procedure nor have previously been declared bankrupt unless reinstated in accordance with the applicable law;

(c) the applicant's management or administrative body, as a whole, has adequate knowledge and experience to conduct the business in a competent and responsible manner;

(d) the persons who hold qualifying holdings in the applicant within the meaning of point (36) of Article 4(1) of the CRR are of sufficiently good repute, which is demonstrated by fulfilling the requirements set out in paragraph (b) of this article;

(e) the applicant has in place robust governance arrangements and adequate internal control mechanisms, including risk management and accounting procedures, which ensure respect for borrower rights and compliance with the laws governing a creditor's rights under a credit agreement, or the credit agreement itself, and with the GDPR;

(f) the applicant applies an appropriate policy ensuring compliance with rules for the protection, and the fair

and diligent treatment of borrowers, including by taking into account their financial situation and, where available, the need for such borrowers to be referred to debt advice or social services;

(g) the applicant has in place adequate and specific internal procedures that ensure the recording and handling of complaints from borrowers;

(h) the applicant has in place adequate anti-money laundering and counter terrorism financing procedures where the provisions of the Prevention of Money Laundering Act or in any regulations made thereunder, designate credit servicers as subject persons;

Cap. 373.

(i) the applicant is subject, by virtue of applicable national law, to reporting and public disclosure requirements; and

(j) the applicant has a separate account in a credit institution into which all funds received from borrowers are to be credited and kept until their channelling to the respective credit purchaser, under the conditions agreed with the credit purchaser:

Provided that this paragraph shall not apply where the applicant does not intend to receive and hold funds from borrowers as part of its business model and provides the competent authority with a declaration to that effect in accordance with article 7(3)(l).

Suspension or withdrawal of authorisation.

9. (1) The competent authority may at any time suspend or withdraw an authorisation granted to a credit servicer in accordance with this Act where any of the following applies to such a credit servicer:

(a) the credit servicer does not make use of the authorisation within twelve (12) months of its grant from the competent authority;

(b) the credit servicer expressly renounces to the authorisation;

(c) the credit servicer has ceased to engage in the activities of a credit servicer for more than twelve (12) months;

(d) the credit servicer has acquired an authorisation through false statements or other irregular means;

(e) the credit servicer no longer fulfils the requirements for the granting of such authorisation set out in article 8; and, or

(f) the credit servicer commits a serious infringement of any of the provisions of this Act or any regulations made thereunder, of Credit Servicing Rules or Conduct of Business Rules issued thereunder, and, or any other laws regulating consumer protection, including any applicable laws of the host Member State or of the Member State where the credit was granted.

(2) Where an authorisation is withdrawn in accordance with sub-article (1), the competent authority shall, where applicable, immediately inform the European regulatory authority of the host Member State in cases where the credit servicer provides services under regulations made under this Act, and also the European regulatory authority of the Member State where the credit was granted, when different from the host Member State and the home Member State.

(3) When an authorisation is withdrawn in accordance with sub-article (1), the competent authority shall update the list referred to in article 7(10) without delay.

Notification of proposed refusal, variation, suspension or withdrawal of an authorisation.

10. (1) Where the competent authority proposes:

(a) to vary any condition to which the authorisation is subject or to impose a condition thereon; or

(b) to refuse an application for an authorisation, or to withdraw or suspend an authorisation,

it shall give the applicant or the credit servicer, as applicable, notice in writing of its intention to do so, setting out the reasons for the decision it proposes to take.

(2) Every notice given under sub-article (1), shall state that the recipient of the notice may, within such reasonable period after the notification thereof as may be stated in the notice, make representations in writing to the competent authority indicating reasons why the proposed decision should not be taken, and the competent authority shall consider any representation so made before reaching a final decision.

(3) Without prejudice to the provisions of article 7(7), the competent authority shall as soon as practicable notify its final decision in writing to any person to whom notice is to be given in accordance with sub-article (1).

Supervision of credit servicers.

11. (1) When Malta is the home Member State, the competent authority shall evaluate, by applying a risk-based approach, the implementation by a credit servicer of the requirements set out in paragraphs (e) to (h) of article 8:

Provided that the competent authority shall determine the

extent of the evaluation referred to in this sub-article, having regard to the size, nature and complexity of the activities of the credit servicer concerned.

(2) The competent authority shall inform the European regulatory authority of the host Member State, or of the Member State where the credit was granted, when the latter is different from the host and the home Member State, of the results of the evaluation referred to in sub-article (1), upon request of any one (1) of the said European regulatory authorities, or where the competent authority considers it appropriate. The details of any administrative penalty or other administrative measures imposed shall be transmitted by the competent authority to the European regulatory authority of the host Member State and, where appropriate, of the Member State where the credit was granted, when the latter is different from the host and the home Member State.

(3) When carrying out the evaluation referred to in sub-article (1), the competent authority shall exchange information with the European regulatory authority of the host Member State, and of the Member State where the credit was granted, when the latter is different from the host and the home Member State, as is necessary to enable them to carry out their respective functions and duties laid down in the NPL Directive.

Ability to hold funds.

12. (1) When a credit servicer intends to receive and hold funds on behalf of borrowers as part of its business model in accordance with this Act, such funds shall, in accordance with the provisions of any applicable laws, be protected in the interest of the credit purchasers against the claims of the other creditors of the credit servicers, in particular in the event of insolvency.

(2) When a credit servicer intends to receive and hold funds on behalf of borrowers as part of its business model in accordance with this Act, and a borrower makes a payment to that credit servicer in order to partially or totally reimburse the amounts due related to a creditor's rights under a non-performing credit agreement, or to the non-performing credit agreement itself, that payment shall be deemed to have been paid to the credit purchaser.

(3) When a credit servicer intends to receive and hold funds on behalf of borrowers as part of its business model in accordance with this Act, that credit servicer shall be required to deliver a receipt or a letter of discharge to the borrower on paper or another durable medium, whenever the credit servicer receives funds from the borrower, acknowledging the amounts received.

(4) Credit service providers shall not be permitted to receive and hold funds from borrowers.

Outsourcing by a credit servicer.

13. (1) When a credit servicer uses a credit service provider to perform any of the credit servicing activities, the credit servicer shall remain fully responsible for complying with all the obligations emanating from this Act, or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder.

(2) The outsourcing of any credit servicing activities as referred to in sub-article (1) shall be subject to all of the following conditions:

(a) the conclusion of a written outsourcing agreement between the credit servicer and the credit service provider under which the credit service provider shall be required to comply with the applicable legal provisions, including the provisions of this Act or any regulations made thereunder, Credit Servicing Rules and Conduct of Business Rules issued thereunder, and the relevant national and European Union law applicable to a creditor's rights under a credit agreement, or to the credit agreement itself;

(b) the outsourcing to a credit service provider of all credit servicing activities at the same time is prohibited;

(c) the contractual relationship between the credit servicer and the credit purchaser and the obligations of the credit servicer towards the credit purchaser or towards borrowers is not altered by the outsourcing agreement with the credit service provider;

(d) the compliance of a credit servicer with the authorisation requirements set out in article 8 is not affected by the outsourcing of some of its credit servicing activities;

(e) the outsourcing to the credit service provider does not prevent the supervision of the credit servicer by the competent authority and, where applicable, the European regulatory authority of the host Member State and the Member State where the credit was granted, when the latter is different from the home Member State and the host Member State, in accordance with Article 5 and Article 14 of the NPL Directive, as applicable;

(f) the credit servicer has direct access to all relevant information concerning the credit servicing activities outsourced to the credit service provider;

(g) after the outsourcing agreement is terminated, the credit servicer has the expertise and resources to be able to provide the outsourced credit servicing activities; and

(h) the outsourcing of credit servicing activities shall not be undertaken in such a way as to impair the quality of the

credit servicer's internal control, or the soundness or continuity of its credit servicing activities.

(3) Credit servicers shall inform the competent authority of the home Member State and, where applicable, of the host Member State, prior to outsourcing their credit servicing activities in accordance with this article.

(4) Credit servicers shall keep and maintain records of relevant instructions provided to the credit service provider, in accordance with the conditions provided for under applicable national law, and of the outsourcing agreement referred to in this article, for a period of at least five (5) years, but not more than ten (10) years, from the date on which the outsourcing agreement is terminated.

(5) Credit servicers and the credit service providers shall make the information referred to in sub-article (4) available to the competent authority upon request.

PART II
CREDIT PURCHASERS

Right to information. *Amended by: XI.2025.51.*

14. (1) Credit institutions shall provide a prospective credit purchaser with necessary information regarding a creditor's rights under a non-performing credit agreement, or the non-performing credit agreement itself, and if applicable, the collateral in order to enable the prospective credit purchaser to conduct its own assessment of the value of the creditor's rights under the non-performing credit agreement, or of the non-performing credit agreement itself, and the likelihood of recovery of the value of that agreement prior to entering into a contract for the transfer of that creditor's rights under the non-performing credit agreement, or of the non-performing credit agreement itself, while ensuring the protection of information made available by the credit institution and of the confidentiality of business data.

(2) On a biannual basis, credit institutions that transfer to a credit purchaser a creditor's rights under a non-performing credit agreement, or the non-performing credit agreement itself, shall inform the competent authority and the European regulatory authority of the host Member State of at least the following:

(a) the company registration number;

(b) the legal entity identifier of the credit purchaser or, where applicable, of its representative designated in accordance with article 17, or where these do not exist of:

(i) the identity of the credit purchaser or of the members of the credit purchaser's management or administrative body and the persons who hold qualifying

holdings in the credit purchaser within the meaning of Article 4(1)(36) of the CRR; and

(ii) the address and, or registered office of the credit purchaser or, where applicable, its representative designated in accordance with article 17;

(c) the aggregate outstanding balance of the creditor's rights under the non-performing credit agreements or of the non-performing credit agreements transferred;

(d) the number and size of the creditor's rights under the non-performing credit agreements or of the non-performing credit agreements transferred; and

(e) whether the transfer includes the creditor's rights under the non-performing credit agreements, or the non-performing credit agreements themselves, concluded with consumers and the types of assets securing the non-performing credit agreements, when applicable.

(3) The authorities referred to in sub-article (2), may require credit institutions to provide the information referred to in the said sub-article on a quarterly basis whenever they deem necessary, including in order to better monitor a high number of transfers that might occur during a crisis period.

(4) Where Malta is the host Member State, the competent authority shall communicate without delay the information referred to in sub-articles (2) and (3), and any other information that the competent authority may consider to be necessary for carrying out functions and duties in accordance with the NPL Directive, to the competent authorities of the home Member State of the credit purchaser.

(5) The provisions of this article shall be applied in accordance with the Data Protection Act and the GDPR. Cap. 586.

(6) Credit institutions shall use the data templates referred to in Article 16(1) of the NPL Directive to provide information to credit purchasers in accordance with sub-article (1) with respect to transactions relating to credits issued on or after 1st July 2018, that become non-performing after 28th December 2021:

Provided that for credits that originate between 1st July 2018 and the date of entry into force of the implementing technical standards referred to in Article 16(1) of the NPL Directive, credit institutions shall complete the data template with the information already available to them.

(7) Without prejudice to the provisions of Article 16(1) of the NPL Directive and sub-article (6), credit institutions shall also apply

the implementing technical standards referred to in Article 16(6) of the said Directive to the transfer of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, to other credit institutions, and shall use the data templates referred to in Article 16(1) of the NPL Directive for the provision of information between credit institutions in cases where there is only a transfer of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself.

Obligations of credit purchasers.

15. (1) A credit purchaser that is domiciled or has its registered office in Malta shall appoint an entity as referred to in article 4(a)(i) or (iii) or a credit servicer, to perform credit servicing activities in respect of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, concluded with consumers.

(2) Without prejudice to the provisions of sub-article (1), when a credit purchaser domiciled in the European Union, or that has its registered office or, if under its national law it has no registered office, its head office in the European Union purchases a creditor's rights under a non-performing credit agreement, or the non-performing credit agreement itself, concluded with a consumer domiciled in Malta, in addition to a creditor's rights under any other credit agreement, or any such other credit agreement itself, it shall appoint an entity as referred to in article 4(a)(i) or (iii) or a credit servicer, to perform credit servicing activities in respect of such creditors' rights, or such credit agreements themselves.

(3) When a credit purchaser is not domiciled in the European Union, or does not have its registered office, or if under its national law it has no registered office, its head office in the European Union, its designated representative shall appoint an entity as referred to in article 4(a)(i) or (iii), or a credit servicer, except in cases where the designated representative itself is an entity as referred to in article 4(a)(i) or (iii) or a credit servicer, to perform credit servicing activities in respect of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, concluded with:

(a) natural persons, including consumers and independent workers; and, or

(b) micro, small and medium-sized enterprises (SMEs), as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC:

Provided that the provisions of this sub-article shall also apply when a credit purchaser as referred to in this sub-article purchases a creditor's rights under a non-performing credit agreement, or the non-performing credit agreement itself, concluded with a consumer domiciled in Malta, in addition to a creditor's rights under

any other credit agreement, or any such other credit agreement itself.

(4) A credit purchaser shall not be subject to any additional requirements for the purchase of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself, other than as provided for in accordance with this Act and any regulations made thereunder, or Credit Servicing Rules and Conduct of Business Rules issued thereunder, or by any applicable provisions of consumer protection law, contract law, civil law or criminal law.

(5) The relevant European Union law and national law concerning in particular the enforcement of contracts, consumer protection, borrowers' rights, credit origination, bank secrecy rules and criminal law shall continue to apply to the credit purchaser upon the transfer of the creditor's rights under the credit agreement, or of the credit agreement itself, to the credit purchaser.

(6) Without prejudice to any national and international laws on promissory notes and bills of exchange, the level of protection provided under European Union law and national law to consumers and other borrowers, as well as insolvency laws, shall not be affected by the transfer of the creditor's rights under the credit agreement, or of the credit agreement itself, to the credit purchaser.

(7) The provisions of this Act and of any regulations made thereunder, Credit Servicing Rules and Conduct of Business Rules issued thereunder shall be without prejudice to the power of the competent authority and any other national authority, agency and, or body at law to require information from credit purchasers regarding a creditor's rights under a credit agreement, or the credit agreement itself, and its performance.

(8) Credit purchasers shall be prohibited from engaging natural persons to service the credit agreements that they have acquired.

(9) A credit servicer or entity as referred to in article 4(a)(i) or (iii) appointed in terms of this article shall comply, on behalf of the credit purchaser, with the obligations imposed on the credit purchaser under sub-articles (3) to (5) and articles 16 and 18. In cases where no credit servicer or entity as referred to in article 4(a)(i) or (iii) is appointed, the credit purchaser or its representative shall remain subject to those obligations.

(10) The competent authority may require that the credit servicer or entity as referred to in article 4(a)(i) or (iii) appointed in terms of this article complies, on behalf of the credit purchaser, with the obligations imposed on the credit purchaser in accordance with national law, including this Act and any regulations made thereunder, Credit Servicing Rules and Conduct of Business Rules issued thereunder, and any law as referred to in sub-article (6).

Use of credit servicers or other entities.

16. (1) When the credit purchaser or, where applicable, its designated representative, appoints an entity referred to in article 4(a)(i) or (iii), or a credit servicer, to perform credit servicing activities in relation to the transferred creditor's rights under a non-performing credit agreement, or the non-performing credit agreement itself, the credit purchaser or its representative shall inform the competent authority in writing of the identity and address of the said entity or credit servicer, at the latest on the date on which the credit servicing activities start.

(2) When the credit purchaser or, where applicable, its designated representative appoints an entity other than that notified in accordance with sub-article (1), it shall notify the competent authority thereof at the latest on the date of that change and shall indicate the identity and address of the new entity that it has appointed to perform credit servicing activities in relation to the transferred creditor's rights under a non-performing credit agreement or the non-performing credit agreement itself.

(3) When Malta is the home Member State of the credit purchaser, the competent authority shall transmit without undue delay to the European regulatory authority of the host Member State, to the European regulatory authority of the Member State in which the credit was granted, and to the European regulatory authority of the home Member State of the new credit servicer, the information received in accordance with sub-articles (1) and (2).

Representative of a third-country credit purchaser.

17. (1) When a transfer of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself is concluded, a credit purchaser:

(a) that is not domiciled in a Member State; or

(b) that does not have its registered office in a Member State or, if under its national law it has no registered office, its head office in a Member State, as the case may be,

shall designate in writing a representative that is domiciled in a Member State or that has its registered office in a Member State, or if under its national law it has no registered office, its head office in a Member State.

(2) The competent authority shall address the representative referred to in sub-article (1) in addition to, or instead of, the credit purchaser on all issues related to the ongoing compliance with this Act and with any regulations made thereunder, and Credit Servicing Rules and Conduct of Business Rules issued thereunder.

(3) The representative referred to in sub-article (1) shall be fully responsible for compliance with the obligations imposed on the credit purchaser under this Act and under any regulations made thereunder,

and Credit Servicing Rules and Conduct of Business Rules issued thereunder.

Transfer of a creditor's rights by a credit purchaser.

18. (1) When Malta is the home Member State, a credit purchaser or, where applicable, its designated representative, that transfers a creditor's rights under a non-performing credit agreement, or the non-performing credit agreement itself, shall inform the competent authority on a biannual basis of the legal entity identifier (LEI) of the new credit purchaser and, where applicable, of its designated representative or, where such identifier does not exist, of:

(a) the identity of the new credit purchaser or, where applicable, its designated representative, or of the members of the new credit purchaser's or its representative's management body and the persons who hold qualifying holdings in the new credit purchaser or its representative within the meaning of point (36) of Article 4(1) of the CRR; and

(b) the address of the new credit purchaser or, where applicable, of its designated representative.

(2) Without prejudice to the provisions of sub-article (1), where Malta is the home Member State, the credit purchaser or its designated representative shall inform the competent authority of at least the following:

(a) the aggregate outstanding balance of the creditor's rights under the non-performing credit agreements, or of the non-performing credit agreements transferred;

(b) the number and size of the creditor's rights under the non-performing credit agreements or of the non-performing credit agreements transferred;

(c) whether the transfer includes a creditor's rights under a non-performing credit agreement, or a non-performing credit agreement itself, concluded with consumers and the types of assets securing the non-performing credit agreement, when applicable.

(3) Where Malta is the home Member State, the competent authority may require credit purchasers or, where applicable, their designated representative to provide the information referred to in sub-articles (1) and (2), on a quarterly basis whenever the competent authority deems necessary, including in order to better monitor a high number of transfers that might occur during a crisis period.

(4) Where Malta is the home Member State, the competent authority shall transmit without undue delay the information received in accordance with this article to the European regulatory authority of the host Member State and the European regulatory authority of the

home Member State of the new credit purchaser.

PART III
REGULATORY AND INVESTIGATIVE POWERS

Powers of the Minister.

19. (1) The Minister, acting on the advice of the competent authority, may make regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing may, by such regulations, in particular, do any of the following:

(a) provide for and regulate the payment by any person or body, as the case may be, of authorisation or other fees and such other charges payable to the competent authority in respect of any matter provided for, by or under this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder, including the fees and charges in respect of any permission, licence, authorisation, exemption or other benefit, as well as any fees and charges in respect of the competent authority's regulatory, supervisory or investigative functions under this Act and under any regulations made, Credit Servicing Rules and Conduct of Business Rules issued thereunder, as may be prescribed;

(b) exempt any person, service or activity from any one or more of the provisions of this Act, subject to such variations, additions, adaptations and modifications as may be prescribed and subject to such conditions or other requirements, including other forms of authorisation and notification procedures, as may be prescribed;

(c) transpose, implement and give effect to the provisions and requirements of the NPL Directive;

(d) transpose, implement and give effect to the provisions and requirements of European Union Directives, European Union Regulations and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been, or may be issued thereunder and relating to authorised persons and others as may be specified therein. Regulations made under this paragraph, and strictly related to transpositions or implementations as aforesaid, may provide that any provision of this Act or of any other law shall not apply to matters falling under such regulations, and insofar as any of the provisions of the regulations are inconsistent with the provisions of this Act or of any other law, such provisions in any such regulations shall prevail;

(e) assign powers and functions to the competent authority for the purposes of this Act, and provide for the

exercise of such powers and the performance of such functions;

(f) provide for the establishment and imposition of administrative penalties and other administrative measures that the competent authority may impose on credit servicers, credit purchasers, designated representatives and any other persons as may be specified therein;

(g) prescribe that a breach of any regulations made under this Act may amount to a criminal offence as may be specified, and such regulations may impose punishments in respect of any breach, consisting of a fine (*multa*) not exceeding one hundred and fifty thousand euro (€150,000) or imprisonment for a term not exceeding one (1) year or to both such fine and imprisonment. A higher fine (*multa*) may be imposed where deemed necessary or appropriate for any breach or failure of compliance with any European Union legislation or with any regulations made in accordance with this article to transpose or to give effect to any European Union legislation;

(h) prescribe anything which may be prescribed; and

(i) provide for any matter incidental to, or connected with any of the above.

(2) Regulations made under this article may be made subject to such exemptions or conditions as may be specified therein, may make different provisions for different cases, circumstances or purposes and may give to the competent authority such powers and, or functions of adaptation of the regulations as may also be so specified.

(3) Where regulations have been made in terms of this article, the competent authority may issue Credit Servicing Rules and Conduct of Business Rules for the better carrying out and implementation of the provisions of any regulations made in terms of this Act.

(4) Regulations made under this Act and any amendment or revocation of such regulations may be published in the English language only.

(5) The exercise of any of the powers assigned under this article shall be subject to any obligations or rights arising from Malta's international commitments.

Power to issue Credit Servicing Rules and Conduct of Business Rules.

20. (1) The competent authority may, from time to time, issue, publish, amend or revoke Credit Servicing Rules and, or Conduct of Business Rules which shall be binding on all persons authorised by it or falling under its regulatory or supervisory functions, or any other persons, as may be specified therein.

(2) Without prejudice to the generality of sub-article (1), Credit Servicing Rules and, or Conduct of Business Rules, as applicable,

issued by the competent authority may:

(a) lay down additional requirements and conditions in relation to persons authorised by it, seeking its approval, or falling under the regulatory or supervisory functions of the competent authority, their activities, the conduct of their business, their relations with customers, the public and other parties, their responsibilities to the competent authority, reporting requirements, financial and other resources, and related requirements, and any other matters as the competent authority may consider appropriate;

(b) provide for the statements and notices that shall be made or given for any purposes in regard to which the competent authority exercises supervisory or regulatory functions, and the form and contents thereof;

(c) prescribe the information that such persons are to submit to the competent authority;

(d) transpose, implement and give effect to the provisions and requirements of the NPL Directive;

(e) transpose, implement and give effect to the provisions and requirements of European Union legislation and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been, or may be issued thereunder and relating to authorised persons and others as may be specified therein; and, or

(f) regulate any matter that is incidental to, or connected with any of the matters mentioned above as the competent authority may consider appropriate in the performance of its functions.

(3) Credit Servicing Rules and Conduct of Business Rules may be made subject to such exemptions or conditions as may be specified therein, may make different provision for different cases, circumstances or purposes and may give to the competent authority such powers of adaptation of the Credit Servicing Rules and, or Conduct of Business Rules, as may also be so specified.

Power to issue directives.

21. (1) Without prejudice to any other powers conferred to the competent authority by this Act or by any other law, the competent authority may, whenever it deems necessary, give by notice in writing such directives as it may deem appropriate in the circumstances, and any person to whom the notice is given, shall obey, comply with and otherwise give effect to any such directive within the time and in the manner stated in the directive or subsequent directives:

Provided that the competent authority may give any such directive even when an authorised person, for whatever reason, ceases to be so authorised in accordance with this Act:

Provided further that any directive issued in accordance with this article shall, unless the competent authority otherwise directs, continue to apply even when an authorised person, for whatever reason, ceases to be so authorised in accordance with this Act.

(2) The power to issue directives under this article shall also include the power to vary, alter, add to or withdraw any directive, as well as the power to issue subsequent new directives.

(3) Where the competent authority is satisfied that the circumstances so warrant, it may at any time make public any directive it has given in accordance with this article.

Power to require information.

22. (1) The competent authority may, at any time and by notice in writing, require the persons referred to in sub-article (2) to do all or any of the following:

(a) to furnish to the competent authority, at such time and place and in such form as it may specify, such information and, or documentation as it may require, including the power to require existing telephone and data traffic records;

(b) to furnish to the competent authority any information and, or documentation as it may require verified in such manner as it may specify;

(c) to attend before the competent authority, or before a person appointed by it, at such time and place as it may specify, to reply to questions and provide such information and, or documentation as it may require;

(d) to provide the competent authority any assistance which it may require and which that person is reasonably able to provide.

(2) The following persons may be required by the competent authority to provide information, documentation and, or assistance as specified in sub-article (1):

(a) a credit servicer, an entity as referred to in article 4(a)(i) or (iii) appointed in terms of article 15, a credit purchaser, a credit service provider, a designated representative and any third party designated to perform functions in relation to the provision of services by such persons;

(b) the natural and, or legal persons that control any person referred to in paragraph (a) or are controlled by such person, both in the past and present, as well as past and present

directors, managers, auditors, officers and other employees of such person, and any third party providing a service to such person; and, or

(c) any other person who appears to be in possession of any relevant information.

(3) A natural or legal person making information available to the competent authority in accordance with this article shall not be considered to be infringing any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to the provision of such information and, or documentation.

(4) The competent authority may make and retain copies of any document furnished, provided or to which it has access in accordance with this article.

(5) Where the person required to provide information and, or documentation under this article does not have the relevant information and, or documentation, such person shall disclose to the competent authority where, to the best of his knowledge, that information and, or documentation may be available, and the competent authority may require any person, whether indicated as aforesaid or otherwise, who appears to the said authority to be in possession of such information and, or documentation to provide it as requested.

(6) A declaration and documentation provided in accordance with any requirement under this article may be used in evidence against the person making the declaration or providing the documentation as well as against any person to whom they relate.

(7) The provisions of this article shall not apply to information and, or documentation which is privileged in accordance with the provisions of article 642 of the Criminal Code. Cap. 9.

(8) Where the competent authority has appointed a representative in accordance with sub-article (1)(c), such person shall, for the purposes of carrying out his functions under his appointment, have all the powers and functions conferred on the competent authority by this article and a requirement imposed by such person shall be deemed to have the same force and effect as a requirement imposed by the competent authority.

Power to appoint inspectors.

23. (1) The competent authority may, whenever it deems it necessary or expedient, appoint an inspector to investigate and report on the affairs of any persons referred to in article 22(2).

(2) An inspector appointed under sub-article (1):

(a) may, if he deems it necessary or expedient for the

purposes of an investigation, investigate the affairs of any person mentioned in sub-article (1);

(b) shall have and may exercise all the powers conferred on the competent authority by article 22, and any requirement imposed by the said inspector shall be deemed to be and have the same force and effect as a requirement imposed by the competent authority; and

(c) may, and if so directed by the competent authority shall, prepare and submit interim reports and, on the conclusion of his investigation, a final report to the competent authority.

(3) In appointing an inspector under sub-article (1), the competent authority may direct that the investigation shall be carried out within such time and shall be limited to such specific or general matters as the competent authority may deem fit.

(4) For the purposes of this article, the inspectors may include an advocate, a person authorised to carry out the profession of accountant or auditor in accordance with the Accountancy Profession Act, or a person considered by the competent authority as possessing suitable expertise to exercise such function. Cap. 281.

(5) The competent authority shall have the power to order that all expenses of, and incidental to, an investigation carried out in accordance with this article shall be paid by the persons referred to in sub-article (1).

Right of entry.

24. (1) Any officer, employee or agent of the competent authority, on producing proof of his authority, if required, shall have the power to enter any premises occupied by a person on whom a notice has been served in terms of article 22 or whose affairs are being investigated in terms of article 23, for the purpose of obtaining therefrom the information or documents required by that notice, or for the purpose of carrying out on-site inspections or investigations, and of exercising any of the powers conferred by the said articles.

(2) Where any officer, employee or agent of the competent authority has cause to believe that if the notice referred to in article 22 were to be served, it would not be complied with, or that any documents to which it may relate would be removed, tampered with or destroyed, such officer, employee or agent shall have the power on producing proof of his authority, if required, to enter any premises referred to in sub-article (1) for the purpose of obtaining therefrom any information or documents specified in the authority, being information or documents that may have been required in accordance to such notice as referred to in article 22.

(3) For the purposes of any action taken in accordance with the provisions of this article, the competent authority may request the

assistance of the Commissioner of Police, who may for such purpose exercise such powers as are vested in him by law.

Powers of the competent authority.

25. Without prejudice to any other power conferred upon it by this Act or any other law, the competent authority shall have the following powers:

(a) to grant or refuse an authorisation in accordance with articles 7 and 8;

(b) to withdraw or suspend an authorisation in accordance with article 9;

(c) to prohibit any of the credit servicing activities;

(d) to conduct on-site and off-site inspections;

(e) to impose administrative penalties and other measures in accordance with article 26;

(f) to review outsourcing agreements concluded between credit servicers and credit service providers in accordance with article 13;

(g) to require credit servicers to remove any members of their management or administrative body when they fail to comply with the requirements set out in article 8(b);

(h) to require credit servicers to modify or update their internal governance arrangements and internal control mechanisms in order to effectively ensure respect for borrowers' rights in accordance with the laws governing the credit agreement;

(i) to require credit servicers to modify or update their policies, plans and procedures adopted to ensure the fair and diligent treatment of borrowers, and the recording and handling of complaints from borrowers;

(j) to request further information pertaining to the transfer of a creditor's rights under the non-performing credit agreement, or of the non-performing credit agreement itself; and

(k) to require a credit servicer, credit service provider or credit purchaser or its designated representative that does not meet any of the requirements set out in this Act or in any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder to take, at an early stage, all necessary actions or steps in order to comply with those requirements.

Administrative penalties and other measures. *Amended by: XI.2025.52.*

26. (1) The competent authority may impose administrative penalties and other administrative measures as referred to in sub-article (3) where it deems that:

(a) a person's conduct amounts to an infringement of any of the provisions of this Act or in any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder;

(b) a person has contravened or failed to comply with any condition, obligation, requirement or directive made or issued by the competent authority in accordance with any of the provisions of this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder, including failure to co-operate with an investigation or an inspection or any request made by the competent authority in accordance with this Act.

(2) Without prejudice to the generality of sub-article (1), the competent authority may impose administrative penalties and other administrative measures as referred to in sub-article (3) where it deems that:

(a) a credit servicer enters into an outsourcing agreement infringing the provisions of article 13 or the credit service provider to whom the credit servicing activities were outsourced commits a serious infringement of the applicable legal provisions, including the provisions of this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder;

(b) a credit servicer's governance arrangements and internal control mechanisms as set out in article 8(e) fail to ensure respect for borrower rights and compliance with personal data protection rules;

(c) a credit servicer's policy is inadequate for the proper treatment of borrowers as set out in article 8(f);

(d) a credit servicer's internal procedures as set out in article 8(g) fail to provide for the recording and handling of complaints from borrowers according to the obligations set out in this Act or in any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder;

(e) a credit purchaser, or where applicable, its designated representative fails to communicate the information set out in articles 16 and 18;

(f) a credit purchaser or, where applicable, its designated representative fails to comply with the requirement

of article 15;

(g) a credit purchaser fails to comply with the requirements of the provisions of article 17;

(h) a credit institution fails to communicate the information set out in article 14;

(i) a credit servicer allows one or more persons not complying with the requirements set out in article 8(b) to become or remain a member of its management or administrative organ;

(j) a credit servicer receives and holds funds from borrowers when it is not authorised to do so in accordance with this Act; and, or

(k) a credit servicer fails to comply with the requirements set out in article 12.

(3) Without prejudice to any other powers conferred to it by this Act or by any other law, the competent authority shall have the power to impose the following administrative penalties and measures for the infringements referred to in sub-articles (1) and (2):

(a) to withdraw or suspend an authorisation in accordance with article 9;

(b) to issue an order requiring the credit servicer or credit purchaser, or where applicable, its designated representative to remedy the infringement, and to cease such conduct and to desist from a repetition of said conduct; and, or

(c) to impose an administrative penalty which may not exceed one hundred and fifty thousand (€150,000) euro for each infringement or failure to comply, as the case may be.

(4) The administrative penalties and other administrative measures taken by the competent authority in terms of this article shall be effective, proportionate and dissuasive, and they shall be effectively implemented.

Cap. 330.

(5) The provisions of article 16(4) of the Malta Financial Services Authority Act shall apply, *mutatis mutandis*, with respect to any administrative penalty imposed by the competent authority in terms of this article.

(6) In the case of administrative penalties or other administrative measures imposed by the competent authority in accordance with the provisions of this Act or in any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder, he competent authority, when determining the type

of administrative penalty or other administrative measure and, where applicable, the amount of the administrative penalty, shall take into account relevant circumstances, including where appropriate:

(a) the gravity and the duration of the infringement;

(b) the degree of responsibility of the credit servicer or credit purchaser, or where applicable, its designated representative responsible for the infringement;

(c) the financial strength of the credit servicer or credit purchaser responsible for the infringement, including by reference to the total turnover of a legal person or the annual income of a natural person;

(d) the importance of profits gained or losses avoided because of the infringement by the credit servicer or credit purchaser or, where applicable, its designated representative responsible for the infringement, insofar as those profits or losses can be determined;

(e) the losses caused to third parties by the infringement, insofar as those losses can be determined;

(f) the level of cooperation by the credit servicer or credit purchaser responsible for the infringement with the competent authority;

(g) previous infringements by the credit servicer or credit purchaser or, where applicable, its designated representative responsible for the infringement;

(h) any actual or potential systemic consequences of the infringement.

(7) Without prejudice to the provisions of this article, where obligations imposed in terms of this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder apply to a legal person, in the event of an infringement of any provision thereof, administrative penalties and other measures may also be imposed, subject to the conditions laid down in national law, on the members of the management or administrative body of the legal entity concerned, and on other individuals who are responsible for the infringement under national law.

(8) The imposition by the competent authority of an administrative penalty or any other administrative measure in terms of this article shall be without prejudice to any other consequence emanating from the act or omission of the offender in terms of civil or criminal law:

Provided that in all cases where the competent authority imposes an administrative penalty or any other administrative measure in respect of anything done or omitted to be done by any person, and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

Notice of administrative penalties and remedial measures.

27. (1) If the competent authority proposes to impose an administrative penalty or any other measure on any person in accordance with article 26, it shall give a notice in writing of its intention to do so, specifying the reasons for the decision it proposes to take.

(2) Every notice given under sub-article (1) shall specify that the recipient of the notice may, within such reasonable period after the service thereof as may be stated in the notice, make representations in writing to the competent authority specifying the reasons why the proposed decision should not be taken, and the competent authority shall consider any representation so made before reaching a final decision.

(3) The competent authority shall as soon as practicable notify its final decision in writing to any person to whom notice is to be given in accordance with sub-article (1).

Publication of decisions.

28. (1) The competent authority shall publish any decision imposing an administrative penalty or any other measure, in accordance with the provisions of this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder, on its website immediately after the person subject to that decision has been informed of that decision.

(2) The information published in accordance with sub-article (1) shall specify the type and nature of the breach, the identity of the person subject to the decision and any other information which the competent authority deems relevant.

(3) The provisions of sub-articles (1) and (2) shall not apply to decisions of the competent authority imposing measures that are of an investigatory nature.

(4) Where the competent authority deems, following a case by case assessment, that the publication of the identity of the legal person subject to the decision, or the identity or personal data of a natural person would be disproportionate, or where such publication may jeopardise an ongoing investigation, the competent authority shall:

(a) defer the publication of the decision to impose a penalty or a measure until the moment where the reasons for non-publication cease to exist;

(b) publish the decision to impose a penalty or a measure on an anonymous basis in a manner which is in conformity with national law, where such anonymous publication ensures an effective protection of the personal data concerned:

Provided that in this case, the publication of the relevant data may be deferred for a reasonable period where it is foreseen that within that period the reasons for anonymous publication shall cease to exist;

(c) not publish the decision to impose a penalty or measure in the event that the options laid down in paragraphs (a) and (b) are considered to be insufficient to ensure the proportionality of the publication of such a decision with regard to measures which are deemed to be of a minor nature.

(5) Where the decision is subject to an appeal before a national judicial, administrative or other authority, the competent authority shall also publish immediately on its website such information and any subsequent information on the outcome of such an appeal. Any decision annulling a decision subject to appeal shall also be published.

(6) Any decision that is published in accordance with this article shall remain accessible on the website of the competent authority for a period of at least five (5) years after its publication:

Provided that personal data contained in any such decision shall only be retained on the website of the competent authority for as long as is necessary for the purposes of public interest and transparency.

PART IV
APPEALS, OFFENCES AND CONFIDENTIALITY

Appeals.

29. (1) For the purposes of this article, the Financial Services Tribunal means the Tribunal established by article 21 of the Malta Financial Services Authority Act.

Cap. 330.

(2) Any person who feels aggrieved by a decision of the competent authority in terms of this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued, thereunder may appeal against such decision to the Tribunal within such period and under such conditions as are laid down in article 21 of the Malta Financial Services Authority Act.

Cap. 330.

(3) Without prejudice to the provisions of sub-article (2), any person who feels aggrieved by the competent authority's failure to take a decision in respect of an application for authorisation which contains all the information required in accordance with this Act within the time limit provided for in article 7(4), may appeal against such failure to decide to the Tribunal within such period and under such conditions as laid down in article 21 of the Malta Financial Services Authority Act.

Cap. 330.

(4) An appeal against a decision of the competent authority shall not suspend the operation of that decision:

Provided that a decision of the competent authority to withdraw the authorisation of a credit servicer shall not become effective until the expiration of the period within which an appeal is filed under this article and, in the case that an appeal is filed within such period, the decision shall become effective on the date of the decision of the Tribunal dismissing the appeal, or on the date on which the appeal is abandoned, whichever is the earliest.

(5) Subject to the provisions of this article, the provisions of article 21 of the Malta Financial Services Authority Act shall apply, *mutatis mutandis*, to appeals that may be brought before the Tribunal in accordance with this article.

Cap. 330.

Offences.

30. (1) Any person who:

(a) contravenes or fails to comply with any of the provisions of articles 6(1) or (2), 21(1), 22(1), 22(5) or 31(1), or of article 22(1) or 22(5) as applied in terms of article 23; or

(b) contravenes or fails to comply with any condition, obligation, requirement, directive or order made or given in accordance with any of the provisions of this Act or in any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder; or

(c) for the purposes of, or in accordance with, any of the provisions of this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder, or any condition, obligation, requirement, directive or order made or given as aforesaid, furnishes information or makes a declaration which he knows to be inaccurate, false or misleading in any material respect, or recklessly furnishes information or makes a declaration which is inaccurate, false or misleading in any material respect; or

(d) with intent to avoid detection of the commission of an offence in accordance with this Act, removes, destroys, conceals or fraudulently alters any book, document or other paper; or

(e) intentionally obstructs a person exercising rights or powers conferred by this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder,

shall, on conviction, be liable to the punishment of imprisonment for a term not exceeding one (1) year, or to a fine (*multa*) not exceeding one hundred and fifty thousand euro (€150,000), or to both such fine and imprisonment, unless such fine or term of imprisonment is otherwise imposed in regulations made under the Act.

(2) The provisions of this Act or in any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder, shall be without prejudice to any criminal proceedings that may be competent under any other law.

Confidentiality. *Amended by: XI.2025.53.*

31. (1) Information obtained by the competent authority or by its officers, employees or agents, whether current or former, or by inspectors, auditors and experts formerly or currently engaged by the competent authority for the purposes of, or in accordance with, any of the provisions of this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder, or in the discharge of any functions under any of the said provisions, or by any other person who works, or has worked for the competent authority, or by any third party to whom the competent authority has delegated any of its functions or powers, shall be treated as confidential and protected by the duty of professional secrecy, and shall not be disclosed to any other person, except in the following cases:

(a) where the authority, body or person communicating the information to the competent authority consents thereto;

(b) where the disclosure of the information is necessary for any legal proceedings;

(c) where the information is provided to such other local or European or overseas regulatory, judicial or enforcement authorities in the pursuance of serious concerns of a regulatory or criminal nature; and, or

(d) where the disclosure of the information is permitted or required by law or European Union legislation.

(2) The information referred to in sub-article (1) shall include all information exchanged between the competent authority and European regulatory authorities in accordance with this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder that concerns business or operational conditions and other economic or personal affairs.

Personal data protection.

Cap. 586.

32. The processing of personal data for the purposes of this Act, or in any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder shall be carried out in accordance with the Data Protection Act, GDPR and Regulation (EU) 2018/1725.

PART V
COOPERATION WITH OTHER AUTHORITIES

Cooperation with European regulatory authorities.

33. (1) The competent authority shall cooperate with European regulatory authorities whenever necessary for the purpose of carrying out the functions and duties or of exercising the powers assigned to the competent authority and the said European regulatory authorities under the NPL Directive, as transposed in national law.

(2) The competent authority shall, on request and without undue delay, provide the European regulatory authorities referred to in sub-article (1) with the information required for the purpose of carrying out their functions and duties under the NPL Directive, as transposed in national law.

(3) When the competent authority receives any confidential information in the exercise of its functions and duties in accordance with this Act or any regulations made thereunder, or Credit Servicing Rules or Conduct of Business Rules issued thereunder, the competent authority shall only use that information in the course of the said functions and duties. The exchange of information between the competent authority and the other European regulatory authorities as referred to in sub-article (1) shall be subject to the obligation of professional secrecy referred to in Article 76 of MiFID.

(4) The competent authority shall implement the necessary administrative and organisational measures to facilitate the cooperation referred to in sub-article (1).