Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 21,291, 30 ta' Lulju, 2024
Taqsima B

L.N. 173 of 2024

CREDIT SERVICERS AND CREDIT PURCHASERS ACT (CAP. 645)

Credit Servicers and Credit Purchasers Act (Fees) Regulations, 2024

IN EXERCISE of the powers conferred by article 19(1) of the Credit Servicers and Credit Purchasers Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations: -

Citation.

1. The title of these regulations is the Credit Servicers and Credit Purchasers Act (Fees) Regulations, 2024.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires:

"Act" means the Credit Servicers and Credit Purchasers Act;

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

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

"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 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;

(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;

"European credit servicer" means a credit servicer authorised as such in a Member State other than Malta, under national law transposing the NPL Directive;

"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 provided for under the NPL Directive;

"home Member State" means the Member State in which the registered office of a credit servicer is situated or, if under its national law it has no registered office, the Member State in which its head office is situated;

"net revenue" means the gross revenue indicated in the annual audited financial statements for the preceding year which is derived from the services which the credit servicer is authorised to provide in accordance with article 7 of the Act, less any commissions which have been paid or are to be paid in connection with the provision of such services to credit service providers and, or other third parties;

"NPL Directive" refers to 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.

(2) Words and expressions used in these regulations which are also used in the Act but which are not defined herein shall have the same meaning as assigned to them in the Act.

Application fee.

3. (1) An applicant shall, upon submitting an application to the competent authority for authorisation to act as a credit servicer in terms of article 7 of the Act, pay to the competent authority an application fee of thirteen thousand euro (€13,000).

(2) Notwithstanding the provisions of sub-regulation (1), with respect to those applications submitted prior to the coming into force of these regulations and which remain pending upon the coming into force of the said regulations, the applicants shall pay to the competent authority the application fee referred to in the said sub-regulation within one (1) month from the day of the coming into force of these regulations.

Annual supervisory fee.

4. (1) A credit servicer authorised to act as such under the Act shall pay to the competent authority an annual supervisory fee of ten thousand euro (€10,000) where the net revenue of that credit servicer for the year does not exceed two hundred and fifty thousand euro (€250,000):

Provided that, where the net revenue of such credit servicer for a particular year exceeds two hundred and fifty thousand euro (€250,000), the annual supervisory fee shall be ten thousand euro (€10,000) for the first two hundred and fifty thousand euro (€250,000) in net revenue for that year and an additional one thousand euro (€1,000) for every additional two hundred and fifty thousand euro (€250,000) in net revenue or part thereof for the same year:

Provided further that, in any case, the annual supervisory fee shall not exceed twenty thousand euro (€20,000).

(2) Notwithstanding sub-regulation (1), the first annual supervisory fee due to the competent authority shall be the aggregate of the following:

(a) ten thousand euro (€10,000) prorated according to the period remaining between the date wherein the applicant is granted authorisation to act as a credit servicer under the Act and the end of the calendar year in which such authorisation was granted; and

(b) ten thousand euro (€10,000) prorated according to the period between the start of the following calendar year and the date when the next supervisory fee is due in accordance with regulation 5(2).

Payment of the annual supervisory fee.

5. (1) The first annual supervisory fee due in accordance with regulation 4(2) shall be paid to the competent authority on the date on which the applicant is granted authorisation to act as a credit servicer in accordance with the Act.

(2) Every annual supervisory fee following the first annual supervisory fee which is due in accordance with regulation 4(1) shall be paid to the competent authority annually on the 1st September of each year.

Fees due by European credit servicers.

L.N. 172 of 2024.

6. (1) Where a European credit servicer intends to act as a credit servicer in Malta through the establishment of a branch in accordance with regulation 3 of the Credit Servicers and Credit Purchasers Act (Passporting) Regulations, it shall pay to the competent authority, upon being notified by the European regulatory authority of the home Member State in accordance with Article 13(3) of the NPL Directive and regulation 3(4) of the said regulations, a notification fee of three thousand euro (€3,000).

(2) Without prejudice to sub-regulation (1), where a European credit servicer intends to act as a credit servicer in Malta through the establishment of a branch in accordance with regulation 3 of the Credit Servicers and Credit Purchasers Act (Passporting) Regulations, it shall pay to the competent authority, on the date as from when such European credit servicer is able to act as a credit servicer in accordance with regulation 3(5) of the said regulations and annually thereafter, an annual supervisory fee of six thousand euro (€6,000).

L.N. 172 of 2024.

Fees not refundable or prorated.

7. (1) The fees established and due in terms of these regulations shall not be refundable.

(2) Without prejudice to regulation 4(2) and sub-regulation (1), the fees established and due in terms of these regulations shall not be prorated.

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