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July 19<sup>th</sup>, 2023

**UNIREC response to the Consultation on draft Guidelines on the assessment of adequate knowledge and experience of the management or administrative organ of credit servicers, as a whole, under Directive (EU) 2021/2167**

UNIREC is the Italian association of companies operating in the credit protection and recovery market. The association was founded in 1998 and today it brings together about 200 companies in the sector for a total of almost 16 thousand professionals, representing about 80% of the Italian credit management market.

UNIREC is a member of Confindustria Innovative and Technological Services and of FENCA, the European Federation of National Associations in the sector. It is also founding member of the UNIREC-Consumers Forum, a structured and permanent working group that has drawn up a code of conduct which aims to promote co-regulation, consumer protection and the professionalism of those working in the field.

UNIREC welcomes the establishment of pan-European guidelines on credit servicing to support the licensing requirements in Directive (EU) 2021/2167, and we thank the EBA for the opportunity to provide a response to the draft guidelines on the assessment of adequate knowledge and experience of the management or administrative organ of credit servicers (EBA/CP/2023/07).

**1. Is the section on subject matter, scope, definitions and implementation appropriate and sufficiently clear?**

Even if not detailed, the section is sufficiently clear. The reference to national laws could lead to take into account different bodies (as for Italy, for example, is first line management included? Is the board of auditors included?).

It should be clarified if financial intermediaries with a license pursuant art. 106 of Italian Consolidated Law on Banking and operating exclusively as servicers can be qualified as “credit institutions not falling under the scope of the directive”.

**2. Is the section on proportionality appropriate and sufficiently clear?**

One should understand if the proportionality principle is actually correct – i.e. more complex and sizeable portfolios needing more complex procedures. As stated, it does not seem sufficiently clear and exhaustive, considering that it can be subject to subjective interpretation. It would be proper to provide objective requisites to distinguish which credits can be qualified as more complex and those which can be qualified as less complex.

One could define some thresholds to ask for a more or less complex governance; here below our proposal:

Servicers will be considered “complex” if they reach:

- a total turnover higher than Euro/mIn 5

- a gross book value under management higher than 5 Euro/Bln
- an organization composed by more than 50 FTE (employees, contractors or advisors employed to support servicing activities)

These requirements have to be met for at least 3 years in a row.

**3. Is the section 2 on the suitability assessment by credit servicers appropriate and sufficiently clear?**

The section is sufficiently clear, however, it should be specified that the experience required should be proportionate to servicer complexity and portfolios managed; moreover, the experience has to be developed in the realm of non-performing loans and similar.

According to servicer complexity, objective requirements effective in the whole EU should be provided.

Material shortcomings to communicate to the Authority should be listed, to avoid any doubt on the content of communications.

**4. Are the sections 3 and 4 on the individual and collective criteria for the assessment of members of the management or administrative organ appropriate and sufficiently clear?**

- It seems particularly complex to implement provisions of point 24. In addition, it is not clear if all servicers are subject to the assessments, or they are limited to servicers
- managing large amount of credits (so that small servicers can be excluded from undergoing these kinds of assessments).
- Criteria are generally very strict.

**5. Are the sections 5 and 6 on the individual and collective assessment of members of the management or administrative organ appropriate and sufficiently clear?**

- The assessment is particularly structured and complex; competent authorities should provide format to be used for assessing and verifying requirements.
- As for the authorization procedure, to introduce the silent assent mechanism for the release of the authorization (so that the servicer having presented the request for authorization can operate if the request has not been responded after a certain deadline).

**6. Is section 7 on corrective measures appropriate and sufficiently clear?**

No comments.

**7. Is section 8 on the assessment by competent authorities appropriate and sufficiently clear?**

It should be clarified the deadline for competent authority to make supervision procedures available to public.