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B2HOLDING RESPONSE

to the EBA CONSULTATION PAPER on EBA 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

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B2Holding ASA is a Norwegian public limited company with its registered business address and headquarters in Oslo, Norway, and is listed on the Oslo Stock Exchange (Oslo Børs).

B2Holding ASA is the parent company of the B2Holding consolidated group of companies, which, among others through the wholly owned Veraltis Asset Management Group, contains operations in 21 European countries and offices in two additional countries.

B2Holding Group is currently present in Bosnia and Herzegovina, Bulgaria, Czech Republic, Croatia, Cyprus, Denmark, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Montenegro, Poland, Romania, Serbia, Slovenia, Spain, Sweden, and has its headquarters in Norway and an investment office in Luxembourg. B2Holding Group has around 2000 employees throughout Europe.

B2Holding was established in its current form in November 2011 and has a strong Nordic signature. It is a debt solution provider within unsecured and secured loan markets, consisting of consumer credits, residential credits, and credits to small and medium-sized enterprise as well as corporate customers.

In addition, the B2Holding Group provides services for third-party debt collection, credit information and project management as a full-service provider of debt management and servicing for co-investors, financial partners, and customers.

INTRODUCTION

Given the historically strong presence of debt sell-side entities to EBA surveys and discussion rounds, B2Holding, from a buy-side perspective, has tried to weigh into some of the past EBA discussion and consulting rounds, among others the EBA Discussion Paper on the review of the NPL transaction data templates in 2021, and the EBA Consultation Paper on draft implementing technical standards in 2022.

We did so in mainly because we are of the opinion that a nuanced view that also considers buy-side concerns should be highlighted in the context of the regulatory framework affecting the NPL industry. But also, because we noticed some of the points we – or collectively the larger NPL buy-side industry - raised in the previous discussion paper were heard and taken into account.

On a general note, we tend to agree with the guidelines and the principles behind them. In part because the underlying principles are appropriate and underline and promote decent business practices. On the other hand, the guidelines tend to be quite high level and uncontroversial and therefore difficult to disagree with. Whilst this is not per se a negative point or worthy of criticism

as such, we do feel that this leads to a missed opportunity to further harmonise the NPL industry. The guidelines, of course understandably also due to their nature, leave significant margin of interpretation and application to the respective local supervisory regulators. Which is not to the benefit of increasing legal certainty, transparency, or promoting a pan-European harmonised practice.

Please find our detailed responses to the EBA consultation paper here below.

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RESPONSES

In response to the EBA consultation on the draft consultation paper on the guidelines on the assessment of adequate knowledge and experience of the management or administrative organ of credit servicers, dated 19 April 2023, B2Holding would like to submit the following responses:

1. Is the section on subject matter, scope, definitions, and implementation appropriate and sufficiently clear?
Yes.
2. Is the section on proportionality appropriate and sufficiently clear?
Whilst we do not object to the principle of proportionality in the assessment of adequate knowledge and experience of the management or administrative organs we find it also raises a number of concerns. First of all, we feel there is a lack in guidance as to how the proportionality criterion applies. The notion of 'proportionality' in and of itself is not that controversial, neither unclear, however it is unclear how it affects credit servicers and how it should be applied throughout the guidelines. It is for example not unreasonable to assume that the obligations for a credit servicer that (s. 13 (c)) handles less complex claims are less stringent than for a credit servicer that handles more complex cases, however the extent to which stringency would be applied (in either direction) is unclear. To that effect the criteria enumerated in s. 13 do not seem precise enough to ensure a transparent harmonised application of the guidelines. In particular s. 13 (h) seems unclear to us and leaves significant margin to local interpretation. We think it would be in general useful to clarify some of the criteria in s. 13 perhaps by way of thresholds, hierarchy, weighing, or more detailed guidance as to how they should be interpreted and applied. Aside from this, we are not entirely sure all of the criteria enumerated in s. 13 are equally relevant. The question rises for example as to how relevant the legal form (s. 13 (d)) should be to the assessment of adequate knowledge and experience of the management or administrative organs. The same applies for s. 13 (a), where we believe the size of a credit servicer's balance sheet is not necessarily a correct reflection of it's credit servicing activities (i.e., in terms of how many 'clients' it comes into contact with, how diversified its activities are, etc.). In particular in light of what we think are much more pertinent criteria such as s. 13 (b) and s. 13(c) and 13(g). Due to the above there is a significant amount of leeway for interpretation on a local supervisory level. Which neither productive for overall legal certainty and transparency, nor for the purpose of promoting a harmonised practice throughout the EU.

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

Yes.

However, re-assessment is requirement under s. 15(c) "*where material changes to the business model, underlying legal provisions or technologies used occurred*" the material word seems too vague, open to interpretation, and requires more guidance and clarity. Perhaps, an annual re-assessment on the "business model, etc." might be more appropriate.

Furthermore, s. 23 "*where the assessment is also carried out by competent authorities for supervisory purposes*" should in our opinion be clarified. We do not argue that an (ex-post) assessment or supervisory checks on the credit servicer's suitability assessment should not belong under the purview of supervisory authorities. However, it should be clearer that the initial and principal suitability assessment, despite it potentially being a very cumbersome process for some credit servicers, remains exclusively with the credit servicer itself.

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?

We believe that, in particular in these sections, the guidelines are perhaps too reliant on or derivative from the suitability rules (the 'fit and proper' framework) from the banking industry.

We can of course understand and agree that the banking industry's framework is a good source of inspiration and an appropriate benchmark. Similarly we think that the current proposed guidelines are an appropriate benchmark. However, at the same time we would like to highlight that credit servicers, despite the interdependencies with the banking industry, have a very different field of activity and therefore also a quite different risk profile.

The credit servicing industry does not originate loans, collect on performing loans, nor holds deposits from the public. In that sense, the systemic-, overall financial stability-, and risk picture of credit servicers is very different from that of the banking industry. The suitability framework for the banking industry as such is therefore not in its entirety an appropriate mirror for the credit servicing industry.

In our view, some of those criteria have been mirrored in sections 3 and 4, where they are perhaps to a lesser pertinent to credit servicers. This among others is the case for s. 29. While we think that background is certainly valuable, it should not be the predominant criterion. A similar assessment applies to 31 (a), which specifically refer to the financial services industry, and to loan origination. To a lesser extent we are of the opinion that this is also the case for s. 36 (a), which refers to fraud detection and prevention – a topic whose importance we do not underestimate but think predominantly falls under the purview of the entities granting the credit in the first instance.

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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?
Yes.
6. Is section 7 on corrective measures appropriate and sufficiently clear?
Yes, however the notion “timely” in s. 43 leaves quite some margin for interpretation (to the benefit or the detriment (?) of a credit servicer). Perhaps an indicative period should be considered.
7. Is section 8 on the assessment by competent authorities appropriate and sufficiently clear?
Yes. However, it is one of those cases where the section itself is clear, but the potential result could not be. These supervisory procedures applicable to the assessment of adequate knowledge and experience of the management or administrative organs could differ substantially from one another. Therefore, in the context of harmonization, a more detailed guidance with regard to these supervisory procedures would – at some point – not be entirely inappropriate.

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