

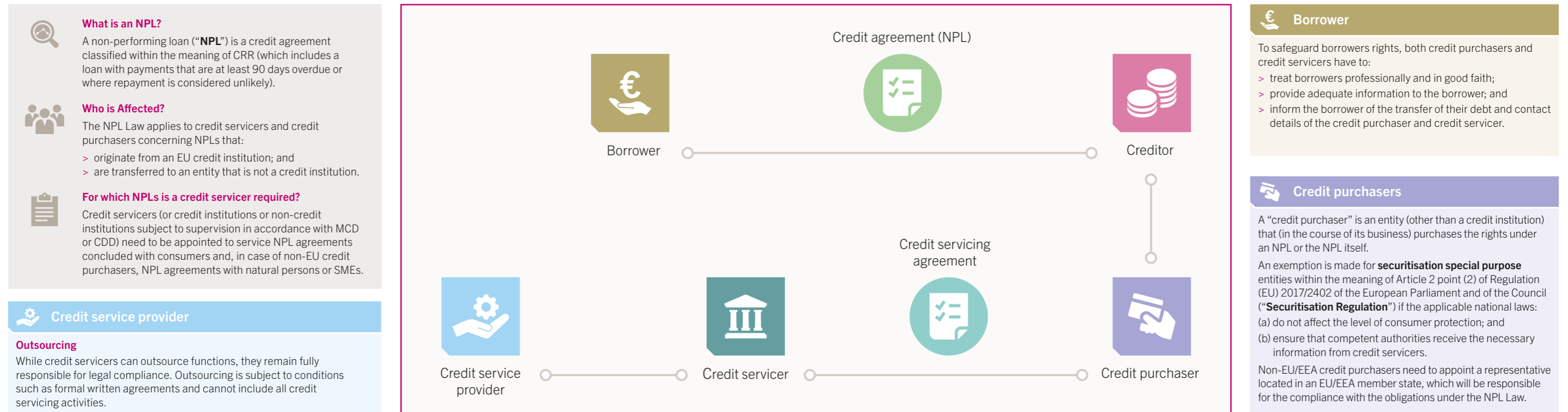
Navigate the new non-performing loan rules – what you need to know about the NPL Law

The Luxembourg Parliament has adopted on 12 July 2024 the draft bill 8185 (the “**NPL Law**”) which transposes Directive (EU) 2021/2167 of the European Parliament and of the Council of 24 November 2021 on credit managers and credit purchasers (the “**Directive**”) into Luxembourg law.

The Directive is designed to mitigate the challenges faced by EU credit institutions in removing non-performing loans from their balance sheet. The NPL Law broadly follows the Directive.

Take a look at our schema setting out the main elements involved in a non-performing loan transaction covered by the NPL Law.

An overview of the parties involved in an NPL transaction covered by the NPL Law



Credit servicer

New category of PSF: the credit servicers

The NPL Law introduces a new category within the financial sector: **credit servicers**. These entities, on behalf of credit purchasers, will handle the management and enforcement of NPL rights and obligations. Their responsibilities include:

- collecting or recovering from the borrower any payments due;
- negotiating with the borrower any of the terms and conditions under the NPLs;
- administering any complaints relating to the NPLs; or
- informing the borrower of any changes in interest rates or charges or of any payments due or to the NPLs itself.

Authorisation and oversight: CSSF

Credit servicers must obtain authorisation from the competent authority in Luxembourg, the *Commission de Surveillance du Secteur Financier* (“**CSSF**”), demonstrating good repute, knowledge and experience of the management, robust governance arrangements and compliance with disclosure and reporting requirements.

NPLs concerned

As stated hereabove, credit servicers (or credit institutions or non-credit institutions subject to supervision in accordance with Mortgage Credit Directive (MCD) or Consumer Credit Directive (CCD) need to be appointed to service NPL agreements concluded with consumers and, in case of

non-EU credit purchasers, NPL agreements with natural persons or small and medium-sized enterprises (SMEs).*

Passporting possible

Credit servicers authorised in Luxembourg can operate across EU Member States, provided that they notify the CSSF, which then communicates with the host Member State’s competent authority.

* In contrast to French law, which requires credit purchasers to appoint an authorised entity to manage credit servicing for all kinds of NPL’s, the Luxembourg legislator has not gone beyond the Directive.

Credit servicing agreement

A credit servicing agreement shall be concluded between the credit servicer and the credit purchaser and shall include:

- > a detailed description of credit serving activities;
- > the level of remuneration of the credit servicer or how the remuneration is to be calculated;
- > the extent to which the credit servicer can represent the credit purchaser in relation to the borrower;
- > undertaking by the parties to comply with the EU and national law;
- > a clause ensuring the fair and diligent treatment of the borrowers; and
- > a clause ensuring information of the credit purchaser before the outsourcing.

Creditor

Only NPLs originated by EU-credit institutions are covered by the Law.

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