

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Nature of credit servicing	Several respondents voiced concerns regarding the definition of credit servicing and noted that credit servicing of an NPL is in reality debt management and debt collection (not the management or re-negotiation of an active credit agreement), without the same risk-taking and systemic implications.	<p>EU Directive 2021/2167 defines credit servicers as performing any of four credit servicing activities, here summarised as follows : a) collecting money from the borrower; b) renegotiating with the borrower on the credit purchaser’s instructions; c) administering complaints; and d) informing the borrower of any changes.</p> <p>A credit servicer does not have to perform all four functions to fall under the definition of the directive.</p> <p>Any of these activities constitutes a regulated activity that requires applying for and obtaining a credit servicer licence.</p>	No change
National legislation	One respondent noted that the fact that any credit servicer when servicing an NPL is obligated to follow the rules on debt collection in the respective Member State should be emphasised.	Directive (EU) 2021/2167 and the EBA’s mandate to produce guidelines on knowledge assessment aim at fostering a common EU-wide framework, therefore the focus of the GLs is not the respect of national rules.	No change
Complexity of guidelines / burden	Several respondents recommended that the draft Guidelines be reduced in scope and complexity and limited to a few overarching principles. One respondent warned against creating a heavy administrative burden for credit servicers and argued that Directive 2021/2167 does not require credit servicers to set up policies and processes dedicated to the assessment of knowledge and experience.	Article (5)(1)(c) of Directive (EU) 2021/2167 mandates a credit servicer’s management or administrative organ to have adequate knowledge and experience to conduct the business in a competent and responsible manner. This entails the need for credit servicers to be able to assess such knowledge and experience, which can only be done by defining and implementing appropriate specific procedures.	Guidelines adjusted

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		The complexity of the assessment may be reduced by a reduction in the number of proportionality criteria and by simplifying the assessment of some knowledge areas (see specific question below).	
Responses to questions in Consultation Paper EBA/CP/2023/07			
Question 1. Is the section on subject matter, scope, definitions and implementation appropriate and sufficiently clear?			
Scope of Guidelines	Several respondents considered that the Guidelines should be simplified. One respondent considered that the Guidelines should be limited to principles to be applied by competent authorities when assessing knowledge and experience.	The aim of Directive 2021/2167 and of the EBA’s mandate to produce guidelines on knowledge assessment is to foster a common EU-wide framework, which may not be attained by limiting the guidelines to overarching principles to be applied by competent authorities. Nevertheless, the complexity of the assessment may be reduced by a reduction in the number of proportionality criteria and by simplifying the assessment of some knowledge areas.	No specific change
Automatic compliance with Guidelines	One respondent suggested the following addition with reference to Recital 25 of the Directive: Where Member States that already have in place rules equivalent to, or stricter than, those established in the Directive for credit servicing activities recognise in their national law transposing the Directive the possibility for existing entities providing credit servicing activities to be	The EBA guidelines are mandated by the Directive and as such they may not contradict it but may be more precise. Therefore, national rules equivalent to those established in the Directive do not guarantee that entities recognised under those rules are compliant with the guidelines.	No change

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	<p>automatically recognised as authorised credit servicers, these entities should also be automatically considered compliant with these guidelines.</p>		
<p>Scope of bodies/individuals falling under Guidelines</p>	<p>Several respondents asked for more specific definition of the bodies/individuals falling under the Guidelines. One respondent warned against an excessive burden should too many individuals be included and recommended the deletion of the words ‘and include the persons who effectively direct the business of the institution’ in the definition of the management or administrative organ. One respondent asked for clarification on whether ‘first line management’ and the board of auditors are included.</p> <p>Conversely, one respondent suggested to drop any definition of the management organ in favour of including a reference to national legislation.</p>	<p>The Guidelines provide a definition of the ‘management or administrative organ’ that references national legislation, and the Guidelines will apply to all existing board structures and do not advocate any particular structure.</p> <p>The reference to persons who effectively direct the business of the institution is also found in the EBA/ESMA guidelines for CRD.</p> <p>Competent authorities may further clarify the governing bodies and functions on the basis of the definitions provided in the Guidelines to which the tasks and responsibilities set forth in the Guidelines pertain.</p>	<p>No change</p>
<p>Interaction with national law and national supervision</p>	<p>One respondent asked for clarification on whether some financial intermediaries with a licence under a specific national law and operating exclusively as servicers can be qualified as ‘credit institutions not falling under the scope of the directive’.</p> <p>One respondent suggested clarity on the items so as to avoid double national supervision in that jurisdiction (ministry of justice plus financial authority).</p>	<p>The requirements for knowledge already reference national law applicable to credit servicing. Moreover, competent authorities may further clarify the guidelines in accordance with the specificities of national law.</p> <p>In jurisdictions where credit servicers are authorised by authorities other than competent authorities (typically the ministry of justice), competent authorities should coordinate with authorities in</p>	<p>Guidelines clarified</p>

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		charge of credit servicers' authorisation to avoid possible duplication of requests.	
Question 2. Is the section on proportionality appropriate and sufficiently clear?			
<p>Proportionality: general remarks</p>	<p>A strong majority of respondents welcomed the proportionality principle, however a majority of respondents also noted that the principle as stated leaves significant scope to interpretation with the risk of inconsistent application.</p> <p>Several respondents noted that some of the criteria are not applicable to credit servicing, e.g. the complexity of the original credit agreement is no longer of relevance, and that others needed specifying further as to how credits would be qualified as less complex or more complex, and how the proportionality principle would impact the requirements.</p> <p>Several respondents noted that proportionality cannot apply to all of the requirements (e.g. fair and transparent treatment of borrowers as well as governance requirements must be ensured irrespective of the size of the credit servicer).</p> <p>One respondent noted that the proposed Guidelines appear to target the largest credit servicing companies, typically also engaged in credit purchasing.</p>	<p>The proportionality principle applies in such a manner as to expect more complex and larger entities to perform a more detailed assessment of knowledge and experience than smaller and less complex entities.</p> <p>It is possible to reduce the room for interpretation of the principle of proportionality by reducing the number of proportionality criteria being considered in the Guidelines. In particular, the complexity of the original credit arrangement may be considered less relevant as appraising the risks stemming from the complexity of a credit arrangement is not typically part of a credit servicer's activities.</p> <p>Some of the requirements are to be complied with irrespective of the size and complexity of the credit servicer (e.g. fair and transparent treatment of borrowers, good reputation of members of the management or administrative organ). Besides, some criteria are meant to ensure that the credit servicer's management organ is collectively fit to run a business and are more easily considered in conjunction with the proportionality principle.</p>	<p>Guidelines clarified</p>

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Single administrator	One respondent suggested that in the case of credit servicers with a single administrator the Guidelines should not be applicable or to clarify how the experience and knowledge shall be assessed on a proportional basis in such a case.	The Guidelines are still applicable in the case of a single administrator. In such a case, the assessment may especially highlight training to be provided to the single administrator.	No change
Complexity of credit servicers	<p>Several respondents suggested to introduce complexity thresholds, with some respondents suggesting that servicers could be considered 'complex' if they reach:</p> <ul style="list-style-type: none"> - a total turnover higher than EUR 5 million; - a gross book value under management higher than EUR 5 billion; - an organisation composed of more than 50 FTEs (employees, contractors or advisors employed to support servicing activities). 	<p>Applying the proportionality principle does not require the definition of thresholds.</p> <p>Besides, thresholds incur the risk that some companies that would fall below the threshold or thresholds may feel allowed not to perform any assessment of knowledge and experience.</p>	No change
Proportionality criteria	<p>Several respondents considered that several of the assessment criteria (notably A, B and G) are not sufficiently clear and thus open to subjective interpretation, and suggested that further thresholds / objective requirements / checklists / guidance on methodology be introduced.</p> <p>Other criteria were deemed unclear or not relevant and to be removed in several responses, notably C, D, F and H.</p>	<p>The criterion on size is reworded to reference the number of staff of the credit servicer rather than its balance sheet.</p> <p>The criterion on volume references debt instead of credits.</p> <p>Applying the proportionality principle does not require the definition of thresholds. Defining thresholds may also create the risk that some</p>	Guidelines adjusted

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	<p>In more detail:</p> <p>Criterion A (size of balance sheet): while some respondents considered this criterion unclear and in need of a threshold, a majority considered it not relevant, as it does not reflect the number of borrowers the credit servicer has under management, and to be removed.</p> <p>One respondent noted that credit purchasers in companies offering both credit servicing and credit purchasing activities will become subject to further requirements unless the credit purchasing segment is expressly carved out from the assessment criteria (e.g. excluded from the balance sheet total).</p> <p>Criterion B (volume of credits) : several respondents suggested it should be further specified (threshold plus specify whether it should refer to the number of cases or the outstanding balance of credits).</p> <p>Criterion C (complexity of credit arrangement): some respondents requested it to be removed, others expressed support but requested it to be further specified.</p> <p>Criterion D (legal form of credit servicer): several respondents considered it not relevant and to be removed.</p>	<p>companies that would fall below the threshold may feel allowed not to perform any assessment.</p>	

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	<p>Criterion E (being part of a group): one respondent considered it not relevant and strongly recommended against it.</p> <p>Criterion F (whether the credit servicer is listed): one respondent considered this criterion not relevant.</p> <p>Criterion G (whether cross-border activities are performed and their size): one respondent asked for this criterion to be further specified.</p> <p>Criterion H (nature and complexity of activities performed and of organisational structure including outsourcing arrangements): several respondents asked for this criterion to be further specified.</p>		
Question 3. Is section 2 on the suitability assessment by credit servicers appropriate and sufficiently clear?			
Simplification of assessment	<p>Several respondents considered generally that the assessment needs to be simplified. Several respondents considered that the assessment should only take into account knowledge with regard to debt collection.</p>	<p>Some knowledge areas are essential for running credit servicers' activities: relevant legal requirements for the servicing of loans and the applicable regulatory framework; consumer and borrower protection; data protection requirements; money laundering; etc.</p> <p>In other areas, including banking and financial activities, a sound understanding is required for running a business in general.</p> <p>Therefore all of these areas should be part of the knowledge and experience assessment. It is necessary that the requirements be detailed and</p>	Guidelines clarified

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		stringent enough to avoid any regulatory oversight, with consumer protection purposes in mind.	
Delegation of assessment	One respondent considered that it should be clarified that delegation of the assessment is possible, while the final responsibility lies with the management or administrative organ.	Delegation within the firm is possible but the responsibility remains with the management organ.	No change
Reasonable delay to comply	One respondent considered that a reasonable time should be given to comply with the requirement that credit servicers should ensure that their management or administrative organ, as a whole, possesses adequate knowledge and experience to perform its duties at all times (e.g. six months).	When shortcomings are identified, a reasonable delay to comply with the requirement may be warranted, but whether it is the case and the actual duration of a reasonable time will depend on the circumstances and should be decided in each case by the competent authority.	No change
Material changes	Several respondents required clarification as to 'material changes' in the context of NPLs / debt collection by providing relevant examples. One respondent suggested replacing this requirement with an annual reassessment of the business model. Another respondent noted that material shortcomings to communicate to the authority should be listed.	The Guidelines already clarify that material changes may mean changes to the composition of the management (new members or members leaving) or material changes to the business model (including changes in underlying legal provisions or technologies).	No change
Exception allowing for ex post assessment	One respondent noted that the possibility to perform an ex post suitability assessment should be broadened, in situations where members of the management organ are appointed by the shareholders, to situations where the credit	This situation falls within the general case described in the Guidelines (where a shareholders' or equivalent meeting nominates a member that has not been proposed by the credit servicer).	No change

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	<p>servicer (or management board) does not need to be consulted prior to the appointment.</p> <p>With regard to possible disruption caused by a prior full assessment, one respondent asked for this possibility to encompass situations beyond the control of the credit servicer preventing the prior assessment; some respondents suggested that it should include situations where one board member needs to be replaced due to misconduct.</p>		
Assessment by authorities	<p>Several respondents strongly suggested that the assessment of individual members should remain the exclusive remit of the credit servicer, and suggested removing para. 23 or amending it in order to reflect this stance.</p> <p>One respondent considered that, since the self-assessment is cumbersome, it should be provided that competent authorities may be consulted by credit servicers on those aspects.</p>	<p>Competent authorities may, under their own prerogative for supervisory purposes, carry out assessments of supervised entities (i.e. distinct from assessments to be carried out by credit servicers: this point has been clarified).</p> <p>Such assessments do not diminish the requirements for credit servicers to perform their own assessments under these Guidelines.</p>	Guidelines clarified
Question 4. Are 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?			
General remarks on Q4	<p>One respondent noted that the criteria are generally very strict and that provisions under para. 24 (which states the principle of individual assessment of members) are very complex to implement.</p>	<p>Taking into account the adjustments following remarks on the relevant proportionality criteria and knowledge areas, the assessment is deemed to be sufficiently streamlined to be performed practicably with entities of varying sizes in accordance with the proportionality principle.</p>	Guidelines clarified

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	<p>Another respondent considered that these sections are too derivative of the fit & proper framework for the banking industry.</p>		
<p>Knowledge and experience / relevance of areas of experience</p>	<p>Several respondents considered that knowledge and education relating to banking and financial services, especially credit management, are not relevant to debt collection and should be deleted.</p> <p>One respondent generally agreed with the criteria on knowledge and experience of members of the credit servicer’s management or administrative organ, as well as with the requirements to assess such suitability on an individual and on a collective basis.</p> <p>Several respondents strongly noted that credit servicing does not bear the financial and capital risk associated with credit lending, therefore criteria applicable to banks should not be applied, at least not unchanged in some responses, to credit servicers.</p> <p>Several respondents considered that experience required should be proportionate and related to NPLs and debt collection; that experience in the areas of sequestration, insolvency and bankruptcy procedures, contract law, accounting and auditing, anti-money laundering and anti-terrorist financing obligations, the interpretation of financial information, and ICT is not relevant to debt collection and should be removed, or limited to a</p>	<p>Some knowledge areas are essential for running credit servicers’ activities: relevant legal requirements for the servicing of loans and the applicable regulatory framework; consumer and borrower protection; data protection requirements; money laundering; etc.</p> <p>In other areas, including banking and financial activities, a sound understanding is required for running a business in general.</p> <p>Therefore all of these areas should be part of the knowledge and experience assessment. It is necessary that the requirements be detailed and stringent enough to avoid any regulatory oversight, with consumer protection purposes in mind.</p>	<p>Guidelines clarified</p>

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	<p>basic understanding / awareness / provided by external consultants.</p> <p>Several respondent considered that fraud in the context of credit risk is not relevant for credit servicers' work and should be removed from the criteria.</p>		
Up-to-date knowledge / training	One respondent considered that the criteria on up-to-date knowledge should be clarified to refer to training of members of the management organ, if this is what is implied.	An up-to-date understanding of the business of the credit servicers and all of its risks may be achieved through several means, including training. Other means may include professional experience and undertakings, contact with professionals or academia, etc.	Guidelines clarified
Language of assessment	One respondent considered that there should be an option in all Member States to conduct the assessment process in English.	The mandate provided to the EBA by Directive 2021/2167 does not allow for such a requirement. It is up to authorised credit servicers and the competent authorities to agree on the languages that may be used for the assessment.	No change
Assessment of collective knowledge	One respondent asked for clarification on how complementarity between individual members may help achieve the requirements for collective knowledge.	<p>Complementarity between board members can be understood as a diversity of profiles, allowing the level of collective knowledge and experience to be increased and allowing enough members of the board to be sufficiently experienced and knowledgeable to engage in discussions and challenge decisions.</p> <p>Besides, the EBA has developed a methodology for assessment tables for collective suitability in Annex I of the Joint EBA and ESMA Guidelines on the assessment of members of the management body</p>	Guidelines clarified

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		and key function holders under Directives 2013/36/EU and 2014/65/EU. This may be used as a useful reference tool by credit servicers but is not part of the Guidelines' requirements.	
Advice from external members	<p>One respondent suggested alternative wording to para. 37:</p> <p>'the members can seek advice from nominated experts in the group, not being explicitly members of the management body, to take decisions in specific areas. To avoid a potential conflict of interest, the advice should not be received by the credit servicer itself but e.g. from a holding function or external advisors'.</p>	<p>The assessment of collective knowledge of the management organ is intended to capture the ability of the organ itself to conduct informed and sound discussions on all subjects pertaining to the credit servicer's activities, especially when having decision-making meetings without external participation.</p>	No change
Limitation of assessment to education and relevant experience (para. 30)	<p>One respondent considers that the combination of education degree and relevant experience should be sufficient to establish the requirements for knowledge and experience (contrary to para 30).</p>	<p>Guidelines are sufficiently clear, as para. 30 provides that the assessment should not be limited to an education degree or the mere presence in a credit servicer but should go into the practical details of the relevant experience.</p>	No change
Credit servicers belonging to a group engaged in credit servicing	<p>One respondent considered that assessment of knowledge and experience present in the management organ of such a group should not be duplicated at the credit servicer level.</p>	<p>The Guidelines' requirements apply on an individual basis, i.e. each board should be suitable, within the same group or not.</p> <p>Moreover a person may found to be suitable to be a member of the board of a credit servicer of a given size and complexity, but not for the board of a credit servicer with a different level of complexity within the same group.</p>	No change

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		Besides, if the ground work for the assessment of a member has been carried out at a group level, it will likely be shared and reused as appropriate, not duplicated.	
Additional requirements	Some respondents argued that additional requirements should cover the knowledge of applicable national law on late payments and debt collection.	Requirements on applicable law on debt collection are mandated by the Guidelines.	No change
Question 5. Are sections 5 and 6 on the individual and collective assessment of members of the management or administrative organ appropriate and sufficiently clear?			
Complexity of assessment / template	Several respondents considered that the assessment is too complex or cumbersome, the respondents suggesting in some cases that competent authorities provide a template. One respondent considered them to be an undue interference in credit servicers' freedom to choose members of their management organs.	Taking into account the adjustments on proportionality criteria and knowledge areas, the assessment is deemed to be sufficiently streamlined to be performed practicably by entities of varying sizes in accordance with the proportionality principle. Moreover, templates are usually useful when performing data collection exercises or similar tasks. In this case, templates would be too generic to be useful.	Guidelines clarified
Tacit assent	Some respondents suggested having a tacit assent mechanism whereby the servicer having presented the request for authorisation can operate if the request has not been responded to after a certain deadline.	Authorities may authorise tacitly or not, in line with the CRD guidelines.	Guidelines clarified

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Data protection	One respondent considered that common criteria on the duration of retention of personal data by the credit servicers would be helpful.	The data retention duration is subject to a specific legal framework (GDPR plus national law).	No change
Question 6. Is section 7 on corrective measures appropriate and sufficiently clear?			
	Some respondents asked for the words ‘timely manner’ to be clarified in the Guidelines.	It would be difficult to clarify further the meaning of ‘timely manner’, as the timeliness of corrective measures will depend on the scope of identified shortcomings, on the size and complexity of the credit servicer, on business circumstances, etc. It is expected that in such cases competent authorities will engage with the credit servicer and define timelines on an ad hoc basis.	No change
Pre-emptive opinion by competent authorities	One respondent suggested the possibility for the credit servicer to obtain an opinion from the competent authorities on non-compliance of a member in order to pre-empt potential conflicts with such members.	The mandate provided to the EBA by Directive 2021/2167 does not allow for such a requirement in the Guidelines. It is expected that credit servicers should liaise with competent authorities when assessing members and dealing with potential conflicts of interest.	no change
Question 7. Is section 8 on the assessment by competent authorities appropriate and sufficiently clear?			
Supervisory procedures	Several respondents suggested that guidance regarding the supervisory procedures to be specified by competent authorities should be given in the EBA Guidelines, in one case the respondent suggesting a common EU template.	The main components of supervisory procedures’ main points will typically involve the collection of documents, analysis, feedback to the supervised entity including appropriate corrective measures where shortcomings are identified, reasonable	Guidelines clarified

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	<p>One respondent asked for clarification on the deadline for the competent authority to make supervisory procedures publicly available.</p>	<p>timelines, information from the supervised entity and response, etc.</p> <p>The assessment of good repute should also be part of the supervisory procedure, in line with previous guidelines on CRD, and drawing on the EBA’s remit to issue guidelines on its own initiative under the EBA founding regulation.</p> <p>Beyond that, imposing a common template would encroach on competent authorities’ remit.</p> <p>Since the assessment of adequate knowledge and experience is a different process (and has a different legal basis) from the authorisation process, but can for some aspects be evidenced by the same pieces of information, information made available to the competent authorities during the authorisation process should be reused where possible for the assessment of knowledge and experience, and competent authorities should coordinate in that respect when the credit servicer is supervised or authorised by a non-financial authority.</p>	
<p>Language of communication with competent authorities</p>	<p>Several respondents suggested that supervisory procedures or communications should be made available by competent authorities in English.</p>	<p>The mandate provided to the EBA by Directive 2021/2167 does not allow for such a requirement. It is up to authorised credit servicers and the competent authorities to agree on the languages that may be used for communication, including on supervisory procedures.</p>	<p>No change</p>