

WATSON FARLEY & WILLIAMS

BRIEFING

UPDATE: CHANGES TO THE REGULATORY FRAMEWORK FOR NON-PERFORMING LOANS IN GREECE

JUNE 2017

- KEY CHANGES HAVE BEEN INTRODUCED IN RELATION TO THE ESTABLISHMENT AND OPERATION OF LOAN ASSET MANAGEMENT COMPANIES (“LAMCS”).
- THE NPL LAW HAS BEEN CLARIFIED AND CERTAIN PROCEDURES SIMPLIFIED.
- THE CHANGES ARE EXPECTED TO MAKE THE LAMC SCHEME MORE ATTRACTIVE.



On 19 May 2017, the Hellenic Parliament enacted Law 4472/2017, amending Law 4354/2015 (the “NPL Law”) that had been introduced with a view to creating a secondary market for debt receivables from non-performing loans in Greece.

“LAW 4472/2017 HAS AMENDED THE NPL LAW IN ORDER TO FACILITATE THE PROCEDURE FOR THE LICENCING OF LOAN ASSET MANAGEMENT COMPANIES.”

Law 4472/2017 has amended the NPL Law in order to facilitate the procedure for the licencing of Loan Asset Management Companies (“LAMCs”), which are the specialised companies managing debt receivables from non-performing loans as well as from any loans or credits (with the exception of loans and credits granted by the Deposit and Loan Fund) on the basis of a special licence granted by the Bank of Greece (the “BoG”) and also broadened the scope of the LAMCs.

In addition, the Executive Committee of the BoG has also issued Act 118/19.5.2017, which sets out the framework for the establishment and operation of the LAMCs in respect of the documentation and procedure for licensing and operation. This Act replaced Act 95/27.5.2016 of the Executive Committee of the BoG.

Changes to the NPL Law

By virtue of Law 4472/2017, LAMCs have been granted an additional power, namely the right to manage the real estate assets over which a mortgage or mortgage prenotation (or other security) was registered as security for the relevant loan or credit managed by the LAMC, when the real estate assets are owned by the entity that has entered into the management agreement with the LAMC. The preamble to Law 4472/2017 states that management shall be made on behalf of the owner of the asset (where permitted) and examples of management actions

“THE THREE-MEMBER COMMITTEE THAT PROVIDED ITS OPINION ON THE ISSUANCE OF THE LICENCE HAS BEEN ABOLISHED, IN ORDER TO EXPEDITE THE LICENCING PROCEDURE.”

include the leasing of property to third parties, maintenance actions and/or property oversight. It is clearly stipulated that LAMCs may not acquire the ownership of the real estate assets connected with the debt receivables they are managing.

Further, the three-member committee that, under the previous licencing regime, provided its opinion on the issuance of the licence has been abolished, in order to expedite the licencing procedure. Certain ambiguities of the law have also been addressed. In particular, it has been clarified that the procedure for registration of these companies with the General Commercial Registry shall take place after the relevant company has obtained the license, and explanation has also been given as to the content of the “business plan” to be submitted as one of the supporting documents accompanying the application for the LAMC licence.

Changes were also made to align the wording and the legal requirements for information relating to the individuals participating in the company applying for the LAMC licence with the relevant wording of the general banking law regulating the licencing procedure and operation of credit institutions.

In the event of a proposed acquisition or disposal of a holding in a LAMC, the BoG can now request additional information to help it decide whether to permit such acquisition or disposal. It has also been made clear that the two-month period in which the BoG has to give its decision commences from the date on which a complete file has been submitted to it (and not from the date on which the potential acquirer notified the BoG of its intention).

Finally, it has been clarified that any new assignee of debt receivables from NPLs shall continue the Arrears Resolution Procedure under the banking code of conduct from its previous stage (i.e. before the assets were transferred).

A positive effect

The changes introduced to the NPL Law as above were mainly dictated from the need to elucidate and simplify the licencing procedure for LAMCs as well as clarify certain ambiguities of the law. This is particularly important given that there is a significant backlog of LAMC licencing applications.

These changes should have a positive effect on the LAMC scheme as they are expected to make it more attractive, in particular, in combination with article 65 of the same Law 4472/2017, which gives certain protection from criminal prosecution to public servants taking part in debt reduction agreements involving public assets.

FOR MORE INFORMATION

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Publication code number: 60276821v3© Watson Farley & Williams 2017

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