UNOFFICIAL TRANSLATION

LAW REGULATING THE SALE OF CREDIT FACILITIES AND OTHER RELATED ISSUES

Short title.

1. This Law shall be cited as the Sale of Credit Facilities and Related Matters Law of 2015.

Definitions.

2. In this Law, unless the context otherwise requires -

"authorisation" shall mean a granted authorisation for acquiring credit facilities by virtue of the provisions of the present Law.

66(I) of 1997
74(I) of 1999
94(I) of 2000
119(I) of 2003
4(I) of 2004
151(I) of 2004
231(I) of 2004
235(I) of 2004
20(I) of 2005
80(I) of 2008
100(I) of 2009
123(I) of 2009
27(I) of 2011
104(I) of 2011
107(I) of 2012
14(I) of 2013
87(I) of 2013
102(I) of 2013
141(I) of 2013
5(I) of 2015
26(I) of 2015
35(I) of 2015
93(I) of 2015

''authorised credit institution or ACI'' shall have the meaning attributed to the term in article 2 of the Business of Credit Institutions Laws

‘‘borrower’’ shall mean a person to whom a credit facility is provided;

‘‘qualifying holding’’ shall mean the direct or indirect holding in the credit acquiring company which represents 10% or more of the capital or of the voting rights of the company or which makes it possible to exercise a significant influence over the management of that company;

‘‘credit acquiring company’’ shall mean a company authorised under this Law to acquire credit facilities;

"holder of a key position" shall mean a staff member of a credit institution or financial institution or credit acquiring, who due to his position may exercise significant influence over the management, but is not a member of the governing body, and includes the heads of the major business sectors of branches outside the Republic and support activities and internal controls.

‘‘Central Bank’’ shall mean the Central Bank of Cyprus;

“member state” shall mean a member state of the European Union, other than the Republic of Cyprus, and/or a state which is a contractual party in the Agreement on the European Economic Area, which was signed at Porto on 2 May 1992 and adjusted by the Protocol, which was signed in Brussels on 17 May 1993, as such Agreement may be amended;

“credit institution” for the purpose of this Law shall mean an ACI and a branch that operates in the Republic by virtue of article 10A of the Business of Credit Institutions Law;

‘‘close links’’ shall mean a situation in which two or more persons are linked in any of the following ways:
(a) participation in the form of ownership, direct or by way of control,

of 20 % or more of the voting rights or capital of an undertaking;
(b) control;
(c) a permanent link of both or all of them to the same third person by a control relationship.

"financial institution" shall have the meaning attributed to this term by the Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012

Scope

3.-(1)This Law shall apply to:

(a) credit facilities granted to natural persons where the total balance of the credit facilities to that natural person, at the time of the transfer, for every ACI, does not exceed one million euro (€1.000.000); and

(b) credit facilities granted to micro and small enterprises as these are defined in the European Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC) where the total balance of the credit facilities to that enterprise or group of connected enterprises, at the time of the transfer, for every ACI, does not exceed one million euro (€1.000.000).

(2) Notwithstanding the provisions of subsection (1), credit facilities in excess of the limits provided for by subsection (1), will be governed by articles 18 and 19.

(3) Credit facilities which:

(a) are granted by an ACI, including its branches, to a natural

person who is not a permanent resident of the Republic or t a legal person which is not registered in the Republic, or

(b) concern operations and/or investments outside the Republic, or

(c) include in their principal collateral, a mortgage on immovable property and/or a memo on property which is outside the Republic, or

(d) are governed by the law of another jurisdiction,

are exempted from the provisions of subsection (1) and (2).

Persons who can acquire credit facilities

4.(1). Subject to the provisions of paragraph (b) of subsection (2) only the following legal persons are permitted to acquire credit facilities:

(a) a credit acquiring company, including an asset management company which is established either by private or public funds, according to EU state aid rules and taking into account public debt sustainability that is incorporated in the Republic and to which an authorisation has been granted by the Central Bank, by virtue of this Law; or

(b) an authorised credit institution; or

(c) a credit institution that is authorised and supervised by the competent authority of another member state, that has the right, by virtue of section 10A of the Business of Credit Institutions Law, to provide services or to establish a branch in the Republic;

(d) a financial institution, which is a subsidiary of a credit institution incorporated in a member state and which provides its services in the Republic or operates in the Republic through a branch, under the provisions laid down in section

10Bbis of the Business of Credit Institutions Law.

(2) A legal person referred to in subsection (1) is allowed to sell credit facilities only to:

(a) a legal person referred to in subsection (1) or

(b) legal person not referred to in subsection (1), but which had the prior written approval of the Central Bank.

Authorisation.

5. (1) Subject to the provisions of subsection (6), a legal person that intends to engage in the activity of acquisition of credit facilities in the Republic may apply to the Central Bank for obtaining authorisation under the provisions of this Law accompanying the application with the following documents:

(a) The memorandum and articles of association of the company;

(b) the identity of its shareholders, whether direct or indirect, who have qualifying holdings and the amount of this holding, or, if there are no qualifying holdings, the identity of up to the 20 largest shareholders with a shareholding of 5% or more each;

(c) the identity of its directors;

(d) questionnaires completed by the persons referred to in paragraphs (b) and (c) for the assessment of the fitness and probity criteria laid down in a directive issued by the Central Bank;

(e) the organisational structure of the company;

(f) the program of operations of the company and

(g) any additional information and/or records the Central Bank considers essential for the assessment of the application.

(2) The Central Bank grants authorisation if it is satisfied that–

(a) the company is in a position to fully comply with the provisions of this Law;

(b) the shareholders and directors of the company are of good repute and have sufficient knowledge, competencies and expertise to carry out their responsibilities meeting the criteria of fitness and probity;

(c) the company has an organisational structure that will enable it to provide its services in accordance with this Law;

(d) the company's operations plan does not raise doubts over the possibility of causing any adverse impact on the financial stability in the Republic and

(e) there are no close links, due to professional or other relationships, between the applicant company and any other natural or legal persons, that in the opinion of the Central Bank may prevent the effective exercise of its supervision.

(3) If the Central Bank is not satisfied that the company meets the criteria laid down in subsection (2) it does not grant authorisation and provides the applicant company with its fully reasoned decision.

(4) The decision to grant or deny authorisation is notified to the applicant within two (2) months from the date of receipt of a fully completed application for authorisation or, if the application is not complete, within two (2) months from the submission by the applicant of any additional information.

(5) The Central Bank maintains a fully updated list on its website with the names of all authorised credit acquiring companies.

(6) A legal person referred to in paragraph (b), (c) or (d) of subsection (1) of article 4 may be permitted to engage in the activity of acquiring credit facilities without authorization under this article, provided that its licence to operate in accordance with the Business of Credit Institutions Laws does not prohibit it to perform the said

activity.

Changes in qualifying holdings.

6. (1) In each case, in which –

(a) a person intending to acquire or dispose of, directly or indirectly, a qualifying holding in a credit acquiring company, or

(b) a person intending to increase or decrease directly or indirectly a qualifying holding in a credit acquiring company, in order that the proportion of the voting rights or the capital held, directly or indirectly, reaches or exceeds or falls below twenty percent (20%), thirty percent (30%) or fifty percent (50%) of the share capital of the credit acquiring company or in order for the credit acquiring company to become or cease to be its subsidiary,

that person shall notify the Central Bank of the amount of his/her holding that would arise in that way.

(2) The Central Bank may, within two (2) months from the date of notification under subsection (1) of acquisition or increase of a qualifying holding, not allow such an acquisition if, in an attempt to ensure the proper and prudent management of the credit acquiring company, is not satisfied of the suitability of the person referred to in subsection (1) and, in case the Central Bank allows such an acquisition, it may set a deadline for its implementation.

(3) A credit acquiring company, upon becoming aware of any acquisition, increase or decrease in the holdings of its capital, by which those holdings exceed or fall below any of the thresholds referred to in subsection (1), or where these holdings induce it to become or cease to be a subsidiary, shall inform the Central Bank.

6A. Notwithstanding the provisions of articles 5 and 6, the Central Bank, for national security reasons may-

a) refuse to grant to a legal person an authorisation to acquire credit facilities within the Republic,

b) ,not allow the acquire or increase of a qualifying holding by a credit acquiring company, and

c) not allow the appointment of a member to a management body of a credit acquiring company.

Termination of activities.

7. (1) In case where a credit acquiring company decides to terminate its activities, it shall submit to the Central Bank an action plan for the termination process, that shall include, inter alia, the transfer of credit facilities.

(2) The action plan referred to in subsection (1) and the termination are subject to the approval of the Central Bank.

Suspension of authorisation.

8. (1) The Central Bank may suspend the authorisation of a credit acquiring company –

(a) in the case where, when weighing the contraventions referred to in paragraphs (a) and/or (b) of subsection (1) of section 21, decides not to proceed with the revocation of the authorisation of a credit acquiring company, or

(b) when there is a suspicion for an alleged contravention of this Law or of the Directives of the Central Bank or of the terms of the company's authorisation.

(2) In the case referred to in subsection (1), the Central Bank may set a reasonable deadline, which should not exceed three (3) months from the date of notification of the suspension of the authorisation, for the credit acquiring company to rectify the

situation.

(3) The credit acquiring company must, within the deadline set by the Central Bank under subsection (2), inform and provide evidence to the Central Bank of its compliance with the provisions of this law or the requirements of the authorisation, issued by virtue of this law.

(4) If the Central Bank –

(a) is satisfied that the credit acquiring company has complied with the provisions of subsections (2) and (3), it terminates the suspension of authorisation by notifying in writing the credit acquiring company; or

(b) is not satisfied that the credit acquiring company has complied with the provisions of subsections (2) and (3), it instantly extends the suspension period of the authorisation and initiates the procedure for revocation .

(5) During the period of the suspension of the authorisation, the credit acquiring company may continue its operations of managing its existing credit facilities but shall not be allowed to acquire any new credit facilities.

Revocation of authorisation.

9. (1) The Central Bank may revoke the authorisation granted to a credit acquiring company, if according to the judgement of the Central Bank it is proved that this company–

(a) obtained the authorisation based on false or misleading information or by any other improper way, or submitted, or notified or otherwise publicised in any way false or misleading information, or false or misleading data or documents;

(b) no longer fulfils the conditions for authorisation;

(c) has committed serious and/or repeated offenses under the provisions of this Law or the Directives issued by virtue of this Law and/or has repeatedly committed such offenses.

(2) In case of revocation of the authorisation of a credit acquiring company, that company shall instantly cease to acquire credit facilities.

(3) In case of revocation of authorisation, the credit acquiring company must, within one month, submit for approval to the Central Bank an action plan for the termination of the activity of acquiring and managing credit facilities.

(4) A credit acquiring company, the authorisation of which has been revoked, remains under the supervision of the Central Bank until the Central Bank is satisfied that this company fully complies with the provisions of this article and not later than the full disposal of the credit facilities acquired in accordance with the action plan approved by the Central Bank.

(5) In the case where, a company contravenes the provisions of subsections (2) and/or (3), the Central Bank may, after allowing the company to provide its justification, impose an administrative fine not exceeding the amount of three hundred thousand euro (€300.000).

Supervision.

10. (1) The Central Bank supervises the activities of the credit acquiring companies in order to ensure the proper functioning of the activities of acquisition and management of credit facilities with the objective to safeguard the financial stability in the Republic.

(2) The Central Bank, where it considers that the financial stability in the Republic is affected, it may intervene in the rate of foreclosures

of mortgaged properties, by issuing general or specific directives or guidelines.

Minimum capital.

11. (1) Each credit acquiring company must maintain at all times a minimum paid up share capital of one hundred thousand euro (€100.000).

(2) The share capital of a credit acquiring company may only be reduced below the minimum capital referred to in subsection (1) when there is a plan, approved by the Central Bank, for the dissolution or liquidation of the company.

Assessment of the management body and key function holders.

12. If the Central Bank, during the performance of its supervisory functions, assesses that, any member of the management body is incapable and/or unsuitable to act as a member of the management body, it may order that such person ceases to act as a member of the management body of the credit acquiring company.

Reporting to the Central Bank.

13. (1) Each credit acquiring company shall submit to the Central Bank, a copy of the balance sheet, the profit and loss account and any other information the Central Bank deems necessary for the purpose of conducting prudential supervision.

(2) The Central Bank issues directives to specify the type, the frequency, the reporting and reference dates and the format of the information required under subsection (1).

Access to books and records.

14. (1) Each credit acquiring company must, if required by the Central Bank, allow duly authorised officers of the Central Bank to enter the premises and investigate the operations and activities of the company, and make available to them any books, documents or records or transmit to the Central Bank any information considered essential for carrying out its supervisory activities pursuant to this Law, including unlimited information regarding assets and liabilities,

and in particular records and reports regarding the portfolio of acquired credit facilities.

(2) The authorised officers of the Central Bank may be assisted by duly qualified persons, who are designated for this purpose by the Central Bank and who shall be subject to the same obligations concerning confidentiality, as those which the officers of the Central Bank are subject to.

Confidentiality.

15. (1) Any information obtained by the Central Bank by virtue of this Law is kept confidential and is used only for the purposes of this Law, of the Central Bank of Cyprus Laws and of the Business of Credit Institutions Law.

138(I) of 2002
166(I) of 2003
34(I) of 2007
86(I) of 2013
87(I) of 2013
103(I) of 2013.

(2) Notwithstanding the provisions of subsection (1), the Central Bank may use any of the information provided to it under this Law for the publication of anonymous aggregate statistical data.

Annual fee.

16. The credit acquiring companies shall reimburse the Central Bank for the costs incurred in carrying out its supervisory functions by the payment of an annual fee of three thousand euro (€3.000) payable on the anniversary of the date on which the authorisation was granted to the company.

Power to issue Directives of the Central Bank

17. (1) The Central Bank may issue general or specific Directives or guidelines which it shall publish on its website and / or in the Official Gazette of the Republic.

(2) Without prejudice to the generality of the provisions of subsection

(1), the Central Bank shall issue directives or guidelines to regulate, the following:

(a) the procedures for granting, suspending and revoking an authorisation granted by virtue of this law;
(b) the criteria for the fitness and probity of shareholders, directors and key function holders;
(c) the internal organisation and governance of the credit acquiring company;
(d) outsourcing;
(e) the process of review, management and restructuring of the non-performing loans.

Sale of Credit Facility.

18. (1) Prior to the selling of whole of part of its credit facilities, a credit or financial institution shall-

(a) either notify its intention to sell or dispose the whole or part of its portfolio of credit facilities:

Provided that, the said notification by the credit or financial institution is published in the Official Gazette of the Republic and in three daily newspapers:

Provided further that, the borrowers and the guarantors, if they so wish, may submit, within a period of forty five days (45), a proposal to purchase the credit facility under sale,

or

(b) call the borrower and his guarantors to submit, within a period of forty five days (45), a proposal to purchase his credit facility under sale:

Provided that, the notification by the credit or financial institution is communicated by a letter addressed to the borrower and his guarantors:

Provided further that, the borrower is not obliged to submit an offer for acquiring his credit facility under sale:

Provided even further that, the proposal for acquiring the credit facility under sale is submitted only once by the borrower and in case such a proposal is not submitted within the time period of forty five days (45), then it is assumed that the borrower does not wish to submit a proposal.

(2) (a) Any credit facility that is transferred from a credit or financial institution or credit acquiring company, hereafter ‘‘the transferor’’, to the acquirer set out in subsection (1) of article 4, is deemed to be transferred to that acquirer at the time of transfer and all rights and obligations arising from the credit facility agreement of the account thus transferred, are automatically transferred to the relationship between the borrower and the acquirer and thereby shall continue to be valid between the borrower and the acquirer.

(b) The transferor is obliged to submit, every six (6) months, to the Central Bank a report which is publicised and which includes:

(i) data on the number and amount of credit facilities, by category, that have been sold to any legal person, by virtue of subsection (1) of article 4, and

(ii) data on the number and amount of credit facilities, by category, that have been purchased by the borrower.

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(c) the stated in paragraph (a) transfer, does not affect any procedure in progress pursuant the provisions of The Insolvency Individuals (Personal Plans Repayment and Debt Waiver Order) Law, or Part IVA of the Companies’ Law nor does it affect any results pursuant to the implementation of provisions these laws.

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9 of 1968
76 of 1977

(d) The stated in paragraph (a) transfer, shall not affect the right of

17 of 1979 105 of 1985 198 of 1986 19 of 1990 41(I) of 1994 15(I) of 1995 21(I) of 1997 82(I) of 1999 149(I) of 1999 2(I) of 2000 135(I) of 2000 151(I) of 2000 76(I) of 2001 70(I) of 2003 167(I) of 2003 92(I) of 2004 24(I)of 2005 129(I) of 2005 130(I) of 2005 98(I) of 2006 124(I) of2006 70(I) of 2007 71(I) of 2007 131(I) of 2007 186(I) of 2007 87(I) of 2008 41(I) of 2009 49(I) of2009 99(I) of 2009 42(I) of 2010 60(I) of 2010 88(I) of 2010 53(I) of 2011 117(I) of 2011	the borrower to submit an application for Insolvency Settlement under The Insolvency Individuals (Personal Plans Repayment and Debt Waiver Order) Law, or the right of the borrower or other person to appoint an examiner pursuant to Part IVA of the Companies' Law

145(I) of 2011
157(I) of 2011
198(I) of 2011
64(I) of 2012
98(I) of 2012
190(I) of 2012
203(I) of 2012
6(I) of 2013
90(I) of 2013
74(I)of 2014
75(I) of 2014
18(I) of 2015
62(I)of 2015
63(I) of 2015.
89(I) of 2015
120(I) of 2015

(e) The stated in paragraph (a) transfer, shall not affect the right of a borrower referred to in Annex 2, Part I of the Code of Conduct which is attached to the Arrears Management Directive 2015, of the Central Bank.

Official Gazette
Part Three (I)
3.4.2015
107/2015

(3) (a) The buyer of credit facilities replaces the transferor in relation to all the rights concerning the collateral which are attached to the credit facility contract and which are obtained for purposes of securing repayment of the credit facility, and this collateral is transferred to the buyer for the same purpose:

Provided that the collateral include and any guarantees.

(b) The buyer of credit facilities has the same rights and the same order of priority, and shall be subject to the same obligations, in relation to contracts of credit facilities and attached collateral transferred to him as the transferor.

(c) The safe custody of any document, goods or other assets held

by the transferor with respect to credit facilities being transferred, shall be deemed to be transferred to the purchaser at the time of transfer together with all related rights and obligations.

(d) All documents, files, and assumptions which constitute evidence with respect to any matter for or against the transferor, constitute evidence for or against the buyer, during and after the transfer time.

Notifications by acquirer to borrowers and guarantors. .

19. (1) Each credit or financial institution or credit acquiring company shall inform the borrower, the latest within five working days from the acquisition, that the credit facility agreement and related collaterals have been transferred to another person.

(2) Each credit acquiring company shall provide the borrower with all relevant contact details of the persons responsible for the handling of the credit facilities transferred thereto and of the new account numbers.

Administrative measures for acquisition of credit facilities without authorisation and for imprudent management.

20. (1) The Governor of the Central Bank may apply any one or all of the following administrative measures to a person who acquires credit facilities in contravention of subsection (1) of article 4 or who does not provide the notification according to subsection (1) and (3) of article 6 or which the Central Bank considers that such person acts to the detriment of the sound and prudent management of the credit acquiring company:

(a) a public statement which identifies the person responsible and the nature of the breach;

(b) an order requiring the person responsible to cease the behaviour;

(c) the payment of pecuniary fine up to twice the amount of the benefit derived from the breach, where that benefit may be determined, and after calling to account the

concerned person, in case it is not possible to determine the abovementioned benefit, the amount of the fine under this paragraph shall not exceed two hundred fifty thousand (250.000) euros.

(2) Where a person acquires or increases directly or indirectly a qualifying holding in a credit acquiring company, despite the opposition of the Central Bank pursuant to subsection (2) of section 6, the Central Bank, may take a decision -

(a) for suspending the exercise of the relevant voting rights, or

(b) for the nullity of votes and/or for the disposal of the holding within a specified time period that does not exceed one month.

Administrative fines

21. In case a legal person contravenes or fails to comply with this Law, or with the conditions of authorization issued by virtue of this Law or with any Directive of the Central Bank by virtue to this Law, the Governor of the Central Bank may, after calling to account the legal person, the consultants or directors, as appropriate,-

(a) impose on that legal person, for every infringement an administrative fine up to the amount of two hundred and fifty thousand euro (€250.000) depending on the seriousness of the offense and, if the infringement is continued or repeated and the legal person or director or manager refuses or fails to comply, may impose a fine of one hundred euro (€100) and up to thirty thousand euro (€30.000) for each day the contravention continues, and/or

(b) suspend or revoke the licence of that legal person by providing a fully reasoned decision.

Criminal offences

22. (1) In case a legal person –

(a) intentionally refuses or omits to perform any act, or to provide any information required by the Central Bank or other authorized person for the purposes of this Law or of directives issued pursuant thereto, or

(b) performs any action which is prohibited or prescribed by this Law or by the directives issued pursuant thereto, or

(c) provides false or misleading or incomplete reports or information,

then, the legal person, or any member of its management body, who has knowledge that any action omission provided for in paragraphs (a), (b) and (c), is guilty of a criminal offence and, upon conviction, are each subject to a fine not exceeding two hundred and fifty thousand (250.000) euros:

Provided that the Central Bank may, after conviction by the Court, suspend or revoke the license of the legal person.

(2). Any legal person proceeding with the acquisition of credit facilities, despite the decision of the Central Bank to suspend or revoke its authorisation in accordance with this Law, commits an offense and, upon conviction, shall be punished by paying a fine not exceeding two hundred thousand euro (€200.000).

Jurisdiction.

23. Unless provided otherwise in the credit facility agreement, jurisdiction for the application of the provisions of the present law rests with the district courts of the Republic.

Indemnity

24. The Central Bank and any person that is advisor or officer of the Central Bank, is not subject to any liability in the event of any action, suit or other legal proceedings for damages in respect of any act or

omission in the performance of its responsibilities by virtue of this Law or by virtue of any Directives issued according to this Law, unless it is proved that the act or omission was not done bona fide or is the result of negligence.