

Situs Asset Management Limited Response to CP96

Sir/ Madam

Situs is a financial services entity that operates mainly in the commercial real estate sector. Operations commenced in Europe in 1990 and we now have offices in London, Dublin, Copenhagen, Frankfurt and Madrid. The European businesses are also fundamentally focused on commercial real estate (CRE) providing credit servicing and advisory capabilities in particular.

We have read The Consumer Protection Act (Regulation of Credit Servicing Firms) 2015. Situs is fully supportive of the Act as we believe it will bring control, discipline and consistency which should help in stabilising the market.

It appears to us from CP 96 that there is limited differentiation in the Act between the borrower/ loan types that a Credit Servicing Firm might manage. The Code of Conduct for Business Lending to SMEs has some but not total relevance to CRE activities. For example, a CRE loan that we service could default not because it has fallen into arrears but because it has breached a loan covenant. How equitably a Credit Servicer handles such a breach could in our opinion be a matter for additional consideration in determining whether that Credit Servicer should be approved as a regulated entity.

We have the following comments for your consideration:

- Page 2 Section 1. Introduction paragraph 3 we note that the “rigorous assessment of applications” is “against applicable regulatory standards” so our assumption is that although Situs does not work within certain Codes, not applicable because of the extent of our Credit Servicing operations (for example we do not service home mortgage loans) and that this will not preclude the application.
- Page 6 Section 6.1 Professional Indemnity Insurance – The amounts of PII cover stipulated are, in our experience, low in respect of many larger commercial mortgages collateralised by commercial real estate.
- Page 6 Question 1 (Proposed Authorisation Requirements and Standards) – we would suggest that the authorisation requirements should take into account the fact that specialist CRE loan servicers may not have or need the type of credit servicing systems or organisational structure that would be relevant to servicing retail residential portfolios.
- Page 7 Question 1 (Consequential Amendments) - we would suggest that loans to SPVs be excluded from the scope of the Act as this would deal with most of the concerns of specialist CRE loan servicers.
- Page 10 Section 7.2 Code of Conduct for Small and Medium Enterprises 2012 – there are a number of sections of this Code that are not applicable or are only partly applicable to CRE servicing businesses
- Page 11 Section 7.3 Code of Conduct on Mortgage Arrears 2013 – This has very limited applicability to CRE Servicing operations given that most do not service residential mortgage loans
- Pages 12-15 Sections 7.4 Minimum Competency Code - In relation to the IQs to be completed for Control Functions, experts in the CRE market who do not operate in the retail market would be unlikely to hold the retail qualifications that might be considered relevant by the Bank.

We are grateful for the opportunity to provide this feedback. Situs offers it’s availability to discuss this matter further with the Bank should you so wish.

Tom Lawrence

Situs