



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Economic and Monetary Affairs

2011/0062(COD)

18.7.2011

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on credit agreements relating to residential property
(COM(2011)142 – C7-0085/2011 – 2011/0062(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Antolín Sánchez Presedo

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property
(COM(2011)142 – C7-0085/2011 – 2011/0062(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)142),
 - having regard to Article 294(2) and Article 114(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0085/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee,
 - having regard to the opinion of the European Central Bank,
 - having regard to Rules 55 and 37 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0000/2011) and the opinions of the Committee on the Internal Market and Consumer Protection (A7-0000/2011) and of the Committee on Legal Affairs (A7-0000/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) In March 2003, the Commission launched a process to identify and assess the impact of barriers to the internal market for credit agreements relating to residential immovable property. In 2007, it adopted a White Paper on the integration of EU mortgage credit markets. The White Paper announced the Commission's intention to assess the impact of, among other things, the policy options for pre-contractual information, credit databases, creditworthiness, the annual percentage rate of charge and advice. The Commission also established an Expert Group on Credit Histories to assist the Commission in preparing measures to improve the accessibility, comparability and completeness of credit data. Studies on the role and operations of credit intermediaries and non-credit institutions providing credit agreements relating to residential immovable property were also launched.

Amendment

(1) In March 2003, the Commission launched a process to identify and assess the impact of barriers to the internal market for credit agreements relating to residential immovable property, ***drawing on expert advice including the 2006 report of the Expert Group on Mortgage Funding***. In 2007, it adopted a White Paper on the integration of EU mortgage credit markets. The White Paper announced the Commission's intention to assess the impact of, among other things, the policy options for pre-contractual information, credit databases, creditworthiness, the annual percentage rate of charge and advice. The Commission also established an Expert Group on Credit Histories to assist the Commission in preparing measures to improve the accessibility, comparability and completeness of credit data. Studies on the role and operations of credit intermediaries and non-credit institutions providing credit agreements relating to residential immovable property were also launched.

Or. en

Amendment 2

**Proposal for a directive
Recital 1 a (new)**

Text proposed by the Commission

Amendment

(1a) In its Communication dated 27 October 2010 and entitled 'Towards a Single Market Act For a Highly Competitive Social Market Economy'¹ the Commission stated that "reforms must continue in order to increase consumer confidence in retail financial markets" and that "European mortgage markets

are of vital importance for millions of European citizens: the decision to take out a mortgage is one of the most important financial decisions an individual can make, resulting in a financial commitment spanning several decades". Moreover, in its Communication entitled 'Single Market Act: Twelve levers to boost growth and strengthen confidence'², dated 13 April 2011, the Commission committed itself to further improving the "protection of borrowers in the mortgage market".

¹ COM(2010)0608.

² COM(2011)0206.

Or. en

Amendment 3

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) In accordance with the *Treaty*, the internal market comprises an area without internal frontiers in which the free movement of goods and services and the freedom of establishment are ensured. The development of a more transparent and efficient credit market within that area is vital to promote the development of cross-border activity and create an internal market in credit agreements relating to residential immovable property. There are substantial differences in the laws of the various Member States with regard to conduct of business in the granting of credit agreements relating to residential immovable property and in the regulation and supervision of credit intermediaries and non-credit institutions providing credit agreements relating to residential

Amendment

(2) In accordance with the *Treaty on the Functioning of the European Union (TFEU)*, the internal market comprises an area without internal frontiers in which the free movement of goods and services and the freedom of establishment are ensured. The development of a more transparent and efficient credit market within that area is vital to promote the development of cross-border activity and create an internal market in credit agreements relating to residential immovable property. There are substantial differences in the laws of the various Member States with regard to conduct of business *of market participants involved* in the granting of credit agreements relating to residential immovable property, *in the funding of such agreements* and in the regulation and

immovable property. Such differences create obstacles that restrict the level of cross-border activity on the supply and demand sides, thus reducing competition and choice in the market, raising the cost of lending for providers and even preventing them from doing business.

supervision of credit intermediaries and non-credit institutions providing credit agreements relating to residential immovable property. Such differences create obstacles that restrict the level of cross-border activity on the supply and demand sides, thus reducing competition and choice in the market, raising the cost of lending for providers and even preventing them from doing business.

Or. en

Amendment 4

Proposal for a directive Recital 3

Text proposed by the Commission

(3) The **financial** crisis has shown **that** irresponsible behaviour by market participants can undermine the foundations of the financial system, leading to a lack of confidence among all parties, in particular consumers, and potentially severe social and economic consequences. Many consumers have lost confidence in the financial sector and borrowers have found their loans increasingly unaffordable, with defaults and forced sales rising. In view of the problems brought to light in the financial crisis and in the context of efforts to ensure an efficient and competitive internal market, the Commission has proposed measures with regard to credit agreements relating to residential immovable property, including a reliable framework on credit intermediation, in the context of delivering responsible and reliable markets for the future and restoring consumer confidence.

Amendment

(3) ***As the G20 has acknowledged, poor quality lending related to residential immovable property and the associated financial instruments were at the heart of the financial crisis.*** The crisis has shown ***how*** irresponsible behaviour by market participants can undermine the foundations of the financial system, leading to a lack of confidence among all parties, in particular consumers, and potentially severe social and economic consequences. Many consumers have lost confidence in the financial sector and borrowers have found their loans increasingly unaffordable, with defaults and forced sales rising. ***In response to this, the G20 has committed to improving underwriting standards of loans related to residential immovable property and has commissioned expert advice from the Financial Stability Board (FSB) which in turn has recommended a number of principles and specific areas for improvement.*** In view of the problems brought to light in the financial crisis and in the context of efforts to ensure an efficient and competitive internal market

that ensures financial stability and consumer protection, the Commission has proposed measures with regard to credit agreements relating to residential immovable property, including a reliable framework on credit intermediation, in the context of delivering responsible and reliable markets for the future and restoring consumer confidence.

Or. en

Amendment 5

Proposal for a directive Recital 4

Text proposed by the Commission

(4) A series of problems in EU mortgage markets associated with irresponsible lending and borrowing *at the pre-contractual stage* and the potential scope for irresponsible behaviour by credit intermediaries and non-credit institutions have been identified. Some problems concerned loans denominated in a foreign currency which consumers had taken out in that currency to take advantage of the interest rate offered but without having an adequate understanding of the currency risk involved. These problems are driven by market and regulatory failures as well as other factors such as the general economic climate and low levels of financial literacy. Other problems include ineffective, inconsistent, or non-existent registration, authorisation and supervision regimes for credit intermediaries and non-credit institutions providing credit for residential immovable property. The problems identified have potentially significant macroeconomic spill-over effects, can lead to consumer detriment, act as economic or legal barriers to cross-border activity and create an unlevel playing field between

Amendment

(4) A series of problems in EU mortgage markets associated with irresponsible lending and borrowing and the potential scope for irresponsible behaviour by *market participants including* credit intermediaries and non-credit institutions have been identified. Some problems concerned loans denominated in a foreign currency which consumers had taken out in that currency to take advantage of the interest rate offered but without having an adequate understanding of the currency risk involved. These problems are driven by market and regulatory failures as well as other factors such as the general economic climate and low levels of financial literacy. Other problems include ineffective, inconsistent, or non-existent *regulation of, or* registration, authorisation and supervision regimes for, credit intermediaries and non-credit institutions providing credit for residential immovable property. The problems identified have potentially significant macroeconomic spill-over effects, can lead to consumer detriment, act as economic or legal barriers to cross-border activity and create an

actors.

unlevel playing field between actors.

Or. en

Amendment 6

Proposal for a directive Recital 5

Text proposed by the Commission

(5) In order to facilitate the emergence of a smoothly functioning internal market **with a high level of consumer protection** in the area of credit agreements relating to residential immovable property, a harmonised Union framework needs to be established in a number of areas. It is further necessary to establish harmonised standards in order to ensure that consumers looking for credit agreements relating to residential immovable property are able to do so confident in the knowledge that the institutions they interact with act in a professional and responsible manner.

Amendment

(5) In order to facilitate the emergence of a smoothly functioning, **transparent, efficient and competitive** internal market in the area of credit agreements relating to residential immovable property, a harmonised Union framework needs to be established in a number of areas. ***This framework should be achieved through consistent, flexible and fair mortgage credit agreements in a way which promotes sustainable lending and borrowing and hence achieves a high level of consumer protection.*** It is further necessary to establish harmonised standards in order to ensure that consumers looking for credit agreements relating to residential immovable property are able to do so confident in the knowledge that the institutions they interact with act in a professional and responsible manner. ***In some areas it is appropriate to have a high degree of harmonisation to facilitate the internal market. In other areas, given the significant differences between the residential immovable property markets, structures of loans available or customary and macro-economic contexts, it is appropriate to set up a Union framework that allows some tailoring of standards to the local context.***

Or. en

Amendment 7

Proposal for a directive Recital 6

Text proposed by the Commission

(6) This Directive should improve conditions for the establishment and functioning of the internal market through the approximation of Member States' laws and the establishment of quality standards for certain services, notably with regard to the distribution and provision of credit through creditors and credit intermediaries. The establishment of quality standards for services for the provision of credit necessarily involves the introduction of provisions regarding authorisation and prudential requirements.

Amendment

(6) This Directive should improve conditions for the establishment and functioning of the internal market through the approximation of Member States' laws, ***the promotion of good practices*** and the establishment of quality standards for certain services, notably with regard to the distribution and provision of credit through creditors and credit intermediaries. The establishment of quality standards for services for the provision of credit necessarily involves the introduction of provisions regarding authorisation and prudential requirements.

Or. en

Amendment 8

Proposal for a directive Recital 7

Text proposed by the Commission

(7) For those areas not covered by this Directive, Member States should be free to maintain or introduce national legislation. Member States should be able to maintain or introduce national provisions in areas such as contract law relating to the validity of credit agreements, property valuation, land registration, contractual information, post-contractual issues, ***and handling defaults***.

Amendment

(7) For those areas not covered by this Directive, Member States should be free to maintain or introduce national legislation. Member States should be able to maintain or introduce national provisions in areas such as contract law relating to the validity of credit agreements, ***aspects of*** property valuation ***not regulated by this directive***, land registration, contractual information ***and*** post-contractual issues ***to the extent that they are not regulated by this directive***.

Or. en

Amendment 9

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) As consumers and enterprises are not in the same position, they do not need the same level of protection. While it is important to guarantee consumers' rights by provisions that cannot be derogated from by contract, it is reasonable to let enterprises and organisations engage in other agreements. This Directive should therefore apply to credit **granted** to consumers. Member States should, however, have the possibility to extend the scope to natural or legal persons that are not consumers, notably micro-enterprises, as defined by Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

Amendment

(8) As consumers and enterprises are not in the same position, they do not need the same level of protection. While it is important to guarantee consumers' rights by provisions that cannot be derogated from by contract, it is reasonable to let enterprises and organisations engage in other agreements. This Directive should therefore apply to **the provision of** credit to consumers. Member States should, however, have the possibility to extend the scope to natural or legal persons that are not consumers, notably micro-enterprises, as defined by Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

Or. en

Amendment 10

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) The objective of this Directive is to **ensure** that all credits provided to consumers benefit from a high level of protection. It should therefore apply to credits secured by real estate, or credits which are used to purchase **a** property in some Member States and to credits for the renovation of residential property that are not covered by Directive 2008/48/EC of the European Parliament and of the

Amendment

(9) The objective of this Directive is to **promote responsible lending and borrowing in the context of a transparent, efficient and competitive internal market for loans related to residential immovable property, while ensuring** that all credits provided to consumers benefit from a high level of protection **and that financial stability is secured**. It should therefore apply to **all actors in the supply chain for**

Council of 23 April 2008 on credit agreements for consumers *and repealing Council Directive 87/102/EEC* which lays down rules at Union level concerning consumer credit agreements. Furthermore, this Directive should not be applied to certain types of credit agreements where the credit is granted by an employer to his employees under certain circumstances, as already provided in Directive 2008/48/EC.

credit, including property developers who transfer credits to consumers. It should apply to credits secured by real estate, or credits which are used to purchase ***or finance the construction of residential immovable*** property in some Member States and to credits for the renovation of residential *immovable* property that are not covered by Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers which lays down rules at Union level concerning consumer credit agreements. Furthermore, this Directive should not be applied to certain types of credit agreements where the credit is granted by an employer to his employees under certain circumstances, as already provided in Directive 2008/48/EC.

Or. en

Amendment 11

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This Directive should not apply to certain credit agreements that will eventually be repaid from the sale proceeds of ***an*** immovable property and whose primary objective is to facilitate consumption, such as equity release products or other equivalent specialised products. Such credit agreements have specific characteristics which are beyond the scope of this Directive. An assessment of the borrower's creditworthiness, for example, is irrelevant since the payments are made from the creditor to the borrower rather than the other way round. Such a transaction would also require, amongst other things, substantially different pre-contractual information. Furthermore, other

Amendment

(10) This Directive should not apply to certain credit agreements ***under which a sum of money is advanced to a consumer who has a proprietary right over a residential immovable property to enable access to equity in that property and*** that will eventually be repaid from the sale proceeds of ***the residential*** immovable property and whose primary objective is to facilitate consumption, such as equity release products or other equivalent specialised products. Such credit agreements have specific characteristics which are beyond the scope of this Directive. An assessment of the borrower's creditworthiness, for example, is irrelevant since the payments are made from the

products, such as home reversions, which have comparable functions to reverse mortgages or lifetime mortgages do not involve the provision of credit and so would remain outside the scope of this Directive. However this Directive should apply to those secured loans whose primary objective is to facilitate the purchase of *an* immovable property, including those loans that do not *require* the reimbursement of the capital or those whose purpose is to provide temporary financing between the sale of one immovable property and the purchase of another.

creditor to the borrower rather than the other way round. Such a transaction would also require, amongst other things, substantially different pre-contractual information. Furthermore, other products, such as home reversions, which have comparable functions to reverse mortgages or lifetime mortgages do not involve the provision of credit and so would remain outside the scope of this Directive. However this Directive should apply to those secured loans whose primary objective is to facilitate the purchase of *residential* immovable property, including those loans *with repayment structures* that do not *include* the reimbursement of the capital or those whose purpose is to provide temporary financing between the sale of one *residential* immovable property and the purchase of another.

Or. en

Amendment 12

Proposal for a directive Recital 11

Text proposed by the Commission

(11) For reasons of legal certainty, the Union framework in the area of credit agreements relating to residential immovable property should be consistent with and complementary to other Union acts, particularly in the areas of consumer protection and prudential supervision. Essential definitions of terms such as ‘consumer’, ‘creditor’, ‘credit intermediary’, ‘credit agreements’ and ‘durable medium’ as well as key concepts used in standard information to designate the financial characteristics of the credit, such as the total cost of the credit to the consumer, the total amount payable by the consumer, the annual percentage rate of

Amendment

(11) For reasons of legal certainty, the Union framework in the area of credit agreements relating to residential immovable property should be consistent with and complementary to other Union acts, particularly in the areas of consumer protection and prudential supervision. Essential definitions of terms such as ‘consumer’, ‘creditor’, ‘credit intermediary’, ‘credit agreements’ and ‘durable medium’ as well as key concepts used in standard information to designate the financial characteristics of the credit, such as the total cost of the credit to the consumer, the total amount payable by the consumer, the annual percentage rate of

charge and the borrowing rate, should be in line with those in Directive 2008/48/EC so that the same terminology refers to the same type of facts irrespective of whether the credit is a consumer credit or a credit relating to residential immovable property. Member States should therefore ensure in the transposition of this Directive that there is **a** consistency of application and interpretation.

charge and the borrowing rate, should be in line with those in Directive 2008/48/EC so that the same terminology refers to the same type of facts irrespective of whether the credit is a consumer credit or a credit relating to residential immovable property. Member States should therefore ensure in the transposition of this Directive that there is **an appropriate** consistency of application and interpretation.

Or. en

Amendment 13

Proposal for a directive Recital 12

Text proposed by the Commission

(12) In order to ensure a consistent framework for consumers in the area of credit as well as to minimise the administrative burden for creditors and credit intermediaries, the **core** framework of this Directive should follow the structure of Directive 2008/48/EC, notably the notions that information included in advertising concerning credit agreements relating to residential immovable property should be provided to the consumer by means of a representative example, that detailed pre-contractual information should be given to him by means of a standardised information sheet, that the consumer should receive adequate explanations before the conclusion of the credit agreement and that creditors should assess the consumer's creditworthiness before the provision of a loan. Similarly, non-discriminatory access for creditors to relevant credit databases should also be ensured in order to achieve a level playing field with the provisions as guaranteed by Directive 2008/48/EC. Similarly to Directive 2008/48/EC, this Directive

Amendment

(12) In order to ensure a consistent framework for consumers in the area of credit as well as to minimise the administrative burden for creditors and credit intermediaries, the framework of this Directive should follow the structure of Directive 2008/48/EC **to the largest possible extent**, notably the notions that information included in advertising concerning credit agreements relating to residential immovable property should be provided to the consumer by means of a representative example, that detailed pre-contractual information should be given to him by means of a standardised information sheet, that the consumer should receive adequate explanations before the conclusion of the credit agreement and that creditors should assess the consumer's creditworthiness before the provision of a loan. Similarly, non-discriminatory access for creditors to relevant credit databases should also be ensured in order to achieve a level playing field with the provisions as guaranteed by Directive 2008/48/EC. Similarly to

should ensure the appropriate authorisation, registration and supervision of all creditors providing credit agreements relating to residential immovable property and should introduce requirements for the establishment of, and access to, out-of-court dispute resolution mechanisms.

Directive 2008/48/EC, this Directive should ensure the appropriate authorisation, registration and supervision of all creditors providing credit agreements relating to residential immovable property and should introduce requirements for the establishment of, and access to, out-of-court dispute resolution mechanisms.

Or. en

Amendment 14

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) This Directive should supplement Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services *and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC* which requires that **the** consumer be informed of the existence or absence of a right of withdrawal and foresees a right of withdrawal. However, while Directive 2002/65/EC foresees the possibility for the supplier to communicate pre-contractual information after the conclusion of the contract, this would be inappropriate for contracts for credit agreements relating to residential immovable property given the significance of the financial commitment for the consumer. Furthermore, as foreseen in Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises (Doorstep Selling Directive), consumers should have a right of withdrawal for credit agreements relating to residential immovable property concluded off-premises and should be informed about the existence of that right.

Amendment

(13) This Directive should supplement Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services which requires that **a** consumer **who concludes a contract at a distance** be informed of the existence or absence of a right of withdrawal and foresees a right of withdrawal. However, while **it is appropriate that** Directive 2002/65 **regulates the specificities of distance contracts, it is necessary to ensure that the pre-contractual information communicated in such cases meets the requirements of this Directive in relation to the specificities of loans related to residential immovable property. For example, while Directive 2002/65/EC** foresees the possibility for the supplier to communicate pre-contractual information after the conclusion of the contract, this would be inappropriate for contracts for credit agreements relating to residential immovable property given the significance of the financial commitment for the consumer. Furthermore, as foreseen in *Council Directive 85/577/EEC* of 20

December 1985 to protect the consumer in respect of contracts negotiated away from business premises (Doorstep Selling Directive), consumers should have a right of withdrawal for credit agreements relating to residential immovable property concluded off-premises and should be informed about the existence of that right.

Or. en

Amendment 15

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) At the same time, it is important take into consideration the specificities of credit agreements relating to residential immovable property which justify a differentiated approach. Given the nature and the possible consequences of a credit agreement relating to residential immovable property for the consumer, advertising materials and personalised pre-contractual information should include specific risk warnings, for instance about the nature and implications of taking out a security. Following what already existed as a voluntary approach by the industry concerning home loans, general pre-contractual information should be made available at all times in addition to the personalised pre-contractual information. Furthermore, a differentiated approach is justifiable in order to take into consideration the lessons learnt from the financial crisis in order to ensure that loan origination takes place in a sound manner. In this respect, the provisions on the creditworthiness assessment should be strengthened in comparison to consumer credit, more precise information should be provided by credit intermediaries on their

Amendment

(14) At the same time, it is important **to** take into consideration the specificities of credit agreements relating to residential immovable property which justify a differentiated approach. Given the nature and the possible consequences of a credit agreement relating to residential immovable property for the consumer, advertising materials and personalised pre-contractual information should include specific risk warnings, for instance about the nature and implications of taking out a security. Following what already existed as a voluntary approach by the industry concerning home loans, general pre-contractual information should be made available at all times in addition to the personalised pre-contractual information. Furthermore, a differentiated approach is justifiable in order to take into consideration the lessons learnt from the financial crisis in order to ensure that loan origination takes place in a sound manner. In this respect, the provisions on the creditworthiness assessment should be strengthened in comparison to consumer credit, more precise information should be provided by credit intermediaries on their

status and relationship with the creditors in order to disclose potential conflicts of interest, and all actors involved in the origination of credit agreements relating to residential immovable property should be adequately authorised, registered and supervised.

status and relationship with the creditors in order to disclose potential conflicts of interest, ***aspects of the credit agreement and conduct of creditors after the credit agreement has been concluded should be regulated and*** all actors involved in the origination of credit agreements relating to residential immovable property should be adequately authorised, registered and supervised.

Or. en

Amendment 16

Proposal for a directive Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) It is also necessary to regulate some additional areas to reflect the specificity of loans relating to residential immovable property. Given the significance of the transaction it is necessary to ensure that consumers have adequate time for reflection before committing themselves to taking out a loan. It is also important to prevent practices which may induce consumers to enter into a credit agreement which is not in their best interests, such as tying of products other than current accounts or a requirement to take out a particular loan to purchase a property. It is also important to ensure that the residential immovable property is appropriately valued both before the conclusion of the credit agreement and in the event of default. Given the often long-term nature of the loans and the risks which can arise during the execution of the contract, it is appropriate to provide for a degree of flexibility during the life of the credit and to regulate the handling of arrears and defaults.

Amendment 17

**Proposal for a directive
Recital 14 b (new)**

Text proposed by the Commission

Amendment

(14b) Furthermore, it is appropriate to distinguish those credit agreements relating to residential immovable property which may pose special risks arising either from the intrinsic features of the product or by being significantly different from market practice and hence unfamiliar to consumers or because of the economic environment. Those special risks should be appropriately disclosed to consumers and managed through additional prudential and supervisory measures, to ensure that those who take the special risks bear the potential costs.

Amendment 18

**Proposal for a directive
Recital 14 c (new)**

Text proposed by the Commission

Amendment

(14c) In order to ensure traceability and allow appropriate supervision of loans related to residential immovable property, information is needed to understand the concentrations of risk across the market. Registers should therefore be designated across the Union to act as repositories of information about such loans and also about the use of such loans as collateral in financial instruments. A system of identifiers for loans secured on residential immovable property, to be known as the

European Mortgage Key Identifier (EMKI), should also be established to assist market participants and supervisors in understanding and where necessary enforcing rights in relation to residential immovable property.

Or. en

Amendment 19

Proposal for a directive Recital 14 d (new)

Text proposed by the Commission

Amendment

(14d) It is also necessary to provide for supervision by competent authorities of creditors and credit intermediaries, within the framework of European supervision established by Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board¹ and Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority)² (EBA). Given the distinctive element of the residential immovable property, it is appropriate to provide for powers for the competent authorities in the Member State where the property is located in addition to those for the home and host competent authorities.

¹ OJ L 331, 15.12.2010, p. 1.

² OJ L 331, 15.12.2010, p. 12.

Or. en

Amendment 20

**Proposal for a directive
Recital 14 e (new)**

Text proposed by the Commission

Amendment

(14e) In order to increase the ability of consumers to make informed decisions for themselves about borrowing and managing debt responsibly, Member States should work with stakeholders to facilitate the education of consumers in those areas.

Or. en

Amendment 21

**Proposal for a directive
Recital 15**

Text proposed by the Commission

Amendment

(15) Intermediaries often engage in more activities that just credit intermediation, in particular insurance intermediation or investment services provision. This Directive should therefore also ensure a degree of coherence with Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation and Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC. In particular, prudential requirements for intermediaries should be broadly in line with Directive 2002/92/EC in order to simplify the process of establishing as a credit intermediary and operating cross-border.

deleted

Amendment 22

**Proposal for a directive
Recital 16 a (new)**

Text proposed by the Commission

Amendment

(16a) The financial crisis has highlighted the importance of managing conflicts of interest in order to reduce the risks arising and to rebuild consumer confidence. It is therefore appropriate to regulate certain aspects of the remuneration of staff of creditors and credit intermediaries.

Or. en

Amendment 23

**Proposal for a directive
Recital 16 b (new)**

Text proposed by the Commission

Amendment

(16b) The provisions in this Directive on remuneration should be without prejudice to the full exercise of fundamental rights guaranteed by the Treaties, in particular Article 153(5) TFEU and the rights, where applicable, of the social partners to conclude and enforce collective agreements in accordance with national law and customs.

Or. en

Amendment 24

**Proposal for a directive
Recital 17**

PE469.842v02-00

22/111

PR\874873EN.doc

Text proposed by the Commission

(17) Creditors and credit intermediaries frequently use advertisements, often featuring special terms and conditions, to attract consumers to a particular product. Consumers should, therefore, be protected against unfair or misleading advertising practices and should be able to compare advertisements. Specific provisions on the advertising of credit agreements relating to residential immovable property and a list of items to be included in advertisements and marketing materials directed at consumers are necessary to enable them to compare different offers. Such provisions take into account the specificities of credit agreements relating to residential immovable property, for instance, the fact that if the loan repayments are not met, there is a risk of the consumer losing the property. Member States should remain free to introduce or maintain disclosure requirements in their national laws regarding advertising which does not contain information on the cost of credit.

Amendment

(17) Creditors and credit intermediaries frequently use advertisements, often featuring special terms and conditions, to attract consumers to a particular product. Consumers should, therefore, be protected against unfair or misleading advertising practices and should be able to compare advertisements. Specific provisions on the advertising of credit agreements relating to residential immovable property and a list of items to be included in advertisements and marketing materials directed at consumers are necessary to enable them to compare different offers. Such provisions ***should be proportionate to the nature and medium of the advertisement and should*** take into account the specificities of credit agreements relating to residential immovable property, for instance, the fact that if the loan repayments are not met, there is a risk of the consumer losing the property. Member States should remain free to introduce or maintain disclosure requirements in their national laws regarding advertising which does not contain information on the cost of credit.

Or. en

Amendment 25

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) Advertising tends to focus on one or several products in particular, while consumers should be able to make their decisions in full knowledge of the range of credit products on offer. In this respect, general information plays an important role in educating the consumer in the broad

Amendment

(18) Advertising tends to focus on one or several products in particular, while consumers should be able to make their decisions in full knowledge of the range of credit products on offer. In this respect, general information plays an important role in educating the consumer in the broad

range of products and services available from a particular creditor or credit intermediary and the key features thereof. Consumers should therefore be able at all times to access general information on the credit products available. They should further receive personalised information in good time prior to the conclusion of the credit agreement in order to enable them to compare and reflect on the characteristics of credit products.

range of products and services available from a particular creditor or credit intermediary and the key features thereof. Consumers should therefore be able at all times to access general information on the credit products available. They should further receive personalised information in good time prior to the conclusion of the credit agreement in order to enable them to compare, **receive advice on**, and reflect on the characteristics of credit products.

Or. en

Amendment 26

Proposal for a directive Recital 22

Text proposed by the Commission

(22) The consumer may still need additional assistance in order to decide which credit agreement, within the range of products proposed, is the most appropriate for his needs and financial situation. Creditors, and where the transaction is through a credit intermediary, credit intermediaries should provide such **assistance in relation to** the credit products which they offer to the consumer. The relevant information, as well as the essential characteristics of the products proposed, should therefore be explained to the consumer in a personalised manner so that the consumer can understand the effects which they may have on his economic situation. Member States could determine when and to what extent such explanations are to be given to the consumer, taking into account the particular circumstances in which the credit is offered, the consumer's need for assistance and the nature of individual credit products.

Amendment

(22) The consumer may still need additional assistance in order to decide which credit agreement, within the range of products proposed, is the most appropriate for his needs and financial situation. Creditors, and where the transaction is through a credit intermediary, credit intermediaries should provide such **explanations about** the credit products which they offer to the consumer. The relevant information, as well as the essential characteristics of the products proposed, should therefore be explained to the consumer in a personalised manner so that the consumer can understand the effects which they may have on his economic situation. Member States could determine when and to what extent such explanations are to be given to the consumer, taking into account the particular circumstances in which the credit is offered, the consumer's need for assistance and the nature of individual credit products. **Such explanations and the provision of personalised information**

should not necessarily constitute a personal recommendation.

Or. en

Amendment 27

Proposal for a directive Recital 24

Text proposed by the Commission

(24) An assessment of creditworthiness should take into consideration all necessary factors that could influence a consumer's ability to repay over the lifetime of the loan including, but not limited to, the consumer's income, regular expenditures, ***credit score, past credit history***, ability to handle interest rate adjustments, and other existing credit commitments. ***Additional provisions may be necessary to further elaborate on the different elements that may be taken into consideration in a creditworthiness assessment.*** Member States may issue guidance on the method and criteria to assess a consumer's creditworthiness, for example by setting limits on loan-to-value or loan-to-income ratios.

Amendment

(24) An assessment of creditworthiness should take into consideration all necessary factors that could influence a consumer's ability to repay over the lifetime of the loan including, but not limited to, the consumer's income, regular expenditures, ability to handle interest rate adjustments, and other existing credit commitments. Member States may issue ***additional*** guidance on the method and criteria to assess a consumer's creditworthiness, for example by setting limits on loan-to-value or loan-to-income ratios ***in addition to the reference levels for such ratios which should be established to identify when stricter prudential or other supervisory measures are warranted.***

Or. en

Amendment 28

Proposal for a directive Recital 25

Text proposed by the Commission

(25) A negative creditworthiness assessment should indicate to the creditor that the consumer is unable to afford the credit and as a consequence, the creditor

Amendment

(25) A negative creditworthiness assessment should indicate to the creditor that the consumer is unable to afford the credit and as a consequence, the creditor

should not grant the credit. Such a negative outcome may derive from a wide range of reasons, including but not limited to the consultation of a database or a negative credit score. A positive creditworthiness assessment should not constitute an obligation for the creditor to provide credit.

should not grant the credit. Such a negative outcome may derive from a wide range of reasons, including but not limited to the consultation of a database or a negative credit score ***but in order to promote financial inclusion arbitrary or discriminatory decisions should be avoided.*** A positive creditworthiness assessment should not constitute an obligation for the creditor to provide credit.

Or. en

Amendment 29

Proposal for a directive Recital 27

Text proposed by the Commission

(27) Consultation of a credit database is a useful element in the assessment of creditworthiness. Some Member States require creditors to assess the creditworthiness of consumers on the basis of a consultation of the relevant database. Creditors should also be able to consult the credit database over the lifetime of the loan in order to identify and assess the potential for default. ***In the event that such a potential is evident or objectively demonstrated, the creditor should contact the consumer to discuss the different options to avoid the possibility of default, such as a rescheduling of the loan. In any event, the creditor should not consider withdrawing the credit without having first explored all possible alternatives with the consumer to avoid default.*** Pursuant to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, consumers should be informed by creditors of the consultation of the

Amendment

(27) Consultation of a credit database is a useful element in the assessment of creditworthiness. Some Member States require creditors to assess the creditworthiness of consumers on the basis of a consultation of the relevant database. Creditors should also be able to consult the credit database over the lifetime of the loan in order to identify and assess the potential for default. Pursuant to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, consumers should be informed by creditors of the consultation of the credit database prior to its consultation, and should have the right to access the information held on them in such a credit database in order to, where necessary, rectify, erase or block the personal data concerning them processed therein where it is inaccurate or has been unlawfully processed.

credit database prior to its consultation, and should have the right to access the information held on them in such a credit database in order to, where necessary, rectify, erase or block the personal data concerning them processed therein where it is inaccurate or has been unlawfully processed.

Or. en

Amendment 30

Proposal for a directive

Recital 29

Text proposed by the Commission

(29) Where a decision to reject an application for credit is based on data obtained through the consultation of a database or the lack of data therein, the creditor should inform the consumer thereof, of the name of the database consulted and of any other elements required by Directive 95/46/EC so as to enable the consumer to exercise his right to access and, where necessary, rectify, erase or block personal data concerning him and processed therein. ***Where a decision to reject an application for credit is based on an automated decision or on systematic methods such as credit scoring systems, the creditor should inform the consumer thereof and explain the logic involved in the decision and of the arrangements enabling the consumer to request the automated decision to be reviewed manually.*** However, the creditor should not be required to give such information when to do so would be prohibited by other Union legislation such as legislation on money laundering or the financing of terrorism. Neither should such information be provided where to do so would be contrary to the objectives of public policy

Amendment

(29) Where a decision to reject an application for credit is based on data obtained through the consultation of a database or the lack of data therein, the creditor should inform the consumer thereof, of the name of the database consulted and of any other elements required by Directive 95/46/EC so as to enable the consumer to exercise his right to access and, where necessary, rectify, erase or block personal data concerning him and processed therein. However, the creditor should not be required to give such information when to do so would be prohibited by other Union legislation such as legislation on money laundering or the financing of terrorism. Neither should such information be provided where to do so would be contrary to the objectives of public policy or public security such as the prevention, investigation, detection or prosecution of criminal offences.

or public security such as the prevention, investigation, detection or prosecution of criminal offences.

Or. en

Amendment 31

Proposal for a directive Recital 31

Text proposed by the Commission

(31) In order to be in a position to understand the nature of the service, consumers should be made aware of what constitutes **a** personalised recommendation on suitable credit agreements for that consumer's needs and financial situation ('advice') and when it is being provided and when it is not. Those providing advice should comply with general standards in order to ensure that the consumer is presented with a range of products suitable for his needs and circumstances. That service should be based on a fair and sufficiently wide-ranging analysis of the products available on the market, and on a close inspection of the consumer's financial situation, preferences and objectives. Such an assessment should be based on up-to-date information and reasonable assumptions on the consumer's circumstances during the lifetime of the loan. Member States may clarify how the suitability of a given product for a consumer should be assessed in the context of the provision of advice.

Amendment

(31) In order to be in a position to understand the nature of the service, consumers should be made aware of what constitutes **an expert** personalised recommendation on suitable credit agreements for that consumer's needs and financial situation ('advice') and when it is being provided and when it is not. ***It is therefore important to ensure that the service of advice is a distinct service which is separately remunerated in a manner transparent to the consumer. Consumers should also be able to rely on the competence of the adviser.*** Those providing advice should comply with general standards in order to ensure that the consumer is presented with a range of products suitable for his needs and circumstances ***and should also have the necessary professional competence to provide expert advice.*** That service should be based on a fair and sufficiently wide-ranging analysis of the products available on the market, and on a close inspection of the consumer's financial situation, preferences and objectives. Such an assessment should be based on up-to-date information and reasonable assumptions on the consumer's circumstances during the lifetime of the loan. Member States may clarify how the suitability of a given product for a consumer should be assessed in the context of the provision of advice.

The act of making a binding offer to a consumer does not in itself constitute advice.

Or. en

Amendment 32

Proposal for a directive Recital 31 a (new)

Text proposed by the Commission

Amendment

(31a) In order to achieve the objectives of this Directive it is necessary to ensure that the performance of credit agreements and not just the formation of the agreement is sound. This requires a degree of flexibility, so as to ensure that the financial system serves the needs of consumers while preserving the indemnity of financial institutions. It is therefore appropriate, in line with the recommendations of the FSB, to provide flexibility which enables creditors and consumers to manage and reduce the risks to which they are exposed during the life of the loan, through a right to flexibility in payments, a right to convert a credit agreement back into the national currency and an appropriately calibrated right to repay loans early. It is also appropriate to provide for situations where either the creditor or consumer wishes to transfer the credit agreement, and to allow consumers to retain the credit agreement while providing different collateral provided such collateral is equivalent.

Or. en

Amendment 33

Proposal for a directive Recital 32

Text proposed by the Commission

(32) A consumer's ability to repay his credit prior to the expiry of his credit agreement may play an important role in promoting competition in the single market and the free movement of EU citizens. However, substantial differences exist between the national principles and conditions under which consumers have the ability to repay and the conditions under which such early repayment can take place. Whilst recognising the diversity in mortgage funding mechanisms and the range of products available, certain standards with regard to early repayment of credit are essential at Union level in order to ensure that consumers have the possibility to discharge their obligations before the date agreed in the credit agreement and the confidence to shop around for the best products to meet their needs. Member States should therefore ensure, *either by legislation or by means of contractual clauses*, that consumers have a statutory *or contractual* right to early repayment; nevertheless, *Member States should be able to define the conditions for the exercise of such a right. These conditions may include time limitations on the exercise of the right, different treatment depending on the type of the borrowing rate, whether fixed or variable, restrictions with regard to the circumstances under which the right may be exercised.* Member States could also provide that the creditor should be entitled to fair and objectively justified compensation for potential costs directly linked to early repayment of the credit. In any event if the early repayment falls within a period for which the borrowing rate is fixed, exercise of the right may be

Amendment

(32) A consumer's ability to repay his credit prior to the expiry of his credit agreement may play an important role in promoting competition in the single market and the free movement of EU citizens. However, substantial differences exist between the national principles and conditions under which consumers have the ability to repay and the conditions under which such early repayment can take place. Whilst recognising the diversity in mortgage funding mechanisms and the range of products available, certain standards with regard to early repayment of credit are essential at Union level in order to ensure that consumers have the possibility to discharge their obligations before the date agreed in the credit agreement and the confidence to shop around for the best products to meet their needs. Member States should therefore ensure that consumers have a statutory right to early repayment; nevertheless, the exercise of such a right *should be subject to* conditions depending on the *nature and funding* of the *credit agreement. In order to ensure market efficiency*, Member States could also provide that, *to preserve its indemnity*, the creditor should be entitled to fair and objectively justified compensation for potential costs directly linked to early repayment of the credit *while avoiding penalising the consumer.* In any event if the early repayment falls within a period for which the borrowing rate is fixed, exercise of the right may be made subject to the existence of a special interest on the part of the consumer.

made subject to the existence of a special interest on the part of the consumer. ***Such special interest may for example occur in case of divorce or unemployment. Where a Member State chooses to lay down such conditions, these should not make the exercise of the right excessively difficult or onerous for the consumer.***

Or. en

Amendment 34

Proposal for a directive Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) Even with measures in place to reduce the risk of default situations will arise where the consumer is in difficulty repaying the loan. It is therefore important to ensure that such situations and eventual defaults are dealt with appropriately. In particular creditors should contact the consumer to discuss the different options to avoid the possibility of default, such as a rescheduling of the loan, and should not consider withdrawing the credit without having first explored all possible alternatives with the consumer to avoid default. It is also important that the value of the collateral is fairly calculated when determining any outstanding obligation on a consumer in default and that the structure of any such obligation takes account of the need for the consumer to have a minimum subsistence income.

Or. en

Amendment 35

**Proposal for a directive
Recital 32 b (new)**

Text proposed by the Commission

Amendment

(32b) The work commissioned by the G20 in response to the crisis has demonstrated that problems can arise where residential immovable property is inappropriately valued and where the role of the property in providing collateral for a loan or financial instrument is unclear. Such problems can have implications for individual consumers, financial stability and the wider economy. Measures are therefore needed to ensure that valuations are provided by competent appraisers in line with appropriate valuation standards, and to ensure that the connection between a credit agreement and the residential immovable property and any other financial instrument for which it provides collateral is registered and can be traced using a standardised EMKI.

Or. en

Amendment 36

**Proposal for a directive
Recital 32 c (new)**

Text proposed by the Commission

Amendment

(32c) Experience has shown that standards are needed to enable the effective identification and management of financial risk arising from loans related to residential immovable property. Those standards need to provide parameters to identify where lending is high risk and ensure that measures are in place, including those arising from special risk credit agreements, to reduce

or manage those risks on a market wide or firm-specific basis. Such standards need to take account of the wider economic context, including the structure of the market for residential immovable property, and so it is appropriate that they are determined by the local competent authorities and applied consistently regardless of the location where the creditor provides its services. EBA should therefore have a role in resolving any dispute between competent authorities in different Member States about the action needed to resolve problems that arise. Competent authorities also need to understand the policy and procedures in place in firms to determine whether creditors and credit intermediaries have the necessary processes in place to comply with this Directive. Given the potentially important role played by credit registers in building an internal market and in ensuring adequate assessment of creditworthiness it is also appropriate that EBA should contribute to the supervision of such registers where they operate cross-border.

Or. en

Amendment 37

Proposal for a directive Recital 34

Text proposed by the Commission

(34) Credit intermediaries should be registered with the competent authority of the Member State where they have their residence or their head office, provided that they have been authorised in accordance with strict professional requirements in relation to their competence, good repute, and professional indemnity cover. With a view to promoting consumer confidence in

Amendment

(34) Credit intermediaries should be registered with the competent authority of the Member State where they have their residence or their head office, provided that they have been authorised in accordance with strict professional requirements in relation to their competence, good repute, and professional indemnity cover. With a view to promoting consumer confidence in

credit intermediaries, Member States should ensure that authorised credit intermediaries are subject to ongoing and thorough supervision by *their home Member State* competent *authority*. Such requirements should apply at least at the level of the institution; however, Member States may clarify whether such requirements for authorisation and subsequent registration apply to individual employees within the credit intermediary.

credit intermediaries, Member States should ensure that authorised credit intermediaries are subject to ongoing and thorough supervision by competent *authorities*. Such requirements should apply at least at the level of the institution; however, Member States may clarify whether such requirements for authorisation and subsequent registration apply to individual employees within the credit intermediary.

Or. en

Amendment 38

Proposal for a directive Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) Intermediaries often engage in more activities that just credit intermediation, in particular insurance intermediation or investment services provision. This Directive should therefore also ensure a degree of coherence with Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation and Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments. In particular, prudential requirements for intermediaries should be broadly in line with Directive 2002/92/EC in order to simplify the process of establishing as a credit intermediary and operating cross-border.

Or. en

Amendment 39

Proposal for a directive Recital 35 b (new)

Text proposed by the Commission

Amendment

(35b) In order to facilitate the ability of credit intermediaries to provide their services on a cross-border basis, for purposes of cooperation, information exchange and dispute resolution between competent authorities, the competent authorities responsible for the authorisation and supervision of credit intermediaries should be those acting under the auspices of EBA, as set out in Article 4(2) of Regulation (EU) No 1093/2010.

Or. en

Amendment 40

Proposal for a directive Recital 36

Text proposed by the Commission

Amendment

(36) In order to ensure a level playing field between creditors and promote financial stability, and pending further harmonisation, Member States should ensure that appropriate measures are in place for the authorisation, registration and supervision of non-credit institutions providing credit agreements relating to residential immovable property. Detailed conditions should not be laid down in this Directive for the authorisation, registration or supervision of creditors providing such credit agreements and that are not credit institutions as defined in Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business

(36) In order to ensure a level playing field between creditors and promote financial stability, and pending further harmonisation, Member States should ensure that appropriate measures are in place for the ***regulation***, authorisation, registration and supervision of non-credit institutions providing credit agreements relating to residential immovable property. Detailed conditions should not be laid down in this Directive for the authorisation, registration or supervision of creditors providing such credit agreements and that are not credit institutions as defined in Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and

of credit institutions for reasons of proportionality; the number of such institutions operating in the EU at present is limited as is their market share and the number of Member States in which they are active, particularly since the financial crisis. Nor should the introduction of a ‘passport’ for such institutions be provided for in this Directive for the same reason.

pursuit of the business of credit institutions for reasons of proportionality; the number of such institutions operating in the EU at present is limited as is their market share and the number of Member States in which they are active, particularly since the financial crisis. Nor should the introduction of a ‘passport’ for such institutions be provided for in this Directive for the same reason.

Or. en

Amendment 41

Proposal for a directive Recital 39

Text proposed by the Commission

(39) In order to take account of developments in the markets for credit relating to residential immovable property or in the evolution of credit products as well as economic developments, such as inflation, and in order to provide further explanations on how to address certain of the requirements contained in this Directive, the **Commission should be empowered** to adopt **delegated** acts in accordance with Article 290 *of the Treaty on the Functioning of the European Union*. In particular, **the Commission should be empowered to adopt delegated acts** to specify the details concerning the professional requirements applicable to creditors' staff **and** credit intermediaries, **the criteria used for assessing the creditworthiness of the consumer and in ensuring that credit products are not unsuitable for the consumer, and** further harmonisation of key terms such as ‘default’ the registration criteria and data processing conditions to be applied to credit databases.

Amendment

(39) In order to **ensure consistent harmonisation and** take account of developments in the markets for credit relating to residential immovable property or in the evolution of credit products as well as economic developments, such as inflation, and in order to provide further explanations on how to address certain of the requirements contained in this Directive, the **power** to adopt acts in accordance with Article 290 *TFEU should be delegated to the Commission*, in particular to specify the details concerning the professional requirements applicable to creditors' staff, credit intermediaries and **valuers**, further harmonisation of key terms such as ‘default’, the registration criteria and data processing conditions to be applied to credit databases, **the characteristics of the EMKI and the procedure for assigning it, common principles for valuation standards and for defining independence, and the avoidance and management of conflicts of interest in valuation of residential immovable property. It is of particular importance**

that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Or. en

Amendment 42

Proposal for a directive Recital 40

Text proposed by the Commission

(40) In order to take account of developments in the markets for credit relating to residential immovable property, including the range of products available, the **Commission should be empowered** to adopt **delegated** acts in accordance with Article 290 of the Treaty on the Functioning of the European Union to amend the content of the standard information items to be included in advertising, the content and format of the European Standardised Information Sheet (ESIS), the content of the information disclosures by credit intermediaries, the formula and the assumptions used to calculate the annual percentage rate of charge **and the criteria to be taken into account for the assessment of the consumer's creditworthiness**.

Amendment

(40) In order to take account of developments in the markets for credit relating to residential immovable property, including the range of products available, the **power** to adopt acts in accordance with Article 290 TFEU **should also be delegated to the Commission** to amend the content of the standard information items to be included in advertising, the content and format of the European Standardised Information Sheet, the content of the information disclosures by credit intermediaries, **and** the formula and the assumptions used to calculate the annual percentage rate of charge.

Or. en

Amendment 43

**Proposal for a directive
Recital 40 a (new)**

Text proposed by the Commission

Amendment

(40a) In order to ensure the consistent harmonisation of the creditworthiness assessment, the Commission should also be empowered to adopt regulatory technical standards to further specify assumptions about the repayment amount, net income and repayment strategy to be used in the creditworthiness assessment and the conditions for collateral to be considered as equivalent for the purposes of portability.

Or. en

Amendment 44

**Proposal for a directive
Recital 42**

Text proposed by the Commission

Amendment

(42) In order to facilitate the ability of credit intermediaries to provide their services on a cross-border basis, for purposes of cooperation, information exchange and dispute resolution between competent authorities, the competent authorities responsible for the authorisation and supervision of credit intermediaries should be those acting under the auspices of the EBA, as set out in Article 4(2) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority).

deleted

Or. en

Amendment 45

Proposal for a directive

Recital 43

Text proposed by the Commission

(43) The European Parliament and the Council should have **two** months from the date of notification to object to a delegated act. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by **one month** with regard to significant areas of concern. It should also be possible for the European Parliament and the Council to inform the other institutions of their intention not to raise objections.

Amendment

(43) The European Parliament and the Council should have **three** months from the date of notification to object to a delegated act. At the initiative of the European Parliament or the Council, it should be possible to prolong that period by **three months** with regard to significant areas of concern. It should also be possible for the European Parliament and the Council to inform the other institutions of their intention not to raise objections.

Or. en

Amendment 46

Proposal for a directive

Recital 44

Text proposed by the Commission

(44) The efficient functioning of this Directive will need to be reviewed, as will progress on the establishment of an internal market with a high level of consumer protection for credit agreements relating to residential immovable property. The Commission should therefore review the Directive five years after the deadline for its transposition. The review should include, among other things, an analysis of the evolution of the market for non-credit institutions providing credit agreements relating to residential immovable property and an assessment on the need for further measures, including a passport for such non-credit institutions, an examination of

Amendment

(44) The efficient functioning of this Directive will need to be reviewed, as will progress on the establishment of an internal market with a high level of consumer protection for credit agreements relating to residential immovable property. The Commission should therefore review the Directive five years after the deadline for its transposition. The review should include, among other things, an analysis of the evolution of the market for non-credit institutions providing credit agreements relating to residential immovable property and an assessment on the need for further measures, including a passport for such non-credit institutions, an examination of

the necessity to introduce rights and obligations with regard to the post-contractual stage of credit agreements, *and* an assessment of whether an extension of the scope to include lending to small companies is warranted.

the necessity to introduce *further* rights and obligations with regard to the post-contractual stage of credit agreements, an assessment of *the impact of this Directive on the market for other forms of credit including those which creditors or consumers may consider substitutable for those within its scope*, an assessment of whether an extension of the scope to include lending to small companies is warranted. *In addition, the Commission should report on options to respond to the wider challenges of over-indebtedness considering all products, markets and actors involved in the credit supply chain including macro-economic aspects and structural measures to protect savers and address the problems related to highly leveraged institutions. Where appropriate those assessments should be accompanied by legislative proposals.*

Or. en

Amendment 47

Proposal for a directive Recital 46

Text proposed by the Commission

(46) In accordance with point 34 of the Interinstitutional Agreement on better law-making, Member States *are encouraged to* draw up, for themselves and in the interest of the Union, their own tables illustrating, *as far as possible*, the correlation between this Directive and the transposition measures, and to make them public,

Amendment

(46) In accordance with point 34 of the Interinstitutional Agreement on better law-making, *it is appropriate that* Member States draw up, for themselves and in the interest of the Union, their own tables illustrating the correlation between this Directive and the transposition measures, and to make them public,

Or. en

Amendment 48

Proposal for a directive Article 1

Text proposed by the Commission

The purpose of this Directive is to lay down a framework for certain aspects of the laws, regulations and administrative provisions of the Member States concerning credit agreements relating to residential immovable property for consumers and concerning certain aspects of the prudential and supervisory requirements for credit intermediaries and creditors.

Amendment

This Directive lays down a framework for certain aspects of the laws, regulations and administrative provisions of the Member States concerning credit agreements relating to residential immovable property for consumers and for associated prudential and supervisory requirements.

Or. en

Amendment 49

Proposal for a directive Article 1 – paragraph 1 aa (new)

Text proposed by the Commission

This Directive develops a more transparent, efficient and competitive internal market, through consistent, flexible and fair credit agreements relating to residential immovable property, while promoting sustainable lending and borrowing and hence providing a high degree of protection to consumers.

Amendment

Or. en

Amendment 50

Proposal for a directive Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) Credit agreements the purpose of which is to acquire *or* retain property rights in land or in an existing or projected residential building.

Amendment

(b) Credit agreements the purpose of which is to acquire, retain, *or transmit* property rights in land or in an existing or projected residential building.

Or. en

Amendment 51

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) Credit agreements the purpose of which is the renovation of the residential immovable property a person owns or aims to acquire, which are not covered by Directive 2008/48/EC *of the European Parliament and of the Council of 23 April 2008*.

Amendment

(c) Credit agreements the purpose of which is *to finance the construction of a residential immovable property or the* renovation of the residential immovable property a person owns or aims to acquire, which are not covered by Directive 2008/48/EC.

Or. en

Amendment 52

Proposal for a directive

Article 2 – paragraph 2 – point a

Text proposed by the Commission

(a) Credit agreements which will eventually be repaid from the sale proceeds of *an* immovable property.

Amendment

(a) Credit agreements *under* which *a sum of money is advanced or paid periodically to the consumer who has an existing proprietary right in residential immovable property to enable access to equity in the property and which* will eventually be repaid from the sale proceeds of *the residential* immovable property *to which the credit agreement relates*.

Amendment 53

Proposal for a directive Article 3 – point b

Text proposed by the Commission

(b) ‘Creditor’ means a natural or legal person who grants or promises to grant credit *within the meaning of Article 2* in the course of his trade, business or profession.

Amendment

(b) ‘Creditor’ means a natural or legal person who grants or promises to grant credit within the *scope of Article 2(1)* in the course of his trade, business or profession.

Or. en

Amendment 54

Proposal for a directive Article 3 – point c

Text proposed by the Commission

(c) ‘Credit agreement’ means an agreement whereby a creditor, directly or through a credit intermediary, grants or promises to grant, to a consumer, a credit *within the meaning of Article 2* in the form of a deferred payment, loan or other similar financial accommodation.

Amendment

(c) ‘Credit agreement’ means an agreement whereby a creditor, directly or through a credit intermediary, grants or promises to grant, to a consumer, a credit within the *scope of Article 2(1)* in the form of a deferred payment, loan or other similar financial accommodation.

Or. en

Amendment 55

Proposal for a directive Article 3 – point d

Text proposed by the Commission

(d) ‘Ancillary service’ means a financial service offered to the consumer by the

Amendment

(d) ‘Ancillary service’ means a financial service offered to the consumer by the

creditor or credit intermediary in conjunction with the credit agreement.

creditor or credit intermediary in conjunction with the credit agreement *or any service that is required to be provided in order to conclude the credit agreement.*

Or. en

Amendment 56

Proposal for a directive Article 3 – point e – point i

Text proposed by the Commission

(i) offers credit agreements *within the meaning of Article 2* to consumers;

Amendment

(i) offers credit agreements to consumers;

Or. en

Amendment 57

Proposal for a directive Article 3 – point e – point ii

Text proposed by the Commission

(ii) assists consumers by undertaking preparatory work in respect of credit agreements *within the meaning of Article 2* other than as referred to in point (i);

Amendment

(ii) assists consumers by undertaking preparatory work in respect of credit agreements other than as referred to in point (i);

Or. en

Amendment 58

Proposal for a directive Article 3 – point e – point iii

Text proposed by the Commission

(iii) concludes credit agreements *within the meaning of Article 2* with consumers on

Amendment

(iii) concludes credit agreements with consumers on behalf of the creditor; *or*

behalf of the creditor.

Or. en

Amendment 59

Proposal for a directive Article 3 – point e – point iii a (new)

Text proposed by the Commission

Amendment

(iii) provides advice within the meaning of Article 17(1);

Or. en

Amendment 60

Proposal for a directive Article 3 – point i

Text proposed by the Commission

Amendment

(i) ‘Non-credit institution’ means any natural or legal person who grants or promises to grant credit ***within the meaning of Article 2*** in the course of his trade, business or profession and is not a credit institution.

(i) ‘Non-credit institution’ means any natural or legal person who grants or promises to grant credit within the ***scope of Article 2(1)*** in the course of his trade, business or profession and is not a credit institution.

Or. en

Amendment 61

Proposal for a directive Article 3 – point j

Text proposed by the Commission

Amendment

(j) ‘Staff’ means any ***employees of the creditor or credit intermediary having contacts with consumers and who are***

(j) ‘Staff’ means any ***natural person*** engaged in the activities covered by this Directive ***working for or acting on behalf***

engaged in the activities covered by this Directive.

of the creditor or credit intermediary.

Or. en

Amendment 62

Proposal for a directive Article 3 – point k

Text proposed by the Commission

(k) ‘Total cost *of the credit to the consumer*’ means the total cost of the credit to the consumer as defined in Article 3(g) of Directive 2008/48/EC.

Amendment

(k) ‘Total *loan* cost’ means the total cost of the credit to the consumer as defined in Article 3(g) of Directive 2008/48/EC.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Amendment 63

Proposal for a directive Article 3 – point o

Text proposed by the Commission

(o) ‘Creditworthiness assessment’ means the evaluation of a consumer's ability to meet his debt obligations.

Amendment

(o) ‘Creditworthiness assessment’ means the evaluation of a consumer's ability to meet his debt obligations *resulting from the credit agreement*.

Or. en

Amendment 64

Proposal for a directive Article 3 – point r a (new)

Text proposed by the Commission

Amendment

(ra) 'Local competent authority' means the competent authority or competent authorities designated in accordance with Article 4(1) in the Member State where the residential immovable property is located and to which a credit agreement relates or could relate.

Or. en

Amendment 65

Proposal for a directive Article 3 – point r b (new)

Text proposed by the Commission

Amendment

(rb) 'Special risk credit agreements' on residential immovable property are those that, due to their intrinsic product features, deviation from standard market practice or the economic environment pose specific risks to creditors or consumers in comparison to other alternative credit agreements.

Or. en

Amendment 66

Proposal for a directive Article 3 – point r c (new)

Text proposed by the Commission

Amendment

(rc) 'Advice' means the provision of personal recommendations based on the professional expertise of the adviser in respect of one or more transactions relating to credit agreements.

Amendment 67

**Proposal for a directive
Article 3 – point r d (new)**

Text proposed by the Commission

Amendment

(rd) 'Appraiser' means a natural or legal person who, in the course of his trade, business or profession, carries out valuations of residential immovable property or the land on which such residential immovable property is or could be situated.

Or. en

Amendment 68

**Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

Amendment

Member States shall designate the competent authorities empowered to ensure implementation of this Directive and shall ensure that they are granted all the powers necessary for the performance of their duties.

Member States shall designate the competent authorities empowered to ensure ***the national implementation and enforcement*** of this Directive and shall ensure that they are granted all the powers necessary for the performance of their duties.

Or. en

Amendment 69

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Member States shall inform the Commission of the designation of the competent authorities, indicating any division of the respective duties between different competent authorities.

Amendment

Member States shall inform the Commission **and EBA** of the designation of the competent authorities, indicating any division of the respective duties between different competent authorities.

Or. en

Amendment 70

Proposal for a directive

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall designate competent authorities empowered to monitor cases in which a developer has taken a credit in order to build a residential immovable property, and, before transferring the property to the consumer, requires or receives from the buyer instalments in order to repay that credit or part thereof.

Or. en

Amendment 71

Proposal for a directive

Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. Where there is more than one competent authority on its territory, a Member State shall ensure that those authorities collaborate closely so that they can

2. Where there is more than one competent authority on its territory, a Member State shall ensure that those authorities collaborate closely **among themselves and**

discharge their respective duties effectively.

with EBA so that they can discharge their respective duties effectively.

Or. en

Amendment 72

Proposal for a directive Chapter 1 a (new)

Text proposed by the Commission

Amendment

Chapter 1 a Financial education

Article 4 a

Financial education of consumers

1. Member States shall ensure that measures are in place to support the education of consumers in relation to responsible borrowing and debt management, in particular in relation to credit agreements.

2. Member States shall ensure that all stakeholders are adequately involved in the design and development of these measures.

Or. en

Amendment 73

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall require that, when granting, intermediating or advising on credit and, where appropriate, ancillary services to consumers, the creditor or the credit intermediary acts honestly, fairly and professionally in *accordance with* the best

1. Member States shall require that, when granting, intermediating or advising on credit and, where appropriate, ancillary services to consumers, the creditor or the credit intermediary acts honestly, fairly and professionally. *When offering their*

interests of the consumer.

products or implementing the contract the creditor or credit intermediaries shall act in the best interests of the consumer.

Or. en

Amendment 74

Proposal for a directive Article 5 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the manner in which creditors remunerate their staff and the relevant credit intermediaries and the manner in which credit intermediaries remunerate their staff do not impede compliance with the obligation to act in accordance with the best interests of the consumer, as referred to in paragraph 1.

Amendment

2. Member States shall ensure that the manner in which creditors remunerate their staff and the relevant credit intermediaries and the manner in which credit intermediaries remunerate their staff **and the manner in which both creditors and credit intermediaries may be remunerated by the sale of ancillary services** do not impede compliance with the obligation to act in accordance with the best interests of the consumer, as referred to in paragraph 1.

Or. en

Amendment 75

Proposal for a directive Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the remuneration of creditors' staff responsible for the assessment of the creditworthiness or for the provision of advice is not linked to individual product results or sales targets.

Or. en

Amendment 76

Proposal for a directive

Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. **Home** Member States shall ensure that:

Amendment

1. Member States shall ensure that:

Or. en

Amendment 77

Proposal for a directive

Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) The staff of creditors and credit intermediaries possess an appropriate level of knowledge and competence in relation to the offering or granting of credit agreements *within the meaning of Article 2*, or the activity of credit intermediation *as defined in Article 3(e)*. Where the conclusion of a credit agreement includes an ancillary service related to ***it, in particular*** insurance or investment services, they shall also possess appropriate knowledge and competence in relation to that ancillary service in order to satisfy the requirements set out in Article 19 of Directive 2004/39/EC and Article 4 of Directive 2002/92/EC.

Amendment

(a) The staff of creditors and credit intermediaries possess an appropriate level of knowledge and competence in relation to the offering or granting of credit agreements, or the activity of credit intermediation ***appropriate to the function they are performing and the relevant market***. Where the conclusion of a credit agreement includes an ancillary service related to insurance or investment services, they shall also possess appropriate knowledge and competence in relation to that ancillary service in order to satisfy the requirements set out in Article 19 of Directive 2004/39/EC and Article 4 of Directive 2002/92/EC.

Or. en

Amendment 78

Proposal for a directive

Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) The natural persons within the

Amendment

(b) The natural persons within the

management of creditors and credit intermediaries who are responsible for or have a role in the intermediation, advice or approval of the credit agreement, possess appropriate knowledge and competence in relation to credit agreements.

management *or oversight* of creditors and credit intermediaries who are responsible for or have a role in the *product design*, intermediation, advice or approval of the credit agreement, possess appropriate knowledge and competence in relation to credit agreements *and the relevant market*.

Or. en

Amendment 79

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

2. **Home** Member States shall ensure that the appropriate level of knowledge and competence is determined on the basis of recognised qualifications or experience.

Amendment

2. Member States shall ensure that the appropriate level of knowledge and competence is determined on the basis of recognised qualifications or experience.

Or. en

Amendment 80

Proposal for a directive Article 6 – paragraph 3

Text proposed by the Commission

3. **Home** Member States shall make public the criteria they have established in order for credit intermediaries or creditors' staff to meet their competence requirements. Such criteria shall include a list of any recognised qualifications.

Amendment

3. Member States shall make public the criteria they have established in order for credit intermediaries or creditors' staff to meet their competence requirements. Such criteria shall include a list of any recognised qualifications.

Or. en

Amendment 81

Proposal for a directive Article 6 – paragraph 4

Text proposed by the Commission

4. ***Powers are delegated to the*** Commission in accordance with Article 26 ***and subject to the conditions of Articles 27 and 28,*** to specify the requirements provided in paragraph 1 and 2 of this Article, and in particular, the necessary requirements for appropriate knowledge and competence.

Amendment

4. ***The*** Commission ***shall be empowered to adopt delegated acts*** in accordance with Article 26 , to specify the requirements provided in paragraph 1 and 2 of this Article, and in particular, the necessary requirements for appropriate knowledge and competence ***appropriate to the function and the relevant market.***

Or. en

Amendment 82

Proposal for a directive Article 8 – paragraph 2 – subparagraph 1 – point g

Text proposed by the Commission

(g) the amount of the instalments;

Amendment

(g) the ***number, frequency, and*** amount of the instalments;

Or. en

Amendment 83

Proposal for a directive Article 8 – paragraph 2 – subparagraph 1 – point i a (new)

Text proposed by the Commission

Amendment

(ia) a web page or similar interface of the creditor or credit intermediary where the information referred to in this paragraph can be obtained in a clearly audible or easily legible and printable manner.

Or. en

Amendment 84

Proposal for a directive Article 8 – paragraph 2a (new)

Text proposed by the Commission

Amendment

2a. In the case of short advertisements broadcasted on radio or TV, whose length lasts no more than 20 seconds, or published in printed newspapers or magazines with a size inferior to an eighth of a page, the complete information referred to in paragraph 2(g), (h) and (i) may be omitted as long as it includes a call to obtain further information in the webpage referred to in paragraph 2(ia).

Or. en

Amendment 85

Proposal for a directive Article 8 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

In particular, the Commission, when adopting such delegated acts shall ***amend***, where necessary, the list of the standard information items laid down in ***paragraphs 2(a) to (i)*** of this Article.

In particular, the Commission, when adopting such delegated acts shall ***supplement***, where necessary, the list of the standard information items laid down in ***paragraph 2(a) to (ia)*** of this Article.

Or. en

Amendment 86

Proposal for a directive Article 9 – title

Text proposed by the Commission

Amendment

Pre-contractual information

General information

Or. en

Amendment 87

Proposal for a directive Article 9 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that general information about credit agreements is made available by creditors or, where applicable, credit intermediaries at all times in a durable medium or in electronic form.

Member States shall ensure that general information about credit agreements is made available by creditors or, where applicable, credit intermediaries at all times in a durable medium or in electronic form ***and, in any case, is accessible in a web page or similar interface of the creditor or credit intermediary in a clearly audible or easily legible and printable manner.***

Or. en

Amendment 88

Proposal for a directive Article 9 – paragraph 1 – subparagraph 2 – point i

Text proposed by the Commission

Amendment

(i) ***whether there is a possibility of early repayment and, where applicable,*** a description of the conditions attached to early repayment;

(i) a description of the conditions attached to early repayment;

Or. en

Amendment 89

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2 – point j

Text proposed by the Commission

(j) *whether a valuation of the property is necessary and, where applicable, by whom it should be carried out;*

Amendment

(j) *the measures required regarding the valuation of the property and any related cost to the consumer;*

Or. en

Amendment 90

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2 – point k

Text proposed by the Commission

(k) details on how to obtain information on tax *relief* on credit agreement interest or other public subsidies.

Amendment

(k) details on how to obtain information on tax *obligations and reliefs* on credit agreement interest or other public subsidies;

Or. en

Amendment 91

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2 – point k a (new)

Text proposed by the Commission

Amendment

(ka) the law applicable prior to and following conclusion of a contract;

Or. en

Amendment 92

Proposal for a directive

Article 9 – paragraph 1 – subparagraph 2 – point k b (new)

Text proposed by the Commission

Amendment

(kb) a warning concerning the risk of losing the residential immovable property in the event of non-observance of the commitments linked to the credit agreement when the credit is secured by a mortgage or another comparable security commonly used in a Member State on residential immovable property or secured by a right related to residential immovable property.

Or. en

Amendment 93

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Article 9a

Pre-contractual information

2. Member States shall ensure that the creditor and, where applicable, the credit intermediary, without undue delay after the consumer has given the necessary information on his needs, financial situation and preferences in accordance with Article 14, provides the consumer with the personalised information needed to compare the credits available on the market, assess their implications and take an informed decision on whether to conclude a credit agreement. Such information, on paper or on another durable medium, shall be provided by means of the European Standardised Information Sheet ('ESIS'), as set out in Annex II.

1. Member States shall ensure that the creditor and, where applicable, the credit intermediary, without undue delay after the consumer has given the necessary information on his needs, financial situation and preferences in accordance with Article 14, provides the consumer ***for free*** with the personalised information needed to compare the credits available on the market, assess their implications and take an informed decision on whether to conclude a credit agreement. Such information, on paper or on another durable medium, shall be provided by means of the European Standardised Information Sheet ('ESIS'), as set out in Annex II.

Or. en

Amendment 94

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall ensure that ***when an offer binding on the creditor is provided to the consumer, it shall be accompanied by an ESIS. In such circumstances, Member States shall ensure that*** the credit agreement cannot be concluded until the consumer has ***had*** sufficient ***time*** to compare the offers, assess ***their*** implications and take an informed decision on whether to accept ***an*** offer, regardless of the means of conclusion of the contract.

Amendment

2. Member States shall ensure that the credit agreement cannot be concluded until the consumer has ***been provided in a durable medium with an offer binding on the creditor and has a*** sufficient ***period*** to compare ***it with other*** offers, ***obtain third party advice if necessary and*** assess ***its*** implications and take an informed decision on whether to accept ***the*** offer, regardless of the means of conclusion of the contract. ***The period of reflection after the offer shall be no less than 14 working days and includes the time during which a right of withdrawal is granted where Member States allow the contract to be concluded before expiry of the reflection period.***

Or. en

Amendment 95

Proposal for a directive

Article 9 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Member States shall ensure that the binding offer shall remain valid at least for the sufficient time established by the Member States in accordance with paragraph 2 . When an offer binding on the creditor is provided to the consumer, it shall be accompanied by the ESIS.

Amendment

Or. en

Amendment 96

Proposal for a directive Article 9 – paragraph 2 – subparagraph 3

Text proposed by the Commission

The creditor and, where applicable, the credit intermediary shall be deemed to have fulfilled the requirements on information provision to the consumer prior to the conclusion of a distance contract as set out in Article 3 of Directive 2002/65/EC where they have supplied the ESIS.

Amendment

The creditor and, where applicable, the credit intermediary shall be deemed to have fulfilled the requirements on information provision to the consumer prior to the conclusion of a distance contract as set out in Article 3 of Directive 2002/65/EC **only** where they have **at least** supplied the ESIS.

Or. en

Amendment 97

Proposal for a directive Article 9 – paragraph 2 – subparagraph 4

Text proposed by the Commission

Any additional information which the creditor or where applicable, the credit intermediary, **may** provide to the consumer shall be **given** in a separate document **which may be** annexed to the ESIS.

Amendment

Any additional information, **including legal warnings**, which the creditor or where applicable, the credit intermediary, **is required to** provide to the consumer shall be **provided** in a separate document annexed to the ESIS.

Or. en

Amendment 98

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

3. **Powers are delegated to the** Commission in accordance with Article 26 **and subject to the conditions of Articles 27 and 28**, to **amend** the standard

Amendment

3. **The** Commission **shall be empowered to adopt delegated acts** in accordance with Article 26 , to **supplement and update** the standard information items laid down in

information items laid down in *paragraph 1 of this Article* and the content and format of the ESIS set out in Annex II.

Article 9(1) and the content and format of the ESIS set out in Annex II.

Or. en

Amendment 99

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2 – introductory part

Text proposed by the Commission

Amendment

In particular, such delegated acts shall, where necessary:

in particular:

Or. en

Amendment 100

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2 – point a

Text proposed by the Commission

Amendment

(a) *amend* the list of the standard information items laid down in paragraph 1 *of this Article*;

(a) the list of the standard information items laid down in paragraph 1;

Or. en

Amendment 101

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2 – point b

Text proposed by the Commission

Amendment

(b) *delete any of the information items laid down Annex II*;

deleted

Or. en

Amendment 102

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2 – point c

Text proposed by the Commission

Amendment

(c) **make additions to** the list of information items laid down in Annex II;

(c) the list of information items laid down in Annex II;

Or. en

Amendment 103

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2 – point d

Text proposed by the Commission

Amendment

(d) **amend** the presentation of the contents of the ESIS as laid down in Annex II;

(d) the presentation of the contents of the ESIS as laid down in Annex II;

Or. en

Amendment 104

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2 – point e

Text proposed by the Commission

Amendment

(e) **elaborate on** the instructions for the completion of the ESIS as laid down in Annex II.

(e) the instructions for the completion of the ESIS as laid down in Annex II.

Or. en

Amendment 105

Proposal for a directive

Article 9 – paragraph 4

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Text proposed by the Commission

Amendment

4. In the case of voice telephony communications, as referred to in Article 3(3) of Directive 2002/65/EC, the description of the main characteristics of the financial service to be provided pursuant to the second indent of Article 3(3)(b) of that Directive shall include at least the items referred to in Part A sections (2), (3), (4) and (5) of Annex II.

deleted

Or. en

Amendment 106

Proposal for a directive Article 9 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The provisions of Article 3(3) and Article 5(2) of Directive 2002/65/EC shall not apply to credit agreements.

Or. en

Amendment 107

Proposal for a directive Article 9 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States shall ensure that the creditor or credit intermediary, **upon request of the consumer**, provides the consumer with a copy of the draft credit agreement free of charge. This provision shall not apply in cases where the creditor is unwilling, at the time of the request, to proceed to the conclusion of the credit agreement with the consumer.

5. Member States shall ensure that the creditor or credit intermediary provides the consumer with a **written** copy of the draft credit agreement free of charge. This provision shall not apply in cases where the creditor is unwilling, at the time of the request, to proceed to the conclusion of the credit agreement with the consumer.

Amendment 108

Proposal for a directive Article 9 b (new)

Text proposed by the Commission

Amendment

Article 9b

Ancillary services

- 1. Member States shall prohibit creditors or credit intermediaries from tying by making the offer of a credit agreement conditional upon the purchase of insurance or other financial products from a given provider specified by the creditor or credit intermediary except for the opening of a current account.*
- 2. Member States shall prohibit creditors or credit intermediaries from tying by making the offer of a credit agreement conditional upon the provision of services by appraisers, notaries, legal advisers or any other provider specified by the creditor or credit intermediary.*

Or. en

Amendment 109

Proposal for a directive Article 10 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the register in which **he** has been included and the means for verifying **that he has been registered**;

(b) the **number of registration, the** register in which **it** has been included and the means for verifying **such a registration**;

Or. en

Amendment 110

Proposal for a directive

Article 10 – paragraph 1 – point c

Text proposed by the Commission

(c) where he is acting as a tied credit intermediary he shall identify himself as such and, **at the consumer's request**, provide the names of the creditor(s) for which he is acting;

Amendment

(c) where he is acting as a tied credit intermediary he shall identify himself as such and provide the names of the creditor(s) for which he is acting;

Or. en

Amendment 111

Proposal for a directive

Article 10 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) whether the credit intermediary offers the service of advice and indicates where the provision of this service is compulsory in accordance with Article 17 or under national law;

Or. en

Amendment 112

Proposal for a directive

Article 10 – paragraph 2

Text proposed by the Commission

Amendment

2. Credit intermediaries who are not tied shall, **at the consumer's request**, provide information on the variation in levels of commission payable by the different creditors providing the credit agreements being offered to the consumer. The consumer shall be informed that he has the

2. Credit intermediaries who are not tied shall provide information on the variation in levels of commission payable by the different creditors providing the credit agreements being offered to the consumer. The consumer shall be informed that he has the right to such information.

right to *request* such information.

Or. en

Amendment 113

Proposal for a directive Article 10 – paragraph 3 – subparagraph 2

Text proposed by the Commission

In particular, the Commission, when adopting such delegated acts shall **amend**, where necessary, the information items laid down in paragraph 1 **of this Article**.

Amendment

In particular, the Commission, when adopting such delegated acts shall **supplement and update**, where necessary, the information items laid down in paragraph 1.

Or. en

Amendment 114

Proposal for a directive Article 11 – paragraph 2

Text proposed by the Commission

Such adequate explanations shall include an explanation of the information and terms included in the pre-contractual information to be provided in accordance with Articles 9 and 10 and of the consequences that concluding the credit agreement may have for the consumer, including in the event of default in payment by the consumer.

Amendment

Such adequate explanations shall include **at least** an explanation of the information and terms included in the pre-contractual information to be provided in accordance with Articles 9 and 10 and of the consequences that concluding the credit agreement may have for the consumer, including in the event of default in payment by the consumer.

Or. en

Amendment 115

Proposal for a directive Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where the opening of **an** account is obligatory in order to obtain the credit, the costs of maintaining such an account, the costs of using a means of payment for both payment transactions and drawdowns on that account, and other costs relating to payment transactions shall be included in the total cost of credit to the consumer, unless the costs have been clearly and separately shown in the credit agreement or in any other agreement concluded with the consumer.

Amendment

Where the opening of **a current** account is obligatory **as an ancillary service** in order to obtain the credit, the costs of maintaining such an account, the costs of using a means of payment for both payment transactions and drawdowns on that account, and other costs relating to payment transactions shall be included in the total loan cost to the consumer, unless the costs have been clearly and separately shown in the credit agreement or in any other agreement concluded with the consumer.

Or. en

Amendment 116

Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any potential for negative amortisation shall be included in the total loan amount used in the calculation.

Or. en

Amendment 117

Proposal for a directive
Article 12 – paragraph 4

Text proposed by the Commission

Amendment

4. In the case of credit agreements containing clauses allowing variations in the borrowing rate and, where applicable, in the charges contained in the annual percentage rate of charge but

4. In the case of credit agreements containing clauses allowing variations in the borrowing rate and, where applicable, in the charges contained in the annual percentage rate of charge but

unquantifiable at the time of calculation, the annual percentage rate of charge shall be calculated on the assumption that the borrowing rate and other charges will be calculated at the level **set** at the signature of the contract.

unquantifiable at the time of calculation, the annual percentage rate of charge shall be calculated on the assumption that the borrowing rate and other charges will be calculated at the level **implied** at the signature of the contract.

Or. en

Amendment 118

Proposal for a directive

Article 12 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Powers are delegated to the Commission in accordance with Article 26 **and subject to the conditions of Articles 27 and 28**, to **amend** the formula and the assumptions used to calculate the annual percentage rate of charge as set out in Annex I.

Amendment

The Commission shall be empowered to adopt delegated acts in accordance with Article 26, to **update** the formula and the assumptions used to calculate the annual percentage rate of charge as set out in Annex I.

Or. en

Amendment 119

Proposal for a directive

Article 12 – paragraph 5 – subparagraph 2

Text proposed by the Commission

The Commission shall, when adopting such delegated acts, **amend**, where necessary, the formula or assumptions laid down in Annex I, in particular if the assumptions set out in this Article and in Annex I do not suffice to calculate the annual percentage rate of charge in a uniform manner or are not adapted any more to the commercial situation at the market.

Amendment

The Commission shall, when adopting such delegated acts, **update**, where necessary, the formula or assumptions laid down in Annex I, in particular if the assumptions set out in this Article and in Annex I do not suffice to calculate the annual percentage rate of charge in a uniform manner or are not adapted any more to the commercial situation at the market.

Or. en

Amendment 120

Proposal for a directive Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, before the conclusion of the credit agreement, a thorough assessment of the consumer's creditworthiness is conducted by the creditor, ***based on criteria including the consumer's income, savings, debts and other financial commitments.*** That assessment shall be carried out on the basis of the necessary information, obtained by the creditor or, where applicable, credit intermediary from the consumer and from relevant internal or external sources and shall respect the requirements with regard to necessity and proportionality set out in Article 6 of Directive 95/46/EC. ***Member States shall ensure that creditors establish appropriate processes to assess the creditworthiness of the consumer. These processes shall be reviewed at regular intervals and up-to-date records of those processes shall be maintained.***

Amendment

1. Member States shall ensure that, before the conclusion of the credit agreement, a thorough assessment of the consumer's creditworthiness is conducted ***and appropriately verified*** by the creditor ***in order to ensure a reasonable capacity to service debt following the conclusion of the credit agreement.*** That assessment shall be carried out on the basis of the necessary information, obtained by the creditor or, where applicable, credit intermediary from the consumer and from relevant internal or external sources and shall respect the requirements with regard to necessity and proportionality set out in Article 6 of Directive 95/46/EC. ***Expert risk assessment shall not be replaced by quantitative parameters in automatic underwriting processes nor rely only on externally provided credit scores or on scores based only on credit history.***

Or. en

Amendment 121

Proposal for a directive Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that the assessment of creditworthiness shall be applied without discrimination to loans relating to residential immovable property located within their territory and shall include at least the following criteria:

(a) the assessment shall not allow any reliance on an increase in the value of the

property as a means of repaying the loan;

(b) the assessment shall be made on the basis of the consumer's current net disposable income, taking account of social benefits, debts and other financial commitments as well as foreseeable changes due to retirement during the term of the loan; where the assessment relates to a credit agreement under which the borrower will not occupy the property and which allows the borrower to rent the property, Member States may allow creditors to take account of reasonable projected rental income in carrying out the creditworthiness assessment;

(c) the assessment shall be based on a realistic assessment of the repayment amount which shall be sufficient to repay the debt by final maturity at the fully indexed rate assuming a fully amortising repayment schedule and of the repayment structure which shall include foreseeable changes arising from the structure of the product, an allowance for increases in adjustable rates where such increases are permitted under the credit agreement, and where applicable an allowance for the impact of negative amortization on subsequent payments.

Or. en

Amendment 122

Proposal for a directive Article 14 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall ensure that creditors establish appropriate processes to verify the information referred to in the previous paragraph. Those processes shall be reviewed at regular intervals and up-to-date records thereof shall be

maintained.

Or. en

Amendment 123

Proposal for a directive Article 14 – paragraph 2 – point a

Text proposed by the Commission

(a) Where the assessment of the consumer's creditworthiness results in a negative prospect for his ability to *repay the credit* over the lifetime of the credit agreement, the creditor refuses credit.

Amendment

(a) Where the assessment of the consumer's creditworthiness results in a negative prospect for his ability to *meet his debt obligations* over the lifetime of the credit agreement, the creditor refuses credit.

Or. en

Amendment 124

Proposal for a directive Article 14 – paragraph 2 – point b

Text proposed by the Commission

(b) Where the credit application is rejected, the creditor informs the consumer immediately and *without* charge of the reasons for rejection.

Amendment

(b) Where the credit application is rejected, the creditor informs the consumer immediately and *free of* charge of the reasons for *such* rejection.

Or. en

Amendment 125

Proposal for a directive Article 14 – paragraph 2 – point e

Text proposed by the Commission

(e) Without prejudice to the general right of access contained in Article 12 of the

Amendment

deleted

Directive 95/46/EC, where the application is rejected on the basis of an automated decision or a decision based on methods such as automated credit scoring, the creditor informs the consumer immediately and without charge and that the creditor explains the logic involved in the automated decision to the consumer.

Or. en

Amendment 126

Proposal for a directive Article 14 – paragraph 2 – point f

Text proposed by the Commission

(f) The consumer has the opportunity to request for the decision to be reviewed ***manually***.

Amendment

(f) The consumer has the opportunity to request for the decision to be reviewed.

Or. en

Amendment 127

Proposal for a directive Article 14 – paragraph 5

Text proposed by the Commission

5. Powers are delegated to the Commission in accordance with Article 26 and subject to the conditions of Articles 27 and 28, to specify and amend the criteria to be considered in the conduct of a creditworthiness assessment as laid down in paragraph 1 of this Article and in ensuring that credit products are not unsuitable for the consumer as laid down in paragraph 4 of this Article.

Amendment

5. In order to ensure consistent harmonisation of this Article, EBA shall develop draft regulatory technical standards to further specify the criteria laid down in paragraph 1a(a), (b) and (c) to be considered in the conduct of a creditworthiness assessment and to establish procedures for their verification.

EBA shall submit those draft regulatory technical standards to the Commission

*by...**

Power is delegated to the Commission to adopt the draft regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

**OJ please insert the date: 6 months after the entry into force of this Directive.*

Or. en

Amendment 128

Proposal for a directive Article 15 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that consumers provide creditors and, where applicable, credit intermediaries with complete and correct information on their financial situation and personal circumstances in the *context* of the credit application process. That information should be supported, when necessary, by documentary evidence from independently verifiable sources.

Amendment

1. Member States shall ensure that consumers provide creditors and, where applicable, credit intermediaries with complete and correct information on their financial situation and personal circumstances in the *course* of the credit application process. That information should be supported, when necessary, by documentary evidence from independently verifiable sources.

Or. en

Amendment 129

Proposal for a directive Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that consumers have the right to access the information obtained by the lender from

databases. Where a consumer disputes the completeness or accuracy of any item of information contained in a database file on him and notifies the database to that effect, the database shall, free of charge, conduct a reasonable re-investigation to determine whether the disputed information is inaccurate. It shall record the status of the information as disputed or delete the item from the credit report until the re-investigation is concluded and shall then make any necessary adjustments.

Or. en

Amendment 130

Proposal for a directive Article 16 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall ensure that adequate compensation mechanisms are in place if an adverse decision not to grant a loan was taken by a credit institution on the basis of an inaccurate credit report provided by a credit register.

Or. en

Amendment 131

Proposal for a directive Article 16 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Powers are delegated to the Commission in accordance with Article 26 and subject to the conditions of Articles 27 and 28, to define **uniform** credit registration criteria and data processing conditions to be

In order to ensure consistent harmonisation of paragraph 1, the Commission shall be empowered to adopt **delegated acts** in accordance with Article 26 , to define **basic** credit registration

applied to the databases referred to in paragraph 1 *of this Article*.

criteria and data processing conditions to be applied to the databases referred to in paragraph 1.

Or. en

Amendment 132

Proposal for a directive Article 17 – paragraph 1

Text proposed by the Commission

1. *For the purposes of this Directive, ‘advice’ constitutes a separate service from the granting of a credit. Such a service can only be marketed as advice when the remuneration of the individual providing the service is transparent to the consumer.*

Amendment

1. *Member States shall ensure that advice is provided as a separate service from the granting of a credit and that such a service can only be marketed as advice when:*

(a) the natural or legal person providing the advice is an appropriately authorised creditor or credit intermediary;

(b) the adviser has the appropriate professional competence; and

(c) the remuneration for the service is transparent to the consumer and explicitly agreed with the consumer before the provision of the service.

Or. en

Amendment 133

Proposal for a directive Article 17 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the creditor or *credit* intermediary informs the consumer, in the context of a given transaction, whether or not advice is being or will be provided. *This may be done*

Amendment

2. Member States shall ensure that:

through additional pre-contractual information.

(a) the creditor or tied intermediary informs the consumer, in the context of a given transaction, whether or not advice is being provided. Where the creditor is providing advice, it shall provide the consumer prior to the performance of the service with the applicable information referred to in Article 10(1); and

(b) credit intermediaries which are not tied provide the consumer with advice.

Where the conditions of paragraph 1, paragraph 2, points (a) and (b), and paragraph 2a are not met, a personalised recommendation in relation to a credit agreement shall not be made to a consumer.

Where advice is provided to consumers, in addition to the requirements set out in Articles 5 and 6, Member States shall ensure that creditors and credit intermediaries:

2a. Where advice is provided to consumers, in addition to the requirements set out in Articles 5 and 6, Member States shall ensure that creditors and credit intermediaries:

Or. en

Amendment 134

Proposal for a directive

Article 17 – paragraph 2 – point - a (new)

Text proposed by the Commission

Amendment

(- a) give their advice in the consumer's best interest and on the basis of an objective and fair analysis;

Or. en

Amendment 135

Proposal for a directive Chapter 8 – title

Text proposed by the Commission

Amendment

Early repayment

Sound performance of credit agreements

Or. en

Amendment 136

Proposal for a directive Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that the consumer has a statutory ***or contractual*** right to discharge his obligations under a credit agreement prior to the expiry of that agreement. In such cases, he shall be entitled to a reduction in the total cost of the credit, such a reduction consisting of the interest and the costs for the remaining duration of the contract.

1. Member States shall ensure that the consumer has a statutory right to discharge his obligations under a credit agreement prior to the expiry of that agreement. In such cases, he shall be entitled to a reduction in the total loan cost, such a reduction consisting of the interest and the costs for the remaining duration of the contract.

Or. en

Amendment 137

Proposal for a directive Article 18 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Member States ***may provide*** that the ***exercise of the*** right referred to in paragraph 1 ***is subject to certain conditions. Such conditions may include time limitations on the exercise of the right, different treatment depending on the type of the borrowing rate, or restrictions with regard to the***

Member States ***shall ensure*** that ***creditors shall not impose any penalty on a consumer who exercises*** the right referred to in paragraph 1 ***and shall maintain*** the ***indemnity*** of the creditor ***while ensuring efficiency in the markets.***

circumstances under which the right may be exercised. Member States may also provide that the creditor should be entitled to fair and objectively justified compensation for potential costs directly linked to early repayment of the credit. In any event, if the early repayment falls within a period for which the borrowing rate is fixed, exercise of the right may be made subject to the existence of a special interest on the part of the consumer.

Or. en

Amendment 138

Proposal for a directive Article 18 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where a Member State lays down such conditions, these shall not make the exercise of the right referred to in paragraph 1 excessively difficult or onerous for the consumer.

Amendment

Member States shall ensure that the following provisions are complied with:

(a) where the credit agreement is funded by callable instruments negotiated in regulated markets, the consumer is entitled to repay the credit agreement at a value determined by market conditions for the callable instrument;

(b) where the credit agreement relates to a loan with a fixed interest rate for part or all of the term of the agreement and is funded by long-term means, the consumer is be entitled to repay the credit agreement:

(i) free of charge after expiry of the fixed interest rate period; or

(ii) before expiry of the fixed interest rate period, in cases where the consumer has a special interest, upon payment of compensation to the creditor for potential costs directly linked to early repayment of

the credit;

(c) in credit agreements not referred to in points (a) or (b), the consumer is entitled to repay the credit agreement within a period which is no longer than three months after giving notice to the creditor of his desire to do so.

In the context of point (b)(ii), the existence of a consumer's special interest shall be recognised at least in situations involving involuntary loss of employment, need for mobility, serious illness or death.

In the context of point (c), Member States may maintain a statutory or contractual compensation for early repayment may exist but shall not be higher than 1 % of the outstanding debt.

Or. en

Amendment 139

Proposal for a directive Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18 a

Portability

1. Member States shall ensure that lenders allow borrowers to keep a credit agreement when moving house provided that the value of the new property is sufficient to serve as the collateral required by the credit agreement and when the conditions required to consider collaterals as equivalents referred to in paragraph 2 have been fulfilled.

2. Member States shall adopt the measures appropriate to ensure that where under national law a credit agreement related to a residential

immovable property located in another Member State is considered as equivalent to a credit agreement related to a residential immovable property on its territory for the purposes of being pooled in financial instruments traded in secondary markets, they shall also be considered equivalent for the purpose of paragraph 1.

3. In order to ensure consistent harmonisation of the right of the portability, EBA shall draft regulatory technical standards to further specify the conditions required to consider collateral as equivalent in accordance with the first paragraph of this Article.

*EBA shall submit those draft regulatory technical standards to the Commission by... *.*

4. Power is delegated to the Commission to adopt the draft regulatory technical standards referred to in the first subparagraph in accordance with articles 10 to 14 of Regulation (EU) No 1093/2010.

** OJ please insert the date: 6 months after the entry into force of this Directive.*

Or. en

Amendment 140

Proposal for a directive Article 18 b (new)

Text proposed by the Commission

Amendment

Article 18b

Conversion of foreign currency loans

1. Member States shall ensure that where a credit agreement relates to a loan in a foreign currency, the consumer shall have

the right to convert the loan into the currency of the Member State within a reasonable period.

2. Member States shall provide that the creditor should be entitled to obtain fair and objectively justified compensation for potential costs directly linked to the exercise of the right but shall not allow creditors to impose a penalty arising from the exercise of the right.

Or. en

Amendment 141

Proposal for a directive Article 18 c (new)

Text proposed by the Commission

Amendment

Article 18c

Payment flexibility

Member States shall ensure that creditors allow consumers to make payments which exceed the amount required by the amortisation structure of the loan contained in the credit agreement without penalty and thereby have the right to redeem in the future the payments scheduled according the amortization structure up to the value by which they have previously exceeded the required amount.

Or. en

Amendment 142

Proposal for a directive Article 18 d (new)

Text proposed by the Commission

Amendment

Article 18d

Reverse agreements

Member States shall ensure that, in order to cover risks of aging or retirement, the parties to a credit agreement may agree to convert the credit agreement into a reverse mortgage or other credit agreement under which a sum of money is advanced or paid periodically to the consumer to allow access to equity in the residential immovable property and which will eventually be repaid from the sale of the residential immovable property.

Or. en

Amendment 143

**Proposal for a directive
Article 18 e (new)**

Text proposed by the Commission

Amendment

Article 18 e

Switching of creditor

1. Member States shall ensure that creditors may transfer credit agreements or portfolios of credit agreement to other financial institutions without the consent of the consumer as long as the loan conditions are not altered to the disadvantage of the consumer. This paragraph shall be without prejudice to Article 122a of Directive 2006/48/EC.

Member States shall ensure that mortgages portfolios are transferable to a new lender without registration of a new mortgage deed for each loan in the transferred portfolio.

2. Member States shall ensure that consumers also have the right to transfer

a credit agreement to a new creditor which is prepared to accept the transfer and which makes a binding offer to the consumer provided that:

(a) the binding offer significantly improves the economic conditions for the consumer either by an improvement of at least 100 basis points in the interest rate or by an extension or reduction of more than a third in the length of the repayment period for the outstanding debt;

(b) the creditor refuses to make a binding offer before the expiry of the offer made by the new creditor which at least matches the terms of the binding offer made by the new creditor; and

(c) the creditor receives adequate compensation where appropriate according to national law. Member States shall ensure in such cases that the compensation does not constitute a penalisation of the consumer and that once a credit agreement has been in force for five years the compensation shall not be higher than 1 % of the outstanding debt.

Or. en

Amendment 144

Proposal for a directive Article 18 f (new)

Text proposed by the Commission

Amendment

Article 18f

Switching of borrower

1. Member States shall allow the transfer from a borrower to a consumer of a credit agreement which would be within the scope of Article 2(1) if it were transferred to the consumer in parallel to the sale of a

property on condition that the creditor has carried out a creditworthiness assessment of the consumer in accordance with Article 14 and has not concluded that there is a negative prospect for his ability to repay and has provided the consumer with a binding offer prior to the transfer of the credit agreement.

2. Member States shall prohibit developers from tying the sale of a projected or existing property by making it conditional upon the transfer to the consumer of a credit agreement which would be within the scope of Article 2(1) if it were transferred to the consumer.

Or. en

Amendment 145

Proposal for a directive Article 18 g (new)

Text proposed by the Commission

Amendment

Article 18g

Arrears and foreclosure

1. Member States shall ensure that creditors exercise reasonable forbearance and make diligent efforts to reach a negotiated solution before initiating foreclosure proceedings in relation to credit agreements.

2. Member States may maintain or introduce requirements in relation to the process to be followed or the options which must be pursued prior to initiating foreclosure proceedings in relation to a property situated in their territory. In cases where the borrower has repaid a substantial part or the majority of the loan over a long period such options should include temporarily changing the contractual agreement between the

creditor and the consumer.

3. Member States shall forbid penalties for default which are additional to the repayment of the outstanding portion of the loan where such default is the result of circumstances beyond the control of the borrower or where the penalty is not proportionate or is calculated taking into account the non-defaulted part of the loan.

4. Member States shall allow that the return of the collateral is sufficient to repay the loan at least where such a clause was expressly agreed by the parties to the credit agreement.

5. Member States shall ensure that where foreclosure proceedings are initiated the lender shall credit to the consumer as the value of the collateral a value at least as great as the most recent valuation carried out in conformity with the minimum requirements for the recognition of real estate collateral established in Annex VIII, part 2, point 8 of Directive 2006/48/EC.

6. Where residential mortgage lenders have full recourse to a consumer's assets after foreclosure proceedings are completed and outstanding debt remains, Member States shall ensure that seizure of wages, retirement pensions or equivalent distributions are limited so as to preserve a minimum income sufficient to maintain an adequate standard of living.

Or. en

Amendment 146

**Proposal for a directive
Chapter 8 a (new)**

Text proposed by the Commission

Amendment

Chapter 8a

Transparent and reliable markets

Or. en

Amendment 147

**Proposal for a directive
Article 18 h (new)**

Text proposed by the Commission

Amendment

Article 18h

European Mortgage Key Identifier

1. Member States shall ensure that a European Mortgage Key Identifier (EMKI) shall be assigned to every new credit agreement.

2. The EMKI shall be a standard code expressed in alphanumeric characters that contains at least the following information:

(a) the Member State where the property that serves as collateral is located;

(b) the creditor who granted the credit;

(c) the data to identify the property in a Register that offers public information on rights in residential immovable property;

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 , to further specify the characteristics of the EMKI and the procedures for the assignment of the EMKI.

4. Member States shall ensure that the EMKI is noted in any designated Register that provides information on credit agreements. Such information shall be accessible for users.

Amendment 148

**Proposal for a directive
Article 18 i (new)**

Text proposed by the Commission

Amendment

Article 18i

***Registers of credit agreements related to
residential immovable property***

- 1. Member States shall ensure that the commencement, modification or termination of any credit agreement located in their territory is reported to a register designated by the Member State.***
- 2. Such reports shall contain at least the following information:***
 - (a) the EMKI;***
 - (b) the identification of the residential immovable property to which the credit agreement relates;***
 - (c) the amount of the loan;***
 - (d) the maturity of the loan;***
 - (e) the currency in which the loan is denominated;***
 - (f) the creditor who granted the loan;***
 - (g) the consumer who has taken out the loan.***
- 3. The information shall be accessible by electronic means through a central gateway for the parties to the agreement, creditors and intermediaries, owners of rights in the credit agreement or the related residential immovable property, competent authorities and all the other users recognised by the national law.***

Amendment 149

**Proposal for a directive
Article 18 j (new)**

Text proposed by the Commission

Amendment

Article 18j

***Register of financial products related to
credit agreements related to residential
immovable property***

1. Member States shall designate registers which shall record for each financial instrument collateralised against one or more credit agreements related to residential immovable property at least the issuer of the financial instrument, the information necessary to identify the financial instrument, and the EMKI for each credit agreement on which the financial instrument relies for collateral.

2. Such information shall be accessible by electronic means through a central gateway for the parties to the agreement, competent authorities and all the other users recognised by national law.

3. In the case of derivatives related to credit agreements related to residential immovable property Member States may consider that trade repositories as set out in Articles 64, 65 and 66 of Regulation (EU) No .../2011 [EMIR] fulfil the requirements laid down in paragraph 1 provided they also fulfil the accessibility criteria laid down in paragraph 2.

Or. en

Amendment 150

**Proposal for a directive
Article 18 k (new)**

Article 18 k

Valuation of residential immovable property

- 1. Member States shall ensure that appraisers carrying out valuations of residential immovable property which are used to value the collateral in credit agreements are carried out by appraisers who are professionally competent.***
- 2. Member States shall ensure that a public register is established and regularly updated of appraisers who are deemed professionally competent.***
- 3. Member States shall ensure that appraisers who carry out valuations used by a creditor to value the collateral are sufficiently independent of the creditor, the borrower and, where applicable, the credit intermediary, to provide an objective and impartial valuation.***
- 4. In order to ensure consistent harmonisation, the Commission should be empowered to adopt delegated acts in accordance with Article 26 in order to specify minimum valuation standards, minimum standards regarding independence and minimum professional standards for appraisers.***
- 5. Member States may specify further criteria which shall be used to determine the professional competence of appraisers. Such criteria shall not include a requirement for the appraiser to be established in their territory.***

Or. en

Amendment 151

**Proposal for a directive
Article 18 I (new)**

Text proposed by the Commission

Amendment

Article 18I

Property Indices

1. Member States shall promote the use of indices of residential immovable property prices at national, regional and local level in order to provide an improved basis for the monitoring of trends in valuation of residential immovable property.

2. EBA shall develop guidelines in accordance with Article 16 of Regulation No (EU) 1093/2010 in order to allow comparability of the different property indices.

Or. en

Amendment 152

**Proposal for a directive
Article -19 (new)**

Text proposed by the Commission

Amendment

Article -19

General prudential requirements

1. Member States shall ensure that the local competent authorities formulate and publish standards applicable to loans related to residential immovable property in order to enable the effective identification and management of financial risk taking into account the specific features of their markets. Those standards shall contain at least :

(a) a reference level for a prudent ratio of loan to value (LTV);

(b) guidelines for the assessment of loan to income (LTI), debt to income (DTI) and loan to assets (LTA) ratios of the borrower;

(c) reference levels for a prudent proportion of the loan book of an institution or in a market in relation to the ratios specified in points (a) and (b), taking into account individual, cumulative risks and the evolution of the market.

2. Member States shall ensure that local competent authorities have the necessary powers to monitor creditors' behaviour and require them to take progressive and proportionate measures in cases where the proportions referred to in point (c) are exceeded in order to manage the risks identified.

Such binding measures may include specific reporting obligations, use of mortgage insurance or covered products, dynamic provisions, additional contributions to the deposit guarantee scheme, the imposition of firm limits on the loan to value ratio of new loans relating to residential immovable property located within all or a part of their territory made by a single creditor, a group of creditors, or all creditors.

Or. en

Amendment 153

Proposal for a directive Article -19 a (new)

Text proposed by the Commission

Amendment

Article -19a

Special prudential requirements

1. Member States shall ensure that the local competent authorities formulate and publish binding standards for different

categories of credit agreements which constitute special risk credit agreements.

2. Those binding standards shall include at least:

(a) additional information and risk warnings to be included in pre-contractual information relating to special risk products;

(b) special prudential measures as described in Article -19(2).

3. Member States shall ensure that the following credit agreements are always deemed to be special risk credit agreements:

(a) credit agreements where the loan is granted in a foreign currency;

(b) credit agreements which allow for significant variation in interest payments during the term of the agreement;

(c) credit agreements where it is agreed between the parties that the return of the collateral will be sufficient to repay the loan.

4. Member States shall ensure that local competent authorities have powers to specify additional features which shall be deemed to constitute special risk credit agreements within their territory.

Or. en

Amendment 154

Proposal for a directive Article -19 b (new)

Text proposed by the Commission

Amendment

Article -19b

Enforcement of standards

1. The home competent authorities shall be responsible for the application of the

standards and measures formulated in accordance with Articles -19 and --19a to firms and subsidiaries established in their territory. The home competent authorities shall apply the requirements of the local competent authority in relation to Articles -19 and --19a to credit agreements relating to residential immovable property in the territory of the local competent authorities.

2. The relevant competent authority shall notify EBA of the binding measures adopted according to Articles -19 and -19a which shall in turn notify the ESRB in accordance with its obligations under Article 32 of Regulation (EU) No 1093/2010. In cases where a competent authority has imposed special measures on a creditor pursuant to Article -19, the relevant competent authority shall also require the firm to disclose this information to its shareholders.

3. In cases where a competent authority disagrees about the procedure or content of an action or inaction of a competent authority of another Member State, the procedures set out in Article 19 of Regulation (EU) No 1093/2010 shall apply.

4. EBA may establish guidelines or recommendations in accordance with Article 16 of Regulation No 1093/2010, related to the general and special prudential requirements or to specify procedures for the reporting to EBA and to the European Systemic Risk Board of developments with implications for systemic risk as defined in point (c) of Article 2 of Regulation (EU) No 1092/2010. In the case of systemic risk EBA may adopt equivalent measures in relation to cross-border situations to those taken by local authorities.

Or. en

Amendment 155

**Proposal for a directive
Article -19 c (new)**

Text proposed by the Commission

Amendment

Article -19c

Corporate governance

1. Creditors and credit intermediaries shall have in place explicit, documented policies and procedures on activities related to credit agreements regulated under this Directive.

2. The Board or equivalent body shall include in the Annual Report a mention of the existence of such policies and procedures.

Or. en

Amendment 156

**Proposal for a directive
Article -19 d (new)**

Text proposed by the Commission

Amendment

Article -19d

Supervision of credit registers

Member States shall ensure that credit registers operating on their territories are adequately supervised by the competent authorities and by data protection supervisors. Without prejudice to the powers conferred by Regulation No 1093/2010, EBA shall contribute to the supervision of credit registers that operate cross-border within the Union.

Or. en

Amendment 157

Proposal for a directive Article -19 e (new)

Text proposed by the Commission

Amendment

Article -19e

Stress-testing

1. Member States shall ensure that the creditor carries out stress tests on the impact of increases in interest rates on the risk profile of credit agreements throughout the life adjustable rate credit agreements.

Such stress testing shall consider at least a baseline scenario of 1 % increase of interest rate, be compared to historical evolution of interest rates for a period equivalent to the duration of the credit agreement, be coherent with the expectations of monetary authorities and in no case allow for negative expectations on the evolution of interest rates.

Or. en

Amendment 158

Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

Amendment

1. Credit intermediaries shall be duly authorised to carry out the activities set out in Article 3(e) by a competent authority *as defined in Article 4* in their home Member State. Such authorisation shall be granted on the basis of requirements established in the home Member State of the credit intermediary and shall include the fulfilment of the professional requirements

1. Credit intermediaries shall be duly authorised to carry out the activities set out in Article 3(e) by a competent authority *referred to in Article 4(1)* in their home Member State. Such authorisation shall be granted on the basis of requirements established in the home Member State of the credit intermediary and shall include the fulfilment of the professional

laid down in *Article 20*.

requirements laid down in *Article 21*.

Or. en

Amendment 159

Proposal for a directive Article 20 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that a single information point is established to allow quick and easy public access to information from the national register, which shall be compiled electronically and kept constantly updated. This information point shall also provide the identification details of the competent authorities of each Member State referred to in Article 4.

Amendment

4. Member States shall ensure that a single information point is established to allow quick and easy public access to information from the national register *of credit intermediaries*, which shall be compiled electronically and kept constantly updated. This information point shall also provide the identification details of the competent authorities of each Member State referred to in Article 4. ***Member States shall provide EBA with access to such a single information point and EBA shall publish on its website references or hyperlinks to this information point.***

Or. en

Amendment 160

Proposal for a directive Article 21 – paragraph 3 –

Text proposed by the Commission

3. Powers are delegated to the Commission to adopt and, where necessary amend, regulatory technical standards to stipulate the minimum monetary amount of the professional indemnity insurance or comparable guarantee referred to in paragraph 1(b).
The regulatory technical standards referred to in subparagraph 1 shall be

Amendment

3. In order to ensure consistent harmonisation of this Article, EBA shall develop draft regulatory technical standards to stipulate the minimum monetary amount of the professional indemnity insurance or comparable guarantee referred to in paragraph 1(b).

adopted in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

EBA shall *develop* draft regulatory technical standards to *stipulate* the *minimum monetary amount of the professional indemnity insurance or comparable guarantee referred to in paragraph 1(b) for submission to the Commission [within 6 months of the adoption of the proposal]*. EBA will review, and if necessary, develop draft regulatory technical standards to amend the minimum monetary amount of the professional indemnity insurance or comparable guarantee referred to in paragraph 1(b) for submission to the Commission for the first time *[4 years after entry into force of the Directive]* and biannually thereafter.

EBA shall *submit those* draft regulatory technical standards to the Commission *by...**. EBA *shall* review, and if necessary, develop draft regulatory technical standards to amend the minimum monetary amount of the professional indemnity insurance or comparable guarantee referred to in paragraph 1(b) for submission to the Commission for the first time *by...*** and biannually thereafter.

Power is delegated to the Commission to adopt the draft regulatory technical standards referred to in the first and second subparagraphs in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

**OJ please insert the date: 6 months after the entry into force of this Directive.*

***OJ please insert the date: 4 years after the entry into force of this Directive.*

Or. en

Amendment 161

Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

1. The authorisation of credit intermediaries by their home Member State shall be effective for the entire territory of

Amendment

1. The authorisation of credit intermediaries by their home Member State shall be effective for the entire territory of

the Union without a requirement for further authorisation by the competent authorities of the host Member State(s).

the Union without a requirement for further authorisation by the competent authorities of the host Member State(s) *or the local competent authorities.*

Or. en

Amendment 162

Proposal for a directive Article 22 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Within a period of one month after being informed, those competent authorities shall notify the competent authorities of the host Member State(s) concerned of the intention of the credit intermediary and shall at the same time inform the credit intermediary concerned of that notification.

Amendment

Within a period of one month after being informed, those competent authorities shall notify the competent authorities of the host Member State(s) concerned **and EBA** of the intention of the credit intermediary and shall at the same time inform the credit intermediary concerned of that notification.

Or. en

Amendment 163

Proposal for a directive Article 22 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Competent authorities of different Member States shall cooperate with each other whenever necessary for the purpose of carrying out their duties under this Directive, making use of their powers whether set out in this Directive or in national law. **Competent authorities shall render assistance to competent authorities of the other Member States.** In particular, they shall exchange information and cooperate in any investigation or supervisory activities.

Amendment

Competent authorities of different Member States shall cooperate with each other **and with EBA** whenever necessary for the purpose of carrying out their duties under this Directive, making use of their powers whether set out in this Directive or in **EU or** national law. In particular, they shall exchange information and cooperate in any investigation or supervisory activities. **Competent authorities shall render assistance to competent authorities of the other Member States.**

Amendment 164

Proposal for a directive

Article 22 – paragraph 4 – point a

Text proposed by the Commission

(a) The competent authority of the host Member State, after informing the competent authority of the home Member State shall take all the appropriate measures needed in order to protect consumers and the proper functioning of the markets including by preventing the offending credit intermediaries from initiating any further transactions within their territories. The Commission shall be informed of such measures without undue delay.

Amendment

(a) The competent authority of the host Member State, after informing the competent authority of the home Member State shall take all the appropriate measures needed in order to protect consumers and the proper functioning of the markets including by preventing the offending credit intermediaries from initiating any further transactions within their territories. The Commission **and EBA** shall be informed of such measures without undue delay.

Or. en

Amendment 165

Proposal for a directive

Article 23

Text proposed by the Commission

Member States **shall ensure** that non-credit institutions **as referred to in Article 3(i)** are subject to adequate authorisation, registration and supervision arrangements by **a competent authority as defined in Article 4.**

Amendment

Member States that **allow** non-credit institutions **to provide credit agreements relating to residential immovable property shall ensure that they** are subject to adequate **regulation**, authorisation, registration and supervision arrangements by **competent authorities..**

Or. en

Amendment 166

Proposal for a directive Article 26

Text proposed by the Commission

1. The powers to adopt delegated acts ***referred to in Articles 6(4), 8(4), 9(3), 10(3), 14(5) and 16(2) shall be conferred*** on the Commission for ***an indeterminate period of time following the entry into force of this Directive.***

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. The power to adopt delegated acts is

Amendment

1. The power to adopt delegated acts ***is conferred on the Commission subject to the conditions laid down in this Article.***

2. The powers to adopt delegated acts referred to in Articles 6(4), 8(4), 9a(3), 10(3), 12(5), 16(2), 18h(3) and 18k(4) shall be conferred on the Commission for a period of four years from... * The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the four-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 6(4), 8(4), 9a(3), 10(3), 12(5), 16(2), 18h(3), and 18k(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to

conferred on the Commission subject to the conditions laid down in Articles 27 and 28.

Articles 6(4), 8(4), 9a(3), 10(3), 12(5), 16(2), 18h(3), and 18k(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

**OJ please insert date of the date of entry into force of this Directive.*

Or. en

Amendment 167

Proposal for a directive Article 27

Text proposed by the Commission

Amendment

Article 27

deleted

Revocation of the delegation

1. The delegation of powers referred to in Articles 6(4), 8(4), 9(3), 10(3), 14(5) and 16(2) may be revoked at any time by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall inform the other legislator and the Commission at the latest one month before the final decision is taken, stating the delegated powers which could be subject to revocation and the reasons for any revocation.

3. The decision of revocation shall

terminate the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Or. en

Amendment 168

Proposal for a directive Article 28

Text proposed by the Commission

Amendment

Article 28

deleted

Objections to delegated acts

1. The European Parliament and the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council that period shall be extended by one month.

2. Where, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein. The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period where the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. Where either the European Parliament or the Council objects to an adopted delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the

delegated act.

Or. en

Amendment 169

Proposal for a directive Article 31 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) an assessment of *consumer satisfaction* with the ESIS;

(a) an assessment of *compliance* with the ESIS *and consumer use, understanding and satisfaction thereof*;

Or. en

Amendment 170

Proposal for a directive Article 31 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) an examination of the necessity to introduce rights and obligations with regard to the post-contractual stage of credit agreements;

(f) an examination of the necessity to introduce *additional* rights and obligations with regard to the post-contractual stage of credit agreements;

Or. en

Amendment 171

Proposal for a directive Article 31 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) an assessment of the need to extend its scope to small companies.

(g) an assessment of the need to extend its scope to small companies *as borrowers*;

Or. en

Amendment 172

**Proposal for a directive
Article 31 – paragraph 2 – point g a (new)**

Text proposed by the Commission

Amendment

(ga) an assessment of the impact of this directive on the market for other forms of credit including those which creditors or consumers may consider substitutable for those within its scope.

Or. en

Amendment 173

**Proposal for a directive
Article 31 a (new)**

Text proposed by the Commission

Amendment

Article 31a

Further initiatives on responsible lending and borrowing

By ... *, the Commission shall submit a comprehensive report assessing the wider challenges of private over-indebtedness. The report shall identify the related markets, products and actors in the credit supply chain and analyse the different options to tackle these problems including macroeconomic measures related to credit evolution, its limits and uses, structural measures to protect savers in deposit institutions and measures addressed to highly leveraged institutions and the consequent vulnerabilities in the financial system. The report shall be accompanied, where appropriate, by legislative proposals.

** OJ please insert date: 12 months after the date of entry into force of this Directive.*

Or. en

Amendment 174

Proposal for a directive Annex 2 – Part A – table – point 6 – last line

Text proposed by the Commission

(Where applicable) [Warning on the variability of the instalments]

Amendment

(Where applicable) [Warning on the variability of the instalments **and different scenarios depending of the evolution on the interest rate**]

Or. en

Amendment 175

Proposal for a directive Annex 2 – Part A – table – point 7 – last line

Text proposed by the Commission

Please **make sure** that **you are aware** of **all other taxes and costs (e.g. notary fees)** associated **with** this loan.

Amendment

Please **note the following** costs **associated with this loan:**

[Notary fees]

[Registration fees]

[Valuation fees]

[Taxes applicable according to national legislation]

(where applicable) [Any other costs related to obligations associated to this loan according to National Law]

(where applicable) [Fees for any other services contracted with the creditor (such as fees for the maintenance of an

Amendment 176

**Proposal for a directive
Annex 2 – Part B – Section 6 – point 4**

Text proposed by the Commission

(4) Where the interest rate is subject to revision and the amount of the instalment after each revision is unknown, the creditor may indicate in the repayment table the same instalment amount for the whole credit duration. In such a case, the creditor shall draw that fact to the attention of the borrower by visually differentiating the amounts which are known from the hypothetical ones (e.g. using a different font, borders or shading). In addition, a clearly legible text shall explain for which periods the amounts represented in the table may vary and why. The creditor shall also include: **(1)** where relevant, the applicable caps and floors; **(2)** an example of how the amount of the instalment would vary where the interest rate increases or decreases by 1 % or by a higher percentage, where this is more realistic given the magnitude of normal changes to the interest rate and **(3)** where there is a cap, the instalment amount in the worst-case scenario.

Amendment

(4) Where the interest rate is subject to revision and the amount of the instalment after each revision is unknown, the creditor may indicate in the repayment table the same instalment amount for the whole credit duration. In such a case, the creditor shall draw that fact to the attention of the borrower by visually differentiating the amounts which are known from the hypothetical ones (e.g. using a different font, borders or shading). In addition, a clearly legible text shall explain for which periods the amounts represented in the table may vary and why. The creditor shall also include: **(a)** where relevant, the applicable caps and floors; **(b)** an example of how the amount of the instalment would vary where the interest rate increases or decreases by 1 % or by a higher percentage, where this is more realistic given the magnitude of normal changes to the interest rate; and **(c)** where there is a cap, the instalment amount in the worst-case scenario ***or, where there is no cap, an illustrative worst-case scenario which may be further specified by delegated act.***

Amendment 177

**Proposal for a directive
Annex 2 – Part B – Section 7 – point 2**

Text proposed by the Commission

(2) The creditor shall also list each of the costs **by category**, indicating their amount, to whom they are to be paid and at what moment. Where the amount is not known, the creditor shall provide a possible range or an indication of how the amount will be calculated.

Amendment

(2) The creditor shall also **provide a disaggregated list of** each of the costs, indicating their amount, to whom they are to be paid and at what moment. Where the amount is not known, the creditor shall provide a possible range or an indication of how the amount will be calculated.

Or. en

EXPLANATORY STATEMENT

I. EU MORTGAGE MARKETS

Mortgages are often the most important and longest financial commitment a family makes. They are essential for access to house ownership (near 70% in the EU) and have great economic importance. In 2009, mortgage credit amounted to 6,126 EUR billion - 52.3% of EU GDP. The market grew from 1998 to 2009 in almost all Member States, though due to the crisis there has been a decline since 2008.

EU markets for retail mortgage credit are fragmented, cross-border activity is rare, although according to the European Central Bank it has doubled between 1997 and 2008, and concentration is increasing.

Significant differences between Member States have not translated into diversity within each country. Product diversity enables financial inclusion and more mature markets offer a wider range to meet consumers' preferences.

Concentration levels are not homogenous (data shows a negative correlation between the size of the market and concentration) but recent information shows concentration has increased such that, on average, the market share of the 5 biggest lenders in each Member State is over 75%.

The price of mortgage credit is the sum of the lenders' profit margin, distribution and management costs, funding costs and those costs arising from risk taking.

Lenders are generally credit institutions but in at least 5 Member States non-credit institutions represent up to 12%.

In most countries, creditors distribute directly through their network of branches. Indirect distribution is particularly important in Hungary, Ireland, the Netherlands and the United Kingdom. Experts found that lenders funded mainly through deposits have wide, direct distribution networks while those mostly funded through capital markets have limited distribution networks and more reliance on intermediaries.

In 2002 61% of mortgages were funded by deposits, 17.5% by covered bonds and 10% by residential mortgage backed securities. Alternatives to deposit-based funding allow the duration of the credit and the funding to be matched, facilitate portability of portfolios and are essential for developing cross-border financing of secondary markets. After the crisis, spreads between credits and deposits have widened.

The US subprime market was the epicentre of the crisis. The EU has been affected through exposure to derivatives, worsening financial conditions and widening economic imbalances. This helped burst the "housing bubble" in some Member States and created tensions in others that had assumed important credit risk in foreign currency.

The need to lend and borrow responsibly has increased since the crisis. The FSA's July 2010 "Mortgage market review" recognizes that around 50% of all mortgages applications in 2007 and 2008 were processed without income verification and that "at the height of the market, almost 33% of all residential mortgages advanced in the UK were sold on an interest-only basis, with around three quarters of these having no specified repayment vehicle".

II. POLICY OBJECTIVE

Alongside the creation of the euro, the Financial Services Action Plan (1999) aimed to provide a modern financial framework which minimised the cost of capital and financial intermediation and ensured access to and security in retail markets.

Retail financial services market integration has been a goal since the FSAP, though not yet achieved. It is a prerequisite for fully benefitting from the internal market and an important contribution to growth. The Commission's 2007 White Paper on Mortgage Credit notes that "further integration of mortgage markets is essential for the European economy as well as for the functioning of the internal market".

Achieving the EU2020 goals of sustainable growth and learning lessons from the crisis in line with the G20 roadmap, demands an internal market for mortgage credit that is stable, resilient, efficient and open to competition. This requires sound underwriting practices, symmetrical relationships between the parties and good information for consumers; those conditions are also needed to promote financial inclusion and ensure a high level of consumer protection. Our goal should therefore be to achieve an internal market for mortgages in a sustainable way.

III. BETTER REGULATION

It is important to ensure that regulation at European level adds value. We should build on the existing *acquis* and keep coherence with the CCD (which some Member States have applied to mortgages) while acknowledging specificities due to the length and importance of mortgages.

Preserving subsidiarity and proportionality, we should remove internal market barriers but regard diversity at national level as an asset. Models that work and result from established legal and cultural traditions should be preserved. There is no case for full harmonisation and in most areas only a common basis should be established, leaving room for Member States to add national measures. In a few cases a ceiling may be needed to ensure market efficiency, providing a 'framed' harmonisation.

IV. THE COMMISSION'S PROPOSAL: OUR ASSESSMENT

Your Rapporteur was appointed in October 2010 following a 2009 consultation and 2010 working paper by the Commission on Responsible Lending and Borrowing. He then wrote to Commissioner Barnier stating that "irresponsible lending and borrowing was at the heart of excessive indebtedness, one of the main causes of the financial crisis" and calling for the scope of any proposal to be "broader than retail aspects of mortgage lending".

Once the limited scope of the proposal was confirmed, the ECON Committee Chair and your Rapporteur wrote again to the Commissioner explaining that "evidence shows that the main problems are not posed by defaults by consumers on loans related to residential property" and seeking "assurance that this proposal will be only the first step of a coherent EU strategy for addressing the poor lending practices". Given Commissioner Barnier's commitment that the Commission "will not ignore these issues moving forward", your Rapporteur focused on the current proposal and has introduced a clause on "Further initiatives on responsible lending and borrowing".

Having met numerous stakeholders your Rapporteur believes the proposal is welcomed though it needs to be fine-tuned and complemented.

The proposal relates to conditions applicable to creditors and credit intermediaries, competent authorities and supervisory requirements. These need to be strengthened in a way coherent with the new European supervisory architecture. It also contains provisions on information and practices preliminary to the conclusion of the credit agreement, annual percentage rate of charge, creditworthiness assessment, database access, advice and early repayment. These need to reflect the principles of the Financial Stability Board's review of mortgage underwriting (2011) and take account of the US Dodd-Frank Act (2010) to promote global consistency.

The proposal should address other critical issues without delay: a risk based approach, financial education, sound performance and transparency. It is necessary to define a category of special risk agreements to correct excessive uniformity of regulation; to combat financial illiteracy at the root of irresponsible practices; to deal with key problems during the life of a credit agreement by guaranteeing flexibility through an enhanced balance of competition and stability; and to promote transparent, smart and reliable mortgage markets.

V. KEY ISSUES OF THE REPORT

Further initiatives on responsible lending and borrowing: As explained above, the Commission is asked to report on options to tackle excessive leverage, including macroeconomic measures related to credit evolution, its limits and uses, and measures to protect savers and address highly leveraged institutions to determine what other legislative proposals are needed.

Special risk agreements: this kind of agreement needs to be defined and the risks managed through extra measures including warnings for consumers and stricter prudential requirements so that those taking greater risks also bear the potential costs of taking such risks.

Creditworthiness assessment: this is key to achieving a sustainable market. The directive itself should reflect minimum standards recommended by the Financial Stability Board, even if these are further developed through technical standards. The assessment must be robust but to avoid financial exclusion, judgement should be used to protect consumers from arbitrary or unjustified decisions to deny credit.

Reflection period: consumers should have a time to compare offers and ask for advice. The report allows flexibility as to whether this is before or after conclusion of the contract, or a combination of the two.

Advice: It is important to define and provide clear standards for advice and to distinguish such advice, which includes a personalised recommendation, from personalised marketing material which does not contain such a recommendation. This includes ensuring remuneration does not inappropriately incentivise those providing advice.

Early repayment: consumers should have the right to repay early, under certain conditions. A common European framework should be based in Member States legal traditions, and take account of different mortgage funding structures. The framework should ensure that consumers are not penalised for exercising their right and, consistent with Dodd Frank, that creditors are indemnified to a level consistent with market efficiency.

Valuation: Both creditors and consumers have an accurate and impartial valuation of the property. Valuation standards are proposed, and in the case of foreclosure coherence is assured with the value determined under the CRD.

Traceability: The crisis has shown the importance of ensuring the traceability of rights in residential immovable property for creditors and for those investing in instruments for which the right in the residential immovable property provides collateral. A European Mortgage Key Identifier should be allocated to new credit agreements ensuring that the link between the loan and the property can be identified in primary and secondary markets.

Local competent authorities: the Member State where the property is located should be able to determine standards applicable to loans related to property in their territory. Such standards should be applied through co-operation among competent authorities. Co-ordination at European level is needed, particularly relating to the identification and management of systemic risk.