

Credit agreements: residential immovable property

2011/0062(COD) - 04/02/2014 - Final act

PURPOSE: to create a single market in mortgage credit in the EU representing a high level of consumer protection.

LEGISLATIVE ACT: Directive 2014/17/EU of the European Parliament and of the Council on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010.

CONTENT: the Directive lays down a **common framework** concerning agreements covering credit for consumers secured by a mortgage or otherwise relating to residential immovable property. It is designed to create **an efficient single mortgage market** for the benefit of consumers and lays down conditions to ensure a **high level of professionalism** on the part of lenders and credit intermediaries.

In order to create a genuine internal market with a high and equivalent level of consumer protection, the Directive lays down provisions subject to maximum harmonisation in relation to the provision of pre-contractual information through the **European Standardised Information Sheet (ESIS) standardised format** and the calculation of the annual percentage rate of charge (APRC).

The main elements of the Directive are the following:

Obligation to assess the creditworthiness of the consumer: the Regulation specifies that, before concluding a credit agreement, the creditor makes a thorough assessment of the consumer's creditworthiness. That assessment shall take appropriate account of factors relevant to verifying the prospect of the consumer to meet his obligations under the credit agreement.

The assessment of creditworthiness referred to shall be carried out on the basis of **necessary, sufficient and proportionate information** on the consumer's income and expenses as well as other financial and economic circumstances. The information shall be obtained by the creditor from relevant internal or external sources, including the consumer,

The creditor will **only** make the credit available to the consumer **where the result of the creditworthiness assessment** indicates that the obligations resulting from the credit agreement are likely to be met in the manner required under that agreement.

Where the credit application is rejected, the creditor should inform the consumer without delay of the rejection and, where applicable, that the decision is based on automated processing of data. In this case, the consumer should be informed of the particulars of the database consulted.

Pre-contractual information: the Directive establishes guidelines on marketing and advertising and provides obligations regarding pre-contractual and general information as well as requirements regarding credit intermediaries and the borrowing rate information.

The lender must provide the consumer with the **personalised information** needed to compare the credits available on the market, assess their implications and make an informed decision. The personalised information should be provided on a durable medium by means of the ESIS.

In addition, lenders must ensure the permanent availability of **clear and comprehensible general information** about credit agreements. The information must be provided to consumers **free of charge**.

The Directive provides that consumers should have **sufficient time of at least seven days** to consider the implications of an agreement. This sufficient time should be given, either as a period of reflection before the credit agreement is concluded, or a period of withdrawal after the conclusion of the credit agreement or a combination of the two.

Advice on credit agreements: with regard to the provision of advisory services, these should be based on a proper understanding of the consumer's situation as well as reasonable assumptions about risks to the consumer's circumstances during the lifetime of the credit agreement. Advisory service standards are specified.

Member States may provide for an obligation for creditors to warn a consumer when, considering the consumer's financial situation, a credit agreement may induce a specific risk for the consumer.

Financial education for consumers: in order to increase the ability of consumers to make informed decisions for themselves about borrowing and managing debt responsibly, Member States should promote measures to support the education of consumers in relation to **responsible borrowing and debt management**, in particular relating to mortgage credit agreements.

Creditors, credit intermediaries and appointed representatives must require their staff to possess and to **keep up-to-date an appropriate level of knowledge and competence** in relation to the manufacturing, the offering or granting of credit agreements.

Early repayment: consumer shall have the right to repay the credit early, either **fully or partially**. In this case, Member States may provide that the creditor is entitled to fair and objective compensation, where justified, for possible costs directly linked to the early repayment but **shall not impose a sanction** on the consumer.

Arrears and foreclosure: the Directive provides that creditors must exercise **reasonable forbearance** before foreclosure proceedings are initiated.

Where the creditor is permitted to impose charges on the consumer arising from the default, those charges should be no greater than is necessary to compensate the creditor for costs it has incurred as a result of the default.

Supervision of credit intermediaries: the Directive defines certain prudential and supervisory requirements, including for the establishment and supervision of credit intermediaries, appointed representatives and non-credit institutions.

Before being able to carry out their activities, credit intermediaries should be subject to an **admission process** by the competent authority of their home Member State. They must also meet strict professional requirements at least in relation to their competence, good repute and professional indemnity **cover**. Information on accepted credit intermediaries should be entered on a public register.

The Commission shall undertake a review of this Directive by 21 March 2019.

ENTRY INTO FORCE: 20.03.2014. The Directive shall not apply to credit agreements existing before 21 March 2016.

TRANSPOSITION: no later than 21.03.2016.

DELEGATED ACTS: the Commission may adopt delegated acts to ensure a coherent harmonisation and to take account of the evolution of the credit agreement markets. The power to adopt such acts shall be conferred on the Commission for an **indeterminate period** of time from 20 March 2014. The European Parliament or the Council may object to a delegated act within a period of **three months** from the date of notification (this period can be extended for three months). If the European Parliament or the Council make objections, the delegated act will not enter into force.