Consumer credits

2021/0171(COD) - 30/06/2021 - Legislative proposal

PURPOSE: to establish common rules on certain aspects of the laws, regulations and administrative provisions of the Member States concerning consumer credits.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2008/48/EC of the European Parliament and of the Council lays down rules at Union level concerning consumer credit agreements and crowdfunding credit services for consumers. The REFIT evaluation of the Directive showed that Directive 2008/48/EC has been partially effective in ensuring high standards of consumer protection and in fostering the development of an internal market for credit and that these objectives remain relevant.

Since the adoption of the 2008 directive, the **digital transformation has led to significant changes to the consumer credit market**, both on the supply side and on the demand side, such as the emergence of new products and the evolution of consumer behaviour and preferences.

New market players, such as peer-to-peer lending platforms, are offering credit agreements in different forms. New products, such as short-term high-cost loans, have emerged. Digitalisation has also brought new ways of disclosing information digitally and assessing the creditworthiness of consumers using automated decision-making systems and non-traditional data.

The COVID-19 crisis and the resulting confinement measures have also disrupted the EU economy and had a major impact on the credit market and consumers, especially vulnerable ones, making many EU households more financially vulnerable. These developments have increased legal uncertainty as to the application of Directive 2008/48/EC to these new products.

In order to improve the functioning of the internal market for consumer credit, the Commission considers it necessary to provide for an EU-wide harmonised framework in a number of key areas.

IMPACT ASSESSMENT: the preferred option is to amend the Directive to include new provisions, in line with the EU acquis.

The quantified measures under the preferred option would entail a reduction in consumer detriment of around EUR 2 billion in the period 2021-2030.

The impact on society is also deemed very positive, thanks to measures preventing and addressing over-indebtedness, thereby improving social inclusion. Per EUR 1 spent on debt advice, this is expected to provide between EUR 1.4-5.3 in equivalent benefits, mainly by way of the social costs of over-indebtedness being avoided.

CONTENT: the proposed directive aims to harmonise aspects of the laws, regulations and administrative provisions of the Member States concerning certain credit agreements for consumers and crowdfunding credit services.

The proposed directive will replace the 2008 directive while retaining many of its elements. In particular, it includes the following measures:

- extending the scope of the directive to cover loans below EUR 200, interest-free credit, all overdraft facilities and leasing agreements, as well as credit agreements concluded through via peer-to-peer lending platforms;

- adaptation of information requirements to ensure that they are appropriate for digital devices;

- obligation to provide free information to consumers and to ensure that consumers legally resident in the EU are not discriminated against on the basis of their nationality or place of residence when applying for a credit agreement;

- the obligation for creditors, credit intermediaries or providers of crowdfunding credit services to ensure that clear and comprehensible general information is available at all times;

- providing adequate explanations to consumers and reducing the amount of information to be provided to consumers in advertising, focusing on essential information where the medium used to communicate the information to be included in the advertisement does not allow it to be viewed, e.g. in the case of radio advertising;

- providing more details on when and how to present pre-contractual information to consumers so that this presentation is more effective;

- ban on practices that exploit consumer behaviour, such as tying, pre-ticked boxes or unsolicited credit sales;

- introduction of standards for advisory services and the obligation to provide information that matches the borrower's profile;

- helping consumers facing financial difficulties through repayment measures and debt advisory services;

- establishment of conduct of business rules and obligation upon credit providers and credit intermediaries to ensure that staff members have the proper set of skills and knowledge;

- a requirement for Member States to set caps on interest rates, the annual percentage rate of charge or the total cost of the credit;

- reference to the fact that credit assessments should be carried out on the basis of necessary, sufficient and proportionate information on the economic and financial situation;

- obligation for Member States to promote financial education and to adopt measures to encourage creditors to encourage reasonable forbearance before enforcement proceedings are initiated;

- introduction of the 4% rule (minimum level of the maximum fine) for penalties set out in the general directive (EU) 2019/2161 for cross-border wide-spread infringements.