

Basic information	
<p>2011/0062(COD)</p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p>	Procedure completed
<p>Credit agreements: residential immovable property</p> <p>Amending Directive 2008/48/EC 2002/0222(COD) Amending Regulation (EU) No 1093/2010 2009/0142(COD) Amending Directive 2013/36/EU 2011/0203(COD) Amended by 2013/0314(COD) Amended by 2018/0063A(COD)</p> <p>Subject</p> <p>2.50.04 Banks and credit 4.60.02 Consumer information, advertising, labelling 4.60.06 Consumers' economic and legal interests</p>	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	ECON Economic and Monetary Affairs		SÁNCHEZ PRESEDO Antolín (S&D)	21/09/2010
			Shadow rapporteur PALLONE Alfredo (PPE) DE BACKER Philippe (ALDE) GIEGOLD Sven (Verts/ALE) FORD Vicky (ECR) CHOUNTIS Nikolaos (GUE /NGL)	
	Committee for opinion		Rapporteur for opinion	Appointed
	IMCO Internal Market and Consumer Protection (Associated committee)		LECHNER Kurt (PPE)	11/05/2011
	JURI Legal Affairs		THEIN Alexandra (ALDE)	24/05/2011
Council of the European Union	Council configuration		Meetings	Date
	Economic and Financial Affairs ECOFIN		3290	2014-01-28
	Economic and Financial Affairs ECOFIN		3178	2012-06-22

European Commission	Commission DG	Commissioner
	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel

Key events			
Date	Event	Reference	Summary
31/03/2011	Legislative proposal published	COM(2011)0142 	Summary
10/05/2011	Committee referral announced in Parliament, 1st reading		
29/09/2011	Referral to associated committees announced in Parliament		
07/06/2012	Vote in committee, 1st reading		
22/06/2012	Debate in Council		Summary
11/10/2012	Committee report tabled for plenary, 1st reading	A7-0202/2012	Summary
10/09/2013	Decision by Parliament, 1st reading	T7-0341/2013	Summary
10/09/2013	Results of vote in Parliament		
10/09/2013	Debate in Parliament		
10/12/2013	Decision by Parliament, 1st reading	T7-0541/2013	Summary
10/12/2013	Results of vote in Parliament		
28/01/2014	Act adopted by Council after Parliament's 1st reading		
04/02/2014	Final act signed		
04/02/2014	End of procedure in Parliament		
28/02/2014	Final act published in Official Journal		

Technical information	
Procedure reference	2011/0062(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 2008/48/EC 2002/0222(COD) Amending Regulation (EU) No 1093/2010 2009/0142(COD) Amending Directive 2013/36/EU 2011/0203(COD) Amended by 2013/0314(COD) Amended by 2018/0063A(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee draft report		PE469.842	29/07/2011	
Amendments tabled in committee		PE473.729	06/10/2011	
Amendments tabled in committee		PE473.804	06/10/2011	
Committee opinion	JURI	PE467.293	18/10/2011	
Committee opinion	IMCO	PE472.205	02/02/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0202/2012	11/10/2012	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0341/2013	10/09/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0541/2013	10/12/2013	Summary
Council of the EU				
Document type	Reference	Date	Summary	
Draft final act	00025/2013/LEX	05/02/2014		
European Commission				
Document type	Reference	Date	Summary	
Legislative proposal	COM(2011)0142 	31/03/2011	Summary	
Document attached to the procedure	SEC(2011)0355 	31/03/2011		
Document attached to the procedure	SEC(2011)0356 	31/03/2011		
Document attached to the procedure	SEC(2011)0357 	31/03/2011		
Commission response to text adopted in plenary	SP(2014)148	13/02/2014		
Follow-up document	COM(2021)0229 	11/05/2021		
National parliaments				
Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2011)0142	23/05/2011	
Contribution	BG_PARLIAMENT	COM(2011)0142	25/05/2011	

Contribution	IT_SENATE	COM(2011)0142	26/07/2011	
Contribution	RO_CHAMBER	COM(2011)0142	26/07/2011	
Contribution	DE_BUNDES RAT	COM(2011)0142	27/07/2011	
Contribution	AT_NATIONALRAT	COM(2011)0142	04/08/2011	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2011/0058 OJ C 240 18.08.2011, p. 0003	05/07/2011	Summary
EESC	Economic and Social Committee: opinion, report	CES1165/2011	14/07/2011	
EDPS	Document attached to the procedure	N7-0037/2012 OJ C 377 23.12.2011, p. 0005	25/07/2011	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	
European Commission	EUR-Lex	

Final act

[Corrigendum to final act 32014L0017R\(03\)](#)
[OJ L 246 23.09.2015, p. 0011](#)

[Directive 2014/0017](#)
[OJ L 060 28.02.2014, p. 0034](#)

[Summary](#)

Delegated acts

Reference	Subject
2014/2863(DEA)	Examination of delegated act

Credit agreements: residential immovable property

2011/0062(COD) - 25/07/2011 - Document attached to the procedure

Opinion of the European Data Protection Supervisor on the proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property

The EDPS notes that the proposal involves a number of activities, which have relevance under the EU data protection regime. These are mainly related to the consultation by creditors and credit intermediaries of the 'credit database' with the purpose of assessing the creditworthiness of consumers and to the release of information by the consumers to the creditors or credit intermediaries.

Whilst the EDPS is pleased to note that important references to the relevant data protection rules have been included in the current text of the proposal, he suggests some improvements with the aim of clarifying the text and in order to ensure that criteria determining the access rights to the credit database are not mandated to delegated legislation.

Applicability of data protection principles: in order to reflect better the fact that the national laws implementing Directive 95/46/EC are the appropriate references and to emphasise that any data processing operation must be carried out in accordance with those laws, the EDPS suggests introducing a new article with specific wording to that effect: 'Any processing of personal data performed pursuant to this directive shall be carried out in conformity with the relevant national laws implementing Directive 95/46/EC'.

Creditworthiness of consumers: the proposal introduces an obligation for creditors to carry out a thorough assessment of the creditworthiness of consumers. This assessment should be based on certain criteria, such as the consumer's income, savings, debts and other financial commitments. This obligation could have a significant impact on the privacy of individuals seeking credit, as the type and amount of information that could be accessed to by the creditor is potentially very large. Therefore, the EDPS suggests specifying in a more detailed way the sources from which information on the creditor's creditworthiness can be obtained.

Consultation of the credit database: the EDPS notes that the text does not specify whether the databases should be specifically designed for creditworthiness checks, who is responsible for the database, what kind of information might be contained in the database, what the 'monitoring' of consumer compliance entails, etc. Furthermore, the EDPS notes that the proposal states that details of the criteria for harmonised access shall be further specified in delegated acts of the Commission.

The EDPS has already expressed the view that **measures that have a substantive impact on the privacy of citizens should not be dealt with in delegated legislation**. Certainly details can be elaborated in such legislation. The main implications for the citizens should, however, be clear and agreed upon in the legislation adopted on the basis of the ordinary legislative procedure. From a data protection perspective, the EDPS is particularly concerned about the apparent contradiction between the generalised possibility of consultation by (a not yet identifiable number of) credit operators to the database and the 'light' obligation inserted only in a recital, namely that consumers should be informed about the consultation of the database and should have access to the information to rectify, erase or block the personal data concerning

them. In the EDPS' view, the concrete possibility of exercising the data subject's rights pursuant to Directive 95/46/EC is connected to the possibility of identifying the possible recipients of the personal data contained in the credit database. The effectiveness of the reference to the rights contained in Directive 95/46/EC could be therefore neutralised by the impossibility for the data subject to clearly and pre-emptively identify the natural or legal persons who can have access to the database.

The EDPS therefore suggests some modifications.

Any access to the database should be subject to the following conditions:

- definition of the criteria on the basis of which creditors or credit intermediaries can have access to the database and, in particular, clarification of whether only creditors or credit intermediaries who concluded a contract with a consumer or are required by the consumer to take steps to conclude a contractual relationship with him can have access to his or her data;
- obligation to communicate in advance to the consumer that a certain creditor or credit intermediary has the intention to access his or her personal data in the database;
- obligation to contemporaneously communicate to the consumer of his or her rights to access, rectify, block or erase the data contained in the database pursuant to the principles of Directive 95/46/EC.

Credit agreements: residential immovable property

2011/0062(COD) - 11/10/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Antolín SÁNCHEZ PRESEDO (S&D, ES) on the proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property.

The Committee on the Internal Market and Consumer Protection, in exercising its prerogatives as an associated committee in accordance with [Article 50 of Parliament's Rules of Procedure](#), was also consulted for an opinion on this report.

The committee recommends that the position of the European Parliament in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

A regulatory framework consistent with international principles: the financial crisis has entailed a lack of confidence in the financial system, in particular among consumers. As a result, the G20 has commissioned work from the **Financial Stability Board** to establish principles on sound underwriting standards in relation to residential immovable property. Members state that it should be ensured that the Union's regulatory framework in this area is robust, consistent with international principles.

The Directive should therefore develop 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 financial inclusion** and hence providing a **high degree of consumer protection**.

It should provide: (i) a consistent Union standard for the calculation of the annual percentage rate of charge; (ii) the provision of pre-contractual information through a standardised European Standardised Information Sheet and (iii) the obligation to undertake an assessment of creditworthiness in relation to credit agreements.

Exclusions from the scope of the legislation: the directive does not apply to certain credit agreements where the creditor contributes a lump sum, periodic payments or other forms of credit disbursement in return for a sum deriving from the sale of a residential immovable property and whose primary objective is to facilitate consumption, such as equity release products or other equivalent specialised products.

In the same way, Member States are permitted under certain conditions to exclude certain other credit agreements, such as those which are granted to a restricted public on advantageous terms or which are provided by credit unions.

Better protection for consumers: in order to reflect the specificity of loans related to residential immovable property, the report stresses the need to:

- ensure that consumers have **adequate time for reflection** before committing themselves to taking out a loan;
- prevent practices which may induce consumers to enter into a credit agreement which is not in their best interests, such as tying of certain products;
- ensure that the residential immovable property is **appropriately valued** before the conclusion of the credit agreement and, where the valuation affects the residual obligation of the consumer, on default;
- regulate the **handling of arrears and defaults**;
- promote the **education of consumers** and ensure that assistance is available for vulnerable and less experienced consumers. Member States shall ensure that creditors and credit intermediaries require their staff to possess an appropriate level of knowledge and competence in relation to product design, the offering or intermediation of, advising on or granting of credit agreements.

Personalised information: Members want consumers to 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.

In this regard, the **European Standardised Information Sheet (ESIS)** which provides information, personalised for the borrower, needs improvements. In particular, the wording should be more user-friendly, while sections, such as 'nominal rate' and 'annual percentage rate of charge', should be merged and new sections, such as 'risks and warnings', should be added.

Period of reflection: in order to allow the consumer to compare an offer with other offers, assess its implications and take an informed decision on whether to accept the offer regardless of the means of conclusion of the contract, Members consider that it is necessary to provide for a minimum period of reflection for consumers. Where consumers conclude a credit agreement before the end of the reflection period a **right of withdrawal** should be provided.

Ability to repay: Members state that it is essential that the consumer's ability and propensity to repay the credit is **assessed and verified before a credit agreement is concluded**. In line with the recommendations of the Financial Stability Board, creditors should require consumers to provide relevant information on their income and financial situation in order to facilitate the creditworthiness assessment, since failure to do so will result in refusal of the credit. The creditor should appropriately verify such information before granting the loan. Member States should therefore develop frameworks to allow for flexibility, for example by accepting **another property as equivalent collateral** for the loan.

Advice: the report notes that providing advice in the form of a personalised recommendation is a distinct activity, which may but need not be combined with other aspects of granting or intermediating credit. Member States shall ensure that the creditor, credit intermediary or appointed representative explicitly informs the consumer, in the context of a given transaction, whether advisory services are being or can be provided to the consumer.

Early repayment: consumers should have the right to repay early, under certain conditions. However, creditors should be entitled to fair and objectively justified compensation for the costs directly linked to the early repayment, taking into account also any savings thereby made by the creditor.

Arrears and foreclosure: Members consider that creditors should exercise **reasonable forbearance** and make all other reasonable attempts to resolve the position before initiating foreclosure proceedings. Any charges to compensate damages for default to be paid by the consumer should be proportionate to the costs incurred by the creditor.

General requirements: the report requires Member States to ensure that there is an effective framework of underwriting standards for credit agreements, incorporating the principles set out in the Directive and measures to prevent household over-indebtedness, which can be effectively supervised and monitored.

Credit agreements: residential immovable property

2011/0062(COD) - 22/06/2012

The Council took stock of progress on the draft directive on credit agreements relating to residential property (mortgage credit directive).

Credit agreements: residential immovable property

2011/0062(COD) - 05/07/2011 - European Central Bank: opinion, guideline, report

OPINION OF THE EUROPEAN CENTRAL BANK on a proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property.

The ECB welcomes the proposed directive. From a financial stability perspective, the ECB supports the measures aimed at ensuring responsible borrowing and lending and restoring consumer confidence. It also supports the proposals related to the regulatory and, where applicable, supervisory framework that applies to non-credit institutions providing the credit agreements covered by the proposed directive and to credit intermediaries.

The ECB makes the following general observations.

Foreign currency lending: one of the issues identified by the European Commission in connection with irresponsible lending in Union mortgage markets concerns loans denominated in a foreign currency that consumers take out in that currency to take advantage of the interest rate offered, without having an adequate understanding of the currency risk involved.

In the above context, the ECB pointed out that the adoption of regulatory and supervisory policy measures can play an important role in mitigating the risks stemming from foreign currency lending. The ECB considers that the information provided should also include an explanation of the **potential risks for consumers** where the credit is denominated in a foreign currency.

Access to databases and public credit registers: under the proposed Directive, each Member State should ensure non-discriminatory access for all creditors to databases used in that Member State in order to assess the creditworthiness of consumers, and to monitor consumers' compliance with their credit obligations over the life of the credit agreement. Furthermore, under the proposed Directive, powers would be delegated to the Commission to define uniform registration criteria and data processing conditions to be applied to the databases, including the registration thresholds and agreed definitions for key terms used by such databases.

The ECB suggests, consistently with Directive 2008/48/EC, referring in the proposed directive to '**creditors from other Member States**'. Furthermore, the purpose of the proposed amendments is to clarify that: (a) a number of public credit registers are operated by central banks and other public authorities; and (b) the Commission would benefit from the expertise of the EBA, the ECB and relevant NCBs of the ESCB for the preparation of the draft delegated acts in this field.

Credit agreements: residential immovable property

2011/0062(COD) - 31/03/2011 - Legislative proposal

PURPOSE: to create an internal market in mortgage credit with a high level of consumer protection and to promote financial stability by ensuring that mortgage credit markets operate in a responsible manner.

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

BACKGROUND: the size of the EU mortgage market is significant: in 2008, outstanding residential mortgage lending in the EU27 amounted to almost **EUR 6 trillion**, or about 50% of EU GDP. The EU mortgage market is also of vital importance for the millions of European citizens currently repaying a mortgage and for would-be home owners. Rising household debt levels exist throughout Europe.

A range of factors drive the decision to grant a particular mortgage credit, the borrower's eventual choice of mortgage product and the borrower's ability to repay the loan. These include the economic climate, information asymmetries and conflicts of interest, regulatory gaps and inconsistencies, as well as other factors such as the borrower's financial literacy and mortgage financing structures. While these other factors clearly play a role, the fact remains that irresponsible behaviour by certain market actors contributed to a housing bubble and was one of the key features of the financial crisis.

The **financial crisis** has had a substantial impact on EU citizens. Many consumers have lost confidence in the financial sector and certain lending practices that used to prevail are now having a direct impact. Figures show that citizens are having increasing difficulties in meeting their debts. As borrowers have found their loans increasingly unaffordable, defaults and foreclosures have risen. **Addressing irresponsible lending and borrowing** is therefore an important element in financial reform efforts.

For several years, the Commission has engaged in a comprehensive review of EU residential mortgages markets to ensure the efficient functioning of the single market.

In 2007, the Commission adopted a [White Paper](#) on the integration of EU mortgage credit markets. In view of the problems brought to light in the financial crisis and in the context of efforts to ensure an efficient and competitive single market, the [Commission](#) undertook to come forward with measures on responsible lending and borrowing, including a reliable framework on credit intermediation.

IMPACT ASSESSMENT: the Commission carried out an impact assessment which identified 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. At the pre-contractual stage, the following problems were identified: non-comparable, unbalanced, incomplete and unclear advertising materials; insufficient, untimely, complex, non-comparable and unclear precontractual information; inappropriate advice; and inadequate suitability and creditworthiness assessments. Other problems highlighted include ineffective, inconsistent, or non-existent registration, authorisation and supervision regimes for credit intermediaries and non-credit institutions providing mortgage credit.

Different options: the impact assessment considers a range of policy options for each problem area including no intervention, principles-based rules, and more detailed or specific rules at EU level. It also assesses the most appropriate instrument for measures, considering self-regulation, a Directive, a Regulation, a Communication and a Recommendation.

The impact assessment concludes that a **package of preferred policy options is necessary** to ensure responsible lending and borrowing throughout the EU and that the preferred instrument is a Directive. The preferred policy options will also entail costs for creditors and credit intermediaries. However, these costs will be limited by several factors including the fact that a number of the preferred policy options are already implemented in several Member States, that many of the preferred policy options are already common practice amongst large parts of industry and that substantial synergies are expected between the different policy options. The estimated total benefits of the package of measures are in the range of EUR 1 272–1 931 million. The expected total one-off and ongoing costs are in the range of EUR 383-621 million and of EUR 268-330 million respectively.

LEGAL BASIS: Article 114 of the Treaty on the functioning of the EU (TFEU).

CONTENT: the aim of the proposed Directive is to create a responsible, efficient, healthy and competitive pan-European market that works to the benefit of consumers. It should also promote customer mobility, cross-border activity of creditors and intermediaries, and create a level playing field for all actors involved.

The proposed Directive:

- requires Member States to designate specific **competent authorities** to implement the Directive;
- stipulates important **conditions for both creditors and credit intermediaries** in order to ensure a high degree of professionalism in the provision of mortgage credit, such as an obligation to act in the best interests of the consumer and requirements with regard to having appropriate knowledge and competence;
- introduces general principles for **marketing and advertising communications** and set out the form and content of information to be included in advertising. The standard information concerns key features of the credit and, when the credit is secured by a mortgage, a warning as to the consequences for the consumer in the event of non-observance of his commitments linked to the credit agreement;
- creates an obligation for creditors and credit intermediaries to make **general information** available on the range of credit products at all times. It further introduces an obligation for creditors and, where applicable, credit intermediaries to provide personalised information to the consumer on the basis of a European Standardised Information Sheet;
- requires credit intermediaries to disclose information to consumers concerning their **identity, status, and relationship with the creditor**, prior to the performance of their services in order to increase transparency of possible conflicts of interest;
- introduces an obligation for creditors and credit intermediaries to give explanations on the proposed credit agreement(s) to the consumer at the **pre-contractual stage**, determined by the level of the consumer's knowledge and experience with credit;
- requires, for mortgage credit products, the use of the definition of the annual percentage rate of charge (**APRC**) used in Directive 2008/48/EC. Details of the APRC calculation method are given in Annex I and provisions for amending the methodology are laid down in order to be able to take market developments into account;
- provides for information to be delivered to the consumer in the event of **changes to the borrowing rate**;
- requires the creditor to **assess the consumer's ability to repay the credit**, taking into account the consumer's personal circumstances and based on sufficient information. It also introduces a duty for the creditor to refuse to grant the credit where the results of the creditworthiness assessment are negative;
- introduces the **requirement for 'responsible borrowing'**, namely that the borrower must provide all necessary and correct information to enable the creditworthiness assessment to be carried out;
- introduces provisions to ensure that creditors are able to access information from relevant **databases** on a non-discriminatory basis;
- establishes standards to ensure that, where **advice** is given, it is clear to the borrower that advice is being provided, without introducing any obligation to provide advice;
- requires Member States to ensure that consumers have a **right to repay their credit before the expiry of the credit agreement**, giving freedom to Member States to set conditions on the exercise of that right, provided that such conditions are not excessively onerous;
- establish the principles for a **regulatory and supervisory framework for credit intermediaries**. This framework provides for the authorisation and registration of credit intermediaries, subject to compliance with certain requirements on entry into the business and on an ongoing basis, and for the establishment of a passport regime. The requirements apply to all credit intermediaries, whether they are tied or not in order to ensure a high degree of professionalism in the industry;
- stipulates that non-credit institutions must be subject to **adequate authorisation, registration and supervision**;
- requires Member States to ensure that appropriate administrative measures or **sanctions** can be taken in the case of non-compliance with the Directive;
- requires Member States to establish **out-of-court redress bodies** for the resolution of disputes between creditors and consumers and between credit intermediaries and consumers.

BUDGETARY IMPLICATION: leaving aside the normal administrative costs linked to ensuring compliance with EU legislation, there will be no budgetary impact.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union, 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.

Credit agreements: residential immovable property

2011/0062(COD) - 10/09/2013 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted amendments to the proposal for a directive of the European Parliament and of the Council on credit agreements relating to residential property.

The matter had been sent back for consideration to the competent committee. The vote on the legislative resolution is put forward to a later session.

The main amendments adopted by Parliament are as follows:

Objective and scope: the Directive lays down a **common framework** for certain aspects of Member States' rules concerning agreements covering credit for consumers secured by a mortgage or otherwise relating to residential immovable property, including an obligation to carry out a creditworthiness assessment before granting a credit.

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 APRC.

However, taking into account the specificity of credit agreements relating to immovable property in Member States, the latter are allowed to introduce **more stringent provisions** than those laid down in the Directive in those areas not clearly specified as being subject to maximum harmonization in order to protect consumers.

Education of 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.

Information prior to the conclusion of the credit agreement: clear and comprehensible general information about credit agreements must be made available by creditors or, where applicable, by tied credit intermediaries or their appointed representatives at all times on paper or on another durable medium or in electronic form without charge.

The standard information to be included in advertising must include where applicable, the duration of the credit agreement; the total amount payable by the consumer; the number of instalments; a warning regarding the fact that possible fluctuations of the exchange rate could affect the amount payable by the consumer.

General information must include the following: (i) where foreign currency loans are available, an indication of the foreign currency or currencies; (ii) a representative example of the total amount of credit, the total cost of the credit to the consumer, the total amount payable by the consumer and the APRC; (iii) an indication of possible further costs, not included in the total cost of the credit to the consumer, to be paid in connection with a credit agreement; (iv) a general warning concerning possible consequences of non-compliance with the commitments linked to the credit agreement.

Reflection period: Member States shall specify a time period of **at least seven days** during which the consumer will have sufficient time to compare offers, assess their implications and make an informed decision. The time period shall be either a reflection period before the conclusion of the credit agreement or a period for exercising a right of withdrawal after the conclusion of the credit agreement or a combination of the two.

Tying practices: as a general rule, tying practices should not be allowed unless the financial service or product offered together with the credit agreement could not be offered separately as it is a fully integrated part of the credit, for example in the event of a secured overdraft.

Obligation to assess the creditworthiness of the consumer: before concluding a credit agreement, the creditor must make a **thorough assessment** of the consumer's creditworthiness. That assessment shall take appropriate account of factors relevant to verifying the **prospect of the consumer meeting his obligations** under the credit agreement.

The assessment of creditworthiness shall be carried out on the basis of information on the consumer's income and expenses and other financial and economic circumstances that is necessary, sufficient and proportionate.

The information shall be obtained by the creditor from relevant internal or external sources, including the consumer.

Foreign currency loans: where a credit agreement relates to a foreign currency loan, an **appropriate regulatory framework** must be in place at the time the credit agreement is concluded to at least ensure that: (i) the consumer has a right to convert the credit agreement into an alternative currency under specified conditions; or (ii) there are other arrangements in place to limit the exchange rate risk to which the consumer is exposed under the credit agreement.

Early repayment: the consumer must have a right to discharge fully or partially his obligations under a credit agreement prior to the expiry of that agreement. 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**.

Information concerning changes in the borrowing rate: the creditor must inform the consumer of any change in the borrowing rate, on paper or another durable medium, before the change takes effect. The information shall at least state the amount of the payments to be made after the new borrowing rate takes effect and, in cases where the number or frequency of the payments changes, particulars thereof.

Arrears and foreclosure: Members consider that creditors should exercise **reasonable forbearance** before foreclosure proceedings are initiated. Where the creditor is permitted to define and impose charges on the consumer arising from the default, those charges must be no greater than is necessary to compensate the creditor for costs it has incurred as a result of the default.

The parties to a credit agreement may expressly agree that **return or transfer to the creditor of the security or proceeds from the sale of the security** is sufficient to repay the credit.

Credit agreements: residential immovable property

The European Parliament adopted by 567 votes to 91 with 32 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing specific conditions to fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic and repealing Regulation (EC) No 2347/2002.

The European Parliament's position adopted at first reading, following the ordinary legislative procedure, amends the Commission proposal as follows:

Purpose of the Regulation: the Regulation must have the following aims:

- to **prevent significant adverse impacts on vulnerable marine ecosystems** and ensure the long-term conservation of deep sea fish stocks;
- to minimise and where possible prevent by-catches;
- to **apply the precautionary and ecosystem approaches** to fisheries management and to ensure that the Union measures aimed at the sustainable management of deep-sea fish stocks are consistent with Resolutions adopted by the General Assembly of the United Nations.

Transparency, public participation and access to justice: all data-handling and decision-making under the Regulation must be conducted in full compliance with the Convention of the United Nations Economic Commission for Europe on access to information, public participation in decision-making and access to justice in environmental matters ('the Aarhus Convention', approved on behalf of the Union).

Identification of deep-sea species and most vulnerable species: Parliament called on the Commission to **review (every two years) the list of deep-sea species**, including the designation of most vulnerable species, in order to incorporate new scientific information and make sure that measures taken are up to date and tailored towards ensuring the sustainability of these species.

Types of fishing authorisations: fishing activities targeting deep-sea species carried out by a fishing vessel, shall be subject to a fishing authorisation, **issued by the flag Member State**.

Fishing activities will indicate deep-sea species as the target species where the vessel master:

- deploys bottom gears at **depths of or below 600 meters;**
- records in the logbook a percentage of the deep-sea species which is **equal or superior to one of the following thresholds** : (i) 15% of the overall catch weight in the fishing day concerned, or (ii) 8% of the overall catch weight in the fishing trip concerned.

Obligation to record and report all catches of deep-sea species: Parliament introduced an obligation to report all catches of deep-sea species, in terms of species composition, weight and sizes, whether subject to a special fishing authorisation or not.

Identification and protection of vulnerable marine ecosystems: Members stated that Member States should use the best scientific and technical information available, including biogeographic information, to identify where vulnerable marine ecosystems are known to occur or are likely to occur. Based on the assessments and identifications carried out by Member States and the scientific advisory body, the Commission shall establish a list of these areas.

Fishing with bottom gears **shall be prohibited in the areas identified**. Closures **will be reopened to fishing activities** if the scientific advisory body provides evidence that vulnerable marine ecosystems are not in the area or the Commission determines that measures have been adopted to ensure that significant adverse impacts on vulnerable marine ecosystems will be prevented.

Impact assessment prior to the issuance or renewal of fishing authorisations for bottom gears targeting deep-sea species:

- Each application for a fishing authorisation that allows the use of bottom gears in Union waters or in international waters shall be accompanied by a **detailed fishing plan**, which shall be made publicly available, specifying the types of fishing gears and the depth at which they will be deployed, a list of the species to be targeted and the technical measures to be put in place.
- Prior to granting an application Member States **shall verify** through the Vessel Monitoring Systems (VMS) record of such vessels that the information submitted is accurate. If the information does not match that in the VMS record the application shall not be granted. Failure to comply with the fishing plan shall result in the withdrawal by the flag Member State of the fishing authorisation from the fishing vessel concerned.

Parliament included a phased introduction, 2 years after this Regulation enters into force, of an **obligation for Member States to assess that fishing activities do not have a significant adverse impact on the marine ecosystem** before a fishing authorisation is issued or renewed.

Fishing opportunities: Members stipulated that fishing opportunities should be fixed at a rate of exploitation of the deep-sea species concerned that ensures that populations of deep sea species are maintained or restored above levels which can produce maximum sustainable yield.

This exploitation rate shall contribute to **achieving and maintaining a good environmental status in the Union's marine environment by 2020** and shall be based on the best scientific information available.

Member States shall apply the **precautionary and ecosystem approaches** to their fisheries management and shall adopt measures to ensure the long-term conservation and sustainable management of deep-sea fish stocks and non-target species.

Obligation to land all catches: Parliament noted that a high number of species are caught in deep sea fisheries, but only nine out of fifty three included in the Commission proposal are subject to catch limits.

Members suggested that it was necessary to ensure that the obligation to land all catches in deep sea fisheries **covers species not subject to catch limits** and that *de minimis* provisions are not applied to these fisheries.

Programme for coverage: Member States shall establish a programme for observer coverage to ensure the collection of relevant, timely and accurate data on the catch and by-catch of deep-sea species, encounters with vulnerable marine ecosystems Vessels using bottom trawls or bottom-set gillnets with a fishing authorisation to target deep-sea species shall be subject to 100 % observer coverage. All other vessels with an authorisation to catch deep-sea species shall be subject to 10 % observer coverage.

Financial Assistance for changing of fishing gear: Parliament introduced an amendment according to which fishing vessels using bottom trawls or bottom-set gillnets in the deep-sea gillnets should be eligible to receive financial assistance from the European Maritime and Fisheries Fund (EMFF) for the changing of fishing gears and related vessel modifications, and for necessary know-how and training, provided that the new gear has (i) demonstrably better size and species selectivity, (ii) a lower and limited impact on the marine environment and (iii) vulnerable marine ecosystems and does not increase the fishing capacity of the vessel.

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.