

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2002/0222(COD) Procedure completed
Credit agreements for consumers Amended by 2011/0062(COD) See also 2012/2037(INI) Amended by 2013/0314(COD)	
Subject 1.20.09 Protection of privacy and data protection 2.50.04 Banks and credit 4.60.06 Consumers' economic and legal interests	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	IMCO Internal Market and Consumer Protection	PPE-DE LECHNER Kurt	30/01/2006
	Former committee responsible		
	JURI Legal Affairs and Internal Market	PPE-DE WUERMELING Joachim	10/07/2001
	JURI Legal Affairs and Internal Market	PPE-DE WUERMELING Joachim	10/07/2001
	Former committee for opinion		
	ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
	ECON Economic and Monetary Affairs	PSE BERÈS Pervenche	01/10/2002
	ENVI Environment, Public Health, Consumer Policy	PSE SORNOSA MARTÍNEZ María	02/10/2002
	Council of the European Union	Council configuration	Meeting
Transport, Telecommunications and Energy		2861	07/04/2008
Competitiveness (Internal Market, Industry, Research and Space)		2801	21/05/2007
Competitiveness (Internal Market, Industry, Research and Space)		2769	04/12/2006
Competitiveness (Internal Market, Industry, Research and Space)		2731	29/05/2006
Competitiveness (Internal Market, Industry, Research and Space)		2510	19/05/2003
Competitiveness (Internal Market, Industry, Research and Space)		2462	14/11/2002
European Commission		Commission DG	Commissioner
	Health and Food Safety	KUNEVA Meglena	

Key events			
10/09/2002	Legislative proposal published	COM(2002)0443	Summary
23/09/2002	Committee referral announced in Parliament, 1st reading		
14/11/2002	Debate in Council	2462	
19/05/2003	Debate in Council	2510	Summary
11/09/2003	Vote in committee, 1st reading		Summary
10/09/2003	Committee report tabled for plenary, 1st reading	A5-0310/2003	
17/11/2003	Report referred back to committee		
16/03/2004	Vote in committee, 1st reading		Summary
15/03/2004	Committee report tabled for plenary, 1st reading	A5-0224/2004	
19/04/2004	Debate in Parliament		
20/04/2004	Decision by Parliament, 1st reading	T5-0297/2004	Summary
27/10/2004	Modified legislative proposal published	COM(2004)0747	Summary
06/10/2005	Modified legislative proposal published	COM(2005)0483	Summary
29/05/2006	Debate in Council	2731	Summary
04/12/2006	Debate in Council	2769	
19/09/2007	Council position published	09948/2/2007	Summary
27/09/2007	Committee referral announced in Parliament, 2nd reading		
10/12/2007	Vote in committee, 2nd reading		Summary
12/12/2007	Committee recommendation tabled for plenary, 2nd reading	A6-0504/2007	
15/01/2008	Debate in Parliament		
16/01/2008	Results of vote in Parliament		
16/01/2008	Decision by Parliament, 2nd reading	T6-0011/2008	Summary
07/04/2008	Act approved by Council, 2nd reading		
23/04/2008	Final act signed		
23/04/2008	End of procedure in Parliament		
22/05/2008	Final act published in Official Journal		

Technical information	
Procedure reference	2002/0222(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)

Procedure subtype	Legislation
Legislative instrument	Directive
	Amended by 2011/0062(COD) See also 2012/2037(INI) Amended by 2013/0314(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/6/53636

Documentation gateway

Legislative proposal		COM(2002)0443 , OJ C 331 31.12.2002, p. 0200 E	11/09/2002	EC	Summary
Economic and Social Committee: opinion, report		CES0942/2003 OJ C 234 30.09.2003, p. 0001-0010	16/07/2003	ESC	
Committee report tabled for plenary, 1st reading/single reading		A5-0310/2003	11/09/2003	EP	
Committee draft report		PE338.483	19/01/2004	EP	
Committee opinion	ECON	PE323.134/DEF	10/02/2004	EP	
Committee report tabled for plenary, 1st reading/single reading		A5-0224/2004	16/03/2004	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0297/2004 OJ C 104 30.04.2004, p. 0035-0233 E	20/04/2004	EP	Summary
Modified legislative proposal		COM(2004)0747	28/10/2004	EC	Summary
Modified legislative proposal		COM(2005)0483	07/10/2005	EC	Summary
Council position		09948/2/2007	20/09/2007	CSL	Summary
Council statement on its position		02970/2007	21/09/2007	CSL	
Commission communication on Council's position		COM(2007)0546	21/09/2007	EC	Summary
Committee draft report		PE396.526	25/10/2007	EP	
Amendments tabled in committee		PE398.282	14/11/2007	EP	
Committee recommendation tabled for plenary, 2nd reading		A6-0504/2007	12/12/2007	EP	
Text adopted by Parliament, 2nd reading		T6-0011/2008	16/01/2008	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(2008)0117	25/02/2008	EC	Summary
Commission response to text adopted in plenary		SP(2008)1176	27/02/2008	EC	
Draft final act		03603/2008/LEX	23/04/2008	CSL	
Follow-up document		SWD(2012)0128	08/05/2012	EC	Summary
Follow-up document		COM(2014)0259	14/05/2014	EC	Summary

Follow-up document		COM(2020)0963	05/11/2020	EC	
Follow-up document		SWD(2020)0254	05/11/2020	EC	
Follow-up document		SWD(2020)0255	05/11/2020	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Directive 2008/48](#)

[OJ L 133 22.05.2008, p. 0066](#) Summary

[Corrigendum to final act 32008L0048R\(01\)](#)

[OJ L 207 11.08.2009, p. 0014](#)

[Corrigendum to final act 32008L0048R\(02\)](#)

[OJ L 199 31.07.2010, p. 0040](#) Summary

[Corrigendum to final act 32008L0048R\(03\)](#)

[OJ L 234 10.09.2011, p. 0046](#)

Credit agreements for consumers

PURPOSE : to harmonise the laws, regulations and administrative procedures of the Member States concerning agreements covering credit granted to consumers and surety agreements entered into by consumers. **CONTENT** : the European Commission adopted today a proposal for a new directive on consumer credit. The existing EU-wide rules from 1987 have not kept pace with the important evolution in this sector and, at the same time, only set minimum standards. They have largely been overtaken by national regulation. The absence of common rules reduced cross-border transactions and led to differences in consumer protection in Member States. Harmonised consumer credit rules throughout the Union will not only increase the protection of consumers across borders but also their confidence and thus strengthen the functioning and the stability of the consumer credit market in the EU. To achieve these objectives the directive would need to be revised in a way that takes account of the following six guidelines: 1) a redefinition of the scope of the directive in order to ensure that it reflects the new situation on the market and is better able to draw the line between consumer credit and housing credit; 2) the inclusion of new arrangements that take account not only of creditors but also of credit intermediaries; 3) the introduction of a structured information framework for the credit provider in order to allow him to assess more fully the risks involved; 4) a specification requiring more comprehensive information for the consumer and any guarantors; 5) a fairer sharing of responsibilities between the consumer and the professional; 6) the improvement of the arrangements and practices that determine how professionals deal with payment defaults, both for the consumer and for the credit provider. The main elements of the proposal for a new consumer credit directive are as follows: - Enlargement of the scope to cover present-day realities: the new directive covers all consumer credit no matter the form (loan, hire-purchase, overdraft facilities, rolling credit, financial lease, etc.), amount (no floor, no ceiling) and any surety (a guarantor or a mortgage) or insurance. Regarding mortgage credit: The directive will cover mortgage-backed consumer credit ("equity release") but classical home loans remain outside the scope; - Improved transparency and comparability of credit offers: the classical concept "total cost of credit to the consumer", which is expressed in the "Annual Percentage Rate" (APR), is harmonised to improve comparability; - Consumer disclosure and lender respect: the borrower is obliged to disclose all relevant information when asked by the lender. In return, the lender must "know thy client" by advising on the most appropriate product in his product range and by conscientiously assessing the borrower's ability to repay before granting new credit ("responsible lending"); - Improved freedom of circulation of quality solvency data across borders: the lender's right of access to solvency data is strengthened. The quality of this data is strengthened by groundrules on the operation of existing databases on "payment incidents" (failure of consumers to reimburse); - Rights of withdrawal: within 14 days and free of charge and without justification and early repayment against, in most cases, payment of an indemnity; - Registration of lenders and credit intermediaries (except, for the latter, if another lender or intermediary covers) and ground rules for the operation of intermediaries; - Liability of lenders if suppliers of goods and services act as their credit intermediaries, e.g. in case of loans linked to a purchase (like a car loan) or of cards issued by retailers. Credit disconnected from sales such as credit by cards remain outside the scope; - Protection of personal guarantors: (right to same information as the borrower) and of consumers not fulfilling their contractual obligations (ground rules for repossession of goods and debt recovery). The latter rules not only protect consumers against abuse, they also improve lenders' scope for calculating the risk/cost of non-performance.?

Credit agreements for consumers

The Council proceeded to a policy debate on the draft Directive on the harmonisation of the laws, regulations and administrative provisions of the Member States concerning credit for consumers and took note of concluding comments by Commissioner Byrne on Member States' positions on this file. The Council expressed a generally favourable view on the proposal, as the existing Community legislation on consumer credit no longer reflects the current situation on the consumer credit market. It recognised that, following the development of new credit instruments and activities, a reform is important in terms of an effective consumer protection and functioning of the internal market. In order to establish guidance for future work on this file, the Member States clarified their positions on key issues such as: - the objective of a total

harmonisation, as proposed by the Commission, in relation to provisions allowing a certain degree of flexibility for Member States; - the forms of credit falling within the scope of the Directive, notably as refers to mortgage credit; - conditions of coverage of creditors and credit intermediaries, such as registration requirements and possible controls. It is recalled that Directive 87/102/EEC concerning consumer credit, amended in 1990 and 1998, established the Community framework for consumer credit with a view to promoting the setting-up of a common market for credit and establishing minimum Community rules to protect consumers. In 1995 and 1996, the Commission presented reports on the operation of the 1987 and 1990 Directives. According notably to these reports, there are great differences between the laws of the various Member States in relation to credit for natural persons in general and consumer credit in particular. The result has been a distortion of competition between creditors in the internal market and restricted scope for consumers to obtain credit in other Member States. ?

Credit agreements for consumers

The committee adopted the report by Joachim WUERMELING (EPP-ED, D) rejecting the Commission proposal at 1st reading of the codecision procedure. It said that the proposal had been drafted with too little attention being given to providing access to all groups of consumers, including those in disadvantaged social groups, and to its effects on interest levels. Moreover, it had not been properly coordinated with other existing and planned legislation such as the Data Protection Directive, the law on fair trading and Basle II. MEPs therefore concluded that the proposal needed to be thoroughly reworked so that it would not have adverse effects on the consumer credit business in Europe. Although the Commission had acknowledged that the proposal needed substantial modifications, it was refusing to submit an updated proposal. The committee argued that it was unreasonable to expect Parliament to make amendments to a text which had already become obsolete and which would need to be completely redrafted. It therefore decided to employ the rarely-used procedure under which Parliament may call on the Commission to withdraw its proposal and submit a new proposal as soon as possible. ?

Credit agreements for consumers

The committee adopted the report by Joachim WUERMELING (PES, D) amending the proposal under the 1st reading of the codecision procedure. MEPs argued that a major aim of this directive should be to establish minimum EU-wide standards for consumer credit agreements and not just harmonisation, since the latter would lower the standard of consumer protection in many EU countries. They therefore said Member States should retain the right to grant their consumers even higher standards of protection. However, MEPs acknowledged that in some areas full harmonisation may be needed to ensure that consumers can compare offers and hence to boost an internal market in consumer credit. An example would be the rules on the annual percentage rate of charge laid down in the directive. The committee wished to exclude various types of loan from the directive, such as credit agreements of less than EUR 1,000 or more than EUR 50,000, further credit agreements secured either by a mortgage on immovable property, hiring and leasing agreements, private credit agreements, credit which an employer gives his employees as a subsidiary service and credit in the form of an advance on a current account or a debit account if the total amount must be paid back within three months or on demand. Another key point for MEPs was the need for standardised information about credit offers and credit agreements, to enable consumers to make comparisons more easily Europe-wide and choose the best product. The committee said this information should always include the annual percentage rate of charge, the agreed duration of the credit, the number and amount of monthly payments and the total cost of the credit. MEPs were also keen to ensure that both creditor and consumer should provide information prior to the signing of an agreement, so that the creditor can assess the consumer's creditworthiness on the basis of the information provided. Regarding cross-border credit, the committee said each Member State should grant access to databases to creditors from other Member States under the same conditions as for firms and individuals in its own country. The committee wanted to allow consumers less time to withdraw from a credit agreement without giving any reason, by shortening the period from fourteen to seven calendar days. As regards joint and several liability, MEPs demanded that, if the consumer had withdrawn his acceptance of an agreement for the supply of goods or services, he should no longer be bound by his acceptance of any consumer credit agreement linked thereto. The consumer should also be able to refuse to repay the credit if the goods were not delivered or the services not provided. In the case of consumer credit linked with another contract, the Member States remain free to maintain more far-reaching provisions, such as for example the principle of joint and several liability existing in the United Kingdom, to protect consumers. ?

Credit agreements for consumers

The European Parliament adopted a resolution drafted by Joachim WUERMELING (EPP-ED, D), making several amendments to the Commission's proposals. The main amendments are as follows: - Member States may adopt higher standards of protection. Full harmonisation may be appropriate in some areas in order to ensure comparability between credit offers and thus further develop the internal market in credit for consumers; - Parliament excluded various types of loan from the directive, such as credit agreements of less than EUR 1,000 or more than EUR 50,000, further credit agreements secured either by a mortgage on immovable property, hiring and leasing agreements, private credit agreements, credit which an employer gives his employees as a subsidiary service and credit in the form of an advance on a current account or a debit account if the total amount must be paid back within three months or on demand. Parliament also excluded credit agreements whose conclusion is accompanied by the consumer depositing a security in the creditor's safe-keeping, where the surety deposited with the creditor is sufficient in itself to pay off the loan; - the standard information to be given by the creditor to the consumer must include, in the following order, and in a clear, concise and eye-catching form (info box), the annual percentage rate of charge, the agreed duration of the credit, the number and amount of monthly payments and the total cost of credit. Additional information, in particular in respect of taxes, repayment, any down payments required, and the size of instalments, may be provided separately. Where a lower borrowing rate is offered for a limited duration at the beginning of the credit agreement, the advertisement must contain the annual percentage rate calculated on the actual borrowing rate after that limited duration; - Parliament inserted a special clause relating to information requirements for overdrafts. The consumer must be informed at the time or before the agreement is signed about the credit limit, annual percentage rate of charge, of any change of this rate and the procedures and conditions for terminating the agreement. - in the case of cross-border credit, each Member State must ensure access for creditors from other Member States to databases in that Member State under the same conditions as for firms and individuals in that Member State. The consumer and the guarantor have to be informed of the results of any such consultation immediately and without charge; - Parliament deleted provisions in the original proposal relating to unfair terms; - Parliament also deleted provisions regulating charging for debt recovery; - given that credit unions in Ireland and the United Kingdom are restricted by a Common Bond., i.e. they are geographically restricted from operating outside their own local area, and given the fact that they play an invaluable role in

providing credit to people that mainstream commercial lending institutions will not deal with and further, given that they are not-for-profit voluntary organisations they should not be subject to the strict regulations of the Directive; - the legislation establishes a Community-wide ground of defence for consumers based on objections in connection with linked credit agreements ('Einwendungsdurchgriff'). This does not, however, prevent the Member States from maintaining, in order to protect consumers, more far-reaching and stringent liability provisions, for example the principle applying in Great Britain of 'joint and several liability'. The Member States may also leave the conditions for the ground to be determined by a judicial decision; - the exercise of the right of withdrawal in the case of a linked agreement presupposes that the linked credit agreement is itself subject to the right of withdrawal; - Parliament amended several of the definitions in the text. Notably, it redefined the annual percentage rate of charge as meaning the annual interest rate which, on an annual basis, produces equality between the present values of the total present or future obligations (credit drawn down, amortisation payments and expenses) of the creditor and the consumer arising from the credit agreement and linked transactions. Member States may not depart from the rules on the annual percentage rate of charge laid down in the legislation; - Parliament rejected an approach to unsolicited doorstep selling of credit which is stricter than that laid down in Council Directive 85/577/EEC to protect the consumer in respect of contracts negotiated away from business premises. Therefore, the text now permits door-to-door promotion of credit; - Parliament did not approve committee amendments restricting consumer's rights to withdraw from a credit agreement. Also, consumers may pay back loans before the period fixed in the agreement.?

Credit agreements for consumers

Following the first reading of the proposed Directive on Consumer Credit, the European Commission has taken many of the European Parliament's views into account and amended its initial proposal accordingly.

In summary, the Commission accepts the Parliamentary proposal to limit the scope of the Directive and to delete those provisions already covered elsewhere by Community legislation ? or those provisions already adequately covered by the Member States. The Commission has additionally taken on board the concept of "linked credit" as well as a revised version of the calculation method for the APR.

Further, more attention is given to pre-contractual and contractual information requirements. Forty-five amendments have been accepted in their entirety given that they add clarity to the text and improve upon certain definitions. Forty-four amendments have been rejected. The rest have been accepted in part or in principle subject to reformulation. They are as follows:

- On the question of "Scope", the Commission accepts that the following agreements will be excluded from the scope of the Directive - surety agreements guaranteeing business loans, agreements certified by a court, credit agreements where the consumer is required to repay within 3 months free of charge, credit concluded with pawn shops and loans above EUR 100 000. In addition the Commission suggests the introduction of two "light regimes". The first refers to overdrafts, whilst the second concerns specific credit agreements on smaller loans (below EUR 300), loans granted to a restricted public at a lower interest rate than usually proposed on the market or free interest, when the creditor is fulfilling a statutory duty with a general interest purpose, loans granted by non-profit associations such as credit unions, and credit agreements aiming at refinancing the existing debts of a consumer in order to avoid legal proceedings. Any loans relating to the so-called "light regimes" must make mention of the total amount of credit, the borrowing rate, the annual percentage rate of charge by means of a representative example mentioning all the financial data and assumptions used for calculating the rate, the charges applicable and the conditions for amending those charges, the conditions and procedures for terminating the agreement. As far as the "second light regime" is concerned mention must also be made of the duration of the credit agreement and the amount, number and frequency of payments to be made.

- On the question of "Linked credit agreements", the Directive has been amended in such a way that it will now allow a consumer to withdraw from the credit agreement if he is allowed to withdraw from the purchase agreement. The Directive will not, however, include consequences for purchase contracts in case of withdrawal from the credit agreement. At the same time EU established principles on the right to pursue remedies against the creditor would remain included in the main text.

- Regarding "standard information", the Commission has deleted an Article on advertising, which is replaced by a new Article on "standard information". This article states that any advertising concerning credit agreement must include standard information on the cost of credit. It then goes on to list what information must and must not be included in advertising campaigns.

- On the matter of "pre-contractual information", creditors must draw up a contract which contains all the basic information a consumer needs to be able to shop around and compare offers, including the total cost of credit and the APR. In addition the Commission has decided to include the concept of "responsible lending" under provisions relating to "pre-contractual information".

- On the question of "contractual information", the Commission suggest that all of the data provided in the credit agreement must be comprehensive and contain all the information provided at a pre-contractual stage ? with a fully calculated APRC ? as well as a detailed amortisation table in the case of fixed rate loans. Further, charges in case of defaulting need to be indicated so that the consumer can appreciate the implications of default. The modified proposal explicitly lists all the contractual information requirements.

- Regarding "Provisions covered by existing Community legislation", the Commission accepts the Parliamentary suggestion that the proposed Directive should not cover areas already dealt with by existing Community legislation ? such as doorstep selling, data protection and unfair contract terms. The Commission does, however, propose changing certain aspects of those Community Directives on, for example, doorstep selling, taking into account the new provisions of the Consumer Credit Directive.

- On the matter of "APR", the Commission notes that at the pre-contractual stage, information regarding APR must be clear and transparent. In addition calculations must be clear enough for the consumer to be able to make a genuinely informed choice regarding other comparable offers. The APR itself will be calculated on the basis of the "total cost of credit", which will include all costs concerning ancillary agreements concluded by the consumer with or via the creditor, when these agreements are compulsory to obtain the credit or the advertised rate. The Directive then goes on to define the total cost of credit.

- On the question of "early repayment", the new Directive awards consumer the right to repay early and at any time during the course of the contract. At the same time, the creditor is entitled to claim "fair and objective" indemnities except in cases for credit agreements where the period used to fix the borrowing rate is less than one year and if repayment has been made under an insurance contract intended to provide conventional credit repayment guarantees. The revised recital will clarify what "fair and objective" actually means.

- On the question of "withdrawal", consumers are granted 14 days in which they can withdraw from an agreement. The Commission proposes maintaining the 14 day deadline given that it is consistent with other related Community legislation such as distance marketing of financial services.

- Concerning the matter of "overrunning the total amount of credit" the Commission has included specific provisions to cover such an eventuality. As such a creditor must inform a consumer that he has overrun the credit amount. The creditor must then include information on the amount involved, the borrowing rate and/or the penalties, charges or interest on arrears applicable. Any significant overrunning of the total amount of credit exceeding three months must be rectified, possibly through a new credit agreement providing for a higher total amount of credit.
- On the matter of "credit intermediaries", the Commission maintains the initial definition of credit intermediaries. However, the regulation and supervision of these intermediaries will be left to the Member States.
- Lastly, in light of the proposed amendments and the modification of the initial proposal, the Commission notes that a number of Chapters and articles will have to be re-organised and re-numbered for the sake of both clarity and consistency.

Credit agreements for consumers

The Commission adopted a modified proposal for a Directive on Consumer Credit following the opinion voted by the European Parliament (please see the summaries of 20/04/2004 and 28/10/2004.)

After the modified proposal was published, the Commission continued consultation with Member States and stakeholders. As a result, the Commission concluded that a consolidated text would be useful. In addition the consultations showed the need for further substantial modifications in order to avoid unintentionally burdening consumer credit business whilst at the same time ensuring a high level of protection for consumers. In particular:

- All mortgage credit is excluded from the scope of the proposal.
- The duty to offer advice to the consumer in the pre-contractual stage has been clarified and adapted to the circumstances of the credit offer.
- The flexibility associated with certain provisions is coupled with a mutual recognition clause aimed at ensuring that any differences in the resulting transposition will not constitute an obstacle to the internal market.

Main changes compared to the modified proposal of 28 October 2004:

Aim: only certain aspects are dealt with by the directive.

Definitions: the question of overdrafts is clarified and the definition of the total cost of credit is redrafted in line with the comments of Parliament and industry. The objective is to include only those costs corresponding to services concluded with or via the creditor. This definition serves as basis for the calculation of the Annual Percentage Rate of Charge (APR). The total lending rate is deleted as

requested by stakeholders and Parliament, as it might have been confusing for consumers.

Scope:

-Mortgage credit agreements: the first modified proposal covered equity releases, while excluding credit agreements concluded for housing purposes. However, determining the purpose of a loan is very difficult for the creditor, if not impossible, as he has no control on the use of the money he lends. In addition, mortgage credit agreements in general are very specific instruments with particular features which require to be addressed separately, irrespective of the purpose of the loan. Therefore, the Commission has excluded equity release from the scope. This corresponds to an amendment by Parliament strongly supported by industry.

-Surety agreements, guarantors: Surety agreements are now excluded from the scope, as the main issue in relation to sureties was linked to the question of mortgage credit. Guarantors are excluded from the scope as well. The Directive deals with credit agreements only. Both exclusions correspond to Parliament's amendments, and meet concerns put forward by the banking sector.

-Overdrafts: The European Parliament as well as the European banking industry have argued that overdrafts are valued for simplicity and low cost, and therefore, need not to be subject to the full range of requirements for credit agreements. They are submitted to a light regime only. However, a sufficient level of information is necessary. Overdrafts are therefore subject to a limited number of contractual information requirements.

-Agreements above EUR 50 000: these are excluded as they are generally not concluded for consumption purposes but rather for housing purposes, and therefore do not require the same type of legislation as the average consumer credit.

Pre-contractual information: As advertising is already dealt with by the Directive on Unfair Commercial Practices (2005/29/EC), the Commission proposes only a list of mandatory information elements to be mentioned in advertising containing financial information on credit. Pre-contractual information allows consumers to compare offers. However, various stakeholders in the consultation process were concerned that an excess of information may be confusing. Some pre-contractual information requirements have therefore been deleted in the present modified proposal. Further, following requests from the banking sector, the present modified proposal aims at ensuring consistency with information requirements in existing EC law. The lender is requested to assess the consumer's creditworthiness on the basis of information disclosed by the latter and, where appropriate, consultation of databases. The concept of a duty to advise was modified. Contrary to some requests from the banking industry, the Commission maintains the concept that a creditor should not merely fulfil the pre-contractual information requirements, but should provide additional explanations in order to enable the consumer to take a well-informed decision. However it was clarified that the consumer is always responsible for his final decision to conclude a credit agreement. Therefore, the reference to advice is specified as a duty to put the consumer in a position to assess the advantages and drawbacks of the loan. In addition, Member States have been given more flexibility to adapt their implementation law to the situation on their markets.

Contractual information: The provisions on contractual information require mainly information already provided at the pre-contractual stage plus information on how to exercise the right of withdrawal and the right of early repayment. In case of a variable rate, the consumer should be informed of significant changes to the borrowing rate. However, it is in practice impossible to inform him of every change, as in certain cases the rate can change slightly every day. Therefore, the proposal foresees that consumers should be informed periodically and at least immediately in case of a significant change.

Database access: The obligation to set up national databases has been deleted, since this would go beyond the purpose of this Directive.

Issues relating to data protection are already dealt with in the Data Protection Directive 95/46/EC. Therefore, the Commission proposes to guarantee only a mutual access to existing private and public databases on a non-discriminatory basis, which does not involve additional costs for the industry as the previous provision but, on the contrary, will help lowering a barrier to cross-border consumer credit.

Right of withdrawal: The present proposal foresees a possibility for consumers to withdraw from the credit agreement within 14 days. This delay allows consumers to shop around after conclusion of the agreement and possibly to find a better offer.

Linked transactions: When the consumer has a right to withdraw from the purchase agreement, he also has a right to withdraw from the linked credit agreement. This provision aims at avoiding that consumers have to keep a credit even when its very purpose has disappeared. However, the right to withdraw from the credit does not give a right to withdraw from the purchase agreement.

Early repayment: The consumer is granted a right to repay his credit earlier than initially agreed. However, early repayment has a cost for creditors. Therefore, following consultations with stakeholders and Member States, the proposal foresees that creditors may charge fair and objective fees to compensate the loss. Since the calculation of the compensation should be made on an objective basis, it is expected that this provision would only entail marginal costs for creditors.

Unfair terms: The proposal contains two examples of unfair terms specific to credit agreements and modifies the annex of Directive 93/13/EEC. The impact on industry, if any, will be very low, as the examples provided are in clear contradiction with usual good professional practice.

Harmonisation: The Commission suggests maintaining the full harmonisation approach, with a degree of flexibility for Member States in certain areas. The proposal now clarifies that only those elements explicitly dealt with in the text are fully harmonised whereas issues such as joint and several liability are left to the national legal systems. In some cases, the proposal gives leeway to national implementation, mainly due to existing heterogeneity as regards national markets or national legislation. This is the case, for instance, in the context of early repayment or overrunning. However, it is also necessary to ensure that the degree of flexibility provided for national implementation within the limits of the Directive does not contribute to raise additional barriers to the single market in consumer credit. Therefore, the Commission complements its full harmonisation approach with mutual recognition for a limited number of issues. This helps to reduce burden on businesses who want to offer consumer credit across borders. As a result of the proposed provision on mutual recognition, a creditor would only have to comply, for an activity in another Member State than the one he is established in, with legal requirements of its Member State of origin and not with those of the host Member State. In the area of contract law, this could lead to another result than foreseen by Article 5 of the Rome Convention. In an Article 5 situation, which would lead to the application of the law of the country where the consumer has his habitual residence, this latter law may establish standards that, in relation to the equivalent standards applicable in an incoming creditor's home country, restrict that creditor's activity, for instance by being higher (or different) than his home country standards. In that case, if areas mentioned in the mutual recognition clause are concerned, the host Member State has to ensure that the said standards would not apply to the contract. Either the law chosen by the parties, or, in the absence of such a choice, the requirements of the creditor's home country law would continue to apply. The areas concerned by the mutual recognition clause are explicitly listed in the proposal. As regards early repayment and overrunning, a phasing-in period has been introduced in order to allow Member States to adapt.

Examples: The illustrative examples for calculation of the APR as foreseen in former Annex II of the proposal have been deleted in view of the Commission's overall target of better regulation and in order not to over-burden the legislative procedure.

Credit agreements for consumers

The Council held a policy debate on a draft Directive regarding credit agreements for consumers, which amends Council Directive 93/13/EC.

The purpose of the Directive is twofold. On the one hand to guarantee consumers a high level of protection within the EU's internal market and on the other to simplify and clarify EU provisions by recasting three existing Directives on consumer credit into one.

In April 2004, the European Parliament concluded its first reading of the proposal. The Commission submitted its amended proposal in October 2005. The approach of the amended proposal is to apply harmonised provisions whilst offering the Member States flexibility on the implementation thereof, in recognition of divergent national markets and legislation.

The main provisions of the amended proposal formed the basis of discussion under the Austrian Presidency, who had prepared, prior to the meeting, a background paper in which all of the most important issues were highlighted. Debate focused on questions of harmonisation, early repayment and cross-border comparability of consumer credit agreements.

Concerning the matter of harmonisation, a large majority of the Member States supported the approach of 'full harmonisation', as proposed by the Commission. Such an approach should, it was agreed, improve the functioning of the single market for consumer credit on condition that any such harmonisation should not impair consumer protection. On the question of 'mutual recognition', the Member States expressed some reservation given that such an approach could be disadvantageous to the consumer. The other, outstanding points, have been referred back to the working groups and Coreper.

The Commission re-stressed the need for a Directive based on harmonised provisions if the new Directive is to meet its twin objectives of a fully functioning single market coupled with consumer protection guarantees.

Credit agreements for consumers

The Council considers that its common position, takes good account of the European Parliament's first-reading opinion. Taking into account also the other innovations agreed by the Council, the common position represents a balance of concerns and interests, ensuring a high level of consumer protection and a good functioning of the internal market, in line with the European Parliament's first-reading opinion and the Commission's modified proposal.

In its plenary vote on 20 April 2004, the European Parliament adopted 152 amendments to the Commission's initial proposal. The Commission incorporated 110 amendments into its modified proposal. The Council introduced in the common position 104 amendments accepted by the Commission and 5 amendments not accepted by the Commission. The Council did not include in the common position 6 amendments

accepted by the Commission and 37 amendments not accepted by the Commission.

The Council also shared the view that the directive should ensure a high level of harmonisation in substantial areas covered by its scope and should represent a "European added value" for the internal market, consumer choice and consumer protection. The Council identified five main areas in which such a "European added value" should be achieved: i) pre-contractual information; ii) contractual information; iii) right of withdrawal; iv) early repayment; v) calculation of the Annual Percentage Rate (APR).

In its common position, the Council introduced several amendments to the following issues:

Scope of the Directive: (24 EP amendments accepted in full or in part, 4 rejected): the Council streamlined the scope of the draft Directive (already limited following the exclusion of mortgage credit agreements, surety agreements and guarantors and the introduction of a light regime for overdrafts). In that respect, the Council agreed the following changes:

- a comprehensive exclusion of credits related to immovable properties and of surety agreements, owing to their relationship with the question of mortgage credit;
- the exclusion of small credits (below EUR 200) and wider coverage for larger credits by increasing the upper limit from EUR 50 000 to EUR 100 000;
- the exclusion of short-term overdrafts to be repaid within one month;
- the exclusion of credits that are free of any interest and charges and the exclusion of short-term credits with very small charges.

The Council also agreed on specific "light" regimes for particular types of credits, namely overdraft facilities, overrunning, credits offered by certain organisations with restricted membership and established for the mutual benefit of its members and credits for deferred payments.

Pre-contractual information (6 EP amendments taken on board, in full or in part; 2 rejected): the Council considered that consumers should receive sufficient information to allow them to make informed and responsible decisions before signing the contract. To that effect, the Council made the following changes:

- deletion of the principle of responsible lending in Article 5, as this was considered to create some legal uncertainty. Instead, an obligation for creditors to assess the creditworthiness of the consumer was introduced in the new Article 8;
- extension of the list of pre-contractual information to be provided to the consumer;
- creation of a "Standard European Consumer Credit Information" form (new Annex II) and of a "European Consumer Credit Information for Overdrafts" form (new Annex III) for the provision of pre-contractual information. These standard forms, which include information as provided for in Articles 5 and 6, will make it easier for consumers to compare different offers, including on a cross-border basis;
- clarification on what pre-contractual information shall be provided in case of voice telephony communications (Distance selling of financial services) and if the consumer requests that the overdraft facility be made available with immediate effect;
- flexibility left to Member States as regards the indication of the APR for overdrafts;
- introduction of an obligation to supply to the consumer with a copy of a credit agreement if he so requests (combined with the information about this right given in the above-mentioned European standard form).

Contractual information (10 EP amendments taken on board, in full or in part; 3 rejected): in relation to the changes made to the list of pre-contractual information, the Council also extended the list of information to be provided to the consumer at the time of the conclusion of the credit agreement. The following additional information must be provided to the consumer:

- the type of credit;
- a description of the product and service and its cash price in cases of deferred payment;
- an amortisation table, also where a variable interest rate applies;
- more comprehensive information on charges related to the credit agreement and the conditions for changing them;
- a warning on the consequences of missing payments;
- more comprehensive information on the right of withdrawal;
- information on the existence of alternative redress mechanisms;
- a reference to other contractual terms and conditions;
- the name and address of the competent supervisory authority.

Right of withdrawal (3 EP amendments taken on board, in full or in part; 1 rejected): the Council agreed to provide for a uniform right of withdrawal of 14 calendar days. The Council clarified the obligations of consumers when exercising their right of withdrawal and the interlink with the right of withdrawal provisions in Directives 85/577/EEC (Doorstep selling) and 2002/65/EC (Distance selling of financial services). These clarifications are the following:

- addition of the obligation for the consumer to repay to the creditor, within 30 days of the date of withdrawal notification, the amount of credit already drawn down, including interest;
- addition of a provision on the cancellation of the ancillary service related to the credit agreement in the event of withdrawal from the credit agreement;
- in cases of distance or doorstep selling of consumer credits, the right of withdrawal will be regulated in accordance with the provisions of the consumer credit Directive and not in accordance with Directives 85/577/EEC and 2002/65/EC;
- Member States may provide that the right of withdrawal does not apply if the credit agreement has been concluded through the services of a notary.

Early repayment (1 EP amendment accepted; 1 rejected): while recognising the right of a consumer to repay a credit earlier, the Council agreed to grant creditors a limited right to compensation for possible costs directly linked to early repayment. The compensation will apply only if it is related to credit agreements with a fixed borrowing rate and the applicable reference interest rate decreases between the moment of the conclusion of the credit agreement and the early repayment. The compensation is further limited to 1% of the amount of the credit repaid early (or 0.5% if repayment takes place within the final year of the credit agreement) and must not exceed the amount of the interest that the consumer would have paid if there had been no early repayment. In addition, flexibility was left to Member States to set in their national legislation the threshold under which no indemnity has to be paid. This threshold may be set between EUR 0 and EUR 10 000 of early repayment within 12 months.

Calculation of the APR (10 EP amendments accepted, in full or in part; 7 rejected): the Council provided for a uniform means of calculating the APR and included a standard set of assumptions to be used by credit providers for APR calculations in different circumstances. In order to

cope with the product innovations and the need to calculate the APR for possible new types of credits in the future, the Council introduced a comitology provision under the regulatory procedure with scrutiny to determine additional assumptions if necessary. Consequently, the Council set up an appropriate committee.

Mutual recognition clause (1 EP amendments accepted, 3 rejected): the Council considered that the implementation of a mutual recognition clause as proposed by the Commission, i.e. a clause that would complement the minimum harmonisation on certain specific issues, would not fulfil the objectives of the proposed Directive. It would be too difficult for consumers to understand and might lead to legal uncertainty owing to the application of the law of different Member States. Therefore, the Council deleted this clause. As a supplementary measure, the Council added a new Article in order to ensure transparency concerning regulatory choices allowed for Member States in respect of those issues where full harmonisation was not achieved and flexibility was left to Member States.

Review by the Commission: the Council agreed that the periodic five-year review conducted by the Commission should also include:

- a review of the percentages used to limit maximum compensation in the event of early repayment;
- monitoring of the effects on the internal market and consumers and publication of regulatory choices as reported by Member States.

Lastly, the Council endorsed the Commission's modified proposal of October 2005 in limiting the scope of other provisions, notably simplifying the wording on Database access (Article 9) and Assignment of rights (Article 17) and deleting a number of Articles (namely on Joint and several liability, which in turn prompted the need for a new Article 15 on Linked credit agreements).

Credit agreements for consumers

The Commission is of the opinion that the common position is satisfactory as regards four of the five key issues of the Directive.

Pre-contractual information, contractual information, APR and the right of withdrawal are fully harmonised and guarantee a high level of consumer information and protection, while putting in place the conditions for a genuine internal market in consumer credit. The standardised pre-contractual information form introduced by the Council will provide consumers with a good basis for comparison of offers.

The Commission was in favour of further harmonisation on the issue of early repayment. It did not support the possibility for Member States to maintain or introduce national legislation regarding the validity of the conclusion of credit agreements. However, it considers that the overall compromise found by the Council can be supported, taking into account the progress done on the other key areas and the difficulties to achieve an agreement in Council at all.

Credit agreements for consumers

The Committee on the Internal Market and Consumer Protection adopted the report by Kurt LECHNER (EPP-ED, DE) amending, under the 2nd reading of the codecision procedure, the Council's common position adopting a directive of the European Parliament and of the Council on credit agreements for consumers and repealing Council Directive 87/102/EEC.

The political groups reached agreement before the vote on 10 compromise amendments covering a certain number of issues. The committee tabled a number of amendments concerning the scope of the directive, advertising, pre-contractual and contractual information (in particular for overdraft facilities) and, in particular early repayment terms.

Scope: the new legislation will cover consumer loans between EUR 200 and EUR 50 000, the committee decided, as opposed to the Council's preferred upper limit of EUR 100 000. It will only cover credit contracts, not guarantors and other aspects of credit agreement law. The directive will apply only to loan contracts on which interest is paid, and not products such as deferred payment cards (charge cards), which do not impose interest, other than for non-compliance with their terms, and for which only fixed service fees that do not vary in relation to the amount spent on such cards are levied. For these credit agreements, Member States should be able to maintain or introduce separate national provisions.

Advertising: any advertising concerning credit agreements which indicates an interest rate or any figures relating to the cost of the credit to the consumer shall include standard information such as: a) the borrowing rate, fixed and/or variable, together with particulars of any charges included in the total cost of the credit to the consumer; b) if applicable, the total amount of credit; c) the annual percentage rate of charge; d) if applicable, the duration of the credit agreement; e) in the case of a credit in the form of deferred payment for a specific good or service, the cash price and the amount of any advance payment.

Pre-contractual information: the committee believes that the pre-contractual information requirements are too excessive and therefore it proposes to delete a number of them. MEPs specify that if the agreement has been concluded at the consumer's request using a means of distance communication, the creditor shall provide the consumer with the full pre-contractual information using the Standard European Consumer Credit Information form immediately after the conclusion of the credit agreement. Consumer protection requires that, where credit providers do not use the standard information sheets, all essential information is prominently displayed and not hidden by other non-essential information provided. Such information shall be provided on paper or on another durable medium and shall all be equally prominent.

Information to be specified in credit contracts: the contract should mention, at the request of the consumer, where capital amortisation of a credit agreement with a fixed duration is involved, a statement of account in the form of an amortisation table indicating the payments owing and the periods and conditions relating to the payment of such amounts. The table shall contain a breakdown of each repayment showing capital amortisation, the interest calculated on the basis of the borrowing rate and, where applicable, any additional costs.

Solvency of the consumer and database accessibility: the information provided by the lender must enable the borrower to take a responsible decision. The lender must also assess the solvency of the consumer before concluding a contract. An amendment states that if a credit application is granted on the basis of consultation of a database, the creditor shall inform the consumer upon request and without charge of the result of such consultation and of the particulars of the database consulted. In both cases and when the assessment and decision is solely or predominantly automated the consumer shall be given upon request the opportunity to check and correct any false underlying data.

Contractual information (overdraft facilities): in the case of credit agreements in the form of overdraft facilities, the following shall be indicated in a clear, concise way: a) the type of credit; b) the identity and addresses of the contracting parties as well as, if applicable, the identity and

address of the credit intermediary involved; c) the duration of the credit agreement; d) the credit limit and the conditions governing the drawdown; e) the borrowing rate, the conditions governing the application of the borrowing rate and, where available, any index or reference rate applicable to the initial borrowing rate, as well as the periods, conditions and procedure for changing the borrowing rate; if different borrowing rates apply in different circumstances, the above mentioned information on all the applicable rates; f) the annual percentage rate of charge and the total costs payable by the consumer; g) an indication that the consumer may be requested to repay the amount of credit in full on demand at any time; h) conditions governing the exercise of the right of withdrawal from the credit agreement; and i) information concerning the charges applicable from the time such credit agreements are concluded and, if applicable, the conditions under which those charges may be changed.

Right of cancellation: the Directive states that the consumer shall have a period of 14 calendar days in which to withdraw from the credit agreement without giving any reason. In the case of a linked credit agreement, this period may be reduced to a minimum of 3 calendar days at the request of the consumer, should the latter wish to take faster delivery of or benefit from the goods or services financed by a credit agreement. When delivery or the date on which performance starts occurs later than the end of the period agreed, the period shall end on the date of delivery of the goods or the date on which performance of the services starts, without being longer than 14 calendar days.

Early repayment: the committee states that a total suppression of measures relating to compensation payable for early repayment. The amended text states that the creditor may, in accordance with national law, be entitled to fair and objectively justified compensation for possible costs directly linked to early repayment of credit.

Credit agreements for consumers

The European Parliament adopted a resolution based on the report drawn up by Kurt LECHNER (EPP-ED, DE) amending, under the 2nd reading of the co-decision procedure, the Council's common position on credit agreements for consumers and repealing Council Directive 87/102/EEC. The compromise amendments adopted in plenary had been previously negotiated with the Council. These amendments relate to the scope of the directive, advertising, pre-contractual and contractual information (in particular for overdraft facilities) and, in particular, early repayment terms.

Scope: the new legislation will cover consumer loans between EUR 200 and EUR 75 000. A new recital states that the Directive does not apply to certain types of credit agreements, such as deferred debit cards, under the terms of which the credit has to be repaid within three months and only insignificant charges are payable.

Advertising: standard information to be included in advertising must include the borrowing rate, fixed or variable or both, together with particulars of any charges included in the total cost of the credit to the consumer.

Pre-contractual information: Parliament has added to the list of information that must be supplied the following: if a credit agreement provides different ways of drawdown with different charges or borrowing rates and the creditor uses the assumption of Annex I Part II (b), he shall indicate that other drawdown mechanisms for this type of credit agreement may result in higher annual percentage rates of charge. In the case of certain credit agreements in the form of an overdraft facility the creditor must include information about the charges applicable from the time such agreements are concluded and, if applicable, the conditions under which those charges may be changed.

Creditworthiness of the consumer: Member States whose legislation requires creditors to assess the creditworthiness of consumers on the basis of a consultation of the relevant database may retain this requirement. The Article on database access is stated to be without prejudice to the application of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

Information to be included in credit agreements: where capital amortisation of a credit agreement with a fixed duration is involved, the credit agreement shall specify the right of the consumer to receive, on request and free of charge, at any time of the entire duration of the credit agreement a statement of account in the form of an amortisation table. The amortisation table shall indicate where applicable, that notary's fees will be payable.

Contractual information (overdraft facilities): in the case of credit agreements in the form of overdraft facilities, the following shall be indicated in a clear, concise way: a) the type of credit; b) the identity and addresses of the contracting parties as well as, if applicable, the identity and address of the credit intermediary involved; c) the duration of the credit agreement; d) the total amount of the credit and the conditions governing the drawdown; e) the borrowing rate, the conditions governing the application of the borrowing rate and, where available, any index or reference rate applicable to the initial borrowing rate, as well as the periods, conditions and procedure for changing the borrowing rate; if different borrowing rates apply in different circumstances, the above mentioned information on all the applicable rates; f) the annual percentage rate of charge and the total costs payable by the consumer, calculated at the time the credit agreement is concluded; all the assumptions used in order to calculate that rate as referred to in the text shall be mentioned; in the case of a credit agreement in the form of an overdraft facility, Member States may decide that the annual percentage rate of charge need not be provided; g) an indication that the consumer may be requested to repay the amount of credit in full on demand at any time; h) conditions governing the exercise of the right of withdrawal from the credit agreement; and i) information concerning the charges applicable from the time such credit agreements are concluded and, if applicable, the conditions under which those charges may be changed.

Credit agreements for consumers

The European Parliament voted on, in second reading, a consolidated text which contains a number of amendments to the text of the Common Position. The text is the result of negotiations between the Council, the Parliament and the Commission.

The most important and, at the same time, most controversial amendment concerns the compensation in cases of early repayment. Regarding the determination of the compensation, the Parliament deleted the reference to the reference interest rate of the European Central Bank. It also added a possibility for Member States to introduce a provision whereby creditors may exceptionally claim a higher compensation than the caps if their loss is higher than the caps, and consumers may ask for a reduction of the compensation if they can prove the opposite.

The Commission accepts this amendment and all other amendments voted by the Parliament.

According to the Commission, the outcome of the second reading in the Parliament was overall satisfactory: precontractual and contractual information and the annual percentage rate of charge are fully harmonised. The right of withdrawal is fully harmonised with a small flexibility for Member States to reduce, under very restricted conditions, the period for exercising the right of withdrawal of 14 days to 7 days. The Commission would have preferred more harmonisation in this area as well as on the compensation in cases of early repayment. However, it can accept the flexibilities granted to Member States as part of an overall package agreement that will establish a high standard of consumer protection while fixing the conditions for a genuine internal market in consumer credit.

Credit agreements for consumers

PURPOSE: Corrigendum to Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (Initially published in the Official Journal of the European Union L 133 of 22 May 2008).

CONTENT: the corrections concern the following:

- Article 26: information to be supplied to the Commission;
- Article 27(2), second sentence: as regards the monitoring effect of the existence of the regulatory choices on the internal market and consumers referred to in certain articles of the Directive;
- Annex II: standard European consumer credit information, point 3 (cost of the credit);
- Annex III, heading 3: European consumer credit information for: (i) overdrafts; (ii) consumer credit offered by certain credit organisations (Article 2(5) of Directive 2008/48/EC); (iii) debt conversion, point 3 (cost of the credit).

Credit agreements for consumers

PURPOSE: to harmonise certain aspects of the laws, regulations and administrative provisions of the Member States concerning agreements covering credit for consumers.

LEGISLATIVE ACT: Directive 2008/48/EC of the European Parliament and of the Council on credit agreements for consumers and repealing Council Directive 87/102/EEC.

CONTENT: the Council adopted a Directive which will ensure a high level of consumer protection and establish the conditions for a genuine internal market in consumer credit. The Dutch delegation voted against the Directive and the Belgian, Greek and Luxembourg delegations abstained. The main points of the new legislation are as follows:

Scope: this Directive shall apply to consumer credit agreements between EUR 200 and EUR 75 000. It shall not apply to certain types of credit agreement, such as deferred debit cards, or mortgage loans.

Pre-contractual and contractual information: the Directive sets out standard information to be included in advertising. Thus, the information mentioned which precede the conclusion of the contract shall include: a) the borrowing rate, fixed or variable or both, together with particulars of any charges included in the total cost of the credit to the consumer; b) the total amount of credit; c) the annual percentage rate of charge; d) if applicable, the duration of the credit agreement; (e) in the case of a credit in the form of deferred payment for a specific good or service, the cash price and the amount of any advance payment; and f) if applicable, the total amount payable by the consumer and the amount of the instalments.

In good time before the consumer is bound by any credit agreement or offer, the creditor and, where applicable, the credit intermediary shall provide the consumer with the information needed to compare different offers in order to take an informed decision on whether to conclude a credit agreement. This information shall be provided by means of the Standard European Consumer Credit Information form set out in Annex II.

The Directive stipulates that Member States shall ensure that, before the conclusion of the credit agreement, the creditor assesses the consumer's creditworthiness on the basis of sufficient information, where appropriate obtained from the consumer and, where necessary, on the basis of a consultation of the relevant database. Member States whose legislation requires creditors to assess the creditworthiness of consumers on the basis of a consultation of the relevant database may retain this requirement. Each Member State shall in the case of cross-border credit ensure access for creditors from other Member States to databases used in that Member State for assessing the creditworthiness of consumers.

Right of withdrawal: the consumer shall have a period of 14 calendar days in which to withdraw from the credit agreement without giving any reason. Where in the case of a linked credit agreement, national legislation at the time of the entry into force of this Directive already provides that funds cannot be made available to the consumer before the expiry of a specific period, Member States may exceptionally provide that the period of 14 days may be reduced to this specific period at the explicit request of the consumer.

Early repayment: the consumer shall be entitled at any time to discharge fully or partially his obligations under a credit agreement. In such cases, he shall be entitled to a reduction in the total cost of the credit, such reduction consisting of the interest and the costs for the remaining duration of the contract. In the event of early repayment of credit the creditor shall be entitled to fair and objectively justified compensation for possible costs directly linked to early repayment of credit provided that the early repayment falls within a period for which the borrowing rate is fixed. Such compensation may not exceed 1 % of the amount of credit repaid early, if the period of time between the early repayment and the agreed termination of the credit agreement exceeds one year. If the period does not exceed one year, the compensation may not exceed 0.5 % of the amount of credit repaid early.

The Directive also defines situations where compensation for early repayment shall not be claimed. The creditor may exceptionally claim higher compensation if he can prove that the loss he suffered from early repayment exceeds the amount determined by the Directive.

If the compensation claimed by the creditor exceeds the loss actually suffered, the consumer may claim a corresponding reduction. Any compensation shall not exceed the amount of interest the consumer would have paid during the period between the early repayment and the agreed date of termination of the credit agreement.

Revision of thresholds: the Commission shall undertake, every 5 years and for the first time 12 May 2013, a review of the thresholds laid down in this Directive and its annexes and the percentages used to calculate the compensation payable in the event of early repayment.

ENTRY INTO FORCE: 11/06/2008.

TRANSPOSITION: 12/05/2010.

APPLICATION: from 12/05/2010.

Credit agreements for consumers

This Commission staff working document provides guidelines on the application of Directive 2008/48/EC (Consumer Credit Directive) in relation to costs and the Annual Percentage Rate of charge (APR).

This working document has been prepared on the basis of work carried out by the Commission services informed by the knowledge on the transposition of the CCD by Member States. Its main purpose is to provide guidelines on the key concepts and provisions of the CCD, in particular with respect to the total cost of credit and the APR.

The aim of the guidelines is to develop a common understanding of the provisions contained in the CCD and to facilitate a convergence of practices amongst Member States when implementing and applying the CCD to consumer credit agreements within the scope of the Directive.

In this way the Guidelines intend to contribute to the principal objective of the Directive, which is to enhance the functioning of the internal market for consumer credit also offering a sufficient degree of consumer protection. They take into account the results of a questionnaire sent to Member States in early 2011 on national practices when applying the APR rules to consumer credit and on difficulties encountered in the process of transposition.

Credit agreements for consumers

The Commission has presented a report on the implementation of Directive 2008/48/EC on credit agreements for consumers the objective of which is to (i) offer a high degree of consumer protection and thus to boost consumer confidence, (ii) enable free movement of credit offers across borders and (iii) remedy distortions of competition arising from differences in national laws regarding consumer credit.

In its [resolution](#) of 20 November 2012, Parliament called on the Commission to present a report on the implementation of the Directive and to assess fully its impact in terms of consumer protection.

The Commission has accordingly adopted this report, based on the transposition check that is still on-going and on the evidence gathered by a consumer credit market study, as well as a study on regulatory choices of the Member States.

The main conclusions are as follows:

Impact on consumer credit markets: the implementation of the CCD has coincided with the financial crisis, which impacted the consumer credit market. Creditors are more cautious about lending and borrowers prefer to pay back their existing loans instead of contracting new ones. After 2007, consumers in several Member States reduced their reliance on credit, most notably in Ireland (-1.4 %), Spain (-1.3 %) and United Kingdom (-1.2 %). Germany and Slovakia are the only two Member States in which the reliance on consumer credit was higher after 2007 than before.

The reaction to those external circumstances has limited the potential impact the CCD could have on cross-border lending. According to the consumer survey, cross-border borrowing is relatively infrequent among consumers, yet significantly more common than previous studies have suggested (roughly 5 %). There is a wide variation in cross-border borrowing across Member States. Higher income earners are more likely to borrow from a lender from another Member State.

Among possible obstacles to cross-border credit provision and borrowing are liquidity, compliance in the instigation of legal actions if need arises, cost of funding differential between different countries, difficulty in recovering outstanding amounts through litigation, as well as cultural and linguistic barriers.

The cost of consumer credit varies markedly across countries. For example, APR ranges from 6 % or less in a number of euro area countries to up to 35 % in a number of Member States from Central Europe. However, the financial crisis has resulted in a sharp reduction of central banks interest rates throughout the EU. Over the period 2003-2012 a convergence of consumer interest rates (net of central bank rates) among the EU countries appears to have taken place at a reasonable speed.

Impact of the Directive on consumer protection: the Commission recalls that some Member States implemented the CCD after the stipulated deadline, and some of them implemented it at the end of 2011. Therefore, creditors and consumers had little time to adapt their behaviour and to fully reap the benefits of the CCD. This explains why it has been difficult to identify the impact of the regulatory choices exercised by the Member States.

The mystery shopping exercise showed that several provisions of the CCD are not being respected by creditors. This applies to advertisements and pre-contractual information, and fulfilment of the obligation to inform consumers about their rights (particularly in respect of right of withdrawal from the contract within the first 14 days and early repayment).

The consumer survey showed that consumers encounter problems when exercising those rights. Consumers financial awareness remains insufficient. In addition, they have limited knowledge of their rights and of the provisions contained in contracts. In that respect, it is important to ensure that credit providers tailor their explanations to borrowers needs or level of education.

At this stage, there seems to be no need to modify either the scope of the regulatory choices or the thresholds and percentages applied in accordance with the CCD. However, in order to be effective, the guarantees laid down in the CCD require proper enforcement.

The Commission intends to continue monitoring the enforcement of the CCD in the Member States and assess their supervisory practices in 2014. Furthermore, building on the results of the evaluation of the information campaign on CCD carried out in some Member States and other

evidence including on the behaviour of consumers, the Commission may consider further activities in the area of financial awareness.