













Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision 2018/0063A(COD) procedure) Directive	Awaiting Parliament's position in 1st reading
Credit servicers and credit purchasers (Non-performing loans Directive) Amending Directive 2014/17/EU 2011/0062(COD)	
Subject 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision	
Legislative priorities Joint Declaration 2021 Joint Declaration 2018-19	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 ECON Economic and Monetary Affairs		18/07/2019
		 DE LANGE Esther	18/07/2019
		 TINAGLI Irene	
		Shadow rapporteur	
		 EROGLU Engin	
		 URTASUN Ernest	
		 ZANNI Marco	
		 VAN OVERTVELDT Johan	
		 PAPADIMOULIS Dimitrios	
Former committee responsible			
 ECON Economic and Monetary Affairs		31/05/2018	
	 DE LANGE Esther	31/05/2018	
	 GUALTIERI Roberto		
Committee for opinion	Rapporteur for opinion	Appointed	
 IMCO Internal Market and Consumer Protection			
	The committee decided not to give an opinion.		

Council of the European Union European Commission European Economic and Social Committee	JURI Legal Affairs	The committee decided not to give an opinion.
	Former committee for opinion	
	IMCO Internal Market and Consumer Protection	
	JURI Legal Affairs	
	Commission DG <u>Financial Stability, Financial Services and Capital Markets Union</u>	Commissioner DOMBROVSKIS Valdis

Key events			
19/04/2018	Committee referral announced in Parliament, 1st reading		
21/10/2019	Committee referral announced in Parliament, 1st reading		
14/01/2021	Vote in committee, 1st reading		
14/01/2021	Committee report tabled for plenary, 1st reading	A9-0003/2021	Summary
14/01/2021	Committee decision to open interinstitutional negotiations with report adopted in committee		
18/01/2021	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
20/01/2021	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
13/07/2021	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE691.247 GEDA/A/(2021)005234	

Forecasts	
19/10/2021	Vote in plenary scheduled
20/10/2021	Debate in plenary scheduled

Technical information	
Procedure reference	2018/0063A(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2014/17/EU 2011/0062(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114; Treaty on the Functioning of the EU TFEU 053-p1
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee

Stage reached in procedure	Awaiting Parliament's position in 1st reading
Committee dossier	ECON/9/00276

Documentation gateway					
Legislative proposal		COM(2018)0135	14/03/2018	EC	Summary
Document attached to the procedure		SWD(2018)0075	14/03/2018	EC	
Document attached to the procedure		SWD(2018)0076	14/03/2018	EC	
European Central Bank: opinion, guideline, report		CON/2018/0054 OJ C 444 10.12.2018, p. 0015	20/11/2018	ECB	Summary
Committee draft report		PE644.827	29/11/2019	EP	
Amendments tabled in committee		PE645.006	20/12/2019	EP	
Committee report tabled for plenary, 1st reading/single reading		A9-0003/2021	14/01/2021	EP	Summary
Coreper letter confirming interinstitutional agreement		GEDA/A/(2021)005234	28/06/2021	CSL	

Credit servicers and credit purchasers (Non-performing loans Directive)

PURPOSE: to strengthen the ability of credit institutions to cope with loans that have become non-performing or are at risk of becoming non-performing by establishing a Union-wide framework for servicers of credit agreements issued by credit institutions.

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

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

BACKGROUND: non-performing loans (NPLs) are one of the main risks that still threaten the European banking system. Non-performing loans are loans where the borrower is unable to make the scheduled payments to cover interest or capital reimbursements.

The establishment of a comprehensive strategy to address the problem of non-performing loans (NPLs) is a priority for the Union.

The Commission proposed, in [its communication](#) of October 2017, to make NPL reduction measures an essential part of the process of completing Banking Union.

While the primary responsibility for tackling high levels of NPLs remains with banks and Member States, there is also a clear EU dimension to reduce current stocks of NPLs, as well as preventing any excessive build-up of NPLs in the future given the interconnectedness of the EUs banking system and in particular that of the euro area.

This initiative follows [the communication](#) on the mid-term review of the action plan on building a capital markets union, which stressed that capital markets can also help European banks to overcome the challenges of NPLs. In order to help banks better manage the PNP, the Commission proposal aims to:

- strengthen protection of secured creditors by giving them access to more efficient methods of recovering the amounts owed on secured loans they have granted to companies through an out-of-court procedure;
- remove undue impediments to credit servicing by third parties and to the transfer of credits in order to further develop secondary markets for NPLs.

IMPACT ASSESSMENT: a first impact assessment investigated the situation of credit purchasers and credit servicers. The preferred option to facilitate and harmonise market entry is the use of common binding standards allowing cross-border activity by means of a passport.

The second impact assessment dealt with the accelerated extrajudicial collateral enforcement.

The preferred option consists of establishing a minimum harmonisation of an extrajudicial collateral enforcement procedure across the EU so that banks in all Member States have at their disposal an efficient procedure for extrajudicial collateral enforcement.

CONTENT : the proposal for a directive aims at avoiding a new excessive accumulation of NPLs on banks' balance sheets by acting on two levels:

1) A distinct common accelerated extrajudicial collateral enforcement procedure for secured loans: the proposal provides banks and other entities approved for the granting of secured loans with more efficient methods of recovering, out of court, amounts owing on secured loans they have granted to businesses. This extrajudicial procedure would be applicable with the prior agreement of the lender and the borrower in the loan agreement. It would be limited to loans to businesses and would not apply to loans to consumers. It is designed so as to not affect preventive restructuring or insolvency proceedings and not to change the hierarchy of creditors in insolvency.

2) Encourage the development of secondary markets for NPLs: the current diverse legislative framework for NPLs in the Member States has hindered the emergence of an effective secondary market for NPLs. The proposal creates a common set of rules to ensure the proper conduct

of the various actors and their appropriate oversight across the Union, while allowing greater competition among servicers in harmonising the market access across Member States.

The proposal provides that purchasers of bank loans are required to notify authorities when acquiring a loan. Third-country purchasers of consumer loans are required to use authorised EU credit servicers. Legal safeguards and transparency rules ensure consumer protection so that the transfer of a loan does not affect the rights and interest of the borrower.

In order to prevent the risk of underfunding of future NPLs, the Commission is also presenting a [separate proposal](#) amending the Capital Requirements Regulation (CRR) as regards the deductions to be made for insufficient provisioning of non-performing exposures.

Credit servicers and credit purchasers (Non-performing loans Directive)

OPINION of the European Central Bank on a proposal for a directive on credit servicers, credit purchasers and the recovery of collateral.

The ECB recalls that it has been a strong proponent of the development of secondary markets for bank assets, particularly non-performing loans (NPLs). It believes that the development of secondary markets may contribute to reducing NPLs, and that, well-functioning secondary markets may also prevent stocks of NPLs from building up in the future. The ECB considers it essential that the legal framework applicable to secondary markets enables the efficient transfer of NPLs off the balance sheet of credit institutions.

It makes the following observations:

Reporting requirements

The proposed directive establishes a number of reporting requirements for credit servicers, credit purchasers and credit institutions. The Union legislators should carefully consider whether these reporting requirements would impede the efficient functioning of the secondary market for NPLs, since a significant reporting burden could deter new entrants to the market or result in duplication of data for competent authorities.

Technical standards for NPL data

The proposed directive gives the European Banking Authority (EBA) a mandate to develop draft implementing technical standards that specify the formats to be used by creditors that are credit institutions for the provision of detailed information on their credit exposures in the banking book to credit purchasers for the screening, financial due diligence and the valuation of the credit agreement.

In the light of the new regulatory developments flowing from Regulation (EU) 2016/867, it is important that any data templates developed by the EBA should take into account the collection of granular credit and credit risk data or any other relevant initiatives to ensure that there is no duplication of efforts and to minimise reporting requirements for credit institutions.

Data collection by competent authorities in the context of an accelerated extrajudicial collateral enforcement mechanism

Since the collection of this information relates to the efficacy of the accelerated extrajudicial collateral enforcement mechanism rather than the prudential supervision of credit institutions, the Union legislators would need to clarify that the task to collect such information should not be conferred on the ECB.

Credit servicers and credit purchasers (Non-performing loans Directive)

The Committee on Economic and Monetary Affairs adopted the report by Esther DE LANGE (EPP, NL) and Irene TINAGLI (S&D, IT) on the proposal for a directive of the European Parliament and of the Council on credit servicers, credit purchasers and the recovery of collateral.

The committee responsible recommended that the European Parliaments position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

Objectives

The Directive should foster the development of secondary markets for non-performing loans (NPLs) in the EU by establishing safeguards and minimum requirements for the transfer of NPLs by credit institutions to non-credit institutions, while safeguarding borrowers rights.

This Directive should therefore establish a Union-wide framework for both purchasers and servicers of non-performing credit agreements issued by credit institutions, whereby credit servicers should obtain authorisation and be subject to the supervision of Member States competent authorities.

This Directive should be without prejudice to the rules governing credit origination in accordance with Union and national law, including in cases when credit servicers can be considered to engage in credit intermediation.

Creditors should not be allowed to transfer to third parties performing credit agreements concluded with consumers.

Conditions for granting an approval

The amended text specifies that the applicant should be a legal person having its registered office or head office in the Member State where it seeks authorisation.

In order to protect the debtor or borrower, the conditions for granting and maintaining authorisation should ensure that the credit manager or the members of the management or administrative bodies have a clean criminal record with regard to relevant criminal offences involving damage to property, criminal offences relating to financial activities, money laundering, fraud or offences against physical integrity and are not subject to insolvency proceedings or have never been declared bankrupt, unless they have been reinstated in accordance with national law.

Member States should also ensure that:

- the management body as a whole possesses adequate knowledge and experience to conduct the business in a competent and responsible manner, appropriate to the activity to be carried out;

- the applicant applies a policy ensuring compliance with consumer protection rules and transparency in the fair and diligent treatment of borrowers;
- the applicant has sufficient initial capital or segregated accounts and that there are no obstacles to effective supervision of the applicant arising from the structure of its group;
- the applicant has, where appropriate, adequate anti-money laundering and anti-terrorism procedures in place.

Protection of borrowers

A new article stipulates that in their relations with debtors, creditors should act in good faith, fairly, professionally and with respect for the debtors' privacy. They should provide borrowers with information that is not misleading, refrain from disclosing personal information without the borrower's permission, and refrain from communicating with borrowers in a manner that constitutes harassment, coercion or abuse of influence.

Fees and penalties charged to borrowers by creditors should not exceed the costs directly related to debt management. Prior to any debt collection, the creditor should send the borrower a mandatory notification providing clear proof of the debt, based on a credit agreement falling within the scope of the Directive.

Member States should require that creditors undertake, with due diligence, to make best efforts to exercise, where appropriate, reasonable forbearance in respect of borrowers experiencing payment difficulties.

Credit purchasers

The amended text provides that where a credit institution transfers a non-performing credit agreement, they should be required to inform their supervisor and the competent authority for supervising compliance with this Directive, on a biannual basis, about at least the aggregated outstanding balance of the transferred credit portfolios, as well as the number and size of the loans included and whether it includes agreements concluded with consumers.

For each portfolio transferred in a single transaction, information provided should include the legal entity identifier or, when not available, the identity and address of the purchaser and, where applicable, its representative in the EU.

Transposition

Entities currently carrying out credit servicing activities under national law would be allowed to continue to do so in their home Member State for 6 months after the deadline for transposition of the Directive.

After the expiry of that six month period, only credit servicers authorised under the national laws implementing this Directive will be able to operate on the market.