

NEW CONSUMER CREDIT DIRECTIVE

Proposal COM(2021) 347 of 30 June 2021 for a Directive of the European Parliament and of the Council on consumer credits.

cepPolicyBrief No. 4/2022

SHORT VERSION [[Go to Long Version](#)]

Context | Objective | Interested Parties

Context: Digitalisation has brought about major changes to the consumer credit market. New providers are surging onto the market and consumer behaviour is also changing. Against this background, the Commission wants to adapt European consumer credit law.

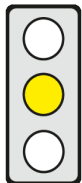
Objective: The now 14-year-old EU consumer credit legislation is to be reformed, principally with the aim of allowing consumers to make informed decisions on credit and thereby provide better protection against information asymmetries and household indebtedness.

Interested parties: Consumers, credit providers and credit intermediaries as well as crowdfunding credit service providers.

Brief Assessment

Pro

- ▶ The scope of the Directive has been extended to cover new providers and new forms of financing. This increases legal certainty and strengthens consumer protection.
- ▶ Information requirements for credit providers also help to reduce information asymmetries between the contracting parties.
- ▶ In view of the provisions in the EU treaties, the ban on discrimination is appropriate.

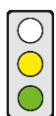


Contra

- ▶ The requirements relating to the creditworthiness assessment are not suitable because the same standard of assessment should not be applied to all consumer credits. Tiered provisions would be appropriate.
- ▶ Clarification is required regarding which data can be used for the creditworthiness assessment. Information on the consumer's financial and economic situation is sufficient.
- ▶ A cap on interest rates, on the annual percentage rate of charge and on the total cost of credit represents a major intervention in free pricing and inhibits the realisation of an efficient market outcome. The Commission should therefore refrain from introducing such caps.
- ▶ The proposal contains no provisions regarding the expiry of the right of withdrawal in the event that the provider fails to give information in this regard. Such a requirement should be included for the sake of legal clarity, legal certainty and coherence.

Extension of the Scope of the Directive [Long Version A. 2, C. 1]

Commission proposal: The EU consumer credit legislation will cover all loans up to € 100,000; credit that is free of interest and charges (e.g. "0% financing" or "buy-now-pay-later" offers); overdraft facilities with a repayment deadline of up to one month; certain leasing agreements; credit services provided by a crowdfunding platform to facilitate the granting of credit; and credit that is repayable within three months [Art. 2, Art. 3 (4), Recitals 15, 17 and 18].



cep-Assessment: New providers and new types of credit promote a varied range of offers and, due to increased competition, may result in better conditions for consumers. However, low-threshold credit also poses risks as it encourages "vulnerable" consumers to make impulsive purchase decisions, e.g. "buy-now-pay-later" loan. Widening the scope of the Directive is therefore a welcome development as it meets the needs of market trends and strengthens consumer protection.

Ban on Discrimination [Long Version A. 3, C. 2]

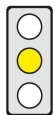
Commission proposal: The Directive will include a ban on discrimination. Member States must ensure that consumers are not discriminated against on the grounds of nationality, place of residence or any of the grounds referred to in Art. 21 EU Charter of Fundamental Rights [Art. 6].



cep-Assessment: Since discrimination against EU citizens is prohibited under the EU Treaties, the provision is appropriate. With respect to the suggestion that this results in an “obligation to contract”, it should be noted that such is not the case.

Adjustment of the Information Requirements [Long Version A. 4, C. 1]

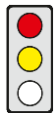
Commission proposal: Information requirements for credit providers vis-à-vis consumers are to be tightened [Art. 7-13]. Providers must now, inter alia, deliver pre-contractual information at least one day before conclusion of the contract [Art. 10 (1)] and, in future, in addition to the extended “Standard European Consumer Credit Information” form, also supply the one-page “Standard European Consumer Credit Overview” form containing pre-contractual information [Art. 10 (3) and (4)].



cep-Assessment: Stricter information requirements aim to reduce information asymmetries between the contracting parties. This is appropriate in principle but only partially effective. The additional form does not provide essential help in this regard but, in fact, causes more confusion. Instead, it would be more effective to optimise the existing “Standard European Consumer Credit Information” form with respect to absolutely essential credit information.

Creditworthiness Assessment [Long Version A. 7, C. 1]

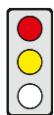
Commission proposal: The obligation of credit providers or crowdfunding credit service providers to assess consumer creditworthiness will be subject to more comprehensive rules [Art. 18]. For example, in future, the assessment must be done explicitly “in the interest of the consumer” [Art. 18 (1)] and - with only a few exceptions - the credit must only be made available if the contractual obligations are “likely” to be met [Art. 18 (4)].



cep-Assessment: The creditworthiness assessment is useful for both consumers and credit providers. However, it is inappropriate that the same standard of assessment applies to all consumer credits within the scope of the Directive. In principle, tiered provisions would be appropriate. Furthermore, there is a need to clarify which data may be used for the assessment of creditworthiness. Information on the consumer's financial and economic situation is sufficient.

Caps on Interest Rates, on the Annual Percentage Rate of Charge and on the Total Cost of the Credit [Long Version A. 8, C. 1]

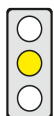
Commission proposal: Member States must introduce caps on interest rates applicable to consumer credit as well as on the annual percentage rate of charge and on the total cost of the consumer credit [Art. 31 (1)]. Member States may retain caps that are already laid down in national legislation [Recital 65].



cep-Assessment: Caps on interest rates, on the annual percentage rate of charge and on the total cost of credit may reduce the range of offers and have the effect that risks associated with the credit, e.g. default risks, are no longer adequately reflected. The Commission should refrain from introducing such caps in this regard as it constitutes a major intervention in free pricing and inhibits the realisation of an efficient market outcome.

Right of Withdrawal [Long Version C. 2]

Commission proposal: No provisions are proposed regarding the expiry of the right of withdrawal in the event that the provider fails to give information in this regard.



cep-Assessment: A provision on this would create legal clarity and legal certainty. EU consumer law does contain corresponding regulations elsewhere, e.g. in of the Consumer Rights Directive [2011/83/EU]. Thus, also for reasons of coherence, such a provision should also be included in a new Consumer Credit Directive.