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SPECIALISED CONSUMER CREDIT PROVIDERS IN EUROPE

Eurofinas response to the European Commission's Green Paper on Retail Financial Services and Insurance

1. For which financial products could improved cross-border supply increase competition on national markets in terms of better choice and price?

In the past, similar reflections of the Commission have led to an increase of rules governing our sector, which tended to add complexity and costly demands on compliance. We therefore strongly support the Commission's recent initiative to simplify and improve EU regulation. It is our hope that this Green Paper is treated with this end in mind.

The consumer credit market is a highly competitive business environment where different types of players operate (banks, bank-owned subsidiaries, independent firms or the finance arms of manufacturing companies). In Europe, the market is mainly composed of consumer credit firms with local activities. Though the bulk of the activity remains local, many of our member firms have a pan-European business. The latter is principally carried-out through mergers/acquisitions and the establishment of branches or subsidiaries in other EU countries. These players make full use of the EU passporting regime, either in their role as credit providers or intermediaries.

Consumer lending was designed to help households purchase goods and services. It is worth highlighting here that specialised consumer credit firms, established to help distribute manufactured goods existed way before many retail financial services institutions. In 2014, the consumer credit providers that are members of Eurofinas helped support European consumption by making more than 356.3 billion EUR goods, services, home improvements and private vehicles available to individuals, reaching 861 billion EUR of outstandings at the end of the year[1]. Consumer lending is procyclical and is highly positively correlated with households' disposable income[2]. By providing access to finance to individuals and households, consumer credit supports the social and economic well-being of millions of consumers across Europe.

Consumer credit is distributed via several channels, including through bank networks, directly from specialised firms or through the manufacturers and dealers of equipment, vehicles and consumer goods. This latter channel is often referred to as the "vendor or point of sale channel" and is a specificity of the consumer credit industry. Point=of-sale activities provide a convenient one-stop-shop for clients who are seeking to purchase or obtain the use of assets and allow European manufacturers and distributors of goods to sustain and increase their sales. Naturally, the footprint of this distribution channel is principally local.

It is important to stress that consumer lending markets are some of the most dynamic markets in financial services. The identification and understanding of consumers' needs and wants is at the heart of our business model. The latter is constantly on the move, identifying and targeting new market segments, optimising the use of distribution channels, adapting products and services to the latest technological changes and co-branding products. It follows that if demand for specific products or

[1] Eurofinas 2014 Annual Statistical Enquiry
[2] Eurofinas, *Consumer Credit, Helping European Households Finance their Tomorrow,* 2015

richer offers arises or changes, our firms adjust supply accordingly, making the necessary changes to their business model.

The degree of competition and innovation naturally varies across European countries but in general, we think European consumers have access to dynamic and innovative consumer lending markets. Local regulatory frameworks of course play a major role in the development of new innovative projects.

2. What are the barriers which prevent firms from directly providing financial services cross-border and consumers from directly purchasing products cross-border?

In the consumer credit and motor finance markets, the principal barrier to direct cross-border activity is the difficulty to assess creditworthiness of a consumer in another Member State on account of the absence of behavioural data. Firms are also deterred from directly entering new markets due to different legal and taxation systems. This is compounded by the challenge of dealing with diverse national supervisors with different perspectives and *modus operandi*.

In this respect, we also emphasise that even with direct cross--border business, many consumer credit providers' business models necessitate having a local physical presence. For example, if the business model is based on partnerships, the partner needs visibility at the point of sale.
In our view, there is very little consumer demand for direct cross-border credit (with the exception of border areas). Components of this include a preference for and trust in their domestic providers and the fact that the offerings are presented in a different language. As mentioned, this does not of course prevent firms from establishing subsidiaries in other Member States as is common practice. In this way, lenders can tailor their products according to local demand and the regulatory environment.
For many years the European Commission has been highlighting the lack of cross-border business. However, we stress that in principle, a firm should not be forced to operate cross-border, if this firm has no interest do so. We think the various barriers mentioned in the Green Paper can be addressed by a lending organisation if it has the ability to take on the specific risks of servicing customers on a direct cross-border basis and this activity is economically viable. Fundamentally, any motivation for cross-border activity can only be fuelled by risk appetite, commercial incentive and logistic ability.

3. Can any of these barriers be overcome in the future by digitalisation and innovation in the FinTech sector?

Although physical networks are and will always remain important, an increasing number of customers expect and wish to purchase retail financial products online. Digital innovation is transforming our industry. New technologies as well as a shifting customer demand bring business opportunities as much as challenges for the consumer lending industry.

Recent research shows that customer service and efficient online treatment of requests are among the most important qualities to consumers when selecting a bank[3]. Generations Y (born between 1980 and 2000) and Z (born after 2000) are highly accustomed to the digital world. Generation Y grew up with the constant presence and increasing use of computers and technology. Generation Z are true digital natives. Both generations demand and expect constant availability of products and services online[4].

We agree that it is important to adjust to this new landscape. We take the view that digitalisation can be an important factor to overcome certain barriers to cross-border activity (e.g. by making products and product information more accessible). However, the use of a digital channel does not imply that a firm is able to service those customer segments that are in fact outside its business scope.

We think the European Commission can play an active role in promoting innovation and digital processes in the financial sector. Against this backdrop, it is important that the role of FinTech

[3] NG Data
[4] Deloitte, *Digital Transaction Banking – Opportunities and Challenges*, 2014

operators is clearly identified and transparent and that they comply with the rules relevant to their operational functions (i.e. technical support, comparator, intermediary, lender, etc.).

There are a number of challenges to be overcome including mutual recognition of electronic signatures. The 2014 Electronic Identification and Trust Services Regulation, although not intended to address this particular issue, offers a basis for exploring harmonisation of electronic signatures.

Digitalisation also brings new challenges, for example Consumer Credit Directive (CCD) information requirements designed for face-to-face activity which are ill-suited to increasing numbers of customers taking out loans online, on tablets or smartphones. The number of swipes to be read through CCD pre-contractual and contractual credit information has been estimated at between 30 and 150 times depending on the size of screen on the device and the amount of information which must be provided. We strongly believe that pre-contractual information should also be proportionate to specific type of loan concerned (duration and amount).

In our view, consumers want simplicity, and enough information to make informed decisions. In the online environment, it would be easier if they were presented with the key facts of a credit agreement rather than very long standardised pre-contractual information. There is also the question of compatibility of regulatory requirements with digital technologies. A Standardised European Consumer Credit Information (SECCI) sheet requires information to be provided in two columns. However, such a format is not readily compatible if the information is being viewed on an Android smartphone. In addition, the marketing and advising requirements in the CCD are not fit for purpose for digital transactions.

4. What can be done to ensure that digitalisation of financial services does not result in increased financial exclusion, in particular of those digitally illiterate?

Eurofinas always strongly supported the European Commission's objectives to combat social exclusion and to enable consumers to participate fully in the Internal Market. The consumer lending industry is taking an active role in the promotion of financial inclusion and education.

We also strongly believe that Member States should always be encouraged to bear financial exclusion in mind, particularly where it may be an 'unintended consequence' of otherwise well-intentioned new legal and/or regulatory restrictions.

We believe the issue of digital illiteracy extends far beyond the financial services sector. If the Commission's analysis were to indicate that EU action was needed in this field, then Eurofinas would strongly recommend involving all trade/business sectors.

5. What should be our approach if the opportunities presented by the growth and spread of digital technologies give rise to new consumer protection risks?

No opinion.

6. Do customers have access to safe, simple and understandable financial products throughout the European Union? If not, what could be done to allow this access?

We believe this is the case in the consumer lending sector.

Clearly, some financial products will always remain more sophisticated than others. For those products that are more complex, new and existing legislation provides transparency standards and ensures that they are sufficiently comprehensible for consumers. Whilst simple products should stay simple, we should not seek to unnecessarily simplify the structure of complex products.

7. Is the quality of enforcement of EU retail financial services legislation across the EU a problem for consumer trust and market integration?

The European Commission has an important role to play in ensuring that Member States correctly implement legislation. It is important to both consumers and business operators. It is also important that corrective measures can be taken by lending providers when need be and in close cooperation with their local supervisors. We believe many markets would benefit from a closer dialogue between industry, consumer and supervisory authorities.

As previously requested by the industry, it would be helpful if official transitional periods for the implementation of European standards by lending institutions were automatically provided by the European legislator. It is not acceptable that this is being left at the discretion of national authorities. Experience shows that many regulators do not care about how much time is being left to business operators to implement EU rules (sometimes fairly technical). Lack of national consultation may also deprive business operators from anticipating future requirements. The European Commission should encourage convergence in this field.

In many cases, national regulators mat adopt a stricter regime than EU standards, resulting in inconsistent application of Union law. We understand that very little can be done in the area of shared competence. Therefore, the Commission should focus its work on targeted maximum harmonisation.

8. Is there other evidence to be considered or are there other developments that need to be taken into account in relation to cross-border competition and choice in retail financial services?

In the consumer credit sector, product specifics are heavily influenced by partnerships with retailers and manufacturers. However, even the same product can operate very differently across the EU. For example, in the UK, credit cards do not have to be repaid in full every month whereas in many other Member States, they must do so within a month.

9. What would be the most appropriate channel to raise consumer awareness about the different retail financial services and insurance products available throughout the Union?

No comment.

10. What more can be done to facilitate cross-border distribution of financial products through intermediaries?

In the consumer lending sector, it is important to distinguish between the different types of intermediaries, which can range from ancillary intermediaries at the point-of-sale to professional brokers. Although certain incentives may encourage some intermediaries to widen their customer base, any cross-border facilitation should concentrate on those intermediaries for whom credit provision is a principal professional activity. Indeed, it would make little sense to promote cross-border activity where the intermediary is exclusively distributing credit products in connection to local retail/motor/equipment sales.

11. Is further action necessary to encourage comparability and / or facilitate switching to retail financial services from providers located either in the same or another Member State? If yes, what action and for which product segments?

Consumer choice, sustained innovation and access to financial services products within the internal market are key priorities for the Eurofinas members. Against this background, we support measures that aim at facilitating the comparison of products, for example through the promotion of comparison websites or marketing campaigns.

In relation to the switching of providers, we are committed to promoting a competitive environment in the full recognition that competition improves financial institutions' efficiency, lowers prices and drives product diversity and innovation. As an important condition for competitive retail banking and financial markets, consumers have to be able to seize the best offers on the market. Although the ease with which consumers can change financial services provider is crucial for competition, it does not necessarily lead to high levels of customer mobility.

In the consumer lending sector, most credit agreements are short-term agreements. In the case where consumers wish to switch before they have been discharged from their contractual obligations (i.e. the loan is still outstanding), the switching process implies applying for a new loan to refinance existing obligations. Such a process is far more sophisticated both for consumers and retail financial services institutions than for other forms of switching (e.g. current accounts, standards means of payment). This obviously requires for both parties to enter into a new lending transaction. The refinancing of existing obligations is not proposed by all lending institutions and remains, for short-term lending agreements, an uncommon practice in most European markets.

In specific circumstances, consumers may wish to enter into a consolidation process where multiple debts are brought together. This is not an unusual process but we think this should be seen as a response to specific needs (e.g. replace multiple debt repayments with a single monthly payment, cut monthly costs, secure a fixed interest rate etc.) and should not be considered as a standard switching practice. When assessing customers' mobility in relation to consumer credit products it is therefore vital to take into account local market specificities including offers, usage of products and customers' expectations.

12. What more can be done at EU level to tackle the problem of excessive fees charged for cross-border payments (e.g. credit transfers) involving different currencies in the EU?

No comment.

13. In addition to existing disclosure requirements, are there any further actions needed to ensure that consumers know what currency conversion fees they are being charged when they make cross-border transactions?

No comment.

14. What can be done to limit unjustified discrimination on the grounds of residence in the retail financial sector including insurance?

Consumer lending institutions should be able to decide on the most appropriate customer segments and markets they are willing to service. We are not aware of any unjustified discrimination on the grounds of residence in consumer loans.

Geographic location or residence are not obstacles to conduct of business per se, however tangentially related businesses (e.g. debt collection, creditworthiness assessments or practical management of business transactions) would be impossible without a physical presence in the country of product issuance.

15. What can be done at the EU level to facilitate the portability of retail financial products – for example, life insurance and private health insurance?

No comment.

16. What can be done at the EU level to facilitate access for service providers to mandatory professional indemnity insurance and its cross-border recognition?

No comment.

17. Is further EU-level action needed to improve the transparency and comparability of financial products (particularly by means of digital solutions) to strengthen consumer trust?

EU legislation such as the Consumer Credit Directive, the Mortgage Credit Directive, the Insurance Distribution Directive already provides for common information standards. We are concerned that if new rules are introduced this will result in information overload. The challenge is now to ensure that information requirements are fit for the digital age. We would support an initiative to streamline information provided to consumers and which is adapted in terms of volume and format to new digital channels.

In wider terms, trust may but one of a number of factors that consumers consider before taking out a loan – other drivers include convenience or ease of redress in one's native language.

18. Should any measures be taken to increase consumer awareness of FIN-NET and its effectiveness in the context of the Alternative Dispute Resolution Directive's implementation?

We would like to pay tribute to the Commission's ongoing work to facilitate the alternative resolution of dispute. We think this is a very important intiative to increase consumer trust and remain at the disposal of the European Authorities should they believe industry can further help in this regard.

Measures should be taken to increase consumer awareness of FIN-NET. As regards the assessment of its performance, we would advocate to wait for the complete implementation of the Alternative Dispute Resolution (ADR) Directive across Europe, as well as the recently launched Online Dispute Resolution (ODR) platform.

19. Do consumers have adequate access to financial compensation in the case of mis-selling of retail financial products and insurance?

We believe that with ADR, ODR, sectoral legislation, individual and collective redress, consumers have clear and adequate access to redress in case of mis-selling in the consumer credit sector.

20. Is action needed to ensure that victims of car accidents are covered by guarantee funds from other Member States in case the insurance company becomes insolvent?

No comment.

21. What further measures could be taken to enhance transparency about ancillary insurance products and to ensure that consumers can make well-informed decisions to purchase these products? With respect to the car rental sector, are specific measures needed with regard to add-on products?

We see accurate and clear product information as essential.

The provision of ancillary insurance products is governed by a comprehensive set of legislative measures at European level.

It includes i) a general framework on distribution and contractual fairness with the Unfair Commercial Practices Directive (UCPD) and the Unfair Contract Terms Directive (UCTD), ii) a dedicated set of rules for the supply of insurance products with the Insurance Distribution Directive (IDD) and iii) product specific legislation such as the Mortgage Credit Directive (MCD) or the Consumer Credit Directive (CCD) which impose special measures for insurance products distributed within their scope.

For example, both MCD and CCD provide a very detailed framework for the distribution of ancillary insurances such as the inclusion of premiums in advertising, pre-contractual information and, where applicable, in the “total cost of credit”. These measures have been designed to ensure that consumers can make well-informed decisions.

Ahead of many other sectors where ancillary insurances are offered, banking and financial institutions have integrated very detailed standards for the provision of such products.

Where permitted, these rules are also often supplemented by additional national provisions and/or industry self-regulatory measures. Tools therefore exist to ensure that ancillary insurance products distributed together with other financial products are provided in a fair, clear and transparent way to consumers. Priority should be given to the enforcement of these rules.

It is worth highlighting that the IDD has just been adopted by the European Parliament and Council and should be implemented in national legalisation within the next two years. The text introduces a new gold-standard for the distribution of all insurance products and we expect many changes in regulatory and business practices across Europe. We do not see the need to discuss any additional measures at this stage.

22. What can be done at the EU level to support firms in creating and providing innovative digital financial services across Europe, with appropriate levels of security and consumer protection?

The Digital Single Market Strategy should be aligned with existing and future legislation. For example, the CCD’s information requirements need to reflect new technologies and account needs to be taken of new Data Protection Regulation. We would also welcome futher work on distance client authentication.

At a more granular level, the Commission could draw on Member States’ experience in promoting innovation. It is critical that regulation does not deter innovation. Consumer demand will drive the growth of online activity. It is therefore beholden on firms to design products and services to meet this demand without being discouraged by unnecessary interference.

We also support the promotion of online platforms and digital innovation.

23. Is further action needed to improve the application of EU-level AML legislation, particularly to ensure that service providers can identify customers at a distance, whilst maintaining the standards of the current framework?

The 4th Anti-Money Laundering Directive provides that non-face-to-face transactions should be considered as higher risk unless certain safeguards are put in place such as the establishment of electronic signatures. It is therefore critical that Member States do not introduce additional KYC procedures for distance transactions. The 4th AML Directive has just been adopted and is currently being implemented. It is important to first allow time under the Directive to pass in order to be able to fully assess the impact of these new and expanded requirements.

24. Is further action necessary to promote the uptake and use of e-ID and e-signatures in retail financial services, including as regards security standards?

Local supervisors should also be encouraged to facilitate the use of digital tools that can certify the identity of customers, including instruments such as e-documents, e-signature, video identification etc. as means to comply with customer due diligence requirements.

The Federation would also support further work on fraud prevention in retail financial services.

25. In your opinion, what kind of data is necessary for credit-worthiness assessments?

As a general observation, we support improved access and usability of data. Credit and financial institutions collect a great variety of data. Data analytics are at the heart of their activities. They are used to accurately and properly evaluate risk, assess the creditworthiness of applicant borrowers and fight against financial crime. We therefore disagree with the Commission's observation on p.23 of the Green Paper that credit registers often collect more data than necessary.

EU legislation in force, such as the Capital Requirements Directive IV (CRD IV), the Consumer Credit Directive (CCD), the Mortgage Credit Directive (MCD) and the Anti-Money Laundering Directive (AMLD) require lending institutions to collect, store and analyse data throughout their business activities and over long periods of time.

Data processing is covered by stringent requirements – under the 1995 Data Protection Directive – that data should only be "collected for specified explicit and legitimate purposes and not further processed in a way incompatible with those purposes.. and should be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed." The soon-to-be adopted Data Protection Regulation contains similar wording. Lenders do collect data, for example to minimise their exposure to fraud and fulfil anti-money laundering requirements, which are set out in the privacy notices that must be signed by borrowers.

There is a wide diversity of data that can be used for the purpose of assessing the creditworthiness of an applicant borrower. The level of data can vary considerably according to the market, the product type and the typical customer profile. Different types of data may be available through various channels and depending on jurisdictions. Also, the business model of credit and financial institutions can substantially vary in this field.

Data usage for the purpose of creditworthiness assessment is a core business function which should be under the exclusive control of lending operators. The banking and financial sectors established various risk assessment procedures and data sharing models that are adapted to economic and cultural factors as well as data content in each particular country. This should be the bottom line of any reflection on this topic.

It is possible to categorise the data used for creditworthiness assessments into two broad categories: identity data and behavioural data. Identity data is collected to enable the correct identification of the borrower; behavioural data is collected to describe the borrower's financial situation. Information quality and accuracy is a building block of such data usage. Access to, and exchange of, negative data (at the very least) is essential for lending institutions to assess a credit application.

26. Does the increased use of personal financial and non-financial data by firms (including traditionally non-financial firms) require further action to facilitate provision of services or ensure consumer protection?

By improving the understanding of consumers' needs and expectations, providers can offer smarter products and services as well as more convenient and intuitive applications to their customers. Ultimately, the enhanced use of data can also increase efficiency and internal decision-making processes.

By making a better use of existing data and combining it with new data sources, consumer credit providers can develop more accurate risk profiles and credit scoring models in turn improving the evaluation of risk and the creditworthiness assessment of applicant borrowers.

With a greater variety of sources and types of data available, credit can be offered to an applicant borrower who, despite being a responsible borrower, lacks the necessary credit history. For example, this can be the case for a client who recently moved to a new country and lacks a sufficient local credit history. The lack of traditional data can be overcome by using non-traditional data sources in the analysis and the decision-making process. Peer-to-peer payments, payment data from smartphones, utility bills and pre-paid mobiles services are all potential sources. By extending the offer of credit, increased use of data can help support financial inclusion.

Personal data is increasingly collected by non-traditional players that come from the worlds of e-commerce, search engines and social media. These players have a stronger negotiating position to negotiate than financial institutions. Conditions to access and use this data may therefore not be favourable to new entrants and smaller specialised institutions.

However, not only can the improved use of data help credit providers better assess the creditworthiness of an applicant borrower, it can also be used to continuously monitor the financial health of a client. By identifying potential issues at an early stage, even before default occurs, mitigating measures can be proposed to find a constructive and mutually-beneficial solution.

For more information on this topic, **download** the Eurofinas publication on big data, challenges and opportunities.

27. Should requirements about the form, content or accessibility of insurance claims histories be strengthened (for instance in relation to period covered or content) to ensure that firms are able to provide services cross-border?

No comment.

28. Is further action required to support firms in providing post-contractual services in another Member State without a subsidiary or branch office?

Given the current lack of demand for cross-border loans, this is unnecessary.

29. Is further action necessary to encourage lenders to provide mortgage or loans cross-border?

We recognise the efforts, by way of the Consumer Credit Directive, to make progress towards more integrated consumer credit markets, however, although obviously important, consumer protection measures alone will never achieve this objective.

We believe the action in the following areas could certainly improve the general business environment:

- Enhanced access and use of data
- Facilitated debt recovery
- Increased transparency of debtors' assets

Nevertheless, as previously mentioned, the decision to operate on a cross-border basis can only be fueled by risk appetite, commercial incentive and logistic ability.

30. Is action necessary at EU level to make practical assistance available from Member State governments or national competent authorities (e.g. through 'one-stop-shops') in order to facilitate cross-border sales of financial services, particularly for innovative firms or products?

We generally support efforts to increase access to information on regulatory frameworks and local market conditions.

31. What steps would be most helpful to make it easy for businesses to take advantage of the freedom of establishment or the freedom of provision of services for innovative products (such as streamlined cooperation between home and host supervisors)?

We suggest the following action:

- More consistent KYC standards across jurisdictions
- Prevention of fraud including exchange of information on cyber-security threats
- Analysis of regulatory requirements for distance marketing and e-commerce

32. For which retail financial services products might standardisation or opt-in regimes be most effective in overcoming differences in the legislation of Member States?

None.

33. Is further action necessary at EU level in relation to the 'location of risk' principle in insurance legislation and to clarify rules on 'general good' in the insurance sector?

No comment.

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