

Brussels, 20 January 2020

Dear Executive Vice-President of the European Commission Dombrovskis,
Dear Commissioner Reynders,

Eurofinas and Leaseurope, the European trade federations representing the specialised consumer credit and leasing providers across Europe, would like to congratulate you on your appointments to the new European Commission. We look forward to working with you in the coming years, supporting the Commission's ambitious agenda for a greener and more sustainable Europe that delivers for its citizens.

The services provided by our industries will be essential tools in delivering the priorities and workstreams of the European Commission benefiting the real economy and the overall well-being of European citizens.

Many challenges and opportunities remain to be addressed to enable the full potential of the European project, to further increase our competitiveness and to succeed with the green transition. Addressing what lies ahead requires a stable, carefully measured and efficient regulatory framework.

In this context, we would like to raise a number of concerns in relation to the current work of the European Banking Authority and its work on loan origination and monitoring (EBA/CP/2019/04). Requested by the European Council in its 2017 Action Plan to address Non-Performing Loans in Europe, the initiative adds to the important ongoing work carried on the matter by the European Institutions. However, we believe that the current initiative fails to adequately address the issue and highlights a number of concrete shortcomings in the process, which ultimately will risk to lead to general consumer detriment, financial exclusion and negatively affect the financing of the real economy.

The EBA was established to enable supervisory convergence, a level playing field and the creation of a single rule book. With its work on loan origination, it is moving beyond this role and mandate of aiding the interpretation of existing frameworks. While formally non-binding, the guidelines, in practice, cannot to be treated as such by the relevant national authorities. The EBA is setting out new far-reaching obligations and introducing what effectively amounts to a new set of legislative requirements, without actual supporting legislation through the co-decision procedure.

The proposed scope of application clearly overlaps with existing legislative frameworks which are subject to ongoing evaluations by the Commission, not least the Consumer Credit and Mortgage Credit Directives, as well as other important initiatives in relation to sustainable finance.

With regards to leasing, the guidelines explicitly state that certain requirements extend to leasing solutions. Within the wider European regulatory framework, leasing is already regarded as a “low risk” form of funding resulting from its link to the asset. As such, different types of leases are already subject to appropriately proportionate requirements. Furthermore, it should be recognised that the regulatory, legislative and accounting treatment varies not only by product type but also according to national rules.

As we understand it, the results of the evaluation of the Consumer Credit Directive are imminent, and may lead to a review of the legislation. We remain fully committed to supporting this work, however, the ongoing evaluation process and the swift application foreseen for the proposed EBA guidelines – which would require necessary lengthy and highly technical adaptations by concerned entities – entail the risk that new legislation would regulate the very same issues. By taking this course of action, the EBA’s work effectively pre-empts the legislative process which we fear may result in inconsistent approaches and definitions and an ineffective implementation.

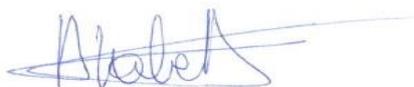
Moreover, on a material basis, we are highly concerned by the guidelines’ highly prescriptive nature which do not provide for a sufficiently flexible forward-looking approach, inadequately supporting the EU’s agenda for a more innovative and digitally-enabled Europe. They do not recognise the full range of products falling under the scope of the new rules and the necessary distinction and proportionate treatment between different product categories, as borne out by sector-specific EU legislation. By the same token, the high degree of prescription precludes the ability to take into account Member State specificities in relation to access to credit data registers, divergent legislative frameworks as well as other market characteristics.

Fundamentally designed for complex high value lending, the guidelines fail to sufficiently consider the specific nature of low-value transactions, such as consumer credit and small-ticket leasing, and do not enable a proportionate application based on size, type, nature, complexity and risk profile of such transactions.

To apply the draft guidelines in full to the described activities will inevitably lead to fewer lenders and lessors offering their products in key consumer and SME segments, resulting in reduced competition, diminished access for consumers and ultimately greater financial exclusion. As such, it would undermine the European Commission’s economic strategic goals without achieving additional consumer benefit.

We remain committed to support the delivery of the Commission’s agenda and to continue the dialogue in the ways you find suitable. We would welcome the opportunity for a meeting with you or the relevant member of your teams.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Anne Valette', with a long horizontal flourish extending to the right.

Anne Valette

Director General, Eurofinas & Leaseurope