

Credit Intermediation: state of play

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For Eurofinas, the voice of specialised credit providers in Europe, one of the main focus of attention has become the potential European initiative in the field of credit intermediation.

from Alexandre Giraud, Eurofinas Legal Adviser

This is because credit granted through intermediaries represents around 40% of its members' total consumer lending.

The European Commission has recently launched a study on credit intermediaries in order to analyse the credit intermediation market in EU27: a broad and ambitious exercise which should help the EU executive determine whether a specific European legal framework is necessary.

According to the recent Consumer Credit Directive, a credit intermediary is "a natural or a legal person who is not acting as a creditor and who, in the course of his trade, business or profession [...] presents or offers credit agreements to consumers, assists consumers by undertaking preparatory work [...] or concludes credit agreements with consumers on behalf of the creditor".

The CCD definition of credit intermediary can therefore designate credit agents linked to a single financial institution, independent credit brokers and retailers or dealers distributing credit at the point of sale. For what concerns the latter, the CCD recognizes the specificity of goods or services suppliers acting as credit intermediaries in an ancillary capacity by exempting them from pre-contractual information requirements which solely apply to credit providers.

The CCD provides that credit intermediaries (whether independent brokers or agents) have to disclose to the consumers the extent of their powers and the fee payable for their services. Member States can introduce additional requirements however.

It is difficult to predict, at this early stage, what the content of any future European initiative in the field of credit intermediation will be like. The ongoing study on credit intermediaries, due in fall 2008, should shed some light on the kind of action that might be expected from the European Commission.

Yet, from the statements made so far by the EC it appears that one of the objectives of any EU initiative could be to strengthen the single market position of credit intermediaries. Intermediaries facilitate the provision of credit services in the EU and should therefore benefit in full from the (Treaty) freedom of establishment and that to provide cross border services.

As a preliminary position, Eurofinas believes that point of sale finance should be clearly distinguished from conventional credit brokerage. Differences in, inter alia, roles, products, processes and risks call for such a differentiated approach. Heavy-handed, undifferentiated, regulation would severely damage the point of sale finance market, to the detriment of consumers, credit providers, retailers and manufacturers alike.

As for consumer protection, another EC objective, Eurofinas considers that any proposal should be made in the light of the CCD provisions which already impose numerous requirements on credit providers.

Other questions such as that of the intermediaries' access to credit data will inevitably arise; be it in the context of the Expert Group on credit histories that is being set up by the EC.

This is therefore an area on which **ACCIS** and EUROFINAS may wish to share views and experiences.

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