eurofinas

SPECIALISED CONSUMER CREDIT PROVIDERS IN EUROPE

Preliminary Position on Access to Credit Histories

April 2009

Mr Jean-Yves Muylle
Head of Unit, DG Markt
European Commission
By email: Jean-Yves.Muylle@ec.europa.eu

Brussels, 30 April 2009

Re: Eurofinas preliminary position on Access to Credit Histories

Dear Mr Muylle,

Please find herewith Eurofinas' preliminary position on the issue of access to credit histories.

In the said position we stress (inter alia) that:

- **all lenders, not just 'banks' should be able to access credit data.** Thus there is no need to distinguish between different types of lenders when it comes to analysing ways to facilitate the access to, and exchange of, credit data;

- **we oppose the creation of a pan European credit database.** As acknowledged by the EGCH, there is **no business case** for setting up any such database. A business case does however exist to facilitate the access to, and exchange of, credit data in order to improve, inter alia, access to finance for consumers;

- **facilitated cross-border access to, and exchange of, credit data contributes to the sound lending practices used by consumer credit providers.** This reflects the spirit of Article 8(1) of the Consumer Credit Directive (CCD), which requires lenders to assess a consumer's creditworthiness on the basis of sufficient information;

- **credit database access should be non-discriminatory as laid down in Article 9(1) of the CCD.** Discriminatory database access conditions do exist for certain lenders who wish to access specific credit databases. Discriminatory credit database access conditions exist at national level between domestic lenders as well as between domestic and foreign based lenders;

- **data quality is key** as only good quality data can be used effectively;

- **reciprocity is a principle that must be respected** when accessing credit databases;

- **any** future European **harmonisation of data content should not lead to less credit data availability for lenders than is currently the case**;

- **little data to identify and fight against fraud/fraudsters is currently available** and such data does not exist in any homogenous and comparable forms; and

- so-called 'debt' databases exist. **The added value of** such **debt databases includes the ability to better identify and understand the source of consumers' over-indebtedness.**

The preliminary position which follows is without prejudice to the comments Eurofinas will make on the forthcoming report of the Expert Group on Credit Histories.

I stay at your disposal to answer any question you may have on our position below; alternatively feel free to contact my colleague Ravi Bhatiani (r.bhatiani@eurofinas.org - tel: 02 778 0562).

Yours sincerely,

Tanguy van de Werve
Director General

ABOUT EUROFINAS

Eurofinas, the European Federation of Finance House Associations, is the main voice of the specialised consumer credit industry at European level. It currently represents 16 Member Associations, in turn bringing together more than 1,000 finance houses, captive companies, specialised and universal banks. Together, these consumer credit providers financed over 400 billion euros worth of new loans during 2007, with outstandings reaching 713 billion euros at the end of the year. Companies represented through Eurofinas employ some 90 000 individuals.

Consumer credit providers may be of several natures and our members' members can be grouped into the categories below. Around 90% of the companies represented through Eurofinas are specialised lenders, falling into the first three categories:

- Finance houses: specialised consumer credit providers without a banking licence;
- Captive companies: parent companies of these companies are manufacturers (e.g. car manufacturers). Captives may or may not have a banking licence;
- Specialised banks : institutions with a banking licence but an activity focused on consumer credit or/and mortgage lending; and
- Universal banks: banks providing all kinds of products retail, corporate, etc., including consumer credit.

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1. ACCESS TO CREDIT DATA: FOR ALL LENDERS, NOT ONLY BANKS

Across the EU, there are many different types of lenders (or 'creditors' as used in the Consumer Credit Directive (2008/48/EC)[1] and by the Expert Group on Credit Histories[2]). Not all lenders are banks, far from it.

Those different types of lenders access, and report their data to, credit databases.

There is therefore **no need to distinguish between different types of lenders** when it comes to analysing ways to facilitate the access to, and exchange of, credit data.

If some credit databases are not open to all lenders but to banks only, a definition of the term 'bank' (if really needed) should suffice.

There are many different types of lenders.
Each lender needs to be able to access credit databases.

In 2001, 9% of the EU mortgage market was held by lenders who were not banks. This can include *public authorities.*

Some regional public authorities in Belgium for instance grant loans to low income people as part of their social housing programmes. When doing so, they consult the existing credit register and contribute their data to it. In their capacity as lenders dealing with the most vulnerable parts of society, access to credit databases is essential for these 'lending' public authorities (and indeed for all other lenders who need to know about these loans).

Specialised consumer credit providers are also lenders[3]. Like banks, with which they compete (to the benefit of consumers), most[4] specialised consumer credit providers require access to such databases in order to adequately assess an individual's ability to meet his/her obligations to repay the loan.

For consumer credit providers specialised in e-credit or Point of Sale finance, proper access to credit data is essential as they tend to have less internal data than high-street banks and may not have any face to face contact with the applicant borrower.

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[1] *Henceforth the "CCD".*

[2] *Hereafter the "EGCH".*

[3] *In 2007, specialised consumer credit providers granted €400 billion worth of new loans (source: Eurofinas).*

[4] *Some providers of so-called 'home credit' use alternative credit scoring techniques such as weekly agent visits which provide them with up-to-date, first hand information on the circumstances of a customer.*

2. ASSESSMENT OF THE BUSINESS CASE

We take the view that facilitated cross-border access to, and exchange of, credit data would not, on its own, lead to higher volumes of cross-border lending[5].

Nevertheless, **facilitating the access to, and exchange of, credit data is required for other reasons**, which are linked to:

- **more objective, more efficient and more accurate cross-border credit risk assessments** (in terms of granting a credit to an applicant borrower and then managing the credit so granted);
- **improving access to finance**; and
- **enhancing competition between credit providers** (which benefits consumers).

We note that the work of the EGCH was focussed on retail credit data. **Future EC work could include a similar exercise in relation to the access to, and exchange of, corporate credit data where obstacles do exist** in spite of the existence of a more developed single market for corporate lending.

More objective, more efficient and more accurate creditworthiness assessments

Facilitated cross-border access to, and exchange of, credit data would make the credit risk assessment process more objective, more efficient and more accurate. This would partly be due to less time and resources spent on manual and potentially less accurate methods of customer due diligence.

Current, less satisfactory manual methods of customer due diligence in a cross-border context include:

- making the applicant borrower fill in a very detailed proposal form (which could lead to untrue answers); and/or
- after receiving consent from the applicant borrower to request their credit data, the lender directly contacts its subsidiary in the applicant borrower's home country (which may have access to the applicant borrower's domestic credit database). The subsidiary then requests the relevant credit data from the said credit database and manually forwards it on to the original, requesting lender. This manual process is time consuming. Also, many lenders do not have foreign subsidiaries.

Access to finance

A further benefit in facilitating cross-border access to credit databases lies in improving access to finance for some categories of applicant borrower who are more difficult to assess, such as:

- migrants;
- individuals who wish to buy a second home abroad; and
- former migrants (who return to their country of origin after spending several years abroad[6]).

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[5] *Many other obstacles (including* inter alia *differences in national law and regulation; differences in language and culture and consumer preference for own national providers) exist in the cross-border provision of consumer financial services as acknowledged by Civic Consulting in its recent report submitted to DG Sanco on the economic impact of the Distance Marketing of Consumer Financial Services Directive (Directive 2002/65/EC).*

[6] *Recently, many Poles who had migrated to live and work abroad (e.g. in the UK or Ireland) have returned to Poland and want to buy a house or take out a consumer credit in Poland. They have no recent credit history in Poland, so it is very important for Polish lenders to have access to the returning migrants' credit history as stored, for example, in UK or Irish credit databases.*

In the above-mentioned cases, an assessment of creditworthiness can be more difficult due to the limited amount of credit data available in the ‘host’ country.

A market led solution provided by a well known lender

Currently, there is an increasing trend towards international migration within Europe, which has led to a growing business case for improving access to credit for migrants, particularly within the EU.

This creates opportunities for imaginative credit providers.

For instance a well known lender has recently developed a premium product specifically to improve ease of access to credit for migrants and other individuals who wish to be granted a credit abroad and who have little or no local credit history.

This particular service allows a client to set up a local bank account before he/she relocates and ‘to take their current credit rating with them’.

This is made possible thanks to the lender’s global network of subsidiaries, which allows for an instant credit history transfer between countries. The ease of transferring the required credit data facilitates access to credit without the usual waiting period needed to establish a local credit history.

This is a good example of a market led answer to consumer demands and solution to existing difficulties.

Pan-EU database

While some initiatives may help facilitate the cross-border access to, and exchange of, credit data, **we see no justification for the establishment of a pan-EU database for credit histories. We oppose this as a disproportionate response to the current issues for which *measured* solutions are more appropriate, some of which are laid out in this paper.**

A pan-EU database would lead to problems of (inter alia) securing the data contained therein. Also, the costs of securing such data would be very high.

Furthermore, as any such pan-EU database would, arguably, be a public database, innovation would be stifled and lenders therefore prevented from using the many added value products currently provided by private credit bureaux, some of which give a clear consumer benefit, such as fraud prevention products.

There is also a risk that such a database could result in less credit data availability for many lenders than is currently the case. For reasons expanded upon later in this paper, this would be unacceptable.

3. RESPONSIBLE LENDING AND BORROWING

Responsible lending

Lenders follow sound lending practices, which can help reduce levels of consumer over-indebtedness.

Access to, and exchange of, credit data is one of the tools which helps to ensure continued sound lending practices by credit providers. This reflects the spirit of Article 8(1) of the CCD, which requires lenders to assess a consumer's creditworthiness on the basis of sufficient information.

More effective lending checks, made possible through facilitated access to, and exchange of, the applicant borrower's credit data, could allow lenders to more effectively identify and *accept* potential 'good' applicant borrowers during a creditworthiness assessment.

Conversely, more effective lending checks could help identify and *decline* potential 'bad' applicant borrowers during a creditworthiness assessment.

In some countries, such as the UK, the link between data sharing and responsible lending has been substantiated through official recognition.

Promoting sound lending practices in the UK

In the UK, the use of credit data is overseen by the Steering Committee on Reciprocity (SCOR), which consists of representatives of the credit industry and credit reference agencies. SCOR has produced guidelines for recording, accessing and supplying credit data. The governing principle is that data should only be shared for the prevention of over-commitment, bad debt, fraud and money laundering, and to support debt recovery and debtor tracing, *with the aim of promoting responsible lending*.

Responsible borrowing

Facilitated access to, and exchange of, credit data also encourages responsible borrowing by consumers.

If consumers who are borrowers in a cross-border context realise that lenders have the ability to access foreign credit databases, the said consumers may begin to pay more attention to their own credit histories.

This could lead to such consumers having a clearer picture of their own level of indebtedness, in turn helping to increase responsible borrowing and to reduce levels of consumer indebtedness.

No right to credit

Facilitated access to, and exchange of, credit data is set to improve consumers' access to finance. Improving consumers' access to finance is a means of stimulating consumer spending, which in turn benefits the wider economy. This can be particularly important in times of economic slowdown.

There should not be however such a principle as a right to credit. Even if a lender has facilitated access to the credit history of an applicant borrower, the former should still be in a position to refuse granting the credit[7].

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[7] *The decision* whether or not *to grant a credit to an applicant borrower is, and should remain, a business decision regardless of the outcome of any database consultation.*

Importantly, a right to credit would prevent a lender from being able to exercise its freedom of contract.

Financial inclusion, such as a right to a basic bank account and other basic banking services, contributes to social cohesion and is necessary for economic well being (for example, in some countries, a bank account is needed in order to be employed). Nevertheless, access to basic banking services does not include a right to credit.

Establishing a right to credit would be contrary to the principles of responsible lending and responsible borrowing.

In particular, a right to credit would have the following effects:

- it would prevent lenders from lending responsibly;
- it would encourage borrowers to take on loans they cannot afford to repay, which could lead to their over-indebtedness; and
- it would lead to a higher cost of credit for all borrowers.

4. PROMOTING COMPETITION

Facilitated cross-border access to, and exchange of, credit data promotes competition between lenders.

Competition benefits consumers, industry and the wider economy alike.

Consumers benefit due to easier access to finance, better priced loans, a greater variety of products on offer and arguably improved quality of service.

Industry benefits due to the possibility of:

- minimising losses as a result of more thorough risk assessments; and
- granting increased volumes of credit.

The wider economy benefits from increased consumer spending, which is particularly important in times of recession.

Non-discrimination and competition

A more competitive market can be fostered through non-discriminatory access to credit databases by lenders.

Discriminatory access conditions do **exist** as evidenced in section 5 below.

This situation may discourage certain lenders (such as smaller players, specific types of credit providers and lenders who do not hold a stake in certain credit databases) from entering new markets and creates an unlevel playing field between lenders.

We welcome, in that respect, the European Credit Research Institute's recent decision to carry out a study on credit reporting systems and market entry in the EU 27[8].

[8] The research will analyse, among other things, whether the structure of credit reporting systems affects the entry mode of banks into a market.

5. DATA ACCESS

Facilitating the cross-border access to, and exchange of, credit data matters more, at European level, than trying to harmonise data content at that same level (although, as seen below, the two issues are often linked).

Among all possible 'access' related issues, the non-discriminatory nature of the access is the most important one.

Access to credit databases should be non-discriminatory for both:

- 'foreign' lenders active in national markets; and
- 'domestic' lenders active in national markets.

Non-discriminatory access for foreign lenders in national markets

Non-discriminatory treatment of foreign companies in national markets is a principle embedded within the EC Treaty[9].

This principle can also be found in Article 9(1) of the recently adopted CCD.

The term 'non-discriminatory access' as used in the CCD should be interpreted as meaning that **foreign lenders should be able to access domestic credit databases on the same terms as domestic lenders.**

The CCD Transposition Working Group set up by DG Sanco should make sure this interpretation is applied consistently across Member States.

Non-discriminatory access, as so defined, should also apply in the context of mortgage credit.

Non-discriminatory access for domestic lenders in national markets

Non-discriminatory access to credit databases in a domestic context is of equal importance.

As acknowledged by DG Comp in its retail banking sector enquiry, non-discriminatory credit database access for domestic lenders in national markets is a basic ingredient for a competitive market[10].

We note that in some EU Member States, certain lenders are not able to access the same credit databases as other domestic lenders. This is often due to the restrictive membership criteria of such databases.

In countries where certain lenders can only access negative credit data (or indeed only have access to positive credit data), the said lenders are at a disadvantage in comparison with lenders who have access to negative and positive credit databases or data from richer sources.

Such a situation could represent a violation of Article 9(1) of the CCD and should, as such, be remedied.

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9 *Article 49, 81 and 82 of the consolidated version of the Treaty establishing the European Community.*

10 *DG Comp sector enquiry on retail banking (p31 SEC(2007) 106).*

Case by case assessments are needed

The question whether or not access conditions to credit databases are discriminatory must be assessed on a case by case basis.

Discrimination towards lenders who wish to access credit databases domestically and/or abroad can occur in cases[11] of:

- differing infrastructure costs; and/or
- unfair or restrictive membership conditions.

Non-discrimination and infrastructure costs

In cases where certain infrastructure costs, such as a joining fee, must be paid by a lender based in country A to fulfil one of the access conditions required by a credit database in country B, then that fee should, in principle, not solely apply to the foreign lender but also to domestic lenders equally.

Likewise, if a transaction or annual fee (e.g. a fee based upon the volume of database consultations) is necessary for a country A lender to access a credit database in country B, then the same fee structure must apply to country B lenders as well. Such fee structures should also be equal between country B lenders to ensure a level playing field at a national as well as a cross-border level.

Even if such infrastructure costs are *non*-discriminatory, the very existence of such costs can prevent certain lenders from accessing a credit database due to the absence of, or very limited, economies of scale.

Non-discrimination and membership conditions

Credit Registers

Some (public) credit registers limit access to their credit databases.

Limited access to a credit register can create an unlevel playing field for lenders who, while not fulfilling the access criteria, still need to access the credit data contained therein in order to adequately assess the creditworthiness of an applicant borrower.

Restrictive database access can be a result of:

- the *membership criteria* of the credit register (such as the need for a physical presence in the country of the credit register or a banking license);

- the *purpose* of the credit register (supervisory function[12] for banks); or

- both of the above.

To improve access to credit registers, there should be an opening up of the membership criteria of such credit registers to other types of lenders.

Alternatively indirect access to such registers should be made possible (via other credit registers or bureaux) and the establishment of credit bureaux (which all lenders should contribute their credit data to) in the country of such credit registers with limited access, should be promoted as a solution to help lenders who are currently denied access.

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[11] *This is confirmed by the DG Comp sector enquiry on retail banking (p32-34 SEC(2007) 106).*

[12] *Aiming at*, inter alia, *collecting and monitoring statistical information on household indebtedness, bad cheques and corporate borrowing.*

Credit Bureaux

An unfair or discriminatory condition regarding credit database access may exist where credit bureaux differentiate between certain types of lender on certain grounds without objective justification.

A problematic situation in Poland

In Poland, certain lenders have difficulty in accessing BIK (the Polish Credit Information Bureau). BIK stores both negative and positive credit data, which it is mandated to provide to banks and other institutions authorised by statute to grant *credit*.

As the interpretation by BIK of the term '*credit*' is very narrow and refers to credit granting being a *bank* activity (thus ignoring consumer credit agreements concluded by other lenders), only banks[13] can access BIK stored data.

This could prevent other lenders, who also require access to the credit data contained in the BIK, from adequately assessing the creditworthiness of an applicant borrower.

We note that all lenders in Poland are able to access a negative data only credit bureau known as BIG. Nevertheless, BIK does not share its data with BIG.

Not being able to access the data contained in BIK puts lenders who cannot access it at a competitive disadvantage when assessing the risk and cost of granting a credit to an applicant borrower.

BIK has previously offered to give lenders, who do not currently have access to its credit data, access to its database. However, this access is limited to one off enquiries initiated by a consumer, who must give his 'official consent'.

Obtaining the 'official consent' from a consumer is a burdensome process for both the lender and the consumer as it requires getting an official, and duly signed, document from the said consumer. Although not a legal requirement, such consent *could* take the form of a document signed by the consumer and attested to by a notary. A simple box ticking exercise on a loan application form is therefore *not* sufficient.

In practice, this prevents affected lenders from accessing the BIK database as it is time-consuming and resource intensive to get such official consent from every applicant borrower before each creditworthiness assessment takes place.

Such a burdensome administrative procedure maintains the current *un*level playing field between national lenders who need database access in Poland. This is because such an access model prevents certain lenders from taking advantage of potential economies of scale made through using an automated consultation process more suited to the large volumes of BIK consultations needed in order to allow for more robust, more accurate and more efficient creditworthiness assessments.

Furthermore, if during the transposition of the CCD in Poland, the Polish authorities transpose Article 8(1) of the CCD in such a way that a 'relevant database' necessarily refers to the BIK database (and not BIG), then lenders who cannot access the BIK are prevented from being able to comply with Article 8(1) of the CCD.

If BIG does qualify as a 'relevant database' then a problem may still exist as BIG only contains negative data. The issue would then be whether the use of negative data only is deemed to be the 'sufficient information' needed to assess a consumer's creditworthiness under Article 8(1) of the CCD.

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[13] *And credit co-operatives.*

Further obstacles to data access

As outlined in the example provided in the box below, further obstacles to data access exist for lenders wishing to assess the creditworthiness of:

- a consumer based in a country other than that of the lender; and

- a migrant who has just arrived in the lender's 'home' country.

Some of these obstacles derive from differences in data content and can be overcome more or less easily by lenders.

Problems of access to, and exchange of, credit data experienced by a lender based in Germany

When a lender based in Germany wishes to grant a credit to a German citizen residing in Germany, there are no obstacles to assessing the applicant borrower's creditworthiness. This is because there is sufficient information upon which a credit granting decision can be made.

In particular, the credit data needed comes from:

- the loan application form and other information submitted by the applicant borrower;
- the lender's possible existing internal data on the applicant borrower;
- public sources, such as a list of debtors drawn up by the national Courts; and
- credit databases, such as SCHUFA.

In cross-border situations where, for instance, a consumer based in a country other than that of the lender (or a migrant having just arrived in the lender's country) applies for a credit, a Germany based lender is confronted with the problem of insufficient credit data[14] on the applicant borrower[15].

In such situations, it is essential for the lender to consult the relevant foreign credit database in order to obtain the information necessary to make a thorough assessment of creditworthiness.

This can prove problematic.

Problems can exist where, due to national differences, the mechanisms for obtaining the data (and the data itself) from credit databases are not uniform. In particular, foreign databases can contain (amongst others) different search engines and different data content. Differences of language can add to the difficulty.

Furthermore, data content can vary considerably between Member States due to national legislation which can regulate what particular types of data are contained within an individual's credit history.

Problems also exist due to differences in the implementation of the Data Protection Directive *(see data protection, below).*

In order to overcome the above-mentioned problems, every lender may have to adapt its management and credit decision systems in order to interpret information received from another country.

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[14] *Absence and/or poor quality of the relevant credit data.*
[15] *Lenders in many other EU Member States face similar problems.*

Data protection

The Data Protection Directive (DPD) has been interpreted differently across the EU 27.

Particular differences exist in the interpretations of the:

- ‘authorised purposes’ of using credit data; and
- ‘authorised actors’ for exchanging credit data.

Amending the DPD with a view to *fully* harmonising the ability of lenders and credit registers to use and exchange the credit data would facilitate the cross-border access to, and exchange of, credit data.

Possible market-driven solutions to access problems

Some of the obstacles to the access to, and exchange of, credit data mentioned in the examples above, could be overcome through the various access models described below.

The Report Portability Model

Using this access model, when an applicant borrower from country A visits a lender in country B to apply for a credit, the applicant borrower will bring to the lender a copy of his own credit history, which he will have requested (and received) when he was last in country A.

The Cross-Border Consumer Request (CBCR) Model

An applicant borrower, when approaching a lender for a credit, can authorise the lender to ask for the applicant borrower’s credit data on his/her behalf.

This could be done by way of an authorisation form, which the applicant borrower has to sign in favour of the lender. With this authorisation, the applicant borrower enables the lender to get his/her data from the foreign (usually the applicant borrower’s home) credit database.

The lender will present the request to its local credit database, which will then submit it to the appropriate foreign credit database.

As the data access request is made by the applicant borrower (the lender only facilitates this request), the foreign credit database has to accommodate it due to Article 12 of the Data Protection Directive according to which a data subject has a right of access to its data. The information requested is then forwarded to the lender which makes it possible to carry out the creditworthiness assessment.

The Indirect Access Model

Using this access model, when a consumer from country A visits a lender in country B to apply for a credit:

- The lender in country B contacts the credit database in country B to obtain the credit history of the applicant borrower;
- In turn, the credit database in country B will contact the credit database in country A;
- The credit databases in countries A and B will manage the process, in order to satisfy the request of the lender;
- All data updates (such as repayment performance) are given to the credit database in country B;
- At the same time, the credit database in country A will mark the applicant borrower's data with a 'flag', which notes that there is additional credit data in existence for that person in country B;
- Thus, when a future search is made against the borrower, it is immediately visible that he already has credit data on a loan available in country B.

The Direct Access Model

Using this access model, when a consumer from country A visits a lender in country B to apply for a credit, the lender in country B directly contacts the credit database in country A to obtain the credit history of the applicant borrower.

We do not favour the report portability model due to the risk of fraud associated thereto. This model is open to abuse as an ill-intended applicant borrower may alter the data in between receiving the credit history and presenting it to the lender. A further difficulty therein can be if the data supplied is in a different language and/or uses differently defined terms which the lender may not be aware of.

The CBCR model may be appropriate in certain situations where a lender needs to access a credit database but cannot due to the restrictive access conditions of the credit database.

The report portability and CBCR models may not adapt well to the principle of reciprocity however.

The indirect access model may offer a convenient solution for lenders who:

- only rarely need to consult a foreign credit database; and/or
- do not have the resources to directly access a foreign credit database and interpret the data contained therein.

The direct access model may be suitable for lenders making (or planning to make) a high volume of cross-border database consultations, which can justify the infrastructure costs of joining the foreign credit database. Nevertheless, it may be difficult for a lender in country B to comply with:

- the legislation in country A regarding data access; and
- some of the formal rules of the credit database in country A (e.g. as regards the updating frequency of the repayment history).

Notwithstanding the above, **it should be left to each individual lender to decide which access model offers the most convenient and cost-effective solution** in light of (i) the current low volume of cross-border credit database consultations and (ii) its own situation.

6. DATA QUALITY

Whichever access model is preferred by the lender, it is essential for the accessed data to be reliable.

Data quality is of paramount importance; only good quality data can be used effectively.

For consumers, inaccurate data can lead to a denial of credit or to worse credit terms.

For lenders, inaccurate data can lead to (inter alia) an incorrect credit decision, errors in fraud detection and problems in collections effectiveness (e.g. an incorrect name or address may prevent any reminders for payment from being delivered to the borrower).

There are three key aspects in ensuring data quality[16]:

- *Consistency*, which requires that in every newly created record within a credit database, each data field within that record is completed;
- *Accuracy*, which requires that the transcription of data items are all correct (e.g. inputting correct spelling of names/addresses and ensuring dates of birth are correct). Lenders should also ensure that when a customer supplies information, such as on a proposal form, that information is truthfully supplied;
- *Age*, which reflects the fact that certain data fields can become outdated quickly (such as a data subject's level of outstanding payments). It is important to keep such data fields up to date, as they could have a material effect in any creditworthiness assessment[17].

Reciprocity

Reciprocity is a key principle when it comes to accessing credit databases.

Indeed, reciprocity aims at ensuring both data quality and data quantity.

Reciprocity is the requirement for all credit database members to contribute credit data to it, in return for obtaining access thereto.

Reciprocity is of particular importance as it prevents lenders from taking a 'free ride' on the efforts of other lenders, who have previously contributed their credit data to the database. In view of such previous contributions, database access must be made conditional upon lenders providing the database with their own credit data.

[16] *p17* Principles and practice of consumer credit risk management, *2nd edition, Institute of Financial Services.*
[17] *Ibid. [FN16] above.*

Three models of reciprocity can be considered		
Full reciprocity	**Full reciprocity in the national market**	**Limited reciprocity**
If a lender in country A requests credit data from a database in country B, then the lender in country A must report data about all its customers (i.e. its whole portfolio, which must be continually updated) to the database in country B.	If a lender in country A requests credit data from a database in country B, then the lender in country A must report data about all its customers in country B to the database in country B.	If a lender in country A requests credit data from a database in country B, then the lender in country A must report data to the database in country B about only those customers in country B for which a database consultation has been made.

Full reciprocity is a very stringent obligation that can act as an obstacle to database access. Furthermore, it is not practical to transfer data on a lender's entire loan portfolio to a credit database on the basis of only one (rare) cross-border credit database consultation(s).

Similarly, full reciprocity in the national market can be disproportionate for lenders, who may not be willing to transfer data on their entire national customer portfolio on the basis of only one (rare) cross-border database consultation(s).

With the current low levels of cross-border credit database consultations, **the most simple model of reciprocity (limited reciprocity) could be used as a first step to ensure data quality in cross-border exchanges of credit data.** This will help to preserve the integrity of the credit data held on borrowers who have been granted a credit by a foreign lender, whilst not acting as a deterrent to making cross-border database consultations.

7. DATA CONTENT

We recognise that different business models for lenders exist across Europe.

This is due to, *inter alia*, economic and cultural differences between Member States.

Basic differences between Member States should not be used as a justification for greater harmonisation of data content across the EU.

Additionally, **any** future **harmonisation of data conten**t, which would be very complex, **should not result in less credit data availability for lenders than is currently the case.** The availability of less credit data would be unacceptable to lenders as it would negatively impact upon their ability to make thorough creditworthiness assessments.

Furthermore, lenders have already established risk assessment procedures and business models that are adapted to the data content currently in existence in each particular country.

The existence of both negative and positive data content

Negative data

Access to, and exchange of, negative data (at the very least) is essential for most[18] lenders to assess a credit application made by a consumer.

Facilitated access to, and exchange of, negative credit data would ensure that lenders can make appropriate and necessary checks on an applicant borrower's creditworthiness.

Access to negative credit data should not however be used for prospection purposes. Credit database access should be limited to the purpose of assessing the creditworthiness of an applicant borrower.

Positive data

Facilitated access to, and exchange of, positive data can allow lenders to make a more complete assessment of a borrower's ability to repay a loan.

The use of positive data can help to identify applicant borrowers who could potentially become over-indebted. It is quite common for applicant borrowers, who pass a creditworthiness assessment based on negative data only, to be revealed as dangerously indebted when positive data is used to make their creditworthiness assessment.

This is recognised by many lenders, who use a wide range of positive data as a tool to provide account management information to fully take into account all relevant circumstances, such as an applicant borrower's previous credit history, other loans and liquidity risks (e.g. whether an applicant borrower needs to pay maintenance to a former spouse after a divorce) when assessing creditworthiness.

[18] Certain lenders, in particular those specialised in the provisions of so-called (door-to-door) 'home' credit, often base lending decisions on predictive scoring (based on both 'application' and 'behavioural' scoring) to establish whether, how much and over what term to lend. Once a customer completes a loan, his / her performance under that loan becomes the most highly predictive factor if that lender is asked to consider advancing further credit. Furthermore, for such lenders, a unique insight is given into the applicant borrower's home situation as the credit decision is taken after a home visit.

Although no unanimity on the subject matter exists, anecdotal and empirical evidence suggests that the use of positive credit data in credit scoring allows lenders to significantly reduce default rates and/or increase lending volumes[19].

We note that in some markets where the credit database(s) store(s) only negative data, such data has proved sufficient for lenders to operate successful business models.

Typical data used in the UK

In the United Kingdom, where a highly developed lending market exists, typically, both positive and negative credit data is used to assess creditworthiness.

This can include:

- personal details supplied by an applicant borrower, which includes name, age, address, employment, family details, banking arrangements, income and expenditure information;
- information about the required loan including the length, value and purpose of the loan;
- information on whether or not the loan will be secured;
- any known current or recent credit arrangements with the lender;
- public information confirming domicile (e.g. an extract of the electoral register), court judgments and/or bankruptcy information;
- credit histories with other lenders;
- scores calculated by the lender and/or 3rd party (normally the credit register);
- data checks to comply with anti-money laundering obligations and fraud prevention (such as CIFAS indicators); and
- data contained in other registers of excluded or politically sensitive individuals.

This combination of positive and negative data has allowed for the development of a thorough risk assessment process leading to better targeted products, cheaper credit products (due to more accurate pricing of risk), wider credit availability for consumers and better management of consumers.

[19] *p14* Credit Bureau Knowledge Guide *International Finance Corporation (World Bank Group) 2006 (*report available here*).*

8. OTHER CONCERNS

Fraud

Eurofinas organised for its members and with the participation of the European Commission (DG JLS) a 'Discussion Day on Fraud' on 4 May 2007 to discuss the extent of the fraud problem.

Of particular concern for the participants of the Discussion Day was that **little data to identify, and fight against, fraud/fraudsters is currently available and that such data does not exist in any homogenous and comparable forms.**

Also highlighted during the debate was the need for: a common definition of identity theft at EU level; a new penal legislation which deems identity theft to be a criminal offence in all Member States; and EU wide statistical data.

Fraud and lender detriment

Fraud inflicts financial damage on lenders, which must dedicate expensive resources to identify and prevent fraudulent acts.

Fraud also leads to less tangible losses for lenders such as the negative effect on a lender's reputation.

In times of economic hardship, lenders have found that the number of fraud cases, both actual and attempted, rises[20].

Fraud and consumer detriment

Fraudulent activity results in consumer detriment.

Amongst others, fraud can:

- lead to higher interest rates for all consumers, as lenders seek to recover losses incurred as a result of fraudulent activity; and
- have a negative impact upon the credit history of an applicant borrower, if loans are fraudulently taken out in the applicant borrower's name.

In particular, identity fraud has proven to be problematic. It can take a victim up to 200 hours and cost up to GBP 8000 to rectify a situation where a complete identity 'hijack' has occurred[21].

[20] *For example, from January to September 2008, levels of account take over fraud rose 174% - CIFAS October 2008 data.*
[21] *According to UK fraud prevention service, CIFAS.*

A market led solution in fraud prevention

CIFAS is the UK's Fraud Prevention Service. Founded in 1988, CIFAS is a not-for-profit membership association solely dedicated to the prevention of financial crime.

Following a rapid rise in fraud losses in the 1980s, which affected retail lenders predominantly, a number of lenders met in 1987 to consider their position. Following a series of meetings the retailers came up with the CIFAS concept and in late 1988 CIFAS became operational.

When a Member of CIFAS searches the CIFAS database through one of its agencies, the Member is made aware of the need to investigate by means of a flagged warning.

This warning does not mean that the individual has been blacklisted. It means that extra precautions should be taken to ensure that the application or facility that has prompted the check is genuine and this protects the individual against potential fraud.

The CIFAS Member is then required to conduct an investigation into the case and not just reject the application (or account/product/facility/insurance policy/employment) as it may be a genuine application rather than one submitted by a fraudster.

Debt databases

Debt databases have proved useful for carrying out credit risk assessments in countries in which they exist.

This is the case provided that the lender has the capacity to interpret and use the information contained in the debt database.

Credit risk can be assessed more thoroughly when historical repayment data from other sources, in addition to loan repayments, can be consulted.

A further advantage in having debt databases is the ability to better understand the source of consumers' over-indebtedness. We note that in some countries, such as Belgium, an important percentage of over-indebted people have not taken out a single loan… Rather this over-indebtedness arises from debt owed to telecoms and utility companies, tax authorities and health care providers. It is therefore no coincidence that in Belgium, the UPC[22] has asked the Belgian credit register to include both telecoms and utility companies data within its scope[23].

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[22] *Union Professionnelle du Crédit (UPC) is the trade association representing the private credit sector in Belgium for both consumer credit and mortgage credit. Its Members represent more than 96% of the Belgian consumer credit market and about 90% of the Belgian mortgage market.*
[23] *In the Netherlands (BKR) and in Germany (SCHUFA), unpaid telecoms bills are already recorded in the respective credit bureaux.*