

Responsible Lending & Borrowing

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INTRODUCTORY OBSERVATIONS

Eurofinas, the voice of specialised consumer credit providers in Europe sees consumer confidence as a precursor for successful lending and borrowing transactions. The industry welcomed in 2009 the opportunity to respond to the Commission's consultation on *responsible lending and borrowing in the EU* and hopes that its views will be reflected in future European policy considerations¹.

Against this backdrop, Eurofinas wishes to reiterate its position and clarify key issues for the consumer credit industry.

- The adoption of the Consumer Credit Directive (the CCD) represents a major step in consumer protection across the EU, notably on creditworthiness assessment and the delivery of prudent lending decisions². The transposition of the CCD into Member States legislation will bring substantial modifications to lenders' current business practices. Eurofinas firmly believes that those provisions ensure sound lending practices at European level in the field of consumer credit.
- Against this background, **Eurofinas urges European policymakers to wait for the CCD provisions to be implemented and, to conduct an appropriate impact assessment on business practices and consumer protection before considering any further regulatory action in the field of consumer credit.**
- Consumer credit covers a large scale of different products³. In 2008, the average consumer credit loan for personal consumption was of 4246 Euros⁴. Consumer credit products are less sophisticated in their functionality than other forms of banking and financial products. Eurofinas takes the view that this should be adequately reflected in any policy approach.
- In this context, the industry strongly believes that consumer credit lending should not be confused with investment services which cover distinct products, involve different processes and objectives for consumers.

¹ See Eurofinas response to the European Commission's consultation on responsible lending and borrowing in the EU, August 2009 available at: <http://www.eurofinas.org/index.php?page=position-papers>

² See OJEU L 133/66 of 22.05.018, Directive 2008/48 EC on credit agreements for consumers and repealing Council Directive 87/102/EEC

³ The concept of consumer credit encompasses different products such as: personal loans, overdrafts, credit cards, motor finance, student loans, financing of goods/services at the point of sale.

⁴ Based on Eurofinas statistics for the year 2008 and including personal loans and credit at the point of sale. This represents a decrease of 5.44 % compared to the year 2007. In 2008, the total of new consumer credit granted reached 268,2 billion Euros and 40639 million new contracts. This respectively represents a decrease of 8.3% and 1.5% compared to the year 2007. **This trend has worsened for the first half of year 2009 for which we observed a decrease of 16% of total new consumer credit granted and of 11% of new contracts compared to the first half of 2008.**



1. ADVERTISING & MARKETING OF CONSUMER CREDIT PRODUCTS

- Eurofinas believes that existing European and National regulatory frameworks are suitable to prevent consumer credit misleading, unfair advertising or marketing practices and to solve any possible dispute arising in that field. In this context, the industry considers that local regulatory frameworks are crucial to adapt to market specificities (types of products, sales processes, advertising/marketing culture etc.).
- The industry acknowledges the need for appropriate consumer protection from misleading practices. This is best served by robust principles for pre-contractual information transparency, increased financial literacy schemes for consumers and accessible/easy redress.

2. PRODUCTS SUITABILITY AND STANDARDISATION

Product Standardisation

- Consumers needs and wants vary. The advantages and disadvantages of different products therefore depend on the specific circumstances that prevail when entering into an agreement. **Any kind of product certification/standardisation is a barrier to product innovation and fluidity in product development which is essential to a dynamic credit market.**
- The industry strongly believes that any difficulties raised by consumers should be addressed on a case by case basis and in light of their underlying cause (which may be explained by a number of factors). There are no consumer credit products inherently unsuitable for sale.

Revolving Loans

- We strongly oppose any moves to differentiate between consumer credit products, particularly in relation to revolving loans. As with other mainstream credit products, the customer profile varies. Revolving loans are governed by the same regulatory provisions (the CCD) and lending standards as other products. It would therefore be anti-competitive to introduce any legislative distinction.

Interest rate restrictions

- The industry wishes to emphasize that the regulatory approach towards interest rate restrictions remains local. **The use of the term “usurious” without reference to any specific context is meaningless and counterproductive in a policy context.**
- An EU study is currently being undertaken on the subject matter. Eurofinas therefore urges policy-makers not to draw any premature conclusions on this important and technical issue whose implications are considerable.

Creditworthiness Assessment

- **Consumer credit providers always assess the creditworthiness of borrowers.** In this context, it is worth recalling that the speed of the overall process has no impact on the quality of the creditworthiness assessment. In accordance with CCD provisions this assessment should be based, where appropriate, on information obtained directly from the borrower and /or from a relevant database.
- Every loan application involves a certain level of risk to the lender, irrespective of “quality” of the potential borrower. Eurofinas believes that **the decision whether or not to lend is based upon the assessment of risk and should remain a commercial one.**

3. ADVICE

- **Advice is a tailor-made additional service to the provision of information and explanation which should not be provided by the lender on a compulsory basis.**
- Eurofinas strongly believes that compulsory advice standards are inappropriate for consumer credit products. This is reflected in the CCD provisions according to which lenders shall provide adequate explanations to the consumer, in order **to enable him to assess whether the proposed credit agreement is adapted to his needs and to his financial situation.**



4. RESPONSIBLE BORROWING

- Eurofinas strongly supports educational programmes undertaken by trade associations, consumer representatives and firms which aim to increase consumers' financial literacy⁵. In this context, **local authorities have a leading role to play in coordinating existing actions** and ensuring that the most vulnerable parts of the population grasp the most basic economic concepts such as budgeting, savings or planning ahead.
- It is worth adding that lenders also rely on the integrity of borrowers to provide accurate information⁶ and to ensure that they do not over-extend themselves.

5. CREDIT INTERMEDIARIES

Definition of Intermediaries

- Eurofinas believes that, as regards consumer credit, **a clear distinction must be made between entities that provide credit mediation to third parties for remuneration as their main activity (e.g. brokers, agents, etc.) and those that practice credit mediation as an ancillary activity (i.e. dealers and retailers involved in the distribution of credit at the point of sale)**. This view was reflected in the CCD.
- Given the role dealers play in the distribution of consumer credit at the point of sale, Eurofinas strongly believes that it would be inequitable to subject them to the same requirements as credit brokers. In this context, the industry warns against the use of the Insurance Mediation Directive (the IMD) as a template⁷. Eurofinas believes that some of the negative impacts of the IMD could have been avoided by better reflecting the level of responsibility of different types of insurance intermediaries.

Prudential Requirements

- The common thread between credit intermediaries is that they connect potential borrowers with lenders. Credit intermediaries are not lenders. They do not lend on their own funds. Therefore, to subject them to the same prudential requirements (*minimum capital*) as lending institutions would not make any sense.

Remuneration

- Under Point of Sale finance, remuneration of intermediaries reflects the services rendered by retailers and motor dealers to lenders. **Credit intermediaries' commission is not charged separately to borrowers and is reflected in the price paid by the consumer**. This means that, remunerations do not impact the comparability of offers and consumers' ability to take informed decisions.
- Europe Economics, which undertook a study on credit intermediaries on behalf of the European Commission, concluded that the scope for a conflict of interest in PoS finance was absent⁸. The industry supports Europe Economics' findings and believes that the risk of potential conflict of interest due to PoS intermediaries' remuneration schemes is extremely limited.

⁵ See as an example, Eurofinas, *E-publication on Financial Education*, October 2009 at www.eurofinas.org

⁶ On a more general note see Eurofinas call for increased EU action against fraud in *Eurofinas response to the European Commission's consultation on responsible lending and borrowing in the EU*, August 2009 available at: <http://www.eurofinas.org/index.php?page=position-papers>

⁷ See OJUE L 009 of 15.01.03, Directive 2002/92/EC on insurance mediation

⁸ See Europe Economics, *Study on Credit Intermediaries in the Internal Market*, January 2009 at <http://www.eurofinas.org/uploads/documents/policies/Europe%20Economics%20Report%20FINAL.pdf>