

EUROFINAS

European Federation of Finance House Associations

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CONSUMER CREDIT DIRECTIVE: EUROPEAN PARLIAMENT CAN STILL FIX IT !

(Second reading to start on 24 September 2007)

BRUSSELS – 20 September 2007. Eurofinas, the European Federation representing the national associations of consumer credit providers, commends the European Parliament for having commissioned a study on the economic impact of the proposed Directive on consumer credit (the ‘Civic Report’). This study was long overdue and should have been carried out at the request of the European Commission before any (revised) proposal was made.

The Civic Report, although limited in scope, confirmed the longstanding view of the industry that the current proposal will not benefit consumers (as it will result in higher costs, less choice and information overload) and will not lead to greater levels of consumer confidence. The Oxera report published in April 2007 and commissioned by a number of UK Trade Associations reached broadly similar conclusions.

Eurofinas’ Director General Tanguy van de Werve commented: “We very much regret that the Council took no account of the Civic Report, in breach of its commitment to Better Regulation. The debate at Council level has been mainly political, and the real issues have been barely discussed”.

Eurofinas considers the Common Position adopted by the Council to be seriously flawed in a number of key respects. These relate to the level of harmonisation, the right of withdrawal, the information requirements regime, linked credit agreements and credit intermediaries (*further detail available on page 2 and 3*).

Van de Werve added “The second reading represents an opportunity to address the industry major concerns. It is Eurofinas’ hope that the Members of the European Parliament will seize this opportunity to take a critical look at the text adopted by the Council so as to bring about the changes that are necessary for the Directive to deliver its objectives”.

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Note to the Editor:

Eurofinas is the main voice of the specialized consumer credit industry at European level. Its members are essentially finance houses, specialized banks and captive finance companies of car, equipment, etc. manufacturers. Together, Eurofinas members financed over 380 billion euros worth of new loans during 2006 with outstandings reaching 645 billion euros at the end of the year. Companies represented through Eurofinas employ some 85,000 individuals.

Eurofinas' key concerns as regards the Council's Common Position on the CCD (which will be submitted to the European Parliament on 24 September for second reading)

Harmonisation (level of)

As acknowledged in the Recital of the Common Position adopted by the Council, the (...) *situation resulting from (...) national differences leads to (..) obstacles to the internal market where Member States have adopted different mandatory provisions more stringent than those foreseen in Directive 87/102/EEC. (...) In order to facilitate the emergence of a well-functioning internal market in consumer credit, it is necessary to make provision for a harmonised Community framework in a number of core areas (...) Full harmonisation is necessary in order to assure all consumers in the Community a high and equivalent level of protection of their interests and in order to create a genuine internal market.*

Yet the Common Position falls short of fully harmonizing a number of key elements for the development of a single market for consumer credit (incl. information requirements and right of withdrawal). In these circumstances it is doubtful whether the Directive will deliver its single market and consumer protection objectives.

Information requirements

It is inappropriate to overload consumers with excessive and/or duplicate information, which not only inconveniences them but also creates unnecessary burdens and costs for lenders.

The specificities of the point of sale finance (linked credit) market call for a differentiated pre-contractual information regime.

Also, the wide scope of the definitions of the 'total cost of credit' and of the APRC do not allow meaningful comparisons of the cost of credit by consumers.

Right of withdrawal

Unless lenders can understand precisely when the right of withdrawal period starts, they will face major legal uncertainty.

The distribution of credit at the point of sale will be badly hit by the Directive if consumers are not able to waive the right of withdrawal if they wish immediate delivery of the goods or services financed. This will be to the detriment of consumers, distributors and lenders alike.

Also, lenders should be compensated for all the (reasonable) administrative costs they incur. Otherwise the average cost of credit will go up, regardless of any withdrawal.

Linked credit agreements

The definition of linked credit agreements is too broad. It creates the risk that a large number of credits could be defined as "linked credit agreements" without any of the parties having intended to give this effect to the agreement.

Credit intermediaries

The definition of ‘credit intermediary’ is too broad. Unless it is restricted to any natural or legal person whose *principal activity* consists in offering and/or concluding credit agreements for remuneration, it will also apply to sellers/dealers whose main activity is the sale of goods or services other than credit. This is not appropriate in view of the role the latter play in the credit distribution process. This would negatively impact the distribution of credit at the point of sale, once again to the detriment of consumers, distributors and credit providers alike.

Also this would go against the objective of the Directive to facilitate the cross-border provision of credit: like e-credit and the internet, point of sale finance allows creditors to provide credit cross-border without the need to establish a branch or a subsidiary.