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## Regulatory Affairs in Europe

### Agreement reached on Consumer Credit Directive

After more than four years of difficult negotiations, the EU Member States have finally reached a deal on the new Consumer Credit Directive (CCD) during the Competitiveness Council in May. The CCD aims to set the same rules throughout Europe for the protection of consumers that borrow. Its goal is to enable the integration of the markets for consumer credit in EU countries.

The first CCD was adopted in 1987 and is by now widely regarded as outdated, due to the significant changes that have occurred in the market for consumer credit since the early 1980s. In the past twenty years consumer credit has become much more widespread, and the products in the market have become more sophisticated. Moreover, the adoption of the directive had not led to the integration of the EU countries' markets as the Commission had hoped. This was thought to be at least partly due the fact that the directive followed the principle of "minimum harmonisation", so Member States were allowed to add to national legislation on top of the CCD obligations, which meant that legislations remained different.

The new CCD therefore aims not only to be more adapted to the realities of today's markets, but also to be more effective at ensuring the integration of those markets in Europe. The Commission has therefore opted for the "full harmonization" approach, whereby Member States are not allowed to add national legislation on top of the CCD obligations. This made reaching an agreement fairly difficult: The Member States vary in the traditions regarding consumer protection.

The initial proposal from the Commission for a new CCD (issued in 2002) therefore met with widespread criticism, and, to be able to reach an agreement, the Commission was forced to water down the text. While keeping the full harmonization approach, it reduced the "scope" of the directive, as well as the obligations it contains. In a Commentary just recently published by ECRI, the authors Nicola Jentzsch and Karel Lannoo observe: "It is remarkable that the Commission chose to stick to the maximum harmonisation approach for that proposal, notwithstanding the preference of the European Parliament and the member states for minimal harmonisation and mutual recognition." The reduction in scope means that it now applies to only certain types of credit agreements. The directive will not apply to mortgage credits, credit agreements below €200 or over

€100.000, hiring and leasing agreements where an obligation to purchase the object is not foreseen, short-term credits of less than one month and credit agreements which are granted in the form of an overdraft facility. The reduction in the obligations means that the Commission has dropped some of the elements of its 2002 proposal, such as forbidding “unfair credit terms” and imposing obligations relative to the “performance” of credit agreements. Other elements were kept but narrowed down, such as the concept of “responsible lending”.

Despite this watering down of the initial Commission proposal, the new CCD still brings important changes. For instance, the directive imposes a standardised format to enable consumers to compare credit products more easily (“Standard European Consumer Credit Information”). The directive also imposes a “right of withdrawal” or right for consumers to cancel the credit agreement which lasts for 14 days. Analysts welcomed the agreement, but are mostly sceptical as to whether it will bring forth further integration of credit markets in Europe - as the lack of integration can also be contributed to factors other than differences in national legislations.

**Further information:**

The second draft consumer credit directive is downloadable from the website of DG Health and Consumer Affairs:  
[http://europa.eu.int/comm/consumers/cons\\_int/fin\\_a\\_serv/cons\\_directive/2ndproposal\\_en.pdf](http://europa.eu.int/comm/consumers/cons_int/fin_a_serv/cons_directive/2ndproposal_en.pdf)

Jentzsch, N. and Lannoo, K. (2007). Much Ado About Little? Agreement on the Consumer Credit Directive Reached, ECRI Commentary No. 2 (23. May 2007), [www.ecri.be](http://www.ecri.be)

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## EU Parliament: Payment Services Directive accepted

From November 2009 on, consumers, banks and various other stakeholders will be able to benefit from a new legislation for a European-wide payment services system. As expected, the European Parliament accepted the proposed Payment Services Directive (PSD) on April 24<sup>th</sup> in the first reading, thereby paving the way for an easier and more cost-efficient operation of trans-national electronic (cashless) payments in Europe.

Tackling a market with great savings potentials, the directive seeks to reduce the use of relatively expensive cash transactions, which according to figures of the Commission amount to approximately 60-70% of the total cost of the payment system. By removing legal

barriers and creating a level playing field for a new generation of (non-bank) institutions, the PSD aims to enhance competition among financial service providers. Furthermore, increased market transparency will facilitate the calculation and comparison of offered services.

Although the PSD still lacks the formal adoption by the Council, the process of the creation of an integrated single market in financial services can be considered to have made a big step towards completion. After having successfully jumped the main legislative hurdles, the next big challenge will be the implementation, as Member States will have to transpose the provisions set out by the Directive into national law no later than by November 2009.

**Further information:**

The proposal and its amendments as well as an official joint statement of the Commission and European Central Bank can be downloaded from the website of the European Commission: [http://ec.europa.eu/internal\\_market/payments/framework/index\\_en.htm](http://ec.europa.eu/internal_market/payments/framework/index_en.htm)

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## Expert Group disagrees on customer mobility

Customer mobility with regard to bank accounts is at the centre of focus of a new report published by international Expert Group in Brussels. This group consisting of banking industry officials, consumer experts and academics has analysed the topic for the Internal Market and Services DG. While consumer experts see mobility of consumers as a problem, banking industry experts do not agree to this.

The report covers three scenarios: national and cross-border switching of bank accounts and cross-border opening of new bank accounts. Banking industry experts regard multi-banking (holding several accounts at several banks) as the main form of mobility. Consumer experts, on the other hand, do not see multi-banking as a substitute for switching accounts and state that both depend on the services and products offered as well as on pricing strategies of banks. Switching bank accounts relates to a number of problems such as information asymmetries, lack of price transparency, bundling and tying of products, administrative burdens and closing charges.

The Group makes several proposals to overcome these obstacles. Amongst others, these include a pan-European study to determine how the actual search and choice process occurs in different Member States, an EU cross-border switching guide, EU-wide account number portability, regulation of closing charges and regulations of bundling and tying of products. While consumer experts call for strict regulations and prohibitions, banking industry experts favour competition between banks as the best strategy.

When studying the cross-border opening of bank accounts banking industry experts focus on legal and regulatory barriers, while consumer experts point out information barriers and uncertainty of consumers. The Group also took a look at the banks' account policies and the matter of opening and closing charges. The experts' advice for the Commission is to analyze the impact of anti-money laundering on customer mobility and the prevention of discrimination, where nationals and non-nationals in a country have a legal right to open a bank account. Further recommendations by consumer advocates and academics include the provision of information at EU level about banks which offer bank accounts to consumers from other Member States.

**Further information:**

The report of the Expert Group is downloadable from the website of DG Internal Market and Services:  
[http://ec.europa.eu/internal\\_market/finservices-retail/baeg\\_en.htm](http://ec.europa.eu/internal_market/finservices-retail/baeg_en.htm)

### Green Paper sets out EU financial services strategy

European Commission sets out its future policy for European retail financial services. In a Green Paper published in April, policymakers set out the key objectives of the strategy to further advance retail financial services in the Common Market.

The Green Paper addresses the problems faced by consumers and industry and to present the necessary actions of the Commission in this area. The Paper is part of the Commission's "Post-FSAP" strategy: At the moment, the Commission is following up on the Financial Services Action Plan (FSAP) which is nearly completed.

Although the Commission acknowledges the progress so far, the retail financial services integration has not reached its full potential:

- cross-border trade and activity through cross-border establishments has not yet reached the degree of most other sectors;
- interest rates for payment services and products (consumer credit and accounts) still show substantial differences across Member States;
- variety of retail financial products is restricted as products are either difficult to obtain or are subject to different taxation mechanisms; and
- market performance and profitability of retail financial providers varies widely within the EU.

The legal and economic barriers resulting from different regulatory and consumer protection frameworks and taxation policies limit competition and reduce innovation. They also increase costs of doing cross-border business with other Member States. The Commission pursues the objectives that already have been addressed in some ways in the past. For instance, to increase competition, the Commission will apply EC

competition law in cases where costs for consumers are artificially raised.

It is also planned to improve the transferability of credit information and the lender's access to credit registers. For increasing the choice of retail financial products, the regulators propose an internationally standardised system of accredited certifications that function as a quality indicator across countries.

The Commission follows the progress of the payment industry which sets up rules for a Single Euro Payment Area (SEPA) by 2010. There will also be a White Paper on Mortgage Credit later this year dealing with the creation of an integrated market in this area. Furthermore, the Commission plans to examine why costumers tend to favour domestic products.

The Commission also aims to enhance consumer confidence by protecting consumer's interests on an equivalent level throughout the EU. Further measures are directed at ensuring access to adequate redress in cases of dispute, both in and out of court, and promoting sound and safe retail financial institutions.

Finally, the Commission wants to empower consumers through developing financial literacy. The policymakers also endorse that financial institutions fully disclose risks, potential returns and costs of financial product. Therefore, the Commission requests the Member States to become active. It holds that it funded some financial literacy initiatives and is willing to develop guidelines in that area. It also launched initiatives to improve the quality of information provided in the market.

The Green Paper is built on the strategy of the White Paper on Financial Services 2005-2010 which identified a single market for retail financial services as one of its key priorities. The Commission will organize a hearing on 19 September 2007 to draw the conclusions of the consultation launched by this Green Paper.

**Further information:**

The Green Paper on Retail Financial Services in the Single Market is downloadable from the DG Internal Market and Services

[http://ec.europa.eu/internal\\_market/finservices-retail/docs/policy/com\\_2007\\_226\\_en.pdf](http://ec.europa.eu/internal_market/finservices-retail/docs/policy/com_2007_226_en.pdf)

## European and US News

### Deterioration of US mortgages triggers Dollar fall

In the US, fear of deteriorating U.S. credit and sub-prime mortgage markets that could eventually slow the economy, triggered the downfall of the US currency. Recent reports from the credit rating agencies Standard & Poor's and Moody's Investors Services announced a possible downgrade of a significant amount of (risky) mortgage debt (\$ 12.1bn). This was one of the triggers that lifted the Euro to a record high against the dollar of

\$1.3741 (10 July 2007), while the sterling climbed to \$2.0275 – the highest in 26 years.

### U.S. Consumer borrowing back on track

As the Federal Reserve Board reported, U.S. Consumers signaled their willingness to spend in May by raising overall U.S. consumer borrowing by \$12.90bn. The spike seems to have come as quite a surprise, amounting to more than twice the value previously forecasted and leading numbers back on track after the April dull, when consumer debt rose by just \$2.6bn. The sharp decline in April means that for the first time in more than a year, consumers paid off more of their credit card debt than they accumulated. Interestingly enough, experts were not able to forecast neither the decline in April nor the surge in May, missing the target both times by a multiple of more than two.



## Events

### Workshop on Financial Exclusion, Expectations and Over-commitment

A recent workshop at the Centre for European Policy Studies/European Credit Research Institute in Brussels brought together academics, consumer advocates and industry officials to discuss financial exclusion and over-indebtedness. The debate revolved around the latest insights on why people get over-indebted and on how to prevent financial exclusion.

The first presentation by Assistant Professor Maria Cristina Rossi (University of Rome Tor Vergata) referred to a report for the European Commission aiming to find the best way to measure over-indebtedness in the EU countries using administrative, objective and subjective measures. The report favoured the subjective method, which was criticized by Karel van den Bosch, Professor of Sociology (University of Antwerp) as the comparison of subjective data across countries is problematic. Further, inclusion of mortgages in measurements of over-indebtedness was necessary to look at all the commitments, said Rosa-Maria Gelpi (Vice-President of Cetelem).

Adele Atkinson, Senior Research Fellow (Personal Finance Research Center, University of Bristol) presented a study that analyzed the types of financial difficulties encountered by British households. The

households were grouped into five different categories depending on their financial situation. Simon Begley, Policy Advisor at the UK Financial Services Authority (FSA) commented that this survey was widely used by the FSA in its strategy against financial exclusion.

Subsequently, Professor Dieter Steinbauer (Managing Director) and Astrid Berle (Head of International Affairs) from the Schufa Holding AG presented Schufa's Debt Compass and Private Indebtedness Index. The compass classifies individuals by groups of risk, according to their number of negative entries in Schufa's credit register. Based on the Compass the index is used to measure levels of indebtedness in different regions of Germany.

Lise Disneur, Senior Research Fellow at Réseau Financement Alternatif, presented the situation in Belgium regarding the right to minimum banking services, which means that banks are obliged to provide bank accounts to all individuals. More research about financial exclusion and over-indebtedness was presented by Georges Gloukoviezzoff, Researcher at the University of Lyon. He gave a definition for over-indebtedness and financial exclusion and argued that the two were highly correlated. The final presentation was held by Antoine Saint-Denis (European Commission, DG Employment and Social Affairs), explaining the policies of the European Commission on financial exclusion and over-indebtedness as a part of the Commission's Strategy for Social Inclusion. David Rees (Group Legal Adviser, Provident Financial) commented that it was important to keep in mind concerns about financial exclusion during the revision of the Consumer Credit Directive.

#### Further information:

Program, minutes and other workshop material can be found on ECRI's website [www.ecri.be](http://www.ecri.be)

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## News about ECRI

### ECRI at Chinese Economist Society Conference

China is currently building up the largest public credit register on earth. This database stores information on a staggering 540 million consumers. Dr. Nicola Jentzsch, ECRI Head of Research, has been invited to present a paper on this information monopoly in the Chinese credit market at the Annual Conference of the Chinese Economist Society. The paper is the first academic one on the subject matter (outside of China) and reviews the

development as well as the regulation of the PBOC's Credit Registry Center, which just recently was transformed into a public utility.



## Publications

### **ECRI Commentary on Consumer Credit Directive**

In the second ECRI Commentary, issued in May 2007, Nicola Jentzsch and Karel Lannoo argued that the agreement reached on the new Consumer Credit Directive, although a positive development was unlikely to lead to a significant increase in the integration of the European markets for consumer credit. They argued that the almost inexistent of cross-border credit markets is due to factors unrelated to legislation, such as natural market barriers, limited consumer attention and market access problems in retail finance.

### **ECRI Policy Brief on Financial Capability**

Financial capability is an essential element of the European Commission's strategy on retail finance. The European Commission is starting a series of initiatives to increase the financial capability of EU consumers: ensuring that they understand the financial products available in the market and are able to run their personal finances efficiently. In the second ECRI Policy Brief, issued in July 2007, Filipa Figueira looked at why these policies are necessary, analysed the EU action in this area and assessed the likely future developments.

### **ECRI Policy Brief on Payment Services**

In the first ECRI Policy Brief, issued in June 2007, Nicola Jentzsch, Pauli Lepistö and Marc Rothemund discuss the latest consensus reached by the European Parliament in favour of the proposed Payment Services Directive (PSD). The Directive provides a new legislation for an European-wide payment services system, aiming at making cross-border electronic (cashless) payments as easy and cost-efficient as national transactions. Pending the final adoption by the Council, the PSD is to be implemented by Member States by November 2009.