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NEWS

U.S. Consumer and Commercial Finance Companies in Europe: Climbing the Learning Curve. Moody's Investors Service

Market saturation in the United States is prompting US finance companies to take an increased interest in European markets. A number of US finance firms have expanded into the UK and continental markets and more are planning to take the plunge.

Moody's considers in this "special comment" the biggest risks for commercial financiers namely the failure to understand the competitive environment, the legal, accounting, tax and regulatory differences that still separate EU countries.

Full text:
www.ecri.be/English/ECRIPublications.htm

Communication from the Commission on the revision of the consumer credit directive

Recently, the Commission presented the long expected Consultation paper on the revision of the Directive on consumer credit.

Previously, 7 June, Jens Ring presented the basis of the Consultation paper at an ECRI seminar on EU consumer regulation and consumer protection in financial services.

The Commission maintains that it has not a predefined position and the consultation process is the most essential part to the drafting of the Directive.

The aim is to "promote the development of a more transparent, more effective market", providing a high level of consumer protection that ensures that cross-border credit can take place in better conditions for consumers and grantors.

Detailed analysis of the paper follows in the Legal Observatory section.
http://europa.eu.int/comm/consumers/policy/developments/cons_cred/cons_cred04_en.html

Results of Eurobarometer 54

The annual survey "Eurobarometer: Europeans and financial services" has been published recently. The survey shows poor results in terms of consumer confidence and satisfaction.

Among the main findings are that consumers feel powerless in relation to financial service providers, do not feel sufficiently protected by national legislation, in particular concerning distance selling.

Equally, they would be happy to see more EU harmonisation of consumer protection standards, consumers find cross-border services expensive, traditional forms of payment remain important.

The survey underlines the difficulties of consumers to engage in cross-border operation, namely, lack of information, language and poor legal protection among the main ones. In general, cross border financial services are regarded as too risky and only of interest for large sums operations.

http://europa.eu.int/comm/consumers/policy/developments/fina_serv/index_en.htm

ARTICLES AND STUDIES

Consumer Credit Rates in the Eurozone study for ECRI by S. Kleimeier and H. Sander (Maastricht University)

The authors demonstrate in this article that the degree of integration in the retail banking market before the introduction of the single currency was limited, questioning to what extent the single currency will contribute to the creation of a single consumer credit market.

The study shows the following facts. Firstly that the empirical fact of converging nominal and real lending rates cannot simply be read as a sign for an integrating retail banking market. Convergence of lending rates could be the consequence of convergence of monetary policy and not of market integration. Secondly, the second banking directive and other regulation efforts in order to create a single lending market appear to have a limited effect.

The authors expose the reasons for a lack of integration: the lack of cross-border lending, a limited pass-through of interest rates onto lending rates and a limited national and international competitive retail banking environment. However, the introduction of the single currency has had an important effect on the emergence of a single Eurozone retail banking market. In what direction these developments will go, needs to be monitored closely for all different products in consumer credits in order to really obtain the benefits for the that single market initiatives foresaw.

*Full text for ECRI members at:
www.ecri.be/English/ECRIPublications.htm*

French Consumer Finance. Industry Outlook by Jean-Luc Lepreux of Moody's Investors Service

The credit strength of the French consumer finance industry as a whole continues to be strong for the near term, though it seems likely that the credit quality of larger and smaller consumer finance firms will diverge sometime in the near future. Larger, more diversified and technology driven companies will maintain their solid competitive position domestically and within Europe.

Despite the constant challenge of bank competition, consumer finance companies have continued to gain market share, up to 47.8 percent at end of 1998, compared to 43.7 percent at end 1991. However, smaller companies are under greater pressure today.

At end-1998, direct lending dominated the industry, notably personal loans, which represented about 43.5% of total consumer finance, up from 37.5% at year-end 1994. Nevertheless, the consumer portfolio mix has substantially changed over the last five years. Personal and revolving loans have respectively grown by 55% and 37% between 1994 and 1998, while deferred terms and overdraft receivables have increased by 17% and 18%.

The report also comments on the regulatory framework in the French market, the strategies followed by French finance companies, and the health of financial fundamentals of French finance companies.

Full text: www.ecri.be/English/ECRIPublications.htm

US Financial Imbalances by Martin Barnes, The Bank Credit Analyst

The financial position of US households ranks high on the list of concerns about the economic and financial outlook. The fear is that a negative personal saving rate and record debt-to-income levels point to a potential sharp retrenchment in spending with very adverse implications for the economy.

The author discusses the imperfections of the official data on savings, namely the treatment of consumer spending on durable goods, pension income and capital gains. Reconsidering the definition of these data, savings ratio will boost to 7.8 instead of the official minus 0.1 percent. Even more if we take into account the wealth effect. In this case, household saving ratio will reach the level of 14 percent. The author also sustains that despite the increase in debt, the overall indebtedness is not too excessive. Therefore household finances in the USA are not as stretched as widely believed.

Full text: www.ecri.be/English/ECRIPublications.htm

THE LEGAL OBSERVATORY

Commission Discussion Paper on the revision of the consumer credit Directive 87/102

DG SANCO launched in July a Discussion Paper in order to consult Member States, industry and consumer organisations on how to revise the 1987 Consumer Credit.

This consultation follows several Commission reports on the implementation of the Consumers credit Directive in the Member States spotting **an inadequate level of protection and significant deficiencies**, such as technical difficulties to penetrate another market and the lack of sufficient harmonisation of national legislation. The main objective of the Discussion Paper is therefore to answer to those deficiencies and to update the Directive with new developments in techniques and forms of credit.

The European Commission intends to improve consumers' confidence to enjoy all the benefits of a single market for credit. It will signify the moving from **minimum harmonisation to maximum and optimal harmonisation**. In order to achieve this objective, the revision is being carried out applying six guidelines:

1. Redefinition of the Directive's scope

The consumer definition could be extended to natural persons using the credit for professional purposes or even mixed purposes (private and professional). The credit contracts covered by the Directive could be extended, irrespective of the amount, the security required and the purpose of the credit. The basis for calculating the Annual Percentage of Charge (APR) and the calculation in itself could be revised and harmonised. The Annual Rate of Interest could be defined and calculated as the APR.

2. Inclusion of credit intermediaries' arrangements

Member States are obliged to promote the establishment of appropriate bodies to receive complaints concerning credit agreements. The revision would increase the control on credit intermediaries by the registration of such persons, the creation of threshold of professional aptitude, the suspension or withdrawing of their licenses and finally by making any complaints public.

3. Improvement of information for the credit grantor

Accurate information on the consumer allows lenders to establish the credit costs depending on the risk levels. As negative and positive records exist in all Member States, the revision suggests lenders approved in one Member State must be able to access in the same conditions to sources of information and databases in others Member States.

4. Improvement of information to consumers and guarantors

The Single Market has to allow prices comparison, therefore conditions of credit supply should be totally transparent, at least whenever related with interest rates, repayment arrangements, withdrawing arrangements and amortisation table. For the same reasons, the Directive should cover guarantors. The main debtor should inform the person providing a security (real and personal) to a credit of the existence of credit agreements and default.

5. Equitable sharing of responsibilities between consumers and credit grantors

The revision is considering a total and harmonised ban on canvassing the consumer for credit agreements at home and at work. It refers also to measures to introduce a system of minimum rates and/or usurious rates at European level. The credit supply, the use of it done by the consumer and the right of early payment are also considered for revision. A joint liability between the lender and the supplier of services or goods could be established in favour of the consumer.

6. Improvement of processing payment incidents

Insurance contracts covering the risk of payment default should be more transparent (compulsory or optional and costs). In the case of non-performance of contracts, all the charges and the rates applicable should be featured in the credit agreement, a reasonable period should be left to make up the shortfall or request rescheduling of the debt.

Further to the Discussion Paper, DG SANCO organised Public Hearings earlier in July. Written contributions are still awaited. David Byrne will report back to the Internal Market and Consumer Protection Council in September 2001. A formal proposal is scheduled for later in the autumn.

http://europa.eu.int/comm/consumers/policy/developments/cons_cred/cons_cred04_en.html

Commission Recommendation on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes and Commission Communication on widening consumer access to alternative dispute resolution C(2001) 161 final.

In April 2001, the European Commission launched a Recommendation related to the main rules applying to out-of-court bodies dealing with consensual resolution of consumer disputes and published also, the same day, the Communication on the widening consumer access to alternative dispute resolution.

The “classical” judicial problems are identified and well-known. However, since a couple of years, new forms of commercial practices, such as electronic commerce, are worsening the situation. E-commerce involves transactions frequently of low value, inappropriate to classical settlement. Therefore, since 1998 and following the demands of the Feira Council in June 2000, the Commission compromised to pursue different actions:

- To facilitate the access to courts, to improve the efficiency and to reduce the timing;
- To propose alternative dispute resolutions procedure to “classical” courts, quick, simple and inexpensive.

By ADR the Commission definition covers a variety of out-of-court bodies that provide an alternative to litigation through the courts, such as arbitration, neutral evaluation, expert determination, mediation, conciliation... Moreover, the legal nature of the decision may differ from binding solution to simply recommendations. The organisation and the management may also vary from one to others.

By the recent Recommendation and Communication, the European Commission is extending the scope of the existing legislation. Previously, the Recommendation 98/257 was not applying to procedures and merely involve an attempt to bring the parties together to convince them to find a solution by comment consent.

The new Recommendation addresses the case where a third party facilitates the resolution of consumer disputes by bringing the parties together and assisting them in reaching a solution.

Some principles are however essential to achieve consumer confidence, namely, impartiality, transparency, effectiveness and fairness.

1. Impartiality

Appropriate measures should be endorsed to guarantee impartiality and to ensure the disclosure of information to the parties demonstrating their impartiality and competence to allow them to make an informed choice as to whether to participate in the procedure.

2. Transparency

Prior information on contacts, availability and procedure should be guaranteed, such as rules of procedures, timing, costs and the status of the final decision. The agreed solution resolving the dispute should be recorded and made available to the parties by the body responsible for the procedure to avoid later uncertainty or misunderstanding.

3. Effectiveness

The procedure should be easily accessible and available to both parties wherever they are located. It should overcome the associated problems of costs (free of charge or proportionate costs), delay (a proper, fair and timely resolution), complexity (commensurate with nature of the dispute) and representation (no obligation to use a legal representative). However, the procedure should never prevent consumers from the right to bring a matter before the courts unless they expressly agree to do so, in full awareness of the facts and only after the dispute has materialised.

4. Fairness

Fairness is reached by allowing the parties to provide any necessary and relevant information. Fairness is achieved by providing a reasonable period of time to consider the details and any possible conditions or terms, by giving a clear and understandable information in order that they can reflect on whether to agree to a suggested solution, obtain advice if they wish or even to consider other options such as the refuse to participate or the withdraw from the procedure at any time.

http://www.europa.eu.int/comm/consumers/policy/developments/acce_just/acce_just12_en.pdf

http://www.europa.eu.int/comm/consumers/policy/developments/acce_just/acce_just11_en.pdf

STATISTICAL UP-DATE

Chart 1. Evolution of consumer credit as a percentage of GDP

Consumer credit in Europe had an average growth of 8.5% from 1998 to 1999. In almost all European countries we can observe a positive tendency, with the exception of Germany where it remains stable for the decade 89-99. On the other hand, we can observe a negative evolution for Finland, decreasing since 1993 (first year for which statistics are available).

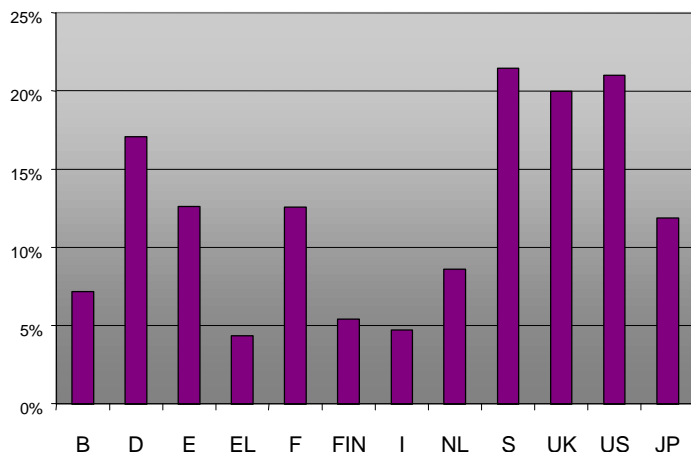
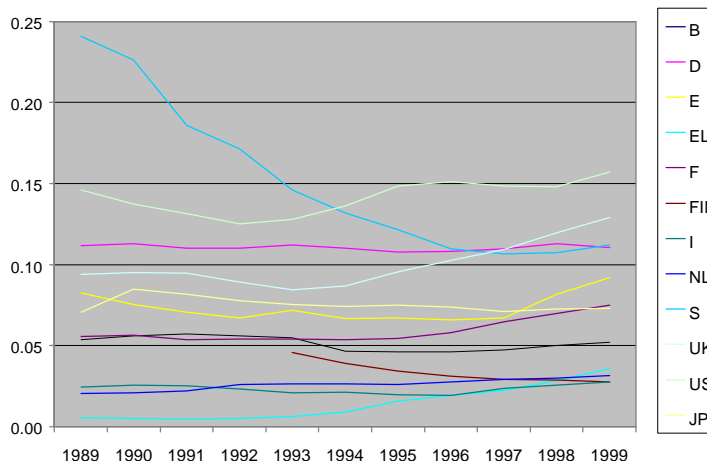


Chart 2. Consumer credit as a percentage of disposable income (1999)

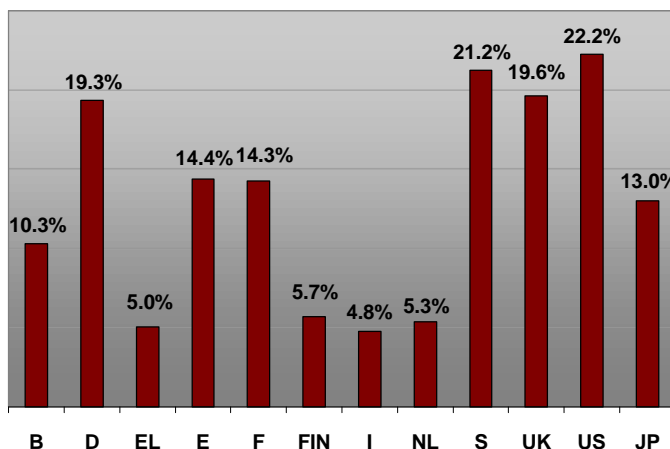
Countries like the UK, Sweden and Germany are still the stronger consumer credit markets in Europe, followed by France and Spain.

The level of indebtedness observed in the EU is 13.64%, still far from the level in the United States. Therefore, the current debate on the ratio of indebtedness and its implication on the health of the economy taking place in the USA has not been replicated in the EU.

Chart 3. Consumer credit as a percentage of private consumption (1999)

In general, the dynamic expansion of consumer credit loans might reflect the lower level of consumer interest rates compared with historical experience.

The pick up in economic activity is likely to have played an important in sustaining the growth of loans to the private sector.



For more details see www.ecri.be

SPECIAL REPORT

The objective of this ECRI seminar was to refocus the debate on consumer protection in financial services, with special attention to the foreseen revision of the Consumer credit Directive.

In a debate on what is the appropriate level of consumer protection regulation in the European financial area, two notions of the consumer interest need to be taken into account. First, the advantage of cross-border trade to improve the consumer choice and second, the national measures of consumer protection required in view of market failures.

The seminar treated some of the key issues in the consumer aspect of financial services with the participation of representatives from the European Commission, academics, the views of business and consumers, and the presentation of the USA views on the European Consumer credit area. Some 40 people attended the seminar and participated in the debate.

Mr. Ring (European Commission, DG SANCO) presented the basis of the next Consultation paper on the revision on the Consumer Credit Directive.

As a consequence of the 1995 report, the Commission has realised that the directive is not any more in line with changes occurred in the market. Several studies in the field of APR, mortgage credit or advertising to children have confirmed it. Recognising the underdevelopment of cross-border activity in the consumer credit area, the Commission launched a consultation paper based upon the following principles:

- Need to adapt the legal framework to new market techniques,
- Re-balancing creditors and consumers rights,
- Achieving a high level of consumer protection.

Mr. Cartwright (University of Nottingham) presented his paper on optimal consumer protection. The approach followed is the consideration of economic and social rational for intervening in financial services markets to protect the consumer, paying special attention to the position of vulnerable consumers.

Financial market regulation can be justified in terms of market failures, such as a limited number of players or barriers of entry, or from social point of view, to protect users of the market.

Ms. Gelpi (Cetelem) based her talk on the debate among supporters of the different theories of harmonisation, namely, minimal harmonisation and mutual recognition, or maximum harmonisation.

An effort is necessary to reach a sensible level of consumer protection that allows competition, which is ultimately advantageous for the consumer. Maximum harmonisation does not allow Member States to add provisions to European regulations, and therefore, simplify the operative environment for firms operating in the market and wishing to enter the market, contributing effectively to the completion of the single market.

Mr. Forest (BEUC) emphasised in his presentation the need for a revision of the consumer credit Directive because it has not had an impact on the comparability of European consumer credits. Two key issues to be approached in the new Directive should be intermediaries' role and indebtedness.

Mr. Theodore, Moody's Investor Services, signaled that market saturation in the United States is prompting US finance companies to take an increased interest in European markets. A number of US finance firms have expanded into the UK and continental markets.

He gave an overview of the competitive challenges that US finance companies face in Europe, namely the fragmentation of the market, in terms of the different expansion of products (credit cards, mortgages, saving products...), for instance the less extensive use of credit cards. The fragmentation of national markets, cultural differences and a less developed retail borrowing market are also important factors. Furthermore, consumer protection usury laws and data collection just to name some varies very much among EU countries.

Full text:
www.ecri.be

EVENTS

Eurofinas and Leaseurope Annual Conference

Joint Annual Conference in Varsaw, Poland, October 15-16. It will offer comprehensive view of some of the significant trends facing the sector, and the potential impact of new EU and international legislation on the industry.

For more details contact:

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Consumer Credit and Community Harmonisation

Seminar under the Belgian Presidency of the European Union, 13-14 November 2001, Charleroi.

The seminar will examine the specific national aspects of granting credits and payment default prevention in the European market, and will attempt to define guidelines to correct divergences in national regulation.

For more details contact:

L'Observatoire du Cr dit et de l'Endettement

Tel: 32-7-133.12.59

Fax: 32-7-132.25.00

www.observatoire-credit.be

BOOK REVIEWS

“Manuale del credito al consumo” by Umberto Filotto. EGEA Edizione Milan.

The book studies in detail all aspects of consumer credit in Italy through a compendium of chapters by different specialists on the field.

Consumer credit has traditionally been the less researched area of credit, always considered as a variant of banking lending. Therefore, the author attempts to create a “guide to consumer credit” out of his long insider experience in the market, observing the different issues that market actors face.

ECRI MEMBERS AND ASSOCIATES:

