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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on consumer credits <i>- Letter to the Chair of the IMCO Committee</i>

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Following the Permanent Representatives Committee meeting of 26 April 2023 which endorsed the final compromise text with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annexes to the Chair of the European Parliament's Committee on the Internal Market and Consumer Protection (IMCO)

SGS 23 / 002017



Council of the  
European Union

Brussels, 26/04/2023

**Ms. Anna CAVAZZINI**

Chair, Committee on the Internal Market and Consumer Protection  
European Parliament  
Rue Wiertz 60, B-1047 Bruxelles  
Belgium

**Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL on consumer credits [2021/0171 (COD)]**

Dear Ms CAVAZZINI,

Following the informal meeting held on 1 December 2022 between the representatives of the three institutions, a draft overall compromise package was agreed today by the Permanent Representatives' Committee.

I am therefore now in a position to confirm that, should the European Parliament adopt this position at the first reading in accordance with Article 294(3) of the Treaty on the Functioning of the European Union (TFEU) in the form as set out in the compromise package contained in the Annex to this letter (subject to revision by the lawyer linguists of both institutions), the Council would, in accordance with Article 294(4) TFEU, approve the European Parliament's opinion and the act shall be adopted in the wording which corresponds to the European Parliament's position.

On behalf of the Council I also wish to thank you for your close cooperation which should enable us to reach agreement of this dossier at the first reading.

Yours faithfully,

Torbjörn HAAK  
Chairman of the  
Permanent Representatives Committee

Copy: **Mr Didier REYNDEERS**, Member of the European Commission  
**Ms Kateřina KONEČNÁ**, Rapporteur of the IMCO Committee of the European Parliament

2021/0171 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on consumer credits**

**■**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>1</sup> ...

Whereas:

- (1) Directive 2008/48/EC of the European Parliament and of the Council<sup>2</sup> lays down rules at Union level concerning consumer credit agreements ■ .
- (2) In 2014, the Commission presented a report on the implementation of Directive 2008/48/EC. In 2020, the Commission presented a second report on the implementation of that Directive and a Commission Staff Working Document to present the results of a REFIT evaluation of the Directive which included broad consultation of relevant stakeholders.
- (3) Those reports and consultations revealed that Directive 2008/48/EC has been partially effective in ensuring high standards of consumer protection and fostering the development of a single market for credit, and that such objectives are still relevant. The reasons why that Directive has been only partially effective stem both from the Directive itself, as for instance imprecise wording of particular articles, and from external factors, such as the developments linked to digitalisation, the practical application and enforcement in Member States as well as from the fact that certain aspects of the consumer credit market are not covered by the Directive.
- (4) Digitalisation has contributed to market developments that were not foreseen at the time when Directive 2008/48/EC was adopted. In fact, the rapid technological developments registered since the 2008 Directive have brought significant changes to the consumer credit market, both on the supply side and on the demand side, such as the emergence of new products and the evolution of consumer behaviour and preferences.
- (5) The imprecise wording of certain provisions of Directive 2008/48/EC, allowing Member States to adopt diverging provisions going beyond those provided in that Directive, resulted in a fragmented regulatory framework across the Union in a number of aspects of consumer credit.

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<sup>2</sup> Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

- (6) The de facto and de jure situation resulting from those national differences in some cases leads to distortions of competition among creditors in the Union and creates obstacles to the internal market. The situation restricts consumers' ability to benefit from a gradually increasing offer of cross-border credit, which is expected to further grow as a result of digitalisation. Those distortions and restrictions may in turn have consequences in terms of reduced demand for goods and services. The situation also leads to an inadequate and non-consistent level of protection for consumers across the Union.
- (7) In recent years, credit offered to consumers has evolved and diversified considerably. New credit products have appeared, in particular in the online environment, and their use continues to develop. This has raised legal uncertainty with regard to the application of the Directive 2008/48/EC to such new products.
- (8) This Directive complements the rules set out in Directive 2002/65/EC of the European Parliament and of the Council<sup>3</sup> concerning the distance marketing of consumer financial services. In order to ensure legal certainty, it should be clarified that in case of conflict between the provisions, the provision of this Directive as *lex specialis* should apply.
- (9) In accordance with Article 26 of the Treaty on the Functioning of the European Union (TFEU), the internal market comprises an area in which the free movement of goods and services and the freedom of establishment are ensured. The development of a more transparent and efficient legal framework for consumer credit should increase consumer trust and **protection, and** facilitate the development of cross-border activities.
- (10) In order to improve the functioning of the internal market for consumer credits, it is necessary to provide for a harmonised Union framework in a number of core areas. In view of the developing market in consumer credit, in particular in the online environment, and the increasing mobility of European citizens, forward-looking Union legislation which is able to adapt to future forms of credit and which allows Member States the appropriate degree of flexibility in their implementation will help to create a level playing field for businesses.

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<sup>3</sup> Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (OJ L 271, 9.10.2002, p. 16).

- (11) Article 169(1) and Article 169(2), point (a), TFEU provide that the Union is to contribute to the attainment of a high level of consumer protection through measures adopted pursuant to Article 114 TFEU. Article 38 of the Charter of Fundamental Rights of the European Union (the ‘Charter’) provides that Union policies are to ensure a high level of consumer protection.
- (12) It is important that consumers benefit from a high level of consumer protection. Thus, it should be possible for the free movement of credit offers to take place under optimum conditions for both those who offer credit and those who require it, with due regard to specific situations in the Member States.
- (13) Full harmonisation is necessary in order to ensure that all consumers in the Union enjoy a high and equivalent level of protection of their interests and to create a well-functioning internal market. Member States should therefore not be allowed to maintain or introduce national provisions diverging from ■ those laid down in this Directive, unless otherwise provided in this Directive. However, such restriction should only apply where there are provisions harmonised in this Directive. Where no such harmonised provisions exist, Member States should remain free to maintain or introduce national legislation. Accordingly, Member States should have the possibility to maintain or introduce national provisions on joint and several liability of the seller or the service provider and the creditor. Member States should also have the possibility to maintain or introduce ■ national provisions on the cancellation of a contract for the sale of goods or supply of services where the consumer exercises his right of withdrawal from the credit agreement ■ . In this respect, Member States, in the case of open-end credit agreements, should be allowed to fix a minimum period needing to elapse between the time when the creditor asks for reimbursement and the day on which the credit has to be reimbursed.

- (14) The definitions contained in this Directive determine the scope of harmonisation. The obligation on Member States to implement this Directive should therefore be limited to its scope as determined by those definitions. However, this Directive should be without prejudice to the application by Member States, in accordance with Union law, of the provisions of this Directive to areas not covered by its scope. A Member State could thereby maintain or introduce national legislation corresponding to this Directive or certain provisions of this Directive on credit agreements outside its scope, for instance on credit agreements upon the conclusion of which the consumer is requested to deposit an item as security in the creditor's safe-keeping and where the liability of the consumer is strictly limited to that pledged item, *or on credit agreements involving a total amount of credit of more than EUR 100 000*. Furthermore, Member States could also apply this Directive to linked credit which does not fall within the definition of a linked credit agreement in this Directive. Thus, the provisions of this Directive on linked credit agreements could be applied to credit agreements that serve only partially to finance a contract for the supply of goods or provision of a service.

- (15) A number of Member States have applied Directive 2008/48/EC to areas not covered by its scope to enhance the level of consumer protection *while other Member States have different national rules regulating those areas stemming from market specificities, thereby maintaining certain divergences between national legislation with regard to those types of credits*. In fact, several of the credit agreements not falling within the scope of that Directive can be detrimental for consumers, including short-term high cost loans whose amount is typically lower than the minimum threshold of EUR 200 set out in Directive 2008/48/EC. In this context, and with the aim to ensure a high level of consumer protection and to facilitate the cross-border consumer credit market, the scope of this Directive should cover some agreements that were excluded from the scope of Directive 2008/48/EC, such as consumer credit agreements below the amount of EUR 200. Likewise, other potentially detrimental products, because of the high costs they entail or high fees in case of missed payments, should be covered by this Directive, to ensure increased transparency and better consumer protection, resulting in higher consumer confidence. To this extent, *hiring or* leasing agreements *with an option to buy*, credit agreements in the form of an overdraft facility and where the credit has to be repaid within one month, ■ and credit agreements where the credit is granted free of interest and without any other charges, ■ and credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable should not be excluded from the scope of application of this Directive. *However, for some of these credit agreements that were excluded from the scope of Directive 2008/48/EC and should be covered under this Directive, namely credit less than EUR 200, credit granted free of interest with only limited charges payable by the consumer for late payments, credit to be repaid within three months with only insignificant charges, Member States should be able to exclude the application of a defined and limited number of provisions of this Directive related to advertisement, pre-contractual information and contractual information , in order to avoid unnecessary burden for creditors, taking into account the market specificities and the particular characteristics of those credits, such as their shorter duration, while ensuring a higher level of consumer protection.*



- (15c) *Buy Now Pay Later schemes whereby the creditor grants a consumer a credit agreement for the exclusive purpose of purchasing goods or services provided by a supplier, which are new digital financial tools that let consumers make purchases and pay them off over time, are often credit granted free of interest and without any other charges, and should therefore be included in the scope of application of this Directive.*
- (15d) *Certain deferred payments, where a supplier gives the consumer time to pay for a good or service free of charge and charges, except for limited penalty charges for late payments in accordance with national rules of general civil law, should be excluded from the scope of application of this Directive, provided that there is no third party, such as Buy-Now-Pay-Later, offering credit for the good or service and that the payment is to be entirely executed in a limited time-frame of 50 days from the delivery of the good or provision of the service. In fact, these are business practices commonly used to allow consumers to pay only after receipt of the goods or services, which are beneficial for consumers, for instance in the case of deferred payment of medical bills by which hospitals give time to consumers to pay for medical expenses. This exclusion should be restricted for certain large online suppliers of goods and services which have access to a large customer base, where a third party is neither offering nor purchasing credit and where payment is to be entirely executed within 14 days of the delivery of the goods or services, and free of interest and without any other charges and with only limited charges payable by the consumer for late payments imposed in accordance with rules of national law. Such large online suppliers, considering their financial capacities and their ability to drive consumers towards impulsive buying and potentially over-consumption, would otherwise be able to offer deferred payment in a very extensive way without any safeguard for consumers and to weaken fair competition with other providers of goods and services. The restriction would always allow consumers to make payments in a convenient way within two weeks, while ensuring that if large online suppliers want to provide credit to a large scale with a longer timeframe, they are subject to this Directive's rules.*

- (15f) *As described in recital 17 of Regulation (EU) 2015/751, deferred debit cards are credit cards commonly available on the market where the total amount of transactions is debited from the cardholder account at a pre-agreed specific date, usually once a month, without interest to be paid. Member State should be able to exempt from this Directive certain credit agreements in the form of deferred debit cards, as they can help households to better adjust their budget to a monthly income, when the credit needs to be repaid within 40 days, is free of interest and with only limited charges linked to the provision of the payment service, and is provided by a credit or payment institution. This exclusion is without prejudice to the application of relevant provisions on overdraft or overrunning, which will apply in case the repayment exceeds the positive balance in the current account.*
- (15d) *Hiring and leasing agreements where an obligation or an option for the consumer to purchase the object of the agreement is not laid down either by the agreement itself or by any separate agreement, such as pure rental agreements, should not be included in the scope of application of this Directive considering that they do not involve any possible transfer of property by the end of the contract.*
- (15e) *Moreover, all credit agreement up until EUR 100 000 should be included in the scope of application of this Directive. The upper threshold of credit agreements under this Directive should be increased to take into account indexation to adjust for the effects of inflation since 2008 and in coming years.*

(15i) *In case of credit agreements which provide for arrangements between the creditor and the consumer in respect of deferred payment or repayment methods, where the consumer is already in default or will likely default on the initial credit agreement, when these arrangements are likely to avert the possibility of legal proceedings concerning the default and their terms are not less favourable than those laid down in the initial credit agreement, Member States may decide to apply only a limited number of provisions of this directive, excluding the obligation to perform a creditworthiness assessment. This is not to prevent consumers in payment difficulty to get a new credit agreement that would help them to repay their initial credit more easily. Consumers would be considered likely to default for instance in situations where they lost their job.*

(16) **■**<sup>4</sup>

(17) *Since 2008, crowdfunding has developed as a form of finance available to consumers, typically for small expenses or investments.* A provider of crowdfunding credit services operates a digital platform open to the public in order to match or facilitate the matching of prospective lenders, *acting in the course of their trade, business or profession or not*, with consumers that seek funding. Such funding could take the form of consumer credit. Where providers of crowdfunding credit services directly provide credit to consumers, the provisions of this Directive concerning creditors would apply to them. Where providers of crowdfunding credit services facilitate the granting of credit between creditors acting in the course of their trade, business or profession, and consumers, obligations for creditors under this Directive should apply to those creditors. In such a situation, providers of crowdfunding credit services act as credit intermediaries, hence obligations for credit intermediaries under this Directive should apply to them.

(18) **■**

- (19) In the case of specific credit agreements to which only some provisions of this Directive are applicable, Member States should remain free to regulate, in their national law, such types of credit agreements as regards other aspects not harmonised by this Directive.
- (20) Agreements for the provision on a continuing basis of services or for the supply of goods of the same kind, where the consumer pays for them for the duration of their provision by means of instalments, may differ considerably, in terms of the interests of the contractual parties involved, and the modalities and performance of the transactions, from credit agreements covered by this Directive. Therefore, such agreements should not be regarded as credit agreements for the purposes of this Directive. Such agreement includes, for example, an insurance contract where the insurance is paid for in monthly instalments.
- (21) Credit agreements covering the granting of credit secured by *immovable property* and credit agreements the purpose of which is to finance the acquisition or retention of property rights in land or in an existing or projected building *including premises used for trade, business or a profession*, should be excluded from the scope of this Directive as such agreements are regulated by Directive 2014/17/EC of the European Parliament and of the Council<sup>5</sup>. However, ■ credits the purpose of which is the renovation of a residential immovable property ■ involving a total amount of credit above EUR 100 000, *and which are not secured either by immovable property or by a right related to immovable property* should not be excluded from the scope of this Directive.
- (22) This Directive should apply irrespective of whether the creditor is a legal person or a natural person. However, this Directive should not affect the right of Member States to limit the provision of credit for consumers to legal persons only or to certain legal persons.

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<sup>5</sup> Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34).

- (23) Certain provisions of this Directive should apply to natural and legal persons (credit intermediaries) who, in the course of their trade, business or profession, for **remuneration**, present or offer credit agreements to consumers, assist consumers by undertaking preparatory work in respect of credit agreements or conclude credit agreements with consumers on behalf of the creditor.
- (24) Information to consumers, such as **adequate explanations**, pre-contractual information, **general information and information on consultation of databases**, should be provided free of charge. *Special attention should be given to the needs of persons with disabilities.*
- (25) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union ('the Charter'). In particular, this Directive fully respects the rights to the protection of personal data, to property, to non-discrimination, to protection of family and professional life, and to consumer protection pursuant to the Charter.
- (25a) ***This Directive should be without prejudice to Regulation (EU) 2016/679 which applies to any processing of personal data carried out by creditors and credit intermediaries falling within the scope of this Directive, and in particular without prejudice to principles relating to processing of personal data set out in Article 5 of such Regulation, including data minimisation, accuracy and purpose limitation.***
- (26) Consumers who are legally resident in the Union should not be discriminated against on ground of their nationality or place of residence, or on any ground as referred to in Article 21 of the Charter when requesting, concluding or holding a credit agreement or an agreement for the provision of crowdfunding credit services within the Union. ***This is without prejudice to the possibility of offering different conditions of access to a credit where those differences are duly justified by objective criteria. Moreover, this should not be understood as creating an obligation for creditors or credit intermediaries to provide services in areas in which they do not conduct business.***

- (27) Consumers should be protected against unfair or misleading practices, in particular with respect to the information provided by the creditor *or* credit *intermediary*, in line with Directive 2005/29/EC of the European Parliament and of the Council<sup>6</sup>. That Directive continues to apply to credit agreements and ■ works as a "safety net" ensuring that a high common level of consumer protection against unfair commercial practices can be maintained in all sectors, including by complementing other Union law.
- (28) ■

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<sup>6</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

- (29) Specific provisions should be laid down on advertising of credit agreements ■ and certain items of standard information to be provided to consumers in order to enable them, in particular, to compare different offers. Such information should be given in a clear, concise and prominent way by means of a representative example. The *total amount of the credit and the repayment duration chosen by the creditor for its representative example should correspond as much as possible to the characteristics of the credit agreement that the creditor advertises. The* standard information should be shown upfront and saliently, in a clear way and in an engaging format. It should be clearly legible and adapted to take into account the technical constraints of certain media such as mobile telephone screens. *On digital channels, part of the standard information in the representative example could be provided by means of clicking, scrolling or swiping. However, before accessing credit offers, consumers should be presented all standard information to be included in advertising concerning credit agreements even in case of clicking, scrolling or swiping. The standard information should also be clearly demarcated from any additional information pertained to the credit agreement.* Temporary promotional conditions, such as a teaser rate with lower interest rate for the initial months of the credit agreement ■ , should be clearly identified as such. Consumers should see all essential information at a glance, even when they watch it on the screen of a mobile telephone. The creditor and, where applicable, credit intermediary's telephone number and email address should also be communicated to the consumer to enable him or her to contact the creditor *or the credit intermediary* quickly and efficiently. A ceiling should be provided where it is not possible to indicate the total amount of credit as the total sums made available, in particular where a credit agreement gives the consumer freedom of drawdown with a limitation with regard to the amount. The ceiling should indicate the upper limit of credit which can be made available to the consumer. In specific and justified cases, in order to improve consumer understanding of information disclosed in advertising of credit agreements ■ where the medium used does not allow to visually display it *at all or in an easily legible way*, such as in radio advertising, the amount of information disclosed *should* be reduced. In addition, Member States should remain free to regulate information requirements in their national law regarding advertising of credit agreements *which does not contain information on the cost of the credit. In order to reduce instances of mis-selling of consumer credit to consumers who are not able to afford it and to promote sustainable lending, credit advertising should contain, in all cases, a clear and prominent warning to make consumers aware that borrowing money costs money. In order to ensure a higher level of consumer protection,*

*certain advertisements such as those encouraging consumers to seek credit by suggesting that credit would improve their financial situation or specify that registered credit in databases have little or no influence on the assessment of a credit application should be prohibited. Member States may also prohibit advertisements that they deem to be risky for consumers, such as those that highlight the ease or speed with which credit can be obtained.*

- (29a) A durable medium, including paper and interoperable, portable and machine-readable digital versions of documents, should allow information to be addressed personally to the consumer, it should enable the consumer to store information in a way that is accessible for future reference and for a period adequate for the purposes of the information, it should allow the unchanged reproduction of the information stored and it should ensure readability of the information so that the information can be read and referred to. Consumers should have the possibility to choose the type of durable medium on which to receive information at pre-contractual stage, and once the contract is concluded. However, consumers should not be able to require creditors to provide information on types of [durable] medium that are not commonly used.*
- (29a) Advertising tends to focus on one or several products in particular, while consumers should be able to make their decisions in full knowledge of the range of credit products on offer. In that respect, general information plays an important role in educating the consumer in relation to the broad range of products and services available and the key features thereof. Consumers should therefore be able at all times to access general information on credit products available. This should be without prejudice to the obligation to provide consumers with personalised pre-contractual information.



- (30) In order to be able to make their decisions in full knowledge of the facts, consumers should receive adequate **pre-contractual** information, for careful consideration at their own leisure and convenience, **in good time before and not at the same time with the conclusion of the credit agreement**, including information on the conditions and cost of the credit and on their obligations, as well as adequate explanations thereof. **This is to ensure that the consumer has sufficient time to read and understand the pre-contractual information, compare offers and to make an informed decision.** These rules should be without prejudice to Council Directive 93/13/EEC<sup>7</sup>.
- (31) Pre-contractual information should be provided through the Standard European Consumer Credit Information form. To help consumers understand and compare **different** offers, **the** key element of the credit should be provided in **a prominent way on the first page of** the Standard European Consumer Credit Information form, through which consumers should see all essential information at a glance, even on the screen of a mobile telephone. **In case all of the key elements cannot be displayed in a prominent way on one page, they should be displayed in the first part of the Standard European Consumer Credit Information form on two pages at most. Information provided in the Standard European Consumer Credit Information form** should be clear, clearly legible and adapted to the technical constraints of certain media such as mobile telephone screens. It should be displayed in an adequate and suitable way on the different channels, to ensure that every consumer can access information on an equal basis and in line with Directive (EU) 2019/882 of the European Parliament and of the Council<sup>1</sup>.

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<sup>7</sup> Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

<sup>1</sup> **Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).**

- (32) To ensure the fullest possible transparency and comparability of offers, pre-contractual information should, in particular, include the annual percentage rate of charge applicable to the credit, determined in the same way throughout the Union. As the annual percentage rate of charge can at this stage be indicated only through an example, such example should be representative. Therefore, it should correspond, for instance, to the average duration and total amount of credit granted for the type of credit agreement ■ under consideration and, if applicable, to the goods purchased. When determining the representative example, the frequency of certain types of credit agreement ■ in a specific market should also be taken into account. As regards the borrowing rate, the frequency of instalments and the capitalisation of interest, creditors should use their usual method of calculation for the consumer credit concerned. In case pre-contractual information is provided less than one day before the consumer is bound by any credit agreement ■ , the creditor and, where applicable, the credit intermediary ■ should remind consumers, *between one and seven days* after conclusion of the contract, of the possibility to withdraw from the credit agreement.
- (33) The total cost of the credit to the consumer should comprise all the costs, including interest, commissions, taxes, fees for credit intermediaries and any other fees which the consumer has to pay in connection with the credit agreement ■ , except for notarial costs. Creditors' actual knowledge of the costs should be assessed objectively, taking into account the requirements of professionalism laid down in this Directive.
- (34) Credit agreements ■ in which a borrowing rate is periodically revised in line with changes occurring in a reference rate referred to in the credit agreement ■ should not be regarded as credit agreements ■ with a fixed borrowing rate.

- (35) Member States should remain free to maintain or introduce national provisions prohibiting the creditor ■ from requiring the consumer, in connection with the credit agreement ■ , to open a bank account or conclude an agreement in respect of another ancillary service, or to pay the expenses or fees for such bank accounts or other ancillary services. In those Member States where such combined offers are allowed, consumers should be informed before the conclusion of the credit agreement ■ about any ancillary services which are compulsory in order for the credit to be obtained in the first place or on the terms and conditions marketed. The costs payable in respect of those ancillary services, in particular insurance premiums, should be included in the total cost of the credit. Alternatively, if the amount of such costs cannot be determined in advance, consumers should receive adequate information about the existence of costs at a pre-contractual stage. The creditor ■ should be presumed to have knowledge of the costs of the ancillary services which he or she offers to the consumer himself or herself, or on behalf of a third party, unless the price thereof depends on the specific characteristics or situation of the consumer.
- (36) For specific types of credit agreements, however, it is appropriate, in order to ensure an adequate level of consumer protection without placing an excessive burden on creditors or, where applicable, credit intermediaries, to restrict the pre-contractual information requirements, taking into account the specific character of such types of agreements.

- (37) The consumer should be given comprehensive information before he or she concludes the credit agreement ■ , regardless of whether or not a credit intermediary is involved in the marketing of the credit. Therefore, in general, the pre-contractual information requirements should also apply to credit intermediaries. However, where suppliers of goods and services act as credit intermediaries in an ancillary capacity, it is not appropriate to impose on them the legal obligation to provide the pre-contractual information in accordance with this Directive. Suppliers of goods and services may be deemed, for example, to be acting as credit intermediaries in an ancillary capacity if their activity as credit intermediaries is not the main purpose of their trade, business or profession. In those cases, a sufficient level of consumer protection is still achieved since the creditor should be responsible for ensuring that the consumer receives the full pre-contractual information, either from the credit intermediary, where the creditor and the intermediary so agree, or in some other appropriate manner.
- (38) Member States should have the possibility to regulate the potentially binding character of the information to be provided to the consumer prior to the conclusion of the credit agreement ■ and the period of time during which the creditor ■ is to be bound by it.

- (39) Despite the pre-contractual information to be provided, the consumer may still need additional assistance in order to decide which credit agreement ■ , within the range of products proposed, are the most appropriate for his or her needs and financial situation. Therefore, Member States should ensure that ***before the conclusion of a credit agreement creditors and, where applicable, credit intermediaries*** provide such assistance in relation to the credit products which they offer to the consumer, by providing adequate explanations about the relevant information ***free of charge***, including in particular the essential characteristics of the products proposed to the consumer in a personalised manner so that the consumer can understand the effects which they may have on his or her economic situation ***including legal and financial consequences that may result from improper performance of contractual obligations***. Creditors and, where applicable, credit intermediaries ■ should adapt the way in which such explanations are given to the circumstances in which the credit is offered and the consumer's need for assistance, taking into account the consumer's knowledge and experience of credit and the nature of individual credit products. Such explanations should not in itself constitute a personal recommendation. ***Member States could require creditors and, where applicable, credit intermediaries, to document in what form and when such explanations were provided to the consumer.***
- (40) As highlighted in the Commission Proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)<sup>1</sup>, artificial intelligence (AI) systems can be easily deployed in multiple sectors of the economy and society, including cross border, and can circulate throughout the Union. In this context, creditors, credit intermediaries, ***when personalising*** the price of their offers for specific consumers or specific categories of consumer based on automated decision-making, ***should clearly inform*** consumers ***that*** the price presented to them is personalised on the basis of automated processing ***of personal data including inferred data***, so that they can take into account the potential risks in their purchasing decision. ***Pursuant to Article 14(2)(f) of Regulation 2016/679, creditors and credit intermediaries are also required to inform consumers who receive the offer about the sources of data used for the personalisation of the offer.***

- (41) *It is important to prevent practices such as tying of certain products which may induce consumers to enter into credit agreements which are not in their best interest, without however restricting product bundling which can be beneficial to consumers. Member States should however continue monitoring retail financial services markets closely to ensure that bundling practices do not distort consumer choice and competition in the market.* As a general rule, tying practices should not be allowed unless the financial service or product offered together with the credit agreement ■ could not be offered separately as it is a fully integrated part of the credit, for example in the event of an overdraft facility. While, taking into account proportionality considerations, creditors ■ should be able to require the consumer to have a relevant insurance policy in order to guarantee repayment of the credit or to insure the value of the security, the consumer should have the opportunity to choose his or her own insurance provider. This should not prejudice the credit conditions set by the creditor ■ , provided that the insurance policy of that provider has an equivalent level of guarantee as the insurance policy proposed or offered by the creditor ■ . Moreover, Member States should have the possibility to standardise, wholly or in part, the cover provided by insurance contracts in order to facilitate comparisons between different offers for consumers who wish to make such comparisons. *In order for the consumer to have additional time to compare insurance offers before purchasing an insurance policy, Member States should require that that consumer is given at least three days to compare insurance offers related to the credit agreement , without the offer being changed, and the consumer should be informed thereof. Consumers may conclude an insurance policy prior to the expiry of that three-day period if they explicitly so request.*

- (41a) *Because of their medical history, many cancer survivors in long-term remission often experience an unfair treatment in accessing to financial services. They often face prohibitively high premiums, although they have been cured for many years, even decades. For the purpose of giving consumers who survived cancer equal access to insurance related to credit agreements, Member States should require that the insurance policies are not based on health data of consumers after a relevant period of time following the end of the consumer's medical treatment. Such period of time determined by the Member States may not exceed a period of 15 years counting from the end of the medical treatment of the consumer.*
- (42) *Credit agreements and* ancillary services should be presented in a clear and transparent manner. ■ It should not be possible to infer the consumer's agreement to *conclude credit agreements or to purchase* ancillary services, but such agreement should be a clear affirmative act establishing a freely given, specific, informed and unambiguous indication of the consumer's approval. In this context, silence, *inactivity or default option such as pre-ticked boxes* should not *be considered to* constitute *an* agreement.

- (43) Providing advice in the form of a personalised recommendation (‘advisory services’) is an activity which may be combined with other aspects of granting or intermediating credit. Therefore, in order to be in a position to understand the nature of the services provided to them, consumers should be made aware of what constitutes such advisory services and of whether advisory services are being, or can be, provided or not. Given the importance which consumers attach to the use of the terms ‘advice’ and ‘advisors’, Member States should be allowed to prohibit the use of the those terms, or similar terms, when advisory services are being provided to consumers by creditors, credit intermediaries ■ . It is appropriate to ensure that Member States impose safeguards where advice is described as independent to ensure that the range of products considered and remuneration arrangements are commensurate with consumers’ expectations of such advice. When providing advisory services, the *creditors* credit intermediary ■ should provide an indication of whether the recommendation will be based on only their own product range or on a wide range of products from across the market, so that the consumer can understand the basis on which the recommendation is made. Moreover, the creditor, credit intermediary ■ should provide an indication of the fee payable by the consumer for the advisory services or, where the amount cannot be ascertained at the time of disclosure, the method used for its calculation. *Advice should always be provided in the best interest of consumers, by advisors informing themselves about the consumer's needs and circumstances and recommending credit agreements suitable to the consumer's needs, financial situation and personal circumstances, bearing in mind also the objective to minimise defaults and arrears. Moreover, a sufficiently large number of credit agreements in the advisor's product range should be considered when providing advice.*



- (44) *Granting of credit that has* not been solicited by the consumers may in some cases be associated with practices that are harmful to the consumer. *In this regard, unsolicited granting of credit, including non-requested pre-approved credit cards sent to the consumers, the unilateral introduction of a new overdraft facility or overrunning or the unilateral increase of the limit of a consumer's overdraft, overrunning or credit card, should be prohibited. The unsolicited granting of credit in the form of off-premises contracts as defined in Article 2, point 8 of Directive (EU) 2011/83/EU of the European Parliament and of the Council* ■ *should also be prohibited. The prohibition on unsolicited granting of credit should not prevent creditors and credit intermediaries from advertising or offering credit in the course of a commercial relationship in compliance with Union law on consumer protection and national measures in compliance with Union law, including advertising and offering credit at the point of sale to finance the purchase of a good or a service.*
- (44a) *It is possible for Member States to offer consumer the possibility to pursue proportionate and effective remedies against the creditor or credit intermediary in the event of non-compliance with this Directive in accordance with national law. This could entail compensation for damages and a reduction in the total cost of the credit or termination of the credit agreement.*

- (45) Member States should take appropriate measures to promote responsible practices during all phases of the credit relationship, taking into account the specific features of their credit market. Those measures may include, for instance, the provision of information to, and the education of, consumers, including warnings about the risks attaching to default on payment and to over-indebtedness. In the expanding credit market, in particular, it is important that creditors should not engage in irresponsible lending or give out credit without prior assessment of creditworthiness. Member States should carry out the necessary supervision to avoid such behaviour of creditors and should determine the necessary means to sanction such behaviour. Without prejudice to the provisions on credit risk of Directive 2013/36/EU of the European Parliament and of the Council<sup>8</sup>, creditors ■ should bear the responsibility of checking individually the creditworthiness of the consumer. To that end, creditors ■ should be allowed to use information provided by the consumer not only during the preparation of the credit agreement ■ in question, but also during a long standing commercial relationship. Consumers should also act with prudence and respect their contractual obligations.
- (46) It is essential that the consumer's ability and propensity to repay the credit is assessed and verified before a credit agreement ■ is concluded. That assessment of creditworthiness should be *proportionate and* done in the interest of the consumer, to prevent irresponsible lending practices and over-indebtedness, and should take into consideration all necessary and relevant factors that could influence a consumer's ability to repay the credit. *The repayment schedule should be tailored to consumers' specific needs and repayment capacity. In cases where the loan application is submitted jointly by more than one consumer, the creditworthiness assessment could be performed on the basis of the joint repayment capacity. A positive assessment is without prejudice to the freedom of contract of the creditor to grant credits.* Member States should be able to issue additional guidance on additional criteria and methods to assess a consumer's creditworthiness, for example by setting limits on loan-to-value or loan-to-income ratios.

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<sup>8</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

- (47) The assessment of creditworthiness should be based on information on the financial and economic situation, *which is necessary and proportionate to the nature, duration, value and risks of the credit for the consumer, in line with the data minimisation principle set out in Regulation (EU) 2016/679, and should be relevant, complete and accurate. That information should include at least the income and expenses, including giving appropriate consideration to the consumer's current obligations, including appropriate consideration of the living expenses of the consumer and the consumer's household, as well as the financial liabilities, of the consumer and should not include special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679, such as health data including cancer data, nor information obtained from social networks.* The European Banking Authority Guidelines on loan origination and monitoring (EBA/GL/2020/06) provide guidelines on what categories of data may be used for the processing of personal data for creditworthiness purposes, which include evidence of income or other sources of repayment, information on financial assets and liabilities, or information on other financial commitments. ■ Consumers should provide information about their financial and economic situation in order to facilitate the creditworthiness assessment. ■ Credit should only *be* made available to the consumer where the result of the creditworthiness assessment indicates that the obligations resulting from the credit agreement ■ are likely to be met in the manner required under that agreement. *When assessing the consumer's ability to meet his or her obligations under the credit agreement, the creditor should take into account relevant factors and specific circumstances, for example, but not limited to, in the case of loans granted in accordance with this Directive to finance studies or to cover exceptional health care expenses, the existence of sufficient evidence that such loans will bring the consumer future incomes, or the existence of collaterals or other forms of guarantees that the consumer could bring to secure the loan.*

- (48) The Proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act), establishes that AI systems used to evaluate the credit score or creditworthiness of natural persons should be classified as high-risk AI systems, since they determine those persons' access to financial resources or essential services such as housing, electricity, and telecommunication services. In view of those high stakes, whenever the creditworthiness assessment involves automated processing, the consumer should have a right to obtain human intervention on the part of the creditor. ***Without prejudice to the Regulation (EU) 2016/679***, the consumer should also have the right to obtain a meaningful, ***comprehensible*** explanation of the assessment made and of the functioning of the automated processing used, including among others the main variables, the logic and risks involved, as well as a right to express his or her point of view and ***request a review of*** the assessment of the creditworthiness and the decision, ***and be informed about it after having duly received information on the procedure to follow. The possibility to request a review of the initial assessment and of the decision should not necessarily lead to the provision of credit to the consumer.***

(49) To assess the credit status of a consumer, the creditor ■ should also consult credit databases. The legal and actual circumstances may require that such consultations vary in scope. To prevent any distortion of competition among creditors, *those who are supervised and fully comply with Regulation (EU) 2016/679* should have access to private or public credit databases concerning consumers in a Member State where they are not established under non-discriminatory conditions compared with creditors ■ established in that Member State. Member States should facilitate the cross-border access to private or public databases, in compliance with the Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>1</sup>. To enhance reciprocity, credit databases should as a minimum hold information on consumers' arrears in *repayment of the credit, on the type of credit and on the identity of the creditor*, in accordance with Union and national law. *Creditors and credit intermediaries should not process special categories of data, such as health data, referred to in Article 9(1) of Regulation (EU) 2016/679 nor information obtained from social networks, since this should be used for the purpose of assessing consumer creditworthiness.*

*Credit databases providers should have processes in place to ensure that information contained in their databases is up-to-date and accurate. Where the credit application is rejected on the basis of a consultation of a database, creditors should inform consumers without undue delay and free of charge of the result of such consultation and of the details of the database consulted as well as the categories of data taken into account. Moreover, to ensure consumer awareness, Member States should ensure that consumers are informed about the registration of any credit repayment arrears in a database in a timely manner and within 30 days, for instance by sending them a warning via email asking them to access the database to view their own information regarding arrears in repayment of credit.*

(50) ■

- (51) This Directive does not regulate contract law issues related to the validity of credit agreements █ . Therefore, in that area, the Member States may maintain or introduce national provisions which are in conformity with Union law. Member States may regulate the legal regime governing the offer to conclude the credit agreement █ , in particular when it is to be given and the period during which it is to be binding on the creditor █ . If such an offer is made at the same time as the pre-contractual information provided for by this Directive, it should, like any additional information the creditor █ may wish to give to the consumer, be provided in a separate document. That separate document may be annexed to the Standard European Consumer Credit Information.
- (52) The credit agreement █ should contain all necessary information in a clear and concise manner to enable the consumer to know his or her rights and obligations under that agreement. *Member states should be able to introduce or maintain national rules regarding the validity of the conclusion of credit agreements, in accordance with this Directive or any other applicable Union law.*
- (53) Without prejudice to Directive 93/13/EEC, and to pre-contractual obligations under this Directive, and in order to ensure a high level of consumer protection, the consumer should be presented, in due time and prior to any modifications to the terms and conditions of the credit agreement █ , with a description of the proposed changes and, where applicable, the need for consumer █ consent or of the changes introduced by operation of law; █ the timescale for implementing those changes; the means for complaint available to the consumer as well as the time period for the consumer to lodge a complaint and the name and address of the competent authority where the complaint may be submitted. The modification of a contract should not affect any consumer right, including information rights under this Directive. *This is without prejudice to Union law or national provisions regarding the admissibility, the conditions and the validity of contract modifications.*

- (54) In order to ensure full transparency, the consumer should be provided with information concerning the borrowing rate, both at a pre-contractual stage and when the credit agreement is concluded. During the contractual relationship, the consumer should further be informed of changes to the variable borrowing rate and changes to the payments caused thereby. This is without prejudice to provisions of national law not related to consumer information which lay down conditions for, or prescribe the consequences of, changes, other than changes concerning payments, in borrowing rates and other economic conditions governing the credit, for instance rules providing that the creditor may change the borrowing rate only where there is a valid reason for such change or that the consumer may terminate the contract should there be a change in the borrowing rate or in other specific economic condition concerning the credit.
- (54a) *Overdraft facilities and overrunning are increasingly common forms of consumer credit. Therefore, there is a need to regulate those financial products in order to increase the level of consumer protection and avoid over-indebtedness. There is a danger that consumers will not be able to pay if the creditors decide to request an immediate refunds. Therefore, consumer rights in respect of overdraft facilities and overrunning should be laid down in this Directive.*
- (55) In case of a significant overrun exceeding a period of one month, the creditor should present the consumer without delay with information on the overrun, including the amount involved, the borrowing rate and any applicable penalties, charges or interest on arrears applicable. In case of regular overrunning, the creditor should offer to the consumer advisory services, where available, to help consumers identifying less expensive alternatives, or redirect consumers towards debt advisory services.

- (56) Consumers should have a right of withdrawal without penalty and with no obligation to provide justification. However, *in order to increase legal certainty, the withdrawal period should in any case expire 12 months and 14 days after the conclusion of the credit agreement if the consumer has not received the contractual terms and conditions and information in accordance with this Directive. The withdrawal period should not expire if the consumer has not been informed about his or her right of withdrawal.*
- (57) Where a consumer withdraws from a credit agreement ■ in connection with which the consumer has received goods, in particular from a purchase in instalments or from a hiring or leasing agreement providing for an obligation to purchase, this Directive should be without prejudice to any regulation by Member States of questions concerning the return of the goods or any related questions.
- (58) In some cases, national law already provides that funds cannot be made available to the consumer before the expiry of a specific deadline. In those cases, consumers may wish to ensure that they receive the goods or services purchased early. Therefore, in the case of linked credit agreements, Member States should have the possibility to exceptionally provide that, if the consumer explicitly wishes early receipt of the purchased goods or services, the deadline for the exercise of the right of withdrawal could be reduced so that it is the same as the deadline before which funds cannot be made available.
- (59) In the case of linked credit agreements, a relationship of interdependence exists between the purchase of goods or services and the credit agreement ■ concluded for that purpose. Therefore, where the consumer exercises the right of withdrawal in respect of the purchase agreement, based on Union law, the consumer should no longer be bound by the linked credit agreement. This should not affect national law applicable to linked credit agreements in cases where a purchase agreement has been voided or where the consumer has exercised his or her right of withdrawal based on national law. Nor should this affect the rights of consumers granted by national law according to which no commitment may be entered into between the consumer and a supplier of goods or services, nor any payment made between those persons, as long as the consumer has not signed the credit agreement ■ to finance the purchase of the goods or services.



- (60) The contracting parties should have the right to effect a standard termination of an open-end credit agreement. In addition, where agreed in the credit agreement ■ , the creditor ■ should have the right to suspend the consumer's right to draw down on an open-end credit agreement for objectively justified reasons. Such reasons may include, for instance, suspicion of an unauthorised or fraudulent use of the credit or a significantly increased risk of the consumer being unable to fulfil his or her obligation to repay the credit. This Directive should not affect national contract law regulating the rights of the contracting parties to terminate the credit agreement on the basis of a breach of contract.
- (61) Under certain conditions, the consumer should be allowed to pursue remedies against the creditor ■ in the event of problems related to the purchase agreement. However, Member States should determine to what extent and under what conditions the consumer is required to pursue the remedies against the supplier, in particular by bringing an action against the supplier, before being in a position to pursue them against the creditor ■ . Consumers should not be deprived of their rights under national law attaching joint and several liability to the seller or supplier of services and to the creditor ■ .

- (62) The consumer should have the right to discharge his or her obligations before the date agreed in the credit agreement. As *interpreted* by the Court of Justice of the EU Lexitor ruling,<sup>2</sup> the right of the consumer to a reduction in the total cost of the credit in the event of early repayment of the credit includes all the costs imposed on the consumer. ***The reduction in the total cost of the credit to the consumer should be proportionate to the remaining duration of the credit agreement and should include also costs which are not dependent on the duration of the contract, including those, which are fully exhausted at the time of granting the credit. However, taxes and fees applied by and directly paid to a third party and which are not dependant on the duration of the contract should not be taken into consideration when calculating the reduction, as those costs are not imposed by the creditor and cannot therefore be unilaterally changed by the creditor. Fees charged by a creditor to the benefit of a third-party should however be taken into consideration when calculating the reduction.*** In the case of early repayment the creditor should be entitled to a fair and objectively justified compensation for the costs directly linked to the early repayment, taking into account also any savings thereby made by the creditor. However, in order to determine the method of calculating the compensation, it is important to respect several principles. The calculation of the compensation due to the creditor should be transparent and comprehensible to consumers already at the pre-contractual stage and in any case during the performance of the credit agreement. In addition, the calculation method should be easy for creditors to apply, and supervisory control of the compensation by the competent authorities should be facilitated. Therefore, and due to the fact that consumer credit is, given its duration and volume, not financed by long-term funding mechanisms, the ceiling for the compensation should be fixed in terms of a flat-rate amount. This approach reflects the specific nature of consumer credits and should not prejudice the approach in respect of other products which are financed by long-term funding mechanisms, such as fixed-rate mortgage loans.

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<sup>2</sup> Judgment of the Court of Justice of 11 September 2019, Lexitor, C-383/18, ECLI:EU:C:2019:702.

- (63) Member States should have the right to provide that compensation for early repayment may be claimed by the creditor only on condition that the amount repaid over a 12-month period exceeds a threshold defined by Member States. When fixing that threshold, which should not exceed EUR 10 000, Member States should take into account the average amount of consumer credits in their market.
- (64) In order to promote the establishment and functioning of the internal market and to ensure a high degree of protection for consumers throughout the Union, it is necessary to ensure the comparability of information relating to annual percentage rates of charge throughout the Union.
- (65) The fixing of caps on interest rates, on annual percentage rates of charge and or the total cost of the credit to the consumer is a common practice in a number of Member States. Such capping *system* has proved beneficial *in protecting consumers from excessively high rates*. In that context, Member States should be able to maintain their current legal *regime*. *In an effort to increase consumer protection without imposing unnecessary limits on Member States, adequate measures, such as caps or usury rates, should exist to effectively prevent abuse and to ensure that consumers are not charged with excessively high interest rates, annual percentage rates or total costs of credit.*
- (65a) *To ensure transparency, the Commission should make available, in a concise and clear form, these measures introduced by Member States.*
- (66) There are substantial differences in the laws of the various Member States with regard to the conduct of business in the granting of credit agreements ■ . While recognising the diversity in the types of actor involved in credit intermediation, certain standards at Union level are essential in order to ensure a high level of professionalism and service.

- (67) The applicable Union framework should give consumers the confidence that creditors, credit intermediaries ■ take account of the interests of the consumer *including their possible vulnerability and difficulties in understanding the product* based on the information available to the creditor, credit intermediary ■ at that moment and on reasonable assumptions about risks to the consumer's situation over the term of the proposed credit agreement ■ . A key aspect of ensuring such consumer confidence is the requirement to ensure a high degree of fairness, honesty and professionalism in the industry, *which includes also responsible behaviour to avoid practices that have negative impacts on consumers*, appropriate management of conflicts of interest including those arising from remuneration and to require advice to be given in the best interests of the consumer.
- (68) It is appropriate to ensure that the relevant staff of creditors *and* credit *intermediaries* possess an adequate level of knowledge and competence in order to achieve a high level of professionalism. It should be, therefore, required to prove relevant knowledge and competence at the level of the company, based on the minimum knowledge and competence requirements. Member States should be free to introduce or maintain such requirements applicable to individual natural persons, *and to adapt the minimum knowledge and competence requirements to the different types of creditors and credit intermediaries, in particular when they act in an ancillary capacity*. For the purpose of this Directive, staff directly engaged in activities under this Directive should include both front- and back-office staff, including management *and where appropriate members of the board of creditors and credit intermediaries*, who fulfil an important role in the credit agreement ■ process. Persons fulfilling support functions which are unrelated to the credit agreement ■ process, including human resources and information and communications technology personnel, should not be considered as staff under this Directive. Member States should put in place measures to support raising awareness of the requirements of this Directive in small and medium-sized creditors (SMEs) and facilitating their compliance, such as information campaigns, user guides, employee training schemes.

- (69) In order to increase the ability of consumers to make informed decisions about borrowing and managing debt responsibly, Member States should promote measures to support the education of consumers in relation to, responsible borrowing and debt management in particular relating to consumer credit agreements, *as well as general budget management*. This obligation could be fulfilled taking into account the financial competence framework developed by the Union together with the Organisation for Economic Co-operation and Development (OECD). It is particularly important to provide guidance for consumers taking out consumer credit for the first time, and especially on digital tools. In that regard, the Commission should identify examples of best practices to facilitate the further development of measures to enhance consumers' financial awareness. The Commission may publish such examples of best practices in coordination with similar reports drawn up in view of other Union legislative acts. *In creating and promoting those measures, Member States should consult relevant stakeholders, including consumer organisations. This obligation should not prevent Member States from providing for additional financial education.*
- (70) Given the significant consequences for creditors, consumers and potentially financial stability of enforcement proceedings, it is *necessary for* creditors to deal proactively with emerging credit risk at an early stage and to put in place necessary measures to ensure that *they* exercise, *where appropriate*, reasonable forbearance *before enforcement proceedings are initiated. When deciding whether it is appropriate to exercise forbearance measures, or whether it is justified to exercise them reiteratively, creditors should take into* account, among other elements, ■ the individual circumstances of the consumer, *such as* the consumer's interests and rights, his or her ability to repay the credit, and reasonable need for living expenses, and limit costs for consumers in case of default. *In particular, when the consumer does not respond to the creditor's offer within a reasonable period of time the creditor should not be required to offer forbearance measures reiteratively.* Member States should not prevent the parties to a credit agreement from expressly agreeing that the transfer to the creditor of goods covered by a linked credit agreement or proceeds from the sale of such goods is sufficient to repay the credit.

- (71) *When forbearance measures are deemed appropriate, they should include a modification of the terms and conditions of the initial credit agreement and may among others include a total or partial refinancing of a credit agreement. The modification of previous terms and conditions may include, among others: extending the term of the credit agreement; changing the type of the credit agreement; deferring payment of all or part of the instalment repayment for a period; reducing the interest rate; offering a payment holiday; partial repayments; currency conversion; and partial forgiveness and debt consolidation. When forbearance measures are deemed appropriate, creditors should not be required to perform a creditworthiness assessment when modifying the existing terms and conditions of a credit agreement, unless if the total amount payable by the consumer is significantly increased when modifying the credit agreement. While this obligation is without prejudice to procedures under national rules on enforcement proceedings, Member States should ensure that the forbearance measures provided for in this Directive are properly applied.*

- (72) Consumers facing difficulties to meet their financial commitments stand to benefit from specialised help on managing their debts. ***Financial difficulties cover a wide variety of situations. One example, among many others, is having delayed the repayment of debt for more than 90 days.*** The objective of debt advisory services is to help consumers facing financial problems and guide them to repay, as far as possible, their outstanding debts, while maintaining a decent level of life and preserving their dignity. This personalised and independent assistance ***may include, among others, legal counselling, money and debt management as well as social and psychological assistance.*** This assistance should be provided by professional operators which are not creditors, credit intermediaries, providers of crowdfunding credit services, ***purchasers*** or credit servicers, ***and are independent from them.*** Member States should ensure that debt advisory services provided by independent professional operators are made available, directly or indirectly ***and with only limited charges,*** to consumers. ***Those charges should in principle only cover operating expenses and not put unnecessary burden on the consumers who experience or might experience difficulties in meeting their financial commitments.*** Where possible, consumers facing difficulties to repay their debts are referred to debt advisory services before that enforcement proceedings are initiated. ***Such debt advisory services should be easily accessible for consumers, taking into account for example consumers' place of residence and also his or her language.*** Member States remain free to maintain or introduce specific requirements for such services. ***Creditors have a role to play in preventing over-indebtedness through the early detection and support of consumers experiencing financial difficulties. For that reason, creditors should have processes and policies in place for the detection and monitoring of such consumers to ensure they can effectively refer them to easily accessible debt advisory services.***
- (73) In order to ensure market transparency and stability, and pending further harmonisation, Member States should ensure that appropriate measures for the regulation or supervision of creditors ■ are in place.

- (74) Member States should ensure that **creditors and credit intermediaries, including** non-credit institutions are subject to an adequate admission process including **an authorisation process** or entering the non-credit institution in a register, and supervision arrangements by a competent authority. *The requirement to an adequate admission process and to registration should not apply to credit institutions as defined in Article 4 (1), point (1) of Regulation (EU) 575/2013, which are already subject to an authorisation process under Directive 2013/36/UE, nor to payment institutions as defined in Article 4, point (4), of Directive (EU) 2015/2366, for the service mentioned in Annex I point 4 of Directive (EU) 2015/2366 or electronic money institutions as defined in Article 2, point 1 of Directive 2009/110/EC, for the service mentioned in Article 6 (1), point b) of Directive 2009/110/EC. This is without prejudice to national admission processes and registration or supervision arrangements imposed on payment institutions and electronic money institutions for the purpose of granting credit to consumers and imposed on credit institutions for the purpose of credit intermediaries activities in compliance with Union law.*
- (74a) *Member States may exempt suppliers of goods and services who qualify as micro, small and medium undertakings and who act as credit intermediaries in an ancillary capacity or who grant credit in the form of deferred payment to purchase goods and services offered by them, without any third party offering credit, if the credit is provided free of interest and charges, except for limited penalty charges for late payments in accordance with national rules of general civil law from the requirements of admission and registration. This should not be used by large undertakings to avoid admission and registration requirements pursuant to this directive.*
- (75) This Directive regulates only certain obligations of credit intermediaries in relation to consumers. Member States should therefore remain free to maintain or introduce additional obligations incumbent on credit intermediaries, including the conditions under which a credit intermediary may receive fees from a consumer who has requested his service.



- (76) Assignment of the creditor's rights under a credit agreement ■ should not have the effect of placing the consumer in a less favourable position. The consumer should also be properly informed when the credit agreement ■ is assigned to a third party. However, where the initial creditor, in agreement with the assignee, continues to service the credit vis-à-vis the consumer, the consumer has no significant interest in being informed of the assignment. Therefore, a requirement at Union level that the consumer be informed of the assignment in such cases would be excessive.
- (77) Member States should remain free to maintain or introduce national rules providing for collective forms of communication where this is necessary for purposes relating to the effectiveness of complex transactions such as securitisations or liquidation of assets that take place in the compulsory administrative liquidation of banks.
- (78) Consumers should have access to adequate, *prompt* and effective alternative dispute resolution procedures for the settlement of disputes arising out of rights and obligations *relating to credit agreements*, using existing entities where appropriate. Such access is already ensured by Directive 2013/11/EU of the European Parliament and of the Council<sup>9</sup> in so far as relevant contractual disputes are concerned. However, consumers should also have access to alternative dispute resolution procedures in the event of pre-contractual disputes concerning rights and obligations established by this Directive, for example, in relation to pre-contractual information requirements, advisory services and creditworthiness assessment and also in relation to the information given by credit intermediaries which are remunerated by creditors and therefore have no direct contractual relationship with consumers. Such alternative dispute resolution procedures and the entities offering them should comply with the quality requirements established by Directive 2013/11/EU.

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<sup>9</sup> Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (OJ L 165, 18.6.2013, p. 63).

- (79) Member States should designate competent authorities empowered to ensure enforcement of this Directive and ensure that those competent authorities are granted investigation and enforcement powers and adequate resources necessary for the performance of their duties. ***Member States should also be able to grant product intervention powers to national authorities where credit products are detrimental to consumers and need to be withdrawn. Member States should consider data on monthly default rates associated with different types of consumers credit products relevant to the scope of this Directive.*** Competent authorities of different Member States should cooperate with each other whenever necessary for the purpose of carrying out their duties under this Directive.
- (80) Member States should lay down rules on penalties to address infringements of the national provisions adopted pursuant to this Directive and ensure that they are implemented. While the choice of penalties remains within the discretion of the Member States, the penalties provided for should be effective, proportionate and dissuasive.
- (81) Current national rules on penalties differ significantly across the Union. In particular, not all Member States ensure that effective, proportionate and dissuasive fines can be imposed on traders responsible for widespread infringements or widespread infringements with a Union dimension. To ensure that Member States' authorities can impose effective, proportionate and dissuasive penalties in relation to widespread infringements and to widespread infringements with a Union dimension that are subject to coordinated investigation and enforcement measures in accordance with Regulation (EU) 2017/2394 of the European Parliament and of the Council<sup>10</sup>, fines should be introduced as an element of penalties for such infringements. In ■ certain cases, those traders can also be a group of companies.

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<sup>10</sup> Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 (OJ L 345, 27.12.2017, p. 1).

- (82) To enhance transparency and consumer confidence, competent authority may disclose to the public any administrative penalty that is imposed for infringement of the measures adopted pursuant to this Directive, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.
- (82a) *The efficient functioning of this Directive will need to be reviewed, as will progress on the establishment of an internal market with a high level of consumer protection for consumer credit agreements. Every four years, the Commission should undertake an evaluation of this Directive to assess the upper threshold of EUR 100 000 laid down in the directive, the percentages used to calculate the compensation payable in the event of early repayment as referred to in Article 29, as well as an assessment of whether the scope of this Directive remains appropriate in relation to credit agreements which are secured by non-residential immovable property. The evaluation should also include an analysis of the evolution of the market for consumer credits that support the green transition and an assessment of the need for further measures to improve the uptake of such credits, as well as an assessment of the implementation of penalties imposed in accordance with this Directive and in particular of their effectiveness and deterrent effect. When evaluating this Directive the Commission should analyse the economic trends in the Union and the situation in the market concerned, such as the emergence of new forms of financial services, digital trends, and volumes and trends of the cross-border provision of credits. It should also look at the efficiency of the Directive's provisions, including the costs and benefits they entail for businesses and consumers. Moreover, crowdfunding is increasingly a form of finance available to consumers, typically for small expenses or investments. Regulation (EU) 2020/1503 of the European Parliament and of the Council excludes from its scope crowdfunding services, including those facilitating the granting of credit, that are provided to consumers. By [...], the Commission should assess the need for further measures to protect consumers seeking to take out a credit or to invest through a provider of crowdfunding credit services.*

- (83) Since the objective of this Directive, namely the establishment of common rules for certain aspects of the laws, regulations and administrative provisions of the Member States concerning consumer credit, cannot be sufficiently achieved by the Member States considering market developments in the light of digitalisation and the goal to facilitate cross-border credit provision but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (84) In order to amend non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of additional assumptions for the calculation of the annual percentage rate of charge. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>11</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (85) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>12</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

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<sup>11</sup> OJ L 123, 12.5.2016, p. 1

<sup>12</sup> OJ C 369, 17.12.2011, p. 14.

- (86) Taking account of the number of amendments that need to be made to Directive 2008/48/EC due to the evolution of the consumer credit sector and in the interests of the clarity of Union legislation, that Directive should be repealed and replaced by this Directive.
- (87) Member States should apply the measures necessary to comply with this Directive from [OP: please insert date: *twelve* months from the transposition deadline]. ■
- (88) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725<sup>13</sup> and delivered an opinion on XX XXXX<sup>14</sup>,

HAVE ADOPTED THIS DIRECTIVE:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

##### Subject matter

This Directive lays down a common framework for harmonisation of certain aspects of the laws, regulations and administrative provisions of the Member States concerning ■ credit agreements for consumers ■ .

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<sup>13</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>14</sup> ...

## Article 2

### Scope

1. This Directive applies to credit agreements.

■

2. This Directive does not apply to the following:

- (a) credit agreements which are secured either by a mortgage, or by another comparable security commonly used in a Member State on ■ immovable property or secured by a right related to ■ immovable property;
- (b) credit agreements the purpose of which is to acquire or retain property rights in land or in an existing or projected building, *including premises used for trade, business or a profession*
- (c) credit agreements involving a total amount of credit of more than EUR 100 000;
- (d) credit agreements where the credit is granted by employers to their employees as a secondary activity either free of interest or offered at annual percentage rates of charge which are lower than those prevailing on the market and which are not offered to the general public;

- (e) credit agreements which are concluded with investment firms as defined in Article 4(1), point (1), of Directive 2014/65/EU of the European Parliament and of the Council<sup>15</sup> or with credit institutions as defined in Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>16</sup> for the purposes of allowing an investor to carry out a transaction relating to one or more of the financial instruments listed in Section C of Annex I to Directive 2014/65/EU, where the investment firm or credit institution granting the credit is involved in that transaction;
- (f) credit agreements which are the outcome of a settlement reached in court or before another statutory authority;
- (fa) *hiring or leasing agreements where an obligation or an option to purchase the object of the agreement is not laid down either by the agreement itself or by any separate agreement;*

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<sup>15</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173 12.6.2014, p. 349).

<sup>16</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

- (fb) *deferred payments whereby a supplier of goods or services, without a third party offering credit, gives the consumer time to pay for the goods or services supplied by that supplier, free of interest and without any other charges, and whereby payment is to be entirely executed within 50 days of the delivery of the good or service and with only limited charges payable by the consumer for late payments imposed in accordance with rules of national law; for deferred payments provided by suppliers of goods or services which are not micro, small or medium sized enterprises as defined in Commission Recommendation 2003/361/EC where they offer information society services within the meaning of Article 1(1), point (b), of Directive (EU) 2015/1535 consisting in the conclusion of distance contracts with consumers for the sale of goods or supply of services within the meaning of Article 2 of Directive 2011/83/EU, this exclusion from the scope of this directive shall apply only where a third party is neither offering nor purchasing credit and the payment is to be entirely executed within 14 days of the delivery of the goods or services, free of interest and without any other charges and with only limited charges payable by the consumer for late payments imposed in accordance with rules of national law;*
- (g) credit agreements which relate to the deferred payment, free of charge, of an existing debt;
- (h) credit agreements where the consumer is requested to deposit an item as security in the creditor's safe-keeping and the liability of the consumer is strictly limited to that deposited item;



- (i) credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market.
  - (j) credit agreements existing on [OP: please insert date *twelve* months from the transposition deadline]; however, Articles 23 and 24, Article 25(1), second sentence, Article 25(2) and Articles 28 and 39 shall apply to all open-end credit agreements existing on [OP: please insert date six months from the transposition deadline].
3. Notwithstanding paragraph 2, point (c), this Directive applies to ■ credit agreements involving a total amount of credit of more than EUR 100 000, *which are not secured either by immovable property or by a right related to immovable property*, where the purpose of those credit agreements is the renovation of a residential immovable property.
4. In the case of credit agreements in the form of overrunning, only *the following Articles shall apply*:
- (a) Articles 1, 2, 3, 17, 19, 25, 31, 35, 36 and Articles 39 to 50; and
  - (b) Article 18, unless otherwise determined by Member States
- 4a. *Member States may exempt from the application of this Directive credit agreements in the form of deferred debit cards:*
- (a) *which are provided by a credit or payment institution,*
  - (b) *under the terms of which the credit has to be repaid within 40 days, and*

(c) *which are free of interest and with only limited charges for the provision of the payment service.*

5. Member States may determine that only Articles 1, 2 and 3, Articles 7 and 8, Article 11, Article 19, Article 20, Article 21(1), points (a) to (h) and (l), Article 21(3), Article 23, Article 25, Articles 28 to **50** apply to credit agreements which are concluded by an organisation whose membership is restricted to persons residing or employed in a particular location or employees and retired employees of a particular employer, or to persons meeting other qualifications laid down under national law as the basis for the existence of a common bond between the members and which fulfills all of the following conditions:

- (a) it is established for the mutual benefit of its members;
- (b) it does not make profits for any other person than its members;
- (c) it fulfils a social purpose required by national law;
- (d) it receives and manages the savings of, and provides sources of credit to, its members only;
- (e) it provides credit on the basis of an annual percentage rate of charge which is lower than that prevailing on the market or which is subject to a ceiling laid down by national law.

Member States may exempt from the application of this Directive credit agreements concluded by an organisation referred to in the first subparagraph where the total value of all existing credit agreements entered into by that organisation is insignificant in relation to the total value of all existing credit agreements in the Member State in which the organisation is based and the total value of all existing credit agreements entered into by all such organisations in the Member State is less than 1 % of the total value of all existing credit agreements entered into in that Member State.

Member States shall each year review whether the conditions for the application of any such exemption as referred to in the second subparagraph are still fulfilled and shall take action to withdraw the exemption where they consider that they are no longer met.

6. Member States may determine that only Articles 1, 2 and 3, Articles 7 and 8, Article 11, Article 19, Article 20, Article 21(1), points (a) to (h), (l) and (r), Article 21(3), Article 23, Article 25, Articles 28 to 38 and Articles 40 to 50 shall apply to credit agreements ***between*** the creditor and the consumer in respect of deferred payment or repayment methods, where the consumer is already in ***default or will likely*** default on the initial credit agreement and where the following conditions are fulfilled:

- (a) the arrangement is likely to avert the possibility of legal proceedings concerning the default of the consumer;
- (b) the consumer would not by entering into the arrangement be subject to terms less favourable than those laid down in the initial credit agreement.

***6a. Member States may determine that Article 8(2), points (d), (e) and (f), Article 10 [(3)/(3a)], Article 11 [(2)/(2a)] and Article 21(3) shall not apply to one or more of the following credit agreements:***

- (a) credit agreements involving a total amount of credit of less than EUR 200;***
- (b) credit agreements where the credit is granted free of interest and without any other charges;***
- (c) credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable.***

## Article 3

### Definitions

For the purposes of this Directive, the following definitions shall apply:

- (1) 'consumer' means a natural person who acts for purposes which are outside his or her trade, business or profession;
- (2) 'creditor' means a natural or legal person who grants or promises to grant credit in the course of his or her trade, business or profession;
- (3) 'credit agreement' means an agreement whereby a creditor grants or promises to grant to a consumer credit in the form of a deferred payment, loan or other similar financial accommodation, except for agreements for the provision on a continuing basis of services or for the supply of goods of the same kind, where the consumer pays for such services or goods for the duration of their provision by means of instalments;
- (3a) *"ancillary service" means a service offered to the consumer in conjunction with the credit agreement;*
- (4) ■
- (5) 'total cost of the credit to the consumer' means all the costs, including interest, commissions, taxes and any other kind of fees which the consumer is required to pay in connection with the credit agreement ■ and which are known to the creditor, in the case of credit agreements, ■ except for notarial costs; costs in respect of ancillary services relating to the credit agreement *in particular insurance premiums*, are also included in the total cost of the credit to the consumer where, in addition, the conclusion of a contract regarding such ancillary services is compulsory in order to obtain the credit or to obtain it on the terms and conditions marketed;

- (6) 'total amount payable by the consumer' means the sum of the total amount of credit and the total cost of the credit to the consumer;
- (7) 'annual percentage rate of charge' or 'APR' means the total cost of the credit to the consumer, expressed as an annual percentage of the total amount of credit *and calculated as set out* in Article 30;
- (8) 'borrowing rate' means the interest rate expressed as a fixed or variable percentage applied on an annual basis to the amount of credit drawn down;
- (9) 'fixed borrowing rate' means the borrowing rate that the creditor ■ and the consumer agree on in the credit agreement ■ for the entire duration of the credit agreement ■ , or several borrowing rates that the creditor ■ and the consumer agree on in the credit agreement ■ for partial periods for which the borrowing rates are determined exclusively by a fixed specific percentage. If not all borrowing rates are determined in the credit agreement ■ , the borrowing rate shall be deemed to be fixed only for the partial periods for which the borrowing rates are determined exclusively by a fixed specific percentage agreed on the conclusion of the credit agreement ■ ;
- (10) 'total amount of credit' means the ceiling or the total sums made available under a credit agreement ■ ;
- (11) 'durable medium' means any instrument which enables the consumer to store information addressed personally to him or her in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

- (12) ‘credit intermediary’ means a natural or legal person who is not acting as a creditor or notary and not merely introducing, either directly or indirectly, a consumer to a creditor, and who, in the course of his or her trade, business or profession, for **remuneration**, which may take a pecuniary form or any other agreed form of financial consideration:
- (a) presents or offers credit agreements to consumers;
  - (b) assists consumers by undertaking preparatory work or other pre-contractual administration in respect of credit agreements other than as referred to in point (a); or
  - (c) concludes credit agreements with consumers on behalf of the creditor;
- (13) ‘pre-contractual information’ means the information **which is provided before the consumer is bound by a credit agreement or offer and which** the consumer needs **in order** to be able to compare different credit offers and take an informed decision on whether to conclude the credit agreement ■ ;
- (14) ‘profiling’ means any form of automated processing of personal data as defined in Article 4, point (4), of Regulation (EU) 2016/679;
- (15) ‘means of distance communication’ mean any means of distance communication as defined in Article 2, point (e) of Directive 2002/65/EC;
- (16) ‘tying practice’ means the offering or the selling of a credit agreement ■ in a package with other distinct financial products or services where the credit agreement **is** not made available to the consumer separately;
- (17) ‘bundling practice’ means the offering or the selling of a credit agreement ■ in a package with other distinct financial products or services where the credit agreement **is** also made available to the consumer separately but not necessarily on the same terms or conditions as when offered bundled with those other products or services;

- (18) ‘advisory services’ means personal recommendations to a consumer in respect of one or more transactions relating to credit agreements ■ and that constitute a separate activity from the granting of a credit and from the ■ activities of *a* credit intermediary as defined in point (12);
- (19) ‘overdraft facility’ means an explicit credit agreement whereby a creditor makes available to a consumer funds which exceed the current balance in the consumer's current account;
- (20) ‘overrunning’ means a tacitly accepted overdraft whereby a creditor makes available to a consumer funds which exceed the current balance in the consumer's current account or the agreed overdraft facility;
- (21) ‘linked credit agreement’ means a credit agreement ■ where
- (a) the credit or services in question serve exclusively to finance an agreement for the supply of specific goods or the provision of a specific service, and
  - (b) those two agreements form, from an objective point of view, a commercial unit; a commercial unit shall be deemed to exist where the supplier or service provider himself or herself finances the credit for the consumer or, if it is financed by a third party, where the creditor ■ use the services of the supplier or service provider in connection with the *marketing*, conclusion or preparation of the credit agreement ■ , or where the specific goods or the provision of a specific service are explicitly specified in the credit agreement ■ ;
- (22) ‘early repayment’ means the full or partial discharge of the consumer’s obligations under a credit agreement, *before the date agreed in the credit agreement*;
- (23) ■
- (24) ■

- (25) ‘debt advisory services’ means personalised assistance of a technical, legal or psychological nature provided by independent professional operators ***which are not, in particular creditors, credit intermediaries, credit purchasers or credit servicers as defined in Article 3, point (6) and (8) of Directive (EU) 2021/2167,*** in favour of consumers who experience or might experience difficulties in meeting their financial commitments;

#### Article 4

##### Conversion of amounts expressed in euro into national currency

1. For the purposes of this Directive, those Member States who convert the amounts expressed in euro into their national currency shall initially use in that conversion the exchange rate prevailing on the date of entry into force of this Directive.
2. Member States may round off the amounts resulting from the conversion referred to in paragraph 1, provided that such rounding off does not exceed EUR 10.

#### Article 5

##### Obligation to provide information free of charge to consumers

Member States shall require that, when information is provided to consumers in accordance with this Directive, such information is provided without charge to the consumer ***regardless of the media used to provide it.***



## Article 6

### Non-discrimination

Member States shall ensure that the conditions to be fulfilled for being granted a credit do not discriminate against consumers legally resident in the Union on ground of their nationality or place of residence or on any ground as referred to in Article 21 of the Charter of Fundamental Rights of the European Union, when those consumers request, conclude or hold a credit agreement ***within the Union.***

***This is without prejudice to the possibility of offering different conditions of access to a credit where those differences are duly justified by objective criteria.***

## CHAPTER II

### INFORMATION TO BE PROVIDED PRIOR TO THE CONCLUSION OF THE CREDIT AGREEMENT ■

## Article 7

### Advertising and marketing of credit agreements ■

Without prejudice to Directive 2005/29/EC, Member States shall require that any advertising and marketing communications concerning credit agreements ■ are fair, clear and not misleading. Wording in such advertising and marketing communications that may create false expectations for a consumer regarding the availability or the cost of a credit ***or the total amount payable by the consumer*** shall be prohibited.

## Article 8

Standard information to be included in advertising of credit agreements ■

1. Member States shall require that advertising concerning credit agreements ***include a clear and prominent warning to make consumers aware that borrowing costs money using the wording "Caution! Borrowing money costs money" or an equivalent wording.***
- 1a. ***Member States shall require that advertising concerning credit agreements*** which indicates an interest rate or any figures relating to the cost of the credit to the consumer include standard information in accordance with this Article.

This obligation shall not apply where national law requires the indication of the annual percentage rate of charge in advertising concerning credit agreements ■ which does not indicate an interest rate or any figures relating to any cost of credit to the consumer within the meaning of the first subparagraph.

2. The standard information shall be easily legible or clearly audible, as appropriate, and adapted to the technical constraints of the medium used for advertising and shall specify in a clear, concise and prominent way, ■ all of the following elements:
  - (a) the borrowing rate, fixed or variable or both, together with particulars of any charges included in the total cost of the credit to the consumer;
  - (b) the total amount of credit;
  - (c) the annual percentage rate of charge;
  - (d) where applicable, the duration of the credit agreement ■ ;
  - (e) in the case of a credit in the form of deferred payment for specific goods or services, the cash price and the amount of any advance payment;
  - (f) where applicable, the total amount payable by the consumer and the amount of the instalments.

In specific and justified cases where the medium used to communicate the standard information referred to in the first subparagraph does not allow the information to be visually displayed, points (e) and (f) in that subparagraph shall not apply.

- 2a. ***The standard information listed in paragraph 2 shall be specified by means of representative example.***

3. Where the conclusion of a contract regarding an ancillary service relating to the credit agreement ■ is compulsory in order to obtain the credit or to obtain it on the terms and conditions marketed, and the cost of that service cannot be determined in advance, the standard information shall, together with the annual percentage rate of charge referred to in paragraph 2, point (c), specify in a clear, concise and prominent way the obligation to enter into that contract.
- 3a. *Without prejudice to Directive 2005/29/EC, in specific and justified cases where the electronic medium used to communicate the standard information referred to in paragraph 2 does not allow that information to be visually displayed in a prominent and clear manner, the consumer shall be able to access the information referred to in points (e) and (f) by means of clicking, scrolling or swiping.*
- 3c. *Member States shall prohibit advertising for consumer credit products which:*
- (a) encourages consumers to seek credit by suggesting that credit would improve the financial situation of those consumers;*
  - (b) specifies that outstanding credit contracts or registered credit in databases have little or no influence on the assessment of a credit application;*
  - (c) falsely suggests that credit leads to an increase in financial resources, constitutes a substitute for savings or can raise a consumer's living standards;*

- 3d. *Member States may prohibit among other possibilities advertising for consumer credit products which:*
- (a) *highlights the ease or speed with which credit can be obtained;*
  - (b) *states that a discount is conditional upon taking up credit;*
  - (c) *offers "grace periods" of more than three months for the repayment of credit instalments.*

## Article 9

### General information

1. Member States shall ensure that clear and comprehensible general information about credit agreements ■ is made available to consumers by creditors or, where applicable, by credit intermediaries ■ , at all times on paper or on *any other* durable medium *chosen by the consumer*.  
  
*General information about credit agreements which is made available by creditors or, where applicable, by credit intermediaries at their premises shall be available to consumers at least on paper.*
2. The general information referred to in paragraph 1 shall include at least the following:
  - (a) the identity, geographical address, telephone number and email address of the issuer of the information;
  - (b) the purpose for which the credit may be used;
  - (c) the possible duration of the credit agreements ■ ;

- (d) types of available borrowing rate, indicating whether fixed or variable or both, with a short description of the characteristics of a fixed and variable rate, including related implications for the consumer;
- (e) a representative example of the total amount of credit, the total cost of the credit to the consumer, the total amount payable by the consumer and the annual percentage rate of charge;
- (f) an indication of possible further costs, not included in the total cost of the credit to the consumer, to be paid in connection with a credit agreement ■ ;
- (g) the range of different options available for reimbursing the credit to the creditor, including the number, frequency and amount of the regular repayment instalments;
- (h) a description of the conditions directly relating to early repayment;
- (i) a description of the right of withdrawal;
- (j) indication of ancillary services the consumer is obliged to acquire in order to obtain the credit or to obtain it on the terms and conditions marketed and, where applicable, a clarification that the ancillary services may be purchased from a provider that is not the creditor; and
- (k) a general warning concerning possible consequences of non-compliance with the commitments linked to the credit agreement ■ .

## Article 10

### Pre-contractual information

1. Member States shall require that the creditor and, where applicable, the credit intermediary ■ provide the consumer with the ***clear and comprehensible*** pre-contractual information needed to compare different offers in order to take an informed decision on whether to conclude a credit agreement ■ on the basis of the credit terms and conditions offered by the creditor ■ and, where applicable, the preferences expressed and information supplied by the consumer. Such pre-contractual information shall be provided to the consumer ***in good time*** before he or she is bound by any credit agreement or offer, ***including where distance means of communication are used***.

In case the pre-contractual information referred to in the first subparagraph is provided less than one day before the consumer is bound by the credit agreement or offer, ■ Member States shall require that the creditor and, where applicable, the credit intermediary ■ send a reminder, on paper or on another durable medium ***chosen by the consumer and specified in the credit agreement***, to the consumer of the possibility to withdraw from the credit agreement ■ and of the procedure to follow for withdrawing, in accordance with Article 26. That reminder shall be provided to the consumer, ***between one and seven days*** after the conclusion of the credit agreement ■ or the acceptance of the credit offer.

2. The pre-contractual information referred to in paragraph 1 shall be provided on paper or on ***any other*** durable medium ***chosen by the consumer*** by means of the Standard European Consumer Credit Information form set out in Annex I. All the information provided in the form shall be equally prominent. The creditor shall be deemed to have fulfilled the information requirements in this paragraph and in Article 3, paragraphs (1) and (2) of Directive 2002/65/EC if he or she has supplied the Standard European Consumer Credit Information.

3. The pre-contractual information referred to in paragraph 1 shall specify all of the following elements *in a prominent way in the first part of the Standard European Consumer Credit Information form on one page*:
- (a) the *identity of the creditor as well as, where applicable, of the credit intermediary*;
  - (b) the *total amount of credit* ■ ;
  - (c) the *duration of the credit agreement*;
  - (d) the *borrowing rate, or all borrowing rates if different borrowing rates apply in different circumstances*;
  - (e) *the annual percentage rate of charge and the total amount payable by the consumer*;
  - (f) *in the case of a credit in the form of deferred payment for specific goods or services and in the case of linked credit agreements, the specific goods or services and their cash price*;
  - (g) *costs in the case of late payments, i.e. the interest rate applicable in the case of late payments and the arrangements for its adjustment, and, where applicable, any charges payable for default*;
  - (h) *the amount, number and frequency of payments to be made by the consumer and, where appropriate, the order in which payments will be allocated to different outstanding balances charged at different borrowing rates for the purposes of reimbursement*;

- (i) *warning regarding the consequences of missing or late payments* ■ ;
- (j) *the existence or absence of a right of withdrawal* and the *duration of that right of withdrawal*;
- (k) *the existence or absence of a right of early repayment, and, where applicable, information concerning the creditor's right to compensation*;
- (l) The *geographical address, telephone number and email address of the creditor as well as, where applicable, the geographical address, telephone number and email address of the credit intermediary involved*.
- (m) ■
- ■
- (o) ■
- (p) ■
- (q) ■
- (r) ■
- (s) ■
- (t) ■
- (u) ■
- (v) ■



*In case all of the elements referred to in first subparagraph cannot be displayed in a prominent way on one page, they shall be displayed in the first part of the Standard European Consumer Credit Information form on two pages at most. In this case information referred to in points (a), (b), (c), (d), (e), (f) and (g) shall be displayed on the first page of the form.*

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- 3a. *The pre-contractual information referred to in paragraph 1 shall specify all of the below elements following and noticeably separated from the elements mentioned in paragraph 3:*
- (a) the type of credit;*
  - (b) the conditions governing the drawdown;*
  - (d) where different borrowing rates apply in different circumstances, the conditions governing the application of each borrowing rate and, where available, any index or reference rate applicable to each initial borrowing rate, as well as the periods, conditions and procedures for changing each borrowing rate;*
  - (c) where a credit agreement provides different ways of drawdown with different charges or borrowing rates and the creditor uses the assumption set out in Part II, point (b), of Annex IV, an indication that other drawdown mechanisms for the relevant type of credit agreement may result in higher annual percentage rates of charge;*

- (f) where applicable, the charges for maintaining one or several compulsory accounts recording both payment transactions and drawdowns, the charges for using a means of payment for both payment transactions and drawdowns, any other charges deriving from the credit agreement ■ , and the conditions under which any of those charges may be changed;
- (e) *a representative example illustrating the annual percentage rate of charge and the total amount payable by the consumer, mentioning all the assumptions used in order to calculate that rate; Where the consumer has informed the creditor of one or more components of his or her preferred credit, such as the duration of the credit agreement and the total amount of credit, the creditor shall take those components into account;*
- (g) where applicable, any costs payable by the consumer to a notary on conclusion of the credit agreement ■ ;
- (h) the obligation, if any, to enter into an ancillary service contract relating to the credit agreement ■ , where the conclusion of such a contract is compulsory in order to obtain the credit or to obtain it on the terms and conditions marketed;
- (i) *where applicable, the sureties required;*
- (j) where applicable, *information concerning the way in which the creditor's compensation will be determined in case of early repayment;*
- (k) the *consumer's right to be informed immediately and free of charge, pursuant to Article 19(2), of the result of a database consultation carried out for the purposes of assessing his or her creditworthiness;*

- (l) the consumer's right, *as set out in paragraph 8*, to be *supplied, on request on paper or another durable medium* and free of charge, *with a copy of the draft credit agreement provided that the creditor at the time of the request is willing to proceed to the conclusion of the credit agreement*;
- (m) *where applicable, an indication that the price was personalised on the basis of automated processing, including profiling*;
- (n) *where applicable, the period of time during which the creditor is bound by the pre-contractual information provided in accordance with this Article*;
- (o) *the possibility of having recourse to an out-of-court complaint and redress mechanism for the consumer and the methods for having access to it*.
- (p) *where the credit agreement references a benchmark as defined in Article 3(1), point (3), of Regulation (EU) 2016/1011 of the European Parliament and of the Council<sup>1</sup>, the name of that benchmark and of its administrator and its potential implications on the consumer shall be provided by the creditor or, where applicable, the credit intermediary, to the consumer in a separate document, which may be annexed to the Standard European Consumer Credit Information form*.
- (q) *a warning and explanation regarding the legal and financial consequences of non-compliance with the other commitments linked to the specific credit agreement*;
- (r) *a repayment schedule containing all payments and repayments over the duration of the contract, including those payments and repayments for any ancillary services relating to the credit agreement which are sold simultaneously, whereby payment and repayments, in the event that different borrowing rates apply in different circumstances, are based on reasonable upward changes in the borrowing rate*;

4.

■

(a) ■

(b) ■

(c) ■

(d) ■

(e) ■

(f) ■

5. Information displayed in the Standard European Consumer Credit Information form ■ shall be consistent. It shall be clearly legible and take into account the technical constraints of the medium on which it is displayed. Information shall be displayed in an adequate and suitable way on the different channels *taking into account interoperability*.

Any additional information which the creditor may provide to the consumer shall be *clearly legible and* given in a separate document which may be annexed to the Standard European Consumer Credit Information ■ form.

6. By way of derogation from paragraph *3a of this Article*, in the case of voice telephony communications, as referred to in Article 3(3) of Directive 2002/65/EC, the description of the main characteristics of the financial service to be provided pursuant to Article 3(3), point (b), second indent, of that Directive shall include at least the elements referred to in paragraph 3, points (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) and (l) of this Article. *In such case, the creditor and, where applicable, the credit intermediary shall provide the consumer with the Standard European Consumer Credit Information form on a durable medium immediately after the conclusion of the credit agreement.*

7. █
8. Upon request from the consumer, the creditor and, where applicable, the credit intermediary █ shall, in addition to the Standard European Consumer Credit Information form █ , provide the consumer free of charge with a copy of the draft credit agreement, █ provided that the creditor at the time of the request is willing to proceed to the conclusion of the credit agreement █ with the consumer.
9. In the case of a credit agreement █ under which payments made by the consumer do not give rise to an immediate corresponding amortisation of the total amount of credit, but are used to constitute capital during periods and under conditions laid down in the credit agreement, █ or in an ancillary agreement, the creditor and, where applicable, the credit intermediary █ shall in the pre-contractual information referred to in paragraph 1 include a clear and concise statement that such credit agreements █ do not provide for a guarantee of repayment of the total amount of credit drawn down under the credit agreement █ , unless such a guarantee is given expressly.
10. This Article shall not apply to suppliers of goods or services acting as credit intermediaries in an ancillary capacity. This is without prejudice to the creditor, or where applicable, credit intermediary █ obligation to ensure that the consumer receives the pre-contractual information referred to in this Article.

## Article 11

Pre-contractual information with regard to credit agreements referred to in Article 2(5) or (6)

1. For credit agreements referred to in Article 2(5) or (6), the pre-contractual information referred to in Article 10(1) shall, by way of derogation from paragraph 2 of that Article, be provided on paper or on *any other* durable medium ***chosen by the consumer*** by means of the European Consumer Credit Information form set out in Annex III. ***That information shall be clear and understandable.*** All information provided in that form shall be equally prominent. The creditor shall be deemed to have fulfilled the information requirements in this paragraph and in Article 3, paragraphs (1) and (2) of Directive 2002/65/EC if he or she has supplied the European Consumer Credit Information.
2. For credit agreements referred to in Article 2(5) or (6), the pre-contractual information referred to in Article 10(1) shall, by way of derogation from paragraph 3 of that Article, **■** specify all of the following elements, ***in a prominent way in the first part of the European Consumer Credit Information [form] on one page:***
  - (a) the ***identity of the creditor as well as, where applicable, of the credit intermediary;***
  - (b) the ***total amount of credit*** **■** ;
  - (c) the ***duration of the credit agreement;***
  - (d) the ***borrowing rate, or all borrowing rates if different borrowing rates apply in different circumstances;***

- (e) *the annual percentage rate of charge and the total amount payable by the consumer;*
- (f) *in the case of a credit in the form of deferred payment for specific goods or services and in the case of linked credit agreements, the specific goods or services and their cash price;*
- (g) *costs in the case of late payments, i.e. the interest rate applicable in the case of late payments and the arrangements for its adjustment, and, where applicable, any charges payable for default;*
- (h) *the amount, number and frequency of payments to be made by the consumer and, where appropriate, the order in which payments will be allocated to different outstanding balances charged at different borrowing rates for the purposes of reimbursement;*
- (i) *warning regarding the consequences of missing or late payments;*
- (j) *the absence of a right of withdrawal;*
- (k) *the existence of a right of early repayment, and, where applicable, information concerning the creditor's right to compensation;*
- (l) *The geographical address, telephone number and email address of the creditor as well as, where applicable, the geographical address, telephone number and email address of the credit intermediary involved.*
- (l) **■**
- (m) **■**
- (n) **■**
- (o) **■**

- 2a. *In case all of the elements referred to in first subparagraph cannot be displayed in a prominent way on one page, they shall be displayed in the first part of the European Consumer Credit Information form on two pages at most. In this case information referred to in points (a), (b), (c), (d), (e), (f) and (g) shall be displayed on the first page of the form.*
3. *The pre-contractual information referred to in paragraph 1 shall specify all of the below elements following and noticeably separated from the elements mentioned in paragraph 2:*
- (a) the type of credit;*
  - (b) where different borrowing rates apply in different circumstances, the conditions governing the application of the borrowing rate, any index or reference rate applicable to the initial borrowing rate, the charges applicable from the time the credit agreement is concluded, and, where applicable, the conditions under which those charges may be changed;*
  - (c) a representative example illustrating the annual percentage rate of charge and the total amount payable by the consumer, mentioning all the assumptions used in order to calculate that rate;*
  - (d) the conditions and procedure for terminating the credit agreement;*
  - (e) where applicable, information concerning the way in which the creditor's compensation will be determined in case of early repayment;*
  - (f) where applicable, an indication that the consumer may be requested to repay the amount of credit in full at any time;*



- (g) *the consumer's right to be informed immediately and free of charge, pursuant to Article 19(2), of the result of a database consultation carried out for the purposes of assessing his or her creditworthiness;*
- (h) *where applicable, an indication that the price was personalised on the basis of automated processing, including profiling;*
- (i) *where applicable, the period of time during which the creditor is bound by the pre-contractual information provided in accordance with this Article;*
- (j) *the possibility of having recourse to an out-of-court complaint and redress mechanism for the consumer and the methods for having access to it;*
- (k) *a warning and explanation regarding the legal and financial consequences of non-compliance with the other commitments linked to the specific credit agreement or crowdfunding credit services;*
- (l) *a repayment schedule containing all payments and repayments over the duration of the contract, including those payments and repayments for any ancillary services relating to the credit agreement which are sold simultaneously, whereby payment and repayments, in the event that different borrowing rates apply in different circumstances, are based on reasonable upward changes in the borrowing rate;*

3. **■**

4. Information displayed in the European Consumer Credit Information form **■** shall be consistent. It shall be clearly legible and take into account the technical constraints of the medium on which it is displayed. Information shall be displayed in an adequate and suitable way on the different channels *taking into account interoperability*.

5. By way of derogation from paragraph 3 *of this Article*, in the case of voice telephony communications, as referred to in Article 3(3) of Directive 2002/65/EC, the description of the main characteristics of the financial service to be provided pursuant to Article 3(3), point (b), second indent, of that Directive shall include at least the elements referred to in paragraph 2, points (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) and (l) ■ of this Article. ***In such case, the creditor and, where applicable, the credit intermediary shall provide the consumer with the European Consumer Credit Information form on a durable medium immediately after the conclusion of the credit agreement.***
6. Upon request from the consumer, the creditor and, where applicable, the credit intermediary shall, in addition to the European Consumer Credit Information ■ , provide the consumer free of charge with a copy of the draft credit agreement, provided that the creditor at the time of the request is willing to proceed to the conclusion of the credit agreement with the consumer.
7. ■
8. This Article shall not apply to suppliers of goods or services acting as credit intermediaries in an ancillary capacity. This is without prejudice to the creditor, or where applicable, the credit intermediary's obligation to ensure that the consumer receives the pre-contractual information referred to in this Article.

## Article 12

### Adequate explanations

1. Member States shall ensure that creditors and, where applicable, credit intermediaries ■ are required to provide adequate explanations to the consumer on the proposed credit agreements ■ and any ancillary services that make it possible for the consumer to assess whether the proposed credit agreements ■ and ancillary services are adapted to his or her needs and financial situation. *Such explanations shall be provided free of charge and before concluding the credit agreement.* The explanations shall include the following elements:
  - (a) the information referred to in Article 10, 11 and 38;
  - (b) the essential characteristics of the credit agreement, ■ or ancillary services proposed;
  - (c) the specific effects that the credit agreement, ■ or ancillary services proposed may have on the consumer, including the consequences of payment default or late payment by the consumer;
  - (d) where ancillary services are bundled with a credit agreement ■ , whether each component of the bundle can be terminated separately and the implications for the consumer of such termination.
2. Member States may, *in justified cases*, adapt the requirement referred to in paragraph 1 with regard to the manner in which the explanations shall be given and the extent to which they shall be given to the following:
  - (a) the circumstances of the situation in which the credit is offered;
  - (b) the person to whom the credit is offered;
  - (c) the *type* of the credit offered.

## Article 13

### Personalised offers on the basis of automated processing

***Without prejudice to (EU) Regulation 2016/679***, Member States shall require that creditors ***and*** credit intermediaries ***inform consumers in a clear and comprehensible manner*** when they are presented with a personalised offer that is based on ■ automated processing of personal data.

## CHAPTER III

### TYING AND BUNDLING PRACTICES, ***INFERRED AGREEMENT*** , ADVISORY SERVICES AND UNSOLICITED ***GRANTING OF CREDIT***

## Article 14

### Tying and bundling practices

1. Member States ***shall*** allow bundling practices but shall prohibit tying practices.
2. By way of derogation from paragraph 1 and without prejudice to the application of competition law, Member States may allow creditors ■ to request the consumer to open or maintain a payment or a savings account, where the only purpose of such an account is one of the following:
  - (a) to accumulate capital to repay the credit;
  - (b) to service the credit;
  - (c) to pool resources to obtain the credit;
  - (d) to provide additional security for the creditor in the event of default.

3.

■

4.

Member States may allow creditors ■ to require the consumer to hold a relevant insurance policy related to the credit agreement ■ , taking into account proportionality considerations. In such cases, Member States shall ensure that the creditor ■ is required to accept the insurance policy from a supplier different to his or her preferred supplier where such insurance policy has a level of guarantee equivalent to the one the creditor *has proposed, without modifying the condition of the credit offering to the consumer. Member States shall require that personal data concerning consumers' diagnoses of oncological diseases are not used for the purpose of an insurance policy related to a credit agreement after the relevant period of time following the end of their treatment determined in accordance with the second subparagraph*

*That period of time determined by the Member States shall not exceed a period of 15 years from the date upon which the [medical] treatment of the consumer ends.*

*In order for the consumer to have additional time to compare insurance offers related to the credit agreement before purchasing an insurance policy as referred to in the first subparagraph, Member States shall require that that consumer is given at least three days to compare insurance offers related to the credit agreement without the offers being changed, and the consumer shall be informed thereof. Consumers may conclude an insurance policy prior to the expiry of that three-day period if they explicitly so request.*

## Article 15

Inferred agreement for the *conclusion of any consumer credit or the* purchase of ancillary services

1.

Member States shall ensure that creditors *and* credit *intermediaries* do not infer the agreement of the consumer for *the conclusion of any consumer credit or* the purchase of ancillary services presented through default options. Default options include pre-ticked boxes.

2. The agreement of the consumer to the *conclusion of any consumer credit or the* purchase of ancillary services presented through boxes shall be given by *an unambiguous and* clear affirmative act establishing a freely given, specific, informed and unambiguous indication of his or her approval to the content and substance associated to the boxes.

## Article 16

### Advisory services

1. Member States shall require that the creditor, and where applicable the credit intermediary **■** explicitly inform the consumer, in the context of a given transaction, whether advisory services are being or can be provided to the consumer.
2. Member States shall require that the creditor, and where applicable the credit intermediary **■** , before the provision of advisory services or the conclusion of a contract for the provision of such services, provide the consumer with the following information on paper or another durable medium *chosen by the consumer*:
  - (a) an indication of whether the recommendation will be based on only their own product range or on a wide range of products from across the market in accordance with paragraph 3, point (c).
  - (b) where applicable, an indication of the fee payable by the consumer for the advisory services or, where the amount of such fee cannot be established at the time when the information is provided, the method used for its calculation.

The information referred to in the first subparagraph, points (a) and (b), may be provided to the consumer in the form of additional pre-contractual information in accordance with Article 10(5), second subparagraph.

3. Where advisory services are provided to consumers, Member States shall require that creditors and, where applicable, credit intermediaries ■ :
- (a) obtain the ■ necessary information regarding the consumer's financial situation, preferences and objectives related to the credit agreement ■ , in order for the creditor, credit intermediary ■ to recommend credit agreements ■ that are suitable to the consumer.
  - (b) assess the financial situation and the needs of the consumer on the basis of the information referred to in point (a), which shall be up to date at the time of the assessment, taking into account reasonable assumptions as to the risks to the consumer's financial situation over the term of the recommended credit agreement ■ ;
  - (c) consider a sufficiently large number of credit agreements ■ in their product range and on that basis recommend a credit agreement or several credit agreements, ■ from among that product range that is suitable to the consumer's needs, financial situation and personal circumstances;
  - (d) act in the best interests of the consumer;
  - (e) give the consumer a record on paper or on another durable medium *chosen by the consumer or specified in the contract for the provision of advisory services* of the recommendation provided.

4. Member States may prohibit the use of the terms ‘advice’ and ‘advisor’ or similar terms when the advisory services are being marketed and provided to consumers by creditors or, where applicable, credit intermediaries ■ .

Where Member States do not prohibit the use of the terms ‘advice’ and ‘advisor’ or similar terms, they shall impose the following conditions on the use of the term ‘independent advice’ or ‘independent advisor’ by creditors, credit intermediaries ■ providing advisory services:

- (a) creditors and, where applicable, credit intermediaries ■ shall consider a sufficiently large number of credit agreements ■ available on the market;
- (b) credit intermediaries shall not be remunerated for the advisory services by one or more creditors.

Point (b) of the second subparagraph shall apply only where the number of creditors considered is less than a majority of the market.

Member States may impose more stringent requirements for the use of the terms ‘independent advice’ or ‘independent advisor’ by creditors and, where applicable, credit intermediaries ■ .

5. Member States shall require that creditors and, where applicable, credit intermediaries ■ to warn a consumer when a credit agreement ■ may induce a specific risk for the consumer considering his or her financial situation.
6. Member States shall ensure that advisory services may only be provided by creditors and, where applicable, credit intermediaries ■ .

Member States may, by way of derogation from the first subparagraph, allow other persons than those referred to in the first subparagraph to provide advisory services where one of the following conditions is fulfilled:



- (a) the advisory services are provided in an incidental manner in the course of a professional activity that is regulated by legal or regulatory provisions or a code of ethics which do not exclude the provision of those services;
- (b) the advisory services are provided in the context of management of existing debt by insolvency practitioners and that management activity is regulated by legal or regulatory provisions;
- (c) the advisory services are provided in the context of management of existing debt *by* public or voluntary *providers of* debt advisory services *under Article 36* which do not operate on a commercial basis;
- (d) the advisory services are provided by persons that are authorised and supervised by competent authorities.

#### Article 17

#### Ban on unsolicited *granting of* credit ■

Member States shall prohibit any *granting* of credit to consumers ■ without their prior request and explicit agreement.

## CHAPTER IV

### ASSESSMENT OF CREDITWORTHINESS AND DATABASE ACCESS

#### Article 18

##### Obligation to assess the creditworthiness of the consumer

1. Member States shall require that, before concluding a credit agreement, **the creditor** makes a thorough assessment of the consumer's creditworthiness. That assessment shall be done in the interest of the consumer, to prevent irresponsible lending practices and over-indebtedness, and shall take appropriate account of factors relevant to verifying the prospect of the consumer to meet his or her obligations under the credit agreement **.**
- 1a. Member States shall ensure that credit intermediaries accurately submit the necessary information obtained from the consumer to the relevant creditor in accordance with Regulation (EU) 2016/679 to enable the creditworthiness assessment to be carried out.*

2. The assessment of creditworthiness shall be carried out on the basis of relevant and accurate information on the consumer's income and expenses and other financial and economic circumstances which is necessary and proportionate *to the nature, duration, value, and risks of the credit for the consumer*. *That information may include* evidence of income or other sources of repayment, information on financial assets and liabilities, or information on other financial commitments. *That information shall not include special categories of data referred to Article 9(1) of Regulation (EU) 2016/679*. *The information shall be obtained from relevant internal or external sources, including the consumer and, where necessary, on the basis of a consultation of a database referred to in Article 19 of this Directive*. *Social networks shall not be considered as an external source for the purpose of this Directive*■

The information obtained in accordance with this paragraph shall be appropriately verified, where necessary through reference to independently verifiable documentation.

3. Member States shall require that the creditor ■ establishes procedures for the assessment referred to in paragraph 1 and that the creditor ■ documents and maintains such procedures.

Member States shall also require that the creditor ■ documents and maintains the information referred to in paragraph 2.

- 3c. *If the credit application is submitted jointly by more than one consumer, the creditor shall perform the creditworthiness assessment on the basis of the joint repayment capacity of the consumers.*

4. Member States shall ensure that the creditor ■ only makes the credit available to the consumer where the result of the creditworthiness assessment indicates that the obligations resulting from the credit agreement ■ are likely to be met in the manner required under that agreement, *taking into account relevant factors as referred to in paragraph 1.*

■

5. Member States shall ensure that where a creditor ■ concludes a credit agreement ■ with a consumer, the creditor ■ shall not subsequently cancel or alter the credit agreement ■ to the detriment of the consumer on the grounds that the assessment of creditworthiness was incorrectly conducted. This paragraph shall not apply where it is demonstrated that the consumer knowingly withheld or falsified the information provided to the creditor ■ referred to in paragraph 2.

6. Where the creditworthiness assessment involves the use of ■ automated processing of personal data, Member States shall ensure that the consumer has *and is informed of his or her right to request and obtain from the creditor human intervention, consisting of* the right to:

■

- (a) request and obtain from the creditor *a clear and comprehensible* explanation of the assessment of creditworthiness, including on the logic and risks involved in the automated processing of personal data as well as its significance and effects on the decision,
- (b) express his or her point of view *to the creditor and*
- (c) *request a review of* the assessment of the creditworthiness and the decision *on the granting of the credit by the creditor;*

7. Member States shall ensure that where the credit application is rejected the creditor ■ is required to inform the consumer without delay of the rejection and, *where relevant, refer the consumer to debt advisory services easily accessible to consumers.*■ Where applicable, *the creditor shall be required to inform the consumer* of the fact that the assessment of creditworthiness is based on automated processing of data *and about the consumer's right to a human assessment and the procedure for contesting the decision.*
8. Where the parties agree to change the total amount of credit after the conclusion of the credit agreement, ■ Member States shall ensure that the creditor ■ is required to reassess the consumer's creditworthiness on the basis of updated information before any significant increase in the total amount of credit is granted.
9. Member States *may require* creditors ■ to assess the creditworthiness of consumers on the basis of a consultation of the relevant database; *however, the assessment of creditworthiness shall not be based exclusively on consumer's credit history.*

## Article 19

### Databases

1. Each Member State shall in the case of cross-border credit ensure access for creditors ■ from other Member States to databases used in that Member State for assessing the creditworthiness of consumers. The conditions for access to such databases shall be non-discriminatory.

- 1a. *Member States shall ensure that only those creditors who are under the supervision of the competent national authority and who fully comply with Regulation (EU) 2016/679 have access to the databases used for assessing the creditworthiness of consumers.*
2. Paragraph 1 shall apply both to public and private databases.
3. The databases referred to in paragraph 1 *which contain information on consumer credit agreements*, shall hold at least information on consumers' arrears in *repayment of credit, the type of credit and the identity of the creditor.*
- 3a. *Creditors and credit intermediaries shall not process special categories of data as referred to in Article 9(1) of the Regulation (EU) 2016/679 and personal data processed from social networks that may be contained in databases referred to in paragraph 1.*
4. Where the credit application is rejected on the basis of a consultation of a database referred to in paragraph 1, Member States shall require that the creditor ■ informs the consumer *without undue delay* and free of charge of the result of such consultation and of the details of the database consulted *as well as the categories of data taken into account.*
- 4a. *For the purpose of consumer credits, database providers shall have processes in place to ensure that information contained in their databases is up-to-date and accurate. Member States shall ensure that consumers are informed*
- (a) within 30 days of the registration of any arrears in repayment of credit in a database, and*
- (b) of their rights in accordance with Regulation (EU) 2016/679.*
- 4c. *For the purpose of consumer credits, Member States shall ensure that complaint procedures are in place in order to facilitate consumers' challenges to the content of databases, including information obtained through the database searched by third parties.*

## CHAPTER V

### FORM AND CONTENT OF CREDIT AGREEMENTS

#### Article 20

##### Form of the credit agreement ■

1. Member States shall require that credit agreements *and any modifications of such agreements* are drawn up on paper or ■ another durable medium and that all the contracting parties are provided with a copy of the credit agreement ■ .
2. Member States may introduce or maintain national rules regarding the validity of the conclusion of credit agreements ■ which are in conformity with Union law.

#### Article 21

##### Information to be included in the credit agreement ■

1. Member States shall require that the credit agreement ■ specify in a clear and concise manner all of the following elements:
  - (a) the type of credit;
  - (b) the identities, geographical addresses, telephone numbers and email addresses of the contracting parties as well as, where applicable, the identity and geographical address of the credit intermediary ■ ;

- (c) the total amount of credit and the conditions governing the drawdown;
- (d) the duration of the credit agreement ■ ;
- (e) in case of a credit in the form of deferred payment for specific goods or services and in the case of linked credit agreements, the specific goods or services and their cash price;
- (f) the borrowing rate, or all borrowing rates where different borrowing rates apply in different circumstances, the conditions governing the application of each borrowing rate and, where available, any index or reference rate applicable to each initial borrowing rate, as well as the periods, conditions and procedures for changing each borrowing rate;
- (g) the annual percentage rate of charge and the total amount payable by the consumer, calculated at the time the credit agreement ■ is concluded and an indication of all assumptions used in that calculation;
- (h) the amount, number and frequency of payments to be made by the consumer and, where appropriate, the order in which payments will be allocated to different outstanding balances charged at different borrowing rates for the purposes of reimbursement;
- (i) where capital amortisation of a credit agreement ■ with a fixed duration is involved, the right of the consumer to receive, on request and free of charge, at any time throughout the duration of the credit agreement ■ , a statement of account in the form of an amortisation table;



- (j) where charges and interest are to be paid without capital amortisation, a statement showing the periods and conditions for the payment of the interest and of any associated recurrent and non-recurrent charges;
- (k) where applicable, the charges for maintaining one or several compulsory accounts recording both payment transactions and drawdowns, the charges for using a means of payment for both payment transactions and drawdowns, any other charges deriving from the credit agreement ■ , and the conditions under which those charges may be changed;
- (l) the interest rate applicable in the case of late payments as applicable at the time of the conclusion of the credit agreement ■ and the arrangements for its adjustment and, where applicable, any charges payable for default;
- (m) a warning regarding the consequences of missing or late payments;
- (n) where applicable, a statement, that notarial fees will be payable;
- (o) where applicable, the sureties and insurance required;
- (p) the existence or absence of a right of withdrawal, the period during which that right may be exercised and other conditions governing the exercise thereof, including *the durable medium to be used for the notification referred to in Article 26(3), point (a)*, information concerning the obligation of the consumer set out in Article 26(3), point (b) to pay the capital drawn down and the interest, and the amount of interest payable per day;

- (pa) *the type of durable medium on which the consumer chooses to receive the following information:*
- (i) *where applicable, the pre-contractual information referred to in Article 10(1), second subparagraph*
  - (ii) *the information referred to in Article 22;*
  - (iii) *the change in the borrowing rate as referred to in Article 23(1), first subparagraph;*
  - (iv) *where applicable, the information referred to in Article 24(1) and (2);; and*
  - (v) *where applicable, the termination of an open-end credit agreement as referred to in Article 28(1), second subparagraph and Article 28(2).*
- (q) *where applicable*, information concerning the rights set out in Article 27 as well as the conditions for the exercise of those rights;
- (r) the right of early repayment set out in Article 29, the procedure for early repayment, as well as, where applicable, information concerning the creditor's right to compensation and *a transparent and comprehensible explanation how the compensation due to the creditor by the consumer is to be calculated;*
- (s) the procedure to be followed in exercising the right of termination of the credit agreement ■ ;
- (t) the possibility of having recourse to an out-of-court complaint and redress mechanism for the consumer and the methods for having access to it;
- (u) where applicable, other contractual terms and conditions;

(v) ■ the name and address of the competent supervisory authority.

(va) *the relevant contact details of debt advisory services and a recommendation for the consumer to contact such services in the event of repayment difficulties.*

The information referred to in the first subparagraph shall be clearly legible and adapted to take into account the technical constraints of the medium on which it is displayed.

Information shall be displayed in an adequate and suitable way on the different channels.

2. Where paragraph 1, point (i), applies, the creditor ■ shall make available to the consumer, free of charge and at any time throughout the duration of the credit agreement ■ , a statement of account in the form of an amortisation table.

The amortisation table referred to in the first subparagraph shall indicate the payments owing and the periods and conditions relating to the payment of such amounts.

The amortisation table shall also contain a breakdown of each repayment specifying the capital amortisation, the interest calculated on the basis of the borrowing rate and, where applicable, any additional costs.

Where the borrowing rate is not fixed or the additional costs may be changed under the credit agreement ■ , the amortisation table shall indicate, clearly and concisely, that the data contained in the table will remain valid only until such time as that borrowing rate or those costs are changed in accordance with the credit agreement ■ .

3. In the case of a credit agreement ■ under which payments made by the consumer do not give rise to an immediate corresponding amortisation of the total amount of credit, but are used to constitute capital during periods and under conditions laid down in the credit agreement, ■ or in an ancillary agreement, the credit agreement ■ shall, in addition to the information referred to in paragraph 1, include a clear and concise statement that such credit agreements ■ do not provide for a guarantee of repayment of the total amount of credit drawn down under the credit agreement ■ , unless such a guarantee is given expressly.

## CHAPTER VI

### MODIFICATIONS OF THE CREDIT AGREEMENT AND CHANGES IN THE BORROWING RATE

#### Article 22

##### Information regarding the modification of the credit agreement

Without prejudice to other obligations *provided* in this Directive, Member States shall ensure that prior to modifying the terms and conditions of the credit agreement, *the creditor communicates on the durable medium specified in the credit agreement* the following information to the consumer:

- (a) a clear description of the proposed changes and, where applicable, the need for consumer consent or *an explanation* of the changes introduced by operation of law;
- (b) the timescale for the implementation of those changes;
- (c) the means for complaint available to the consumer regarding those modifications;
- (d) the time period available for lodging any such complaint;
- (e) the name and address of the competent authority where that complaint may be submitted.

#### Article 23

##### Changes in the borrowing rate

1. *Where creditors are allowed to change borrowing rates of existing credit agreements, Member States shall require that the creditor* inform the consumer of any change in the borrowing rate *on the durable medium specified in the credit agreement, in good time* before the change enters into force.

The information referred to in the first subparagraph shall include the amount of the payments to be made after the entry into force of the new borrowing rate and, where the number or frequency of the payments changes, particulars thereof.

2. By way of derogation from paragraph 1, the information referred to in that paragraph may be given to the consumer periodically where all of the following conditions are fulfilled:
- (a) the parties have agreed on such periodical information in the credit agreement ■ ;
  - (b) the change in the borrowing rate is caused by a change in a reference rate;
  - (c) the new reference rate is made publicly available *in a timely manner* by appropriate means;
  - (d) the information concerning the new reference rate is also available:
    - (i) *at the premises of the creditor;*
    - (ii) *where the creditor has a website, on that website; and*
    - (iii) *where the creditor has a mobile application, via that mobile application.*

## CHAPTER VII

### OVERDRAFT FACILITIES AND OVERRUNNING

#### Article 24

##### Overdraft facilities

1. Where a credit has been granted in the form of an overdraft facility, Member States shall require that the creditor, throughout the duration of the credit agreement, keeps the consumer regularly, *at least once per month* informed by means of statements of account, on *the durable medium specified in the credit agreement*, containing the following elements:
  - (a) the precise period to which the statement of account relates;
  - (b) the amounts and dates of drawdowns;
  - (c) the balance from the previous statement, and the date thereof;
  - (d) the new balance;
  - (e) the dates and amounts of payments made by the consumer;
  - (f) the borrowing rate applied;
  - (g) any charges that have been applied;
  - (h) where applicable, the minimum amount to be paid by the consumer.

2. Where a credit has been granted in the form of an overdraft facility, Member States shall require that the creditor informs the consumer, on ***the durable medium specified in the credit agreement***, of increases in the borrowing rate or in any charges payable, ***in good time*** before the change in question enters into force.

By way of derogation from the first subparagraph, the information referred to in that subparagraph may be given periodically in the manner provided for in paragraph 1 where the following conditions are fulfilled:

- (a) the parties have agreed on such periodical information in the credit agreement;
- (b) the change in the borrowing rate is caused by a change in a reference rate;
- (c) the new reference rate is made publicly available by appropriate means;
- (d) the information concerning the new reference rate is also available:
  - (i) ***at the premises of the creditor;***
  - (ii) ***where the creditor has a website, on that website; and***
  - (iii) ***where the creditor has a mobile application, via that mobile application.***

- 2a. ***Member States shall require the creditor to notify the consumer in an agreed manner of each reduction or cancellation of the current account overdraft facility at least 30 days prior to the day when the actual reduction or cancellation of the overdraft facility takes effect.***
- 2b. ***The Member States shall require the creditor to offer the consumer, before the enforcement proceedings have been initiated , with no additional costs, the possibility to repay the amount by which the previous overdraft facility was reduced or the amount of the cancelled previous overdraft facility, in 12 equal monthly instalments unless the consumer chooses to repay earlier, at the interest rate applicable to the current account overdraft facility.***

- 2c. *Member States may maintain or adopt more stringent provisions on matters related to the protection of consumers holding an overdraft facility other than those referred to in this Article, in accordance with Union law.*

## Article 25

### Overrunning

1. In the case of an agreement to open a current account, where there is a possibility that the consumer is allowed an overrun, Member States shall require that the creditor includes such information in that agreement, in addition *to* the information referred to in [Article 11(2)/**11(2a)**, point (e)/(b)]. The creditor shall in any case provide the consumer with that information on paper or another durable medium *chosen by the consumer and specified in the agreement to open a current account*, on a regular basis.
2. In the event of a significant overrunning exceeding a period of one month, Member States shall require that the creditor informs the consumer without delay, on *the durable medium chosen by the consumer and specified in the agreement to open a current account*, of all of the following:
  - (a) the overrunning;
  - (b) the amount involved;
  - (c) the borrowing rate;
  - (d) any penalties, charges or interest on arrears applicable.

*(da) the repayment date.*

In addition, in case of regular overrunning, the creditor shall offer to the consumer advisory services, where available, *and at no cost* redirect consumers towards debt advisory services.



3. This Article shall be without prejudice to any rule of national law requiring the creditor to offer another kind of credit product when the duration of the overrunning is significant.
- 3a. *Member States shall require the creditor to notify the consumer in an agreed manner when the possibility to overrun is not allowed anymore or the limit of the overrunning is reduced at least 30 days prior to the day when the actual cancellation or reduction of the overrunning takes effect.*
- 3b. *The Member States shall require the creditor to offer the consumer, before the enforcement proceedings have been initiated , with no additional costs, the possibility to repay the amount by which the previous overrunning was reduced or the amount of the cancelled previous overrunning, in 12 equal monthly instalments unless the consumer repays earlier at the interest rate applicable to the current account overrunning*
- 3c. *Member States may maintain or adopt more stringent provisions on matters related to the protection of consumers holding an overrunning other than those referred to in this Article, in accordance with Union law.*

## CHAPTER VIII

### WITHDRAWAL, TERMINATION AND EARLY REPAYMENT

#### Article 26

##### Right of withdrawal

1. The Member States shall ensure that the consumer may withdraw from the credit agreement ■ without giving any reason within a period of 14 calendar days.

The period of withdrawal referred to in the first subparagraph shall begin either from:

- (a) the day of the conclusion of the credit agreement ■ ; or

- (b) the day on which the consumer receives the contractual terms and conditions and information in accordance with Articles 20 and 21, if that day is later than the date referred to in point (a) of this subparagraph.

The deadline referred to in the first subparagraph shall be deemed to have been met if the notification referred to in paragraph 3, point (a), is dispatched by the consumer to the creditor **■** before that deadline expires.

**1a** *If the consumer has not received the contractual terms and conditions and information in accordance with Articles 20 and 21, the withdrawal period shall in any case expire 12 months and 14 days after the conclusion of the credit agreement. This shall not apply if the consumer has not been informed about his right of withdrawal in accordance with Article 21 (1) (p).*

**1a.** *In the case of a linked credit agreement for the purchase of a good with a return policy that ensures a full refund for a certain period of time exceeding 14 calendar days, the right of withdrawal shall be extended to match the duration of such return policy.*

2. Where, in the case of a linked credit agreement, national legislation applicable on [date of into force of this Directive] already provides that funds cannot be made available to the consumer before the expiry of a specific period, Member States may, by way of derogation from paragraph 1, provide that the period referred to in that paragraph may be reduced to the same duration as that specific period at the explicit request of the consumer.

3. If the consumer exercises the right of withdrawal, he or she shall take the following measures:

- (a) notify **■** the creditor **■** in accordance with the information given by the creditor **■** pursuant to Article 21(1), point (p), on *the durable medium specified in the credit agreement* within the deadline set out in paragraph 1;

- (b) pay ■ to the creditor ■ the capital and the interest accrued thereon from the date on which the credit was drawn down until the date on which the capital is repaid, without any undue delay and no later than 30 calendar days after the dispatch of the notification referred to in point (a).

The interest referred to in the first subparagraph, point (b), shall be calculated on the basis of the agreed borrowing rate. The creditor ■ shall not be entitled to any other compensation from the consumer in the event of withdrawal, except compensation for any non-refundable charges paid by the creditor ■ to any public administrative body.

4. Where an ancillary service relating to the credit agreement ■ is provided by the creditor, ■ or by a third party on the basis of an agreement between that third party and the creditor ■, the consumer shall no longer be bound by the ancillary service contract if the consumer exercises the right of withdrawal from the credit agreement ■ in accordance with this Article.
5. If the consumer has a right of withdrawal under paragraphs 1, 3 and 4 of this Article, Articles 6 and 7 of Directive 2002/65/EC shall not apply.
6. Member States may provide that paragraphs 1 to 4 of this Article shall not apply to credit agreements ■ which under national law are required to be concluded through the services of a notary, provided that the notary confirms that the consumer is guaranteed the rights provided for under Articles 10 and 11, and Articles 20 and 21.
7. This Article shall be without prejudice to any rule of national law establishing a period of time during which the performance of the contract may not begin.

## Article 27

### Linked credit agreements

1. Member States shall ensure that a consumer who has exercised the right of withdrawal based on Union law, concerning a contract for the supply of goods or services she or he shall no longer be bound by a linked credit agreement.
2. Where the goods or services covered by a linked credit agreement are not supplied, or are supplied only in part, or are not in conformity with the contract for the supply thereof, the consumer shall have the right to pursue remedies against the creditor ■ if the consumer has pursued remedies against the supplier but has failed to obtain the satisfaction to which he is entitled according to the law or the contract for the supply of goods or services. Member States shall determine to what extent and under what conditions those remedies shall be exercisable.
3. This Article shall be without prejudice to any national rules rendering the creditor ■ jointly and severally liable in respect of any claim which the consumer may have against the supplier where the purchase of goods or services from the supplier has been financed by a credit agreement ■ .

## Article 28

### Open-end credit agreements ■

1. Member States shall ensure that the consumer may *effect* standard termination of an open-end credit agreement ■ free of charge at any time, unless the parties have agreed on a period of notice. Such a period shall not exceed one month.

Member States shall ensure that the creditor ■ where agreed in the credit agreement ■ may effect standard termination of an open-end credit agreement ■ by giving the consumer at least two months' notice on *the durable medium specified in the credit agreement*.

2. Member States shall ensure that the creditor [ ] , where agreed in the credit agreement [ ] may, for objectively justified reasons, terminate the consumer's right to draw down on an open-end credit agreement. The creditor [ ] shall inform the consumer of the termination and the reasons for it on *the durable medium specified in the credit agreement*, where possible before the termination and at the latest immediately thereafter, unless the provision of such information is prohibited by Union or national law or is contrary to objectives of public policy or public security.

## Article 29

### Early repayment

1. Member States shall ensure that the consumer is at any time entitled to [ ] early repayment. In such cases, the consumer shall be entitled to a [ ] reduction in the total cost of the credit *to the consumer* for the remaining duration of the contract. When calculating that reduction, all the costs imposed on the consumer by the creditor shall be taken into consideration.
2. Member States shall ensure that the creditor, in the event of early repayment, is entitled to fair and objectively justified compensation for possible costs directly linked to the early repayment, provided that the early repayment falls within a period for which the borrowing rate is fixed.

The compensation referred to in the first subparagraph may not exceed 1 % of the amount of credit subject to early repayment where the period of time between the early repayment and the agreed termination of the credit agreement exceeds one year. Where that period does not exceed one year, the compensation shall not exceed 0,5% of the amount of credit subject to early repayment.

3. Member States shall ensure that the creditor is not entitled to the compensation referred to in paragraph 2 where one of the following conditions is fulfilled:
  - (a) the repayment has been made under an insurance contract intended to provide a credit repayment guarantee;
  - (b) the credit is granted in the form of an overdraft facility;
  - (c) the repayment falls within a period for which the borrowing rate is not fixed.
4. By way of derogation from paragraph 2, Member States may provide that:
  - (a) the creditor is only entitled to the compensation referred to in paragraph 2 on the condition that the amount of the early repayment exceeds the threshold set out in national law, which shall not exceed EUR 10 000 within any period of 12 months;
  - (b) the creditor may exceptionally claim higher compensation if the creditor can prove that the loss suffered due to early repayment exceeds the amount determined in accordance with paragraph 2.

Where the compensation claimed by the creditor exceeds the loss actually suffered due to the early repayment, the consumer shall be entitled to a corresponding reduction.

For the purposes of the first subparagraph, the loss shall consist of the difference between the initially agreed interest rate and the interest rate at which the creditor can lend out the amount subject to early repayment on the market at the time of that repayment, and shall take into account the impact of the early repayment on the administrative costs.

6. The compensation referred to in paragraph 2 *and paragraph 4 point (b)* shall not in any case exceed the amount of interest that the consumer would have paid during the period between the early repayment and the agreed date of termination of the credit agreement.

## CHAPTER IX

### ANNUAL PERCENTAGE RATE OF CHARGE AND CAPS ON RATES AND COSTS

#### Article 30

##### Calculation of the annual percentage rate of charge

1. The annual percentage rate of charge shall be calculated in accordance with the mathematical formula set out in Part I of Annex IV. It shall equate on an annual basis, to the present value of all commitments (drawdowns, repayments and charges), future or existing, agreed by the creditor and the consumer.
2. For the purpose of calculating the annual percentage rate of charge, the total cost of the credit to the consumer shall be determined, with the exception of any charges payable by the consumer for non-compliance with any of his or her commitments laid down in the credit agreement and charges other than the purchase price which, for purchases of goods or services, he or she is obliged to pay whether the transaction is effected in cash or on credit.

The costs of maintaining an account recording both payment transactions and drawdowns, the costs of using a means of payment for both payment transactions and drawdowns, and other costs relating to payment transactions shall be included in the total cost of the credit to the consumer unless the opening of the account is optional and the costs of the account have been clearly and separately identified in the credit agreement, or in any other agreement concluded with the consumer.

3. The calculation of the annual percentage rate of charge shall be based on the assumption that the credit agreement is to remain valid for the period agreed and that the creditor and the consumer will fulfil their obligations under the terms and by the dates specified in the credit agreement .

4. In the case of credit agreements ■ containing clauses that allow variations in the borrowing rate or variations in certain charges contained in the annual percentage rate of charge which make them unquantifiable at the time of calculation, the annual percentage rate of charge shall be calculated on the assumption that the borrowing rate and other charges will remain fixed in relation to the initial level and will remain applicable until the end of the credit agreement ■ .
5. Where necessary, the additional assumptions set out in Part II of Annex IV *shall* be used in calculating the annual percentage rate of charge.

Where the assumptions set out in this Article and in Part II of Annex IV do not suffice to calculate the annual percentage rate of charge in a uniform manner or are no longer adapted to the commercial situations in the market, the Commission is empowered to adopt delegated acts in accordance with Article 45 in order to amend this Article and Part II of Annex IV to add the necessary additional assumptions for the calculation of the annual percentage rate of charge or to modify the existing ones.

#### Article 31

***Measures to limit*** interest rates, annual percentage *rates* of charge *or* total *costs of* credit to the consumer

1. Member States shall introduce *measures to effectively prevent abuse and to ensure that consumers cannot be charged with excessively high interest rates, annual percentage rates of charge on loans or total costs of credit, such as caps.*
  - (a) ■
  - (b) ■
  - (c) ■
2. ■




- 2a. *Member States may adopt prohibitions or limitations regarding specific charges or fees applied by creditors on their territory.*
- 2b. *By ... [24 months after the date of transposition of this Directive], the Commission shall make the measures introduced by Member States publicly available. Member States will report to the Commission on the applicable measures within the first year from the transposition deadline of this Directive.*
- 2c. *By ... [four years after the date of transposition of this Directive] the EBA shall publish a report on the implementation of measures to effectively prevent abuse and to ensure that consumers cannot be charged with excessively high interest rates, annual percentage rates of charge on loans or total costs of credit, such as caps, in the Member States. That report shall include an assessment of the measures put in place in Member States, including methodologies to establish caps where relevant, and of their effectiveness in limiting the excessively high interest rates, annual percentage rates of charge on loans or total costs of credit and best practice approach for establishing those measures*

## CHAPTER X

### CONDUCT OF BUSINESS OBLIGATIONS AND REQUIREMENTS FOR STAFF

#### Article 32

##### Conduct of business obligations when providing credit to consumers

1. Member States shall require that the creditor, the credit intermediary  act honestly, fairly, transparently and professionally and take account of the rights and interests of the consumers when carrying out any of the following activities:
- (a) manufacturing credit products;

*(aa) advertising credit products in accordance with articles 7 and 8;*

- (b) granting, intermediating or facilitating the granting of credit;
- (c) providing advisory services with regard to credit;
- (d) providing ancillary services to consumers;
- (e) executing a credit agreement ■ .

The activities referred to in the first subparagraph, points ■ (b) and (c), shall be based on information about the consumer's circumstances and any specific requirement communicated by a consumer and on reasonable assumptions about risks to the consumer's situation throughout the duration of the credit agreement ■ .

The activities referred to in the first subparagraph, point (c), shall also be based on the information required under Article 16, paragraph 3, point (a).

2. Member States shall ensure that the manner in which creditors remunerate their staff and credit intermediaries and the manner in which credit intermediaries ■ remunerate their staff do not impede compliance with the obligation set out in paragraph 1.
3. Member States shall ensure that, when establishing and applying remuneration policies for staff responsible for the assessment of creditworthiness, creditors comply with the following principles in a way and to the extent that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities:
  - (a) the remuneration policy is consistent with and promotes sound and effective risk management and does not encourage risk-taking that exceeds the level of tolerated risk of the creditor;
  - (b) the remuneration policy is in line with the business strategy, objectives, values and long-term interests of the creditor, and incorporates measures to avoid conflicts of interest, in particular by providing that remuneration is not contingent on the number or proportion of accepted applications for credit.

4. Member States shall ensure that where creditors *or* credit *intermediaries* provide advisory services the remuneration structure of the staff involved does not prejudice their ability to act in the consumer's best interest and is not contingent on sales targets. In order to achieve that goal, Member States may also ban commissions paid by the creditor to the credit intermediary.
5. Member States may prohibit or impose restrictions on the payments from a consumer to a creditor, credit intermediary ■ prior to the conclusion of a credit agreement ■ .

### Article 33

#### Knowledge and competence requirements for staff

1. Member States shall ensure that creditors *and* credit *intermediaries* require their staff to possess and keep up-to-date an appropriate level of knowledge and competence in relation to the manufacturing, the offering and the granting of credit agreements ■ , the carrying out of credit intermediation activities *and* the provision of advisory services *and consumer rights in the area of their trade. Where the conclusion of a credit agreement* includes an ancillary service, appropriate knowledge and competence in relation to that ancillary service shall be required.
2. Member States shall establish minimum knowledge and competence requirements for the staff of creditors, of credit intermediaries ■ .
3. Member States shall ensure that compliance with the requirements set out in paragraph 1 is supervised by the competent authorities, and that the competent authorities have powers to require creditors, credit intermediaries ■ to provide the evidence that the competent authority deems necessary to enable such supervision.

## CHAPTER XI

### FINANCIAL EDUCATION AND SUPPORT TO CONSUMERS IN FINANCIAL DIFFICULTIES

#### Article 34

##### Financial education

1. Member States shall promote measures that support the education of consumers in relation to responsible borrowing and debt management, in particular in relation to consumer credit agreements. Clear and general information on the credit granting process shall be provided to consumers in order to guide them, in particular those who take out a consumer credit for the first time, and especially on digital tools. ***In creating and promoting those measures, Member States shall consult relevant stakeholders, including consumer organisations.***

Member States shall also ***ensure that*** information regarding the guidance that consumer organisations and national authorities may provide to consumers ***is disseminated.***



2. The Commission shall assess and publish a report on the financial education available to consumers in the Member States and identify examples of best practices which could be further developed in order to increase the financial awareness of consumers.

## Article 35

### Arrears and forbearance measures

1. Member States shall require creditors to ■ exercise, where appropriate, reasonable forbearance before enforcement proceedings are initiated. Such forbearance measures shall take into account, among other elements, the consumer's *individual* circumstances. *Creditors shall not be required to offer forbearance measures reiteratively to consumers, unless in justified cases.*

*Creditors shall not be required to perform a creditworthiness assessment in accordance with Article 18 when modifying the existing terms and conditions of a credit agreement carried out in accordance with point b in the second subparagraph, provided that the total amount payable by the consumer is not significantly increased when modifying the credit agreement.*

*The forbearance measures referred to in the first subparagraph:*

- (a) *may include, among other possibilities a total or partial refinancing of a credit agreement;*
- (b) *shall include modification of the existing terms and conditions of a credit agreement, which may, among other possibilities include:*
  - (a) ■
  - (b) ■
    - (i) extending the term of the credit agreement;
    - (ii) changing the type of the credit agreement;
    - (iii) deferring payment of all or part of the instalment repayment for a period;

- (iv) *reducing* the interest rate;
- (v) offering a payment holiday;
- (vi) partial repayments;
- (vii) currency conversions;
- (viii) partial forgiveness and debt consolidation.

2. The list of potential measures in paragraph 1, point (b), is without prejudice to rules set out in national law and does not require Member States to provide for all of those measures in national law.
3. **Where** Member States *allow creditors* to define and impose charges on the consumer arising from a default, *they may require that* those charges are no greater than is necessary to compensate the creditor for costs it has incurred as a result of the default.
4. **Where** Member States ■ allow creditors to impose additional charges on the consumer in the event of default, Member states shall introduce a cap on *these* charges ■
5. Member States shall not prevent the parties to a credit agreement from expressly agreeing that return or transfer to the creditor of goods covered by a linked credit agreement or proceeds from the sale of such goods is sufficient to repay the credit

## Article 36

### Debt advisory services

1. Member States shall ensure that *independent* debt advisory services are made available to consumers *who experience or might experience difficulties in meeting their financial commitments only for limited charges*.

- 1a. Member States shall ensure that creditors refer consumers who experience difficulties in meeting their financial commitments to debt advisory services easily accessible to the consumer.*
- 1c. The Commission shall, within three years from the transposition deadline of this Directive, present a report providing an overview of the availability of debt advisory services across Member States and identifying best practices for the further development of such services. Member States will report to the Commission on available debt advisory services on a yearly basis commencing the first year from the transposition deadline of this Directive.*
- 1d. For the purpose of fulfilling the obligations laid down in paragraph 1, creditors shall have processes and policies in place for the early detection of consumers experiencing financial difficulties.*

## CHAPTER XII

### CREDITORS AND CREDIT INTERMEDIARIES

#### Article 37

Admission, registration and supervision of non-credit institutions *and non-payment institutions*

- 1. Member States shall ensure that creditors and credit intermediaries are subject to an adequate admission process and to registration and supervision arrangements set up by an independent competent authority.*

**1a. The requirement to an adequate admission process and to registration shall not apply to creditors that are**

**a) credit institutions as defined in Article 4 (1), point (1) of Regulation (EU) 575/2013,**

**b) payment institutions as defined in Article 4, point (4), of Directive (EU) 2015/2366, for the service mentioned in Annex I point 4 of Directive (EU) 2015/2366, or**

**c) electronic money institutions as defined in Article 2, point 1 of Directive 2009/110/EC, for the service mentioned in Article 6 (1), point b) of Directive 2009/110/EC.**

**2. Member States may decide not to apply admission and registration requirements as referred to in paragraph 1, to:**

**(a) suppliers of goods and services, who qualify as micro, small and medium undertakings as referred to in Article 3 of Directive 2013/34/EU, acting as credit intermediaries in an ancillary capacity; or,**

**(b) suppliers of goods and services, who qualify as micro, small and medium undertakings as referred to in Article 3 of Directive 2013/34/EU, acting as creditors in an ancillary capacity, granting credit in the form of deferred payment to purchase goods and services offered by them, if the credit is provided free of interest and with only limited charges payable by the consumer for late payments imposed in accordance with national law.**



## Article 38

### Specific obligations for credit intermediaries

Member States shall require that credit intermediaries:

- (a) indicate, in advertising and documentation intended for consumers, the extent of their powers and whether they work exclusively with one or more creditors or as an independent intermediary;
- (b) disclose to the consumer any fees payable by the consumer to the credit intermediary for services to be provided;
- (c) reach an agreement with the consumer on any fees referred to in point (b) on paper or another durable medium before the conclusion of the credit agreement ■
- (d) communicate any fees referred to in point (b) to the creditor, for the purpose of calculation of the annual percentage rate of charge.

## CHAPTER XIII

### ASSIGNMENTS OF RIGHTS AND DISPUTE RESOLUTION

#### Article 39

##### Assignment of rights

1. Member States shall ensure that the consumer, in the event of assignment to a third party of the creditor's rights under a credit agreement ■ , or of the agreement itself, is entitled to plead against the assignee any defence which was available to him or her against the original creditor, including set-off where such defence is permitted in the Member State concerned.
2. Member States shall require that the original creditor ■ inform the consumer of the assignment referred to in paragraph 1, except where the original creditor, by agreement with the assignee, continues to service the credit vis-à-vis the consumer.

#### Article 40

##### Out-of-court dispute resolution

1. Member States shall ensure that consumers have access to adequate, ***prompt*** and effective out-of-court dispute resolution procedures for the settlement of disputes between consumers and creditors, credit intermediaries ***concerning rights and obligations relating to credit agreements*** established under this Directive, using existing entities where appropriate. Such out-of-court dispute resolution procedures and the entities offering them shall comply with the quality requirements laid down by Directive 2013/11/EU.

2. Member States shall encourage the entities performing the dispute resolution referred to in paragraph 1 to cooperate in order to resolve cross-border disputes concerning credit agreements ■ .

## CHAPTER XIV

### COMPETENT AUTHORITIES

#### Article 41

##### Competent authorities

1. Member States shall designate the national competent authorities empowered to ensure the application and enforcement of this Directive ('competent authorities') and shall ensure that they are granted investigating and enforcement powers and adequate resources necessary for the efficient and effective performance of their duties.

The competent authorities shall be either public authorities or bodies recognised by national law or by public authorities expressly empowered for that purpose by national law. They shall not be creditors *or* credit *intermediaries*.

2. Member States shall ensure that competent authorities, all persons who work or who have worked for the competent authorities, as well as auditors and experts instructed by the competent authorities, are bound by the obligation of professional secrecy. No confidential information which they may receive in the course of their duties may be divulged to any person or authority whatsoever, save in summary or aggregate form, *without prejudice to cases covered by criminal law or by this Directive. This shall not, however, prevent the competent authorities from exchanging or transmitting confidential information in accordance with* national *and Union* law.

3. Member States shall ensure that the competent authorities are either or both of the following:
- (a) competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>18</sup>;
  - (b) authorities other than the competent authorities referred to in point (a) provided that national laws, regulations or administrative provisions require those authorities to cooperate with the competent authorities referred to in point (a) whenever necessary in order to carry out their duties under this Directive.
4. Member States shall ensure that the authorities designated as competent for ensuring the application and enforcement of this Directive fulfil the criteria set in Article 5 of Regulation (EU) No 2017/2394.
5. Member States shall inform the Commission of the designation of the competent authorities and any changes thereto, and, where there is more than one competent authority on their territory, indicate any division of the respective duties between those competent authorities. The first such notification shall be made as soon as possible and at the latest on two years from the date the Directive enters into force.
6. The competent authorities shall exercise their powers in conformity with national law either:
- (a) directly under their own authority or under the supervision of the judicial authorities; or
  - (b) by application to courts which are competent to grant the necessary decision, including, where appropriate, by appeal, if the application to grant the necessary decision is not successful.
7. Where there is more than one competent authority on their territory, Member States shall ensure that their respective duties are clearly defined and that those authorities collaborate closely so that they can discharge their respective duties effectively.

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<sup>18</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

8. The Commission shall publish a list of the competent authorities in the Official Journal of the European Union at least once a year, and update it continuously on its website.
- 8a. *Member States may apply national legislation to grant product intervention powers to national competent authorities in justified cases to withdraw credit products.*

## CHAPTER XV

### FINAL PROVISIONS

#### Article 42

##### Level of harmonisation

1. Insofar as this Directive contains harmonised provisions, Member States may not maintain or introduce in their national law provisions diverging from those laid down in this Directive unless provided otherwise in this Directive.
2. *Pending further harmonisation*, where a Member State makes use of the regulatory choices provided for in Article 2(5), *Article* 2(6), Article 2 (6a), *Article* 8(3d) *Article* 14(2), *Article* 14(3), *Article* 14(4), Article 16(4), 16(6), Article 18(9), Article 26(2), *Article* 26(6), Article 29(4), *Article* 31(2a) , *Article* 32(5), *Article* 35(3), *Article* 35(4), *Article* 37(2), *Article* 41(8a) it shall *notify* the Commission *without delay* thereof as well as of any subsequent changes. *The Commission shall make that information public on a website or in another easily accessible way.* Member States shall also take the appropriate measures to diffuse that information amongst national creditors, credit intermediaries ■ and consumers.

## Article 43

### Imperative nature of this Directive

1. Member States shall ensure that consumers may not waive the rights conferred on them by the national measures transposing this Directive.
2. Member States shall ensure that the provisions adopted in order to transpose this Directive cannot be circumvented as a result of the way in which agreements are formulated.

3. █

## Article 44

### Penalties

1. Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those rules and of those measures to the Commission by [OP: please insert date - six months from the transposition deadline] and shall notify it, without delay, of any subsequent amendment affecting them.
2. Member States shall ensure that when penalties are to be imposed in accordance with Article 21 of Regulation (EU) 2017/2394, they include the possibility either to impose fines through administrative procedures or to initiate legal proceedings for the imposition of fines, or both █
3. Member States shall provide that the competent authority may disclose to the public any administrative penalty that is imposed for infringement of the measures adopted pursuant to this Directive, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

## Article 45

### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 30(5) shall be conferred on the Commission for a period of five years from xx xx xxxx. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 30(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 30(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

## Article 46

### Review and monitoring

1. The Commission shall undertake, *by... [four years from the date of transposition] and every four years thereafter*, an evaluation of this Directive. The evaluation shall include *the following*:
- (a) *an assessment of whether the scope of this Directive remains appropriate in relation to credit agreements which are secured by non-residential immovable property*
  - (b) an assessment of the thresholds laid down in Article 2(2), point c, and in Part II of Annex IV, and of the percentages used to calculate the compensation payable in the event of early repayment as referred to in Article 29, in the light of economic trends in the Union and the situation in the market concerned; *and*
  - (c) *an analysis of the evolution of the market for consumer credits that support the green transition and an assessment of the need for further measures relating to such credits.*
  - (d) *an assessment of the implementation of Article 44, paragraphs 1 and 2, and in particular of the effectiveness and deterrent effect of the penalties imposed under that Article.*



- 1a. *By ... [two years after the entry into force of this Directive], the Commission shall assess the necessity of protecting consumers borrowing and investing via crowdfunding platforms, as defined in Article 2(1), point (d) of Regulation (EU) 2020/1503 of the European Parliament and of the Council , where those platforms do not act as creditors or credit intermediaries, but facilitate the granting of credit between consumers.*
2. The Commission shall, *in particular*, monitor the effect of the existence of the regulatory choices referred to in Article 42 on the *functioning of the* internal market and *on* consumers.
3. The Commission shall report the results of the evaluation and assessment referred to in paragraphs 1, *1a* and 2 to the European Parliament and the Council, accompanied, if appropriate, by a legislative proposal.

## Article 47

### Repeal and transitional provisions

Directive 2008/48/EC is repealed with effect from [OP: please insert date - twelve months from the transposition deadline].<sup>19</sup>

Directive 2008/48/EC shall also continue to apply to credit agreements existing on [OP: please insert date - *twelve* months from the transposition deadline] until [their termination].

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<sup>19</sup>

However, Articles 23 and 24, Article 25(1), second sentence, Article 25(2) and Articles 28 and 39 of this Directive shall apply to all open-end credit agreements existing on [OP: please insert date - *twelve* months from the transposition deadline].

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex V.

## Article 48

### Transposition

1. Member States shall adopt and publish, by [OP: please insert date - 24 months from the date the Directive is adopted] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions. They shall apply those measures from [OP: please insert date - *twelve* months from the transposition deadline].



When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

## Article 49

### Entry into force

This Directive shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.

## Article 50

### Addressees

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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## ANNEX I

### STANDARD EUROPEAN CONSUMER CREDIT INFORMATION

#### **Key Information**

*Part I [Always on the first page of the form]:*

<b>Creditor</b> <i>Where applicable</i> <b>Credit intermediary</b>	<i>[Identity]</i>  <i>[Identity]</i>
<b>The total amount of credit</b> <i>This means the ceiling or the total sums made available in accordance with the credit agreement.</i>	
<b>The duration of the credit agreement</b>	
<b>The borrowing rate or, where applicable, different borrowing rates which apply to the credit agreement</b>	<i>[ %</i> <i>— fixed, or</i> <i>— variable,</i> <i>— periods]</i>
<b>Annual percentage rate of charge (APR)</b> <i>This is the total cost expressed as an annual percentage of the total amount of credit.</i> <i>The APR is there to help you compare different offers.</i>	

<p><i>The total amount you will have to pay</i></p> <p><i>This means the amount of borrowed capital plus interest and possible costs related to your credit.</i></p>	<p><i>[Sum of total amount of credit and total cost of credit]</i></p>
<p><i>Where applicable</i></p> <p><i>The credit is granted in the form of a deferred payment for a good or service or is linked to the supply of specific goods or the provision of a service</i></p> <p><i>Name of good/service</i></p> <p><i>Cash price</i></p>	
<p><i>Costs of late payments</i></p>	<p><i>You will be charged [... (applicable interest rate and arrangements for its adjustment and, where applicable, default charges)] for late payments.</i></p>

**Part II [In case the following elements cannot be displayed in a prominent way on one page, they shall be displayed in the first part of the form on the second page]:**

<p><b><i>Instalments and, where appropriate, the order in which instalments will be allocated</i></b></p>	<p><b><i>You will have to pay the following:</i></b>  <b><i>[The amount, number and frequency of payments to be made by the consumer]</i></b>  <b><i>Interest and/or charges will be payable in the following manner:</i></b></p>
<p><b><i>Warning regarding the consequences of missing or late payments</i></b>  <b><i>Missing payments could have severe consequences for you (e.g. forced sale) and make it more difficult for you to get credit in the future.</i></b></p>	
<p><b><i>Right of withdrawal</i></b>  <b><i>You have the right to withdraw from the credit agreement within a period of 14 calendar days.</i></b></p>	
<p><b><i>Early repayment</i></b>  <b><i>You have the right to repay the credit early at any time fully or partially.</i></b>  <b><i>Where applicable</i></b>  <b><i>The creditor is entitled to compensation in the case of early repayment</i></b></p>	

<b><i>Creditor</i></b> <b><i>Geographical address</i></b> <b><i>Telephone number</i></b> <b><i>Email address</i></b> <b><i>Web address (*)</i></b>	
<b><i>Where applicable</i></b> <b><i>Credit intermediary</i></b> <b><i>Geographical address</i></b> <b><i>Telephone number</i></b> <b><i>Email address</i></b> <b><i>Web address (*)</i></b>	
<b><i>(*) This information is optional.</i></b>	

Wherever ‘where applicable’ is indicated, the creditor **■** must fill in the box if the information is relevant to the credit ***product***, or delete the information or the entire row where the information is not relevant for the type of credit concerned.

***The explanations in italics should help the consumer better understanding the figures.***

Indications between square brackets provide explanations for the creditor or the **■** credit **■** ***intermediary*** and must be replaced with the corresponding information.

**■**

## ***Additional information about the credit agreement***

### **I. Description of the main features of the credit product**

The type of credit	
<b>I</b>	
<p>The conditions governing the drawdown This means how and when you will obtain the money.</p> <p><b><i>Where applicable</i></b> <b><i>Other drawdown mechanisms for the relevant type of credit agreement may result in higher annual percentage rates of charge</i></b></p>	<p><b><i>[Where a credit agreement provides different ways of drawdown with different charges or borrowing rates and the creditor uses the assumption set out in Part II, point (b), of Annex IV include an indication that other drawdown mechanisms for the relevant type of credit agreement may result in higher annual percentage rates of charge]</i></b></p>
<b>I</b>	<b>I</b>
<p>Where applicable Sureties required This is a description of the security to be provided by you in relation to the credit agreement.</p>	[Kind of sureties]
<p>Where applicable Repayments do not give rise to immediate amortisation of the capital.</p>	
<p>Where applicable The price was personalised on the basis of automated decision-making.</p>	



## 2. Costs of the credit

<p><b>Where</b> applicable ■</p> <p><b>The</b> different borrowing rates that apply to the credit agreement ■</p>	<p>[% — fixed, or — variable (with the index or reference rate applicable to the initial borrowing rate), — periods, <b>- conditions governing the application of each borrowing rate,</b> <b>- procedures for changing each borrowing rate]</b></p>
<p>■</p> <p><b>Representative example illustrating the annual percentage rate of charge (APR)</b></p> <p>■</p>	<p>[% A representative example mentioning all the assumptions used for calculating the annual percentage rate of charge to be set out here]</p>
<p>Is it compulsory, in order to obtain the credit or to obtain it on the terms and conditions marketed, to take out</p> <p>— an insurance policy securing the credit, or</p> <p>— another ancillary service contract?</p> <p>If the costs of these services are not known by the creditor <b>or</b> the credit intermediary ■ they are not included in the APR.</p>	<p>Yes/no [if yes, specify the kind of insurance]</p> <p>Yes/no [if yes, specify the kind of ancillary service]</p>

Related costs	
Where applicable <i>Charges for maintaining</i> one or more accounts is required for recording both payment transactions and drawdowns	
Where applicable Amount of costs for using a specific means of payment (e.g. a credit card)	
Where applicable Any other costs deriving from the credit agreement ■	
Where applicable Conditions under which the abovementioned costs related to the credit agreement ■ can be changed	
Where applicable Obligation to pay notarial fees	
■	■

### 3. Other important legal aspects

■	
Where applicable The creditor is entitled to compensation in the case of early repayment	[Determination of the compensation (calculation method) in accordance with the provisions implementing Article 29 of Directive ...]
Consultation of a database The creditor, the credit intermediary ■ must inform you immediately and without charge of the result of consulting a database, if a credit application is rejected on the basis of such a consultation. This does not apply if the provision of such information is prohibited by Union law or contrary to public policy or public security objectives.	
Right to a draft credit agreement ■ You have the right, upon request, to obtain a copy of the draft credit agreement ■ free of charge. This provision does not apply if the creditor ■ is, at the time of your request, unwilling to proceed to the conclusion of the credit agreement ■ with you.	
Where applicable The period of time during which the creditor ■ is bound by the pre-contractual information	This information is valid from [...] until [...]

■

Concerning redress You have the right to access an out-of-court complaint and redress mechanism	[The out-of-court complaint and redress mechanism for the consumer and how to access it]
<b><i>Warning regarding the legal and financial consequences of non-compliance</i></b> <b><i>Non-compliance with the commitments linked to the credit agreement other than late or missed payments could have severe consequences for you.</i></b>	
<b><i>Repayment schedule</i></b>	<b><i>[Repayment schedule containing all payments to be made by the consumer over the duration of the contract, including those payments for any ancillary services]</i></b>

Where applicable

4. Additional information in the case of the distance marketing of financial services

(a) Concerning the creditor ■	
Where applicable Representative of the creditor ■ in your Member State of residence Address Telephone number Email address ■ Web address (*)	[Identity]  [Geographical address to be used by the consumer]
Where applicable Registration	[The trade register in which the creditor ■ is entered and their registration number or an equivalent means of identification in that register]
Where applicable The supervisory authority	

(b) Concerning the credit agreement ■	
Where applicable Exercise of the right of withdrawal	[Practical instructions for exercising the right of withdrawal indicating, inter alia, the period for exercising the right, the address to which notification of exercise of the right of withdrawal should be sent and the consequences of not exercising the right of withdrawal]
Where applicable The law taken by the creditor ■ as a basis for the establishment of relations with you before the conclusion of the credit contract	
Where applicable Clause stipulating the governing law applicable to the credit agreement ■ and/or the competent court	[Relevant clause to be set out here]
Where applicable Language regime	Information and contractual terms will be supplied in [specific language]. With your consent, we intend to communicate in [specific language/languages] for the duration of the credit agreement ■ .
(c) Concerning redress	
Access to an out-of-court complaint and redress mechanism	[The out-of-court complaint and redress mechanism for the consumer who is party to the distance contract and how to access it]
(*) This information is optional for the creditor ■ .	

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## ANNEX II

### EUROPEAN CONSUMER CREDIT INFORMATION

*Consumer credit offered by certain credit organisations (Article 2(5) of Directive...)*

*Debt conversion (Article 2(6) of Directive...)*

#### Key Information

*Part I [Always on the first page of the form]:*

<b>Creditor</b>	<b>[Identity]</b>
<b>Where applicable</b>	
<b>Credit intermediary</b>	<b>[Identity]</b>
The total amount of credit This means the ceiling or the total sums made available in accordance with the credit agreement ■ .	
The duration of the credit agreement ■	
The borrowing rate or, where applicable, different borrowing rates which apply to the credit agreement ■	[% — fixed, or — variable ■ , — periods]
Annual percentage rate of charge (APR) This is the total cost expressed as an annual percentage of the total amount of credit. The APR is there to help you compare different offers.	■

<p><i><b>The total amount you will have to pay</b></i></p> <p><i><b>This means the amount of borrowed capital plus interest and possible costs related to your credit.</b></i></p>	<p><i><b>[Sum of total amount of credit and total cost of credit]</b></i></p>
<p>Where applicable</p> <p>The credit is granted in the form of a deferred payment for a good or service or is linked to the supply of specific goods or the provision of a service</p> <p>Name of good/service</p> <p>Cash price</p>	
<p>Costs of late payments</p> <p>■</p>	<p>You will be charged [... (applicable interest rate and arrangements for its adjustment and, where applicable, default charges)] for late payments.</p>

■



**Part II [In case the following elements cannot be displayed in a prominent way on one page, they shall be displayed in the first part of the form on the second page]:**

<b><i>Instalments and, where appropriate, the order in which instalments will be allocated</i></b>	<b><i>You will have to pay the following: [The amount, number and frequency of payments to be made by the consumer] Interest and/or charges will be payable in the following manner:</i></b>
<b><i>Warning regarding the consequences of missing or late payments Missing payments could have severe consequences for you (e.g. forced sale) and make it more difficult for you to get credit in the future.</i></b>	
<b><i>The absence of right of withdrawal</i></b>	
<b><i>Early repayment You have the right to repay the credit early at any time fully or partially. Where applicable The creditor is entitled to compensation in the case of early repayment</i></b>	

<b><i>Creditor</i></b> <b><i>Geographical address</i></b> <b><i>Telephone number</i></b> <b><i>Email address</i></b> <b><i>Web address (*)</i></b>	
<b><i>Where applicable</i></b> <b><i>Credit intermediary</i></b> <b><i>Geographical address</i></b> <b><i>Telephone number</i></b> <b><i>Email address</i></b> <b><i>Web address (*)</i></b>	
<b><i>(*) This information is optional.</i></b>	

Wherever ‘where applicable’ is indicated, the creditor must fill in the box if the information is relevant to the credit product, or delete the information or the entire row ***where the information is not relevant for the type of credit concerned.***

***The explanations in italics should help the consumer better understanding the figures.***

Indications between square brackets provide explanations for the creditor ***or the credit intermediary*** and must be replaced with the corresponding information.

### *Additional information about the credit agreement*

#### *1. Description of the main features of the credit product*

The type of credit	
I	
Where applicable <i>Indication that the consumer</i> may be requested to I repay the amount of <i>the</i> credit <i>in full</i> at any time I	
Where applicable The price was personalised on the basis of automated decision-making.	

## 2. Costs of the credit

<p><b>Where</b> applicable ■</p> <p><b>The</b> different borrowing rates <i>that</i> apply to the credit agreement</p>	<p>[%  — fixed, or ■  — variable (with the index or reference rate applicable to the initial borrowing rate) ■ ,  — <i>periods</i>,  - <i>conditions governing the application of each borrowing rate</i>  - <i>procedures for changing each borrowing rate</i>]</p>
<p>■</p> <p><b>Representative example illustrating the</b> annual percentage rate of charge (APR)</p> <p>■</p>	<p>[% A representative example mentioning all the assumptions used for calculating the annual percentage rate of charge to be set out here]</p>
<p>Where applicable</p> <p>Costs</p> <p>Where applicable</p> <p>The conditions under which those costs may be changed</p>	<p>[The costs applicable from the time the credit agreement is concluded]</p>
<p>■</p>	<p>■</p>

### 3. Other important legal aspects

Termination of the credit <i>agreement</i>	[The conditions and procedure for terminating the credit agreement]
<i>Where applicable</i> <i>The creditor is entitled to compensation in the case of early repayment</i>	<i>[Determination of the compensation (calculation method) in accordance with the provisions implementing Article 29 of Directive ...]</i>
Consultation of a database The creditor, <i>the credit intermediary</i> must inform you immediately and without charge of the result of consulting a database, if a credit application is rejected on the basis of such a consultation. This does not apply if the provision of such information is prohibited by <i>Union</i> law or contrary to public policy or <i>public</i> security objectives.	
Where applicable The period of time during which the creditor is bound by the pre-contractual information	This information is valid from [...] until [...]
■	■
<i>Concerning redress</i> <i>You have the right to access an out-of-court complaint and redress mechanism</i>	<i>[The out-of-court complaint and redress mechanism for the consumer and how to access it]</i>
<i>Warning regarding the legal and financial consequences of non-compliance</i> <i>Non-compliance with the commitments linked to the credit agreement other than late or missed payments could have severe consequences for you.</i>	
<i>Repayment schedule</i>	<i>[Repayment schedule containing all payments to be made by the consumer over the duration of the contract, including those payments for any ancillary services]</i>

■

Where applicable

5. Additional information ■ in the case of the distance marketing of financial services

(a) Concerning the creditor	
Where applicable Representative of the creditor in your Member State of residence Address Telephone number Email address ■ Web address (*)	[Identity]  [Geographical address to be used by the consumer]
Where applicable Registration	[The trade register in which the creditor is entered and their registration number or an equivalent means of identification in that register]
Where applicable The supervisory authority	
(b) Concerning the credit agreement	
■ Where applicable Exercise of the right of withdrawal	[Practical instructions for exercising the right of withdrawal indicating, inter alia, <b><i>the period for exercising the right</i></b> , the address to which notification of exercise of the right of withdrawal should be sent and the consequences of not exercising the right of withdrawal]

Where applicable The law taken by the creditor as a basis for the establishment of relations with you before the conclusion of the credit contract	
Where applicable Clause stipulating the <b><i>governing</i></b> law applicable to the credit agreement and/or the competent court	[Relevant clause to be set out here]
Where applicable Language regime	Information and contractual terms will be supplied in [specific language]. With your consent, we intend to communicate in [specific language/languages] for the duration of the credit agreement.
(c) Concerning redress Access to an out-of-court complaint and redress mechanism	[The out-of-court complaint and redress mechanism for the consumer who is party to the distance contract and how to access it]
(*) This information is optional for the creditor.	

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## ANNEX IV

I. The basic equation expressing the equivalence of drawdowns on the one hand and repayments and charges on the other.

The basic equation, which establishes the annual percentage rate of charge (APR), equates, on an annual basis, the total present value of drawdowns on the one hand and the total present value of repayments and payments of charges on the other hand, i.e.:

$$\sum_{k=1}^m C_k (1 + X)^{-t_k} = \sum_{l=1}^{m'} D_l (1 + X)^{-s_l}$$

where:

— X	is the APR,
— m	is the number of the last drawdown,
— k	is the number of a drawdown, thus $1 \leq k \leq m$ ,
— $C_k$	is the amount of drawdown k,
— $t_k$	is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each subsequent drawdown, thus $t_1 = 0$ ,
— $m'$	is the number of the last repayment or payment of charges,
— l	is the number of a repayment or payment of charges,
— $D_l$	is the amount of a repayment or payment of charges,
— $s_l$	is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each repayment or payment of charges.



## Remarks

- (a) The amounts paid by both parties at different times shall not necessarily be equal and shall not necessarily be paid at equal intervals.
- (b) The starting date shall be that of the first drawdown.
- (c) Intervals between dates used in the calculations shall be expressed in years or in fractions of a year. A year is presumed to have 365 days (or 366 days for leap years), 52 weeks or 12 equal months. A month is presumed to have 30,41666 days (i.e.  $365/12$ ) regardless of whether or not it is a leap year.

Where intervals between dates used in the calculations cannot be expressed as a whole number of weeks, months or years, the intervals shall be expressed as a whole number of one of those periods in combination with a number of days. When using days:

- (i) every day shall be counted, including weekends and holidays;
- (ii) equal periods and then days shall be counted backwards to the date of the initial drawdown;

- (iii) the length of the period of days shall be obtained excluding the first day and including the last day and shall be expressed in years by dividing this period by the number of days (365 or 366) of the complete year counted backwards from the last day to the same day of the previous year.
- (d) The result of the calculation shall be expressed with an accuracy of at least one decimal place. If the figure at the following decimal place is greater than or equal to 5, the figure at that particular decimal place shall be increased by one.
- (e) The equation can be rewritten using a single sum and the concept of flows ( $A_k$ ), which will be positive or negative, in other words either paid or received during periods 1 to n, expressed in years, i.e.

$$S = \sum_{k=1}^n A_k (1 + X)^{-t_k},$$

where S is the present balance of flows. If the aim is to maintain the equivalence of flows, the value will be zero.

- II. The additional assumptions for calculating the APR shall be as follows.
- (a) Where a credit agreement ■ gives the consumer freedom of drawdown, the total amount of credit shall be deemed to be drawn down immediately and in full.
  - (b) Where a credit agreement ■ gives the consumer freedom of drawdown in general but imposes, amongst the different ways of drawing down, a limitation with regard to the amount of credit and period of time, the amount of credit shall be deemed to be drawn down on the earliest date fixed in the credit agreement ■ and in accordance with those drawdown limits.
  - (c) Where a credit agreement ■ provides different ways of drawing down with different charges or borrowing rates, the total amount of credit shall be deemed to be drawn down at the highest charge and borrowing rate applied to the most common drawdown mechanism for that type of credit agreement ■ .
  - (d) In the case of an overdraft facility, the total amount of credit shall be deemed to be drawn down in full and for the whole duration of the credit agreement. If the duration of the overdraft facility is not known, the APR shall be calculated on the assumption that the duration of the credit is three months.

- (e) In the case of an open-end credit agreement ■ , other than an overdraft facility, it shall be assumed that:
- (i) the credit is provided for a period of one year starting from the date of the initial drawdown, and that the final payment made by the consumer clears the balance of capital, interest and other charges, if any;
  - (ii) the capital is repaid by the consumer in equal monthly payments, starting one month after the date of the initial drawdown. However, in cases where the capital must be repaid only in full in a single payment, within each payment period, successive drawdowns and repayments of the entire capital by the consumer shall be assumed to occur over the period of one year. Interest and other charges shall be applied in accordance with those drawdowns and repayments of capital and as set out in the credit agreement ■ .

For the purposes of this point, an open-end credit agreement ■ is a credit agreement ■ without a fixed duration and includes credits that must be repaid in full within or after a period but, once repaid, become available to be drawn down again.

- (f) In the case of credit agreements ■ other than overdrafts and open-end credit agreements ■ as referred to in the assumptions set out in points (d) and (e):

- (i) where the date or amount of a repayment of capital to be made by the consumer cannot be ascertained, it shall be assumed that the repayment is made at the earliest date provided for in the credit agreement ■ and is for the lowest amount for which the credit agreement *provides*;
  - (ii) where the interval between the date of initial drawdown and the date of the first payment to be made by the consumer cannot be ascertained, it shall be assumed to be the shortest interval;
- (g) Where the date or amount of a payment to be made by the consumer cannot be ascertained on the basis of the credit agreement ■ or the assumptions set out in points (d), (e) or (f), it shall be assumed that the payment is made in accordance with the dates and conditions required by the creditor ■ and, when those dates and conditions are unknown:
- (i) interest charges are paid together with the repayments of capital;
  - (ii) a non-interest charge expressed as a single sum is paid at the date of the conclusion of the credit agreement ■ ;
  - (iii) non-interest charges expressed as several payments are paid at regular intervals, starting with the date of the first repayment of capital, and where the amount of such payments is not known they shall be assumed to be equal amounts;
  - (iv) the final payment clears the balance of capital, interest and other charges, if any.

- (h) Where the ceiling applicable to the credit has not yet been agreed, it is assumed to be EUR 1 500.
  - (i) Where different borrowing rates and charges are offered for a limited period or amount, the borrowing rate and the charges shall be deemed to be the highest rate for the whole duration of the credit agreement ■ .
  - (j) For consumer credit agreements ■ for which a fixed borrowing rate is agreed for the initial period, at the end of which a new borrowing rate is determined and subsequently periodically adjusted according to an agreed indicator, the calculation of the APR shall be based on the assumption that, at the end of the fixed borrowing rate period, the borrowing rate is the same as at the time of calculating the APR, based on the value of the agreed indicator at that time.
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# ANNEX V

## CORRELATION TABLE

Directive 2008/48/EC	This Directive
Article 1	Article 1
Article 2(1)	Article 2(1), first subparagraph
—	Article 2(1), second subparagraph
Article 2(2), points (a), (b), (c)	Article 2(2), points (a), (b), (c)
Article 2(2), points (d), (e), (f)	—
Article 2(2), points (g), (h), (i), (j), (k), (l)	Article 2(2), points (d), (e), (f), (g), (h), (i)
Article 2(2a)	Article 2(3)
Article 2(3)	—
Article 2(4), 2(5), 2(6)	Article 2(4), 2(5), 2(6)
Article 3, points (a), (b), (c)	Article 3, points 1, 2, 3
—	Article 3, points 4, 5
Article 3, points (d), (e), (f)	Article 3, points 13, 20, 21
Article 3, points (g), (h), (i), (j), (k), (l), (m)	Article 3, points 6, 7, 8, 9, 10, 11, 12
Article 3, points (n)	Article 3, point 22
—	Article 3, points 14, 15, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 29
—	Article 5
—	Article 6
—	Article 7

Article 4	Article 8
---	Article 9
Article 5(1), first subparagraph	Article 10(1), first subparagraph
—	Article 10 (1), second subparagraph
Article 5(1), second subparagraph, points (a), (b), (c), (d), (e), (f)	Article 10 (3), first subparagraph, points a, b, c, d, e, f
Article 5(1), second subparagraph, point (g), first sentence and third sentence	Article 10 (3), first subparagraph, points g and h
Article 5(1), second subparagraph, point (g), second sentence	Article 10 (3), second subparagraph
Article 5(1), second subparagraph, points (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s)	Article 10(3), first subparagraph, points (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (u)
—	Article 10 (3), first subparagraph, points (t), (v)
Article 5(1), third subparagraph	Article 10 (3), third subparagraph
Article 5(1), fourth subparagraph	Article 10 (5), second subparagraph
Article 5(2)	Article 10 (6)
Article 5(3)	Article 10 (7)
Article 5(4)	Article 10 (8)
Article 5(5)	Article 10 (9)
Article 5(6)	(partly Article 12)
Article 6	-
-	Article 11



Article 7	Article 10 (10)
—	Article 12
—	Article 13
Article 8	Article 18
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—	Article 15
	Article 16
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Article 9	Article 19
Article 10(1)	Article 20
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Article 10(5)	-
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