












Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision 2018/0063A(COD) procedure) Directive	Procedure completed
Credit servicers and credit purchasers (Non-performing loans Directive) Amending Directive 2014/17/EU 2011/0062(COD)	
Subject 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision	
Legislative priorities Joint Declaration 2022 Joint Declaration 2018-19 Joint Declaration 2021 Joint Declaration 2023-24	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Economic and Monetary Affairs		18/07/2019
		 DE LANGE Esther	18/07/2019
		 TINAGLI Irene	
		Shadow rapporteur	
		 EROGLU Engin	
		 URTASUN Ernest	
		 ZANNI Marco	
		 VAN OVERTVELDT Johan	
		 PAPADIMOULIS Dimitrios	
	Former committee responsible		
 Economic and Monetary Affairs			
Committee for opinion	Rapporteur for opinion	Appointed	
 Internal Market and Consumer Protection	The committee decided not to give an opinion.		
 Legal Affairs	The committee decided not to give an opinion.		

Council of the European Union
European Commission

European Economic and
Social Committee

Former committee for opinion

IMCO Internal Market and Consumer Protection

JURI Legal Affairs

Commission DG

[Financial Stability, Financial Services and Capital
Markets Union](#)

Commissioner

DOMBROVSKIS Valdis

Key events

14/03/2018	Legislative proposal published	COM(2018)0135	
19/04/2018	Committee referral announced in Parliament, 1st reading		
21/10/2019	Committee referral announced in Parliament, 1st reading		
14/01/2021	Vote in committee, 1st reading		
14/01/2021	Committee report tabled for plenary, 1st reading	A9-0003/2021	Summary
14/01/2021	Committee decision to open interinstitutional negotiations with report adopted in committee		
18/01/2021	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
20/01/2021	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
13/07/2021	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE691.247 GEDA/A/(2021)005234	
19/10/2021	Results of vote in Parliament		
19/10/2021	Decision by Parliament, 1st reading	T9-0424/2021	Summary
05/11/2021	Act adopted by Council after Parliament's 1st reading		
24/11/2021	Final act signed		
08/12/2021	Final act published in Official Journal		

Technical information

Procedure reference	2018/0063A(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2014/17/EU 2011/0062(COD)

Legal basis	Treaty on the Functioning of the EU TFEU 053-p1; Treaty on the Functioning of the EU TFEU 114
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/00276

Documentation gateway

Legislative proposal	COM(2018)0135	14/03/2018	EC	
Document attached to the procedure	SWD(2018)0075	14/03/2018	EC	
Document attached to the procedure	SWD(2018)0076	14/03/2018	EC	
European Central Bank: opinion, guideline, report	CON/2018/0054 OJ C 444 10.12.2018, p. 0015	20/11/2018	ECB	Summary
Committee draft report	PE644.827	29/11/2019	EP	
Amendments tabled in committee	PE645.006	20/12/2019	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0003/2021	14/01/2021	EP	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2021)005234	28/06/2021	CSL	
Text agreed during interinstitutional negotiations	PE691.247	28/06/2021	EP	
Text adopted by Parliament, 1st reading/single reading	T9-0424/2021	19/10/2021	EP	Summary
Draft final act	00054/2021/LEX	24/11/2021	CSL	
Commission response to text adopted in plenary	SP(2021)728	10/12/2021	EC	

Final act

[Directive 2021/2167](#)
[OJ L 438 08.12.2021, p. 0001](#)

Credit servicers and credit purchasers (Non-performing loans Directive)

OPINION of the European Central Bank on a proposal for a directive on credit servicers, credit purchasers and the recovery of collateral.

The ECB recalls that it has been a strong proponent of the development of secondary markets for bank assets, particularly non-performing loans (NPLs). It believes that the development of secondary markets may contribute to reducing NPLs, and that, well-functioning secondary markets may also prevent stocks of NPLs from building up in the future. The ECB considers it essential that the legal framework applicable to secondary markets enables the efficient transfer of NPLs off the balance sheet of credit institutions.

It makes the following observations:

Reporting requirements

The proposed directive establishes a number of reporting requirements for credit servicers, credit purchasers and credit institutions. The Union legislators should carefully consider whether these reporting requirements would impede the efficient functioning of the secondary market for NPLs, since a significant reporting burden could deter new entrants to the market or result in duplication of data for competent authorities.

Technical standards for NPL data

The proposed directive gives the European Banking Authority (EBA) a mandate to develop draft implementing technical standards that specify the formats to be used by creditors that are credit institutions for the provision of detailed information on their credit exposures in the banking book to credit purchasers for the screening, financial due diligence and the valuation of the credit agreement.

In the light of the new regulatory developments flowing from Regulation (EU) 2016/867, it is important that any data templates developed by the EBA should take into account the collection of granular credit and credit risk data or any other relevant initiatives to ensure that there is no duplication of efforts and to minimise reporting requirements for credit institutions.

Data collection by competent authorities in the context of an accelerated extrajudicial collateral enforcement mechanism

Since the collection of this information relates to the efficacy of the accelerated extrajudicial collateral enforcement mechanism rather than the prudential supervision of credit institutions, the Union legislators would need to clarify that the task to collect such information should not be conferred on the ECB.

Credit servicers and credit purchasers (Non-performing loans Directive)

The Committee on Economic and Monetary Affairs adopted the report by Esther DE LANGE (EPP, NL) and Irene TINAGLI (S&D, IT) on the proposal for a directive of the European Parliament and of the Council on credit servicers, credit purchasers and the recovery of collateral.

The committee responsible recommended that the European Parliaments position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

Objectives

The Directive should foster the development of secondary markets for non-performing loans (NPLs) in the EU by establishing safeguards and minimum requirements for the transfer of NPLs by credit institutions to non-credit institutions, while safeguarding borrowers rights.

This Directive should therefore establish a Union-wide framework for both purchasers and servicers of non-performing credit agreements issued by credit institutions, whereby credit servicers should obtain authorisation and be subject to the supervision of Member States competent authorities.

This Directive should be without prejudice to the rules governing credit origination in accordance with Union and national law, including in cases when credit servicers can be considered to engage in credit intermediation.

Creditors should not be allowed to transfer to third parties performing credit agreements concluded with consumers.

Conditions for granting an approval

The amended text specifies that the applicant should be a legal person having its registered office or head office in the Member State where it seeks authorisation.

In order to protect the debtor or borrower, the conditions for granting and maintaining authorisation should ensure that the credit manager or the members of the management or administrative bodies have a clean criminal record with regard to relevant criminal offences involving damage to property, criminal offences relating to financial activities, money laundering, fraud or offences against physical integrity and are not subject to insolvency proceedings or have never been declared bankrupt, unless they have been reinstated in accordance with national law.

Member States should also ensure that:

- the management body as a whole possesses adequate knowledge and experience to conduct the business in a competent and responsible manner, appropriate to the activity to be carried out;
- the applicant applies a policy ensuring compliance with consumer protection rules and transparency in the fair and diligent treatment of borrowers;
- the applicant has sufficient initial capital or segregated accounts and that there are no obstacles to effective supervision of the applicant arising from the structure of its group;
- the applicant has, where appropriate, adequate anti-money laundering and anti-terrorism procedures in place.

Protection of borrowers

A new article stipulates that in their relations with debtors, creditors should act in good faith, fairly, professionally and with respect for the debtors' privacy. They should provide borrowers with information that is not misleading, refrain from disclosing personal information without the borrower's permission, and refrain from communicating with borrowers in a manner that constitutes harassment, coercion or abuse of influence.

Fees and penalties charged to borrowers by creditors should not exceed the costs directly related to debt management. Prior to any debt collection, the creditor should send the borrower a mandatory notification providing clear proof of the debt, based on a credit agreement falling within the scope of the Directive.

Member States should require that creditors undertake, with due diligence, to make best efforts to exercise, where appropriate, reasonable forbearance in respect of borrowers experiencing payment difficulties.

Credit purchasers

The amended text provides that where a credit institution transfers a non-performing credit agreement, they should be required to inform their supervisor and the competent authority for supervising compliance with this Directive, on a biannual basis, about at least the aggregated outstanding balance of the transferred credit portfolios, as well as the number and size of the loans included and whether it includes agreements concluded with consumers.

For each portfolio transferred in a single transaction, information provided should include the legal entity identifier or, when not available, the identity and address of the purchaser and, where applicable, its representative in the EU.

Transposition

Entities currently carrying out credit servicing activities under national law would be allowed to continue to do so in their home Member State

for 6 months after the deadline for transposition of the Directive.

After the expiry of that six month period, only credit servicers authorised under the national laws implementing this Directive will be able to operate on the market.

Credit servicers and credit purchasers (Non-performing loans Directive)

The European Parliament adopted a legislative resolution on the proposal for a directive of the European Parliament and of the Council on credit servicers, credit purchasers and the recovery of collateral.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Objective

The new directive harmonises the rules for credit servicers and credit purchasers with regard to non-performing loans issued by credit institutions. Its aim is to support the development of secondary markets for non-performing loans in the EU while ensuring that the sale of such loans does not undermine the rights of borrowers.

The directive covers both the creditor's rights under a non-performing credit agreement and the non-performing credit agreement itself.

Authorisation

A designated authority in the home Member State will be responsible for the authorisation and supervision of credit servicers, in close cooperation with the authorities of other Member States.

The directive specifies that the applicant must be a legal person having its registered office or head office in the Member State where it applies for authorisation.

Conditions for granting and maintaining authorisations should ensure that:

- the members of the applicants management or administrative organ: (i) have a clean police record in relation to relevant criminal offences, in particular those relating to property, financial services and activities, money laundering, usury, fraud, tax crimes, violation of professional secrecy; (ii) have always been transparent, open and cooperative in their past business dealings with supervisory and regulatory authorities;
- the applicants management or administrative organ, as a whole, has adequate knowledge and experience to conduct the business in a competent and responsible manner;
- the persons who hold qualifying holdings are of sufficiently good repute;
- the applicant has in place robust governance arrangements and adequate internal control mechanisms, including risk management and accounting procedures;
- the applicant: (i) applies an appropriate policy ensuring compliance with rules for the protection of borrowers; (ii) has in place adequate anti-money laundering and counter terrorist financing procedures; (iii) is subject by virtue of applicable national law to reporting and public disclosure requirements.

Member States should determine whether credit servicers, when performing credit servicing activities in their territory, are either: (a) allowed to receive and hold funds from borrowers to transfer those funds to credit purchasers; or (b) prohibited from receiving and holding funds from borrowers.

Member States should ensure that:

- within 90 days of receipt of a complete application or, the competent authorities of the home Member State notify the applicant whether the authorisation is granted or refused and provide reasons for refusal;
- the competent authorities of the home Member State have the necessary supervisory and investigatory powers, and sanctioning powers to withdraw the authorisation granted to a credit servicer, where any of the following applies to such a credit servicer.

Protection of borrowers

Member States should require that credit purchasers and credit servicers, in their relationships with borrowers: (i) act in good faith, fairly and professionally; (ii) provide information to borrowers that is not misleading, unclear or false; (iii) respect and protect the personal information and privacy of borrowers; (iv) communicate with borrowers in a way that does not constitute harassment, coercion or undue influence.

In advance of the first debt collection and whenever requested by borrowers, they should provide information to borrowers on, among others, the transfer that took place, the identification and contact details of the credit purchaser and of the credit servicer, where one is appointed, as well as information on the amounts due by the borrower and a statement to the effect that all relevant Union and national law continues to apply.

Credit purchasers

Credit institutions should provide detailed information to prospective credit purchasers so as to enable them to conduct their own assessment of the value of a creditors rights under a non-performing credit agreement, or of the non-performing credit agreement itself.

The Directive provides that where a credit institution transfers non-performing credit agreements, it should be required to inform its competent authority and the competent authorities of the host Member State, on a biannual basis, of at least the aggregate outstanding balance of the transferred credit portfolios, as well as the number and size of the credits included and whether the transfer includes credit agreements concluded with consumers.

Freedom to provide credit servicing activities in a host Member State

To ensure the right of a credit servicer to engage in cross-border activities and to provide for their supervision, this Directive sets up a

procedure for the exercise of the right of an authorised credit servicer to engage in cross-border activities. Communication between competent authorities of the home and the host Member States as well as with a credit servicer should take place within reasonable deadlines. The competent authorities of the Member State where the credit was granted should also receive information on cross-border activities from the competent authorities of the home Member State.

After the expiry of a period of six months following the deadline for transposition of the directive, only credit servicers authorised under the national laws transposing this Directive should be permitted to operate on the market.