



2018/0063A(COD)

7.1.2020

AMENDMENTS

204 - 468

Draft report

Esther de Lange, Irene Tinagli

(PE644.827v01-00)

Credit servicers and credit purchasers

Proposal for a decision

(COM(2018)0135 – C8-0115/2018 – 2018/0063A(COD))

Amendment 204
Matt Carthy

Proposal for a directive

—

Proposal for rejection

The European Parliament rejects [the Commission proposal].

Or. en

Amendment 205
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Vast amounts of NPLs are the consequence of millions of EU citizens under financial difficulties and over-indebted households. The core causes of this private over-indebtedness are the irresponsible lending activities, bubbles in the real estate market, and the lack of measures for the early identification of households at risk. The financial difficulties of indebted households are not only threatening the stability of the financial system but are, above all, individual human tragedies which need to be avoided by all means. There is evidence of poor credit servicers' practices, harassment and intimidation practices, including from debtors who report pressure to make unaffordable repayments. The sector is not adequately regulated in all Member States and regulation has frequently proven inadequate.

Or. en

Amendment 206

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) The recovery of the collateral in the case of mortgage loans affects the right of housing assistance and a decent existence for all those who lack sufficient resources, enshrined in the EU Charter on fundamental rights, as well as constitutional rights related with housing in many Member States.

Or. en

Amendment 207

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Recital 1 c (new)

Text proposed by the Commission

Amendment

(1c) Abuses in certain markets make necessary to establish a code of conduct with strict rules for credit servicers and credit purchasers to avoid misleading practices, harassment or the violation of consumer's rights.

Or. en

Amendment 208

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Recital 1 d (new)

Text proposed by the Commission

Amendment

(1d) Further transparency is needed in order to monitor the market reaction to the new framework. EBA shall establish and maintain a public register, with available data about the actors operating and the number and amount of the operations.

Or. en

Amendment 209

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Recital 2

Text proposed by the Commission

Amendment

(2) An integrated financial system will enhance the resilience of the Economic and Monetary Union to adverse shocks by facilitating private cross-border risk-sharing, while at the same time reducing the need for public risk-sharing. In order to achieve these objectives, the Union should complete the Banking Union and further develop a Capital Markets Union (CMU). Addressing high stocks of NPLs and their possible future accumulation is essential to completing the Banking Union as it is essential for ensuring competition in the banking sector, preserving financial stability and encouraging lending so as to create jobs and growth within the Union.

(2) Addressing high stocks of NPLs and their possible future accumulation is essential to completing the Banking Union as it is **crucial** for ensuring competition in the banking sector **and** preserving financial stability.

Or. en

Amendment 210

Derk Jan Eppink

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) An integrated financial system will enhance the resilience of the Economic and Monetary Union to adverse shocks by facilitating private cross-border risk-sharing, while at the same time reducing the need for public risk-sharing. In order to achieve these objectives, the Union should complete the Banking Union and further develop a Capital Markets Union (CMU). Addressing high stocks of NPLs and their possible future accumulation is essential to **completing** the Banking Union as it is essential for ensuring competition in the banking sector, preserving financial stability and encouraging lending so as **to** create jobs and growth within the Union.

Amendment

(2) An integrated financial system will enhance the resilience of the Economic and Monetary Union to adverse shocks by facilitating private cross-border risk-sharing, while at the same time reducing the need for public risk-sharing. In order to achieve these objectives, the Union should complete the Banking Union and further develop a Capital Markets Union (CMU). Addressing high stocks of NPLs and their possible future accumulation is essential to **strengthening** the Banking Union **through cleaning the balance sheets of the banks by all member states themselves prior to completing of the Banking Union**, as it is essential for ensuring competition in the banking sector, preserving financial stability and encouraging lending so as create jobs and growth within the Union.

Or. en

Amendment 211
Engin Eroglu, Olivier Chastel

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) An integrated financial system will enhance the resilience of the Economic and Monetary Union to adverse shocks by facilitating private cross-border risk-sharing, while at the same time reducing the need for public risk-sharing. In order to achieve these objectives, the Union should complete the Banking Union and further develop a Capital Markets Union (CMU). Addressing high stocks of NPLs and their possible future accumulation is essential to **completing** the Banking Union as it is

Amendment

(2) An integrated financial system will enhance the resilience of the Economic and Monetary Union to adverse shocks by facilitating private cross-border risk-sharing, while at the same time reducing the need for public risk-sharing. In order to achieve these objectives, the Union should complete the Banking Union and further develop a Capital Markets Union (CMU). Addressing high stocks of NPLs and their possible future accumulation is essential to **strengthening** the Banking Union as it is

essential for ensuring competition in the banking sector, preserving financial stability and encouraging lending so as to create jobs and growth within the Union.

essential for ensuring competition in the banking sector, preserving financial stability and encouraging lending so as to create jobs and growth within the Union.

Or. en

Amendment 212
Markus Ferber

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) In July 2017 the Council in its "Action Plan to Tackle Non-Performing Loans in Europe"²⁵ called upon various institutions to take appropriate measures to further address the high number of NPLs in the Union. The Action Plan sets out a comprehensive approach that focuses on a mix of complementary policy actions in four areas: (i) bank supervision and regulation (ii) reform of restructuring, insolvency and debt recovery frameworks, (iii) developing secondary markets for distressed assets, and (iv) fostering restructuring of the banking system. Actions in these areas are to be taken at national level and at Union level where appropriate. The Commission announced a similar intention in its "Communication on completing the Banking Union" of 11 October 2017²⁶, which called for a comprehensive package on tackling NPLs within the Union.

²⁵ 11/07/2017,
<http://www.consilium.europa.eu/en/press/press-releases/2017/07/11/conclusions-non-performing-loans/pdf>.

²⁶ Communication to the European Parliament, the Council, the European

Amendment

(3) In July 2017 the Council in its "Action Plan to Tackle Non-Performing Loans in Europe"²⁵ called upon various institutions to take appropriate measures to further address the high number of *existing* NPLs in the Union *prevent new NPLs from accumulating and posing financial stability risks*. The Action Plan sets out a comprehensive approach that focuses on a mix of complementary policy actions in four areas: (i) bank supervision and regulation (ii) reform of restructuring, insolvency and debt recovery frameworks, (iii) developing secondary markets for distressed assets, and (iv) fostering restructuring of the banking system. Actions in these areas are to be taken at national level and at Union level where appropriate. The Commission announced a similar intention in its "Communication on completing the Banking Union" of 11 October 2017²⁶, which called for a comprehensive package on tackling NPLs within the Union.

²⁵ 11/07/2017,
<http://www.consilium.europa.eu/en/press/press-releases/2017/07/11/conclusions-non-performing-loans/pdf>.

²⁶ Communication to the European Parliament, the Council, the European

Central Bank, the European Economic and Social Committee and the Committee of the Regions on completing the Banking Union, COM(2017) 592 final, 11.10.2017.

Central Bank, the European Economic and Social Committee and the Committee of the Regions on completing the Banking Union, COM(2017) 592 final, 11.10.2017.

Or. en

Amendment 213

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) In July 2017 the Council in its "Action Plan to Tackle Non-Performing Loans in Europe"²⁵ called upon various institutions to take appropriate measures to further address the high number of NPLs in the Union. The Action Plan sets out a comprehensive approach that focuses on a mix of complementary policy actions in four areas: (i) bank supervision and regulation (ii) reform of restructuring, insolvency and debt recovery frameworks, (iii) developing secondary markets for distressed assets, and (iv) fostering restructuring of the banking system. Actions in these areas are to be taken at national level and at Union level where appropriate. The Commission announced a similar intention in its "Communication on completing the Banking Union" of 11 October 2017²⁶, which called for a comprehensive package on tackling NPLs within the Union.

²⁵ 11/07/2017,
<http://www.consilium.europa.eu/en/press/press-releases/2017/07/11/conclusions-non-performing-loans/pdf>.

²⁶ Communication to the European Parliament, the Council, the European Central Bank, the European Economic and

Amendment

(3) In July 2017 the Council in its "Action Plan to Tackle Non-Performing Loans in Europe"²⁵ called upon various institutions to take appropriate measures to further address the high number of NPLs in the Union **and to avoid long-run increases of NPLs in the future**. The Action Plan sets out a comprehensive approach that focuses on a mix of complementary policy actions in four areas: (i) bank supervision and regulation (ii) reform of restructuring, insolvency and debt recovery frameworks, (iii) developing secondary markets for distressed assets, and (iv) fostering restructuring of the banking system. Actions in these areas are to be taken at national level and at Union level where appropriate. The Commission announced a similar intention in its "Communication on completing the Banking Union" of 11 October 2017²⁶, which called for a comprehensive package on tackling NPLs within the Union.

²⁵ 11/07/2017,
<http://www.consilium.europa.eu/en/press/press-releases/2017/07/11/conclusions-non-performing-loans/pdf>.

²⁶ Communication to the European Parliament, the Council, the European Central Bank, the European Economic and

Social Committee and the Committee of the Regions on completing the Banking Union, COM(2017) 592 final, 11.10.2017.

Social Committee and the Committee of the Regions on completing the Banking Union, COM(2017) 592 final, 11.10.2017.

Or. en

Amendment 214

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In the process of developing macro-prudential approaches to prevent the emergence of system-wide risks associated with NPLs, the European Systemic Risk Board shall develop appropriate macro-prudential standards and supervision of the other financial institutions involved in the secondary market for NPLs. These regulatory measures will ensure that such institutions are required to meet the same standards as banks, including in relation to prudential requirements, disclosure requirements and the fair treatment of borrowers. These institutions shall also be bound by all relevant national and EU consumer protection requirements that may be applicable.

Or. en

Amendment 215

Matt Carthy

Proposal for a directive

Recital 5

Text proposed by the Commission

Amendment

(5) Credit institutions will be required

(5) Credit institutions will be required

to put aside sufficient resources when new loans become non-performing, which should create appropriate incentives to address NPLs at an early stage and should prevent an excessive accumulation of them. Where loans become non-performing, more efficient enforcement mechanisms for secured loans would allow credit institutions to enforce NPLs, subject to appropriate safeguards for borrowers. Nevertheless, should NPL stocks become too high – as it is currently the case for some credit institutions and some Member States – credit institutions should be **able to sell them in efficient, competitive and transparent secondary markets to other operators**. Competent authorities of credit institutions will guide them in this, based on their existing bank-specific, so-called Pillar 2, powers under Regulation (EU) No 575/2013 of the European Parliament and of the Council²⁷ (CRR). Where NPLs become a significant and broad-based problem, Member States can set up national asset management companies or other alternative measures within the framework of current state aid and banks resolution rules.

²⁷ 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).

to put aside sufficient resources when new loans become non-performing, which should create appropriate incentives to address NPLs at an early stage and should prevent an excessive accumulation of them. Where loans become non-performing, more efficient enforcement mechanisms for secured loans would allow credit institutions to enforce NPLs, subject to appropriate safeguards for borrowers, **including legal protection against evictions from primary residences**. Nevertheless, should NPL stocks become too high – as it is currently the case for some credit institutions and some Member States – credit institutions should be **incentivised to work through the NPLs on a case-by-case basis. This Directive does not express a preference for certain NPL reduction tools over others, and the combination of tools or strategy reduction drivers for a given credit institution is the responsibility of, and chosen at the discretion of, its management**. Competent authorities of credit institutions will guide them in this, based on their existing bank-specific, so-called Pillar 2, powers under Regulation (EU) No 575/2013 of the European Parliament and of the Council²⁷ (CRR). Where NPLs become a significant and broad-based problem, Member States can set up national asset management companies or other alternative measures within the framework of current state aid and banks resolution rules.

²⁷ 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).

Or. en

Amendment 216

Dimitrios Papadimoulis

on behalf of the GUE/NGL Group

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) Credit institutions will be required to put aside sufficient resources when new loans become non-performing, which should create appropriate incentives to address NPLs at an early stage and should prevent an excessive accumulation of them. Where loans become non-performing, more efficient **enforcement** mechanisms for secured loans would allow credit institutions to **enforce NPLs**, subject to **appropriate** safeguards for **borrowers**. Nevertheless, should NPL stocks become too high – as it is currently the case for some credit institutions and some Member States – credit institutions **should** be able to sell **them in efficient, competitive and transparent secondary markets to other operators**. **Competent authorities of credit institutions will guide them in this, based on their existing bank-specific, so-called Pillar 2, powers under Regulation (EU) No 575/2013 of the European Parliament and of the Council²⁷ (CRR)**. Where NPLs become a significant and broad-based problem, Member States can set up national asset management companies or other alternative measures within the framework of current state aid and banks resolution rules.

²⁷ **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).**

Amendment

(5) Credit institutions will be required to put aside sufficient resources when new loans become non-performing, which should create appropriate incentives to address NPLs at an early stage and should prevent an excessive accumulation of them. Where loans become non-performing, more efficient mechanisms for secured loans would allow credit institutions to **implement a holistic strategy that protects distressed borrowers and safeguards the sustainability of the banking system**, subject to **strong and effective** safeguards for **consumers**. Nevertheless, should NPL stocks become too high – as it is currently the case for some credit institutions and some Member States – credit institutions **shall not** be able to sell **or transfer to third parties performing credit agreements concluded with consumers**. Where NPLs become a significant and broad-based problem, Member States can set up national asset management companies or other alternative measures within the framework of current state aid and banks resolution rules.

Or. en

Amendment 217
Matt Carthy

Proposal for a directive
Recital 6

Text proposed by the Commission

Amendment

(6) This Directive should enable credit institutions to better deal with loans once these become non-performing by improving conditions to either enforce the collateral used to secure the credit or to sell the credit to third parties. The introduction of accelerated collateral enforcement as a swift mechanism for the recovery of collateral value would reduce the costs for resolving NPLs and would hence support both credit institutions and purchasers of NPLs in recovering value. Moreover, when credit institutions face a large build-up of NPLs and lack the staff or expertise to properly service them, one viable solution would be to either outsource the servicing of these loans to a specialised credit servicer or to transfer the credit agreement to a credit purchaser that has the necessary risk appetite and expertise to manage it.

deleted

Or. en

Amendment 218
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 6

Text proposed by the Commission

Amendment

(6) This Directive should enable credit institutions to better deal with loans once these become non-performing by improving conditions to either enforce the

deleted

collateral used to secure the credit or to sell the credit to third parties. The introduction of accelerated collateral enforcement as a swift mechanism for the recovery of collateral value would reduce the costs for resolving NPLs and would hence support both credit institutions and purchasers of NPLs in recovering value. Moreover, when credit institutions face a large build-up of NPLs and lack the staff or expertise to properly service them, one viable solution would be to either outsource the servicing of these loans to a specialised credit servicer or to transfer the credit agreement to a credit purchaser that has the necessary risk appetite and expertise to manage it.

Or. en

Amendment 219

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Recital 7

Text proposed by the Commission

Amendment

(7) *The two solutions for credit institutions to deal with NPLs provided for by this Directive are mutually reinforcing. The shorter time for enforcement and the increased recovery rates, as expected with accelerated extrajudicial collateral enforcement increases the value of an NPL. In turn, this would raise bid prices in NPL transactions. A further effect is that selling NPLs will be less complicated if the loan is collateralised. The reason for this is that price determination is simpler for a collateralised NPL than an unsecured one in a secondary market transaction because the value of the collateral sets a minimum value of a NPL. With a more liquid and better functioning*

deleted

secondary market for NPLs where investors would show greater interest for NPLs incorporating the accelerated enforcement feature, there would be additional incentives for credit institutions to use accelerated extrajudicial collateral enforcement at the time of issue of the new loans. Moreover, the harmonisation achieved by this Directive would foster development of pan-Union NPL investors, thus further improving market liquidity.

Or. en

Amendment 220

Dimitrios Papadimoulis

on behalf of the GUE/NGL Group

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) This Directive should *foster* the development of secondary markets for NPLs in the Union by *removing impediments* to the transfer of NPLs by credit institutions to non-credit institutions, while at the same time safeguarding consumers' rights. Any proposed measure should also simplify and harmonise the authorisation requirements for credit servicers. This Directive should therefore establish a Union-wide framework for both purchasers and servicers of credit agreements issued by credit institutions.

Amendment

(9) This Directive should *regulate* the development of secondary markets for NPLs in the Union by *posing safeguards and minimum requirements* to the transfer of NPLs by credit institutions to non-credit institutions, while at the same time safeguarding consumers' rights. Any proposed measure should also simplify and harmonise the authorisation requirements for credit servicers. This Directive should therefore establish a Union-wide framework for both purchasers and servicers of credit agreements issued by credit institutions, *whereby credit servicers should obtain authorisation and be subject to the supervision of the member-state in which they operate; furthermore, this Directive allows member-states to subject credit servicers and credit purchasers to stricter requirements.*

Or. en

Amendment 221
Matt Carthy

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) This Directive should foster the development of secondary markets for NPLs in the Union by removing impediments to the transfer of NPLs by credit institutions to non-credit institutions, while at the same time safeguarding consumers' rights. Any proposed measure should also simplify and harmonise the authorisation requirements for credit servicers. This Directive should therefore establish a Union-wide framework for both purchasers and servicers of credit agreements issued by credit institutions.

Amendment

(9) This Directive should foster the development of secondary markets for NPLs in the Union by removing impediments to the transfer of NPLs by credit institutions to non-credit institutions, while at the same time safeguarding consumers' rights, ***particularly legal protection for mortgage-holders against eviction from primary residences***. Any proposed measure should also simplify and harmonise the authorisation requirements for credit servicers. This Directive should therefore establish a Union-wide framework for both purchasers and servicers of credit agreements issued by credit institutions.

Or. en

Amendment 222
Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) This Directive should ***foster the development of*** secondary markets for NPLs in the Union by ***removing impediments to the transfer of NPLs by credit institutions to non-credit institutions, while at the same time*** safeguarding consumers' rights. Any proposed measure should also simplify and harmonise the authorisation requirements for credit servicers. This Directive should therefore establish a Union-wide

Amendment

(9) This Directive should ***aim at regulating existing*** secondary markets for NPLs in the Union by safeguarding consumers' rights. Any proposed measure should also simplify and harmonise the authorisation requirements for credit servicers. This Directive should therefore establish a Union-wide framework for credit institutions, ***credit purchasers, credit servicers and credit service providers***.

framework for *both purchasers and servicers of credit agreements issued by credit institutions.*

Or. en

Amendment 223
Frances Fitzgerald

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) This Directive should foster the development of secondary markets for NPLs in the Union by removing impediments to the transfer of NPLs by credit institutions to non-credit institutions, while at the same time safeguarding consumers' rights. Any proposed measure should also simplify and harmonise the authorisation requirements for credit servicers. This Directive should therefore establish a Union-wide framework for both purchasers and servicers of credit agreements issued by credit institutions.

Amendment

(9) This Directive should foster the development of secondary markets for NPLs in the Union by removing impediments to the transfer of NPLs by credit institutions to non-credit institutions, while at the same time ***ensuring a high level of consumer protection and*** safeguarding consumers' rights. Any proposed measure should also simplify and harmonise the authorisation requirements for credit servicers. This Directive should therefore establish a Union-wide framework for both purchasers and servicers of credit agreements issued by credit institutions.

Or. en

Amendment 224
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Other financial institutions active in the secondary market should take into account the interests of consumers and comply with all relevant national and EU

consumer protection requirements, including those set out in Article 28 of Directive 2014/17/EU^{1a}, in the EBA guidelines on arrears and foreclosure and in the EBA final guidelines on the management of non-performing and forborne exposures.

^{1a} 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. 34–85).

Or. en

Amendment 225
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) Forbearance measures should aim to return the borrower to a sustainable performing repayment status, having regard to the fair treatment of the consumer and to all relevant national and EU consumer protection requirements that may be applicable. When deciding on which steps or forbearance measures to take, credit institutions should take into account the interests of consumers and comply with consumer protection requirements, including those set out in Article 28 of Directive 2014/17/EU, in the EBA Guidelines on arrears and foreclosure and in the EBA final guidelines on the on management of non-performing and forborne exposures.

Amendment 226
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) Forbearance measures may include the following concessions to the consumer:

(a) a total or partial refinancing of a credit agreement;

(b) a modification of the previous terms and conditions of a credit agreement, which may include among others:

i. extending the term of the mortgage;

ii. changing the type of the mortgage (such as, changing the type of mortgage from a capital and interest mortgage to an interest only mortgage);

iii. deferring payment of all or part of the instalment repayment for a period;

iv. changing the interest rate up to a certain cap;

v. offering a payment holiday.

Amendment 227
Matt Carthy

Proposal for a directive
Recital 10

Text proposed by the Commission

Amendment

(10) However, currently, credit purchasers and credit servicers cannot

deleted

reap the benefits of the internal market due to barriers erected by divergent national legislations in the absence of a dedicated and coherent regulatory and supervisory regime. Member States have very different rules for how non-credit institutions may acquire credit agreements from credit institutions. Non-credit institutions which purchase credit issued by credit institutions are not regulated in some Member States, while in others they are subject to various requirements, sometimes amounting to a requirement to obtain an authorisation of a credit institution. These differences of regulatory requirements have resulted in considerable obstacles to legally purchasing credit cross-border in the Union mainly by increasing the compliance costs faced when seeking to purchase credit portfolios. As a result, credit purchasers operate in a limited number of Member States, which has resulted in little competition in the internal market, as the number of interested credit purchasers remains low. This has led to an inefficient secondary market for NPLs. In addition, the essentially national markets for NPLs tend to remain of a small volume.

Or. en

Amendment 228
Bogdan Rzońca

Proposal for a directive
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) A non-performing credit agreement is an exposure that shall be classified as non-performing according to Article 47a of the Regulation (EU) No2019/630 of 17 April 2019 amending Regulation (EU) No 575/2013 as regards

minimum loss coverage for non-performing exposures.

Or. en

Amendment 229

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) There are currently no common minimum standards at European level to regulate credit servicing activities. Moreover, no common standards are currently laid down to regulate the activities related to debt collection.

Or. en

Amendment 230

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) There are currently no common minimum standards at European level to regulate credit servicing activities. Moreover, no common standards are currently laid down to regulate the activities related to debt collection.

Or. en

Amendment 231

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The lack of competitive pressure on the market for purchasing credit and on the market for credit servicing activities results in credit servicing firms charging credit purchasers high fees for their services and leads to low prices on secondary markets for credit. This reduces incentives for credit institutions to offload their stock of NPLs.

Amendment

deleted

Or. en

Amendment 232
Derk Jan Eppink

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) Therefore, action at Union level is necessary in order to address the position of credit purchasers and credit servicers in relation to credit originally granted by credit institutions. It is not proposed to cover credit originally issued by non-credit institutions or debt collection in general at this stage, as there is no evidence of macroeconomic relevance, misaligned incentives or ill-functioning markets for such an extended scope.

Amendment

(16) Therefore, action at Union level is necessary in order to address the position of credit purchasers and credit servicers in relation to ***non-performing*** credit originally granted by credit institutions. ***This Directive is also without prejudice to the national rules imposing additional requirements for the credit purchaser or the credit servicer as concerns the renegotiation of the terms and conditions under a credit agreement.*** It is not proposed to cover credit originally issued by non-credit institutions or debt collection in general at this stage, as there is no evidence of macroeconomic relevance, misaligned incentives or ill-functioning markets for such an extended scope.

Or. en

Amendment 233

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) Therefore, action at Union level is necessary in order to address the position of credit purchasers and credit servicers in relation to credit originally granted by credit institutions. It is not proposed to cover credit originally issued by non-credit institutions or debt collection in general at this stage, as there is no evidence of macroeconomic relevance, misaligned incentives or ill-functioning markets for such an extended scope.

Amendment

(16) Therefore, action at Union level is necessary in order to address ***the protection of the borrowers as well as the sustainability of the banking system and*** the position of credit purchasers and credit servicers in relation to credit originally granted by credit institutions. It is not proposed to cover credit originally issued by non-credit institutions or debt collection in general at this stage, as there is no evidence of macroeconomic relevance, misaligned incentives or ill-functioning markets for such an extended scope.

Or. en

Amendment 234

Engin Eroglu, Luis Garicano, Monica Semedo

Proposal for a directive

Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Similarly, the Directive does not affect the restrictions in national laws regarding transfer of creditor's rights under a non-performing credit agreement or the credit agreement itself that is not terminated in accordance with national civil law with the effect that all amounts payable under the credit agreement become immediately due, where this is required for the transfer to an entity outside the banking system. This way, there will be Member States where, taking into account the national rules, the acquisition of non-performing credit

agreements that are not past due, are less than 90 days past due or are not terminated in accordance with national civil law by non-regulated creditors will remain limited. It is open to Member States to regulate the transfer of performing credit agreements, including by imposing requirements equivalent to those under this Directive.

Or. en

Justification

Identical to recital 18 in the Council text (7344/19 ADD 1) and to recital 16b in ECON's March 2019 unofficial compromise text.

Amendment 235

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive

Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Entities engaging in credit servicing activities shall be subject to the same rules, be it specialised credit servicers, banking institutions or credit purchasers. This could be a direct consequence of subjecting credit servicing activities to MiFID rules.

Or. en

Amendment 236

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive

Recital 17

Text proposed by the Commission

Amendment

(17) Although the purpose of this Directive is to strengthen the credit institutions' capacity to deal with credit that has become non-performing or risks becoming non-performing, the secondary market for credit covers both performing and non-performing credit. Actual market sales encompass credit portfolios, consisting of *a mix of performing*, under-performing and non-performing credit. The portfolios include credit that is *both secured and* unsecured and that is owed by consumers or businesses. Where rules for the enforcement of credit differed for each type of credit or borrower, there would be additional costs to the packaging of those credit portfolios for sale. The provisions in this Directive that target the development of the secondary market cover *performing and* non-performing credit in order to avoid a situation that these additional costs would discourage investor participation and fragment this emerging market. *Credit institutions will benefit from facing a larger investor base and more efficient credit servicers. Similar benefits will accrue to asset management companies that are instrumental in some Member States in marketing both non-performing and performing credit originated from credit institutions that had been resolved or been restructured or that have otherwise offloaded them from their balance sheets*²⁸.

²⁸ See Commission staff working document SWD(2018 72) on the AMC Blueprint.

(17) Although the purpose of this Directive is *to protect consumers' rights and* to strengthen the credit institutions' capacity to deal with credit that has become non-performing or risks becoming non-performing, the secondary market for credit covers both performing and non-performing credit. Actual market sales encompass credit portfolios, consisting of *heavily* under-performing and non-performing credit. The portfolios include credit that is unsecured and that is owed by consumers or businesses. Where rules for the enforcement of credit differed for each type of credit or borrower, there would be additional costs to the packaging of those credit portfolios for sale. The provisions in this Directive that target the development of the secondary market cover non-performing credit in order to avoid a situation that these additional costs would *result to a social crisis and at the same time* discourage investor participation and fragment this emerging market.

Or. en

Amendment 237
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) To guarantee a well-functioning internal market of loans and a high level of consumer protection Member States should ensure a good reputation of credit purchasers. This is important to avoid consumer harm on this market, such as the use of threatening or abusive language or behaviour or of threats to consumers and their families.

Or. en

Amendment 238

Derk Jan Eppink

Proposal for a directive

Recital 18

Text proposed by the Commission

Amendment

(18) The importance placed by the Union legislature on the protection provided for consumers in Directive 2014/17/EU of the European Parliament and of the Council²⁹, Directive 2008/48/EC of the European Parliament and of the Council³⁰ and Council Directive 93/13/EEC³¹ means that the assignment of the *creditor's* rights under a credit agreement or of the agreement itself to a credit purchaser should not affect the level of protection granted by Union law to consumers in any way. ***Credit purchasers and credit servicers should therefore comply with Union law as applicable to the initial credit agreement and the consumer should retain the same level of protection as provided under Union law or as determined by Union or national conflict of law rules regardless of the law applicable to the credit purchaser or credit servicer.***

(18) The importance placed by the Union legislature on the protection provided for consumers in Directive 2014/17/EU of the European Parliament and of the Council²⁹, Directive 2008/48/EC of the European Parliament and of the Council³⁰ and Council Directive 93/13/EEC³¹ means that the assignment of the *credit* rights under a credit agreement or of the agreement itself to a credit purchaser should not affect the level of protection granted by Union law to consumers in any way.

²⁹ 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).

³⁰ 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 60/34, 22.5.2008, p. 66).

³¹ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

²⁹ 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).

³⁰ 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 60/34, 22.5.2008, p. 66).

³¹ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

Or. en

Amendment 239

Frances Fitzgerald

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) The importance placed by the Union legislature on the protection provided for consumers in Directive 2014/17/EU of the European Parliament and of the Council²⁹, Directive 2008/48/EC of the European Parliament and of the Council³⁰ and Council Directive 93/13/EEC³¹ means that the assignment of the creditor's rights under a credit agreement or of the agreement itself to a credit purchaser should not affect the level of protection granted by Union law to consumers in any way. Credit purchasers and credit servicers should therefore comply with Union law as applicable to the initial credit agreement and the consumer should retain the same level of protection

Amendment

(18) The importance placed by the Union legislature on the protection provided for consumers in Directive 2014/17/EU of the European Parliament and of the Council²⁹, Directive 2008/48/EC of the European Parliament and of the Council³⁰ and Council Directive 93/13/EEC³¹ means that the assignment of the creditor's rights under a credit agreement or of the agreement itself to a credit purchaser should not affect the level of protection granted by Union law to consumers in any way. ***Member States should ensure that*** credit purchasers and credit servicers should therefore comply with Union law as applicable to the initial credit agreement and ***Member States***

as provided under Union law or as determined by Union or national conflict of law rules regardless of the law applicable to the credit purchaser or credit servicer.

should ensure that the consumer should retain the same level of protection as provided under Union law or as determined by Union or national conflict of law rules regardless of the law applicable to the credit purchaser or credit servicer. ***This Directive should not restrict Member States in applying stricter consumer protection provisions to credit servicers or credit purchasers.***

²⁹ 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).

²⁹ 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).

³⁰ 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 60/34, 22.5.2008, p. 66).

³⁰ 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 60/34, 22.5.2008, p. 66).

³¹ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

³¹ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

Or. en

Amendment 240 **Matt Carthy**

Proposal for a directive **Recital 18**

Text proposed by the Commission

(18) The importance placed by the Union legislature on the protection provided for consumers in Directive 2014/17/EU of the European Parliament and of the Council²⁹, Directive 2008/48/EC of the European Parliament

Amendment

(18) The importance placed by the Union legislature on the protection provided for consumers in Directive 2014/17/EU of the European Parliament and of the Council²⁹, Directive 2008/48/EC of the European Parliament

and of the Council³⁰ and Council Directive 93/13/EEC³¹ means that the assignment of the creditor's rights under a credit agreement or of the agreement itself to a credit purchaser should not affect the level of protection granted by Union law to consumers in any way. Credit purchasers and credit servicers should therefore comply with Union law as applicable to the initial credit agreement and the consumer should retain the same level of protection as provided under Union law *or as determined by Union or national conflict of law rules* regardless of the law applicable to the credit purchaser or credit servicer.

²⁹ 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).

³⁰ 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 60/34, 22.5.2008, p. 66).

³¹ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

and of the Council³⁰ and Council Directive 93/13/EEC³¹ means that the assignment of the creditor's rights under a credit agreement or of the agreement itself to a credit purchaser should not affect the level of protection granted by *national and* Union law to consumers in any way. Credit purchasers and credit servicers should therefore comply with *national and* Union law as applicable to the initial credit agreement and the consumer should retain the same level of protection as provided under *national and* Union law regardless of the law applicable to the credit purchaser or credit servicer. *National competent authorities must ensure that no borrower is worse off following the transfer of their credit agreement from a credit institution to a credit purchaser or credit servicer.*

²⁹ 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).

³⁰ 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 60/34, 22.5.2008, p. 66).

³¹ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

Or. en

Amendment 241
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) This Directive is without prejudice to the protection of consumers guaranteed by Directive 2005/27/EC of the European Parliament and of the Council that prohibits unfair practices including those during enforcement of a contract whereby the consumer is misled as to their rights or obligations; or is subject to harassment or coercion for instance in terms of the timing, location, nature or persistence of enforcement actions or contacts, the use of threatening or abusive language or behaviour or of threats to take any action that cannot legally be taken.

Or. en

Amendment 242
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Recital 20

Text proposed by the Commission

Amendment

(20) In order to ensure a high level of consumer protection, Union and national law provide for a number of rights and safeguards related to credit agreements ***promised or granted to a*** consumer. Those rights and safeguards apply in particular to the negotiation and conclusion of the credit agreement and to its performance or default thereof. This is notably the case in relation to long-term consumer credit agreements falling within Directive 2014/17/EU, in respect of the right of the consumer to discharge fully or partially his obligations under a credit agreement prior to the expiry of that agreement or to be informed by means of the European

(20) In order to ensure a high level of consumer protection, Union and national law provide for a number of rights and safeguards related to credit agreements ***that are not consumer loans, in particular those secured by the primary residential property.*** Those rights and safeguards apply in particular to the negotiation and conclusion of the credit agreement and to its performance or default thereof. This is notably the case in relation to long-term consumer credit agreements falling within Directive 2014/17/EU, in respect of the right of the consumer to discharge fully or partially his obligations under a credit agreement prior to the expiry of that

Standardised Information Sheet, where applicable, *on the possible* transfer of the credit agreement to a credit purchaser. Borrower rights should also not be altered *if the transfer of the credit agreement between a credit institution and a purchaser takes the form of* contract novation.

agreement or to be informed by means of the European Standardised Information Sheet, where applicable, *however, a* transfer of the credit agreement to a credit purchaser *should not be allowed whatsoever as* borrower rights should also not be altered *under any circumstance or* contract novation.

Or. en

Amendment 243
Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) Residential mortgages for primary residences must be excluded from the scope of this Directive.

Or. en

Amendment 244
Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) Under this Directive, a non-performing loan secured by the mortgage of a residential property must not be transferred without the written consent of the borrower.

Or. en

Amendment 245
Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) Union credit institutions **and their subsidiaries** undertake credit servicing activities as part of their normal business. They have the same obligations with regard to credit they have issued themselves and **credit they** purchased from another credit institution. Since they are already regulated and supervised, application of this Directive to their credit servicing or purchasing activities would mean unnecessary duplication of authorisation and compliance costs and therefore they are not covered by this Directive.

Amendment

(22) Union credit institutions undertake credit servicing activities as part of their normal business. They have the same obligations with regard to credit **agreements that** they have issued themselves and **those** purchased from another credit institution **or which they service on behalf of a credit purchaser**. Since they are already regulated and supervised, application of this Directive to their credit servicing or purchasing activities would mean unnecessary duplication of authorisation and compliance costs and therefore they are not covered by this Directive. **Also, the outsourcing by the credit institutions of credit servicing activities, in relation to both performing and non-performing credit agreements, to credit servicers or other third parties, is outside the scope of this Directive because the credit institutions already have to observe the applicable outsourcing rules. Moreover, creditors that are not credit institutions but are nevertheless regulated and supervised by a competent authority of a Member State in accordance with Directive 2008/48/EC and Directive 2014/17/EU and undertake credit servicing activities for loans granted to consumers as part of their normal business are not covered by this Directive when performing in that Member State credit servicing activities for loans issued by credit institutions. Further, alternative investment fund manager, management company and investment company (provided that the investment company has not designated a management company) authorized or registered under Directive 2011/61/EU or Directive 2009/65/EC should not fall within the scope of this Directive. Also, there are**

some professions that undertake ancillary activities similar to servicing activities namely public notaries, lawyers, bailiffs and officials that perform under national law court provisions and implement the enforcement of binding measures and, therefore, Member States may decide not to apply this Directive for those professions.

Or. en

Amendment 246

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) In order to allow existing credit purchasers and credit servicers to adapt to the requirements of the national provisions implementing this Directive and, in particular, to allow credit servicers to be authorised, this Directive will only apply to transfers of credit agreements that take place six months after the transposition deadline has expired.

Amendment

(23) In order to allow existing credit purchasers and credit servicers to adapt to the requirements of the national provisions implementing this Directive and, in particular, to allow credit servicers to be authorised, this Directive will only apply to transfers of credit agreements that take place six months after the transposition deadline has expired ***and only after the creditor has given to distressed borrowers the right to buy back their debt at the same price.***

Or. en

Amendment 247

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) The authorisation of a credit

Amendment

(24) The authorisation of a credit

servicer to provide credit servicing activities throughout the Union should be subject to a uniform and harmonised set of conditions that should be applied in a proportionate manner by the competent authorities. To avoid a reduction in debtor or borrower protection and in order to promote trust, the conditions for granting and maintaining an authorisation as a credit servicer should ensure that credit servicers, persons who hold a qualifying holding in the credit servicer or who are part of the management of the service provider have a clean police record in relation to serious criminal offences linked to crimes against property, to crimes related to financial activities or to crimes against the physical integrity and that they are of good repute. Similarly, these persons as well as the credit servicer should not be subject to an insolvency procedure or have not previously been declared bankrupt, unless they have been reinstated in accordance with national law. Finally, to ensure compliance with debtor protection as well as personal data protection rules, it is necessary to require that appropriate governance arrangements and internal control mechanisms and recording and handling of complaints, are established and subject to supervision. Moreover, credit servicers should be obliged to act fairly and with due consideration for the financial situation of the borrowers. Where debt advice services facilitating debt repayment are available at national level, the credit servicers *should consider referring* borrowers to such services.

servicer to provide credit servicing activities throughout the Union should be subject to a uniform and harmonised set of conditions that should be applied in a proportionate manner by the competent authorities. To avoid a reduction in debtor or borrower protection and in order to promote trust, the conditions for granting and maintaining an authorisation as a credit servicer should ensure that credit servicers, persons who hold a qualifying holding in the credit servicer or who are part of the management of the service provider have a clean police record in relation to serious criminal offences linked to crimes against property, to crimes related to financial activities or to crimes against the physical integrity and that they are of good repute. Similarly, these persons as well as the credit servicer should not be subject to an insolvency procedure or have not previously been declared bankrupt, unless they have been reinstated in accordance with national law. Finally, to ensure compliance with debtor protection as well as personal data protection rules, it is necessary to require that appropriate governance arrangements and internal control mechanisms and recording and handling of complaints, are established and subject to supervision. Moreover, credit servicers should be obliged to act fairly and with due consideration for the financial situation of the borrowers. ***In addition, when dealing with borrowers, credit servicers should follow minimum EU common standards as laid down in this Directive and transposed by Member States.*** Where debt advice services facilitating debt repayment are available at national level, the credit servicers ***are obliged to refer*** borrowers to such services.

Or. en

Amendment 248
Frances Fitzgerald

Proposal for a directive
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Credit purchasers should also be subject to authorisation to provide credit servicing activities throughout the Union to ensure that those who hold a legal title to credit granted under the credit agreement are regulated by the competent authorities and are subject to a uniform and harmonised set of conditions that should be applied in a proportionate manner by the competent authorities. The conditions for granting and maintaining an authorisation for a credit purchaser should be the same as those for a credit servicer. Credit purchasers should be obliged to act fairly and with due consideration for the financial situation of the borrowers. Where debt advice services facilitating debt repayment are available at national level, the credit purchasers should consider referring borrowers to such services.

Or. en

Amendment 249
Frances Fitzgerald

Proposal for a directive
Recital 25

Text proposed by the Commission

Amendment

(25) To avoid lengthy procedures and uncertainty, it is necessary to establish requirements regarding the information applicants are required to submit, as well as the reasonable deadlines for the issue of an authorisation and the circumstances for its withdrawal of authorisation. Where authorities withdraw an authorisation of a credit servicer which provides credit

(25) To avoid lengthy procedures and uncertainty, it is necessary to establish requirements regarding the information applicants are required to submit, as well as the reasonable deadlines for the issue of an authorisation and the circumstances for its withdrawal of authorisation. Where authorities withdraw an authorisation of a credit servicer ***or a credit purchaser*** which

servicing activities in other Member States, competent authorities in the host Member State should be informed. Equally, an up-to-date online public register should be established in each Member State to ensure transparency as regards the number and identity of authorised credit servicers.

provides credit servicing activities in other Member States, competent authorities in the host Member State should be informed. Equally, an up-to-date online public register should be established in each Member State to ensure transparency as regards the number and identity of authorised credit servicers **and credit purchasers**.

Or. en

Amendment 250
Derk Jan Eppink

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) An important prerequisite for the taking up of the role by credit purchasers and credit servicers should be that they can access all relevant information and Member State should ensure that this is possible, while at the same time observing Union and national data protection rules.

Amendment

(30) An important prerequisite for the taking up of the role by credit purchasers and credit servicers should be that they can access all relevant information and Member State should ensure that this is possible, while at the same time observing Union and national data protection rules.

Or. en

Amendment 251
Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) Where a credit institution transfers a credit agreement, they should be required to inform their supervisor and the competent authority for supervising compliance with this Directive about **the main characteristics** of the transferred credit portfolio **and** the identity of the

Amendment

(31) Where a credit institution transfers a credit agreement, they should be required to inform their supervisor and the competent authority for supervising compliance with this Directive **on a quarterly basis and on an aggregated level** about **at least the aggregated outstanding**

purchaser and, where applicable, its representative in the Union. That competent authority should be obliged to transmit that information to the authorities competent to supervise the credit purchaser **and the competent authority where the borrower is established**. Such transparency requirements allow for a harmonised and effective monitoring of the transfer of credit agreements within the Union.

balance of the transferred credit portfolio as well as number and size of the loans included and whether it includes agreements concluded with consumers. For each portfolio transferred in a single transaction information should include the legal entity identifier, or when not available the identity and address of the purchaser and, where applicable, its representative in the Union. That competent authority should be obliged to transmit that information to the authorities competent to supervise the credit purchaser. Such transparency requirements allow for a harmonised and effective monitoring of the transfer of credit agreements within the Union. In order to comply with the principle of proportionality, competent authorities should, in order to avoid the duplication, take into account information that is already available to them by other means, in particular as regards credit institutions. It remains understood that the notification requirements to the national competent authority on a credit portfolio once such portfolio has been transferred to a credit purchaser is under the responsibility of the latter. In addition, in case of securitisation transactions, where mandatory transparency templates are foreseen, any double reporting according to this directive should be avoided.

Or. en

Amendment 252
Jonás Fernández

Proposal for a directive
Recital 32

Text proposed by the Commission

(32) As part of the Council's Action Plan, credit institutions' data infrastructure would be strengthened by having uniform

Amendment

(32) As part of the Council's Action Plan, credit institutions' data infrastructure would be strengthened by having uniform

and standardised data for non-performing credit agreements. The European Banking Authority has developed data templates that provide information about credit exposures in the banking book and allow potential buyers to evaluate the value of the credit agreements and carry out their due diligence. Applying such templates to credit agreements would reduce information asymmetries between potential buyers and sellers of credit agreements and, thus, contribute to the development of a functioning secondary market in the Union. The EBA should therefore develop the data templates into implementing technical standards *and* credit institutions should use those standards in order to facilitate the valuation of credit agreements for sale.

and standardised data for non-performing credit agreements. The European Banking Authority has developed data templates that provide information about credit exposures in the banking book and allow potential buyers to evaluate the value of the credit agreements and carry out their due diligence. Applying such templates to credit agreements would reduce information asymmetries between potential buyers and sellers of credit agreements and, thus, contribute to the development of a functioning secondary market in the Union. The EBA should therefore develop the data templates into implementing technical standards *for credit institutions. In order to comply with the principle of proportionality, those information requirements should be applied to credit institutions in a proportionate manner having regard to their size and complexity. Other sellers of credit agreements should be encouraged to* use those standards in order to facilitate the valuation of credit agreements for sale.

Or. en

Amendment 253
Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive
Recital 33

Text proposed by the Commission

(33) Since the valuation of a portfolio of non-performing credit is complicated and complex, actual buyers on secondary markets are sophisticated investors. Often they are investment funds, financial institutions or credit institutions. As they are not creating new credit, but are buying existing credit at own risk, they do not cause prudential concerns and their potential contribution to systemic risk is negligible. It is therefore not justified to

Amendment

(33) Since the valuation of a portfolio of non-performing credit is complicated and complex, actual buyers on secondary markets are sophisticated investors. Often they are investment funds, financial institutions or credit institutions. As they are not creating new credit, but are buying existing credit at own risk, they do not cause prudential concerns and their potential contribution to systemic risk is negligible. It is therefore not justified to

require those types of investors to apply for an authorisation or to set special conditions for them to engage in such activities. It is however important that Union and national consumer protection rules continue to apply and the borrowers' rights continue to be those arising from the initial credit agreement.

require those types of investors to apply for an authorisation or to set special conditions for them to engage in such activities. It is however important that Union and national consumer protection rules continue to apply and the borrowers' rights continue to be those arising from the initial credit agreement. ***However, credit purchasers that are not credit institutions but are nevertheless regulated or supervised by a competent authority of a Member State may provide in certain cases new credit to business borrowers in an effort to exercise reasonable recovery measures.***

Or. en

Amendment 254

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) Third-country credit purchasers may make it harder for the Union consumer to rely on their rights under Union law and for the national authorities to supervise the enforcement of the credit agreement. Credit institutions may also be discouraged from transferring such credit agreements to third-country credit purchasers because of the reputational risk involved. ***Imposing an obligation on the representative of the third-country purchasers of consumer credit to appoint a credit institution or a credit servicer authorised in the Union for servicing a credit agreement ensures*** that the same standards of consumers' rights are preserved after the transfer of the credit agreement. The credit servicer ***is*** under an obligation to respect the applicable Union and national laws and the national authorities in individual Member States should be given the necessary powers to

Amendment

(34) Third-country credit purchasers may make it harder for the Union consumer to rely on their rights under Union law and for the national authorities to supervise the enforcement of the credit agreement. Credit institutions may also be discouraged from transferring such credit agreements to third-country credit purchasers because of the reputational risk involved. ***As a result, both the credit purchasers and credit servicers operating in the Union must be obliged to be*** authorised in the Union ***to ensure*** that the same standards of consumers' rights are preserved after the transfer of the credit agreement. The credit ***purchaser and credit servicer are*** under an obligation to respect the applicable Union and national laws and the national authorities in individual Member States should be given the necessary powers to effectively

effectively supervise *its activity*.

supervise *their activities*.

Or. en

Amendment 255
Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) Credit purchasers generally rely on a short-term business model that specialises in purchasing distressed debt at a large discount and attempting to procure the underlying asset as quickly as possible. As it is the credit purchaser that makes the key decisions regarding the distressed loan, including on the setting of interest rates, whether to restructure a loan, and the enforcement of the loan, it is crucial that the credit purchaser - and not only the credit servicer that acts as an intermediary - is authorised and regulated in the Union, and subject to supervision, investigation and sanctions by the national competent authorities in the Member State in which it operates.

Or. en

Amendment 256
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Recital 34 a (new)

Text proposed by the Commission

Amendment

(34a) When a credit purchaser manages and enforces the rights and obligations related to the creditor's rights under a

credit agreement or the credit agreement itself, he is considered to be a credit servicer, and should therefore be authorised under the rules laid down in this directive.

Or. en

Amendment 257

Markus Ferber

Proposal for a directive

Recital 52

Text proposed by the Commission

(52) Without prejudice to pre-contractual obligations under Directive 2014/17EU, Directive 2008/48/EC and Directive 93/13/EEC, 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 clear and comprehensive list of any such changes, the timescale for their implementation and the necessary details as well as the name and address of the national authority where he or she may lodge a complaint.

Amendment

(52) Without prejudice to pre-contractual obligations under Directive 2014/17EU, Directive 2008/48/EC and Directive 93/13/EEC, and in order to ensure a high level of consumer protection, the consumer should be presented, in due time and prior to any **substantial** modifications to the terms and conditions of the credit agreement, with a clear and comprehensive list of any such changes, the timescale for their implementation and the necessary details as well as the name and address of the national authority where he or she may lodge a complaint.

Or. en

Justification

In order to avoid disproportionate administrative burden, the information requirement should only be triggered in cases of substantial modifications.

Amendment 258

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Recital 53 a (new)

Text proposed by the Commission

Amendment

(53a) In order to achieve a sufficient level of borrower protection and to address debt collection malpractice, harmonised EU regulation should ensure that the costs and remuneration of credit servicers are never charged to borrowers.

Or. en

Amendment 259

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Recital 54 a (new)

Text proposed by the Commission

Amendment

(54a) Member States shall ensure that behaviour or practices that are likely to negatively impact on borrower privacy and/or human dignity, or are likely to mislead them are prohibited. Practices that can be considered as harassment include sending excessive numbers of dunning letters, using intimidating language, using stigmatizing envelopes, visiting the borrower during working hours or at the workplace, or contacting their colleagues or family members. These practices can aggravate the borrower's situation causing possible loss of employment and reduce their capacity to repay a debt.

Or. en

Amendment 260

Evelyn Regner, Joachim Schuster

Proposal for a directive

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

This Directive lays down a common framework and requirements for:

This Directive applies to non-performing loans with the exception of secured and unsecured credit agreements concluded between creditors and consumers as defined in Article 3(a) of Directive 2008/48/EC. This Directive lays down a common framework and requirements for:

Or. de

Justification

For consumer protection reasons, a secondary market for consumer credit is not desirable and should therefore be rejected, since sales of claims are likely, effectively, to be highly detrimental to consumers' contractual position.

Amendment 261

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

This Directive lays down a common framework and requirements for:

This Directive ***relates to non-performing credit agreements and*** lays down a common framework and requirements for:

Or. en

Justification

This amendment applies throughout the text.

Amendment 262

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 1 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) credit servicers ***acting on behalf of a credit institution or a credit purchaser in respect of*** a credit agreement issued by a

(a) credit servicers ***of creditor's rights under*** a credit agreement ***or of the credit agreement itself,*** issued by a credit

credit institution *or by* its subsidiaries;

institution, its subsidiaries *established in the Union or other creditors, who are creditors or act on behalf of a credit purchaser or a credit institution*;

Or. en

Amendment 263

Engin Eroglu, Luis Garicano, Monica Semedo

Proposal for a directive

Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) credit servicers **acting** on behalf of a credit institution or a credit purchaser **in respect of a credit agreement issued by a credit institution or by its subsidiaries**;

Amendment

(a) credit servicers **of creditor's rights under a non-performing credit agreement or of the non-performing credit agreement itself issued by a credit institution established in the Union, who act** on behalf of a credit institution or a credit purchaser;

Or. en

Amendment 264

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) credit servicers acting on behalf of a credit institution or a credit purchaser in respect of a credit agreement issued by a credit institution **or by its subsidiaries**;

Amendment

(a) credit servicers acting on behalf of a credit institution or a credit purchaser in respect of a **non-performing** credit agreement issued by a credit institution **established in the Union**;

Or. en

Amendment 265

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive
Article 1 – paragraph 1 – point b

Text proposed by the Commission

(b) credit purchasers of a credit agreement issued by a credit institution *or by* its subsidiaries;

Amendment

(b) credit purchasers of a *creditor's rights under a* credit agreement *or of the credit agreement itself* issued by a credit institution, its subsidiaries *established in the Union or other creditors*;

Or. en

Amendment 266

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive
Article 1 – paragraph 1 – point b

Text proposed by the Commission

(b) credit purchasers of a credit agreement issued by a credit institution *or by its subsidiaries*;

Amendment

(b) credit purchasers of a *non-performing* credit agreement issued by a credit institution *established in the Union*;

Or. en

Amendment 267

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive
Article 1 – paragraph 1 – point c

Text proposed by the Commission

(c) *a supplementary common accelerated extrajudicial collateral enforcement mechanism in respect of secured credit agreements concluded between creditors and business borrowers which are secured by collateral.*

Amendment

deleted

Amendment 268

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 1 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) a supplementary common accelerated extrajudicial collateral enforcement mechanism in respect of secured credit agreements concluded between creditors and business borrowers which are secured by collateral.

deleted

Or. en

Amendment 269

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 1 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) creditors prior to the transfer of creditor's rights under a credit agreement or the credit agreement.

Or. en

Amendment 270

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Directive relates to non-performing credit agreements only. Creditors shall

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

Or. en

Justification

The fact that this directive relates only to non-performing loans is mentioned in the explanatory statement and the recitals. However, the scope (Art 1) and the subject matter (Art 2) do not specify that fact. For the sake of clarity, and in order to avoid any unintended consequences, it must be explicitly stated that this directive deals only with non-performing credit agreements. This also means that lenders should not be allowed to sell performing credit agreements to third parties.

Amendment 271

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Directive relates to non-performing credit agreements. Creditors shall not be allowed to transfer to third parties performing credit agreements concluded with consumers.

Or. en

Amendment 272

Stéphanie Yon-Courtin

Proposal for a directive

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Directive relates to non-performing credit agreements. Creditors shall not be allowed to transfer to third parties performing credit agreements concluded with consumers.

Justification

The fact that this directive relates only to non-performing loans is mentioned in the explanatory statement and the recitals. However, the scope (Art 1) and the subject matter (Art 2) do not specify that fact. For the sake of clarity, and in order to avoid any unintended consequences, it must be explicitly stated that this directive deals only with non-performing credit agreements. This also means that lenders should not be allowed to sell performing credit agreements to third parties.

Amendment 273

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive**Article 1 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

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

Justification

This amendment applies throughout the text.

Amendment 274

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive**Article 2 – paragraph 1 – point a**

Text proposed by the Commission

Amendment

(a) ***a credit servicer of a credit agreement issued by a credit institution established in the Union or by its subsidiaries established in the Union*** which acts on behalf of a creditor, in accordance with applicable Union or national law.

(a) credit ***servicers of creditor's rights under a credit agreement or of the credit agreement itself***, which acts on behalf of a creditor, in accordance with applicable Union or national law.

Amendment 275

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) *a credit purchaser of a credit agreement issued by a credit institution established in the Union or by its subsidiaries established in the Union, whereby the credit purchaser assumes the creditor's obligations under the credit agreement, in accordance with applicable Union and national law;*

Amendment

(b) credit *purchasers of a creditor's rights under* a credit agreement *or of the credit agreement itself* whereby the credit purchaser assumes the creditor's obligations under the credit agreement, in accordance with applicable Union and national law;

Amendment 276

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 2 – paragraph 2

Text proposed by the Commission

2. Articles 3, 23 to 33 and 39 to 43 of this Directive shall apply to secured credit agreements concluded between creditors and business borrowers which are secured by any movable and immovable assets owned by the business borrower and which have been posed as collateral to a creditor in order to secure repayment of claims arising from the secured credit agreement.

Amendment

deleted

Amendment 277
Stasys Jakeliūnas

Proposal for a directive
Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Directive shall not apply to credit agreements concluded between creditors and borrowers who are consumers, secured by immovable residential property, which is the primary residence of the borrower.

Or. en

Justification

Taking a home loan is among the most important and riskiest decisions for people. Asset prices have reached high levels and this may lead borrowers into financial distress, especially as interest rates move up. Including such credit contracts in the scope of the single secondary market for non-performing loans would expose distressed borrowers to dealing with credit purchasers and credit servicers who are established, regulated and supervised abroad. This means a higher risk of unfair treatment and home foreclosure by these third parties.

Amendment 278
Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive
Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Directive shall not apply to consumer non-performing credit agreements. Creditors shall not be allowed to transfer to third parties performing credit agreements concluded with consumers.

Or. en

Amendment 279
Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission

3. This Directive **does** not affect the protection granted to consumers, pursuant **to** Directive 2014/17/EU, Directive 2008/48/EC, Council Directive **93/13/EEC** and the national provisions transposing them, **with regard to credit agreements falling within its scope.**

Amendment

3. **With regard to credit agreements falling within its scope**, this Directive **shall** not affect **neither contract law principles or civil law principles under national law with regard to the transfer of creditor's rights under a credit agreement or of the credit agreement itself**, nor the protection granted to consumers **or borrowers** pursuant **in particular, to Regulation (EU) No 1215/2012, Regulation (EC) No 593/2008**, Directive 2014/17/EU, Directive 2008/48/EC, Council Directive **93/13/EC** and the national provisions transposing them **or other relevant Union law and national consumer protection laws.**

Or. en

Amendment 280

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive
Article 2 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. This Directive shall not affect the [existing] restrictions in the Member States' national laws regarding the transfer of creditor's rights under a non-performing credit agreement that are not past due, or are less than 90 days past due or are not terminated in accordance with national civil law, or the transfer of creditor's rights under such a non-performing credit agreement.

Or. en

Amendment 281

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Article 2 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. This Directive shall not affect the restrictions in the Member States' national laws regarding the transfer of creditor's rights under a non-performing credit agreement that is not past due, or is less than 90 days past due or is not terminated in accordance with national civil law, or the transfer of such a non-performing credit agreement.

Or. en

Justification

Identical to Article 2(3a) in the Council text (7344/19 ADD 1) and to Article 2(3a) in ECON's March 2019 unofficial compromise text.

Amendment 282

Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive

Article 2 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. This Directive shall not affect the requirements in the Member States' national laws regarding the servicing of creditor's rights under a credit agreement or of the credit agreement itself, when the credit purchaser is a securitisation special purpose entity, as defined in Article 2 (2) of Regulation (EU) 2017/2402.

Or. en

Amendment 283

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 2 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. This Directive shall not affect the requirements in the Member States' national laws regarding the servicing of creditor's rights under a credit agreement or of the credit agreement itself, when the credit purchaser is a securitisation special purpose entity, as defined in Article 2(2) of Regulation (EU) 2017/2402.

Or. en

Amendment 284

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 2 – paragraph 4

Text proposed by the Commission

Amendment

4. Articles 3 to 22 and 34 to 43 of this Directive shall not apply to the following: ***deleted***

(a) the servicing of a credit agreement carried out by a credit institution established in the Union or its subsidiaries established in the Union;

(b) the servicing of a credit agreement that was not issued by a credit institution established in the Union or its subsidiaries established in the Union, except where the credit agreement issued is replaced by a credit agreement issued by such an institution or its subsidiaries;

(c) the purchase of a credit agreement by a credit institution established in the Union or its subsidiaries established in

the Union;

(d) the transfer of credit agreements transferred before the date referred to in the second subparagraph of Article 41(2).

Or. en

Amendment 285

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Article 2 – paragraph 4 – point a

Text proposed by the Commission

(a) the servicing of a credit agreement carried out by a credit institution established in the Union or its subsidiaries established in the Union;

Amendment

(a) the servicing of a credit agreement carried out by a credit institution established in the Union or its subsidiaries established in the Union; ***an AIFM as defined in point (b) of Article 4(1) of Directive 2011/61/EU; a management company as defined in point (b) of Article 2(1) in Directive 2009/65/EC; or an investment firm as defined in point (1) of Article 4(1) of Directive 2014/65/EU;***

Or. en

Amendment 286

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive

Article 2 – paragraph 4 – point c a (new)

Text proposed by the Commission

(ca) the purchase of a credit agreement by a credit institution or non-credit institution which has been involved in a tax avoidance or tax evasion case in any Member State of the EU;

Or. en

Amendment 287
Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive
Article 2 – paragraph 4 – point d

Text proposed by the Commission

(d) the transfer of credit **agreements** transferred before the date referred to in the second subparagraph of Article 41(2).

Amendment

(d) the transfer of **creditor's rights or the credit agreement itself** transferred before the date referred to in the second subparagraph of Article 41(2).

Or. en

Amendment 288
Danuta Maria Hübner

Proposal for a directive
Article 2 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States may exempt from the application of this Directive the servicing of creditor's rights under a credit agreement or the credit agreement itself carried out by members of a legal profession, subject to the supervision of each Member State, such as public notaries and bailiffs as defined by national law or lawyers as defined in point (a) of Article 1(2) of Directive 98/5/EC of the European Parliament and of the Council^{36a}, when conducting activities referred to in Article 3(9) of this Directive as part of their profession.

Or. en

Amendment 289
Ernest Urtasun
on behalf of the Greens/EFA Group

Jonás Fernández

**Proposal for a directive
Article 2 – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

4a. Articles 5, 6 and 7 of this Directive shall not apply to credit institutions or their subsidiaries established in the Union. When transposing the provisions of this Directive, Member States shall avoid any duplications of requirements for credit institutions under Directive 2014/17/EU, Directive 2008/48/EC, and Directive 2013/36/EC.

Or. en

Amendment 290

Ernest Urtasun

on behalf of the Greens/EFA Group

**Proposal for a directive
Article 2 – paragraph 5**

Text proposed by the Commission

Amendment

5. Articles 3, 23 to 33 and 34 to 43 of this Directive shall not apply to: *deleted*

(a) secured credit agreements concluded between creditors and borrowers who are consumers as defined in point (a) of Article 3 of Directive 2008/48/EC;

(b) secured credit agreements concluded between creditors and business borrowers who are non-profit making companies;

(c) secured credit agreements concluded between creditors and business borrowers which are secured by the following categories of collateral:

(i) financial collateral arrangements as defined in Article 2(1)(a) of Directive 2002/47/EC³⁷ ;

(ii) immovable residential property which

is the primary residence of a business borrower.

³⁷ *Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168 , 27.6.2002, p. 43).*

Or. en

Amendment 291
Evelyn Regner, Joachim Schuster

Proposal for a directive
Article 2 – paragraph 5 – point a

Text proposed by the Commission

Amendment

(a) secured credit agreements concluded between creditors and borrowers who are consumers as defined in point (a) of Article 3 of Directive 2008/48/EC; **deleted**

Or. de

Justification

For consumer protection reasons, a secondary market for consumer credit - sales of claims in connection with non-performing loans - is not desirable and should therefore be rejected, since such sales are likely, effectively, to be highly detrimental to consumers' contractual position.

Amendment 292
Danuta Maria Hübner

Proposal for a directive
Article 2 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Articles 4 to 15(1), 16 to 22 and 34 to 37 of this Directive shall not apply to (a) performing loans; and

(b) syndicated loan arrangements.

Or. en

Amendment 293

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 3 – paragraph 1 – point 3

Text proposed by the Commission

(3) 'borrower' means a legal or natural person who has concluded a credit agreement with a creditor;

Amendment

(3) 'borrower' means a legal or natural person, ***other than a consumer***, who has concluded a credit agreement with a creditor;

Or. en

Amendment 294

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 3 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3a) “borrower under payment difficulties” means a natural or legal person who has concluded a credit agreement that has been qualified or is likely to be qualified as “non-performing” in the meaning of point 9a;

Or. en

Amendment 295

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 3 – paragraph 1 – point 5

Text proposed by the Commission

(5) 'credit agreement' means an agreement as originally issued, modified or replaced, whereby a creditor grants or promises to grant a credit in the form of a deferred payment, a loan or other similar financial accommodation;

Amendment

(5) 'credit agreement' means an agreement ***by a credit institution or any other creditor*** as originally issued, modified or replaced, whereby a creditor grants or promises to grant a credit in the form of a deferred payment, a loan or other similar financial accommodation

Or. en

Amendment 296

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 3 – paragraph 1 – point 7

Text proposed by the Commission

(7) 'credit purchaser' means any natural or legal person ***other than a credit institution or a subsidiary of a credit institution*** which purchases a credit agreement in the course of his trade, business or profession;

Amendment

(7) 'credit purchaser' means any natural or legal person which purchases a credit agreement in the course of his trade, business or profession;

Or. en

Amendment 297

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 3 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) 'credit servicer' means a legal person who, in the course of its business, manages and enforces the rights and obligations related to the creditor's rights under a non-performing credit agreement

or the non-performing credit agreement itself on behalf of the creditor or on behalf of itself and carries out at least one or more of the following activities:

(i) collecting or recovering payments due related to the creditor's rights under a credit agreement or to the credit agreement itself from the borrower where it is not a 'payment service' as defined in Annex I of Directive 2015/2366, in accordance with national law;

(ii) renegotiating, in accordance with the requirements provided in the national law, of the terms and conditions related to the creditor's rights under a credit agreement or of the credit agreement itself with borrowers in line with the instructions given by the creditor, where he is not a 'credit intermediary' as defined in Article 4(5) of Directive 2014/17/EU or point (f) of Article 3 of Directive 2008/48/EC;

(iii) administering any complaints in relation to the creditor's rights under a credit agreement or to the credit agreement itself;

(iv) informing the borrower of any changes in interest rates, charges or of payments due related to the creditor's rights under a credit agreement or the credit agreement itself.

Or. en

Amendment 298

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 3 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) 'credit servicer' means any natural or legal person, other than a credit

deleted

institution or its subsidiaries, which carries out one or more of the following activities on behalf of a creditor:

(a) monitors the performance of the credit agreement;

(b) collects and manages information about the status of the credit agreement, of the borrower and of any collateral used to secure the credit agreement;

(c) informs the borrower of any changes in interest rates, charges or of payments due under the credit agreement;

(d) enforces the rights and obligations under the credit agreement on behalf of the creditor, including administering repayments;

(e) renegotiates the terms and conditions of the credit agreement with borrowers, where they are not a 'credit intermediary' as defined in Article 4(5) of Directive 2014/17/EU or Article 3(f) of Directive 2008/48/EC;

(f) handles borrowers' complaints.

Or. en

Amendment 299
Matt Carthy

Proposal for a directive
Article 3 – paragraph 1 – point 8 – introductory part

Text proposed by the Commission

(8) 'credit servicer' means any natural or legal person, other than a credit institution or its subsidiaries, which carries out one or more of the following activities on behalf of a creditor:

Amendment

(8) '***A business to business*** credit servicer' means any natural or legal person, other than a credit institution or its subsidiaries, which carries out one or more of the following activities on behalf of a creditor ***of a business or professional borrower***:

Or. en

Amendment 300

Engin Eroglu, Luis Garicano, Monica Semedo

Proposal for a directive

Article 3 – paragraph 1 – point 8 – point e a (new)

Text proposed by the Commission

Amendment

(ea) handles any activities related to debt collection;

Or. en

Amendment 301

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Article 3 – paragraph 1 – point 8 – point f

Text proposed by the Commission

Amendment

(f) handles borrowers' complaints. deleted

Or. en

Amendment 302

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Article 3 – paragraph 1 – point 8 – point f a (new)

Text proposed by the Commission

Amendment

(fa) handles any activities related to debt collection;

Or. en

Amendment 303

Matt Carthy

Proposal for a directive
Article 3 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

(9a) *A 'business to borrower credit servicer' means any natural or legal person, other than a credit institution or its subsidiaries, which carries out one or more of the following activities on behalf of a creditor of a borrower:*

(a) *monitors the performance of the credit agreement;*

(b) *collects and manages information about the status of the credit agreement, of the borrower and of any collateral used to secure the credit agreement;*

(c) *informs the borrower of any changes in interest rates, charges or of payments due under the credit agreement;*

(d) *enforces the rights and obligations under the credit agreement on behalf of the creditor, including administering repayments;*

(e) *renegotiates the terms and conditions of the credit agreement with borrowers, where they are not a 'credit intermediary' as defined in Article 4(5) of Directive 2014/17/EU or Article 3(f) of Directive 2008/48/EC;*

(f) *handles any activities related to debt collection.*

Or. en

Amendment 304
Danuta Maria Hübner

Proposal for a directive
Article 3 – paragraph 1 – point 11 a (new)

Text proposed by the Commission

Amendment

(11a) *a 'non-performing credit agreement' means an exposure that is*

classified as non-performing in accordance with Article 47a of Regulation (EU) 575/2013.

Or. en

Amendment 305

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 3 – paragraph 1 – point 11 a (new)

Text proposed by the Commission

Amendment

(11a) ‘non-performing credit agreement’ means a credit agreement that is classified as non-performing exposure in accordance with Regulation (EU) No 575/2013.

Or. en

Amendment 306

Dimitrios Papadimoulis, Matt Carthy

on behalf of the GUE/NGL Group

Proposal for a directive

Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Forbearance measures and foreclosure

1. Creditors shall make every effort to avoid transferring consumer non-performing loans to third parties. Notably, Member States shall ensure that creditors exercise reasonable forbearance towards the distressed borrowers, in accordance with Article 28 of Directive 2014/17/EU and the EBA guidelines on arrears and foreclosure EBA/GL/2015/12.

2. Forbearance measures may include the following concessions to the consumer:

(a) a total or partial refinancing of a credit agreement;

(b) a modification of the previous terms and conditions of a credit agreement, which may include among others:

i. extending the term of the mortgage;

ii. changing the type of the mortgage (such as, changing the type of mortgage from a capital and interest mortgage to an interest only mortgage);

iii. deferring payment of all or part of the instalment repayment for a period;

iv. changing the interest rate up to a certain cap;

v. offering a payment holiday.

3. Definition of non-performing loans adopted by the Commission Implementing Regulation (EU) 2015/227 shall be without prejudice to the creditors' forbearance obligations.

4. In case of foreclosure, when the credit is secured by the consumer's primary residence, return or transfer to the creditor or a third-party of the security or proceeds from the sale of the security shall be sufficient to repay the credit. Article 28(4) of Directive 2014/17/EU shall be amended accordingly.

Or. en

Amendment 307
Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Conditions for the sale of non-performing residential mortgages

(1) A loan secured by the mortgage of a residential property in any Member State shall not be transferred to a credit purchaser or credit servicer or any third party without the written consent of the borrower.

(2) When seeking consent from either an existing or a new borrower the creditor must provide a statement to the borrower containing sufficient information in order to make an informed decision.

(3) The statement provided pursuant to subsection (2) must be approved in advance by the national competent authority and shall include: (i) a clear explanation of the implications of a transfer including with respect to the borrower's membership status where the lender is a building society; and (ii) how the transfer might affect the borrower.

(4) Each borrower shall be approached individually and shall be given a reasonable time within which to give or decline to give their consent.

Or. en

Amendment 308
Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

Exclusion of primary residences

Residential mortgages for primary residences are excluded from the scope of this Directive.

Or. en

Amendment 309
Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Article 3 c (new)

Text proposed by the Commission

Amendment

Article 3c

Borrower protection

A sufficient level of borrower protection shall be ensured at all times. Credit servicers dealing with borrowers must comply with the specific requirements laid down in this Directive.

Or. en

Amendment 310
Frances Fitzgerald

Proposal for a directive
Title 2 – chapter 1 – title

Text proposed by the Commission

Amendment

Authorisation of credit servicers

Authorisation of credit servicers ***and credit purchasers***

Or. en

Justification

Credit purchasers should also be subject to authorisation to provide credit servicing activities to ensure that those who hold a legal title to credit granted under the credit agreement are regulated by the competent authorities and are subject to a uniform and harmonised set of conditions.

Amendment 311
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Member States shall be able to maintain the existing national measures aiming at protecting distressed borrowers, as well to adopt stricter measures, such as personal insolvency measures, restriction of the activity of credit servicers and credit purchasers.*

Or. en

Amendment 312
Frances Fitzgerald

Proposal for a directive
Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Member States shall require a credit purchaser to obtain an authorisation in a home Member State before commencing its activities within its territory in accordance with the requirements set out in the national provisions transposing this Directive.*

Or. en

Amendment 313
Frances Fitzgerald

Proposal for a directive
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall lay down the following requirements for the granting of an authorisation as referred to in Article 4(1):

1. Member States shall lay down the following requirements for the granting of an authorisation as referred to in Article 4(1) **and Article 4(1a)**:

Amendment 314
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Article 5 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) Credit servicers and credit purchasers shall act in good faith, treat consumers fairly and respect their privacy. The following practices shall be forbidden:

i) provision of misleading information to consumers;

ii) harassment of consumers, including communication of information about the consumers' debt to their employer, family, friends and neighbours;

iii) charging fees and penalties to consumers that exceed the costs directly related to the management of the debt.

Member States shall place a cap on fees and penalties referred to in point (iii) according to the principles of fairness, rationality and proportionality.

Amendment 315
Engin Eroglu, Monica Semedo

Proposal for a directive
Article 5 – paragraph 1 – point b – introductory part

Text proposed by the Commission

Amendment

(b) where the applicant is a legal person, the members of its management or administrative organ and the persons who hold qualifying holdings in the applicant,

(b) the members of its management or administrative organ are of sufficiently good repute by proving that they:

within the meaning of point (36) of Article 4(1) of Regulation (EU) No 575/2013, or where the applicant is a natural person, shall have the following characteristics:

Or. en

Amendment 316

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Article 5 – paragraph 1 – point b – point i

Text proposed by the Commission

Amendment

(i) *are of sufficiently good repute;*

(i) *have a clean police record or other national equivalent in relation to serious criminal offences relating to property, to financial activities, money laundering, fraud, tax crimes, violation of professional secrecy or to physical integrity;*

Or. en

Amendment 317

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 5 – paragraph 1 – point b – point i

Text proposed by the Commission

Amendment

(i) *are of sufficiently good repute;*

(i) *are of sufficiently good repute on the basis of Article 5a;*

Or. en

Amendment 318

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Article 5 – paragraph 1 – point b – point i

Text proposed by the Commission

(i) are of sufficiently good repute;

Amendment

(i) are of sufficiently good repute,
according to Article 135 of Directive 2006/48/CE and Article 13 of Guideline: EBA/CP/2013/03 EBA Consultation Paper on draft Guidelines for assessing the suitability of members of the management body and key function holders of a credit institution;

Or. en

Amendment 319
Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive
Article 5 – paragraph 1 – point b – point ii

Text proposed by the Commission

(ii) ***have a clean police record or other national equivalent in relation to serious criminal offences relating to property, to financial activities or to physical integrity;***

Amendment

(ii) ***are not subject to any on-going insolvency procedure or have previously been declared bankrupt unless reinstated in accordance with national law;***

Or. en

Amendment 320
Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive
Article 5 – paragraph 1 – point b – point iii

Text proposed by the Commission

(iii) ***are not currently subject to any insolvency procedure or have previously been declared bankrupt unless reinstated in accordance with national law;***

Amendment

(iii) ***the management, taken as a whole, has adequate knowledge and experience to conduct the business in a competent and responsible manner.***

Or. en

Amendment 321
Danuta Maria Hübner

Proposal for a directive
Article 5 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the applicant has sufficient suitable employees who speak the language of the Member State where the credit servicer requests operation;

Or. en

Amendment 322
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 5 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the applicant has sufficient initial capital and adequate own funds and liquidity requirements;

Or. en

Amendment 323
Danuta Maria Hübner

Proposal for a directive
Article 5 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) the applicant has adequate anti-money laundering and counter-terrorism procedures in place, where the home Member State national legislation transposing Directive 2015/849/EU

designates credit servicers as obliged entities for the purposes of preventing and combating money laundering and terrorist financing;

Or. en

Amendment 324
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 5 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) the applicant has sufficient suitable employees who speak the language of the Member State where the borrower resides at the time of concluding the credit agreement;

Or. en

Amendment 325
Danuta Maria Hübner

Proposal for a directive
Article 5 – paragraph 1 – point e c (new)

Text proposed by the Commission

Amendment

(ec) the applicant is subject, by virtue of applicable national law, to:

- (i) robust governance arrangements, which include adequate internal control mechanisms and sound administration and accounting procedures;*
- (ii) appropriate measures for taking up, managing, monitoring and mitigating the risks it is or might be exposed to;*
- (iii) reporting and public disclosure*

requirements.

Or. en

Amendment 326

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 5 – paragraph 1 – point e c (new)

Text proposed by the Commission

Amendment

(ec) the applicant has adequate anti-money laundering and counter terrorism procedures in place, where the home or host Member State national legislation transposing Directive 2015/849/EU designates credit servicers as obliged entities for the purposes of preventing and combating money laundering and terrorist financing;

Or. en

Amendment 327

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 5 – paragraph 1 – point e d (new)

Text proposed by the Commission

Amendment

(ed) there are no obstacles to the effective supervision of the applicant stemming from the structure of its group;

Or. en

Amendment 328

Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 5 – paragraph 1 – point e e (new)

Text proposed by the Commission

Amendment

(ee) applicant is subject by virtue of applicable national law to:

Or. en

Amendment 329
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 5 – paragraph 1 – point e f (new)

Text proposed by the Commission

Amendment

(ef) robust governance arrangements, which include adequate internal control mechanisms and sound administration and accounting procedures;

Or. en

Amendment 330
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 5 – paragraph 1 – point e g (new)

Text proposed by the Commission

Amendment

(eg) appropriate measures for taking up, managing, monitoring and mitigating the risks it is or might be exposed to;

Amendment 331
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 5 – paragraph 1 – point e h (new)

Text proposed by the Commission

Amendment

(eh) reporting and public disclosure requirements.

Amendment 332
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. EBA shall issue draft regulatory technical standards to specify the conditions referred to in points (c), (d), (ec) and (ed) of paragraph 1, and the minimum requirements referred to in point (ee) of paragraph 1 of this Article. EBA shall submit those draft regulatory technical standards to the Commission by ... [one year after the entry into force of the Directive].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Amendment 333
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Reputation criteria

- 1. The applicants under Article 5 or where the applicant is a legal person, the members of its management or administrative organ and the persons who hold qualifying holdings in the applicant should be considered to be of good repute if their personal or business conduct does not give rise to any material doubt about their ability to ensure sound and prudent management. All relevant information available for the assessment should be taken into account, without prejudice to any limitations imposed by national law and regardless of the state where any relevant events occurred.***
- 2. Member States shall ensure that competent authorities take into account any administrative or criminal records, considering the type of conviction or indictment, the level of appeal, the punishment received, the phase of the judicial process reached and the effect of any rehabilitation measures.***
- 3. Member States shall ensure that competent authorities consider the surrounding, including mitigating, circumstances and the seriousness of any relevant offence or administrative or supervisory action, the time period and the applicant's conduct since the offence and the relevance of the offence or administrative or supervisory action to the proposed role. Account should be taken of***

the following factors, which may cast doubt on an applicant's good repute:

(a) conviction or indictment of a relevant criminal offence, in particular:

(b) any offence under the laws governing banking, financial, securities, insurance activity, or concerning securities markets or securities or payment instruments, including laws on money laundering, market manipulation, or insider dealing and usury;

(c) any offences of dishonesty, fraud, or financial crime;

(d) any tax offences;

(e) any other offences under legislation relating to companies, bankruptcy, insolvency, or consumer protection;

(f) relevant current or past investigations and/or enforcement actions or the imposition of administrative sanctions for non-compliance with provisions governing banking, financial, securities, or insurance activities or those concerning securities markets, securities or payment instruments, or any financial services legislation;

(g) relevant current or past investigations and/or enforcement actions by any other regulatory or professional bodies for non-compliance with any relevant provisions;

(h) the cumulative effects of more minor incidents, which individually do not impinge on an applicant's reputation but may in sum have a material impact.

5. Attention should be paid to the following factors regarding the propriety of an applicant in past business dealings:

(a) any evidence that the applicant has not been transparent, open, and cooperative in its dealings with supervisory or regulatory authorities;

(b) refusal of any registration, authorisation, membership, or license to carry out a trade, business, or profession;

or revocation, withdrawal, or termination of such registration, authorisation, membership, or license; or expulsion by a regulatory or government body;

(c) dismissal from employment or any position of trust, fiduciary relationship, or similar situation, or having been asked to resign from employment in such a position; and

(d) disqualification by competent authority from acting as a person who directs the business.

6. Member States shall ensure that competent authorities take into consideration the following situations regarding past and present business performance and financial soundness:

(a) inclusion on the list of unreliable debtors or any negative records on this kind of list conducted by recognised credit bureau;

(b) financial and business performance of the entities owned or directed by the applicant or in which the applicant had or has significant share with special consideration to any rehabilitation, bankruptcy and winding-up proceedings;

(c) declaration of personal bankruptcy;

(d) civil lawsuits, administrative or criminal proceedings, large investments or exposures and loans taken out, in so far they can have a significant impact on the financial soundness.

Or. en

Amendment 334
Frances Fitzgerald

Proposal for a directive
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall establish a procedure for the authorisation of credit servicers which enables an applicant to submit an application and provide all the information necessary for the competent authority of the home Member State to verify that the applicant has satisfied all the conditions laid down in the national measures transposing Article 5(1).

1. Member States shall establish a procedure for the authorisation of credit servicers **and credit purchasers** which enables an applicant to submit an application and provide all the information necessary for the competent authority of the home Member State to verify that the applicant has satisfied all the conditions laid down in the national measures transposing Article 5(1).

Or. en

Amendment 335

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 6 – paragraph 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga) evidence that the persons referred to in point (c) of this paragraph comply with the conditions laid down in points (ea) to (ee) of Article (1);

Or. en

Amendment 336

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Specific requirements for business to borrower credit servicers

1. The competent authorities of the home Member State shall supervise the business to borrower credit servicers compliance with the following minimum EU common

standards for debt collection

2. EU minimum common standards in debt collection include the obligation to:

(a) provide evidence of the debt, based on a credit contract, before any debt collection can take place;

(b) undertake mandatory notification of the status of a debt to the borrower by a formal notice before any debt collection can take place. This formal notice must contain all relevant information on the debt and be presented in a transparent, understandable way;

(c) ensure debt notification is sent to the borrower by registered post with an acknowledgment of receipt in a plain envelope and in a regulated format;

(d) provide debt notification including at least the following information:

(i) the identity of the creditor including their phone number/contact details;

(ii) the identity of the credit servicer, or their mandate;

(iii) a notified, legally verifiable and documented proof of the existence of a debt, the detailed amounts requested, and the type of debt in question (capital, interest, penalties, procedural costs, or other);

(iv) a clear, understandable description of all relevant borrowers' rights, including their right to protection against harassment and misleading practices;

(v) contact details of where the borrower can receive information and advice.

3. Member States should adopt a list of the actions that credit servicers are prohibited from employing when dealing with the borrowers and connected to the debt collection process. These practices constitute harassment and should be associated with dissuasive fines and criminal charges, depending on the

practice.

This list should include at least:

- (a) misleading the borrower, including through improper legal threats or providing other misleading information;*
- (b) sending excessive numbers of dunning letters, phone or other reminders; including automatic messages and messages generated by any technology operated without human intervention;*
- (c) omitting to deduct previous payments from the requested amount;*
- (d) sending stigmatising or intimidating communications;*
- (e) contacting persons other than the borrower including the borrowers' relatives, friends, neighbours, colleagues;*
- (f) contacting borrowers at inappropriate times or places, including during working hours and at the workplace.*

4. Member States shall ensure that the costs and remuneration of the credit servicer are never charged to the borrower.

5. Member States shall ensure that the borrower is entitled to use any defence against the credit servicer that was available to them in dealings with the original creditor and to be informed of the assignment.

6. Business to borrower credit servicers shall systematically use the EU standardised debt notification document before any debt collection can take place. EBA shall develop draft regulatory standards setting out the criteria for debt notification including for the mandatory debt notification document.

Or. en

Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

***Requirements for credit servicers,
creditors and credit service providers on
conduct of business and debt collection***

***1. Member States shall ensure that
creditors, credit servicers and other credit
service providers send the borrower before
any debt collection a mandatory
notification that provides without any
ambivalence evidence of the debt, relied
on a credit agreement. The debt
notification must be exclusively made by a
letter to the borrower in a white envelope
without any specific writing and with
acknowledgment of receipt.***

***The notification shall not exceed 3 pages
and include in clear and understandable
for the general public language at least
the following:***

***(a) the evidence of the debt, relied on a
credit contract***

***(b) the identification of the creditor
including its contact details;***

***(c) where relevant, the identification of
the credit servicer and its rights;***

***(d) the legal base of the debts, the detailed
amounts requested, and their source
(capital, interest, penalties, procedural
costs);***

***(e) a key selection of borrowers' rights
description, including necessarily the
protection against harassment and
misleading behaviours;***

***(f) a contact reference where to receive
information and advice for borrowers
under payment difficulties.***

2. Member states shall ensure that no behaviour or practice causes damage to borrowers' privacy.

3. Member states shall ensure that creditors or credit servicer refrain from:

(a) omitting to deduct previous payments from the requested amount;

(b) sending stigmatising, intimidating or misleading communications, including improper legal threats or information that may be misleading for the borrower;

(c) contacting other persons than the borrower including borrowers' relatives

4. EBA shall develop regulatory technical standards to specify the provisions of paragraphs 2 and 3.

EBA shall submit those draft regulatory technical standards to the Commission by ... [12 months after the date of entry into force of this Directive].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

5. EBA shall develop draft implementing technical standards that specify the mandatory format of the notification under paragraph 1. EBA shall submit those draft implementing technical standards to the Commission by [12 months from the entry into force of this Directive].

Or. en

Amendment 338
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Debt buy-back

- 1. When a credit institution intends to transfer a credit agreement to a credit purchaser at a specified price, before the transfer the credit institution shall allow the debtors concerned who are consumers to buy back their debt at the same price or with a small mark-up, which would be specified by the relevant competent authorities. For that purpose, credit institutions shall be required to disclose to the relevant competent authorities the necessary details of expected deals with credit purchasers.**
- 2. Member States shall ensure that the buy-back option can be exercised in instalments.**

Or. en

Amendment 339

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that the competent authorities of the home Member State **may** withdraw the authorisation granted to a credit servicer, where such a credit servicer either:

1. Member States shall ensure that the competent authorities of the home Member State **have the necessary supervisory, investigatory and sanctioning powers in accordance with Article 21 in order to** withdraw the authorisation granted to a credit servicer, where such a credit servicer either:

Or. en

Amendment 340

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Frances Fitzgerald

Proposal for a directive

Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that the competent authorities of the home Member State may withdraw the authorisation granted to a credit servicer, where such a credit servicer either:

Amendment

1. Member States shall ensure that the competent authorities of the home Member State may withdraw the authorisation granted to a credit servicer **or a credit purchaser**, where such a credit servicer **or a credit purchaser** either:

Or. en

Amendment 341

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Article 7 – paragraph 1 – point c

Text proposed by the Commission

(c) has ceased to engage in the activities of a credit servicer for more than **six months**;

Amendment

(c) has ceased to engage in the activities of a credit servicer for more than **one year**;

Or. en

Justification

6 Months seem to short - Sabbaticals or pregnancies could potentially endanger the authorisation.

Amendment 342

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 7 – paragraph 1 – point f

Text proposed by the Commission

(f) commits a serious breach of the applicable rules, including the national law

Amendment

(f) commits a serious breach of the applicable rules, including the national law

provisions transposing this Directive.

provisions transposing this Directive, *other consumer protection rules or the specific requirements for credit servicers business to consumer referred to in Article 6a.*

Or. en

Amendment 343

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Article 7 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) commits a serious breach of the applicable rules outlined in Article 6(a) (new).

Or. en

Amendment 344

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that where competent authorities of the host Member State have determined that credit servicer acts in a way that falls under points e) and f) of the first subparagraph, they shall send a reasoned request to the competent authorities of the home Member State asking for the withdrawal of its authorisation. In case of disagreement between the competent authorities Article 12(11a) shall apply.

Or. en

Amendment 345
Frances Fitzgerald

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission

2. Where an authorisation is withdrawn in accordance with paragraph 1, Member States shall ensure that the competent authorities of the home Member State shall immediately inform the competent authorities in the host Member States if the credit servicer provides services under Article 11.

Amendment

2. Where an authorisation is withdrawn in accordance with paragraph 1, Member States shall ensure that the competent authorities of the home Member State shall immediately inform the competent authorities in the host Member States if the credit servicer *or credit purchaser* provides services under Article 11.

Or. en

Amendment 346
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Article 8 – title

Text proposed by the Commission

Register of authorised credit servicers

Amendment

Register of authorised credit servicers *and EBA Register of secondary markets on NPLs*

Or. en

Amendment 347
Frances Fitzgerald

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that competent authorities establish and

Amendment

1. Member States shall ensure that competent authorities establish and

maintain a national register of all authorised credit servicers authorised to provide services within their territory, including credit servicers providing services under Article 11.

maintain a national register of all authorised credit servicers **and credit purchasers** authorised to provide services within their territory, including credit servicers providing services under Article 11.

Or. en

Amendment 348

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 8 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. EBA in cooperation with national competent authorities shall establish and maintain a register of all transactions of non-performing loans in secondary market in the Union. The information registered for each transaction shall include the identity of the creditor, the credit purchaser, the credit servicer, the amount of the purchase denominated in euros, the original amount of the loan, and the number of loans included in each transaction.

Or. en

Amendment 349

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 8 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. A summarized version of the register shall be made available online and shall be updated on a yearly basis.

Amendment 350
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Borrowers' protection

- 1. Member States shall require that credit servicers, in their relationship with the debtors, act in good faith, fairly, professionally and respect their privacy.***
- 2. Member States shall ensure that credit services comply with the following requirements:***
 - (a) The information provided shall not be misleading, unclear or false;***
 - (b) Credit servicers shall protect the personal information and privacy of the debtors and not to communicate with persons other than the borrower, including family members or employers, unless under authorisation by the debtor;***
 - (c) Credit services shall not communicate to debtors in way which constitutes harassment, coercion, or undue influence.***
- 3. Member States shall ensure that fees and penalties charged on borrowers by credit servicers do not exceed the cost directly related to the management of the debt. Member States shall require that in the event of the transfer of the creditor's rights under a credit agreement or the credit agreement itself to a credit purchaser, the debtor is notified in due time about the transfer and that all relevant Union and national law concerning in particular the enforcement of contracts, consumer protection,***

borrower's rights and criminal law continues to apply to the credit purchaser or the credit servicer.

4. Member States shall ensure that credit servicers and credit purchasers foresee the possibility, if viable, and set out the conditions for non-performing borrowers to exit their non-performing status in line with measures set out in the ECB Guidance to banks on non-performing loans.

Or. en

Amendment 351

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 9 – paragraph 2 – point d

Text proposed by the Commission

(d) an undertaking by the parties to comply with the Union and national law applicable to the credit agreement, including in respect of consumer protection.

Amendment

(d) an undertaking by the parties to comply with the Union and national law applicable to the credit agreement ***or the creditor's rights***, including in respect of consumer protection.

Or. en

Amendment 352

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 9 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) a clause requiring the fair and diligent treatment of the borrowers.

Or. en

Amendment 353

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Article 9 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) a clause requiring the fair and diligent treatment of the borrowers.

Or. en

Amendment 354

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall require that the credit servicing agreement provides requirements according to which:

(a) the credit servicer shall notify the creditor prior to outsourcing any of its activity as credit servicer;

(b) the borrower shall be informed of the credit servicing agreement as well as of any further outsourcing of credit servicing activities;

(c) the costs and remuneration of the credit servicer may not be charged to the borrower;

(d) the borrower shall be entitled to plead against the credit servicer any relevant defence which was available to him as against the original creditor.

Or. en

Amendment 355

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 9 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall ensure that the credit servicer keeps and maintains the following records for at least 10 years from the date of the contract referred to in paragraph 1:

Amendment

3. Member States shall ensure that the credit servicer keeps and maintains the following records for at least 10 years from the date of the contract referred to in paragraph 1 **and for at least five years from the date the contract is terminated.:**

Or. en

Amendment 356

Dimitrios Papadimoulis, Matt Carthy

on behalf of the GUE/NGL Group

Proposal for a directive

Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that where a credit servicer uses a third party to perform activities that would normally be undertaken by that credit servicer ('credit service provider'), the credit servicer remains fully responsible for complying with all obligations under the national provisions transposing this Directive. The outsourcing of those credit servicing activities shall be subject to the following conditions:

Amendment

1. Member States shall ensure that where a credit servicer uses a third party to perform activities that would normally be undertaken by that credit servicer ('credit service provider'), the credit servicer **should be supervised by the same supervisory authorities the banking system of the Member State has and** remains fully responsible for complying with all obligations under the national provisions transposing this Directive. The outsourcing of those credit servicing activities shall be subject to the following conditions:

Or. en

Amendment 357

Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that where a *credit servicer uses a* third party *to perform activities that would normally be undertaken by that* credit servicer ('*credit service provider*'), the credit servicer remains fully responsible for complying with all obligations under the national provisions transposing this Directive. The outsourcing of those credit servicing activities shall be subject to the following conditions:

Amendment

1. Member States shall ensure that where a third party *performs for a* credit servicer *services related to any of the activities listed in points (7a) (iii) and (iv) of Article 3(1)*, the credit servicer remains fully responsible for complying with all obligations under the national provisions transposing this Directive. The outsourcing of those credit servicing activities shall be subject to the following conditions:

Or. en

Amendment 358
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 10 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

For the purposes of the first subparagraph a written outsourcing agreement between the credit servicer and the credit service provider shall be concluded, which shall provide that the credit service provider is obliged to comply with the applicable legal provisions, including national law transposing this Directive, and the relevant Union or national law applicable to the creditor's rights under a credit agreement or the credit agreement itself. The contractual relationship between the credit servicer and the creditor and

obligations of the credit servicer towards the creditor or borrowers shall not be altered by the outsourcing agreement with the credit service provider. The compliance of a credit servicer with the requirements of its authorisation as set out in Article 5(1) shall not be affected by the outsourcing of the credit servicing activities.

The outsourcing to the credit service provider shall not prevent the supervision by competent authorities of a credit servicer in accordance with Articles 12 and 20.

The outsourcing of those activities stated in Article 3(9) shall not be undertaken in such a way as to impair the quality of the credit servicer's internal control, soundness or continuity of its credit services.

Or. en

Amendment 359

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 10 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the credit servicer keeps and maintains records of all instructions provided to the credit service provider for at least 10 years from the date of the contract referred to in paragraph 1.

Amendment

2. Member States shall ensure that the credit servicer keeps and maintains records of all instructions provided to the credit service provider for at least 10 years from the date of the contract referred to in paragraph 1 **and for at least five years from the date the contract is terminated.**

Or. en

Amendment 360

Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the credit servicer ***keeps and maintains records of all instructions provided to the credit service provider for at least 10 years from the date of the contract referred to in paragraph 1.***

Amendment

2. Member States shall ensure that the credit servicer ***informs without delay the competent authority of the home Member State, and where applicable the host Member State, not prior to the outsourcing of activities in accordance with paragraph 1.***

Or. en

Amendment 361
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Article 10 a (new)

Text proposed by the Commission

Amendment

Article 10a

Right to legal representation

1. In any court hearing involving a distressed borrower there shall be consideration of the equality of representation status to ensure a full and fair hearing and full and complete understanding of all of the parameters and legal contentions being addressed.

2. This demands that there be an equivalent of legal representation provided and available to all distressed borrowers and, insufficient advance, to ensure comprehensive preparation of all relevant facts and detail for appropriate court representation of the case in dispute.

3. Where necessary, this service shall be provided at the cost of the Member State through free legal aid or its equivalent.

Amendment 362

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that a credit servicer having obtained an authorisation in accordance with Article 5 in a home Member State has the right to provide in the Union those services that are covered by that authorisation.

Amendment

1. Member States shall ensure that a credit servicer having obtained an authorisation in accordance with Article 5 in a home Member State has the right to provide in the Union those services that are covered by that authorisation ***or those established for the renegotiation of the terms and conditions related to the creditor's rights under a credit agreement or of the credit agreement itself.***

Amendment 363

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that a credit servicer having obtained an authorisation in accordance with Article 5 in a home Member State has the right to provide in the Union those services that are covered by that authorisation.

Amendment

1. Member States shall ensure that a credit servicer having obtained an authorisation in accordance with Article 5 in a home Member State has the right to provide in the Union those services that are covered by that authorisation, ***without prejudice to national laws for borrowers' rights.***

Amendment 364
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By way of derogation from the first subparagraph, with regard to secured credit agreements concluded between creditors and borrowers who are consumers as defined in point (a) of Article 3 of Directive 2008/48/EC, as well as credit agreements concluded between creditors and business borrowers secured by the immovable residential property which is the primary residence of a business borrower, a credit servicer shall be required to obtain an authorisation and establish a branch or a subsidiary in the Member State where it intends to operate.

Or. en

Amendment 365
Matt Carthy

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. With regard to credit agreements concluded between creditors and consumers, as well as credit agreements concluded between creditors and business borrowers secured by the immovable residential property which is the primary residence of a business borrower, a credit servicer shall be required to obtain an authorisation and establish a branch or a subsidiary in the Member State where it intends to operate.

Amendment 366
Dimitrios Papadimoulis
on behalf of the GUE/NGL Group

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. With regard to credit agreements concluded between creditors and consumers, a credit servicer shall be required to obtain an authorisation and establish a branch or a subsidiary in the Member State where it intends to operate.

Or. en

Amendment 367
Stéphanie Yon-Courtin

Proposal for a directive
Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. With regard to credit agreements concluded between creditors and consumers, a credit servicer shall be required to obtain an authorisation and establish a branch or a subsidiary in the Member State where it intends to operate.

Or. en

Justification

Financial firms such as banks, investment companies can obtain a license in any Member State and then passport their products and services into other EU countries through a branch or online distribution. In that case, the supervisory authority of the firm's home country is competent to oversee its activities, while the host authority (country where the firm effectively operates) has limited power over those firms. The EU passporting model does not take the consumer perspective into account and leaves room for regulatory and supervisory arbitrage,

endangering market integrity and financial stability. More specifically, EU passporting is not an appropriate tool when it comes to consumer non-performing loans. Distressed consumer borrowers should not be exposed to credit servicers authorised and supervised abroad. This would have major negative consequences for vulnerable consumers.

Amendment 368

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 11 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) *where applicable*, the address of the branch established in the host Member State;

(b) the address of the branch established in the host Member State;

Or. en

Amendment 369

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 11 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) *where applicable, identity and address of an agent appointed in a host Member State;*

deleted

Or. en

Amendment 370

Matt Carthy

Proposal for a directive

Article 11 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Credit servicers shall follow any additional host Member State laws and rules for debt collection activities regardless of where the headquarters of the credit servicer is located in the EU.

Or. en

Amendment 371

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 11 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. A credit servicer shall follow the host Member State rules for debt collection activities, regardless of where its headquarters are located in the EU.

Or. en

Amendment 372

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 12 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Credit servicers shall not be allowed to provide cross-border services in respect of credit agreements concluded between creditors and borrowers who are consumers as defined in point (a) of Article 3 of Directive 2008/48/EC, as well as credit agreements concluded between creditors and business borrowers secured by the immovable residential property which is the primary residence of a business borrower. In that case, credit servicers shall be authorised and supervised by the competent authorities of

the Member State where they effectively operate.

Or. en

Amendment 373

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 12 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the competent authorities of the home Member State review and evaluate the ongoing compliance by a credit servicer who provides services in a host Member State with the requirements of this Directive.

Amendment

1. Member States shall ensure that the competent authorities of the home Member State review and evaluate the ongoing compliance by a credit servicer who provides services in a host Member State with the requirements ***laid down in Article 5 and 5a*** of this Directive.

Or. en

Amendment 374

Matt Carthy

Proposal for a directive

Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Credit servicers shall not be allowed to provide cross-border services in respect of credit agreements concluded between creditors and consumers, as well as credit agreements concluded between creditors and business borrowers secured by the immovable residential property which is the primary residence of a business borrower. In that case, credit servicers shall be authorised and supervised by the competent authorities of the Member State where they effectively

operate.

Or. en

Amendment 375

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that the competent authorities of the host Member State may review and evaluate the ongoing compliance by a credit servicer who provides services in that Member State with the requirements arising from this Directive as well as from other Union and national rules applicable to the credit agreement and to its debtor.

Or. en

Amendment 376

Dimitrios Papadimoulis

on behalf of the GUE/NGL Group

Proposal for a directive

Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Credit servicers shall not be allowed to provide cross-border services in respect of credit agreements concluded between creditors and consumers. In that case, credit servicers shall be authorised and supervised by the competent authorities of the Member State where they effectively operate.

Or. en

Amendment 377
Stéphanie Yon-Courtin

Proposal for a directive
Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Credit servicers shall not be allowed to provide cross-border services in respect of credit agreements concluded between creditors and consumers. In that case, credit servicers shall be authorised and supervised by the competent authorities of the Member State where they effectively operate.

Or. en

Justification

EU passporting is not an appropriate tool when it comes to consumer non-performing loans. Distressed consumer borrowers should not be exposed to credit servicers authorised and supervised abroad. This would have major negative consequences for vulnerable consumers.

Amendment 378
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that the competent authorities of a home Member State are empowered to supervise, investigate and impose administrative sanctions or penalties and remedial measures on credit servicers in respect of their activities in a host Member State.

2. Member States shall ensure that the competent authorities of a home ***and host*** Member State are empowered to supervise, investigate and impose administrative sanctions or penalties and remedial measures on credit servicers in respect of their activities in a host Member State ***concerning the responsibilities conferred by the previous paragraph.***

Amendment 379

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 12 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that where a credit servicer which is domiciled or established in a home Member State, has set up a branch or appointed **an agent** in a host Member State, the competent authorities of the home Member State and the competent authorities of the host Member State shall cooperate closely in the performance of their functions and duties provided for in this Directive, in particular when carrying out checks, investigations and on-site inspections in that branch or in respect of **that agent**.

Amendment

4. Member States shall ensure that where a credit servicer which is domiciled or established in a home Member State, has set up a branch or appointed **a credit service provider** in a host Member State, the competent authorities of the home Member State and the competent authorities of the host Member State shall cooperate closely in the performance of their functions and duties provided for in this Directive, in particular when carrying out checks, investigations and on-site inspections in that branch or in respect of **a credit service provider**.

Amendment 380

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 12 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that the competent authorities of the home Member State in the exercise of their functions and duties provided for in this Directive shall ask the competent authorities of the host Member State for their assistance in carrying out an on-site inspection of a branch set up in or of an agent appointed in

Amendment

5. Member States shall ensure that the competent authorities of the home Member State in the exercise of their functions and duties provided for in this Directive shall ask the competent authorities of the host Member State for their assistance in carrying out an on-site inspection of a branch set up in or of an agent appointed in

a host Member State.

a host Member State. ***The on-site inspection of a branch or of a credit service provider shall be conducted in accordance with the law of the Member State where the inspection is carried out.***

Or. en

Amendment 381

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 12 – paragraph 9

Text proposed by the Commission

9. Member States shall ensure that where the competent authorities of the host Member State have evidence that a credit servicer providing services within its territory, in accordance with Article 11, is in breach of the obligations arising from the national provisions transposing this Directive, it shall transmit that evidence to the competent authorities of the home Member State and request that they take appropriate measures.

Amendment

9. Member States shall ensure that where the competent authorities of the host Member State have evidence that a credit servicer providing services within its territory, in accordance with Article 11, is in breach of ***applicable rules, including*** the obligations arising from the national provisions transposing this Directive, it shall transmit that evidence to the competent authorities of the home Member State and request that they take appropriate measures.

Or. en

Amendment 382

Pedro Marques

Proposal for a directive

Article 12 – paragraph 9

Text proposed by the Commission

9. Member States shall ensure that where the competent authorities of the host Member State have evidence that a credit servicer providing services within its territory, in accordance with Article 11, is

Amendment

9. Member States shall ensure that where the competent authorities of the host Member State have evidence that a credit servicer providing services within its territory, in accordance with Article 11, is

in breach of the *obligations arising from the national provisions transposing* this Directive, it shall transmit that evidence to the competent authorities of the home Member State and request that they take appropriate measures.

in breach of the *requirements laid down in Article 5* of this Directive, it shall transmit that evidence to the competent authorities of the home Member State and request that they take appropriate measures.

Or. en

Amendment 383 **Pedro Marques**

Proposal for a directive **Article 12 – paragraph 11**

Text proposed by the Commission

11. Member States shall ensure that where, after having informed the home Member State no adequate measures were taken in a reasonable time or despite measures taken by the competent authorities of the home Member State or in an urgent case, the credit servicer continues to be in breach of the obligations under this Directive, the competent authorities of the host Member State are entitled to take appropriate administrative *sanctions or* penalties and remedial measures in order to ensure compliance with the *provisions of this Directive within its territory* after informing without delay the competent authorities of the home Member State.

Amendment

11. Member States shall ensure that where, after having informed the home Member State no adequate measures were taken in a reasonable time or despite measures taken by the competent authorities of the home Member State or in an urgent case, *where immediate action is necessary to address a serious threat to the collective interests of the borrowers, given that* the credit servicer continues to be in breach of the *applicable rules, including its* obligations under this Directive *and other national rules*, the competent authorities of the host Member State are entitled to take appropriate administrative penalties and remedial measures in order to ensure compliance with the *applicable rules* after informing without delay the competent authorities of the home Member State. *In addition, the competent authorities of the host Member State may prohibit further activities of such credit servicers in its Member State until an adequate decision is taken by the competent authority of the home Member State or a remedial measure is taken by the credit servicer.*

Or. en

Amendment 384

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 12 – paragraph 11

Text proposed by the Commission

11. Member States shall ensure that where, after having informed the home Member State **no** adequate measures were taken in a reasonable time or despite measures taken by the competent authorities of the home Member State or in an urgent case, the credit servicer continues to be in breach of the obligations under this Directive, the competent authorities of the host Member State are entitled to take appropriate administrative sanctions or penalties and remedial measures in order to ensure compliance with the provisions of this Directive within its territory after informing without delay the competent authorities of the home Member State.

Amendment

11. Member States shall ensure that where, after having informed the home Member State **that** adequate measures were taken in a reasonable time or despite measures taken by the competent authorities of the home Member State or in an urgent case, the credit servicer continues to be in breach of the **applicable rules, including its** obligations under this Directive, the competent authorities of the host Member State are entitled to take appropriate administrative sanctions or penalties and remedial measures in order to ensure compliance with the provisions of this Directive within its territory after informing without delay the competent authorities of the home Member State. ***In particular, Member States shall ensure that the competent authorities of the host Member States can prohibit the activities of such credit servicers in its Member State until an adequate decision is taken by the competent authority of the home Member State.***

Or. en

Amendment 385

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 12 – paragraph 11 a (new)

Text proposed by the Commission

Amendment

11a. Where a competent authority of a Member State considers that, in a particular matter, cooperation with competent authorities of another Member State does not comply with the relevant requirements set out in this Directive, it shall refer the matter to EBA. In case of disagreement between the home and host authorities that last longer than 4 months, the authorities concerned shall defer their decision to EBA and await any decision that the Authority may take in accordance with Article 19(3) of Regulation (EU) No 1093/2010 and shall take their decision in accordance with the decision of EBA. The four-month period shall be deemed to be the conciliation period within the meaning of that Regulation. EBA may also assist the competent authorities in reaching an agreement on its own initiative in accordance with the second subparagraph of Article 19(1) of that Regulation.

Or. en

Amendment 386
Stéphanie Yon-Courtin

Proposal for a directive
Title 2 – chapter 2 a (new)

Text proposed by the Commission

Amendment

***Rights and protection of distressed
consumer borrowers***

Or. en

Justification

Distressed borrowers need to be protected from an additional financial burden in case the creditor or a third-party investor/purchaser forecloses the borrower's primary residence. In that case, return or transfer to the creditor or a third-party of the security or proceeds from the sale of the security should be sufficient to repay the credit. Article 28(4) of the Mortgage Credit Directive would need to be amended accordingly. Art 28(4) of MCD provides that "Member States shall not prevent the parties to a credit agreement from expressly agreeing

that return or transfer to the creditor of the security or proceeds from the sale of the security is sufficient to repay the credit". Credit purchasers are specialised firms which purchase portfolios of distressed debt from banks at a discounted price, and then try to collect the total amount of debt, plus fees and penalties, from the debtor. The current situation is imbalanced and does not take account of the consumer interests. A more sustainable solution is possible, which would ensure that the NPLs are removed from banks' balance sheets, while at the same time limit consumer exposure to third party credit purchasers and credit servicers with whom the consumer did not contact, and whose interests are diametrically opposed with those of the consumer; Very often distressed borrowers cannot make use of a legal representation in court cases involving a dispute with the creditor or a third party. That represents an unlevel playing field between the finance professional and the consumer and may influence the outcome of the court cases.

Amendment 387
Stéphanie Yon-Courtin

Proposal for a directive
Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Forbearance measures and foreclosure

1. Creditors shall make every effort to avoid transferring consumer non-performing loans to third parties. Notably, Member States shall ensure that creditors exercise reasonable forbearance towards the distressed borrowers, in accordance with Article 28 of Directive 2014/17/EU and the EBA Guidelines on arrears and foreclosure EBA/GL/2015/12.

2. Forbearance measures may include the following concessions to the consumer:

(a) a total or partial refinancing of a credit agreement;

(b) a modification of the previous terms and conditions of a credit agreement, which may include among others:

(i) extending the term of the mortgage;

(ii) changing the type of the mortgage (such as, changing the type of mortgage from a capital and interest mortgage to an interest only mortgage);

(iii) deferring payment of all or part of the instalment repayment for a period;

(iv) changing the interest rate up to a certain cap;

(v) offering a payment holiday.

3. Definition of non-performing loans adopted by Commission Implementing Regulation (EU) 2015/227 shall be without prejudice to the creditors' forbearance obligations.

4. In case of foreclosure, when the credit is secured by the consumer's primary residence, return or transfer to the creditor or a third-party of the security or proceeds from the sale of the security shall be sufficient to repay the credit. Article 28(4) of Directive 2014/17/EU shall be amended accordingly.

Or. en

Amendment 388
Stéphanie Yon-Courtin

Proposal for a directive
Article 12 b (new)

Text proposed by the Commission

Amendment

Article 1 b

Debt buy-back

1. When a credit institution intends to transfer a credit agreement to a credit purchaser at a specified price, before the transfer the credit institution shall allow the debtors concerned who are consumers to buy back their debt at the same price or with a small mark-up, which would be specified by the relevant competent authorities. For that purpose, credit institutions shall be required to disclose to the relevant competent authorities the necessary details of expected deals with credit purchasers.

2. Member States shall ensure that the buy-back option can be exercised in instalments.

Or. en

Amendment 389
Stéphanie Yon-Courtin

Proposal for a directive
Article 12 b (new)

Text proposed by the Commission

Amendment

Article 12b

Rules of conduct for credit servicers and credit purchasers

1. Credit servicers and credit purchasers shall act in good faith, treat consumers fairly and respect their privacy. The following practices shall be forbidden:

(a) provision of misleading information to consumers;

(b) harassment of consumers, including communication of information about the consumers' debt to their employer, family, friends and neighbours;

(c) charging fees and penalties to consumers that exceed the costs directly related to the management of the debt. Member States shall place a cap on those fees and penalties according to principles of fairness, rationality and proportionality.

This paragraph shall also apply to outsourcing service providers stipulated in Article 10 of this Directive.

2. Member States shall be able to maintain the existing national measures aimed at protecting distressed borrowers, as well to adopt stricter measures, such as personal insolvency measures, restriction of the activity of credit servicers and credit

purchasers.

Or. en

Amendment 390
Stéphanie Yon-Courtin

Proposal for a directive
Article 12 d (new)

Text proposed by the Commission

Amendment

Article 12d

Right to legal representation

1. In any court hearing involving a distressed borrower there shall be consideration of the equality of representation status to ensure a full and fair hearing and full and complete understanding of all of the parameters and legal contentions being addressed.

2. This demands that there be an equivalent of legal representation provided and available to all distressed borrowers and, insufficient advance, to ensure comprehensive preparation of all relevant facts and detail for appropriate court representation of the case in dispute.

3. Where necessary, this service shall be provided at the cost of the Member State through free legal aid or its equivalent;

Or. en

Amendment 391
Stéphanie Yon-Courtin

Proposal for a directive
Article 12 e (new)

Text proposed by the Commission

Amendment

Article 12e

Out of court settlement

Member States shall ensure that independent and effective out-of-court settlement mechanisms are available to consumers. Those mechanisms shall comprise direct settlement and alternative dispute resolution.

Or. en

Amendment 392

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article -13 (new)

Text proposed by the Commission

Amendment

Article -13

Forbearance measures

1. Member States shall require that creditors undertake with due diligence, best efforts to exercise, as appropriate, reasonable and viable forbearance measures in addition to the measures provided for in Article 28 of Directive 2014/17/EU prior to transferring creditor's rights under a credit agreement or the credit agreement if the borrower that has concluded a credit agreement is under payment difficulties.

2. Forbearance measures shall prioritize consumers and at least include the following potential measures that shall be communicated in standardized formats to borrowers under payment difficulties on the basis of an affordability assessment:

a) options regarding partial refinancing of a credit agreement;

b) options regarding potential modification to the benefit of the

borrower of the previous terms and conditions of a credit agreement including, inter alia:

- (i) extending the term of the loan;*
- (ii) changing the type of the loan;*
- (iii) deferring payment of all or part of the instalment repayment for a period;*
- (iv) changing the interest rate up to a certain cap; offering a payment holiday and grace periods;*
- (v) partial repayments and debt buy-backs;*
- (vi) currency conversions;*
- (vii) partial forgiveness and debt consolidation*

3. The qualification of credit agreements as non-performing shall be made without prejudice to the creditor's forbearance requirements.

4. Credit institutions and other creditors shall submit a report to competent authorities on a yearly basis summarizing their sound forbearance policies and processes including procedures to detect, as early as possible, borrowers under payment difficulties. The report shall include a summary of the number of borrowers having benefited from forbearance measures and the modalities of forbearance measures that were effective during the previous year. The management body should approve this information prior to submission to competent authorities.

5. EBA shall develop draft regulatory technical standards for specifying:

- (i) the forbearance measures and the affordability assessment referred to in paragraphs 2;*
- (ii) the definition of a borrower under payment difficulties referred to in paragraph 2;*
- (iii) the content of the report referred to in*

paragraph 4.

EBA shall submit those draft regulatory technical standards to the Commission by [1 year after the entry into force of the Directive]. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 393

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article -13 a (new)

Text proposed by the Commission

Amendment

Article -13a

Requirements for creditors prior to transferring creditor's rights under a credit agreement or the credit agreement

Member State shall require that creditors may not transfer a performing credit agreement without the agreement of the borrower having concluded the credit agreement.

Or. en

Amendment 394

Engin Eroglu, Olivier Chastel, Luis Garicano, Monica Semedo

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that a creditor *shall provide all* necessary

1. Member States shall ensure that a creditor *provides the* necessary information

information to a credit purchaser to enable that credit purchaser assess the value of the credit agreement and the likelihood of recovery of the value of that agreement prior to entering into a contract for the transfer of that credit agreement.

regarding the creditor's rights under a non-performing credit agreement or the non-performing credit agreement itself and, if applicable, the collateral, to a credit purchaser to enable that credit purchaser to assess the value of the creditor's rights under a non-performing credit agreement or the non-performing credit agreements itself and the likelihood of recovery of the value of that agreement prior to entering into a contract for the transfer of that creditor's rights under a non-performing credit agreement or of that non-performing credit agreement while ensuring the protection of information made available by the creditor and the confidentiality of business data.

Or. en

Amendment 395
Danuta Maria Hübner

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that a creditor shall provide all necessary information to a credit purchaser to enable that credit purchaser assess the value of the credit agreement and the likelihood of recovery of the value of that agreement prior to entering into a contract for the transfer of that credit agreement.

Amendment

1. Member States shall, ***to the extent that it has or can reasonably be expected to obtain, or facilitate distribution of, such information,*** ensure that a creditor shall provide all necessary information to a credit purchaser to enable that credit purchaser assess the value of the credit agreement and the likelihood of recovery of the value of that agreement prior to entering into a contract for the transfer of that credit agreement.

Or. en

Amendment 396
Danuta Maria Hübner

Proposal for a directive
Article 13 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall require *a credit institution or the subsidiary of a credit institution that transfers a credit agreement to a credit purchaser to inform the competent authorities designated in accordance with Article 20(3) of this Directive and Article 4 of Directive 2013/36/EU³⁹ of the following:*

³⁹ 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).

Amendment

2. ***On a biannual basis***, Member States shall require credit *institutions that transfer a creditor's rights under a non-performing credit agreement or the non-performing credit agreements itself* to a credit purchaser to inform the competent authorities designated in accordance with Article 20(3) of this Directive and Article 4 of Directive 2013/36/EU³⁹, ***for each transfer about the legal entity identifier (LEI) of the credit purchaser or where such identifier does not exist about:***

(i) the identity of the credit purchaser or members of the purchaser's management or administrative organ and the persons who hold qualifying holdings in the purchaser within the meaning of point (36) of Article 4(1) of Regulation (EU) No 575/2013; and

(ii) the address of the purchaser .

Additionally, the credit institution shall inform about at least the following:

³⁹ 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).

Or. en

Amendment 397
Matt Carthy

Proposal for a directive
Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Credit purchasers subject to national law
A credit purchaser carrying out activities in a Member State is subject to the restrictions and requirements established in the national law of the Member State in accordance with this Directive.

Or. en

Amendment 398

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

Proposal for a directive

Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. EBA shall develop draft ***implementing technical standards*** that specify the formats ***to*** be used by creditors who are credit institutions for the provision of information as set out in Article 13(1), in order to provide detailed information on their credit exposures in the banking book to credit purchasers for the screening, financial due diligence and valuation of the credit agreement.

1. EBA shall develop draft ***Guidelines*** that specify the formats ***that may*** be used by creditors who are credit institutions for the provision of information as set out in Article 13(1), in order to provide detailed information on their credit exposures in the banking book to credit purchasers for the screening, financial due diligence and valuation of the credit agreement ***or creditor's rights. EBA shall specify in the draft Guidelines the required minimum data fields for non-performing credit agreements or creditor's rights in order to meet the information requirements as set out in Article 13(1).***

Or. en

Justification

NPL templates are not mandatory and are not a supervisory reporting requirement, but only a guideline.

Amendment 399

Piernicola Pedicini, Fabio Massimo Castaldo

**Proposal for a directive
Article 14 – paragraph 1**

Text proposed by the Commission

1. EBA shall develop ***draft implementing technical standards*** that specify the formats ***to*** be used by creditors who are credit institutions for the provision of information as set out in Article 13(1), in order to provide detailed information on their credit exposures in the banking book to credit purchasers for the screening, financial due diligence and valuation of the credit agreement.

Amendment

1. EBA shall develop ***guidelines*** that specify the formats ***that may*** be used by creditors who are credit institutions for the provision of information as set out in Article 13(1), in order to provide detailed information on their credit exposures in the banking book to credit purchasers for the screening, financial due diligence and valuation of the credit agreement.

Or. en

**Amendment 400
Jonás Fernández**

**Proposal for a directive
Article 14 – paragraph 1**

Text proposed by the Commission

1. EBA shall develop draft implementing technical standards that specify the formats to be used by creditors who are credit institutions for the provision of information as set out in Article 13(1), in order to provide detailed information on their credit exposures in the banking book to credit purchasers for the screening, financial due diligence and valuation of the credit agreement.

Amendment

1. EBA shall develop draft implementing technical standards that specify the formats to be used by creditors who are credit institutions for the provision of information as set out in Article 13(1), in order to provide detailed information on their credit exposures in the banking book to credit purchasers for the screening, financial due diligence and valuation of the ***creditor's rights under a non-performing credit agreement or of the non-performing credit agreement itself. EBA shall specify in the implementing technical standards the required data fields for creditor's rights under a non-performing credit agreement or for the non-performing credit agreement itself in order to meet the information requirements as set out in Article 13(1), which shall be applied to***

credit institutions in a proportionate manner having regard to their size and complexity.

Or. en

Amendment 401

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

**Proposal for a directive
Article 14 – paragraph 2**

Text proposed by the Commission

Amendment

2. EBA shall submit those draft implementing technical standards to the Commission by [31 December 2018]. *deleted*

Or. en

Amendment 402

Marco Zanni, Francesca Donato, Valentino Grant, Antonio Maria Rinaldi

**Proposal for a directive
Article 14 – paragraph 3**

Text proposed by the Commission

Amendment

3. Power is conferred on the Commission to adopt the implementing technical standards referred to in the paragraph 1, in accordance with Article 15 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁴⁰. *deleted*

⁴⁰ *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).*

Amendment 403
Matt Carthy

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure *that the representative of a credit purchaser referred to in Article 17(1) appoints a credit institution established in the Union or its subsidiary established in the Union or an authorised credit servicer to perform credit servicing activities in respect of credit agreements concluded with consumers.*

Amendment

1. Member States shall ensure *the direct regulation of credit purchasers operating in their jurisdiction by ensuring the national competent authorities are empowered to supervise, investigate and sanction the credit purchasers.*

Amendment 404
Matt Carthy

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. *Member States shall ensure that a credit purchaser is not subject to any additional requirements for the purchase of credit agreements other than as provided for by the national measures transposing this Directive.*

Amendment

deleted

Amendment 405
Frances Fitzgerald

Proposal for a directive

Article 15 – paragraph 2

Text proposed by the Commission

Amendment

2. **Member States shall ensure that a credit purchaser is not subject to any additional requirements for the purchase of credit agreements other than as provided for by the national measures transposing this Directive.**

deleted

Or. en

Amendment 406

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 15 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that a credit purchaser *is not subject to any additional requirements for the purchase of credit agreements other than as provided for by the national measures transposing this Directive.*

2. Member States shall ensure that ***relevant Union and national law concerning in particular the enforcement of contracts, consumer protection, borrower's rights and criminal law continues to apply to the credit purchaser upon the transfer of the creditor's rights under a credit agreement or the credit agreement itself to the credit purchaser. The level of protection provided under Union and national law to consumers and other borrowers shall not be affected by the transfer of the creditor's rights under a credit agreement or the credit agreement itself to the credit purchaser.***

Or. en

Amendment 407

Pedro Marques

Proposal for a directive

Article 15 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that a credit purchaser is not subject to any additional requirements for the purchase of credit agreements other than as provided for by the national measures transposing this Directive.

Amendment

2. Member States shall ensure that a credit purchaser is not subject to any additional **administrative** requirements for the purchase of **creditor's rights under a non-performing credit agreement or the non-performing** credit agreements **itself** other than as provided for by the national measures transposing this Directive, **the consumer protection law or governing contract law. Member States shall ensure that relevant Union and national law concerning in particular the enforcement of contracts, consumer protection, borrower's rights, credit origination, bank secrecy rules and criminal law continues to apply to the credit purchaser upon the transfer of the creditor's rights under a credit agreement or the credit agreement itself to the credit purchaser. The level of protection provided under Union and national law to consumers and other borrowers shall not be affected by the transfer of the creditor's rights under a credit agreement or the credit agreement itself to the credit purchaser.**

Or. en

Amendment 408

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that a credit purchaser is **not** subject to any additional requirements for the purchase of credit agreements other than as provided for by the national measures transposing this Directive.

Amendment

2. Member States shall ensure that a credit purchaser is subject to any **necessary** additional requirements for the purchase of credit agreements other than as provided for by the national measures transposing this Directive.

Amendment 409
Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive
Article 15 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that a credit purchaser, or where relevant the appointed credit servicer, upon the transfer of the creditor's rights under a credit agreement or the credit agreement itself assumes all relevant information and notification requirements to the national competent authorities.

Or. en

Amendment 410
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Article 15 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Directive is without prejudice to national powers regarding credit registers, including the power to require information to credit purchasers regarding the creditor's rights under a credit agreement or the credit agreement itself and its performance.

Or. en

Amendment 411
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Article 15 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. This Directive does not affect Member States' laws extending the scope of the Directive or imposing additional requirements to credit purchasers.

Or. en

Amendment 412
Matt Carthy

Proposal for a directive
Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Representative of credit purchasers not established in the Union

1. Member States shall provide that where a transfer of the credit agreement is concluded, a credit purchaser that is not domiciled or established in the Union has designated in writing a representative who is domiciled or established in the Union.

2. The representative referred to in paragraph 1 shall be addressed in addition to or instead of the credit purchaser by competent authorities on all issues related to the ongoing compliance with this Directive and be fully responsible for compliance with the obligations imposed on the credit purchaser under the national provisions transposing this Directive.

Or. en

Amendment 413

Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that a credit purchaser or, where applicable, its representative designated in accordance with Article 17, communicates to the competent authorities of the Member State where the credit purchaser or, where applicable its representative is domiciled or established that it intends to directly enforce a credit agreement by providing the following information:

Amendment

1. Member States shall ensure that a credit purchaser, **entities** or, where applicable, its representative designated in accordance with Article 17, **shall be subject to the same rules, be it specialised credit servicers and banking institutions. Moreover, it** communicates to the competent authorities of the Member State where the credit purchaser or, where applicable its representative is domiciled or established that it intends to directly enforce a credit agreement by providing the following information:

Or. en

Amendment 414
Matt Carthy

Proposal for a directive
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that a credit purchaser **or, where applicable, its representative designated in accordance with Article 17,** communicates to the competent authorities of the Member State **where the credit purchaser or, where applicable its representative is domiciled or established** that it intends to directly enforce a credit agreement by providing the following information:

Amendment

1. Member States shall ensure that a credit purchaser communicates to the competent authorities of the Member State that it intends to directly enforce a credit agreement by providing the following information:

Or. en

Amendment 415
Engin Eroglu, Luis Garicano, Monica Semedo

Proposal for a directive
Article 19 – paragraph 1

Text proposed by the Commission

1. ***Member States shall require a credit purchaser or, where applicable, its representative designated in accordance with Article 17, that transfers a credit agreement to another credit purchaser to inform the competent authorities referred to in Article 18(1) of the transfer, the identity and address of the new credit purchaser and, where applicable, its representative designated in accordance with Article 17.***

Amendment

1. ***When a credit purchaser transfers a creditor's rights under a non-performing credit agreement or the non-performing credit agreements itself to another credit purchaser, Member States shall require the appointed credit servicer to inform the competent authorities of the home Member State on a quarterly basis for each transfer about the new credit purchaser's legal entity identifier (LEI) or where such identifier does not exist about:***

(i) the identity of the new credit purchaser or members of the new purchaser's management or administrative organ and the persons who hold qualifying holdings in the new purchaser within the meaning of point (36) of Article 4(1) of Regulation (EU) No 575/2013; and

(ii) the address of the new purchaser.

Additionally, on an aggregated level, the credit purchaser shall inform at least the following:

(a) the aggregated outstanding balance of the creditor's rights under the non-performing credit agreements or of the non-performing credit agreements transferred;

(b) the number and size of the creditor's rights under the non-performing credit agreements or of the non-performing credit agreements transferred;

(c) on whether the transfer includes creditor's rights under non-performing credit agreements or non-performing credit agreements concluded with consumers and the types of assets securing them, when applicable.

Amendment 416
Matt Carthy

Proposal for a directive
Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall require the national competent authorities to make publicly available information regarding the transfer of credit agreements from a credit institution to a credit purchaser, or from one credit purchaser to another, including the identity and address of the new credit purchaser and, where applicable, its representative designated in accordance with Article 17.

Or. en

Amendment 417
Frances Fitzgerald

Proposal for a directive
Article 20 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that credit servicers and, where applicable, credit service providers to whom activities have been outsourced in accordance with Article 10, comply with the national provisions transposing this Directive on an on-going basis and shall ensure that those activities are subject to adequate supervision by the competent authorities of the home Member State in order to assess such compliance.

1. Member States shall ensure that credit servicers, ***credit purchasers*** and, where applicable, credit service providers to whom activities have been outsourced in accordance with Article 10, comply with the national provisions transposing this Directive on an on-going basis and shall ensure that those activities are subject to adequate supervision by the competent authorities of the home Member State in order to assess such compliance.

Or. en

Amendment 418
Frances Fitzgerald

Proposal for a directive
Article 20 – paragraph 2

Text proposed by the Commission

Amendment

2. *The Member State where the credit purchasers or, where applicable, their representative designated in accordance to Article 17, are domiciled or established shall ensure that the competent authorities referred to in paragraph 1 are responsible for the supervision of the obligations set in Articles 15-19 in respect of credit purchasers or, where applicable their representatives designated in accordance to Article 17.* **deleted**

Or. en

Amendment 419
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 21 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that competent authorities of the home Member State designated pursuant to Article 20(3), are given all supervisory, investigatory and sanctioning powers necessary for the exercise of their functions and duties laid down in this Directive, including the following:

1. Member States shall ensure that competent authorities of the home **and host** Member State designated pursuant to Article 20(3), are given all supervisory, investigatory and sanctioning powers necessary for the exercise of their functions and duties laid down in this Directive, including **at least** the following:

Or. en

Amendment 420
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 21 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the power to prohibit certain activities;

Or. en

Amendment 421
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 21 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the power to require a credit servicer to remove members of its management or administrative organ when they fail to comply with the requirements set out in Article 5(1)(b) and Article 5a;

Or. en

Amendment 422
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 21 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) the power to require credit

servicers to modify or update the internal governance arrangements and internal control mechanisms of a credit servicer in order to effectively ensure respect for borrower rights in accordance with the laws governing the credit agreement;

Or. en

Amendment 423

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 21 – paragraph 1 – point e c (new)

Text proposed by the Commission

Amendment

(ec) the power to require credit servicers to modify or update the policies adopted by credit servicers to ensure the fair and diligent treatment of the borrowers, and the recording and handling of borrower complaints;

Or. en

Amendment 424

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 21 – paragraph 1 – point e d (new)

Text proposed by the Commission

Amendment

(ed) the power to request further information pertaining to the transfer of the creditor's rights under the credit agreements or of the credit agreements themselves;

Or. en

Amendment 425

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 21 – paragraph 1 – point e e (new)

Text proposed by the Commission

Amendment

***(ee) the power to review sound
forbearance policies and processes
referred to in Article -13;***

Or. en

Amendment 426

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 21 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that the competent authorities of the home Member State evaluate, at least once a year, the implementation by a credit servicer of the requirements set in points ***(c) (d) and (e)*** of Article 5(1).

2. Member States shall ensure that the competent authorities of the home Member State evaluate, at least once a year, the implementation by a credit servicer of the requirements set in points ***(b) to (ee)*** of Article 5(1).

Or. en

Amendment 427

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 22 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall lay down rules

1. ***Without prejudice to the right of***

establishing appropriate administrative penalties and remedial measures applicable in at least the following situations:

Member States to laydown criminal penalties, Member States shall lay down rules establishing appropriate administrative penalties and remedial measures applicable in at least the following situations:

Or. en

Amendment 428

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 22 – paragraph 1 – point a

Text proposed by the Commission

(a) a credit servicer fails to ***enter*** or enters into an outsourcing agreement in breach of the provisions transposing Article 10 or the credit service provider to whom the functions were outsourced commits a serious breach of the applicable legal rules, including the national law transposing this Directive;

Amendment

(a) a credit servicer fails to ***comply with the requirement set out in the national measures transposing Article 9 of this Directive*** or enters into an outsourcing agreement in breach of the provisions transposing Article 10 or the credit service provider to whom the functions were outsourced commits a serious breach of the applicable legal rules, including the national law transposing this Directive;

Or. en

Amendment 429

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Article 22 – paragraph 1 – point b

Text proposed by the Commission

(b) a credit servicer's governance arrangements and internal control mechanisms fail to ensure respect for borrower rights and compliance with personal data protection rules;

Amendment

(b) a ***credit purchaser or*** credit servicer's governance arrangements and internal control mechanisms fail to ensure respect for borrower rights and compliance with personal data protection rules;

Amendment 430
Frances Fitzgerald

Proposal for a directive
Article 22 – paragraph 1 – point c

Text proposed by the Commission

(c) a credit *servicer's* policy is inadequate for the proper treatment of borrowers as set in Article 5(1)(d);

Amendment

(c) a credit *servicer or a credit purchaser's* policy is inadequate for the proper treatment of borrowers as set in Article 5(1)(d);

Or. en

Amendment 431
Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Article 22 – paragraph 1 – point c

Text proposed by the Commission

(c) a credit servicer's policy is inadequate for the proper treatment of borrowers as set in Article 5(1)(d);

Amendment

(c) a *credit purchaser or* credit servicer's policy is inadequate for the proper treatment of borrowers as set in Article 5(1)(d);

Or. en

Amendment 432
Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive
Article 22 – paragraph 1 – point d

Text proposed by the Commission

(d) a credit servicer's internal procedures fail to provide for the recording and handling of borrower complaints according to the obligations set in the

Amendment

(d) a *credit purchaser or* credit servicer's internal procedures fail to provide for the recording and handling of borrower complaints according to the

national measures transposing this directive;

obligations set in the national measures transposing this directive;

Or. en

Amendment 433
Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive
Article 22 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) a credit institution fails to communicate information set out in the national measures transposing Article 13 of this Directive, only once and after the transfer of the credit agreement is finalized;

Or. en

Amendment 434
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 22 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) a credit purchaser fails to comply with the requirements set out in national measures transposing Article -13 of this Directive;

Or. en

Amendment 435
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 22 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

(gb) a credit purchaser fails to comply with the conduct of business requirements set out in national measures transposing Article 6a of this Directive;

Or. en

Amendment 436
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 22 – paragraph 1 – point g c (new)

Text proposed by the Commission

Amendment

(gc) a credit institution fails to communicate information set out in the national measures transposing Article 13 of this Directive;

Or. en

Amendment 437
Ernest Urtasun
on behalf of the Greens/EFA Group
Jonás Fernández

Proposal for a directive
Article 22 – paragraph 1 – point g d (new)

Text proposed by the Commission

Amendment

(gd) a credit institution fails to comply with the requirements set out in national measures transposing Article -13 of this Directive;

Amendment 438

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 22 – paragraph 1 – point g e (new)

Text proposed by the Commission

Amendment

(ge) a credit institution fails to comply with the conduct of business requirements set out in national measures transposing Article 6a of this Directive;

Or. en

Amendment 439

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 22 – paragraph 1 – point g f (new)

Text proposed by the Commission

Amendment

(gf) a credit servicer allows one or more persons not complying with the requirements as set in Article 5(1)(b) to become or remain a member of its management or administrative organ;

Or. en

Amendment 440

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 22 – paragraph 1 – point g g (new)

Text proposed by the Commission

Amendment

(gg) a credit servicer fails to comply with the requirement set out in the national measures transposing Article 35 of this Directive;

Or. en

Amendment 441

Ernest Urtasun

on behalf of the Greens/EFA Group

Jonás Fernández

Proposal for a directive

Article 22 – paragraph 1 – point g h (new)

Text proposed by the Commission

Amendment

(gh) a credit servicer or credit service provider fails to comply with the conduct of business requirements set out in national measures transposing Article 6a of this Directive;

Or. en

Amendment 442

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 22 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) a **cancellation** of an authorisation to carry out activities as a credit servicer;

(a) a **withdrawal** of an authorisation to carry out activities as a credit servicer;

Or. en

Amendment 443

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 22 – paragraph 4 – introductory part

Text proposed by the Commission

4. Member States shall ensure that when determining the type of administrative penalties or other remedial measures and the amount of those administrative pecuniary penalties that competent authorities take into account ***all the following*** circumstances, ***where relevant***:

Amendment

4. Member States shall ensure that when determining the type of administrative penalties or other remedial measures and the amount of those administrative pecuniary penalties that competent authorities take into account ***relevant*** circumstances, ***including the following***:

Or. en

Amendment 444

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 22 – paragraph 5

Text proposed by the Commission

5. ***Where the situations referred to in paragraph 1 apply to legal persons,*** Member States shall also ensure that competent authorities apply the administrative penalties and remedial measures set out in paragraph 2 to members of the management or administrative organ, and to other individuals who under national law are responsible for the breach.

Amendment

5. Member States shall also ensure that competent authorities apply the administrative penalties and remedial measures set out in paragraph 2 to members of the management or administrative organ, and to other individuals who under national law are responsible for the breach.

Or. en

Amendment 445

Piernicola Pedicini, Fabio Massimo Castaldo

Proposal for a directive
Article 22 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that before taking any decision imposing administrative penalties or remedial measures set out in paragraph 2 of this Article, the competent authorities give the concerned credit servicer, credit purchaser ***or where applicable, its representative designated in accordance with Article 17,*** the opportunity to be heard.

Amendment

6. Member States shall ensure that before taking any decision imposing administrative penalties or remedial measures set out in paragraph 2 of this Article, the competent authorities give the concerned credit servicer, credit purchaser the opportunity to be heard. ***Before taking any decision, the competent authority shall notify in a written form the existence of such proceeding to the servicer and the interested creditors.***

Or. en

Amendment 446
Dimitrios Papadimoulis, Matt Carthy
on behalf of the GUE/NGL Group

Proposal for a directive
Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22a

Rules of conduct for credit servicers and credit purchasers

1. Credit servicers and credit purchasers shall act in good faith, treat consumers fairly and respect their privacy.

2. The following practices shall be forbidden:

(a) provision of misleading information to consumers;

(b) harassment of consumers, including communication of information about the consumers' debt to their employer, family, friends and neighbours;

(c) charging fees and penalties to consumers that exceed the costs directly

related to the management of the debt.

Member States shall place a cap on the fees and penalties referred to in point (c) in accordance with principles of fairness, rationality and proportionality.

Or. en

Amendment 447

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 23

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 448

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 24

Text proposed by the Commission

Amendment

Article 24

deleted

Enforcement

1. Member States shall ensure that collateral may be realised pursuant to this accelerated extrajudicial collateral enforcement mechanism.

2.

Member States shall provide for at least one or both of the following means to realise the collateral as referred to in paragraph 1 for each type of security right and collateral:

(a) public auction;

(b) private sale.

For each of these means, Member States may provide that a notary, bailiff or other public official is appointed where appropriate to ensure an efficient and expedited distribution of sale proceeds and transfer of the collateral to an acquirer, or safeguard the borrower's rights.

3. Where Member States establish the extrajudicial enforcement procedure by means of appropriation, the right of the creditor to retain the asset in or towards satisfaction of business borrower's liability shall be governed by the applicable laws in each Member State. Member States shall ensure that in the case of appropriation the positive difference to be paid out to the business borrower shall be the difference between sum outstanding of the secured credit agreement and the valuation of the asset.

4. For the purposes of the realisation referred to in paragraph 2, Member States shall ensure that the creditor organises a valuation of the assets, in order to determine the reserve price in cases of public auction and private sale, and that the following conditions are met:

(a) the creditor and the business borrower agree on the valuer to be appointed;

(b) the valuation is conducted by an independent valuer;

(c) the valuation is fair and realistic;

(d) the valuation is conducted specifically for the purposes of the realisation of the collateral after the enforcement event;

(e) the business borrower has the right to challenge the valuation before a court in accordance with Article 29.

5. For the purposes of point (a), where the parties cannot agree upon the appointment of a valuer for the purposes

of realising the collateral referred to in paragraph 2, a valuer shall be appointed by a decision of a judicial court, in accordance with the national law of the Member State in which the business borrower is established or is domiciled.

Or. en

Amendment 449

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 25

Text proposed by the Commission

Amendment

Article 25

deleted

Public auction

1. Member States shall ensure that the realisation of collateral by means of public auction is conducted in accordance with the following elements:

(a) the creditor has publicly communicated the time and place of the public auction at least 10 days prior to that auction;

(b) the creditor has made reasonable efforts to attract the highest number of potential buyers;

(c) the creditor has notified the business borrower, and any third party with an interest in or right to the asset, of the public auction, including its time and place, at least 10 days prior to that auction;

(d) a valuation of the asset has been conducted prior to the public auction;

(e) the reserve price of the asset is at least equal to the valuation amount determined prior to the public auction;

(f) the asset may be sold at a reduction of

no more than 20% of the valuation amount where both of the following apply:

(i) no buyer has made an offer in line with the requirements referred to in points (e) and (f) at the public auction;

(ii) there is a threat of imminent deterioration of the asset.

2. Where the asset has not been sold by public auction, Member States may provide for the realisation of the collateral by private sale.

3. Where a Member State provides for a second public auction, points (a) to (e) of paragraph 1 shall apply but the asset may be sold at a further reduction, as determined by Member States.

Or. en

Amendment 450

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 26

Text proposed by the Commission

Amendment

Article 26

deleted

Private sale

1. Member States shall ensure that the realisation of collateral by means of private sale is conducted in accordance with the following elements:

(a) the creditor has made reasonable efforts, including adequate public advertising, to attract potential buyers;

(b) the creditor has notified the business borrower, and any relevant third party with an interest in or right to the asset, of its intention to sell the asset at least 10 days prior to offering the asset for sale;

(c) a valuation of the asset has been conducted prior to the private sale, and or a public auction in accordance with point (c) of Article 25(1);

(d) the guide price of the asset is at least equal to the amount established in the valuation referred to in point (c), at the time of offering the asset for private sale;

(e) the asset may be sold at a reduction of no more than 20% of value where both of the following apply:

(i) no buyer has made an offer in line with the requirements referred to in points (d) and (e) within 30 days;

(ii) there is a threat of imminent deterioration of the asset.

2. Where the asset has not been sold by private sale within 30 days of offering the asset for sale, Member States shall ensure that the creditor publicly advertises the sale for an additional period of at least 30 days before concluding any sale.

3. Where a Member State provides for a second attempt at private sale, points (a) to (d) of paragraph 1 shall apply but the asset may be sold at a further reduction, as determined by Member States.

Or. en

Amendment 451

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 27

Text proposed by the Commission

Amendment

Article 27

deleted

Competing security rights

Member States shall provide that the priority attached to competing security

rights in the same collateral is not affected by the enforcement of one of those rights by means of the national provisions transposing this Directive.

Or. en

Amendment 452

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 28

Text proposed by the Commission

Amendment

Article 28

deleted

Right to challenge the enforcement

Member States shall ensure that the business borrower has the right to challenge the use of this accelerated extrajudicial collateral enforcement mechanism before a national court where the sale of the assets provided as collateral has not been conducted in accordance with the national provisions transposing Articles 24(3), 25 and 26, or the valuation of the assets has not been conducted in accordance with the national provisions transposing Article 24(4).

Or. en

Amendment 453

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 29

Text proposed by the Commission

Amendment

Article 29

deleted

Restitution of the exceeding amount

Member States shall ensure that the creditor is required to pay the business borrower any positive difference between the sum outstanding of the secured credit agreement and the proceeds of the sale of the asset.

Or. en

Amendment 454

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 30

Text proposed by the Commission

Amendment

Article 30

deleted

Settlement of the outstanding amount

Without prejudice to articles 19 to 23 of the Directive (EU) 20XX/XX of the European Parliament and of the Council⁴¹, in cases where the amount realised after the use of this accelerated extrajudicial collateral enforcement mechanism is an amount lower than the sum outstanding of the secured credit agreement, Member States may provide for the settlement of all liabilities under that agreement, in accordance with applicable national laws.

⁴¹ ***Directive (EU) .../... of the European Parliament and of the Council of [...] on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU (OJ L [...], [...], p. [...]).***

Or. en

Amendment 455

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 31

Text proposed by the Commission

Amendment

Article 31

deleted

Transfer of secured credit agreements to third parties

Member States shall ensure that where a secured credit agreement which provides for the right to use accelerated extrajudicial collateral enforcement is transferred by the credit institution or its subsidiary to any third party, that third party shall acquire the right to use this accelerated extrajudicial collateral enforcement mechanism in case of the business borrower's default under the same terms and conditions as the credit institution.

Or. en

Amendment 456

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 32

Text proposed by the Commission

Amendment

Article 32

deleted

Restructuring and insolvency proceedings

1. This Directive shall be without prejudice to the Directive (EU) 20XX/XX of the European Parliament and of the Council⁴².

2. Member States shall ensure that where

insolvency proceedings are initiated in respect of a business borrower, the realisation of collateral pursuant to national laws transposing this Directive is subject to a stay of individual enforcement actions in accordance with applicable national laws.

⁴² Directive (EU) .../... of the European Parliament and of the Council of [...] on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU (OJ L [...], [...], p. [...]).

Or. en

Amendment 457
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Article 33

Text proposed by the Commission

Amendment

Article 33

deleted

Data collection

1. Member States and, in the case of credit institutions competent authorities which supervise credit institutions, shall, on an annual basis, collect information from creditors on the number of secured credit agreements which are enforced through this accelerated extrajudicial collateral enforcement and the timeframes for such enforcement.

2. Member States and, in the case of credit institutions, competent authorities which supervise credit institutions, shall, on an annual basis, collect the following information from creditors:

(a) the number of proceedings pursuant to the national provisions transposing this Directive initiated, pending and realised, including:

(i) the number of proceedings in respect of movable assets,

(ii) the number of proceedings in respect of immovable assets.

(b) the length of the proceedings from notification to settlement, arranged by means of realisation (public sale, private sale, or appropriation);

(c) the average costs of each proceedings, in EUR;

(d) the settlement rates.

3. Member States shall aggregate the data referred to in paragraph 2 and compile statistics from that aggregate data for the full calendar year beginning DATE [OP: Please insert a date of the January 1 following adoption of this act].

4. The statistics referred to in the first subparagraph shall be communicated to the Commission on annual basis and by 31 March of the calendar year following the year for which data is collected.

Or. en

Amendment 458

Engin Eroglu, Monica Semedo

Proposal for a directive

Article 34

Text proposed by the Commission

Amendment

Article 34

deleted

Modification of the credit agreement

Without prejudice to the obligations to inform the consumer pursuant to Directive 2014/17/EU, Directive 2008/48/EC and Directive 93/13/EEC,

Member States shall ensure that prior to modifying the terms and conditions of a credit agreement either by consent or by operation of law, the creditor communicates the following information to the consumer:

(a) a clear and comprehensive description of the proposed changes;

(b) the timescale for the implementation of those changes;

(c) the grounds of 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.

Or. en

Justification

Should be deleted as the obligations would even apply to small, insignificant or otherwise immaterial modifications. Moreover, the creditors' obligations of transparency/information towards customers before and even during the credit agreement are already sufficiently regulated within other more specific legislation (e.g. Directive 2008/48/EC, Directive 2014/17/EU, Directive 93/13/EEC). The proposed text would in fact impose excessive and unnecessary burdens on the creditor.

Amendment 459

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 34 – paragraph 1 – introductory part

Text proposed by the Commission

Without prejudice to the obligations to inform the consumer pursuant to Directive 2014/17/EU, Directive 2008/48/EC **and** Directive 93/13/EEC, Member States shall ensure that prior to modifying the terms and conditions of a credit agreement either

Amendment

Without prejudice to the obligations to inform the consumer pursuant to Directive 2014/17/EU, Directive 2008/48/EC Directive 93/13/EEC **and of the obligations of Article 2a of this Directive**, Member States shall ensure that prior to

by consent or by operation of law, the creditor communicates the following information to the consumer:

modifying the terms and conditions of *the creditor's rights under a credit agreement or of the credit agreement itself* either by consent or by operation of law, the creditor communicates the following information to the consumer:

Or. en

Amendment 460
Markus Ferber

Proposal for a directive
Article 34 – paragraph 1 – introductory part

Text proposed by the Commission

Without prejudice to the obligations to inform the consumer pursuant to Directive 2014/17/EU, Directive 2008/48/EC and Directive 93/13/EEC, Member States shall ensure that prior to modifying the terms and conditions of a credit agreement either by consent or by operation of law, the creditor communicates the following information to the consumer:

Amendment

Without prejudice to the obligations to inform the consumer pursuant to Directive 2014/17/EU, Directive 2008/48/EC and Directive 93/13/EEC, Member States shall ensure that prior to *substantially* modifying the terms and conditions of a credit agreement either by consent or by operation of law, the creditor communicates the following information to the consumer:

Or. en

Justification

In order to avoid unnecessary administrative burdens, the obligation to inform the client should only be triggered in case of a substantial change to the terms and conditions of a credit agreement.

Amendment 461
Ernest Urtasun
on behalf of the Greens/EFA Group

Proposal for a directive
Article 34 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) a clear and comprehensive description of the proposed changes;

(a) a clear and comprehensive description of the proposed changes ***and the need for borrower consent or, where applicable, of the changes introduced by operation of law;***

Or. en

Amendment 462

Engin Eroglu, Luis Garicano, Monica Semedo

Proposal for a directive

Article 34 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) a clear ***and comprehensive*** description of the proposed changes;

(a) a clear description of the proposed changes;

Or. en

Justification

Short notices are more customer friendly than Long ones.

Amendment 463

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Article 35 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the identity of the credit servicer;

(a) the identity of the credit servicer ***and, where applicable, the credit purchaser it is providing the service to;***

Or. en

Amendment 464

Engin Eroglu, Luis Garicano, Monica Semedo

Proposal for a directive

Article 36 – paragraph 1

Text proposed by the Commission

The provision of information to individuals about the processing of personal data and the processing of such personal data and any other processing of personal data for the purposes of this Directive shall be carried out in accordance with Regulation (EU) 2016/679 and with Regulation (EC) No 45/2001.

Amendment

The provision of information to individuals about the processing of personal data and the processing of such personal data and any other processing of personal data for the purposes of this Directive shall be carried out in accordance with Regulation (EU) 2016/679 and with Regulation (EC) No 45/2001. ***Debt collection is a legal ground for data storing and processing.***

Or. en

Amendment 465

Matt Carthy

Proposal for a directive

Article 37 a (new)

Text proposed by the Commission

Amendment

Article 37a

Illegal state aid

The Commission shall investigate whether the past sale of credit agreements by publicly owned, or partially publicly owned, credit institutions to credit purchasers which have received special tax advantages may have constituted illegal state aid.

Or. en

Amendment 466

Matt Carthy, Dimitrios Papadimoulis

Proposal for a directive

Article 40 – paragraph 1

Text proposed by the Commission

Amendment

1. ***Five*** years after the entry into force

1. ***Two*** years after the entry into force

of this Directive, the Commission shall carry out an evaluation of this Directive and present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.

of this Directive, the Commission shall carry out an evaluation of this Directive and present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.

Or. en

Amendment 467

Matt Carthy

Proposal for a directive

Article 40 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The Commission's impact assessment carried out prior to the proposal for this Directive failed to take into account the impact of the Directive on EU citizens' human rights under the Charter of Fundamental Rights. The transposition of this Directive must be delayed until the Commission produces a new assessment that takes into account the impact of this Directive on the Charter rights of EU citizens.

Or. en

Amendment 468

Ernest Urtasun

on behalf of the Greens/EFA Group

Proposal for a directive

Article 40 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The evaluation shall assess, inter alia, non-prudent lending practices by creditors, the implementation of forbearance measures under Article 12a and any violations of consumers' rights

through the sale of credit agreements to the secondary market. It shall pay particular attention to the situation of vulnerable debtors, such as individuals from low-income groups.

Or. en