



**2018/0063A(COD)**

29.11.2019

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council  
on credit servicers, credit purchasers and the recovery of collateral  
(COM(2018)0135 – C8-0115/2018 – 2018/0063A(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Esther de Lange, Irene Tinagli

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council on credit servicers, credit purchasers and the recovery of collateral  
(COM(2018)0135 – C9-0115/2018 – 2018/0063A(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0135),
  - having regard to Article 294(2), Article 53 and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0115/2018),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Central Bank of 20 November 2018<sup>1</sup>
  - having regard to the opinion of the European Economic and Social Committee of 11 July 2018<sup>2</sup>,
  - having regard to the decision by the Conference of Presidents on 16 October 2019 to authorise the Committee on Economic and Monetary Affairs to split the above-mentioned Commission proposal and to draw up two separate legislative reports on the basis thereof,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2019),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C 444, 10.12.2018, p. 15.

<sup>2</sup> OJ C 367, 10.10.2018, p. 43.

## Amendment 1

### Proposal for a directive Title 0

*Text proposed by the Commission*

Proposal for a  
DIRECTIVE OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on credit servicers, credit purchasers *and*  
*the recovery of collateral*  
(Text with EEA relevance)

*Amendment*

Proposal for a  
DIRECTIVE OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
on credit servicers *and* credit purchasers  
  
(Text with EEA relevance)

Or. en

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

## Amendment 2

### 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

*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.

create jobs and growth within the Union.

Or. en

### Amendment 3

#### 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"<sup>25</sup> 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 2017<sup>26</sup>, which called for a comprehensive package on tackling NPLs within the Union.

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

<sup>26</sup> 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.

##### *Amendment*

(3) In July 2017 the Council in its "Action Plan to Tackle Non-Performing Loans in Europe"<sup>25</sup> called upon various institutions to take appropriate measures to further address the high number of NPLs in the Union ***and prevent their possible future accumulation***. 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 2017<sup>26</sup>, which called for a comprehensive package on tackling NPLs within the Union.

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

<sup>26</sup> 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.

## Amendment 4

### 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 Council<sup>27</sup> (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.

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<sup>27</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

##### *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 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 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 Council<sup>27</sup> (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.

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<sup>27</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).



## Amendment 5

### Proposal for a directive

#### Recital 6

*Text proposed by the Commission*

(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.

*Amendment*

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

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

## Amendment 6

### Proposal for a directive

#### Recital 7

**(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 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.**

**deleted**

Or. en

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

#### **Amendment 7**

**Proposal for a directive  
Recital 8**

*Text proposed by the Commission*

(8) While the terms 'loans' and 'banks' are commonly referred to in the public debate, the more precise legal terms of 'credit' or 'credit agreements' and 'credit institution' are used hereafter.

***Furthermore, unless otherwise specified, the terms bank and credit institution also cover their subsidiaries.***

*Amendment*

(8) While the terms 'loans' and 'banks' are commonly referred to in the public debate, the more precise legal terms of 'credit' or 'credit agreements' and 'credit institution' are used hereafter. ***Moreover, this Directive covers both the creditor's rights under a credit agreement and the credit agreement itself.***

Or. en

## Amendment 8

### Proposal for a directive

#### Recital 11

*Text proposed by the Commission*

(11) The limited participation of non-credit institutions has resulted in low demand, weak competition and low bid prices for portfolios of credit agreements on secondary markets, which is a disincentive for credit institutions to sell non-performing credit agreements. Therefore, there is a clear Union dimension to the development of markets for credits granted by credit institutions and sold to non-credit institutions. On the one hand, it should be possible for credit institutions to sell non-performing ***or even performing*** credit agreements on a Union-wide scale in efficient, competitive and transparent secondary markets. On the other hand, completion of the Banking Union and a Capital Markets Union make it necessary to act in order to prevent the accumulation of non-performing credit agreements on credit institutions' balance sheets so that they can continue to perform their role of financing the economy.

*Amendment*

(11) The limited participation of non-credit institutions has resulted in low demand, weak competition and low bid prices for portfolios of credit agreements on secondary markets, which is a disincentive for credit institutions to sell non-performing credit agreements. Therefore, there is a clear Union dimension to the development of markets for credits granted by credit institutions and sold to non-credit institutions. On the one hand, it should be possible for credit institutions to sell non-performing credit agreements on a Union-wide scale in efficient, competitive and transparent secondary markets. On the other hand, completion of the Banking Union and a Capital Markets Union make it necessary to act in order to prevent the accumulation of non-performing credit agreements on credit institutions' balance sheets so that they can continue to perform their role of financing the economy. ***Therefore, this Directive covers credit purchasers acting in the course of their trade, business or profession when they acquire a credit agreement only where it***

*has been qualified as a non-performing credit agreement.*

Or. en

## **Amendment 9**

### **Proposal for a directive Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11 a) Non-performing credit originally granted by credit institutions, may, in the process of servicing the credit, become performing. In that case, credit servicers may continue carrying out their activities, based on their authorisation.***

Or. en

## **Amendment 10**

### **Proposal for a directive Recital 14**

*Text proposed by the Commission*

*Amendment*

(14) While credit servicers can provide their services to credit institutions and to credit purchasers that are not credit institutions, a competitive and integrated market for credit servicers is linked to the development of a competitive and integrated market for credit purchasers. ***Since*** credit purchasers often do not have the capacity to service credit themselves, ***they may not*** purchase credit from credit institutions, if they cannot outsource ***the credit servicing to other entities.***

(14) While credit servicers can provide their services to credit institutions and to credit purchasers that are not credit institutions, a competitive and integrated market for credit servicers is linked to the development of a competitive and integrated market for credit purchasers. Credit purchasers often ***decide to outsource the credit servicing to other entities, as they*** do not have the capacity to service credit themselves, ***and thus may be reluctant to*** purchase credit from credit institutions, if they cannot outsource ***certain services.***

Or. en

## Amendment 11

### 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. ***However, this Directive is without prejudice to the rules governing credit origination in accordance with Union and national law, including in cases when credit servicers can be considered to engage in credit intermediation. 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 12

### Proposal for a directive Recital 16 a (new)

*Text proposed by the Commission*

*Amendment*

***(16a) It is open to Member States to regulate the credit servicing activities that do not fall within the scope of this Directive, such as services offered for credit agreements issued by non-credit***

*institutions or credit servicing activities performed by natural persons, including by imposing requirements equivalent to those under this Directive. Those entities, however, would not benefit from the possibility to passport such services to other Member States.*

Or. en

## Amendment 13

### 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*

*deleted*

*performing credit originated from credit institutions that had been resolved or been restructured or that have otherwise offloaded them from their balance sheets*<sup>28</sup>.

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

Or. en

## Amendment 14

### 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 Council<sup>29</sup>, Directive 2008/48/EC of the European Parliament and of the Council<sup>30</sup> and Council Directive 93/13/EEC<sup>31</sup> 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*.

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<sup>29</sup> Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential

*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 Council<sup>29</sup>, Directive 2008/48/EC of the European Parliament and of the Council<sup>30</sup> and Council Directive 93/13/EEC<sup>31</sup> 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. Credit purchasers and credit servicers should therefore comply with *applicable* Union *and national* law as applicable to the initial credit agreement and the *borrower* should retain the same level of protection as provided under *applicable* Union *and national* law or as determined by Union or national conflict of law rules.

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<sup>29</sup> Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential

immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34).

<sup>30</sup> Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 60/34, 22.5.2008, p. 66).

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

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).

<sup>30</sup> Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 60/34, 22.5.2008, p. 66).

<sup>31</sup> 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 15

### Proposal for a directive Recital 20

#### *Text proposed by the Commission*

(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 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.

#### *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, *to the use of unfair business-to-consumer commercial practices as laid down in Directive 2005/29/EU of the European Parliament and of the Council*<sup>3a</sup> and to *the* performance or default *of the credit agreement*. 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 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.

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<sup>33a</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

Or. en

## Amendment 16

### 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. 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 the Directive 2008/48/EC and the 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. Furthermore, alternative investment fund managers, management companies and investment companies (provided that the investment company has not designated a management company) authorized or registered under Directive 2011/61/EU of the European Parliament and of the Council<sup>33b</sup> or Directive 2009/65/EC of the European Parliament and of the Council<sup>33c</sup> should not fall within the scope of this Directive. Moreover, in securitisation operations SPVs avail themselves of master servicers whose tasks are broader than servicing activities as envisaged in this Directive. Therefore the transfer and the servicing of credits in the context of a securitisation should not fall in 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 to those professions.*

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<sup>33b</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and

Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

<sup>33c</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

Or. en

## Amendment 17

### 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 ***allows entities that are currently providing credit servicing activities under national law, to continue to do so in their home Member State for*** six months after the transposition deadline ***of this Directive*** has expired. ***After the expiry of that six month period, only credit servicers authorised under the national laws implementing this Directive will be able to operate on the market.***

Or. en

## Amendment 18

### Proposal for a directive Recital 23 a (new)

**(23a) Member States that already have rules in place that are equivalent or stricter than those established by this Directive for credit servicing activities may recognise in their national law implementing this Directive the possibility for existing entities that provide credit servicing activities to be automatically recognised as authorised credit servicers.**

Or. en

## Amendment 19

### Proposal for a directive

#### Recital 24

Text proposed by the Commission

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

(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. **A credit servicer authorisation covers credit servicing activities irrespective of the type of credits. Therefore, credit servicers may passport themselves for servicing performing loans in Member States where performing loans transfer is permitted. Considering the long-term nature of the relationship between a credit servicer and borrowers as well as the challenging requirements that have to be fulfilled, only a legal person can act as a credit servicer and therefore apply for an authorisation.** 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 persons who hold a qualifying holding in the credit servicer or **the**

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.

*members of the management or administrative organ* have a clean police record in relation to serious criminal offences linked to crimes against property, to crimes related to financial activities, ***to money laundering, to fraud*** or to crimes against the physical integrity and ***are not*** subject to an insolvency procedure or have not previously been declared bankrupt, unless they have been reinstated in accordance with national law. ***Member States should ensure that the management body as a whole possess adequate knowledge and experience to conduct the business in a competent and responsible manner, according to the activity to be carried out. It is for each Member State to assess the good repute, adequate knowledge and experience conditions, but it should not impair the free movement of authorised credit servicers within the Union. For this purpose, EBA should develop guidelines to reduce the risk of divergent interpretations of these requirements. Moreover, Member States should ensure that the applicant has a sufficient initial capital, and that there are no obstacles to the effective supervision of the applicant stemming from the structure of its group.*** 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, ***and that adequate own funds and liquidity requirements, appropriate measures for taking up, managing, monitoring, and mitigating risks as well as reporting and public disclosure requirements are established. In addition, credit servicers should have adequate procedures in place for anti-money laundering and countering of terrorism , where the home and 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.***

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.

Or. en

## Amendment 20

### Proposal for a directive Recital 25

*Text proposed by the Commission*

(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 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.

*Amendment*

(25) To avoid lengthy procedures and uncertainty, it is necessary to establish requirements regarding the information **that** 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 servicing activities in other Member States, competent authorities in the host Member State should be informed. Equally, an up-to-date public register **or list** should be established in each Member State **and made publicly available on the websites of the competent authorities** to ensure transparency as regards the number and identity of authorised credit servicers.

Or. en

## Amendment 21

### Proposal for a directive Recital 26

*Text proposed by the Commission*

(26) It should be established that credit servicers are responsible for making sure that where they outsource their activities to credit service providers, this does not result in undue operational risk or non-compliance by the credit service provider with any national or Union legal requirements or restrict the capacity of a regulatory supervisor to perform its duty and safeguard borrower rights.

*Amendment*

(26) ***The contractual relationship between the credit servicer and the creditor and obligations of the credit servicer towards the creditor should not be altered by the outsourcing to credit service providers.*** It should be established that credit servicers are responsible for making sure that where they outsource their activities to credit service providers, this does not result in undue operational risk or non-compliance by the credit service provider with any national or Union legal requirements or restrict the capacity of a regulatory supervisor to perform its duty and safeguard borrower rights.

Or. en

## **Amendment 22**

### **Proposal for a directive Recital 27**

*Text proposed by the Commission*

(27) Given that when a creditor entrusts the management and enforcement of a credit agreement, the creditor delegates its rights and duties and also its direct contact with the borrower to the credit servicer while still remaining ultimately responsible, the relationship between creditor and credit servicer should be clearly established in **writing** and it should be possible for competent authorities to verify how such a relationship is determined.

*Amendment*

(27) Given that when a creditor entrusts the management and enforcement of a credit agreement, the creditor delegates its rights and duties and also its direct contact with the borrower to the credit servicer while still remaining ultimately responsible, the relationship between creditor and credit servicer should be clearly established in **a written credit servicing agreement** and it should be possible for competent authorities to verify how such a relationship is determined. **Moreover, credit servicers should be obliged to act fairly and with due consideration for the financial situation of the borrowers. To the extent that the credit purchaser does not itself perform the servicing of the loans acquired,**

*Member States should be able to provide that the credit servicer and creditor are required to agree in the credit servicing agreement that the credit servicer notifies the creditor prior to outsourcing the credit servicing activities.*

Or. en

## Amendment 23

### Proposal for a directive Recital 28 a (new)

*Text proposed by the Commission*

*Amendment*

*(28a) A credit servicer carrying out activities in a host Member State is subject to the restrictions and requirements established in the national law of the host Member State in accordance with this Directive.*

Or. en

## Amendment 24

### Proposal for a directive Recital 29

*Text proposed by the Commission*

*Amendment*

(29) In order *for* an effective and efficient supervision of cross-border credit servicers, a specific framework should be created for the cooperation between home and *the* host competent authorities. This framework should allow the exchange of information, while preserving its confidentiality, on and off-site inspections, the provision of assistance, the notification of results of checks and inspections and of any measures taken.

(29) In order *to ensure* an effective and efficient supervision of cross-border credit servicers, a specific framework should be created for the cooperation between home and host competent authorities. This framework should allow the exchange of information, while preserving its confidentiality, *professional secrecy, protection of individual and business rights*, on and off-site inspections, the provision of assistance, the notification of results of checks and inspections and of any measures taken.



## Amendment 25

### 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 ***have the possibility to get*** access ***to*** relevant information and Member ***States*** should ensure that this is possible, while at the same time observing Union and national data protection rules.

## Amendment 26

### 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 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.

##### *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 balance*** of the transferred credit ***portfolios, 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 duplication, take into account information that is already available to them by other means, in particular as regards credit institutions.***

Or. en

## Amendment 27

### 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 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.

#### *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 ***for*** credit institutions. ***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 28

### 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 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.

*Amendment*

(33) Credit ***purchasers are*** often investment funds, financial institutions or credit institutions. As they are not creating new credit, but are buying ***as provided for in this Directive only*** existing ***non-performing credit agreements*** 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 ***but*** 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.

Or. en

## Amendment 29

### 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

*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. 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 effectively supervise its activity.

involved. Imposing an obligation on a credit servicer authorised in the Union for servicing a credit agreement ensures that the same standards of *borrowers'* 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 effectively supervise its activity.

Or. en

### Amendment 30

#### 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.***

Or. en

### Amendment 31

#### Proposal for a directive Recital 37

*Text proposed by the Commission*

*Amendment*

(37) In order to facilitate the enforcement of the obligations set out in the Directive, where a credit purchaser is not established in the Union national law implementing this Directive should provide

(37) In order to facilitate the enforcement of the obligations set out in the Directive, where a credit purchaser is not established in the Union national law implementing this Directive should provide

that, where a transfer of a credit agreement is concluded, a third country credit purchaser appoints a *representative* established in the Union, *mandated to be addressed by the competent authorities in addition or instead of the credit purchaser. This representative is responsible for the obligations imposed on credit purchasers by this Directive.*

that, where a transfer of a credit agreement is concluded, a third country credit purchaser appoints a *credit institution* established in the Union *or authorised credit servicer. Credit purchasers transferring non-performing credit agreements should inform the competent authority of the home Member State on a quarterly basis and on an aggregated level about at least the aggregated outstanding balance of the transferred credit portfolios, 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.*

Or. en

## Amendment 32

### Proposal for a directive Recital 38

#### *Text proposed by the Commission*

(38) At the moment, different authorities are entrusted with the authorisation and supervision of credit servicers and credit purchasers in Member States, and therefore it is essential that Member States clarify their role and allocate adequate powers, especially as they may need to supervise entities engaged in providing services in other Member States. In order to ensure efficient and proportionate supervision across the Union, Member States should grant the necessary powers for competent authorities to carry out their duties under this Directive, including the power to obtain necessary information, to investigate possible breaches, to handle borrowers' complaints and to impose *sanctions* and

#### *Amendment*

(38) At the moment, different authorities are entrusted with the authorisation and supervision of credit servicers and credit purchasers in Member States, and therefore it is essential that Member States clarify their role and allocate adequate powers, especially as they may need to supervise entities engaged in providing services in other Member States. In order to ensure efficient and proportionate supervision across the Union, Member States should grant the necessary powers for competent authorities to carry out their duties under this Directive, including the power to obtain necessary information, to investigate possible breaches, to handle borrowers' complaints and to impose *penalties* and

remedial measures, including the withdrawal of the authorisation. Where such *sanctions* are applied, Member States should ensure that competent authorities apply them in a proportionate manner and give reasons for their decisions and that in addition those decisions should be subject to judicial review also in cases where competent authorities do not act within the timeframes provided.

remedial measures, including the withdrawal of the authorisation. Where such *penalties* are applied, Member States should ensure that competent authorities apply them in a proportionate manner and give reasons for their decisions and that in addition those decisions should be subject to judicial review also in cases where competent authorities do not act within the timeframes provided.

Or. en

### Amendment 33

#### Proposal for a directive Recital 38 a (new)

*Text proposed by the Commission*

*Amendment*

***(38a) The provisions concerning breaches of this Directive are without prejudice to a Member State's right to intervene in cases of breaches of national law, for example, specific consumer protection rules, borrower rights rules adopted only at national level or regarding criminal activities. In such cases the competent authorities of the host Member State are the ones competent to decide if there is a breach of national law and thus their powers are not limited by this Directive.***

Or. en

### Amendment 34

#### Proposal for a directive Recital 39

*Text proposed by the Commission*

*Amendment*

***(39) In the Council's "Action Plan to Tackle Non-Performing Loans in***

***deleted***

***Europe", a legislative initiative was put forward to enhance the protection of secured creditors by providing them with more efficient methods of value recovery from secured credit through an accelerated extrajudicial collateral enforcement procedure.***

Or. en

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

**Amendment 35**

**Proposal for a directive**

**Recital 40**

*Text proposed by the Commission*

*Amendment*

***(40) Expedited and efficient out-of-court enforcement mechanisms which enable secured creditors to recover value from collateral in case of borrower's default are not available in some Member States, which means that in those Member States secured creditors are only able to enforce collateral in court, which can be lengthy and costly. Where available, the scope and efficiency of the extrajudicial enforcement procedures vary from one Member State to another. For that reason it is necessary to establish a distinct common mechanism available in all Member States. That mechanism should not, however, replace existing national enforcement measures including those that do not require the involvement of courts.***

***deleted***

Or. en

### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

### **Amendment 36**

#### **Proposal for a directive**

#### **Recital 41**

*Text proposed by the Commission*

*Amendment*

**(41) *The inefficiency of some Member States' extrajudicial enforcement procedures is an important factor for low recovery rates where business borrowers default on secured credit agreements. The length of some existing procedures entails additional costs for secured creditors and loss of value of the assets provided as collateral. In the Member States which have not established extrajudicial enforcement procedures for various types of collateral, secured creditors face often lengthy judicial enforcement processes.*** **deleted**

Or. en

### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

### **Amendment 37**

#### **Proposal for a directive**

#### **Recital 42**



**(42) Existing enforcement procedures within the Union sometimes result in a lack of level-playing field for credit institutions and companies across the Union with regard to access to credit, particularly for SMEs which depend on bank credit more than larger companies. Uneven recovery rates across Member States lead to differences in the availability of bank credit for SMEs because the credit institutions' lending capacity decreases as NPLs accumulate on their balance sheets, due to prudential requirements and internal resources which need to be dedicated to dealing with NPLs. This contributes to a lack of confidence in the ability to enforce collateral in different Member States and may lead to higher borrowing costs corresponding to place of establishment and irrespective of their real creditworthiness. Therefore, a common new procedure is required for the single market, the Banking Union and the Capital Markets Union and it is necessary to ensure that credit institutions and undertakings which are authorised to issue credit by concluding secured credit agreements in all Member States have the ability to enforce those agreements through effective and expedited extrajudicial enforcement procedures.** *deleted*

Or. en

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

## Amendment 38

### Proposal for a directive Recital 43

*Text proposed by the Commission*

*Amendment*

**(43) In order to protect consumers, credit agreements provided to consumers should be excluded from the scope of the accelerated extrajudicial enforcement mechanism provided for in this Directive. Equally, in order to protect sole entrepreneurs, this mechanism should not apply to credit agreements secured by collateral in the form of real estate which is the main residence of the sole entrepreneur.** **deleted**

Or. en

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

## Amendment 39

### Proposal for a directive Recital 44

*Text proposed by the Commission*

*Amendment*

**(44) Since this accelerated extrajudicial collateral enforcement mechanism is a voluntary instrument which is subject to agreement between the secured creditor and the business borrower, it is necessary that the borrower be informed about the consequences and of the conditions under which this accelerated procedure may be used by the creditor. Therefore the conditions should be established in a written agreement, or in a notarised** **deleted**

***format where national law so provides,  
between the creditor and the borrower.***

Or. en

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

**Amendment 40**

**Proposal for a directive  
Recital 45**

*Text proposed by the Commission*

*Amendment*

**(45) *In order to protect business borrowers, it is appropriate to ensure that the necessary measures are in place to ensure that creditors afford borrowers a reasonable period of time for execution of payment to avert this kind of enforcement.*** ***deleted***

Or. en

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

**Amendment 41**

**Proposal for a directive  
Recital 46**

*Text proposed by the Commission*

*Amendment*

**(46) *In order to ensure that this accelerated extrajudicial collateral*** ***deleted***

*enforcement mechanism is an expedited and effective instrument to recover value from collateral, the agreement by which the secured creditor and the business borrower agree upon it should comprise a directly enforceable title, which is a clause in the agreement that enables direct execution of the collateral through AECE without the need to obtain an enforceable title from the court.*

Or. en

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

#### **Amendment 42**

##### **Proposal for a directive**

##### **Recital 47**

*Text proposed by the Commission*

*Amendment*

*(47) In Member States which have already established extrajudicial enforcement procedures, those procedures are interlinked with elements of national civil, commercial, property, insolvency and public laws, and the type of enforcement procedure that may be used depends on the type of the asset provided as collateral, with procedures for immovable assets often entailing stricter procedural elements and minimum judicial oversight. Therefore Member States should have flexibility in deciding upon the type of enforcement procedure which is made available to secured creditors for the purpose of this accelerated extrajudicial collateral enforcement: public auction or private sale, or, under some national frameworks,*

*deleted*

*the appropriation of the asset.*

Or. en

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

**Amendment 43**

**Proposal for a directive**

**Recital 48**

*Text proposed by the Commission*

*Amendment*

**(48)** *In order to ensure that the secured creditor only recovers what it is due by the business borrower under the credit agreement, Member States should ensure that the secured creditor is obliged 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 (following public auction or private sale) or, in the case of appropriation between the sum outstanding and the valuation of the asset performed for the purpose of the appropriation. It is appropriate that where Member States provide for the realisation of collateral by means of appropriation, the positive difference to be paid out to the borrower should be the difference between the sum outstanding of the secured credit agreement and the valuation of the asset. Where less than the sum outstanding of the secured credit agreement is recovered through this accelerated enforcement, Member States should not prevent the parties to a secured credit agreement from expressly agreeing that the realisation of collateral by means of AECE is sufficient to repay the credit.*

*deleted*

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

**Amendment 44****Proposal for a directive****Recital 49**

*Text proposed by the Commission*

*Amendment*

**(49) Member States should ensure that where a secured credit agreement which provides for the accelerated extrajudicial collateral enforcement set out in this Directive is transferred by the creditor to a third party, that third party would acquire the right to avail himself of the accelerated extrajudicial collateral enforcement under the same terms and conditions as the secured creditor.** **deleted**

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

**Amendment 45****Proposal for a directive****Recital 50**

*Text proposed by the Commission*

*Amendment*

**(50) In order to ensure consistency with** **deleted**

*pre-insolvency and insolvency rules, Member States should ensure that where a preventive restructuring proceeding, as provided for in the Proposal for a Directive of the European Parliament and of the Council on preventive restructuring and second chance<sup>34</sup>, is initiated in respect of the business borrower, the realisation of the collateral pursuant to an AECE is subject to a stay of individual enforcement actions in accordance with applicable national laws transposing that Directive. In the case of any insolvency proceedings which are initiated in respect of the business borrower, the realisation of the collateral pursuant to an AECE should also be subject to a stay of individual enforcement actions in accordance with applicable national laws. It should be left to national law whether secured creditors have preferential access to the collateral under this accelerated mechanism even once insolvency proceedings are open.*

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<sup>34</sup> *Proposal for a Directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU, COM/2016/0723 final, 22.11.2016.*

Or. en

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

## Amendment 46

### Proposal for a directive Recital 51

*Text proposed by the Commission*

*Amendment*

**(51) Given the limited availability of data on the number of extrajudicial procedures used by credit institutions to recover value from collateral in case of borrower's default, national competent authorities which supervise credit institutions should be required to collect information on the number of secured credit agreements which are enforced through AECE and the timeframes for such enforcement. In order to gain a better understanding of the effectiveness of the exercise of AECE within the Union, Member States should provide annual statistical data on these matters to the Commission starting from one year after the date of application of this Directive.**

**deleted**

Or. en

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

## Amendment 47

### Proposal for a directive Recital 54

*Text proposed by the Commission*

*Amendment*

**(54) Both the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>35</sup> and Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>36</sup> apply to the**

**(54) Both the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>35</sup> and Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>36</sup> apply to the processing of**



processing of personal data for the purposes of this Directive. In particular, where personal data is processed for the purposes of this Directive, the precise purpose should be specified, the relevant legal basis referred to, the relevant security requirements laid down in Regulation (EU) 2016/679 complied with, and the principles of necessity, proportionality, purpose limitation and proportionate data retention period respected. Also, personal data protection by design and data protection by default should be embedded in all data processing systems developed and used within the framework of this Directive. Equally, administrative cooperation and mutual assistance between the competent authorities of the Member States should be compatible with the rules on the protection of personal data laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council, and in accordance with national data protection rules implementing Union legislation.

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<sup>35</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>36</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of **18 December 2000** on the protection of **individuals** with regard to the processing of personal data by the **Community** institutions **and** bodies and on the free movement of such data (**OJ L 8, 12.1.2001, p. 1**).

personal data for the purposes of this Directive. In particular, where personal data is processed for the purposes of this Directive, the precise purpose should be specified, the relevant legal basis referred to, the relevant security requirements laid down in Regulation (EU) 2016/679 complied with, and the principles of necessity, proportionality, purpose limitation, **transparent** and proportionate data retention period respected. Also, personal data protection by design and data protection by default should be embedded in all data processing systems developed and used within the framework of this Directive. Equally, administrative cooperation and mutual assistance between the competent authorities of the Member States should be compatible with the rules on the protection of personal data laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council, and in accordance with national data protection rules implementing Union legislation.

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<sup>35</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>36</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of **23 October 2018** on the protection of **natural persons** with regard to the processing of personal data by the **Union** institutions, bodies, **offices and agencies** and on the free movement of such data, **and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39)**.

Or. en

## Amendment 48

### Proposal for a directive Recital 56 a (new)

*Text proposed by the Commission*

*Amendment*

***(56a) The European Data Protection Supervisor has been consulted and provided its opinion on 24 January 2019.***

Or. en

## Amendment 49

### Proposal for a directive Recital 56 b (new)

*Text proposed by the Commission*

*Amendment*

***(56b) The efficient functioning of this Directive will need to be reviewed, as the establishment of the internal secondary market of the non-performing loans with a high level of consumer protection will progress. The Commission is well placed to analyse specific cross-border issues that cannot be identified or properly addressed by individual Member States, such as the risk of money laundering and terrorist financing that could arise in relation to credit servicing and credit purchasers' activities and the cooperation between competent authorities from different Member States. It is therefore appropriate that in its review of this Directive the Commission also include a thorough assessment of the money-laundering and terrorist financing risks associated with the activities performed by the credit servicers and credit purchasers and the administrative cooperation between competent authorities.***

Or. en

## Amendment 50

### 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 purchaser***;

Or. en

## Amendment 51

### 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 non-performing credit agreement or of the non-performing credit agreement itself*** issued by a credit institution ***established in the Union***;

Or. en

## Amendment 52

### 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***

*Amendment*

***deleted***

*which are secured by collateral.*

Or. en

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

### **Amendment 53**

#### **Proposal for a directive**

#### **Article 2 – paragraph 1 – point a**

##### *Text proposed by the Commission*

(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.*

##### *Amendment*

(a) *credit servicers acting on behalf of a credit purchaser in respect of creditor's rights under a non-performing credit agreement or of the non-performing credit agreement itself, in accordance with applicable Union or national law,* issued by a credit institution established in the Union ;

Or. en

### **Amendment 54**

#### **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 non-performing credit agreement or of the non-performing credit agreement itself,* issued by a credit institution established in the Union.

**Amendment 55****Proposal for a directive  
Article 2 – paragraph 2***Text proposed by the Commission**Amendment*

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.* **deleted**

Or. en

*Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

**Amendment 56****Proposal for a directive  
Article 2 – paragraph 3***Text proposed by the Commission**Amendment*

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.**

3. **With regard to credit agreements falling within its scope**, this Directive **shall** 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 Directive

2014/17/EU, Directive 2008/48/EC, Council Directive 93/13/EEC and the national provisions transposing them *or other relevant Union law and national consumer protection laws.*

Or. en

## Amendment 57

### 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 creditor's rights under* a credit agreement *or the credit agreement itself* carried out by:

(i) a credit institution established in the Union;

(ii) *an alternative investment fund manager (AIFM) authorised or registered in accordance with Directive 2011/61/EU or a management company or an investment company authorised in accordance with Directive 2009/65/EC provided that the investment company has not designated a management company under that Directive, on behalf of the fund they manage;*

(iii) *a non-credit institution subject to supervision by a competent authority of a Member State in accordance with Article 20 of Directive 2008/48/EC or Article 35 of Directive 2014/17/EU when performing activities in that Member State.*

Or. en

## Amendment 58

### Proposal for a directive Article 2 – paragraph 4 – point b

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*Text proposed by the Commission*

(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***;

*Amendment*

(b) the servicing of ***creditor's rights under a credit agreement or of the credit agreement itself*** that was not issued by a credit institution established in the Union, except where ***the creditor's rights under a credit agreement or*** the credit agreement ***itself*** is replaced by a credit agreement issued by such an institution;

Or. en

**Amendment 59**

**Proposal for a directive  
Article 2 – paragraph 4 – point c**

*Text proposed by the Commission*

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

*Amendment*

(c) the purchase of ***creditor's rights under a non-performing credit agreement or the non-performing credit agreement itself*** by a credit institution established in the Union;

Or. en

**Amendment 60**

**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 ***and the servicing of creditor's rights or the credit agreement itself*** in the ***context of a securitisation***.

Or. en

## Amendment 61

### 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 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<sup>36a</sup>, when conducting activities referred to in Article 3(9) of this Directive as part of their profession.**

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**<sup>36a</sup> Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained**

Or. en

## Amendment 62

### 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/EC<sup>37</sup> ;*

*(ii) immovable residential property which is the primary residence of a business borrower.*

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<sup>37</sup> *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

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

### **Amendment 63**

#### **Proposal for a directive Article 3 – paragraph 1 – point 2**

##### *Text proposed by the Commission*

(2) 'creditor' means a credit institution **or any legal person** who has issued a credit **in the course of his trade, business or profession**, or a credit purchaser;

##### *Amendment*

(2) 'creditor' means a credit institution who has issued a credit or a credit purchaser;

Or. en

## Amendment 64

### 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 who has concluded a credit agreement with a creditor, ***including its legal successor or assignee;***

Or. en

## Amendment 65

### Proposal for a directive

#### Article 3 – paragraph 1 – point 4

*Text proposed by the Commission*

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

*Amendment*

***deleted***

Or. en

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

## Amendment 66

### Proposal for a directive

#### Article 3 – paragraph 1 – point 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) 'credit servicing agreement' means a written contract between a creditor and a credit servicer about the services to be***

*provided by the credit servicer on behalf of the creditor;*

Or. en

## **Amendment 67**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point 6**

*Text proposed by the Commission*

*Amendment*

**(6) 'secured credit agreement' means a credit agreement concluded by a credit institution or another undertaking authorised to issue credit, which is secured by either of the following collateral;**

**deleted**

**(a) a mortgage, charge, lien or other comparable security right commonly used in a Member State in relation to immovable assets;**

**(b) a pledge, charge, lien or other comparable security right commonly used in a Member State in relation to movable assets;**

Or. en

#### *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

## **Amendment 68**

### **Proposal for a directive**

#### **Article 3 – paragraph 1 – point 7**

*Text proposed by the Commission*

*Amendment*

**(7) 'credit purchaser' means any natural**

**(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;

or legal person other than a credit institution which purchases ***creditor's rights under a non-performing credit agreement or the non-performing credit agreement itself*** in the course of his trade, business or profession;

Or. en

## Amendment 69

### 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 Article 3(f) 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 70**

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

*deleted*

**(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 71

### Proposal for a directive Article 3 – paragraph 1 – point 9

*Text proposed by the Commission*

(9) ‘home Member State’ means the Member State in which the credit *servicer* is domiciled or established.

*Amendment*

(9) ‘home Member State’ means, *in respect to the credit servicer, the Member State in which its registered office is situated or, if under its national law it has no registered office, the Member State in which its head office is situated or, in respect to the credit purchaser, the Member State in which the credit purchaser is domiciled or established.*

Or. en

## Amendment 72

### Proposal for a directive Article 3 – paragraph 1 – point 10

*Text proposed by the Commission*

(10) ‘host Member State’ means a Member State, other than the home Member State, in which a credit servicer has established a branch, has appointed *an agent* or where *a credit servicer provides services*.

*Amendment*

(10) ‘host Member State’ means a Member State, other than the home Member State, in which a credit servicer has established a branch, has appointed *a credit service provider referred to in Article 10* or where *the borrower is domiciled or established at the time of concluding the credit agreement*.

Or. en

## Amendment 73

### Proposal for a directive Article 3 – paragraph 1 – point 11

*Text proposed by the Commission*

(11) 'consumer' means a **consumer as defined in point (a) of Article 3 of Directive 2008/48/EC**.

*Amendment*

(11) 'consumer' means a **natural person who, in credit agreements covered by this Directive, is acting for purposes which are outside his trade, business or profession;**

Or. en

## **Amendment 74**

### **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 claim that meets the criteria set out in paragraph 213 of Part 2 of Annex V of Commission Implementing Regulation (EU) No 680/2014<sup>38a</sup> to be considered as a non-performing exposure.**

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<sup>38a</sup> **Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 191, 28.6.2014, p. 1).**

Or. en

## **Amendment 75**

### **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

1. Member States shall, **as a minimum**, lay down the following

an authorisation as referred to in Article 4(1):

requirements for the granting of an authorisation as referred to in Article 4(1):

Or. en

## Amendment 76

### Proposal for a directive Article 5 – paragraph 1 – point a

*Text proposed by the Commission*

(a) the applicant is ***a citizen of the Union or*** a legal person as referred to in Article 54 of the Treaty on the Functioning of the European Union;

*Amendment*

(a) the applicant is a legal person as referred to in Article 54 of the Treaty on the Functioning of the European Union ***and its registered office or, if under its national law it has no registered office, its head office is in the Member State in which he is seeking authorisation;***

Or. en

## Amendment 77

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

*Text proposed by the Commission*

(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, 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:***

- (i) are of sufficiently good repute;
- (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*

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

- (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



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

integrity;

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

**and**

(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 78

### Proposal for a directive

#### Article 5 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) the persons who hold qualifying holdings in the applicant, within the meaning of point (36) of Article 4(1) of Regulation (EU) No 575/2013 are of sufficiently good repute by fulfilling the requirements in point (i) and (ii) of point (b) of this paragraph;***

Or. en

## Amendment 79

### Proposal for a directive

#### Article 5 – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

(c) the applicant has appropriate governance arrangements and internal control mechanisms in place which ensure respect for borrower rights and compliance with ***personal data protection rules in accordance with*** the laws governing the

(c) the applicant has appropriate governance arrangements and internal control mechanisms in place which ensure respect for borrower rights and compliance with the laws governing ***creditor's rights under a credit agreement or the credit agreement itself and with Regulation (EU)***

credit agreement,

2016/679;

Or. en

## Amendment 80

### Proposal for a directive

#### Article 5 – paragraph 1 – point d

*Text proposed by the Commission*

(d) the applicant applies an appropriate policy ensuring the fair and diligent treatment of the borrowers, including by taking into account their financial situation and, where available, the need for such borrowers to be referred to debt advice or social services;

*Amendment*

(d) the applicant applies an appropriate policy ensuring ***compliance with rules for the protection of consumers and transparency of*** the fair and diligent treatment of the borrowers, including by taking into account their financial situation and, where available, the need for such borrowers to be referred to debt advice or social services;

Or. en

## Amendment 81

### 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 borrower resides at the time of concluding the credit agreement;***

Or. en

## Amendment 82

### 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 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 83**

**Proposal for a directive**

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

*Text proposed by the Commission*

*Amendment*

***(ec) the applicant has sufficient initial capital;***

Or. en

### **Amendment 84**

**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 85

### Proposal for a directive

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

*Text proposed by the Commission*

*Amendment*

***(ee) 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) adequate own funds and liquidity requirements;***

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

***(iv) reporting and public disclosure requirements.***

Or. en

## Amendment 86

### Proposal for a directive

#### Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. EBA shall issue guidelines to specify the conditions referred to in points (ec) and (ed) of paragraph 1, and the minimum requirements referred to in point (ee) of paragraph 1 of this Article.***

***Those guidelines shall be adopted in accordance with Article 16 of Regulation (EU) No 1093/2010.***

Or. en

## Amendment 87

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

*Text proposed by the Commission*

*Amendment*

**2a. EBA shall, after consulting all relevant stakeholders and reflecting all interests involved, issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 for the requirements referred to in point (b)(iii) of paragraph 1 of this Article.**

Or. en

## Amendment 88

### Proposal for a directive Article 6 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) evidence of the applicant's legal status and ***its instrument of constitution, where appropriate;***

(a) evidence of the applicant's legal status and ***a copy of the act of incorporation and of the company by-laws;***

Or. en

## Amendment 89

### Proposal for a directive Article 6 – paragraph 2 – point c

*Text proposed by the Commission*

*Amendment*

(c) the identity of the members of applicant's management or administrative organ who hold qualifying holdings within the meaning of point (36) of Article 4(1) of Regulation (EU) No 575/2013;

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

## Amendment 90

### Proposal for a directive Article 6 – paragraph 2 – point d

*Text proposed by the Commission*

(d) evidence that the applicant **and the persons referred to in point (c) of this Article, comply** with the conditions laid down in Article 5(1)(b);

*Amendment*

(d) evidence that the applicant **complies** with the conditions laid down in point (b) of Article 5(1);

Or. en

## Amendment 91

### Proposal for a directive Article 6 – paragraph 2 – point d a (new)

*Text proposed by the Commission*

**(da) evidence that the persons referred to in point (c) of this paragraph comply with the conditions laid down in point (ba) of Article 5(1);**

*Amendment*

Or. en

## Amendment 92

### Proposal for a directive Article 6 – paragraph 2 – point g a (new)

*Text proposed by the Commission*

**(ga) evidence of the procedures referred to in point (eb) of Article 5(1);**

*Amendment*

Or. en

## Amendment 93

### Proposal for a directive Article 6 – paragraph 3

*Text proposed by the Commission*

3. Member States shall ensure that the competent authorities of a home Member State assess, within **20 working** days of receipt of the application for authorisation, whether that application is complete. ***Where the application is considered incomplete, the competent authorities shall set a deadline by which the applicant is to provide any further additional information and they shall notify the applicant when they consider an application to be complete.***

*Amendment*

3. Member States shall ensure that the competent authorities of a home Member State assess, within **30** days of receipt of the application for authorisation, whether that application is complete.

Or. en

## Amendment 94

### Proposal for a directive Article 6 – paragraph 4

*Text proposed by the Commission*

4. Member States shall ensure that competent authorities of the home Member State ***assess, within 30 working days from the date of receipt of a complete application, whether the applicant complies with the national provisions transposing this Directive. The competent authorities shall, on conclusion of that assessment, adopt a fully reasoned decision either granting or refusing the authorisation which shall be notified to the applicant within five working days.***

*Amendment*

4. Member States shall ensure that, ***within 90 days of receipt of a complete application or, if the application is considered incomplete, of required information, the*** competent authorities of the home Member State ***notify the applicant whether the authorisation is granted or refused and, where applicable, provide reasons for refusal.***

Or. en

## Amendment 95

### Proposal for a directive Article 6 – paragraph 5

*Text proposed by the Commission*

5. Member States shall ensure that an applicant has the right of appeal before a tribunal either where the competent authorities of the home Member State decide to refuse an application for authorisation pursuant to Article 5(2) or where no decision is taken by the competent authorities in respect of ***an application for authorisation, within six months of lodging a complete*** application.

*Amendment*

5. Member States shall ensure that an applicant has the right of appeal before a tribunal either where the competent authorities of the home Member State decide to refuse an application for authorisation pursuant to Article 5(2) or where, ***within the time limit provided for in paragraph 4 of this Article***, no decision is taken by the competent authorities in respect of ***the*** application.

Or. en

## Amendment 96

### 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 ***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 97

### Proposal for a directive Article 7 – paragraph 1 – point e



*Text proposed by the Commission*

(e) no longer *meets* the conditions set out in Article 5(1);

*Amendment*

(e) no longer *fulfils* the conditions set out in Article 5(1);

Or. en

## **Amendment 98**

### **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 provisions transposing this Directive.

*Amendment*

(f) commits a serious breach of the applicable rules, including the national law provisions transposing this Directive *or of other consumer protection rules*.

Or. en

## **Amendment 99**

### **Proposal for a directive**

#### **Article 8 – paragraph 1**

*Text proposed by the Commission*

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.

*Amendment*

1. Member States shall ensure that competent authorities establish and maintain *at least a list or, where considered more appropriate*, a national register of all credit servicers authorised to provide services within their territory, including credit servicers providing services under Article 11.

Or. en

## Amendment 100

### Proposal for a directive Article 8 – paragraph 2

*Text proposed by the Commission*

2. The register shall be made publicly accessible online and shall be updated on a regular basis.

*Amendment*

2. The ***list or*** register shall be made publicly accessible online ***on the websites of the competent authorities*** and shall be updated on a regular basis.

Or. en

## Amendment 101

### Proposal for a directive Article 8 – paragraph 3

*Text proposed by the Commission*

3. In case an authorisation has been withdrawn, the competent authorities shall update the register without delay.

*Amendment*

3. In case an authorisation has been withdrawn, the competent authorities shall update the ***list or*** register without delay.

Or. en

## Amendment 102

### Proposal for a directive Article 9 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that ***a*** credit servicer provides its services in respect of the management and enforcement of a credit agreement on the basis of a ***written*** agreement with a creditor.

*Amendment*

1. Member States shall ensure that ***when a credit purchaser does not perform the credit servicing activities itself, the credit servicer appointed in accordance with Article 15(1)*** provides its services in respect of the management and enforcement of ***the creditor's rights under a credit agreement or of the credit agreement itself*** on the basis of a ***credit servicing*** agreement with a creditor.

### Amendment 103

#### Proposal for a directive

#### Article 9 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. The agreement *referred to in the paragraph 1* shall provide for the following:

*Amendment*

2. The *credit servicing* agreement shall provide for the following:

Or. en

### Amendment 104

#### 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 *and data* protection;

Or. en

### Amendment 105

#### 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 106

### Proposal for a directive Article 9 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a.** *Member States may require that the credit servicing agreement also provide a requirement according to which the credit servicer notifies the creditor prior to outsourcing any of its activity as credit servicer.*

Or. en

## Amendment 107

### Proposal for a directive Article 9 – paragraph 3 – introductory part

*Text proposed by the Commission*

*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:

3. Member States shall ensure that the credit servicer keeps and maintains the following records for at least **five** years from the date **when the agreement** referred to in paragraph 1 **is terminated or for the statutory limitation period applicable in the home Member State, however, no longer than 10 years**:

Or. en

## Amendment 108

### Proposal for a directive Article 9 – paragraph 3 – point a

*Text proposed by the Commission*

*Amendment*

(a) **all** correspondence with both the creditor and the borrower;

(a) **relevant** correspondence with both the creditor and the borrower, **under the conditions provided for in the applicable national law**;

## Amendment 109

### Proposal for a directive

#### Article 9 – paragraph 3 – point b

*Text proposed by the Commission*

(b) *all* instructions received from the creditor in respect of each credit agreement that it manages and enforces on behalf of that creditor.

*Amendment*

(b) *relevant* instructions received from the creditor in respect of each *creditor's right under a credit agreement or the credit agreement itself* that it manages and enforces on behalf of that creditor, *under the conditions provided for in the applicable national law*;

Or. en

## Amendment 110

### Proposal for a directive

#### Article 9 – paragraph 3 – point b a (new)

*Text proposed by the Commission*

*Amendment*

(ba) *the credit servicing agreement.*

Or. en

## Amendment 111

### 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

*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 Article 3(9)* ('credit service provider'), the credit servicer remains fully responsible for complying with all obligations under the national

national provisions transposing this Directive. The outsourcing of *those* credit servicing activities *shall be subject* to the *following conditions*:

provisions transposing this Directive.

*For the purpose 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 112**

**Proposal for a directive**  
**Article 10 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

**(a) the conclusion of a written outsourcing agreement between the credit servicer and the credit service provider under which the credit service provider is obliged to comply with relevant Union or national law applicable to the credit agreement;** *deleted*

Or. en

### **Amendment 113**

#### **Proposal for a directive Article 10 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) the obligations of credit servicers under this Directive may not be delegated;** *deleted*

Or. en

### **Amendment 114**

#### **Proposal for a directive Article 10 – paragraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

**(c) the contractual relationship and obligations of the credit servicer towards its clients are not altered;** *deleted*

Or. en

### **Amendment 115**

#### **Proposal for a directive Article 10 – paragraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

**(d) the conditions for the authorisation of the credit servicer as set out in Article 5(1) are not affected;** *deleted*

Or. en

#### **Amendment 116**

**Proposal for a directive  
Article 10 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

**(e) the outsourcing to the credit service provider does not prevent the supervision by competent authorities of a credit servicer in accordance with Articles 12 and 20;** *deleted*

Or. en

#### **Amendment 117**

**Proposal for a directive  
Article 10 – paragraph 1 – point f**

*Text proposed by the Commission*

*Amendment*

**(f) the credit servicer has direct access to all relevant information concerning the outsourced services to the credit service provider;** *deleted*

Or. en

#### **Amendment 118**

**Proposal for a directive  
Article 10 – paragraph 1 – point g**



*Text proposed by the Commission*

*Amendment*

**(g) *the credit servicer retains the expertise and resources to be able to provide the outsourced activities, after the outsourcing agreement is terminated.***

*deleted*

Or. en

## **Amendment 119**

### **Proposal for a directive Article 10 – paragraph 2**

*Text proposed by the Commission*

*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.

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, prior to the outsourcing of activities in accordance with*** paragraph 1.

Or. en

## **Amendment 120**

### **Proposal for a directive Article 10 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall ensure that the credit servicer keeps and maintains records of relevant instructions provided to the credit service provider, under the conditions provided for in the applicable national law, and the outsourcing agreement for at least five years from the date when the agreement referred to in paragraph 1 is terminated or for the statutory limitation period in the Member State, however, no longer than 10 years.***

## Amendment 121

### Proposal for a directive Article 10 – paragraph 3

*Text proposed by the Commission*

3. Member States shall ensure that the credit servicer and the credit service provider make the information referred to in paragraph 2 available to competent authorities upon request.

*Amendment*

3. Member States shall ensure that the credit servicer and the credit service provider make the information referred to in paragraph **2a** available to competent authorities upon request.

## Amendment 122

### 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 of restrictions and requirements established in the national law of the host Member States in accordance with this Directive.***

## Amendment 123

### Proposal for a directive Article 11 – paragraph 2 – point c

*Text proposed by the Commission*

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

*Amendment*

(c) where applicable, identity and address of ***the credit service provider*** in a host Member State;

Or. en

**Amendment 124**

**Proposal for a directive  
Article 11 – paragraph 2 – point e**

*Text proposed by the Commission*

(e) as the case may be, details of the measures taken to adapt the internal procedures, governance arrangements and internal control mechanisms to ensure compliance with the laws applicable to the credit agreement.

*Amendment*

(e) as the case may be, details of the measures taken to adapt the internal procedures, governance arrangements and internal control mechanisms to ensure compliance with the laws applicable to the ***creditor's rights under a credit agreement or to the credit agreement itself***.

Or. en

**Amendment 125**

**Proposal for a directive  
Article 11 – paragraph 3**

*Text proposed by the Commission*

3. The competent authorities of the home Member State shall, within 30 working days of the receipt of ***the*** information referred to in paragraph 2, communicate that information to the competent authorities of the host Member State which shall acknowledge receipt thereof without delay. The competent authorities of the home Member State shall thereafter inform the credit servicer of such confirmation of receipt.

*Amendment*

3. The competent authorities of the home Member State shall, within 30 working days of the receipt of ***all*** information referred to in paragraph 2, communicate that information to the competent authorities of the host Member State which shall acknowledge receipt thereof without delay. The competent authorities of the home Member State shall thereafter inform the credit servicer of such confirmation of receipt.

## Amendment 126

### Proposal for a directive

#### Article 11 – paragraph 5 – introductory part

*Text proposed by the Commission*

5. Member States shall ensure that ***once the competent authorities of a home Member State communicate the information referred to in paragraph 2,*** the credit servicer may start providing services in the host Member State from the earlier of the following:

*Amendment*

5. Member States shall ensure that the credit servicer may start providing services in the host Member State from the earlier of the following:

Or. en

## Amendment 127

### Proposal for a directive

#### Article 11 – paragraph 5 – point b

*Text proposed by the Commission*

(b) in the absence of any receipt of a communication referred to in point (a), after the expiry of two months from the date of ***communication of the*** information referred to in paragraph 3.

*Amendment*

(b) in the absence of any receipt of a communication referred to in point (a), after the expiry of two months from the date of ***the submission of all*** information referred to in paragraph 2 ***to the competent authority of the host Member State.***

Or. en

## Amendment 128

### Proposal for a directive

#### Article 11 – paragraph 6

*Text proposed by the Commission*

6. Member States shall ensure that a credit servicer shall inform the competent

*Amendment*

6. Member States shall ensure that a credit servicer shall inform the competent

authority of the home Member State of change subsequent to the information communicated in accordance with paragraph 3 by means of the procedure set out in paragraphs 3 to 5.

authority of the home Member State of change subsequent to the information communicated in accordance with paragraph 2 by means of the procedure set out in paragraphs 3 to 5.

Or. en

## Amendment 129

### Proposal for a directive Article 12 – paragraph 2

#### *Text proposed by the Commission*

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.

#### *Amendment*

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

Or. en

## Amendment 130

### 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

that *credit service provider*.

Or. en

## Amendment 131

### 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 a host Member State.

#### *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 *a credit service provider* appointed in 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 132

### Proposal for a directive Article 12 – paragraph 7

#### *Text proposed by the Commission*

7. Where the competent authorities of the host Member State *decides* to conduct on-site inspections on behalf of the competent authorities of the home Member State, they shall inform the competent authorities of the home Member State of the results thereof without delay.

#### *Amendment*

7. Where the competent authorities of the host Member State *decide* to conduct on-site inspections on behalf of the competent authorities of the home Member State, they shall inform the competent authorities of the home Member State of the results thereof without delay.

Or. en

## Amendment 133

### 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 the ***applicable rules, including*** 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 134

### Proposal for a directive Article 12 – paragraph 10

*Text proposed by the Commission*

10. Member States shall ensure that the competent authorities of the home Member State communicate details of any administrative or other procedure initiated in respect of the evidence provided by the host Member State, or about ***sanctions or*** penalties and remedial measures taken against the credit servicer or a reasoned decision why no measures were taken, to the competent authorities of the host Member State who referred the evidence no later than two months from the request referred to in paragraph 8. Where a procedure has been initiated, the competent authorities of the home Member State shall regularly inform the competent authorities of the host Member State about its status.

*Amendment*

10. Member States shall ensure that the competent authorities of the home Member State communicate details of any administrative or other procedure initiated in respect of the evidence provided by the host Member State, or about penalties and remedial measures taken against the credit servicer or a reasoned decision why no measures were taken, to the competent authorities of the host Member State who referred the evidence no later than two months from the request referred to in paragraph 8. Where a procedure has been initiated, the competent authorities of the home Member State shall regularly inform the competent authorities of the host Member State about its status.

**Amendment 135****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, 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.***

**Amendment 136****Proposal for a directive  
Article 13 – title**



*Text proposed by the Commission*

Right to information regarding the credit agreement

*Amendment*

Right to information regarding the ***creditor's rights under a non-performing credit agreement or the non-performing credit agreement itself***

Or. en

## **Amendment 137**

### **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 ensure that a creditor ***provides the*** necessary information ***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 138**

### **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/EU<sup>39</sup> **of** the following:

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<sup>39</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

*Amendment*

2. **On a quarterly 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/EU<sup>39</sup>, **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:

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<sup>39</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

Or. en

**Amendment 139**

**Proposal for a directive  
Article 13 – paragraph 2 – point a**

*Text proposed by the Commission*

(a) the **type of asset securing** the credit

*Amendment*

(a) the **aggregated outstanding**

*agreement, including information on whether it is a credit agreement concluded with consumers;*

*balance of the creditor's rights under the non-performing credit agreements or of the non-performing credit agreements transferred;*

Or. en

#### **Amendment 140**

##### **Proposal for a directive Article 13 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) the *value of the credit agreement*;

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

Or. en

#### **Amendment 141**

##### **Proposal for a directive Article 13 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

(c) *the identity and address of the borrower and of the credit purchaser and, where applicable, of its representative designated in accordance with Article 17.*

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

Or. en

#### **Amendment 142**

##### **Proposal for a directive Article 13 – paragraph 3**

*Text proposed by the Commission*

3. The competent authorities ***referred to in paragraph 2*** shall communicate without delay the information referred to in that paragraph and any other information that they might consider to be necessary for carrying out their task according to this Directive to the competent authorities of the Member State ***where the credit purchaser or its representative, designated in accordance with Article 17, is established and of the Member State where the borrower is established or resident.***

*Amendment*

3. The competent authorities ***designated in accordance with Article 20(3)*** shall communicate without delay the information referred to in that paragraph and any other information that they might consider to be necessary for carrying out their task according to this Directive to the competent authorities of the ***home*** Member State ***of*** the credit purchaser.

Or. en

**Amendment 143**

**Proposal for a directive  
Article 14 – title**

*Text proposed by the Commission*

Technical standards for ***NPL*** data

*Amendment*

Technical standards for data ***formats***

Or. en

**Amendment 144**

**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,

*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.

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).**

Or. en

## Amendment 145

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

*Text proposed by the Commission*

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

*Amendment*

2. EBA shall submit those draft implementing technical standards to the Commission by ...**[12 months from the entry into force of the Directive]**.

Or. en

## Amendment 146

### 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 that a credit purchaser **appoints an entity mentioned in points (a)(i) and (iii) of Article 2(4) or a** credit servicer to perform credit servicing activities in respect of **non-performing** credit agreements **or creditor's rights**.

## Amendment 147

### 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 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 148

### 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 149**

### **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 that do not hold a licence in accordance with Regulation No 575/2013 and Directive 2013/36/EU.***

Or. en

## **Amendment 150**

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

*Text proposed by the Commission*

*Amendment*

***2c. Member States may allow credit purchasers to engage natural persons to service the credits they acquired. Those natural persons should be subject to a national regulation and supervision regime and should not benefit from the freedom to provide services in another Member State in accordance with this Directive.***

Or. en

## Amendment 151

### Proposal for a directive Article 16

*Text proposed by the Commission*

*Amendment*

#### *Article 16*

*deleted*

#### *Use of credit servicers, credit institutions or their subsidiaries*

- 1. Member States shall require the credit purchaser or, where applicable, their representative designated in accordance with Article 17, to inform the competent authorities of the Member State where the credit purchaser or their representative is domiciled or established of the identity and address of the credit institution, its subsidiary or the credit servicer that they have engaged to perform credit servicing activities in relation to the transferred credit agreement.*
- 2. Where the credit purchaser or the representative designated in accordance with Article 17 engages a different credit institution or subsidiary to service the credit or a different credit servicer, it shall notify the competent authorities referred to in paragraph 1 thereof at least two weeks in advance of that change and shall indicate the identity and address of the new credit institution, its subsidiary or credit servicer that they have engaged to perform credit servicing activities in relation to the transferred credit agreement.*
- 3. Member States shall require the competent authorities of the Member State where the credit purchaser or, where applicable, their representative designated, in accordance with Article 17, is domiciled or established to transmit without undue delay to the competent authorities responsible for the supervision of the credit institution, its subsidiary or credit servicer referred to in the*



*paragraphs 1 and 2, the information received in accordance with Article 13(3).*

Or. en

## **Amendment 152**

### **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 153**

### **Proposal for a directive Article 18**

*Text proposed by the Commission*

*Amendment*

#### *Article 18*

*deleted*

*Credit purchasers directly enforcing a*

*credit agreement*

**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:**

**(a) the type of asset securing the credit agreement, including information on whether it is a credit agreement concluded with consumers;**

**(b) the value of the credit agreement;**

**(c) the identity and address of the borrower and of the credit purchaser or of its representative designated in accordance with Article 17.**

**2. Member States shall require the competent authorities referred to in paragraph 1, to transmit without undue delay the information received in accordance with paragraph 1 to the competent authorities of the Member State where the borrower is established.**

Or. en

**Amendment 154**

**Proposal for a directive  
Article 19 – title**

*Text proposed by the Commission*

Transfer of a credit agreement by a credit purchaser

*Amendment*

Transfer of ***a creditor's rights under a non-performing credit agreement or of the non-performing credit agreement itself*** by a credit purchaser ***and communication to the competent authority***

Or. en

## Amendment 155

### 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 156

### Proposal for a directive Article 19 – paragraph 2

#### *Text proposed by the Commission*

2. Member States shall ensure that the competent authorities referred to in paragraph 1 shall transmit without undue delay the information received ***in accordance with Article 13(3)*** to the competent authorities of the Member State where the new credit purchaser ***and, where applicable, its representative*** is domiciled or established.

#### *Amendment*

2. Member States shall ensure that the competent authorities referred to in paragraph 1 shall transmit without undue delay the information received to the competent authorities of the Member State where the new credit purchaser is domiciled or established.

## Amendment 157

### Proposal for a directive Article 20 – paragraph 2

#### *Text proposed by the Commission*

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.***

#### *Amendment*

***deleted***

## Amendment 158

### Proposal for a directive Article 20 – paragraph 4

*Text proposed by the Commission*

4. Where Member States designate more than one competent authority pursuant to paragraph 3, they shall determine their respective tasks.

*Amendment*

4. Where Member States designate more than one competent authority pursuant to paragraph 3, they shall determine their respective tasks **and designate one of them as a single point of entry for all necessary exchanges and interactions with competent authorities of either home or host Member States.**

Or. en

## Amendment 159

### Proposal for a directive Article 20 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a. The competent authorities shall also verify whether the requirements set out in Article 5 are still fulfilled or where they have reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in connection with that institution.**

Or. en

## Amendment 160

### 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

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:

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 161

### Proposal for a directive Article 21 – paragraph 1 – point d

*Text proposed by the Commission*

(d) the power to impose administrative **sanctions or** penalties and remedial measures in accordance with the provisions transposing Article 22;

*Amendment*

(d) the power to impose administrative penalties and remedial measures in accordance with the provisions transposing Article 22;

Or. en

## Amendment 162

### 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 point (b) of Article 5(1);**

Or. en

## Amendment 163

### 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 164**

**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 165**

**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 non-performing credit agreements or of the non-performing credit agreements themselves.***

Or. en

## Amendment 166

### Proposal for a directive Article 21 – paragraph 2

*Text proposed by the Commission*

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).

*Amendment*

2. Member States shall ensure that the competent authorities of the home Member State evaluate, **by applying a risk-based approach**, the implementation by a credit servicer of the requirements set in points (c), **(d), (e) and (eb)** of Article 5(1).

Or. en

## Amendment 167

### Proposal for a directive Article 21 – paragraph 4

*Text proposed by the Commission*

4. The competent authorities of the home Member State shall **regularly, and at least once a year**, inform the competent authorities of host Member States of the results of the evaluation referred to in paragraph 2, including details of any administrative penalties or remedial measures taken.

*Amendment*

4. The competent authorities of the home Member State shall inform the competent authorities of host Member States of the results of the evaluation referred to in paragraph 2, including details of any administrative penalties or remedial measures taken.

Or. en

## Amendment 168

### Proposal for a directive Article 21 – paragraph 6

*Text proposed by the Commission*

6. Member States shall ensure that the competent authority of the home Member State is able to require a credit servicer,

*Amendment*

6. Member States shall ensure that the competent authority of the home Member State is able to require a credit servicer,



credit service provider or credit purchaser **or its representative appointed in accordance with Article 17** that does not meet the requirements of the national provisions transposing this Directive to take at an early stage, all necessary actions or steps in order to comply with those provisions.

credit service provider or credit purchaser that does not meet the requirements of the national provisions transposing this Directive to take at an early stage, all necessary actions or steps in order to comply with those provisions.

Or. en

## Amendment 169

### Proposal for a directive Article 22 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. Member States shall lay down rules establishing appropriate administrative penalties and remedial measures applicable in at least the following situations:

*Amendment*

1. ***Without prejudice to the right of Member States to lay down 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 170

### 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 171**

#### **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 servicer's governance arrangements and internal control mechanisms ***as set out in point (c) of Article 5(1)*** fail to ensure respect for borrower rights and compliance with personal data protection rules;

Or. en

### **Amendment 172**

#### **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 national measures transposing this directive;

*Amendment*

(d) a credit servicer's internal procedures ***as set out in point (e) of Article 5(1)*** fail to provide for the recording and handling of borrower complaints according to the obligations set in the national measures transposing this directive;

Or. en

### **Amendment 173**

#### **Proposal for a directive**

#### **Article 22 – paragraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

**(e) a credit purchaser or, where applicable, its representative designated in accordance with Article 17 fails to communicate the information provided for by national measures transposing Article 16, 18 and 19;**

*deleted*

Or. en

#### **Amendment 174**

**Proposal for a directive**

**Article 22 – paragraph 1 – point f**

*Text proposed by the Commission*

*Amendment*

**(f) a credit purchaser or, where applicable, its representative designated in accordance with Article 17 fails to comply with the requirement of the national measures transposing Article 15;**

*deleted*

Or. en

#### **Amendment 175**

**Proposal for a directive**

**Article 22 – paragraph 1 – point g**

*Text proposed by the Commission*

*Amendment*

**(g) a credit purchaser fails to comply with the requirement of the national measures transposing Article 17.**

*deleted*

Or. en

## **Amendment 176**

### **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;***

Or. en

## **Amendment 177**

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

## **Amendment 178**

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

*Text proposed by the Commission*

*Amendment*

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

Or. en

## Amendment 179

### Proposal for a directive Article 22 – paragraph 2 – point a

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

## Amendment 180

### Proposal for a directive Article 22 – paragraph 2 – point b

*Text proposed by the Commission*

(b) an order requiring the credit servicer **or credit purchaser or, where applicable, its representative designated in accordance with Article 17** to remedy the breach, and to cease the conduct and to desist from a repetition of that conduct;

*Amendment*

(b) an order requiring the credit servicer to remedy the breach, and to cease the conduct and to desist from a repetition of that conduct;

Or. en

## Amendment 181

### 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 182

### Proposal for a directive Article 22 – paragraph 4 – point b

*Text proposed by the Commission*

(b) the degree of responsibility of the credit servicer or credit purchaser ***or, where applicable, its representative designated in accordance with Article 17,*** responsible for the breach;

*Amendment*

(b) the degree of responsibility of the credit servicer or credit purchaser responsible for the breach;

Or. en

## Amendment 183

### Proposal for a directive Article 22 – paragraph 4 – point d

*Text proposed by the Commission*

(d) the importance of profits gained or losses avoided because of the breach by the credit servicer or credit purchaser ***or, where applicable, its representative designated in accordance with Article 17,*** responsible for the breach, insofar as they can be determined;

*Amendment*

(d) the importance of profits gained or losses avoided because of the breach by the credit servicer or credit purchaser responsible for the breach, insofar as they can be determined;

Or. en

## Amendment 184

### Proposal for a directive Article 22 – paragraph 4 – point g

*Text proposed by the Commission*

(g) previous breaches by the credit servicer or credit purchaser ***or, where applicable, its representative designated in accordance with Article 17,*** responsible

*Amendment*

(g) previous breaches by the credit servicer or credit purchaser responsible for the breach;

for the breach;

Or. en

## Amendment 185

### 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 ***can*** 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 186

### 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 ***or*** credit purchaser the opportunity to be heard.

Or. en

## Amendment 187

### Proposal for a directive Article 22 – paragraph 7

*Text proposed by the Commission*

7. Member States shall ensure that any decision imposing administrative **sanctions** or remedial measures as set out in paragraph 2 is properly reasoned and is subject to the right of appeal.

*Amendment*

7. Member States shall ensure that any decision imposing administrative **penalties** or remedial measures as set out in paragraph 2 is properly reasoned and is subject to the right of appeal.

Or. en

## Amendment 188

### Proposal for a directive Article 22 – paragraph 7 a (new)

*Text proposed by the Commission*

*Amendment*

**7a. Member States may decide not to lay down rules for administrative penalties for infringements which are subject to criminal penalties under their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.**

Or. en

## Amendment 189

### Proposal for a directive Title V

*Text proposed by the Commission*

*Amendment*

**[...]**

**deleted**

Or. en



## *Justification*

*This amendment is in accordance with the decision of the Conference of Presidents of 16 October 2019 to approve the proposed split and to draw up two separate legislative reports by the ECON Committee on the basis of the Commission proposal COM(2018)0135. The deleted parts will be covered by a separate draft report which is dealt with in a separate procedure (2018/0063B(COD)).*

### **Amendment 190**

#### **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 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 191**

#### **Proposal for a directive**

#### **Article 34 – paragraph 1 – point a**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

Or. en

## Amendment 192

### 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 processing of personal data for the purposes of this Directive shall be carried out in accordance with Regulation (EU) 2016/679 and with Regulation (EU) 2018/1725.

Or. en

## Amendment 193

### Proposal for a directive Article 37 – paragraph 3

*Text proposed by the Commission*

3. Member States shall ensure that competent authorities receiving confidential information in the exercise of their functions and duties under this Directive shall use that information only in the course of their functions and duties.

*Amendment*

3. Member States shall ensure that competent authorities receiving confidential information in the exercise of their functions and duties under this Directive shall use that information only in the course of their functions and duties ***under the national provisions transposing this Directive. The exchange of information shall be subject to the conditions of professional secrecy as referred to in Article 76 of Directive 2014/65/EU.***

Or. en

## Amendment 194

### Proposal for a directive Article 37 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. Member States shall provide that all persons working for or who have worked for the competent authorities and auditors or experts acting on behalf of the competent authorities shall be bound by the obligations of professional secrecy.**

Or. en

## **Amendment 195**

### **Proposal for a directive Article 39 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.<sup>43</sup>

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***<sup>43</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).***

Or. en

## **Amendment 196**

### **Proposal for a directive Article 40 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Five years after the entry into force of this Directive, the Commission shall carry out an evaluation of this Directive

1. Five 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.

and present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. ***The evaluation shall consist at least of the following:***

Or. en

#### **Amendment 197**

##### **Proposal for a directive Article 40 – paragraph 1 – point i (new)**

*Text proposed by the Commission*

*Amendment*

***(i) the number of authorised credit servicers in the Union and the number of credit servicers providing their services in a host Member State;***

Or. en

#### **Amendment 198**

##### **Proposal for a directive Article 40 – paragraph 1 – point ii (new)**

*Text proposed by the Commission*

*Amendment*

***(ii) the number of creditor's rights under non-performing credit agreements or of the non-performing credit agreements purchased from credit institutions by credit purchasers domiciled or established in the same Member State as the credit institution, in a different Member State than the credit institution or outside of the Union;***

Or. en

## Amendment 199

### Proposal for a directive

#### Article 40 – paragraph 1 – point iii (new)

*Text proposed by the Commission*

*Amendment*

**(iii) the assessment of the existing money-laundering and terrorist financing risk associated with the activities performed by the credit servicers and credit purchasers;**

Or. en

## Amendment 200

### Proposal for a directive

#### Article 40 – paragraph 1 – point iv (new)

*Text proposed by the Commission*

*Amendment*

**(iv) the cooperation between competent authorities under Article 37.**

Or. en

## Amendment 201

### Proposal for a directive

#### Article 41 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall adopt and publish, by **31 December 2020 at the latest**, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

1. Member States shall adopt and publish, by ... [**24 months from the entry into force of this Directive**], the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

## Amendment 202

### Proposal for a directive

#### Article 41 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

They shall apply those provisions from *1 January 2021*.

*Amendment*

They shall apply those provisions from ... *[the day after 24 months from the entry into force of this Directive]*.

Or. en

## Amendment 203

### Proposal for a directive

#### Article 41 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

*However, Articles 4(1), 7, 9 to 12 shall apply from 1 July 2021.*

*Amendment*

*By way of derogation from this Directive, entities already carrying out in accordance with national law credit servicing activities defined in Article 3(9) on the date referred to in the first subparagraph of this paragraph shall be allowed to continue to carry out those activities in their home Member State until ... [30 months from the entry into force of this Directive] or until the date on which they obtain an authorisation in accordance with this Directive, whichever is earlier.*

Or. en