

Public consultation on the review of the Mortgage Credit Directive

Fields marked with * are mandatory.

Introduction

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Background for this consultation

The [Mortgage Credit Directive](#) (Directive 2014/17/EU, hereinafter “MCD”) applies to loans to consumers for the purpose of buying residential property (hereinafter, “mortgage loans” or “mortgages”).

Article 44 of the MCD requires the Commission to undertake a review of the MCD considering the effectiveness and appropriateness of the provisions on consumers and the internal market. The Commission started the work on the MCD review with the publication of a [report on the review of the MCD](#) (hereinafter, “MCD report on the review”) assessing its implementation and functioning for 4 years after its transposition deadline. The report was based on a [dedicated study on the evaluation of the MCD](#) (hereinafter, “MCD evaluation study”). It highlighted that the MCD has been effective in raising the standard of consumer protection and has helped harmonise mortgage-lending practices across the Member States. Nevertheless, the level of protection still differs across Member States, and some limitations, in particular in terms of scope and information disclosure requirements for digital delivery, seem to hinder the full effectiveness of the rules. The report also stressed that the MCD had a limited impact on the creation of a single market for mortgages and pointed to the need to ensure that the MCD remains fit for purpose as the market develops and new challenges arise notably from digitalisation and the sustainable finance agenda.

For instance, digitalisation enables new market players to offer new forms of financial intermediation such as peer-to-peer mortgage lending. The industry is progressively getting digitalised, using automated decision-making systems, non-traditional data to assess the creditworthiness, robotic advisors, etc. Consumer habits may also be changing with increasing use of comparison websites to compare mortgage offers and non-traditional means to apply for mortgages. Digitalisation may bring many benefits to the consumers, in particular in terms of easier access to products and lower costs. It may also play an important role for the development of the Single Market. But, digitalisation may also entail new challenges for consumer protection. For instance, digitalisation may facilitate new ways of providing mortgage credit (e.g. through crowdfunding, peer-to-peer lending) without necessarily in all cases being subjected to the safeguards of the MCD. Information disclosures which are not adapted to a digital environment, may make it more

difficult for consumers to fully understand the offer. There may be also a risk of discrimination linked to credit decisions based on algorithms (use of Artificial Intelligence). The recently made [artificial intelligence \(AI\) proposal](#) suggests that AI systems used to evaluate the credit score or creditworthiness of natural persons should be classified as high-risk as they may pose significant risks to the fundamental rights of persons.

Furthermore, buildings in the EU are collectively responsible for 40% of our energy consumption and 36% of greenhouse gas emissions. Improving energy efficiency and ensuring the use of sustainable materials in buildings therefore has a key role to play in achieving the ambitious goal of carbon-neutrality by 2050, as set out in the [European green deal](#).

Also, the COVID-19 crisis has disrupted the EU economy and had a major impact on the credit market and consumers, making many consumers more financially vulnerable. Member States adopted a series of relief measures, such as loan repayment moratoria, to alleviate the financial burden on consumers. It will be necessary to assess whether lessons need to be drawn from the COVID experience.

Finally, the Commission adopted a [proposal revising the Consumer Credit Directive \(CCD\)](#) in June 2021. Given the important similarities between the two Directives, and the need to ensure overall consistency in credit markets, the Commission will need to take the amendments suggested in the CCD proposal and the on-going negotiation of them EU legislator into account.

Responding to this consultation and follow up

In this context, the Commission is launching the present public consultation to complement the information gathered in the MCD evaluation study and to collect further evidence to assess, in line with Better Regulation principles, the effectiveness, efficiency, coherence, relevance and EU value-added of the MCD. The stakeholders are also consulted on the possible problems and measures to improve the MCD.

The results of the consultation will inform a formal MCD evaluation and impact assessment accompanying a possible proposal for the revision of the MCD. The aim is to make sure that the MCD continues to meet its objectives in terms of consumer protection, competitive internal market and financial stability and that it is adapted to new challenges.

The respondents will be invited at the end of the questionnaire to include studies or other analytical material on mortgage credit, which may concern any issues discussed in this consultation paper and might help the Commission services in shaping future EU policies on mortgage credit.

The questionnaire targets all stakeholder groups, but not all questions are relevant for all stakeholders and respondents do not need to reply to every question. It is thus possible for respondents to leave some questions unanswered.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-mortgage-credit-review-2021@ec.europa.eu.

More information on

- [this consultation](#)
- [the consultation document](#)
- [mortgage credit](#)
- [the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation

- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* Who's interests are you representing?

- Credit institutions
- P2p / crowdfunding services providers
- Credit intermediaries
- Insurance undertakings
- Pension providers
- Other

* Please specify who's interests you are representing:

Credit Databases / Organisations responsibly managing data to assess the financial credibility of consumers and businesses

* First name

Enrique

* Surname

Velazquez

* Email (this won't be published)

e.velazquez@accis.eu

* Organisation name

255 character(s) maximum

ACCIS

* Organisation size

- Micro (1 to 9 employees)

- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

21868711871-63

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> Somalia |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |

- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey

- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena
- Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') country of origin, organisation name and size, and its**

transparency register number, are always published. Your e-mail address will never be published.

Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the [personal data protection provisions](#)

1. General questions

Question 1. To which extent do you agree that the MCD has been effective in achieving its 3 objectives i.e.:

	1 (fully disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (fully agree)	Don't know - No opinion - Not applicable
Increase consumer protection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Contribute to an efficient and competitive single market for mortgages	<input type="radio"/>					
Promote financial stability	<input type="radio"/>					

Please explain your answer to question 1 and provide suggestions on what can be improved to increase its effectiveness:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 2. To which extent do you agree that:

a) The **EU-intervention (MCD) was more effective in achieving those objectives than leaving it to Member States acting at national or regional level**

- 1 - Fully disagree
- 2 - Rather disagree
- 3 - Neutral
- 4 - Rather agree
- 5 - Fully agree
- Don't know / no opinion / not applicable

Please explain your answer to question 2 a):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

b) The overall **benefits (such as increased consumer protection, level playing field) of introducing the EU MCD have outweighed the overall costs linked to its implementation**

- 1 - Fully disagree
- 2 - Rather disagree
- 3 - Neutral
- 4 - Rather agree
- 5 - Fully agree
- Don't know / no opinion / not applicable

Please explain your answer to question 2 b):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

c) The MCD continues to be **relevant, i.e. addresses current needs and problems in society and in the mortgage credit market**

- 1 - Fully disagree
- 2 - Rather disagree
- 3 - Neutral
- 4 - Rather agree
- 5 - Fully agree
- Don't know / no opinion / not applicable

Please explain your answer to question 2 c):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

d) The MCD is **coherent with other EU policies and interventions**

- 1 - Fully disagree

- 2 - Rather disagree
- 3 - Neutral
- 4 - Rather agree
- 5 - Fully agree
- Don't know / no opinion / not applicable

Please explain your answer to question 2 d):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 3. Do you consider that the MCD could be **simplified to reduce compliance costs without undermining its effectiveness?**

- Yes
- No
- Don't know / no opinion / not applicable

Question 4. Are you aware of possible discrimination (e.g. on gender, nationality, medical history) for consumers taking mortgage loan?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 4:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 5. Are you aware of practices by credit providers exploiting consumer's situation and patterns of behaviour (e.g. pre-ticket boxes, cross-selling of an additional product, sale of tied insurance policies)?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 5:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 6. To what extent do you agree that enforcement of the MCD provisions by national competent authorities (NCAs) is satisfactory?

- 1 - Fully disagree
- 2 - Rather disagree
- 3 - Neutral
- 4 - Rather agree
- 5 - Fully agree
- Don't know / no opinion / not applicable

Please explain your answer to question 6:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 7. Are you aware of shortcomings in the enforcement action of MCD provisions by NCAs?

- Yes
- No
- Don't know / no opinion / not applicable

Question 8. Do you consider that Article 38 of the MCD regarding sanctions and the empowerment of NCAs to apply them is satisfactory?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 8 (including whether MCD provisions should be improved):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 9. To what extent do you agree that the out-of-court complaint and redress procedures set up on the basis of Article 39 MCD are effective?

- 1 - Fully disagree
- 2 - Rather disagree
- 3 - Neutral
- 4 - Rather agree
- 5 - Fully agree
- Don't know / no opinion / not applicable

Please explain your answer to question 9 (including whether participation for creditors/intermediaries in such procedures is mandatory and the decisions of the relevant bodies are binding):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 10. Do you consider that Article 6 of the MCD on financial education has contributed to increasing the financial education of consumers?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 10:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2. Specific questions

Please click on the "Next" button to answer the specific questions.

2.1 Market structure / scope

Question 11. To which extent do you agree with the following statements:

	1 (fully disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (fully agree)	Don't know - No opinion - Not applicable
Consumers have enough mortgage credit providers to choose from in all Member States	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

<p>There is sufficient competition among mortgage credit providers so that consumers are able to get competitive offers</p>	<input type="radio"/>					
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Please justify your answers to question 11:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please attach below any relevant study(ies)/evidence supporting your answers to question 11. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Question 12. Are you aware of barriers to the offer of and/or demand for cross-border mortgage loans that could be addressed in the MCD review?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 12:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 13. Depending on their business models, crowdfunding and peer-to-peer lending platforms may only be partly covered by the MCD rules.

Are you aware of any existing or likely challenges for consumer protection or financial stability arising from mortgage loans granted through crowdfunding and peer-to-peer lending platforms (including mortgages obtained by individuals from other individuals)?

	Yes	No	Don't know - No opinion - Not applicable
For consumer protection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
For financial stability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to question 13:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 14. Peer-to-peer and crowdfunding platforms are already active in EU markets to provide consumer credit to natural persons, and business loans. The [Regulation for European crowdfunding service providers for business \(ECSPR\)](#) allows platforms to apply for an EU passport based on a single set of rules. However, the Regulation does not apply if the project owner is a consumer.

To which extent do you agree that encouraging peer-to-peer service providers (e.g. clearer rules and applicability of the MCD to providers / aligned rules across the EU on mortgage issuance / cross-border provision of services) to intermediate between consumers in their capacity as borrowers and non-professional investors/consumers/businesses for issuing mortgage loans has a potential to:

	1 (fully disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (fully agree)	Don't know - No opinion - Not applicable
Increase the choice of consumers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increase competition between mortgage credit providers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Contribute to the integration of mortgage markets in the EU	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please justify your answers to question 14:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 15. Some credit agreements are specifically excluded from the scope of the MCD (e.g. equity release credit agreements). The [MCD report on the review](#) highlighted that the current level of regulation of equity release schemes may be insufficient and may pose a risk in terms of consumer protection.

Are you aware of problems for consumer protection stemming from equity release schemes or other types of credit agreement that are specifically excluded from the scope of the MCD?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 15:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 16. In other cases, Member States have an option not to apply the MCD or certain of its provisions (e.g. to certain secured credit agreements; to “buy-to-let” credit agreements for immovable properties bought as an investment and not as a place to live).

Are you aware of specific problems stemming from areas where the MCD (or certain of its provisions) may not apply?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 16:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.2 Information to consumers / digitalisation

The MCD requires creditors to provide to consumers standard pre-contractual information through an European Standardised Information Sheet (ESIS) on paper or on durable medium. The MCD evaluation report concluded that consumers are sometimes overloaded with pre-contractual information contained in the ESIS that they may not read or understand.

Question 17. Do you consider that MCD rules on pre-contractual information ensure that the consumer receives appropriate and timely information to compare the credits available on the market, assess their implications and make an informed decision?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 17:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 18. In your view, what would facilitate consumers' understanding and comparison of the pre-contractual information, including the information received through digital means?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 19. To which extent do you agree that, in addition to ESIS, the provision of a summary of simplified information on the key features of the mortgage credit offer could address information overload and help understanding and comparing offers (even on digital devices with small screens)?

- 1 - Fully disagree
- 2 - Rather disagree
- 3 - Neutral
- 4 - Rather agree
- 5 - Fully agree
- Don't know / no opinion / not applicable

Please explain your answer to question 19:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 20. If credit providers were required to provide a consumer with a summary of simplified information on the key features of the mortgage credit (in addition to the ESIS):

a) How would you rate the expected benefits to consumers?

- 1 - Negligible
- 2 - Low
- 3 - Medium
- 4 - Large

- Don't know / no opinion / not applicable

Please explain your answers to question 20 a):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

b) What would be the total estimated one-off and recurring costs for credit providers (in monetary terms)?

	Costs
One-off costs	
Recurring costs	

Please explain your answers to question 20 b):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 21. The [MCD evaluation study](#) has shown that consumers often do not have sufficient time to select the best offer of mortgage credit available in the market (e.g. because the consumer may only have a period of 7 days for reflection / withdrawal).

In your view, which of the following measures would be adequate to help improve the situation?

Please select as many answers as you like

- to increase the minimum reflection/withdrawal period from 7 days to 14 days
- to make a reflection period mandatory (thus excluding the possibility of a withdrawal period)
- to require that a certain minimum amount of time elapses between the provision of the ESIS/binding offer and the conclusion of the contract
- other

Please explain your answer to question 21:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 22. Are you aware of problems for consumers or creditors linked to mortgage advertising via specific channels (radio, TV, printed media, social media etc.)?

	Yes	No	Don't know - No opinion - Not applicable
Radio	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
TV	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Printed media	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Social media	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer(s) to question 22:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 23. Do you consider that the MCD advertising requirements should be adapted to the specific medium on which the advertising is displayed (e.g. radio, TV, social media etc.)?

	Yes	No	Don't know - No opinion - Not applicable
Radio	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
TV	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Printed media	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Social media	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer(s) to question 23:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 24. The [MCD evaluation study](#) indicates that creditors are increasingly relying on robo-advisors (e.g. automated chats) to provide for instance some basic information to consumers.

Do you consider that the use of robo-advisors poses problems in terms of consumer protection?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 24, indicating possible solutions:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 25. To date, very few mortgage credit agreements are concluded fully digitally.

Can you describe the main difficulties/problems you experience in this area?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 25.1 If available, please also provide practical examples/solutions to such problems that enable the digital conclusion of mortgage credit agreements:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.3 Tying and bundling

Under the MCD, the bundling practices are allowed but tying practices are prohibited (with few exceptions under Article 12(2)). Also, tying practices may be allowed when the creditor can demonstrate to its competent authority that the tied products or categories of product offered, on terms and conditions similar to each other, which are not made available separately, result in a clear benefit to the consumers taking due account of the availability and the prices of the relevant products offered on the market (Article 12(3)).

Question 26. Are you aware of existing problems related to tying or bundling practices?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 26:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

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Question 27. To what extent do you agree that the exceptions to the prohibition of tying practices are still relevant?

	1 (fully disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (fully agree)	Don't know - No opinion - Not applicable
open or maintain a payment or a savings account, where the only purpose of such an account is to accumulate capital to repay the credit, to service the credit, to pool resources to obtain the credit, or to provide additional security for the creditor in the event of default;	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
purchase or keep an investment product or a private pension product, where such product which primarily offers the investor an income in retirement serves also to provide additional security for the creditor in the event of default or to accumulate capital to repay the credit, to service the credit or to pool resources to obtain the credit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
conclude a separate credit agreement in conjunction with a shared-equity credit agreement to obtain the credit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to question 27:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.4 Creditworthiness assessment

Credit providers are increasingly relying on automated decision-making systems where the consumer is subject to a credit decision based solely or partially on automated processing of his/her data. The [recently made artificial intelligence \(AI\)](#) proposal suggests that AI systems used to evaluate the credit score or creditworthiness of natural persons should be classified as high-risk as they may pose significant risks to the fundamental rights of persons. The credit institutions would be subject to requirements inter alia concerning data and data governance, documentation and record keeping, transparency, human oversight, robustness, accuracy and security.

However, the AI proposal does not propose specific rights for consumers. The [General Data Protection Regulation \(GDPR\)](#) provides the right for consumers to obtain human intervention to express his or her point of view and to contest the decision. Yet this only applies in case the decision is based **solely** on automated decision making, not if the decision, involving automated processing, is taken by a human, as is often the case in mortgage credit processes.

Question 28. Do you consider that the consumer should have specific targeted complementary rights and information in the creditworthiness assessment process where it involves the use of automated processing of personal data?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 28:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

First, it is important to distinguish between creditworthiness assessments (CWA) and credit decisions:

1) A CWA refers to the judgement made by the creditor about the consumer's creditworthiness. This assessment is based on information gathered by the creditor about the consumer's financial situation from internal or external sources, including the consumer. To help with this assessment, creditors often use credit scores as they allow them to take more accurate decisions in a more objective, fair and non-discriminatory way. The use of scores enables the credit providers to decrease the cost of mortgages substantially and hence increase assess to mortgages.

2) A credit decision refers to the decision of granting or rejecting credit. It takes into account the result of the

CWA as well as other factors (such as ID verification and the creditor's own portfolio risk management and business model). This means that a CWA is only a factor in the credit decision; a lender may decline a consumer's credit application based on its credit risk appetite and policies even though the assessment shows the consumer is highly creditworthy. Likewise, having a negative CWA may not stop a lender from granting credit, as recognised in the proposed CCD (Art. 18.4).

Second, CWAs (including or not a score) and credit decisions involve the processing of personal data by the creditor or third parties. As such, the consumer enjoys important rights, in particular under the GDPR and Consumer law:

- (i) If a lender gathers data about the consumer from an external database and/or uses credit scoring, they should tell the consumer about it and its consequences. This information is normally provided in the privacy notices (see Recital 60 and Art. 12-13-14 GDPR).
- (ii) The consumer has the right to obtain details of any personal data used for profiling (right of access, Art 15 GDPR, and Art 29 WP Guidelines on profiling). This means that the consumer can always verify the information held about him or her by the lender or a third party (e.g.. database). However, lenders do not have to tell exactly how they work out their credit score, because score rules are trade secrets, as recognised in Recital 63 GDPR. Their disclosure would not only damage competition but also allow manipulation of the results. Scoring must respect the GDPR principles including lawfulness (Art. 6, 8 and 9), data minimisation, purpose limitation, accuracy, and fairness Art. 5), as well as the principles of the EU Charter of Fundamental Rights (e.g., non-discrimination).
- (iii) The consumer has the right to challenge the input data used in a credit score (right to rectification, Art 16) and the right to erasure (Art 17).
- (iv) If the rejection of a credit application is based on the consultation of an external database, the consumer should receive the details of that database (Art. 9 of CCD).

These protections are complemented by the EBA guidelines on loan origination and monitoring that make lenders accountable for ensuring their lending policies and processes protect individual borrowers. For example, the guidelines oblige lenders to "specify the use of any automated models in the creditworthiness assessment and credit decision-making processes in a way that is appropriate to the size, nature and complexity of the credit facility and the types of borrowers".

It is important to underline that the credit decision is made by the credit grantor. Only if the credit decision (which has a legal or similarly significant effect on the individual – which means, when the credit is not granted, a positive decision is not affecting Art. 22 GDPR), including when scoring is used, is taken solely by an automated process (e.g., an automatic refusal of an online application) the consumer has a heightened level of protection:

- (I) The consumer should receive meaningful information about the logic and the consequences of the automated decision-making (Art 13.2.f and 14.2.f GDPR). However, as above, this does not include providing a complex explanation of the algorithm used or disclosure of the full algorithm (Art 29 WP Guidelines on profiling). This type of decision-making is equally subject to the above GDPR obligations and fundamental right principles.
- (ii) The consumer can ask for a human to manually review the decision, express his or her opinion, and contest the decision (Art 22 GDPR).
- (iii) Moreover, if the data processing is considered high-risk from a data protection perspective, the

company in question must carry out an impact assessment and may also be obliged to consult the supervisory authority before they can start with the processing (Arts. 35, 36 GDPR).

Imposing a similarly heightened level of protection for decisions that involve some meaningful human intervention, let alone, any intermediate automated processing (e.g., credit scoring) would be unnecessary, disproportionate and inefficient. See our response to the next question.

Question 29. Do you consider that the consumer ought to have the following specific rights in the case where the creditworthiness assessment involves the use of automated processing of personal data?

	Yes	No	Don't know - No opinion - Not applicable
To obtain from the creditor clear explanation of the assessment of the creditworthiness (e.g. logic and risks involved in the automated processing of personal data, as well as its significance and effects on the decision)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
To obtain human intervention on the part of creditor to review the credit decision	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
To contest the assessment of the creditworthiness and the decision	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
No specific protection is needed	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answer(s) to question 29:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As mentioned above, the GDPR already provides a high level of consumers rights. Extending the heightened level of regulation that exists for decisions based solely on automated decision-making to decisions involving automated processing but taken by a human would be unnecessary, disproportionate and inefficient, and ultimately, to the detriment of the consumer. This argument against extending that regulation to any intermediate automated processing (e.g., credit scoring) is even stronger.

Digital automation is bringing significant benefits to credit granting for consumers and the economy. It is more efficient – mortgages are cheaper when fewer applications require lenders to carry out manual reviews. In the past, every application was reviewed by hand even where they were clearly acceptable or unacceptable. Automated processing allows much faster and more efficient decision-making which improves the customer experience. Importantly, this also allows lenders to consider each credit application in the same manner thus making the process more objective and fairer.

The Italian Data Protection Authority has recently confirmed by adopting the code of conduct on credit referencing that credit scores do not fall within the scope of article 22 GDPR (see in particular art. 10 of the Code).

It is also important to clarify what is meant by the “logic” of a model. Articles 13-15 of GDPR give data subjects the right to “meaning information about the logic” of a model. However, obliging lenders to disclose the logic of a model could be interpreted as forcing lenders to reveal commercially sensitive elements of a model and its source code. As stated above, forcing lenders to reveal trade secrets in this way would undermine competition, innovation and lending outcomes in the mortgage market.

Question 30. The MCD requires a creditworthiness assessment to be based only on information on the consumer’s income and expenses and other financial and economic circumstances which is necessary, sufficient and p r o p o r t i o n a t e .

Do you consider that this requirement may not be sufficiently granular to assess the creditworthiness of consumers in all cases, in particular of consumers with “thin credit files” (i.e. consumers for whom not a lot of economic and financial data is available)?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 30:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The MCD requirement to assess the consumers’ creditworthiness based on information related to their financial and economic circumstances (Article 20) is developed in the EBA Guidelines on loan origination and loan monitoring, in particular in its sections 5.2.1-5.2.3 and Annex II. This Annex includes a set of information and data that can be used for this purpose. The EBA’s ability to update the guidelines means

they can be updated faster than legislation to reflect new risks and opportunities to ensure CWAs are working in the best interest of consumers. We believe that this provides a good basis for proportionate and robust CWAs and thus Art 20 MCD does not need to be more granular. Having said that, its implementation could be significantly improved and made more flexible, considering consumers with “thin credit files” (i.e., unbanked adults, people who are new to credit, for example, because of their age or having recently lived abroad, or the growing population that prefer obtaining financing other than through mainstream credit).

Areas for improvement:

- While the MCD and the above EBA Guidelines allow for traditional and non-traditional types of data to be shared with a CRA (e.g. credit data from telecommunications contracts), there are still some restrictions at Member State level:

- o In Spain, lenders do not typically share positive credit data with CRAs, partly because of the perceived regulatory risk of doing so. It has been demonstrated that the use of positive data is empirically associated with lower rates of overindebtedness and at the same time an increase in financial inclusion.

- o In Italy, CRAs do not hold credit data on telecommunications contracts. Telecommunications companies (telcos) can access CRA data but they do not contribute any data as they are exempted from complying with the principle of reciprocity. Moreover, telcos can access a separate database containing telco negative data, so in practice they do not have any incentives to contribute data to CRAs. This situation is not optimal for banks as they do not have access to the telco database. Yet, when assessing a credit application for thin files, data about regular household bills (e.g., energy, water or mobile phone/broadband contracts) as well as other financial agreements (e.g., rental) - which may be the only one available - can show how well a consumer pay them in a similar way to credit commitments.

- o In Spain, the collection of certain public data has been recently banned, and in Germany, insolvency data may not be able to be held for longer than six months by CRAs (there is a preliminary ruling to the ECJ on this). Yet the insufficient level of data or a too-short retention period may lead to inadequate information on the consumer reducing the ability of creditors to make informed decisions.

- Additionally, the benefits of “self-contributed data” (e.g. payment account data under PSD2) seem not to have yet been fully understood. Not many consumers are providing this extra information which could show how and when they make regular payments to certain products and services, thereby improving their chances to obtain credit. In this context, the potential of PSD2 has yet to be fully utilised.

- Beyond payment account data, the Commission is currently analysing whether other types of data in the FS sector could also be opened up for third-party services with consumer consent. This is referred to as Open finance. We believe that data from other sectors (e.g. insurance, savings, investments) as well as more public data (social security, tax, pensions, public benefits) could be considered. Importantly, if the MCD were to prescribe what data lenders can use, then there is a serious risk that lenders will over time be unable to use relevant credit that would improve outcomes for consumers.

Our recommendations to improve the implementation of the MCD and the EBA Guidelines:

- Updating the above EBA guidelines to explicitly support the sharing of positive data, relevant public data, and data from a variety of sectors such as retail, utilities, insurance, with CRAs.

- Promoting legal changes at the local level to remove restrictions on the sharing of economic and financial data with CRAs.

- Promoting financial education for consumers, including on self-contributed data (PSD2 and eventually open finance data).
- Work with regulators and the industry to assess what other types of data could be used to improve consumers' access to affordable credit in light of the digital transformation of our economies (with an explosion of digital data, the advancement of technologies which can extract new insights from large datasets, and the changing behaviour of consumers who may look for alternative ways of financing, and thus be invisible to the traditional word). In this regard, we welcome the Commission's request to the European Banking Authority (EBA) for technical advice on this area.

Question 31. Do you consider that, in clearly defined cases (e.g. thin credit files), it should be possible to take other specific information/factors into account for the creditworthiness assessment?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 31, including the possible cases and possible other specific information/factors that should be allowed to be taken into account for the creditworthiness assessment:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See above, questions 30 and 31.

Question 32. Do you consider it appropriate to set out some key indicators to be used for creditworthiness assessments (e.g. loan-to-value, debt-to-income ratios, loan maturity, length of time during which the interest is fixed)?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 32:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 33. The MCD requires Member States to provide non-discriminatory access for all creditors from all Member States to credit databases for assessing the creditworthiness of consumers.

Are you aware of any discrimination in accessing public and private databases/registers to assess the creditworthiness including for the cross-border provision of mortgages?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 33:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In our experience when lenders refuse to grant cross-border mortgages, this is usually caused by uncertainties that come from the different legal orders in individual Member States, such as uncertainties about how to assess the income sources of a foreign consumer. It is not related to potentially discriminatory access to databases.

Question 34. The MCD evaluation study showed that creditors could access databases in other countries as long as they respect the principle of r e c i p r o c i t y .

In your view, does this affect the provision of cross border services?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 34:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The principle of reciprocity is fundamental to the operation of credit account data sharing in CRAs. It allows CRAs to perform their credit reporting function.

In a nutshell, the principle of reciprocity stipulates that subscribers to a credit database will receive the same credit performance level data that they contribute to the database. The principle of reciprocity is a core pillar of the credit data-sharing infrastructure and thus “should continue to apply”, as stipulated in Recital 60 of the MCD.

In some countries, however, CRAs struggle, or are not permitted to, establish full file credit account data sharing systems due to regulatory restrictions or the lenders' unwillingness to supply data to a CRA (for example, in Spain).

So, the imbalance in the content of databases across the EU is not the result of the principle of reciprocity but the result of different legislative frameworks or different lenders' practices. This is why ACCIS has consistently asked for credit databases to be able to hold at least negative and positive credit data across the EU Single Market.

Question 35. Is there scope for improving public and private credit registers /databases, in terms of their capacity to provide relevant information for creditworthiness assessments while protecting personal data?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 35:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As mentioned in our response to question 30 above, ACCIS believes that EU law and EU guidance should promote:

- the use of positive credit information in creditworthiness assessments and the collection of such information by private credit databases across the EU Single Market. Positive credit information (i.e., that covering facts of an individual's contractually compliant behaviour, the value of an individual's credit commitments and the cost of meeting those credit obligations) indeed provides a more comprehensive picture of the consumer's financial behaviour than negative information only (i.e., that pertaining to defaults or other adverse credit events). Positive information provides more detailed information about a consumer's loans and credit availability and a more comprehensive picture of the consumer's income and expenses and other financial and economic circumstances than negative information only. As mentioned above, it has been demonstrated that the use of positive data is empirically associated with lower incidences of extension of credit to consumers more financially vulnerable and at the same time successful extension of credit to debtors with little previous credit experience. Positive registration also provides the opportunity for early detection of payment problems so that any financial problems faced by consumers can be quickly addressed. The monitoring service of credit registers/databases provides signals to creditors, including mortgage providers, if a customer's credit situation changes. In this way, lenders can contact their customers in time and take preventive measures to prevent further problems. The monitoring service thus makes a practical contribution to the duty of care and proactive portfolio management.
- the use of non-traditional data, also referred sometimes to as alternative data (such as utilities, rental and data related to other private and public relevant sectors).
- EU data protection authorities should also consistently recognise and endorse legitimate interest (GDPR) as a legal ground for lawfully collecting and processing data in credit referencing activities.

Moreover, in those countries where there co-exist one or various CRAs and a public credit registry, an optimal balance between the roles of each system should be ensured. As explained in a recent report by PERC [<https://www.perc.net/publications/public-credit-registries-private-credit-bureaus/>], international best practices dictate that public credit registries are complementary to private credit bureaus, with public credit registries playing a supervisory and risk monitoring role, while private credit bureaus provide predictive credit and other data to lenders and other market actors to aid underwriting credit and eligibility determination for individuals and to assess loan portfolio risk and performance.

2.5 Early repayment

The MCD has granted consumers the right to early repayment. This right makes it easier for consumers to switch to another provider, which is important to foster competition. The MCD evaluation report has, however, indicated that only a minority of consumers has exercised the right of early repayment since the MCD entered into force. This seems to be in particular due to a lack of consumer awareness, their inability to assess how much they could save, the possible conditions attached to early repayment and the possible amount of compensation to be paid.

Question 36. Which are in your view the main obstacles for the consumers to exercise the right of early repayment?

	1 (not important)	2 (slightly important)	3 (neutral)	4 (rather important)	5 (very important)	Don't know - No opinion - Not applicable
lack of consumer awareness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
inability to assess how much they could save	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
unclear conditions attached to early repayment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
too high amount of compensation to be paid	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain your answers to question 36:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 37. Do you consider that further measures should be taken to further facilitate the early repayment of mortgage credit?

- Yes
- No
- Don't know / no opinion / not applicable

Question 38. The credit providers may be entitled to fair and objective compensation, where justified, for possible costs directly linked to the early repayment but shall not impose a sanction on the consumer. The compensation shall not exceed the financial loss of the creditor.

Do you consider that the MCD leaves too much discretion for the calculation of compensation to the possible detriment of consumers?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 38:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 39. The MCD report on the review suggested that there is scope to increase the level of mortgage switching by consumers, which could potentially unlock substantial benefits for consumers while increasing competition and innovation in the market.

Do you have any further suggestions to foster competition in the market and further facilitate the switching of providers?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 39:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.6 Foreign currency loans

Question 40. Do you agree that the MCD has been effective in protecting consumers from exchange rate risks posed by foreign currency loans?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 40:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 41. As a result of the MCD rules foreign currency loans, lenders may have significantly reduced the offer of such loans or stopped offering foreign currency loans. This situation could lead to problems in specific cases where the risks of foreign currency loans are limited e.g. for some cross-border workers.

Are you aware of specific cases where the MCD provisions on foreign currency loans may have had unintended or undesirable consequences?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 41:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.7 Mortgage lending by non-credit institutions

The MCD also applies to credit granted by non-credit institutions (which means creditors that are not a credit institution in the sense the [Capital Requirements Regulation 575/2013](#)). The Commission MCD report on the review highlights that the share of mortgages granted by non-credit institutions generally remains limited in the EU. However, in a few Member States, their market share seems non-negligible.

On the basis of Article 35 of the MCD, non-credit institutions need to be subject to an adequate admission process, including entering the non-credit institution in a register and arrangements for supervision by a competent authority. In its [2017 report, the ECB](#) suggested that the growing role of non-credit institutions in the mortgage market poses some challenges in terms of financial stability. The ECB report explained that the growing market share of non-bank providers may limit the effectiveness of some macro-prudential measures that apply only to banks.

Question 42. Do you consider that further regulation of non-credit institutions providing mortgage loans would be necessary?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 42:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 43. The MCD does not provide a passport for non-credit institutions. Do you believe that a passport for non-credit institutions providing mortgage loans should be introduced in order to further the single market for mortgages?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 43:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 44. Do you see any potential risks stemming from the introduction of a passport for the non-credit institutions?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 44:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.8 Credit intermediaries

Question 45. One of the main changes brought about by the MCD was to create an EU passport for credit intermediaries. This enables credit intermediaries to offer their services in other Member States, while consumers benefit from easier access to mortgages from other Member States. However, the MCD report on the review indicated that only few credit intermediaries offer their services cross-border.

Are you aware of problems for credit intermediaries to exercise their activity in another Member State?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 45, specifying what the issues are related to (e.g. to the application of the MCD provisions) and how those issues could be overcome to foster cross-border provision of intermediation services:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.9 Arrears and foreclosure

Question 46. Article 28 of the MCD (arrears and foreclosure) requires Member States to adopt measures to encourage creditors to exercise reasonable forbearance before foreclosure proceedings are initiated but leaves flexibility for Member States as to the measures to protect consumers experiencing financial difficulties.

Do you believe that the MCD's provisions on arrears and foreclosure have been effective in terms of reducing the risk of foreclosure?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 46:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Given the COVID situation and the resulting leeway, the regulations granted to financial institutions and some Governments forced to apply, the impact to avoid foreclosures was clearly low as the financial institutions were quite active in restructuring the outstanding debts for those in hardship. The effectiveness of these measures should be tested in a more stabilised period.

Question 47. The [Directive on credit servicers, credit purchasers and the recovery of collateral](#) will strengthen Article 28 of the MCD clarifying the forbearance obligations and introducing reinforced information duties on credit purchasers and servicers. Do you consider that further measures would be required to protect consumers falling in arrears?

- Yes
- No
- Don't know / no opinion / not applicable

Question 47.1 If you do consider that further measures would be required to protect consumers falling in arrears, what would these measures be?

Please select as many answers as you like

- obligations to individually support consumers who experience or might experience difficulties in meeting their financial commitments (e.g. personalised assistance like debt advisory services)
- strengthen consumer education
- strengthen awareness on debt management in financial difficulties
- other

Please specify to what other measure(s) you refer in your answer to question 47.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The EBA guidelines on loan origination and monitoring mandates credit institutions to ensure that their credit risk monitoring framework and data infrastructure enable a single customer view i.e., a single, consistent view of all of a customer's assets and liabilities held at an institution or a creditor on a consolidated basis, including information on all financial commitments, including their repayment history at the institution or the creditor (paragraph 247). Para 90 of those guidelines say that the single customer view should be supplemented by the information provided by the borrower on the assets and liabilities held at other institutions or creditors. As struggling financially is often a source of "shame", expecting borrowers falling in arrears to complete themselves their single customer view is un-realistic. For that reason, lenders should be encouraged to use available information to monitor consumers' ongoing ability to meet their credit commitments during the life of their mortgage. Where there is a risk that a consumer may be struggling to meet their commitments, firms should be proactive in contacting consumers to explore support or forbearance a consumer may require.

Please explain your answer to question 47 and 47.1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 48. The MCD does not include specific additional rules to protect consumers who backed their mortgage loans by their first residency.

Do you consider that a specific protection for such cases would be warranted?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 48:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Specific measures should be described for these cases as it is for self-employed using their first residency as collateral. Always with a clear and detailed explanation of how those measures shall be applied to allow a level playing field.

Question 49. During the COVID-19 pandemic, Member States and industry put in place a broad range of differing relief measures in particular payment moratoria. The MCD does not provide specific rules for such exceptional situations.

Do you consider that any lessons need to be drawn from the COVID experience and specific measures should be provided for in the MCD?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 49:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The treatment of credit data during the COVID-19 pandemic or any similar exceptional situation has a potential impact on the integrity of the credit reporting system and ultimately the financial markets. Inadequate and untimely data reduces the reliance placed by credit providers on the credit reporting system and can lead to credit rationing, increase in the cost of credit and exclusion of borrowers.

It is for that reason that the International Committee on Credit Reporting (ICCR) - the only recognised international standard-setter in this field - recommended policymakers to promote "continued full (file) sharing of credit information, including reporting of missed payment data arising due to the crisis, with the necessary safeguards". For the ICCR, "[continued full (file) sharing of credit information with the necessary safeguards] ensures that there is minimal or no effect on the data subject's credit history and score". The view of the ICCR has been also echoed in the opinion of the European Economic and Social Committee (EESC) – see para 4.5.

For sure it should not be any exemptions from reporting to CRAs data on credit which for example are covered by specific pandemic rules, i.e., "vacation on payments" or any other benefits. The principle of full-file sharing of credit information - that combines both positive and negative information from both banks and non-bank lenders and has the highest predictive power for credit risk assessments - should be enshrined in the review of the MCD as a cornerstone of credit information markets during the crisis as in normal times. Former Executive VP Dombrovskis on the Capital Markets and Digital Finance made commitments to ACCIS in that regard (see letter dated 08 July 2020 Reference JD//ap ARES(2020)s 3689964.

2.10 Green mortgages

Some mortgage providers already offer “green mortgages” (under possible preferential terms and conditions) for instance to improve the energy efficiency of a building or to acquire highly energy efficient property. Green mortgages are an important possible avenue of development for an inclusive sustainable finance framework, as acknowledged in the [strategy for financing the transition to a sustainable economy](#).

Question 50. Is there a need to create an EU-wide definition of green mortgages?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 50:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 51. What would be the benefits/advantages for consumers and/or lenders of an EU-wide definition of green mortgages?

Please select as many answers as you like

- to ensure common requirements and possible incentives
- to ensure high level of confidence into the greenness of the mortgages
- to facilitate securitisation and refinancing of mortgages through green bond issuances
- to facilitate disclosure obligations under [Taxonomy Regulation](#)
- other

Please explain your answer to question 51:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 52. Do you consider that a possible common definition of green mortgage should be based on the EU taxonomy criteria (construction of a new building or acquisition or renovation of an existing one)?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 52:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 53. In your view, which measures could be considered to encourage the uptake of green mortgages?

Please select as many answers as you like

- obligation for credit providers to inform the consumer if such product can be provided
- ensure that mortgage credit providers and/or consumers taking a mortgage obtain an Energy Performance Certificate (EPC) for the residential property that the consumer will acquire using the mortgage loan
- create a label for green mortgages offered at preferential terms and conditions
- other

Please explain your answer to question 53:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 54. Do you consider that the knowledge and competence requirements for the staff of creditors and credit intermediaries should specifically cover knowledge on green mortgages?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 54:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.11 Other

Question 55. Are there any other issues that have not been raised in this questionnaire that you think would be relevant for the MCD revision?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer to question 55:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

You can upload several files.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

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