

## **Public consultation: Responsible lending and Borrowing in the EU**

### **COMMON RESPONSE**

#### **List of cosigners<sup>1</sup> :**

##### **Institutions and EU networks**

ASB Schuldnerberatungen GmbH (AT)

Centre d'Appui des Services de médiation de dettes, Région de Bruxelles-Capitale (BE)

CRIOC (Centre de Recherche et d'Information des Organisations de Consommateurs) (BE)

Equipes Populaires (les) (BE)

EAPN - European Anti-Poverty Network (EU)

ECDN - European Consumer Debt network (EU)

EMN – European Microfinance Network (EU)

EVERS & JUNG GmbH (DE)

Groupe Action Surendettement (BE)

INAISE - International Association of Investors in the Social Economy (EU)

Kredietbank Limburg (NL)

MEDENAM ADP - Centre de référence en médiation de dettes pour la Province de Namur (BE)

NVVK, Dutch Association for debt settlement and social banking (NL)

Réseau Financement Alternatif (BE)

SIFO - The National Institute for Consumer Research (NO)

Society of St Vincent de Paul, National Office (IE)

Westmeath Employment Pact (IE)

##### **Persons**

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<sup>1</sup> The complete signatures are listed at the end of the document.



## **Question 1: Do you have evidence of misleading or unfair advertising or marketing practices with regard to mortgage and consumer credit?**

Yes.

The situation can be very different from a member state to another, depending on the existing regulation, its efficiency related to appropriate measures and adequate control completed by proportionate sanctions.

Regarding this first remark, the situation is very different in UK and IE, where the sub-prime market is very developed and there are a variety of forms of very harmful and predatory lending targeted especially at low income households, than in BE, NL, FR, DE... The existence of loan sharks, and payday loans is also reported in UK and IT.

Regarding these practices, the problems are related to:

- the level of the interest rate (frequently more than 400 % and in relation to payday lending as much as 9,000%);
- the terms and conditions that are often more punitive;
- the doorstep lender and weekly collected credit companies, which market loans to replace existing borrowing on a weekly basis and which can trap borrowers in a cycle of increasing indebtedness.

Beside these particularly harmful practices, some other unfair practices arise within regulated countries:

- the changes in the conditions and terms, after a particular attractive “special offer” limited to a period of time, which often lead to inadequate decision (this is the case for regrouping credit);
- the unfair trade practice given to the lender to change conditions unilaterally;
- the advertising emphasis that is put on the direct access to money, WITHOUT any income questionnaire or requirements, or within 15 minutes;
- the advertising emphasis put on regrouping credit, which is often a more expensive solution for the consumer and a bad choice to solve financial difficulties in the long term: usually, the total amount of the credit increases as well as the duration. The other problem related to regrouping credit is that the consumer continue to use credit as a solution to his financial problems, rather than looking for a more balanced budget. In this case, the new credit is only a temporary solution, which may become an even bigger financial problem after a grace period.
- unsolicited increases in credit card limits which are made without any checks as to whether or not the borrower's circumstances have changed since the initial application for a card;
- the use of credit card cheques which promote the use of credit card accounts for cash purposes and which are extremely expensive

Illustrations:

BE:

Within a highly regulated market, the residual problems of unfair practices are, so far : the difficulty to monitor the advertisements and check their respect to the legal requirements. The reported problems concern advertising messages that underline: the facility to get quickly a credit / the lack of financial capability control / regrouping credit advantage / inappropriate reference to “responsible practices”

DE:

Concerning misleading or unfair advertising of consumer credit it can be permanently noticed that consumer credits are advertised with 4,99% interest rate and sold for 10 –14% interest rate (see Korczak/Wilken, Scoring im Praxistest, München 2008)

FR:

Revolving credit sold as a consumer loan by a consumer credit institution. Presented as a short term loan with monthly repayment and a low rate (around 5%), the contract actually opens a revolving credit line. Any use outside the first terms will come under revolving loan conditions (interest only repayment, high interest rate at the official ceiling of around 20%). More than 80% of the loans facilitated by the consumer goods retailers are expensive revolving credits, open without end date, even when the aim is the purchase of one single specific product.

UK:

The UK has particular problems with irresponsible lending, particularly in sub-prime lending markets, where there are virtually no checks made concerning the ability of borrowers to repay and competition for customers is focused on the speed with which cash can be delivered rather than on price terms. As a consequence, we find very high prices being charged to the poorest households for credit (e.g. payday lending, door to door collected credit, auto-title loans, and rent to own stores). However, the Office of Fair Trading has now issued draft guidance on irresponsible lending practices which seeks to address some of the problems here and which has been welcomed by consumer groups in the U.K. As currently drafted the guidance would be a significant step forwards, and we recommend that the Commission consider the contents of the OFT proposals as part of its current review.

## **Question 2: What are your views on the development of risk guidelines?**

To reach a competitive and efficient market, the improvement of the general education of all actors (providers and customers) can play a significant role but won't be sufficient if adequate products are not available on the market for the whole demand. It is also necessary to underline that the moment when a customer meets a provider is an essential one: the crucial question is “what will be implemented at that particular moment to analyse the demand and check the opportunity to propose a financial product”?

The expected effectiveness of such strategy doesn't have to be over-estimated, especially because:

- the risks are not absolute. They are related to a particular individual situation. Therefore, to be efficient enough to make a change in the behaviour of a customer possible, it has to be tailor-made to lead to an in-depth reflection;
- usually, the preventive messages are more effective on already sensible and not “at risk” people, because the motivation is usually affective, while the messages are based on rational information (e.g.: cigarette box messages).
- it seems more efficient to regulate the market in a way that eliminates toxic products rather than trying to educate people to avoid them;

In order to facilitate the best choice in a competitive market, it is necessary that the consumers have access to a simple, standardised, effective information on the main criteria s influencing their choice. The price, the duration, the risk, the guarantee and effect

in case of default should be rated on a common standard(a kind of standardised credit ID card)

We also consider that, regarding credit, the most effective preventive approach is to adapt the credit offer to the financial capability of the consumer.

**Question 3: In your view, are there certain (categories of) credit products that are inherently unsuitable for sale to retail borrowers? Would you welcome a set of standardised or certified credit products to be offered to consumers?**

YES.

In some national markets, some credit products can be considered as a toxic ones and are responsible for high social costs, supported by the whole society.

Loan sharks (all) and sub-prime providers (in a limit to be defined) should be considered as illegal.

To build up appropriate standards, it would be interesting to assess which providers / intermediaries / products are the more concerned by repayment defaults. An in-depth analysis of this matter should be appropriate to identify the problematic elements.

On the other hand, we can also recommend to offer on each national market a range of labelled financial products : easy, safe, competitive for basic products, that meet the needs of the majority of the low/ average income people. This could be the equivalent of the principle of a basic bank account for credits.

Illustration:

BE:

Thanks to the regulation and the positive and negative database, there are no really toxic products on the market. The Belgian law regulates the lenders and the intermediaries (registered) and check all the credit contract forms before they are offered to the consumers, to check the compliance with the legal requirements. An anti-usury law also regulates the maximum interest rate for consumer credits.

The database analysis reveals that revolving credit is the only credit product which has an increasing rate of default, despite the compulsory pre-contractual check of the credit database for 5 years (DB). For the other credit products, the rate of default is decreasing. This situation was prevailing since the launch of the database, but some smooth increases have be observed recently due to the financial crisis.

Revolving credit and other undetermined duration credit is an issue: because it can create a situation of never ending indebtedness. To fight this situation, we suggest to fix a maximum time period to reach back "zero € debt".

UK:

In contrast, the UK which has no anti-usury legislation in place transfers costs from the credit market to wider society.

Low income families in the UK (with incomes of less than £8,000 per year) are highly indebted - with a debt to income ratio of 34%, and pay an average of 11% of their incomes out on credit repayments each month, compared to just 3% for households with incomes of more than £59,000 per year.

CZ:

In the Czech Republic the level of consumer protection in consumer credit market is not good. Many predatory lenders provide consumer credits with high interest rates, use very consumer-unfriendly contractual conditions and in the case of consumer's default they execute their sanctions provisions very soon. We need more regulation of the financial market and especially of the market of consumer credits. In spite of that we don't think that any kind of the categorization (as mentioned above) would be effective. The suitability of the credit product should be assessed individually. The best possibility is to provide the product which fits the concrete consumer needs.

Revolving credits represent some problems too. But for some consumers this type of financial product could be suitable. So the solution of this problem is not the prohibition of revolving credits but the sufficient regulation, effective prohibition of unfair contractual conditions and real possibility for the consumer to contract out of the revolving if he/she does not want this type of credit.

NL:

In NL and some other countries, there is "flash-credit". This is short-term credit (max. 4 weeks) with a maximum amount of 500 euro. As this is just below the limit that is used for legislation, these companies are not bound by things such as presenting an APR, maximum interest percentage, advertisement regulations, etc. APR's of more than 600% are quite common for these products.

FR:

Without a positive credit database for individual borrowers, the situation is one of fast growing overindebtedness. The question is more who distributes credit rather than what products are available. The recent working group on the new consumer credit law did not manage to forbid consumer goods retailers to distribute credit, but at least it encourages them to follow the credit worthiness procedures and to offer the adequate product (more personal loan and less revolving credit).

UK:

Consumer groups are currently campaigning for a cap on credit charges in the sub-prime markets as a result, and the OFT is charged with reviewing these markets, and considering the international evidence on caps before the end of the year.

**Question 4: Do you consider that mortgage lenders and credit intermediaries should always perform creditworthiness and/or suitability assessments before granting consumer and mortgage loans? For mortgage credit, what are your views on the criteria to be used in assessing suitability such as loan-to-income ratios or loan-to-value ratios?**

YES

Creditworthiness assessments are always the base of responsible lending. They should be composed of the presentation of facts and of qualitative information. For the presentation

of fact figures it is sufficient to provide lenders with data on the net income, the costs for rent and the expenditures for the living costs plus any ongoing credit obligations and debt payback. Since the development of the credit scoring risk analysis and the credit supply industrialisation, some lenders have neglected to adapt the credit to the personal creditworthiness of the customer. It is now necessary to finalise an approach that enable qualitative creditworthiness analysis in an industrial process to improve the efficiency of the risk analysis developed so far.

To reach this, many approaches are available :

- budget table collecting effective data to assess the creditworthiness. It can be completed by the customer or together with the lender or intermediary. The main information can be confirmed by proof documents and check by the professional;
- the use of reference budgets, as implemented in the NL, seems to be an excellent way to reach a high quality risk assessment on creditworthiness and also an industrial process (see Mutual learning on Standard budget EU project and [www.nibud.nl](http://www.nibud.nl))
- the ratios: because the creditworthiness is based on the income, we do prefer loan-to-income ratios than loans-to-value ratios, even if the last one can act as an “alarm” during the credit demand process. The ratio can play can act as a first filter. When the standard is not reached, it can lead to a necessary more in-depth analysis of the creditworthiness in order to assess that passing through the filter was not irresponsible. The effectiveness of the ratio is also related to the total amount of income. The lower the income is, the higher it is important to respect the ratios. However it is to point out that declared income is not always the only information on which intermediaries base their decision to grant credit. This is the case where under economy is quite developed and widespread. It is important to note that loan to value ratios are frequently illusory - in that house prices fluctuate considerably over time. When the housing market is booming they give both borrowers and lenders false security and lead to exuberance. By contrast loan to income ratios are a more reliable long term indicator of affordability.

## Illustrations

BE: the lenders have the obligation to check the credit database (positive and negative) during the pre-contractual period. They must (by the law) also collect actively all useful data allowing them to assess the creditworthiness of the customer.

Many elements play an incentive role to increase responsible behaviours : the positive and negative credit database but also, the proportional financial participation to the funding of the Over-indebtedness treatment Funds based on default credits per market share ratio.

UK: the mortgage market, particularly the sub-prime mortgage market has been characterised by an absence of proper assessment of affordability and an over-reliance on loan to value ratios leading to asset based lending and gambling on the housing market. In a 2007 investigation into sub-prime mortgage lending the FSA found that: “None of the lenders adequately covered all relevant responsible lending considerations in their policies. For example, some firms’ lending policies contained unclear affordability or self-certification requirements.”

Repossessions in the UK are closely linked to unaffordable ratios of mortgage payments to

income.

Between 2002/03 and 2006/07, households with mortgages increased their expenditure on housing costs as a % of their disposable income by an average of 6% (from 23% to 29%). The number of households paying out in excess of 30% of their disposable income on housing costs also increased significantly over this period (2.8 million households in 02/03 to over 4 million households in 06/07)<sup>2</sup>. And repossessions have risen to around 70,000 per year as a result.

Germany: In Germany we regard the loan (credit rate plus interest rate) – to – **net** income –rate as the best predictor for responsible lending. Rates up to 10% are regarded as safe, rates up to 20% are regarded as slightly risky, rates up to 30% are regarded as highly risky, rates above 30% are irresponsible lending.

CZ: In the Czech Republic there is no legal obligation of the lender to check the credit databases or do other kind of creditworthiness assessment. There are many offers for the “quick money” and “money without any proof of income” etc. The contractual conditions of these credits are usually very consumer unfriendly and some consumers have grave problems to repay their debts.

We promote the idea of creditworthiness assessments. It should be joined with some kind of responsibility of the creditor if he doesn't perform it and the consumer has the problems to repay the credit. In this case the creditor should have the right to only limited default rate and other sanctions. We promote the loan-to-income ratios model.

### **Question 5: How should the lender or credit intermediary demonstrate or document the adequacy of the creditworthiness and suitability assessment?**

Various approaches exist:

#### **A) Budget frame**

Many credit experiences (social credit, micro-finance) illustrates that the reimbursement quality and level is not exclusively related to the of income level. It is also related to the creditworthiness analysis quality and the process used to collect data from the borrower. In many cases, the borrower has to complete a budget frame and collect some documents (income sheet, rent contract, phone bills, ...). The borrower is sometime invited to make a statement of intent, which increases his involvement.

This method is useful for many reasons. First of all, the budget should show the capacity to face the reimbursement and to cover the other monthly expenses. Secondly, the way the consumer collect promptly and completely the informations demanded is also a measure of both motivation and management skills. Thirdly, such approach increases the balance between the lender or intermediary and the borrower : a big part has to be provided by the consumer, on the request of the lender – the lender responsibility is about demanding the documents, checking them and assessing the creditworthiness.

#### **B) Standard budget / reference budget**

When this kind of references are available (in the Netherlands, they are elaborated by NIBUD, and are used on a voluntary base by the lenders), it can be very efficient to help borrowers to assess creditworthiness.

Reference budgets are expenses patterns for households, regarding their structure

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<sup>2</sup> Data retrieved from <http://www.communities.gov.uk/documents/housing/xls/141533.xls> on 1/11/08

(number of adults and children) and their level of income. With these data, the professional can easily assess the amount of money available for a credit reimbursement which guarantee that the other necessary expenses can be covered.

Budget frame and reference budget methods are the most common when the risk assessment is based on the creditworthiness.

To demonstrate or document the adequacy of the creditworthiness and suitability assessment, the lender or intermediary has to:

1. document data collection (budget frame / questionnaire completed – copy of required documents – statement of intent signed - ...);
2. document the use of the data to assess the creditworthiness and the calculation done;
3. show that the credit offered is appropriate and adequate for the situation according to the budget frame or the reference budget tools.

Regarding this issue, microcredit proceeding is by definition character-based lending. The client must have the financial ability to repay, based on its income, that may come from different sources. But he must also prove his skill and will to repay. The microfinance lender does build a creditworthiness file that comprises financial essentials, as avoiding overindebtedness is key. But the credit file has details on the client character, on his financial literacy level, on his personal commitment. This key personal survey is easily synthesised.

**Question 6: Do you think that these advice standards would be appropriate in an EU context? Are there others that should be considered? What would be the most appropriate means to introduce and enforce the application of advice standards? Please explain.**

Are advise standards appropriate ?

Yes, in the UK we have a problem with private companies offering advice and charging debtors for this. They are inadequately regulated and many of the services that they have provided have been poor.

Conflict of interest:

This approach is particularly weak in an environment where advise standards may enter in conflict with the profitability of the companies. For this reason, advise standards will have a limited impact. To increase the efficiency of such practice, it would be necessary to design a mechanism ensuring that offering responsible credit (this mean less business, but also less defaults) is profitable because, for example, it reduces the funding to an over-indebted treatment fund based proportionally to default rate.

Limited mission:

The lender or the intermediary are invited to ensure that the product recommended is the most suitable among all the products available. This is of course limited to the range of products offered, and in many case (supermarket,...), they offer a very limited range of products. Therefore, this advise mission is strictly theoretical.

Non-toxic / legal products:

To consider that advice can be provided by a credit lender or intermediary, a preliminary

element is that the provider offers legal and non-toxic products, otherwise, how can this provider offer a qualitative advice? This question opens a debate on a common definition of “toxic product” and the identification of a common standard at EU level.

Advice doesn't replace customer analysis:

Advice provision has to be implemented in a way to generate an analysis of the borrower. To reach this objective, it is necessary to build an interactive approach (dialogue scheme) where the objective information provided by the consumer to the provider is analysed and assessed before receiving the answer back. This process, including a feedback by the professional, is essential to build up a responsible credit environment and to educate customers about their financial capability.

Advice doesn't replace assessment:

In the case where the credit is considered as not suitable for the customer, the lender or intermediary should therefore refuse it. The customer is limited rationality, and in many cases, the credit can be an inappropriate solution to a financial situation representing a solution at a very short term. The role of the lender or intermediary has to include a financial assessment and should refuse a credit when it is considered as inadequate.

This approach should therefore be considered as a potential tool among others to increase responsible lending. Its effectiveness is directly related to its design: if, thanks to the measure design, making responsible credit decisions is profitable for the lenders or intermediaries, it will be efficient. If not, as it is the case nowadays, the industry will not change a practice that includes the observed rate of default allowing them to maximise profit.

As a complementary measure, we also recommend to implement a simplification of the financial products offered to consumers. A standardised presentation of the main criteria necessary to make an appropriate choice and their rating (risk, duration, cost, variable conditions, risk in case of default) would make the advice or financial education much more easy.

**Question 7: Apart from a focus on financial education, are there any measures that could be taken to encourage responsible borrowing?**

There is no way to separate responsible borrowing and responsible lending: by definition, it is an interaction where two (or three, with an intermediary) actors will try to finalise a profitable transaction.

At this “meeting point”, we could consider that customer responsibility is concentrated on the supply of correct information and data requested by the professional. We correlatively consider that the professional is the one knowing the information he needs to make a qualitative assessment of the creditworthiness and to finalise this assessment.

The borrower liability could therefore be incurred in case of false declaration or voluntary incomplete one. The liability of the lender is focused on the quality of the creditworthiness assessment.

This approach is particularly efficient in countries where an effective debt settlement program is offered for people with credit default. The responsibility of both parts can be analysed on this base and can be taken into account for the calculation of the reimbursement plan by the debt counsellor or the Judge.

Agree with the above, but setting out clear societal norms concerning borrowing is also very helpful to borrowers. For example, stipulating loan to income ratios which will generally be affordable helps people to know whether or not they may be over-committing themselves if they exceed these. Likewise, publishing information on average interest rates charged in the market can help people to know if the loan they are being offered is unduly expensive.

The most effective measure are the obligation of the lenders not to sell out credits which exceed the above named 30% loan-to net income-ratio.

**Question 8: Do you consider that the scope of the definition of Credit Intermediary as set out in the Consumer Credit Directive could also be applied to the mediation of credit not covered by that directive? Would it be appropriate to differentiate between full-time credit intermediaries and persons who offer credit intermediation on an incidental basis? Please explain why (not).**

First question : Yes. We consider that it is an important issue that the sector is homogeneously regulated. This will be helpful for the consumer perception and clear understanding and also for the quality of the competition between all the actors.

Second question: No. As already expressed in the first answer, the same rule (responsibility) should apply to the same professional sector to reduce risk of side effects or unfair competition. In fact, the persons or institutions who offer credit intermediation on an incidental basis may have other priorities or conflict of interest to propose a high quality provisions regarding responsible credit.

**Question 9: Do you think policy makers should make distinctions between credit intermediaries in terms of the products they sell (mortgage, consumer credit, 'point of sale' credit)? Should credit intermediaries be treated differently in terms of the status of their relationship with lenders (tied versus untied intermediaries)? Please explain your answer.**

First question: No.

We consider that all type of credit need to be offered to the public on an adequate basis because there are no credit "risk-free". An intermediary should propose a range of different credit products in order to be able to implement its advise mission.

We also consider that distinctions can be harmful for the consumers understanding.

Second question: No.

Nevertheless, we consider that the nature of the relation with the lenders has to be clearly defined on a common base. This tied/untied relation should also be part of the information presented to the consumers.

**Question 10: Could you give examples of cases of misconduct, miss-selling or any other instances of consumer detriment linked to credit intermediaries in your country?**

This question is even more difficult to document than the one related to lenders.

National reporting:

BE:

Beyond the practices that have been identified as problematic, we find:

- an unclear selling technique where the consumer gets a credit (more often a revolving credit) without awareness. This is particularly harmful in the perspective of responsible borrowing;
- a selling technique where the creditworthiness is not implemented (more often for a revolving credit, offered in shops or in the street). The only check is the credit database consultation that is compulsory! (the reference of the consultation has to be mentioned on the credit contract);
- since the launch of positive and negative credit database, the percentage of credit default per type of consumer credit is diminishing, except for revolving credit, which is one of the products offered by intermediaries which propose credit on an incidental basis. It is therefore recommended by many consumer credit organisations to clearly identify the intermediaries within the credit database in order to be able to analyse their potential influence on default credit and increase a responsible behaviour.

CZ:

There are big problems with the providers of goods and services who act also as credit intermediaries. They often provide the consumer with misleading information about the credit conditions because they want to sell their goods or service. Therefore the consumers are sometimes confused about their legal relations because they don't understand that they make two types of contract (sale contract and credit contract) with one person. Also the contractual conditions are usually unclear to them.

DE and UK:

We are particularly concerned with internet credit brokers that do not advertise the full terms and conditions of loans in advance of taking the applicant directly through to the loan application form. This is very common, and should be prohibited.

FR:

As quoted above in questions on lenders, there are problems with intermediaries, in particular with retailers. They have a vested interest in selling the credit, as it will help the sale. A consumer loan could sell one product, a revolving credit can sell more, over a long period of time. Then there is the problem of the "induced" revolving credit that automatically comes bundled to the "advantage card" at most of the large retailers. The card often comes free but then has a yearly fee and is an open credit at ceiling rate.

NL:

In the past: selling loans where repayment was made via investments and without informing the consumer that this was a loan. Selling expensive insurance tied to a loan.

**Question 11: Does the regulatory patchwork for credit intermediaries present a problem, in your view?**

Yes.

Our position is a more theoretical one on this question. The quality of the competition of a market is related to the quality of the information shared by the various actors. The more complex is the information, the less transparent is the market. For this reason, we are in favour of a homogeneous regulation of the credit intermediaries which also reduce the risk of distortion of competition. The intermediaries should then be responsible on the same base for the credit contracts they had work on.

**Question 12: What would be the most appropriate way to address potential conflicts of interest, particularly with regard to fee/ bonus/ commission structures? Should any measures in this regard apply to bank client-facing staff as well as intermediaries?**

As already shortly mentioned in the answer n°6 concerning the potential conflicts of interest, the regulation should operate in order to promote intermediaries and lenders when they are proposing responsible credit. In order to promote responsible credit, as part of the Corporate Social Responsibility (CSR), the measures should target the whole market rules and behaviours, in order to reduce the risk of distortion of competition, asymmetric information and other side effects.

To do so, a first step should be to build up a common measure of CSR, and more specifically, the ratio default rate on market share can be a relevant one to assess responsible credit. This rate could therefore be used to balance the financial contribution to any mechanism of over-indebtedness treatment. The more responsible the professional acts, the less he will contribute to the fund. Such a mechanism is implemented in BE to finance the Over-indebtedness Treatment Fund. It increases the global responsibility of all lenders and should be enlarge to the intermediaries to.

In order to promote responsible lending, or more generally, responsible behaviour, the previously mentioned mechanism inspiration is based on the American experiences, such as the CRA (Community Reinvestment Act) is, without any doubt, a direction worth exploring. As a result the banking institutions in the United States are assessed according to their involvement in community reinvestment. Community banks play the role of an intermediary between the big banking networks and the clients with modest revenues (This objective should be transposed in the EU in order to promote responsible lending). This allows providing the latter with quality access to financial services.

The development of such tool in Europe should follow the following four stages:

1. determining appropriate quantitative and qualitative indicators to assess the services offered
2. periodical supply of information by all operators
3. audit of the information by an independent organisation according to clearly defined procedures
4. periodical assessment of the sector's action and each operator separately

Such a development seems to fall in line with the wish expressed by the European Parliament to prepare a list of criteria for enterprises to comply with if they claim to be responsible, and to shift emphasis from 'processes' to 'outcome', leading to a measurable and transparent contribution from the business in the fight against social exclusion (European Parliament, 2007).

Moreover, this system would also be a way to encourage pro-active financial institutions.

Finally, governments can implement a compensatory financing system to ensure that financial institutions doing Social Corporate Responsibility to combat financial exclusion are not disadvantaged compared to the others institutions who do not get involved. In such a system, CSR policies could be remunerated depending on the assessment of the way each financial institution has assumed its social responsibility (assessments being carried out through the use of indicators mentioned above).

### **Question 13: What are your views on the registration and supervision of credit intermediaries?**

We consider that registration and supervision would be useful.

Within those measures, we prefer:

- intermediaries compulsory registration - registration and validation of the credit contract used, to check that they comply to all the legal requirements – registration of the status (tied or untied) – compulsory mention of the intermediaries on the credit contract and registering in the negative and positive credit database when they exist – co-responsibility with the lenders in case of default (see answer 12);
- it would be useful to analyse the way to implement this registration and supervision in order to do not “wipe out” of market social and not-for-profit intermediaries and lenders. These actors play usually an important role in provider responsible credit;
- a professional training including knowledge on - legal framework, responsibility, creditworthiness measurement – demand analysis method.

Considering the various approaches presented:

- enabling supervisory authorities to assess whether intermediaries are involved in the provision of high-risk credit – YES, do think this would be a very good thing.
- helping to give borrowers confidence that the intermediary has suitable qualifications and expertise, and that there is an authority to which they could turn in the event of a dispute;  
YES, but we consider it is not sufficient. It is possible for a intermediary to be trained and to propose only toxic or close to toxic credits (regulation concerning the terms and conditions) or to have other agenda (maximise his profit). His responsibility should be activated in order to promote responsible behaviour.
- YES, an Ombudsman or any equivalent service is a positive element. But many dimension make this mechanism not always as efficient as it should. The efficiency depends on the facility of the access (user friendly, good communication and visibility, good reputation and integrity,...), the consumers should be aware of their rights in order to activate the services when necessary. For a satisfying management, the Ombudsman should be composed with an equal share of professionals and consumers representatives.
- creating a level playing field between intermediary at the EU level:  
The positive added value of this measure may be compensated by some unwanted effects: cases of people looking for credit in a cross border country because they can not access credit any more in their own country due to the implementation of responsible credit tools ( they are registered in a credit negative database, are in over-indebtedness procedure,...) have already been reported. In such cases, the measure will generate an increasing unwanted over-indebted situation with an even more complex work to be done by debt counsellors when they exist. For this reason, we recommend not to implement this measure before a minimum common operational responsible credit process is developed at the EU level.

- providing a basis on which to determine the authorisation of access by intermediaries to borrowers' credit data.  
YES. The credit database must be used only to prevent over-indebtedness and therefore the access has to be done on a "individual" basis, for a credit demand analysis. If the intermediaries access the database, they should be responsible as well as the lender to the management fees and to co-finance any Fund (if exists) dedicated to treat over-indebtedness.

**Question 14: What are your views on prudential and professional requirements for credit**

**intermediaries (such as minimum capital, professional indemnity insurance, educational or professional qualifications)?**

As it has been said in several answers above, it is necessary to increase the professional responsibility of lenders and intermediaries, and a professional insurance should therefore be necessary.

We consider that education and professional qualifications are a priority in order to allow intermediaries to assume their responsibilities.

**Question 15: How do you think the activities of credit intermediaries could be brought within existing complaints and out-of-court redress mechanisms?**

We consider it is necessary to implement or maintain a regulation with public liability and legal proceedings, even if an "out of court" proceeding exist.

**Final remarks:**

Responsible lending and borrowing require that all stakeholders take their share of responsibilities.

The consumer has to respond honestly and fully to the questions asked by the lenders or intermediaries.

Lenders and intermediaries must proceed to an appropriate and proportionate inquiry in order to be able to assess the creditworthiness of the consumer.

In order to promote responsible behaviour, a compensation fund can be a very effective tool because it promotes financially the responsible behaviours of the professionals. This measure is appropriate to influence all the stakeholders and will generate a positive dynamic for all participants.

This type of measure is efficient to:

- protect consumers;
- avoid to create differences between professionals and therefore won't create distortion in the market competition;
- reward professionals assuming their corporate social responsibility and providing responsible lending.

Signatures

Institutional

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This signature is valid for the entire document: NO, exceptions on Questions 8, 9, 11, 13 and 14

On Question 8 we consider that there is a need of a good segmentation of the Credit Intermediaries according to their social goal. Carpet legislation would hinder the development of microfinance. Microfinance institutions may need more leeway in terms of minimum capital, reporting obligations, credit conditions, for instance on interest rates. For that, there is a need of definition of microfinance and possibly the creation of some kind of label, a possibility contemplated by the Commission.

On Question 9, we think again that there should be a segmentation and different rules for Credit Intermediaries according to their institutional goals, which up to a point implies distinction in terms of products.

On Question 11, we observe that the regulation should be simple, homogeneous across the EU, but again leave enough room for the development of a diverse offer through an intelligent segmentation. There should be supervision to make sure that the regulatory windows opened are used for a socially responsible usage and not just exploited by profit-oriented players.

On Questions 13 and 14, we consider that microfinance players (coming under a standard definition to be worked upon, but one that will consider the term social impact –out of poverty, job creation, quality of life improvement, etc-), should have be regulated separately. A one-for-all regulation would unfairly favour big players, whose aim is profit maximisation, and exclude socially-oriented intermediaries, that are important stepping stones for many individuals towards sustainable financial integration.

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Some of the points made in the document do not apply to Norway as the regulations here are quite advanced in some areas. Still, we would like to generally support the claim that all consumers in Europe should have access to a safe credit market, which means that the conditions for responsible lending and borrowing should be strengthened across Europe

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## Personal

### **Personal name & position: Federica Poli, Professors of Banking - Università Cattolica S. Cuore - IT**

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An exception for question 3 : personally I consider it is a great burden on borrowers, limiting their ability to manage their consumptions through time. I think that would be much effective to impose a kind of periodical review of the borrower's indebtedness and ability to repay loans (i.e. annually). Additionally, some measures limiting/penalizing for a certain period the ability of the borrower to use all the line of credit could be taken into consideration (i.e. limitation at a certain percentage of the credit line).

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This signature is valid for the entire document: YES in fact agree mainly with full report, comments follow :

Standardisation and responsible lending (questions 3 and 4) need more research, clear position and relevant tools to give answers. In this connection partly there is question 6, but there are wars on standardisation itself, and it not only about consumer credit, but also in fact about all financial products.

As to the country experience, similar as presented in report countries, but in Slovakia now are several factors - both positive and negative - influencing actual situation and planning changes as well as under crisis development based on governmental rules and regulation. New law is already „put in action“ actually via advertise by banks presented as financial health of financial products for clients and consumers, which they offer free for client, using medical words, e.g. diagnosis, monitoring etc. On the other side, this health is „only“ scoped on responsibility on individual consumers, while financial health of institutions and banks are not involved. Many “new faces” has massive advertisement campaign, using financial crisis and agitating for raising consumption of national products via individual consumers, where is not clear position - but wide scope of interpretations and comments from different experts.

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