European Commission

Implementation of the new Directive on Mortgage Credits

In what way will the MCD address consumer protection issues in the mortgage market

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Internal Market and Services

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Scope: CCD + MCD

- ✓ CCD applies to (<u>unsecured)</u> consumer credit agreements
- ✓ MCD applies to:

- credit agreements which are <u>secured</u> either by a mortgage or by another comparable security … on <u>residential immovable property</u>
- credit agreements the purpose of which is to acquire or retain property rights in land or in an existing of projected building.

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MCD builds largely on CCD framework

Recital 20 (MCD):

'In order to ensure a consistent framework for consumers in the area of credit as well as to minimise the administrative burden for creditors and credit intermediaries, the core framework of this Directive should follow the structure of Directive 2008/48 where possible, notably …'

-Advertising

-Standardised information for pre-contractual information

-Common basis for calculating the APRC

-Credit worthiness assessment

-Access to credit data bases

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CCD + MCD: similarities

Same or similar definitions of key concepts apply, e.g. 'consumer', 'creditor', 'credit intermediary', 'credit agreement', 'borrowing rate', 'total cost of credit', 'APRC', 'total amount payable', 'total amount of credit', 'durable medium' …

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MCD: Tying and bundling (Art. 12)

1. *Member States shall allow bundling practices but <u>shall prohibit tying</u> practices.*
2. *<u>Notwithstanding paragraph 1</u>, Member States may provide that creditors can request the consumer or a family member or close relation of the consumer to …*
4. *Member States may allow creditors to require the consumer to hold a relevant insurance policy related to the credit agreement. In such cases Member States shall ensure that <u>the creditor accepts the insurance policy from a supplier different to his preferred supplier</u> where such policy has a level of guarantee equivalent to the one the creditor has proposed.*

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<u>MCD: Conduct rules (Art. 7)</u>

1. Member States shall require that when manufacturing credit products or granting, intermediating or providing advisory services on credit and, where appropriate, ancillary services to consumers or when executing a credit agreement, the creditor, credit intermediary or appointed representative <u>acts honestly, fairly, transparently and professionally, taking account of the rights and interests of the consumers</u> …

2. Member States shall ensure that the manner in which creditors remunerate their staff and credit intermediaries and the manner in which credit intermediaries remunerate their staff and appointed representatives <u>do not impede compliance with the obligation set out in paragraph 1</u>

4. Member States shall ensure that where creditors, credit intermediaries or appointed representatives provide advisory services the remuneration structure of the staff involved does not prejudice their ability to act in the consumer's best interest and in particular <u>is not contingent on sales targets</u>. In order to achieve that goal, Member States <u>may in addition ban commissions paid by the creditor to the credit intermediary</u>

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MCD: Knowledge and competence requirements (Art. 9)

1. Member States shall ensure that creditors, credit intermediaries and appointed representatives require <u>their staff to possess and to keep up-to-date an appropriate level of knowledge and competence</u> in relation to the manufacturing, the offering or granting of credit agreements, the carrying out of credit intermediation activities set out in point 5 of Article 4 or the provision of advisory services. Where the conclusion of a credit agreement includes an ancillary service, appropriate knowledge and competence in relation to that ancillary service shall be required.

4. Member States shall ensure that compliance with the requirements of paragraph 1 is supervised by the competent authorities, and that the <u>competent authorities have powers to require creditors, credit intermediaries and appointed representatives to provide such evidence</u> as the competent authority deems necessary to enable such supervision

MCD: F/X loans (Art. 23)

1. Member States shall ensure that, where a credit agreement relates to a foreign currency loan, an appropriate regulatory framework is in place at the time the credit agreement is concluded to at least ensure that:

a)the consumer has a <u>right to convert</u> the credit agreement into an alternative currency <u>under specified conditions</u>

b)there are <u>other arrangements in place</u> to limit the exchange rate risk to which the consumer is exposed under the credit agreement.

4. Member States shall ensure that where a consumer has a foreign currency loan, the <u>creditor warns the consumer on a regular basis</u> on paper or on another durable medium at least <u>where the value of the total amount payable by the consumer which remains outstanding or of the regular instalments varies by more than 20 %</u> from what it would be if the exchange rate between the currency of the credit agreement and the currency of the Member State applicable at the time of the conclusion of the credit agreement were applied.

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MCD: arrears and foreclosure (Art. 28)

1. *Member States shall adopt measures to encourage creditors to exercise reasonable forbearance before foreclosure proceedings are initiated.*
2. *Member States may require that, where the creditor is permitted to define and impose charges on the consumer arising from the default, those charges are no greater than is necessary to compensate the creditor for costs it has incurred as a result of the default.*
3. *Member States may allow creditors to impose additional charges on the consumer in the event of default. In that case Member States shall place a cap on those charges.*
4. *Member States shall not prevent the parties to a credit agreement from expressly agreeing that return or transfer to the creditor of the security or proceeds from the sale of the security is sufficient to repay the credit.*

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Thank you for your attention