

Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (Text with EEA relevance)

CHAPTER 11

REQUIREMENTS FOR ESTABLISHMENT AND SUPERVISION OF CREDIT INTERMEDIARIES AND APPOINTED REPRESENTATIVES

Article 29

Admission of credit intermediaries

1 Credit intermediaries shall be duly admitted to carry out all or part of the credit intermediation activities set out in point 5 of Article 4 or to provide advisory services by a competent authority in their home Member State. Where a Member State allows appointed representatives under Article 31, such an appointed representative shall not need to be admitted as a credit intermediary under this Article.

2 Member States shall ensure that the admission of credit intermediaries is made subject to fulfilment of at least the following professional requirements in addition to the requirements provided for in Article 9:

- a Credit intermediaries shall hold professional indemnity insurance covering the territories in which they offer services, or some other comparable guarantee against liability arising from professional negligence. However, for tied credit intermediaries, the home Member State may provide that such insurance or comparable guarantee can be provided by a creditor for which the credit intermediary is empowered to act.

Powers are delegated to the Commission to adopt and, where necessary amend, regulatory technical standards to stipulate the minimum monetary amount of the professional indemnity insurance or comparable guarantee referred to in the first paragraph of this point. Those regulatory technical standards shall be adopted in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

EBA shall develop draft regulatory technical standards to stipulate the minimum monetary amount of the professional indemnity insurance or comparable guarantee referred to in the first paragraph of this point for submission to the Commission by 21 September 2014. EBA shall review, and if necessary, develop draft regulatory technical standards to amend the minimum monetary amount of the professional indemnity insurance or comparable guarantee referred to in the first paragraph of this point for submission to the Commission for the first time by 21 March 2018 and every two years thereafter.

- b A natural person established as a credit intermediary, the members of the board of a credit intermediary established as a legal person and natural persons performing equivalent tasks within a credit intermediary which is a legal person but does not have a board shall be of good repute. As a minimum they shall have a clean police record or any other national equivalent in relation to serious criminal offences linked to crimes against property or other crimes related to financial activities and they shall not have

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previously been declared bankrupt, unless they have been rehabilitated in accordance with national law.

- c A natural person established as a credit intermediary, the members of the board of a credit intermediary established as a legal person and natural persons performing equivalent tasks within a credit intermediary which is a legal person but does not have a board shall possess the appropriate level of knowledge and competence in relation to credit agreements. The home Member State shall establish the appropriate level of knowledge and competence in accordance with the principles set out in Annex III.

3 Member States shall ensure that the criteria established in order for credit intermediaries' or creditors' staff to meet their professional requirements are made public.

4 Member States shall ensure that all admitted credit intermediaries, whether established as natural or legal persons, are entered into a register with a competent authority in their home Member State. Member States shall ensure that the register of credit intermediaries is kept up to date and is publicly available online.

The register of credit intermediaries shall contain at least the following information:

- a the names of the persons within the management who are responsible for the intermediation business. Member States may require the registration of all natural persons who exercise a client-facing function in an undertaking that pursues the activity of credit intermediation;
- b the Member States in which the credit intermediary conducts business under the rules on the freedom of establishment or on the freedom to provide services and of which the credit intermediary has informed the competent authority of the home Member State in accordance with Article 32(3);
- c whether the credit intermediary is tied or not.

Member States that decide to avail themselves of the option referred to in Article 30 shall ensure that the register indicates the creditor on whose behalf the tied credit intermediary acts.

Member States that decide to avail themselves of the option referred to in Article 31 shall ensure that the register indicates the credit intermediary or in the case of an appointed representative of a tied credit intermediary, the creditor on whose behalf the appointed representatives acts.

5 Member States shall ensure that:

- a any credit intermediary which is a legal person has its head office in the same Member State as its registered office if under its national law it has a registered office;
- b any credit intermediary which is not a legal person or any credit intermediary which is a legal person but under its national law has no registered office has its head office in the Member State in which it actually carries on its main business.

6 Each Member State shall establish a single information point to allow quick and easy public access to information from the national register, which shall be compiled electronically and kept constantly updated. These information points shall provide the identification details of the competent authorities of each Member State.

EBA shall publish on its website references or hyperlinks to that information point.

7 Home Member States shall ensure that all admitted credit intermediaries and appointed representatives comply with the requirements defined in paragraph 2 on a continuing basis. This paragraph shall be without prejudice to Articles 30 and 31.

8 Member States may decide not to apply this Article to persons carrying out the credit intermediation activities set out in point 5 of Article 4 where those activities are carried out in an incidental manner in the course of a professional activity and that activity is regulated by legal or regulatory provisions or a code of ethics governing the profession which do not exclude the carrying out of those activities.

9 This Article shall not apply to credit institutions authorised in accordance with Directive 2013/36/EU or to other financial institutions which under national law are subject to an equivalent authorisation and supervision regime.