

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 34

Supervision of credit intermediaries and appointed representatives

1 Member States shall ensure that credit intermediaries are subject to supervision of their ongoing activities by the competent authorities of the home Member State.

Home Member States shall provide that tied credit intermediaries are to be subject to supervision directly or as part of the supervision of the creditor on behalf of which they act if the creditor is a credit institution authorised in accordance with Directive 2013/36/EU or another financial institution which under national law is subject to an equivalent authorisation and supervision regime. However, if the tied credit intermediary provides services in a Member State other than the home Member State, then the tied credit intermediary shall be subject to supervision directly.

Home Member States which allow credit intermediaries to appoint representatives in accordance with Article 31 shall ensure that such appointed representatives are subject to supervision either directly or as part of the supervision of the credit intermediary on behalf of which it acts.

2 The competent authorities of the Member States in which a credit intermediary has a branch shall be responsible for ensuring that the services provided by the credit intermediary within its territory comply with the obligations laid down in Article 7(1) and Articles 8, 9, 10, 11, 13, 14, 15, 16, 17, 20, 22 and 39 and in measures adopted pursuant thereto.

Where the competent authorities of a host Member State ascertain that a credit intermediary that has a branch within its territory is in breach of the measures adopted in that Member State pursuant to Article 7(1) and Articles 8, 9, 10, 11, 13, 14, 15, 16, 17, 20, 22 and 39, those authorities shall require the credit intermediary concerned to put an end to its irregular situation.

If the credit intermediary concerned fails to take the necessary steps, the competent authorities of the host Member State shall take all appropriate action to ensure that the credit intermediary concerned puts an end to its irregular situation. The nature of that action shall be communicated to the competent authorities of the home Member State.

If, despite the action taken by the host Member State, the credit intermediary persists in breaching the measures referred to in the first subparagraph in force in the host Member State, the host Member State may, after informing the competent authorities of the home Member State, take appropriate action to prevent or to penalise further irregularities and, in so far as necessary, to prevent the credit intermediary from initiating any further

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transactions within its territory. The Commission shall be informed of any such action without undue delay.

Where the competent authority of the home Member State disagrees with such action taken by the host Member State, it may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010. In that case, EBA may act in accordance with the powers conferred on it by that Article.

3 The competent authorities of the Member States in which the branch is located shall have the right to examine branch arrangements and to request such changes as are strictly needed to fulfil its responsibilities under paragraph 2 and to enable the competent authorities of the home Member State to enforce the obligations under Article 7(2), (3) and (4) and measures adopted pursuant thereto with respect to the services provided by the branch.

4 Where the competent authority of the host Member State has clear and demonstrable grounds for concluding that a credit intermediary acting within its territory under the freedom to provide services is in breach of the obligations arising from the measures adopted pursuant to this Directive or that a credit intermediary that has a branch within its territory is in breach of the obligations arising from the measures adopted pursuant to this Directive, other than those specified in paragraph 2, it shall refer those findings to the competent authority of the home Member State which shall take the appropriate action.

Where the competent authority of the home Member State fails to take any action within one month from obtaining those findings or where, despite the action taken by the competent authority of the home Member State, a credit intermediary persists in acting in a manner that is clearly prejudicial to the interests of the host Member State consumers or orderly functioning of the markets, the competent authority of the host Member State:

- a shall, after having informed the competent authority of the home Member State, take all appropriate action needed to protect consumers and ensure the proper functioning of the markets, including by preventing the offending credit intermediary from initiating any further transactions within its territory. The Commission and EBA shall be informed of such action without undue delay;
- b may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation (EU) No 1093/2010. In that case EBA may act in accordance with the powers conferred on it by that Article.

5 Member States shall provide that, where a credit intermediary admitted in another Member State has established a branch within its territory, the competent authorities of the home Member State, in the exercise of their responsibilities and after having informed the competent authorities of the host Member State, may carry out on-site inspections in that branch.

6 The allocation of tasks between Member States specified in this Article shall be without prejudice to the Member States' competences in relation to fields not covered by this Directive in conformity with their obligations under Union law.