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 14

FINAL PROVISIONS

Article 38

Sanctions

1 Member States shall lay down the rules on sanctions applicable to infringements of the national provisions adopted on the basis of this Directive and shall take all measures necessary to ensure that they are implemented. Those sanctions shall be effective, proportionate and dissuasive.

2 Member States shall provide that the competent authority may disclose to the public any administrative sanction that will be imposed for infringement of the measures adopted in the transposition of this Directive, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

Article 39

Dispute resolution mechanisms

1 Member States shall ensure that appropriate and effective complaints and redress procedures are established for the out-of-court settlement of consumer disputes with creditors, credit intermediaries and appointed representatives in relation to credit agreements, using existing bodies where appropriate. Member States shall ensure that such procedures are applicable to creditors and credit intermediaries and cover the activities of appointed representatives.

2 Member States shall require the bodies responsible for the out-of-court settlement of consumer disputes to cooperate so that cross-border disputes concerning credit agreements can be resolved.

Article 40

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Articles 14(9) and 17(8) shall be conferred on the Commission for an indeterminate period of time from 20 March 2014.

3 The delegation of power referred to in Articles 14(9) and 17(8) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end

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to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5 A delegated act adopted pursuant to Articles 14(9) and 17(8) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Article 41

Imperative nature of this Directive

Member States shall ensure that:

(a) consumers may not waive the rights conferred on them by national law transposing this Directive;

(b) the measures they adopt in transposing this Directive cannot be circumvented in a way which could lead to consumers losing the protection granted by this Directive as a result of the way in which agreements are formulated, in particular by integrating credit agreements falling within the scope of this Directive into credit agreements the character or purpose of which would make it possible to avoid the application of those measures.

Article 42

Transposition

1 Member States shall adopt and publish, by 21 March 2016, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those measures.

2 Member States shall apply measures referred to in paragraph 1 from 21 March 2016.

[[F1]By 1 July 2018, Member States shall adopt and publish the provisions necessary to comply with point (ea) of the second subparagraph of Article 13(1) and shall communicate them to the Commission. They shall apply those provisions from 1 July 2018.**]**

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

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Textual Amendments

F1 Inserted by Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (Text with EEA relevance).

Article 43

Transitional provisions

1 This Directive shall not apply to credit agreements existing before 21 March 2016.

[[F1]Point (ea) of the second subparagraph of Article 13(1) shall not apply to credit agreements existing before 1 July 2018.**]**

2 Credit intermediaries already carrying out credit intermediation activities set out in point 5 of Article 4 before 21 March 2016 and which have not yet been admitted in accordance with the conditions set out in the national law of the home Member State transposing this Directive may continue to carry out those activities in compliance with national law until 21 March 2017. Where a credit intermediary relies on this derogation it may perform the activities only within their home Member State unless it also satisfies the necessary legal requirements of the host Member States.

3 Creditors, credit intermediaries or appointed representatives performing activities regulated by this Directive before 20 March 2014 shall comply with the national law transposing Article 9 by 21 March 2017.

Textual Amendments

F1 Inserted by Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (Text with EEA relevance).

Article 44

Review clause

The Commission shall undertake a review of this Directive by 21 March 2019. The review shall consider the effectiveness and appropriateness of the provisions on consumers and the internal market.

The review shall include the following:

(a) an assessment of the use and consumer understanding of and satisfaction with the ESIS;

(b) an analysis of other pre-contractual disclosures;

(c) an analysis of cross-border business by credit intermediaries and creditors;

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(d) an analysis of the evolution of the market for non-credit institutions providing credit agreements relating to residential immovable property;

(e) an assessment on the need for further measures, including a passport for non-credit institutions providing credit agreements relating to residential immovable property;

(f) an examination of the need to introduce additional rights and obligations with regard to the post-contractual stage of credit agreements;

(g) an assessment of whether the scope of this Directive remains appropriate, taking account of its impact on other, substitutable forms of credit;

(h) an assessment of whether additional measures are necessary to ensure the traceability of credit agreements secured against residential immovable property;

(i) an assessment of the availability of data on trends in prices of residential immovable property and on the extent to which data are comparable;

(j) an assessment of whether it continues to be appropriate to apply Directive 2008/48/EC to unsecured credits the purpose of which is the renovation of a residential immovable property involving a total amount of credit above the maximum amount specified in point (c) of Article 2(2) of that Directive;

(k) an assessment of whether the arrangements for the publication of sanctions under Article 38(2) provide sufficient transparency;

(l) an assessment of the proportionality of warnings referred to in Articles 11(6) and 13(2) and the potential for further harmonisation of risk warnings.

Article 45

Further initiatives on responsible lending and borrowing

By 21 March 2019, the Commission shall submit a comprehensive report assessing the wider challenges of private over-indebtedness directly linked to credit activity. It will also examine the need for the supervision of credit registers and the possibility for the development of more flexible and reliable markets. That report shall be accompanied, where appropriate, by legislative proposals.

Article 46

Amendment of Directive 2008/48/EC

In Article 2 of Directive 2008/48/EC, the following paragraph is inserted:

2a. Notwithstanding point (c) of paragraph 2, this Directive shall apply to unsecured credit agreements the purpose of which is the renovation of a residential immovable property involving a total amount of credit above EUR 75 000.

Article 47

Amendment of Directive 2013/36/EU

In Directive 2013/36/EU, the following Article is inserted:

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Article 54a

Articles 53 and 54 shall be without prejudice to the powers of investigation conferred on the European Parliament pursuant to Article 226 TFEU.

Article 48

Amendment of Regulation (EU) No 1093/2010

Regulation (EU) No 1093/2010 is amended as follows:

(1) The second subparagraph of Article 13(1) is replaced by the following:

> Where the Commission adopts a regulatory technical standard which is the same as the draft regulatory technical standard submitted by the Authority, the period during which the European Parliament and the Council may object shall be 1 month from the date of notification. At the initiative of the European Parliament or the Council that period shall be extended for an initial period of 1 month and shall be extendable for a further period of 1 month.

(2) The second subparagraph of Article 17(2) is replaced by the following:

> Without prejudice to the powers laid down in Article 35, the competent authority shall, without delay, provide the Authority with all information which the Authority considers necessary for its investigation including as to how the acts referred to in Article 1(2) are applied in accordance with Union law.

Article 49

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 50

Addressees

This Directive is addressed to the Member States.