

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 6

CREDITWORTHINESS ASSESSMENT

Article 18

Obligation to assess the creditworthiness of the consumer

1 Member States shall ensure that, before concluding a credit agreement, the creditor makes a thorough assessment of the consumer's creditworthiness. That assessment shall take appropriate account of factors relevant to verifying the prospect of the consumer to meet his obligations under the credit agreement.

2 Member States shall ensure that the procedures and information on which the assessment is based are established, documented and maintained.

3 The assessment of creditworthiness shall not rely predominantly on the value of the residential immovable property exceeding the amount of the credit or the assumption that the residential immovable property will increase in value unless the purpose of the credit agreement is to construct or renovate the residential immovable property.

4 Member States shall ensure that where a creditor concludes a credit agreement with a consumer the creditor shall not subsequently cancel or alter the credit agreement to the detriment of the consumer on the grounds that the assessment of creditworthiness was incorrectly conducted. This paragraph shall not apply where it is demonstrated that the consumer knowingly withheld or falsified the information within the meaning of Article 20.

5 Member States shall ensure that:

- a the creditor only makes the credit available to the consumer where the result of the creditworthiness assessment indicates that the obligations resulting from the credit agreement are likely to be met in the manner required under that agreement;
- b in accordance with Article 10 of Directive 95/46/EC, the creditor informs the consumer in advance that a database is to be consulted;
- c where the credit application is rejected the creditor informs the consumer without delay of the rejection and, where applicable, that the decision is based on automated processing of data. Where the rejection is based on the result of the database consultation, the creditor shall inform the consumer of the result of such consultation and of the particulars of the database consulted.

6 Member States shall ensure that the consumer's creditworthiness is re-assessed on the basis of updated information before any significant increase in the total amount of credit is granted after the conclusion of the credit agreement unless such additional credit was envisaged and included in the original creditworthiness assessment.

7 This Article shall be without prejudice to Directive 95/46/EC.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Article 19

Property valuation

1 Member States shall ensure that reliable standards for the valuation of residential immovable property for mortgage lending purposes are developed within their territory. Member States shall require creditors to ensure that those standards are used where they carry out a property valuation or to take reasonable steps to ensure that those standards are applied where a valuation is conducted by a third party. Where national authorities are responsible for regulating independent appraisers who carry out property valuations they shall ensure that they comply with the national rules that are in place.

2 Member States shall ensure that internal and external appraisers conducting property valuations are professionally competent and sufficiently independent from the credit underwriting process so that they can provide an impartial and objective valuation, which shall be documented in a durable medium and of which a record shall be kept by the creditor.

Article 20

Disclosure and verification of consumer information

1 The assessment of creditworthiness referred to in Article 18 shall be carried out on the basis of information on the consumer's income and expenses and other financial and economic circumstances which is necessary, sufficient and proportionate. The information shall be obtained by the creditor from relevant internal or external sources, including the consumer, and including information provided to the credit intermediary or appointed representative during the credit application process. The information shall be appropriately verified, including through reference to independently verifiable documentation when necessary.

2 Member States shall ensure that credit intermediaries or appointed representatives accurately submit the necessary information obtained from the consumer to the relevant creditor to enable the creditworthiness assessment to be carried out.

3 Member States shall ensure that creditors specify in a clear and straightforward way at the pre-contractual phase the necessary information and independently verifiable evidence that the consumer needs to provide and the timeframe within which the consumer needs to provide the information. Such request for information shall be proportionate and limited to what is necessary to conduct a proper creditworthiness assessment. Member States shall allow creditors to seek clarification of the information received in response to that request where necessary to enable the assessment of creditworthiness.

Member States shall not allow a creditor to terminate the credit agreement on the grounds that the information provided by the consumer before the conclusion of the credit agreement was incomplete.

The second subparagraph shall not prevent Member States from allowing the termination of the credit agreement by the creditor where it is demonstrated that the consumer knowingly withheld or falsified the information.

4 Member States shall have measures in place to ensure that consumers are aware of the need to provide correct information in response to the request referred to in the first subparagraph of paragraph 3 and that such information is as complete as necessary to conduct a proper creditworthiness assessment. The creditor, credit intermediary or appointed

representative shall warn the consumer that, where the creditor is unable to carry out an assessment of creditworthiness because the consumer chooses not to provide the information or verification necessary for an assessment of creditworthiness, the credit cannot be granted. That warning may be provided in a standardised format.

5 This Article shall be without prejudice to Directive 95/46/EC, in particular Article 6 thereof.