

Directive 2008/48/EC Of the European Parliament and  
of the Council of 23 April 2008 on credit agreements for  
consumers and repealing Council Directive 87/102/EEC

CHAPTER I

**SUBJECT MATTER, SCOPE AND DEFINITIONS**

*Article 1*

**Subject matter**

The purpose of this Directive is to harmonise certain aspects of the laws, regulations and administrative provisions of the Member States concerning agreements covering credit for consumers.

*Article 2*

**Scope**

- 1 This Directive shall apply to credit agreements.
- 2 This Directive shall not apply to the following:
  - a credit agreements which are secured either by a mortgage or by another comparable security commonly used in a Member State on immovable property or secured by a right related to immovable property;
  - b credit agreements the purpose of which is to acquire or retain property rights in land or in an existing or projected building;
  - c credit agreements involving a total amount of credit less than EUR 200 or more than EUR 75 000;
  - d hiring or leasing agreements where an obligation to purchase the object of the agreement is not laid down either by the agreement itself or by any separate agreement; such an obligation shall be deemed to exist if it is so decided unilaterally by the creditor;
  - e credit agreements in the form of an overdraft facility and where the credit has to be repaid within one month;
  - f credit agreements where the credit is granted free of interest and without any other charges and credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable;
  - g credit agreements where the credit is granted by an employer to his employees as a secondary activity free of interest or at annual percentage rates of charge lower than those prevailing on the market and which are not offered to the public generally;
  - h credit agreements which are concluded with investment firms as defined in Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments<sup>(1)</sup> or with credit institutions as defined in Article 4 of Directive 2006/48/EC for the purposes of allowing an investor to carry out a transaction relating to one or more of the instruments listed in Section C of Annex I to Directive 2004/39/EC, where the investment firm or credit institution granting the credit is involved in such transaction;

- i credit agreements which are the outcome of a settlement reached in court or before another statutory authority;
- j credit agreements which relate to the deferred payment, free of charge, of an existing debt;
- k credit agreements upon the conclusion of which the consumer is requested to deposit an item as security in the creditor's safe-keeping and where the liability of the consumer is strictly limited to that pledged item;
- l credit agreements which relate to loans granted to a restricted public under a statutory provision with a general interest purpose, and at lower interest rates than those prevailing on the market or free of interest or on other terms which are more favourable to the consumer than those prevailing on the market and at interest rates not higher than those prevailing on the market.

3 In the case of credit agreements in the form of an overdraft facility and where the credit has to be repaid on demand or within three months, only Articles 1 to 3, Article 4(1), Article 4(2)(a) to (c), Article 4(4), Articles 6 to 9, Article 10(1), Article 10(4), Article 10(5), Articles 12, 15, 17 and Articles 19 to 32 shall apply.

4 In the case of credit agreements in the form of overrunning, only Articles 1 to 3, 18, 20 and 22 to 32 shall apply.

5 Member States may determine that only Articles 1 to 4, 6, 7 and 9, Article 10(1), points (a) to (h) and (l) of Article 10(2), Article 10(4) and Articles 11, 13 and 16 to 32 shall apply to credit agreements which are concluded by an organisation which:

- a is established for the mutual benefit of its members;
- b does not make profits for any other person than its members;
- c fulfils a social purpose required by domestic legislation;
- d receives and manages the savings of, and provides sources of credit to, its members only; and
- e provides credit on the basis of an annual percentage rate of charge which is lower than that prevailing on the market or subject to a ceiling laid down by national law,

and whose membership is restricted to persons residing or employed in a particular location or employees and retired employees of a particular employer, or to persons meeting other qualifications laid down under national law as the basis for the existence of a common bond between the members.

Member States may exempt from the application of this Directive credit agreements concluded by such an organisation where the total value of all existing credit agreements entered into by the organisation is insignificant in relation to the total value of all existing credit agreements in the Member State in which the organisation is based and the total value of all existing credit agreements entered into by all such organisations in the Member State is less than 1 % of the total value of all existing credit agreements entered into in that Member State.

Member States shall each year review whether the conditions for the application of any such exemption continue to exist and shall take action to withdraw the exemption where they consider that the conditions are no longer met.

6 Member States may determine that only Articles 1 to 4, 6, 7, 9, Article 10(1), points (a) to (i), (l) and (r) of Article 10(2), Article 10(4), Articles 11, 13, 16 and Articles 18 to 32 shall apply to credit agreements which provide for arrangements to be agreed by the creditor and the consumer in respect of deferred payment or repayment methods, where the consumer is already in default on the initial credit agreement and where:

- a such arrangements would be likely to avert the possibility of legal proceedings concerning such default; and
- b the consumer would not thereby be subject to terms less favourable than those laid down in the initial credit agreement.

However, if the credit agreement falls within the scope of paragraph 3, only the provisions of that paragraph shall apply.

### *Article 3*

#### **Definitions**

For the purposes of this Directive, the following definitions shall apply:

- (a) ‘consumer’ means a natural person who, in transactions covered by this Directive, is acting for purposes which are outside his trade, business or profession;
- (b) ‘creditor’ means a natural or legal person who grants or promises to grant credit in the course of his trade, business or profession;
- (c) ‘credit agreement’ means an agreement whereby a creditor grants or promises to grant to a consumer credit in the form of a deferred payment, loan or other similar financial accommodation, except for agreements for the provision on a continuing basis of services or for the supply of goods of the same kind, where the consumer pays for such services or goods for the duration of their provision by means of instalments;
- (d) ‘overdraft facility’ means an explicit credit agreement whereby a creditor makes available to a consumer funds which exceed the current balance in the consumer’s current account;
- (e) ‘overrunning’ means a tacitly accepted overdraft whereby a creditor makes available to a consumer funds which exceed the current balance in the consumer’s current account or the agreed overdraft facility;
- (f) ‘credit intermediary’ means a natural or legal person who is not acting as a creditor and who, in the course of his trade, business or profession, for a fee, which may take a pecuniary form or any other agreed form of financial consideration:
  - (i) presents or offers credit agreements to consumers;
  - (ii) assists consumers by undertaking preparatory work in respect of credit agreements other than as referred to in (i); or
  - (iii) concludes credit agreements with consumers on behalf of the creditor;
- (g) ‘total cost of the credit to the consumer’ means all the costs, including interest, commissions, taxes and any other kind of fees which the consumer is required to pay in connection with the credit agreement and which are known to the creditor, except for notarial costs; costs in respect of ancillary services relating to the credit agreement, in particular insurance premiums, are also included if, in addition, the conclusion of a service contract is compulsory in order to obtain the credit or to obtain it on the terms and conditions marketed;
- (h) ‘total amount payable by the consumer’ means the sum of the total amount of the credit and the total cost of the credit to the consumer;

- (i) ‘annual percentage rate of charge’ means the total cost of the credit to the consumer, expressed as an annual percentage of the total amount of credit, where applicable including the costs referred to in Article 19(2);
- (j) ‘borrowing rate’ means the interest rate expressed as a fixed or variable percentage applied on an annual basis to the amount of credit drawn down;
- (k) ‘fixed borrowing rate’ means that the creditor and the consumer agree in the credit agreement on one borrowing rate for the entire duration of the credit agreement or on several borrowing rates for partial periods using exclusively a fixed specific percentage. If not all borrowing rates are determined in the credit agreement, the borrowing rate shall be deemed to be fixed only for the partial periods for which the borrowing rates are determined exclusively by a fixed specific percentage agreed on the conclusion of the credit agreement;
- (l) ‘total amount of credit’ means the ceiling or the total sums made available under a credit agreement;
- (m) ‘durable medium’ means any instrument which enables the consumer to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- (n) ‘linked credit agreement’ means a credit agreement where
  - (i) the credit in question serves exclusively to finance an agreement for the supply of specific goods or the provision of a specific service, and
  - (ii) those two agreements form, from an objective point of view, a commercial unit; a commercial unit shall be deemed to exist where the supplier or service provider himself finances the credit for the consumer or, if it is financed by a third party, where the creditor uses the services of the supplier or service provider in connection with the conclusion or preparation of the credit agreement, or where the specific goods or the provision of a specific service are explicitly specified in the credit agreement.

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**Status:** This is the original version (as it was originally adopted).

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- (1) [OJ L 145, 30.4.2004, p. 1](#). Directive as last amended by Directive 2008/10/EC ([OJ L 76, 19.3.2008, p. 33](#)).