



Financial Regulation

BRIEFING
February 2017

A new European dimension in relation to mortgage credit*

The European Directive 2014/17 on credit agreements for consumers relating to residential immovable property and **the recent law 4438/2016** transposing it into the Greek legal order, aim at establishing a pan-European framework for responsible lending and borrowing, for the restoration of consumer confidence in retail financial services, as well as for safeguarding financial stability in view of the increase of non-performing loans. The new framework will introduce

a range of obligations for creditors and credit intermediaries referring to the pre - contractual phase, as well as following the conclusion of the credit agreement.

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published 28.01.2017 in the Greek newspaper "Kathimerini"

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For the majority of European citizens, the acquisition of residential immovable property represents the most important purchase in their life, while at the same time the European mortgage credit market constitutes an essential part of the European economy. For those reasons, the European Commission has undertaken legislative action for the creation of a cross-border, pan-European mortgage credit market and the elimination of relevant legal and other barriers, enabling consumers to choose the most appealing mortgage credit product wherever in Europe it is on offer. Besides, taking into account the high level of consumer indebtedness in Europe, a significant part of which is concentrated in credit linked to residential immovable property, it was deemed necessary, in this regard, to secure a high level of consumer protection for those consumers who enter into credit agreements for immovable property. Especially following the financial crisis of 2007-2009, important gaps in relation to consumer protection were revealed when it comes to consumer credit, as well as in the case of credit denominated in a foreign currency, which have undermined consumer confidence in retail financial markets.

In the aforementioned context, the European Directive 2014/17 on credit agreements for consumers relating to residential immovable property and law 4438/2016 transposing it into the Greek legal order, aim at establishing a pan-European framework for responsible lending and borrowing, for the restoration of consumer confidence in retail financial services, as well as for safeguarding financial stability in view of the increase of non-performing loans. The said

Directive, following its transposition in Greece, will introduce a wide spectrum of obligations for creditors (including, in the meaning of the Directive, a natural or legal person who grants or promises to grant credit falling within the scope of the Directive, in the course of his trade, business or profession), as well as for co-called credit intermediaries. Those obligations will refer to both the preliminary (pre-contractual) stage, such as the thorough creditworthiness assessment of the consumer before the conclusion of a credit agreement, the provision of advisory services, as well as to certain obligations following the conclusion of the credit agreement. Further, the establishment of quality standards for services related to the provision of credit necessarily involves the introduction of certain provisions regarding admission, supervision and prudential requirements, especially for credit intermediaries. Creditors are also obliged to use reliable standards for the valuation of residential immovable property for mortgage lending purposes.

Responsible lending means that the creditors and credit intermediaries will make available to consumers products which meet their financial needs, on the basis of their ability to repay as well. Thus, in order to prevent consumers from receiving inappropriate credit products, which may lead to their overindebtedness and rising defaults, the Directive, and the relevant Greek law, focus on the information provided to consumers, as well as to their creditworthiness assessment. More specifically, the disclosures provided to consumers will be detailed, however in simple and understandable language, in a standardised format, including specific risk



warnings especially in the case of variable borrowing rates and credit denominated in foreign currency. The creditor may only provide credit following the assessment and verification of the consumer's creditworthiness taking into account all the necessary and relevant factors which could influence his ability to repay. The assessment of creditworthiness shall not rely predominantly on the value of the residential immovable property exceeding the amount of the credit. The provision of advisory services regarding the provision of credit to consumers will also be based on information related to the consumer's personal and financial situation, his preferences and objectives, thus "echoing" the respective provisions included in the legislation on financial instruments (MiFID). Thus, the trend towards a convergence of the provisions of European sectoral legislation becomes evident in the case of the protection of consumers of financial services.

Finally, it is worth mentioning that, on the basis of the said Directive, the Greek legislator needs to delegate certain bodies with the task to contribute to the financial education and awareness of consumers as regards responsible borrowing, debt management and the procedures and practices for the provision of credit.

The Directive comes to supplement the existing European legislation on consumer protection, taking though into consideration the special characteristics of mortgage credit. Further, it complements the European legislation on capital requirements for credit institutions (CRR/CRD IV), which already includes provisions on responsible lending. The latter, however, focuses on the risks faced by credit institutions and securing their resilience, contrary to the said Directive, which focuses on the risks faced by consumers themselves when entering into a credit agreement.

You may find the original version of this article, as published (in Greek) by the newspaper "Kathimerini", here:

<http://www.kathimerini.gr/893818/article/oikonomia/ellhnikh-oikonomia/apoyh-nea-eyrwpaikh-prooptikh-sth-xrhmatodothsh-katoikias>



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