



EUROPEAN COMMISSION

*Brussels, 1.2.2022
C(2022) 629 final*

Dear President,

The Commission would like to thank the Senát for its Opinion on the Proposal for a Directive of the European Parliament and of the Council on consumer credits {COM(2021) 347 final}.

The Commission appreciates the input received from the Senát, takes note of all the points raised in the Opinion and would like to refer the Senát to the annex for more detailed considerations on the proposal. The proposal is subject of the inter-institutional negotiations, which are currently ongoing.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Senát and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*

*Didier Reynders
Member of the Commission*

*Mr Miloš VYSTRČIL
President of the Senát
Valdštejnské náměstí 17/4
CZ – 118 01 PRAGUE 1*

Annex

The Commission has carefully considered each of the issues raised by the Sénat in its Opinion and would like to offer the following clarifications.

Article 18(4) of the Commission proposal provides for credit to be granted, in principle, where the result of the creditworthiness assessment indicates that the obligations resulting from the agreement are likely to be met. However, in specific and well justified circumstances the credit can be made available to the consumer even if the obligations resulting from the agreement are not likely to be met. Recital 47 of the Commission proposal provides for examples of such cases, such as when there is a long-standing relationship with the consumer, or in case of loans to fund exceptional healthcare expenses, student loans or loans for consumers with disabilities. The Commission considers this to be a balanced proposal not jeopardising the protection of consumers.

Article 18(6) of the Commission proposal provides that, when the creditworthiness assessment is based on automated processing, including profiling, consumers have the right to request and obtain human intervention on the part of the creditor, a meaningful explanation of the assessment of creditworthiness, and express his or her point of view and to contest this creditworthiness assessment. The provision is consistent with the General Data Protection Regulation (particularly Article 22).

Article 31 of the Commission proposal introduces caps to be placed on the interest rate applicable to consumer credit agreements, on the annual percentage rate of charge and/or on the total cost of the credit. Member States may decide to set up a specific cap for a revolving credit facility. The fixing of caps is a common practice in a large number of Member States and such capping has proved beneficial for consumers. In that context, Member States should be able to maintain their current legal regimes. However, in order to ensure a consistently high level of consumer protection throughout the Union without imposing unnecessary limits on Member States, the Commission considers that such caps, the level of which is determined by the national legislators, should be introduced in all Member States.

Article 44 of the Commission proposal requires Member States to ensure that appropriate penalties be applied in the case of non-compliance with the Directive. To ensure that the fines have a deterrent effect, Article 44(2) provides that, when penalties are to be imposed in accordance with Article 21 of Regulation (EU) 2017/2394, Member States should set in their national law the maximum fine for such infringements at a level that is at least 4% of the creditor, credit intermediary or provider of crowdfunding credit services' annual turnover in all Member States concerned by the coordinated enforcement action. This maximum fine of at least 4% is to be calculated on the annual turnover in all Member States concerned by the coordinated action (entire activities of the enterprise), not only on the activities regarding consumer credits.