EBA CONSUMER TRENDS REPORT 2016

21 June 2016

EBA EUROPEAN BANKING AUTHORITY

Contents

List of abbreviations

APRC	Annual Percentage Rate of Charge
AML	Anti-Money Laundering
BSG	Banking Stakeholder Group
CA	Competent Authority
CARRPD	Credit Agreements Relating to Residential Property Directive
CCD	Consumer Credit Directive
EBA	European Banking Authority
EC	European Commission
ECB	European Central Bank
EIOPA	European Insurance and Occupational Pensions Authority
ESA	European Supervisory Authority
ESIS	European Standardised Information Sheet
ESMA	European Securities and Markets Authority
EU	European Union
FID	Fee Information Document
GDP	Gross Domestic Product
ITS	Implementing Technical Standard
JC	Joint Committee (of the three ESAs)
MCD	Mortgage Credit Directive
MS	Member State
NSA	National Supervisory Authority
MiFID	Markets in Financial Instruments Directive
PAD	Payment Accounts Directive
PII	Professional Indemnity Insurance
POG	Product Oversight and Governance
POS	Point of Sale
PSD	Payment Services Directive
PSP	Payment Services Provider
RTS	Regulatory Technical Standard
SoF	Statement of Fees

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Executive Summary

One of the mandates conferred on the European Banking Authority (EBA) is to collect, analyse and report on consumer trends and to monitor financial innovation. In order to fulfil this mandate, the EBA publishes an annual Consumer Trends Report. The reports set out the trends the EBA has observed that year and the issues that may arise, or have arisen, for consumers and /or other market participants, and thus provide early indications as to the areas in which the EBA may take action going forward. In addition, the annual reports summarise the measures the EBA has taken to address the issues that had been identified in the previous year's report.

The retail banking products that fall into the EBA's consumer protection and financial innovation mandate include mortgages, personal loans, deposits (including structured deposits), payment accounts, payment services (including debit/credit cards), as well as electronic money.

Similar to the editions of previous years, the Consumer Trends Report 2016 is primarily based on the consumer protection priorities identified by national supervisory authorities in the 28 EU Member States (MS). This is complemented by the EBA's analysis of publicly available statistical datasets and reports; input received from the EBA's Banking Stakeholder Group (BSG); and EBA's assessment of complaints data received from national supervisory authorities as well as from FIN-NET, which is the network of ombudsmen in the EU.

This year's edition covers eight trends on which the EBA may focus its work in 2017:

i. Indebtedness;
ii. Banking fees and costs;
iii. Selling practices;
iv. Foreign currency loans;
v. Innovations in payments;
vi. Alternative financial services providers;
vii. Virtual currencies; and finally
viii. Innovative uses of consumer data.

This report also lists the measures the EBA may take in 2016/7 to address the topical issues identified, and which may subsequently be included in the EBA work programme for 2017. In 2017, the EBA will also start developing its approach to ensuring a consistent supervision of the legal instruments it has issued in consumer protection and financial innovation in 2015 and 2016.

The EBA publishes its Consumer Trends Report on an annual basis, and the 2016 edition is the fourth iteration. Due to budget constraints, the EBA will not publish a Consumer Trends Report in 2017.

Background

1. One of the mandates conferred on the European Banking Authority (EBA) is to collect, analyse and report on consumer trends, as laid down in Article 9(1)(a) of the EBA Regulation.[1] In order to fulfil this mandate, the EBA publishes an annual Consumer Trends Report, and has done so in February 2012, [2] March 2013, [3] February 2014, [4] and June 2015.[5] Each annual report sets out the trends the EBA has observed that year, identifies the topical consumer protection issues that arise from these trends, and sketches the initiatives that the EBA may be considering in response as in need of being included in its work programme for the following year. In addition, each report provides a summary of the actions the EBA and national competent authorities (CAs) have taken to address the issues that had been identified in the previous year's report.

2. The products and services that are covered in the EBA's Consumer Trends Report comprise all the retail banking products that fall into the scope of action of the EBA. This includes mortgages, personal loans, deposits (including structured deposits), payment accounts, payment services (including debit/credit cards), and electronic money.

3. Similar to the editions of previous years, the Consumer Trends Report 2016 is primarily based on the consumer protection priorities identified by national supervisory authorities in the 28 EU Member States (MS). This is complemented by the EBA's analysis of statistical datasets and reports, produced by public sources, such as Eurostat, the European Central Bank (ECB), and the World Bank, on market developments across various categories of financial services.

4. Further input was received from the EBA's Banking Stakeholder Group (BSG), whose members were asked to name the trends they have observed and the topics they therefore consider the EBA should address. Finally, the EBA assessed complaints data that it received from national supervisory authorities and the members of FIN-NET, which is the network of ombudsmen in the EU.

5. Akin to previous editions, the 2016 report is split into three chapters. Chapter 1 outlines the topical issues that the sources have identified as arising. These issues tend to vary between the annual editions of the report, which is reflective of the varying input received from the different sources consulted by the EBA.

6. This year's edition covers indebtedness; banking fees and costs; selling practices; foreign currency loans; innovations in payments; alternative financial services providers; virtual currencies; and innovative uses of consumer data. In so doing, the chapter also provides a

[1] See http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:331:0012:0047:EN:pdf
[2] See http://www.eba.europa.eu/-/financial-innovation-and-consumer-protection
[3] See http://www.eba.europa.eu/-/eba-publishes-consumer-trends-report
[4] See http://www.eba.europa.eu/-/eba-publishes-consumer-trends-repo-1
[5] See http://www.eba.europa.eu/-/eba-updates-on-consumer-trends-in-2015

preliminary indication of the measures the EBA may take in 2016/7 to address the topical issues identified, and which may subsequently be included in the EBA work programme for 2017. The report also states when the EBA is unable to address a topical issue in its entirety due to limits of its scope of action. In 2017, the EBA will also start developing its approach to ensuring a consistent supervision of the legal instruments it has issued in consumer protection and financial innovation.

7. The second chapter covers the retail banking products and services that are at the core of the EBA's scope of action, which are mortgages, deposits, payment accounts, payment services, electronic money, as well as, to a lesser extent, consumer credit. They are therefore continuously monitored by the EBA, feature in every annual edition of the report in more or less the same format, and contain primarily statistical time series data. Where relevant, reference is made to the initiatives the EBA and the national CAs are carrying out in relation to these products and services.

8. The third and final chapter, in turn, summaries the steps the EBA has taken to address the topical issues identified in last year's report and the steps the CAs have taken since then to address them.

Chapter 1: Topical issues identified in 2016

9. This section presents the topical issues as identified by national authorities, the EBA BSG, and the consumer trends that could be derived from data and analyses presented in third-party research reports. The EBA analysed the input received, identified common threads across the various sources, and arrived at the following aggregated list of topics and sub-topics:

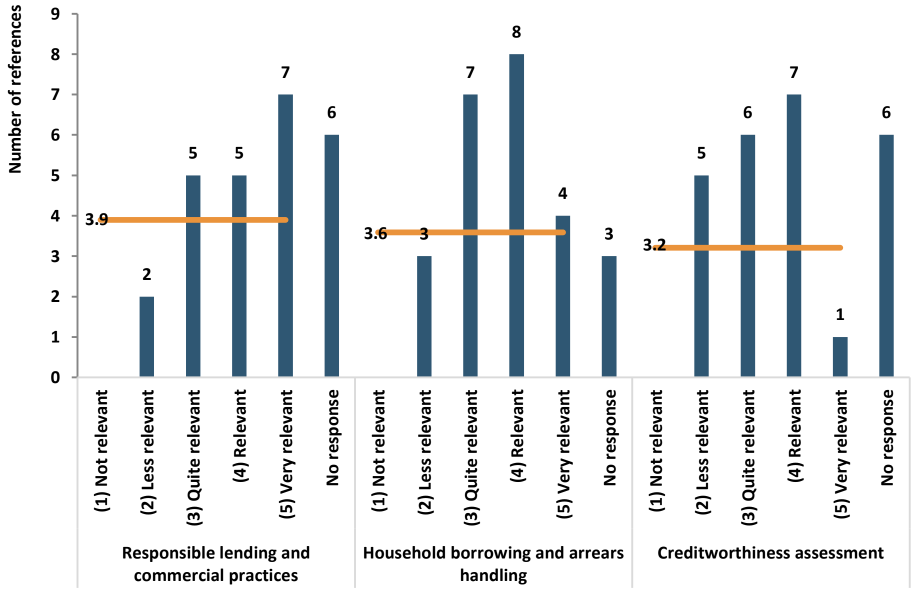
- Indebtedness:
  i. Lending and related practices;
  ii. Household borrowing and arrears handling;
  iii. Creditworthiness assessment.
- Banking fees and costs:
  i. Fees and charges on payment accounts, and their comparability;
  ii. Selected costs related to loans.
- Selling practices:
  i. Cross-selling;
  ii. Sales incentives;
- Foreign currency loans;
- Innovation in payments;
- Alternative financial services providers;
- Virtual currencies;
- Innovative uses of consumer data.

Indebtedness

10. Indebtedness continues to remain one of the most relevant topics for consumer protection. The quantitative data on mortgages and other loans, explained in more detail in the second section of this report, shows that consumers in the EU gradually increased their level of debt. While in the years immediately following the financial crisis, i.e. in 2009 and 2010, the amount of outstanding loans decreased substantially, especially with regard to consumer credit, more recent years (2014 and 2015) have witnessed again a sizeable increase. The EBA and national authorities therefore monitor potential consumer protection issues arising as a result.

11. The priorities for 2016 identified by MSs under this topic were responsible lending and commercial practices; household borrowing and arrears handling; and creditworthiness assessment. Figure 1 shows how each of the three topics was ranked by MSs according to the relevance in their jurisdictions. Each of the three issues is elucidated in more detail thereafter.

Figure 1: Relative importance of topical issues related to indebtedness, as indicated by CAs



Lending and related practices

12. With regard to lending and related practices, MS considered this topic to be relevant with an average score of 3.9 out of 5.[6] Some MSs have reported an increased use of floor-rate clauses in mortgage loans with variable interest rates, due to low or negative interest rates, whereas other MS have recently taken action to ban such clauses. This market practice limits the extent to which borrowers, in general, can benefit from lower borrowing costs, mainly when the reference rate used to set mortgage rates falls below zero. At the same time, some jurisdictions reported that the use of floor clauses offset some legal uncertainties attached to loan contracts and therefore incentivise consumers to opt for fixed interest rates. The EURIBOR is one such reference rate, which has turned negative in the months prior to the publication of this report.

13. Related to variable rate contracts, some MS reported transparency issues for consumers who opted to switch from a tracker mortgage, i.e. a mortgage that tracks a specified rate, or had a right to revert to a tracker mortgage, at the end of a fixed rate period. For the same type of contracts, some CAs reported requiring from creditors specific disclosure measures to overcome the lack of transparency.

14. In recent years, the context of low interest rates proved to be beneficial for consumers who might otherwise have struggled to service their loans. However, it is reasonable to anticipate that interest rates will rise again at some point. In some MS, this scenario has been identified as an issue that will need to be addressed, particularly with regard to consumers' ability to

[6] The average was calculated by assigning the score 1 for "not relevant" up to 5 for "very relevant" in incremental steps of 1.

pay higher instalments. Some of the sources also suggest that the risks related to contracts under variable interest rates (including the potential increases) are not adequately explained to consumers.

15. In addition, some sources reported an increase in short term credit with high interest rates in some jurisdictions. Often, these loans are granted to households that are already in a weak financial situation. In some MS, the majority of providers of such loans are passporting in from another jurisdiction, which in turn will require cooperation amongst CAs and at EU level.

16. Other MS observed irresponsible lending practices in consumer credit that has led to high levels of indebtedness, mainly in revolving credit (i.e. with some credit cards) and short-term credit to 'sub-prime' consumers or consumers with insufficient financial knowledge.

17. With regard to commercial practices by financial institutions, aggressive marketing strategies were identified in some MSs, mainly concerning credit cards, short-term credits, and loan consolidation advertising.

18. Some MS observed the practice that providers allowed low instalments to repay credit card balances, which can result in very long terms to pay off the capital and accrual of significant interest. This is combined with an absence of information of total amounts owed by the consumer.

19. Another practice observed in some jurisdictions is a lack of transparency of charges related to overdraft facilities. In this particular issue, the EBA is actively involved in the introduction of the measures envisaged in the Payment Accounts Directive (PAD), which will come into effect on 18 September 2016. The PAD establishes a framework designed to enhance transparency of fees and information related to payment accounts. Under this framework, payment service providers will be required to disclose costs related to overdraft facilities both at the pre-contractual and the post-contractual stages.

20. The EBA has currently no plans to get active in the particular area of mortgages, as it expects many of the issues above to be addressed by the national application of the Mortgage Credit Directive (MCD), transposition date of which was 21 March 2016. One of the measures required by the MCD is, for example, the European Standardised Information Sheet (ESIS) for mortgage credit agreements.

21. With regards to personal loans, the EBA has only a limited regulatory remit over this market segment, as the Consumer Credit Directive (CCD) does not fall into the EBA's scope of action. The EBA can only become active in respect of credit (including consumer credit) that is provided by credit institutions, not by other providers of consumer credit. The EBA's monitoring effort of this market segment is therefore limited, too.

Household borrowing and arrears handling

22. Regarding household borrowing and arrears handling, this topic was considered to be relevant by respondents with an average score of 3.6 out of 5. The excessive household borrowing in the pre-crisis era, caused *inter alia* by poor creditworthiness assessments, has resulted in high levels of arrears as well as outstanding debt, especially with regard to mortgage debt. Another key reason for arrears is the loss or reduction in regular income, which in turn is often caused by unemployment. Under these circumstances, consumers face difficulties in repaying their loans. Younger families and families of self-employed workers have been reported to be particularly affected.

23. A related issue that was identified is a lack of co-operation by some financial institutions with their customers when these need to restructure the credit that is in arrears, as well as a lack of information when requirements when non-bank creditors interact with customers in financial distress, in particular about options to rearrange or restructure credit agreements.

24. The EBA has taken action in this area and, following the publication of the consultation paper, issued, Guidelines in June 2015 on arrears and foreclosure, in support of Article 28 of the MCD.[7] The Guidelines apply since 21 March 2016.

25. Some CAs provided similar, related responses, in that they consider the transposition of the MCD and the implementation of the EBA Guidelines to be the key measures to address these issues. The measures are expected to raise consumer awareness, by improving pre-contractual and contractual information for the consumer, as well as implementing additional, supplementary requirements on creditors when granting loans. The implementation of the MCD will also expand competent authorities' powers to supervise credit intermediaries and other creditors, which had previously not been regulated in some MSs.

Creditworthiness assessment

26. Respondents also considered the topic of creditworthiness assessments to be relevant, with an average score of 3.2 out of 5. The trends that were observed include poor creditworthiness assessments carried out by non-bank providers of consumer credit, as well as the frequent renewal of credit facilities without an appropriate re-assessment of the borrower's creditworthiness at the time of renewal.

27. Akin to arrears and foreclosure, the EBA has taken action in this area and issued, in June 2015, Final Guidelines on creditworthiness assessments, in support of Article 18 of the MCD.[8] The Guidelines apply since 21 March 2016.

[7] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-arrears-and-foreclosure

[8] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-creditworthiness-assessment

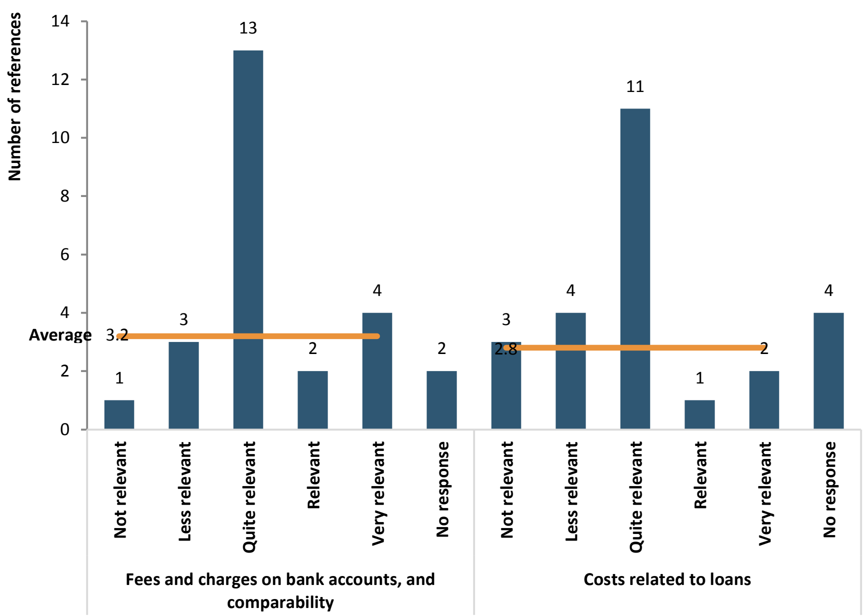
28. The majority of the NCAs, too, indicated that they expect the transposition of the MCD and the national implementation of the EBA Guidelines on creditworthiness assessment to have a significant impact. In addition, in some jurisdictions, credit register databases are being developed, with both positive and negative information to support the assessment. Typically, 'negative information' will cover data on late payments and defaults, while 'positive information' will refer to information on borrowers that have paid their obligations on time and other descriptive data including loan amounts, interest rates, and loan maturities.

Banking fees and costs

29. The topic of banking fees and costs is another recurring issue reported by respondents to EBA's Consumer Trends Report input requests. Fees and costs related to banking products tend to be one of the main reasons for consumer complaints. In order to provide a picture of the relevant issues, this report splits the topic into two categories: fees and charges for bank accounts and their comparability between providers; and costs related to loans.

30. Figure 2 depicts the importance attached to these two subcategories by competent authorities: fees and charges achieved a score of 3.2 out of 5, while costs related to loans achieved a score of 2.8 out of 5.

Figure 2: Relative importance of topical issues related to banking fees and costs, as indicated by CAs



Fees and charges on payment accounts, and their comparability

31. One of the main issues raised by respondents is the increase in fees and charges for payment accounts, which was already raised in the EBA Consumer Trends Reports in previous years but which appears to have accelerated further. In response, some MS are planning to, or have already, put in place new legislation stipulating restrictions on fees and charges, such as basic payment accounts for a reasonable fee, or requirements whereby a fee can only be charged in exchange for an actual service being provided to the consumer.

32. Following the trend in last year's report, several respondents stated that banking fees are one of the main reasons for consumer complaints, particularly in terms of a lack of transparency that impedes consumers from making well-informed choices; the comparability of fees; and pricing. Related to this are consumer complaints regarding the lack of transparency of fees on overdrafts and overrunning.

33. The EBA continues to be active in this area, in fulfilment of the mandates conferred on the EBA in the Payment Accounts Directive (PAD). In March 2015, the EBA issued Final Guidelines with an aim of standardising the fee terminology for payment accounts across the EU. [9] The EBA is currently working on the PAD mandates to develop the common terminology itself; the pre-contractual Fee Information Document (FID); and the post-contractual Statement of Fees (SoF). The EBA is planning to issue a Consultation Paper with draft requirements for these three technical standards later in 2016.

34. A tool that has more recently attracted focus in the area of comparability is the use of comparison websites. Comparison websites assist consumers in making informed decisions, can reduce the costs accruing to consumers when taking out and using payment accounts and therefore foster competition. However, comparison websites also pose a number of risks to consumers, including: the misuse of consumer data; the provision of outdated and/or unsuitable information; an understatement of costs; a deficient assessment of the consumer's needs; and the limited number of providers that are being compared.

35. Some MSs have adopted two main approaches to deal with the risks arising from comparison websites: assessing comparison websites for their functioning, accessibility and accurateness and making the results public; and/or having a public authority provide comparison websites.

36. Further regulatory and supervisory actions to address issues related to fees and charges on payment accounts, and their comparability are expected to follow the implementation of the Payment Accounts Directive (PAD).

[9] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-standardised-fee-terminology-for-payment-accounts-in-the-eu

Costs related to loans

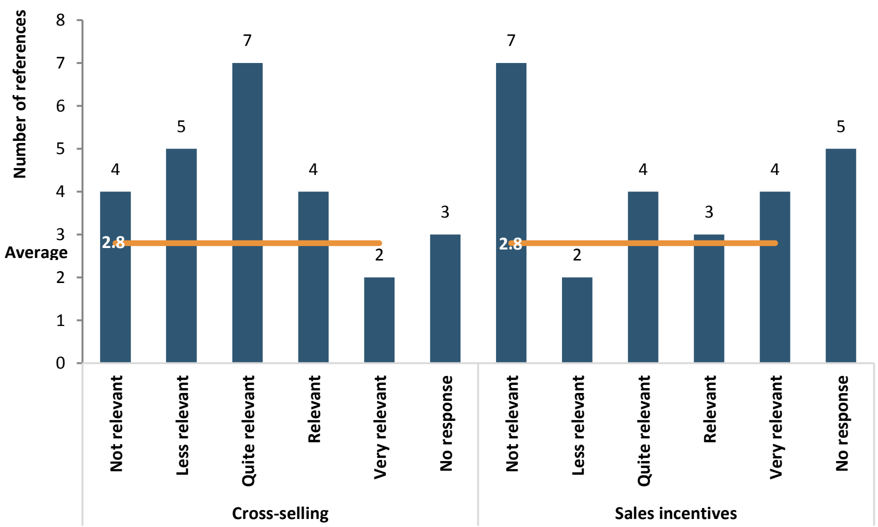
37. Reference interest rates in the EU have remained low over the last two years. The ECB has kept the main refinancing operations rate at close to zero. Outstanding loan amounts have been rising in recent year, as the data in chapter 2 shows. One of the issues raised is a lack of transparency of costs included in the Annual Percentage Rate of Charge (APRC). In some cases, this involved a lack of detailed and transparent information to consumers regarding fees and variable interest rates as well as insufficient warning with regard to risks related to an increase in interest rates.

38. The EBA currently does not envisage starting any initiative to address this issue. However, some competent authorities reported they have requirements in place that restrict interest rates. Other MSs have rules in place obliging mortgage providers to inform borrowers of the average interest rate for each fixed interest term offered. In several other MSs, the courts have proceeded to limit interest rates or have ruled against the inclusion of handling charges in personal loans; while in one MS recurring and upfront fees charged on personal loans are required to be separated.

Selling practices

39. Another recurring trend identified by the EBA are unsuitable selling practices, which was one of the key drivers of the mortgage mis-selling that had been observed in several MS in the years prior to the financial crisis in 2008/9. In this report the topic is presented in the two categories of (i) cross-selling and (ii) sales incentives. Figure 3 depicts the importance attached to these two subcategories by competent authorities: cross-selling and sales incentives achieved a score of 2.8 out of 5.

Figure 3: Relative importance of topical issues related to selling practices, as indicated by CAs



Cross-selling

40. Cross-selling refers, for example, to the granting of a credit that is linked to the sale of another product, which often is not a banking product, such as insurance or investment products. The cross-selling of financial products can benefit consumers for example by reducing the aggregate cost of purchase, but can also result in consumers purchasing products that they do not necessarily want, that may not meet their needs, or that will bind consumers into unsuitable long-term contractual agreements.

41. A large majority of respondents surveyed by the EBA considered the issue of product bundling (or the related phenomenon of cross-selling) and mis-selling of great significance. Some respondents referred to the combination of the sale of loans with car insurance or life insurance, and instances where the insurance was not needed by the consumer or where the consumer was unaware that they were taking out the insurance in the first place.

42. Other respondents highlighted the particular case of cross-selling with respect to loans and payment protection insurance, often alongside aggressive marketing practices, and its constraining effect on competition in the market. The fact that the lower interest rates for bundled products are more than outweighed by the significantly higher costs arising for consumers as a result of expensive insurance and saving products.

43. To address the issue, the Joint Committee of the three European Supervisory Authorities – EBA, EIOPA and ESMA – published a consultation paper in December 2014 so as to cover cross-selling consistently across the three sectors of banking, insurance and investments respectively. However, following a year of analysis, the Joint Committee concluded that the three ESA are not able to address cross-selling in a way that was considered to be compatible with EU legislation applicable to banking products, such as the MCD and the PAD. The Joint Committee therefore decided not to issue final Guidelines, and for ESMA to issue ESMA-only Guidelines covering only the investment sector, in fulfilment of the mandate conferred on ESMA under the revised Markets in Financial Instruments Directive (MiFID2).

44. In addition, the three ESAs sent a letter to the European Commission asking the legislators to address the differences in the existing legislation, so as to ensure that the three authorities can regulate cross-selling practices in a consistent way across the three sectors, for the benefit of consumers, financial institutions, and supervisory authorities.[10] The EBA has currently no plans to progress work in this area further.

Sales incentives

45. The issue of sales incentives, too, continues to be relevant in a large number of MS. Amongst the issues mentioned by respondents on this topic are a lack of information about the duties of financial advisers and their provision of false or misleading information; remuneration practices that are driven by profit or sales targets; financial institutions failing to understand

[10] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-for-cross-selling-practices

and/or manage the conflicts of interest that arise from incentive schemes; performance management of staff used as a means to reward staff achieving high sales numbers; and the lack of a business culture that puts consumer interests first.

46. The EBA has started to become active in this area with the publication, in December 2015, of its Consultation Paper on draft Guidelines on remuneration practices and policies of sales staff.[11] The EBA identified poor remuneration policies and practices as a key driver of miss-selling of financial products and services. The draft Guidelines provide a framework for financial institutions to implement remuneration policies and practices that will improve links between incentives and the fair treatment of consumers, thus reducing the risk of mis-selling and related conduct costs for financial institutions.

47. The draft Guidelines do so by requiring that the management body take responsibility for the design and monitoring of remuneration policies and practices; conflicts of interests are to be prevented; quantitative and qualitative criteria are to be used for determining the level of variable remuneration; and documents are retained for auditing purposes. At the time of publication of this report, the EBA is assessing the 27 responses it has received and is aiming to issue the Final Report with feedback statement and Final Guidelines in 2016Q3.

Foreign currency loans

48. The topic of foreign currency loans, in particular in the form of mortgages, was considered to be of relevance by only a small number of MSs. However, those MSs who did not consider it of relevance, considered it to be important. While the outstanding volumes of loans in foreign currency are declining or have a small market share in most jurisdictions, several CAs continue to monitor this market segment, because consumers holding such loans are exposed to risks as a result of currency fluctuations; the lack or misleading content of the information made available by the provider about the currency risk attaching to the loan; and the many additional risks associated with such loans.

49. A specific example was seen in several MS, which saw a drastic change in the exchange rate between EUR and CHF, and as a result the amount of repayment instalments increased significantly. Borrowers that faced difficulties in paying the higher instalments of their mortgage loans approached the CA and the Government asking them to intervene. While CA had no legal competence to intervene, it did recommend banks to restructure the loan whenever possible with no additional costs for the consumer, such as a change of the denominated currency and/or an extension of the loan period. Some consumers decided to file law suits with courts claiming that the banks misled them at the time the contract was signed and did not disclose all risks of such credit.

50. In another MS, the government decided to freeze the exchange rate applicable to consumer credit and defined a period of one year for the adoption of the model of permanent solutions

[11] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-remuneration-policies-for-sales-staff

for debtors in CHF. More recently, in the second semester of 2015, that Government passed an amendment to the Consumer Credit Law which stipulated the criteria to give equal rights to borrowers with loans indexed in EUR or in CHF. As a result, a significant percentage of borrowers with loans indexed in CHF accepted the new credit agreements.

51. The EBA has addressed the prudential issues arising from foreign exchange loans through its Guidelines on Capital Measures for Foreign Currency Lending.[12] Although the Guidelines contain provisions related to the governance arrangements of FX lending in a financial institution, the EBA expects the effects on consumer protection to be indirect and limited. However, despite this constraint, the EBA has currently no plans to become active in 2016/17 on this particular topic from a consumer protection point of view. Instead, the EBA is awaiting the transposition of the MCD, Article 23 of which requires MSs to ensure that a regulatory framework is in place which gives the consumer the right to convert the credit agreement into an alternative currency under specified conditions or which ensures that other arrangements are in place which limit the exchange rate risk to which the consumer is exposed under the credit agreement. The EBA expects that the provisions in that Article will contribute to address the issues identified by the respondents.

Innovation in payments

52. Similar to previous editions of this report, the topic of innovation in payments continues to raise concerns related, for example, to the lack of consumer awareness about new types of providers in the market, and the risks and characteristics of new payment solutions, including the risk of fraud. Other aspects related to innovation in payments that raise concerns are the way consumer data is used; the lack of consumer understanding of risks when inputting personal information in mobile apps without passwords; and weak authentication requirements established by merchants or payment services providers, which can result in a consistent rise in fraud or alleged fraud.

53. Some respondents reported that the different level and detail of security requirements between EU MS has led to an uneven level playing field whereby providers in some countries are subject to more stringent requirements than those in other countries. In addition, respondents stated that the level of consumer awareness of the consumer protection measures available in the payment sector is low.

54. Contactless debit and credit cards was also mentioned by several respondents, who raised concerns about the authentication process, which many consumers perceive as being very weak, due to the fact that no signature or PIN is required. These respondents were concerned that the increase in usage could result in a rise in fraud, which in turn may jeopardise this financial innovation. Other respondents raised concerns about the prices being charged by some PSPs; and that increased digitalisation appears to be driven more by cost-cutting than by the desire to ensure the best outcomes for consumers.

[12] https://www.eba.europa.eu/regulation-and-policy/supervisory-review-and-evaluation-srep-and-pillar-2/guidelines-on-capital-measures-for-foreign-currency-lending

55. A final trend identified is innovation in the payment infrastructure through the use of Blockchain technology. Some respondents indicated that they are in the process of analysing the opportunities and risks arising from this new technology.

56. In this area, the EBA continues to monitor innovations, such as blockchain technology and its impact on the products and services in the EBA's scope of action, but has for now prioritised the implementation of the mandates conferred on the EBA in the revised Payment Services Directive (PSD2). The EBA will assess the extent to which the risks arising from innovative payment solutions will be addressed by the PSD2 and then decide which, if any, additional regulatory and/or supervisory measures are needed. In this context, the EBA will also consider arguments for and against delivering on its financial literacy mandate so as to inform consumers of the benefits and risks of innovative payments.

Alternative providers of financial services

57. The emergence of new forms of funding is another trend that has been observed by respondents and that the EBA had featured in previous editions of this Report. Among the new forms of funding, crowdfunding has attracted significant attention by national authorities, due to the fact it does not only generate benefits but also gives rise to risks.

58. Crowdfunding models are generally grouped into four types: donations; rewards; lending; and investment. The latter two are also described as 'financial returns' models. From these, the lending based model of crowdfunding is of interest to the EBA due the nature of crowdfunding as akin to traditional loans. In the lending-based type, project owners typically commit to return funds to backers over a specified time period and with interest, although in some cases without interest.

59. In terms of measures taken by the EBA, the EBA issued an Opinion to the EU Commission and co-legislators in February 2015, in which it concluded that the convergence of practices across the EU for the supervision of crowdfunding is desirable in order to avoid regulatory arbitrage, create a level-playing field, ensure that market participants can have confidence in this market innovation, and contribute to the single European market.

60. As part of the Capital Markets Union Action Plan, the EU Commission published on 3 May 2016 its *Report on Crowdfunding in the EU Capital Markets Union*[13], which outlines the market and regulatory landscape in this dynamic field. In this report, the Commission arrived at the view that crowdfunding remains relatively small but is developing rapidly. However, as it remains a largely local phenomenon, the Commission concludes that there is no strong case for an EU level framework at this juncture. Nevertheless, given the potential for future cross border expansion, the Commission will continue to monitor its development. Throughout 2016, the EBA will continue to follow closely the Commission's assessment of this phenomenon, and remains available to contribute to any next steps. As the report

[13] See http://ec.europa.eu/finance/general-policy/crowdfunding/index_en.htm#maincontentSec1

highlights, several MSs, too, became active, by introducing legislation, or are in the process of finalising such legislation.

61. In the context of financial services providers and innovation, the discourse in market has increasingly been referring to the firms whose innovations the EBA has been monitoring as financial technology, or "FinTech" companies. Although no definition of the concept exists so far, they are commonly described as start-up companies that use software – often in an innovative way - to provide financial services. Given that many innovations the EBA will be monitoring in the years to come are likely to originate from FinTech companies, the EBA will look at FinTech in a more 'holistic' way in 2017.

Virtual currencies

62. The topic of virtual currencies (VC) remains a cause for concerns for some respondents, although no longer to the same degree, possibly as a result of the advice the EBA had given in its Opinion on Virtual Currencies that it published in July 2014, and how the risks should be mitigated in the short as well as the long term.[14] Amongst the concerns raised were the fact that VCs remain unregulated, that consumers are unaware of the risks involved in dealing with VCs, and the risk of VCs being used for money laundering and terrorist financing purposes.

63. In 2015, the EBA did not progress with any work related to VCs. Some CAs, however, issued national warnings to inform the public of the risks associated with holding VCs, while others referred to the EBA Opinion on Virtual Currencies. One respondent was of the view that, due to the absence of disclosure requirements in the market for VCs, and the extreme volatility observed in the value of VCs, it is difficult for users to understand each single VC that is set up, what its true value is, and which risks arise from each.

64. Many of the risks that the EBA had highlighted in its Opinion remain on the forefront of respondents' minds, including that transactions carried out using VCs are not subject to appropriate legal and/or contractual safeguards, that counterparties are anonymous, that there are no common information standards, and that the legal status of VCs remains unclear as MS classify it in various ways, i.e. as an asset, commodity or financial instrument.

65. At the beginning of 2016, the EU Commission, Council and Parliament regained an interest in the topic of VCs, with the Commission due to propose in 2016Q2 measures related to VCs, as part of its action plan against terrorist financing. The EBA will monitor these developments and provide technical input into potential future legislative provisions.

Innovative uses of consumer data

[14] See http://www.eba.europa.eu/-/eba-proposes-potential-regulatory-regime-for-virtual-currencies-but-also-advises-that-financial-institutions-should-not-buy-hold-or-sell-them-whilst-n

66. Several CAs and other respondents mentioned innovative uses of consumer data by financial institutions as another trend. Respondents were concerned that consumers are unaware that the data they provide to the financial institution is used for purposes other than the one for which they had provided the data initially. In several MS, discussions are ongoing to clarify the national competencies for the supervision of the usage of consumer data and more generally, the enforcement of rights; the simplification of procedures and the rules applicable to financial institutions.

67. The EBA issued a Discussion Paper in April 2016 on this topic, in which it characterises the phenomenon, identifies potential benefits and risks of the phenomenon, and asks external stakeholders to provide feedback to the EBA on its analysis. The EBA welcomes comments on the Discussion Paper until the end of July 2016, after which it will assess the responses, so as to decide what, if any, additional regulatory and/or supervisory action is required.

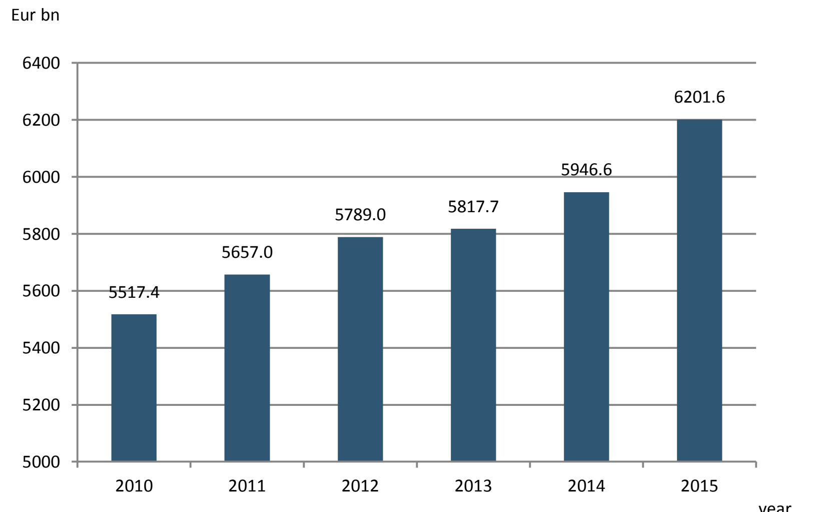
Chapter 2: Products and services at the core of the EBA's scope of action

68. This section covers the retail banking products and services that are at the core of the EBA's scope of action, are therefore continuously monitored by the EBA and thus feature in every annual edition of the report. The products and services covered are mortgages, deposits, payment accounts, payment services, and electronic money. Akin to previous editions, the EBA gathered data from several sources, including the European Central Bank (ECB), the World Bank, and Eurostat.

Mortgages

69. The outstanding amounts of lending for house purchase in the EU reached 6.2 trillion Euros in 2015. Figure 4 shows the evolution in the EU between 2010 and 2015, showing the total figure for Euro and non-Euro MS. Following a decrease between 2007 and 2008, at the height of the financial crisis, the overall outstanding amounts have begun to grow again, and considerably so from 2014 to 2015.

Figure 4: Total outstanding amounts of lending for house purchase in the Euro and non-Euro areas combined, 2010-2015

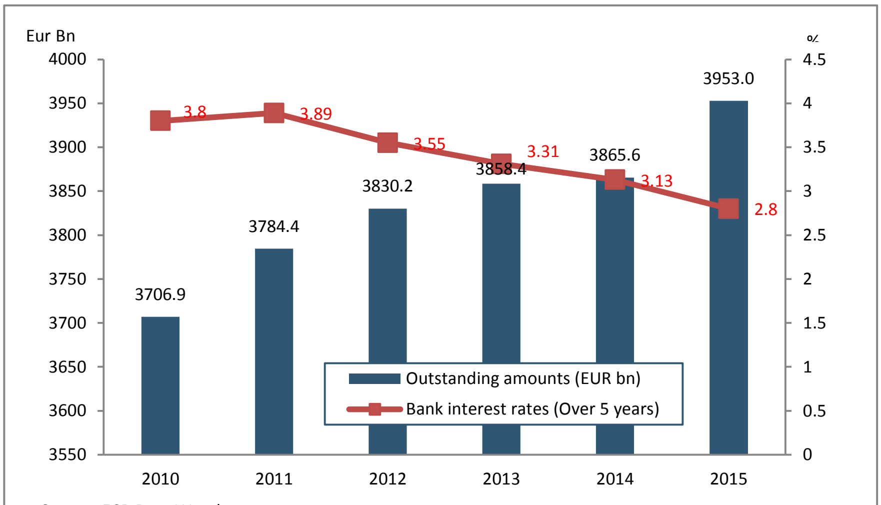


Source: ECB Data Warehouse

70. Figure 5 shows the outstanding amounts for the subset of the 19 MS in the Euro area for the same time period, which shows a very similar trend. This sample was chosen in order to be able to plot the outstanding amounts against the development of the annualised interest rate agreed between creditors and borrowers, for which data is available for the Eurozone.

As can be seen, the increase of outstanding amounts coincided with, and was possibly partly driven by the steadily decreasing interest rates.

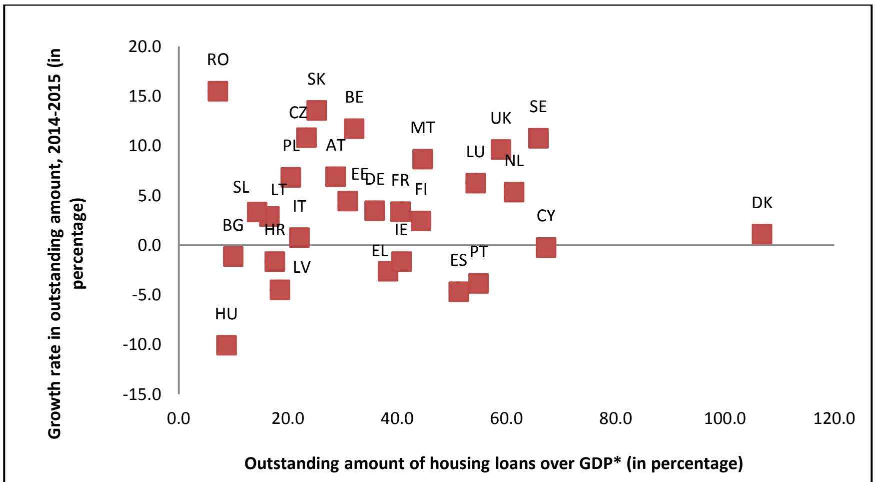
Figure 5: Outstanding amounts and annualised agreed interest rates of lending for house purchase in the Euro area, 2010-2015



Source: ECB Data Warehouse

71. However, this aggregate trend masks considerable differences between MS. As shown in the vertical distribution of MS in Figure 6, while nine MSs have experienced a decrease (depicted below the horizontal line) between the two most recent years of 2014 and 2015, 19 MSs have seen an increase, some of which of 10% or more.[15] Furthermore, the rather equal distribution in the same figure seems to reveal that there are considerable differences between MS in terms of the ratio of outstanding housing loan amounts over GDP.

Figure 6: Lending for house purchase as a percentage of GDP, in 2015, and lending for house purchase growth rate, 2014 - 2015



Source: ECB Data Warehouse and Eurostat

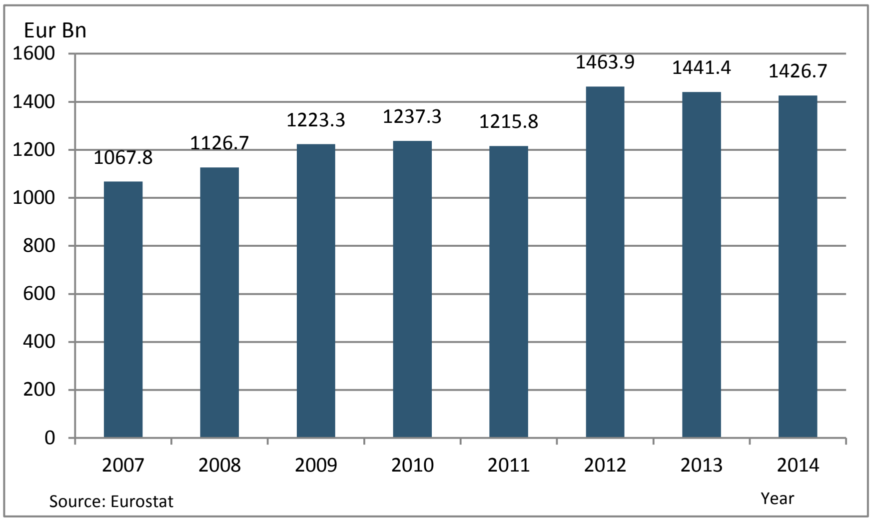
[15] GDP data refers to 2014 for CZ, IE, and LU.

Consumer credit

72. In addition to loans for house purchases, households also use other forms of credit in order to buy products and services that they are unable or unwilling to pay for in full at the point of purchase. This is commonly referred to as consumer credit, and it includes a number of different products, such as personal loans, credit cards, and overdraft debt. The EBA has only a limited regulatory remit over this market segment, as the Consumer Credit Directive (CCD) does not fall into the EBA's scope of action. The EBA can only become active in respect of credit (including consumer credit) that is provided by credit institutions. The EBA's monitoring effort of this market segment is therefore limited, too.

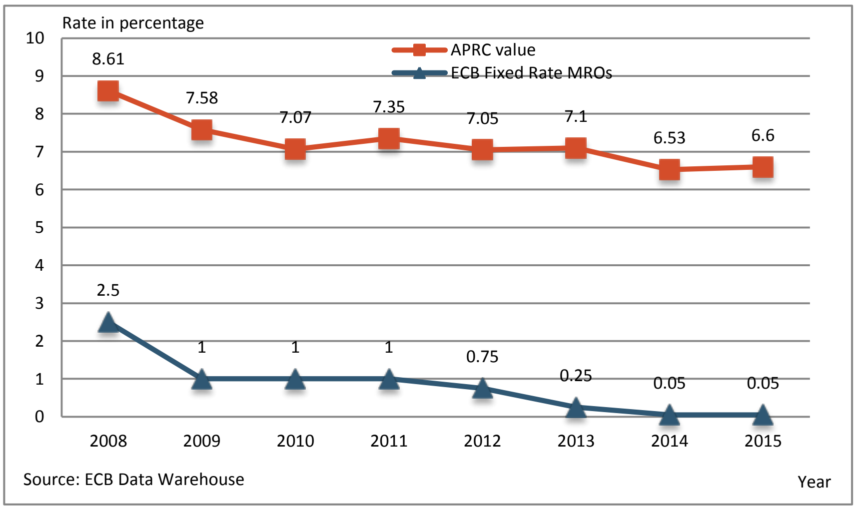
73. The issues that CAs have highlighted as arising for consumers when dealing with this type of loans are similar to the issues raised in last year's report and include: excessive fees; payment arrears handling; early repayment options and related costs; credit provided by entities falling outside the remit of some of the national authorities; lack of creditworthiness assessment requirements, especially when credit was provided by non-credit institutions; high-cost fast loans, and lack of information requirements related to revolving credit As Figure 7 shows, following increases in previous years, the volume of consumer credit (i.e. without mortgages) has slightly decreased since 2012.

Figure 7: Outstanding amount of consumer credit in the EU, 2007-2014



74. Figure 8 compares the development of the annual percentage rate of charge (APRC) for loans for consumption in the Euro area with the rate applied to Main Refinancing Operations (MRO). Akin to the observation made in the consumer trends reports in previous years, noted in last year's report, the reductions in central bank interest rates have coincided with, and contributed to reductions of interest rates on credit facilities.

Figure 8: Annual percentage rate of charge (APRC) - Loans for consumption in the Euro area, compared with ECB Fixed rate for Main Refinancing Operations (MROs), 2008 - 2015



Payment accounts

75. Typically, the first step for a consumer to be able to engage with financial services, and with the economy more widely, is by opening a payment account. A payment account is an account held in the name of one or more payment service users, which is used for the execution of payment transactions, such as to deposit salaries or incomes, pay bills or withdraw money. Access to this product is therefore crucial for the development of financial markets. [16]

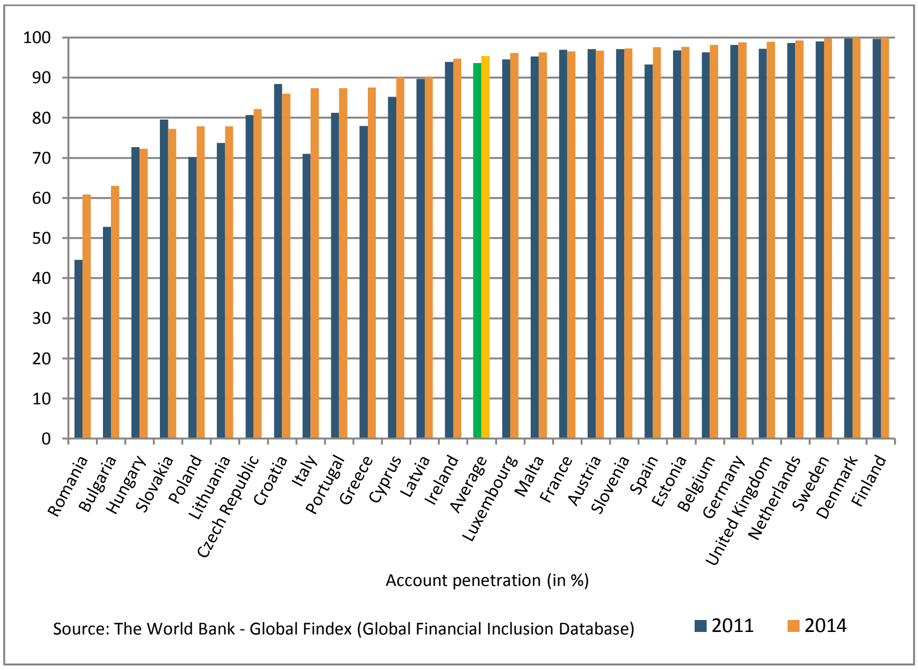
76. Recognising the importance of payment accounts, the EU-legislators have adopted the Payment Accounts Directive (PAD), which is due to apply on 18 September 2016. The Directive aims to promote access to payment accounts in order to reduce levels of financial exclusion in the EU. To that end, the Directive provides the framework for MSs to introduce measures to allow all consumers to have access to a payment account with 'basic features'. At the time of writing this report, MS are in the process of transposing the Directive.

77. In this context it is useful to recall the penetration in the EU of bank accounts more widely, which was already depicted in last year's report and is re-iterated in Figure 9, using the results from World Bank survey data as a basis. [17] It reveals considerable differences in terms of the rate of penetration of accounts in each country. While the average account penetration is 90%, several EU MSs are still far removed from this average.[18]

[16] Article 4(14) of Directive 2007/64/EC.
[17] Denotes the percentage of respondents who report having an account (by themselves or together with someone else). For 2011, this can be an account at a bank or another type of financial institution, and for 2014 this can be a mobile account as well (see year-specific definitions for details) (% age 15+).
[18] The Global Findex database; updated every 3 years, the last update was in 2014.

78. The scale of the current migrant movement, the level of money laundering and terrorist financing (ML/TF) risks associated with the country of origins of some asylum seekers in the EU, spurned particularly by doubts about the reliability and robustness of identity documentation, create unique compliance challenges for financial institutions.

Figure 9: Penetration of bank accounts in the population age 15+, 2011 and 2014



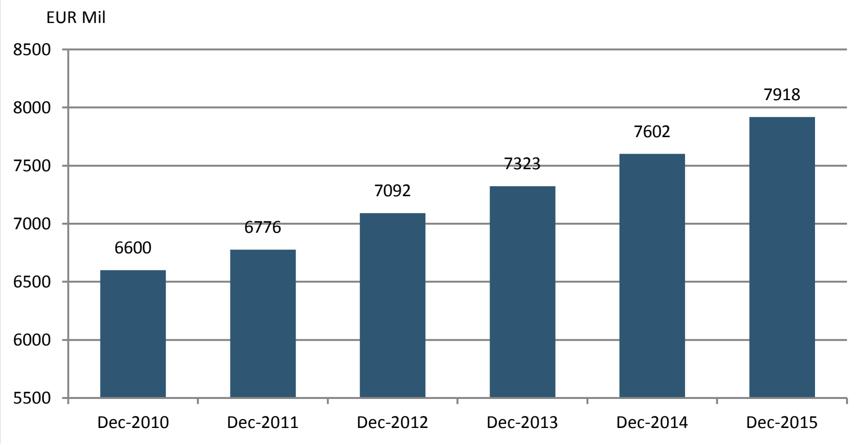
79. In this context, the EBA published an Opinion on the application of customer due diligence measures to asylum seekers from higher-risk jurisdictions.[19] The Opinion is addressed to competent authorities, and the EBA sets out how credit and financial institutions can strike the right balance between providing asylum seekers from higher risk third countries and territories with access to financial products and services on the one hand, and complying with EU Anti-Money Laundering and Counter-Terrorist Financing (AML/CFT) requirements on the other hand. The EBA has come to the conclusion that there will be relatively few cases where it will be necessary for a credit or financial institution to decline a business relationship with an asylum seeker from a higher risk third country or territory on ML/TF grounds.

Deposits

80. Household savings in the form of deposits held by credit institutions have steadily grown in recent years. Figure 10 shows that the total deposits of households and non-profit institutions grew by 3.8% between 2013 and 2014, and 4.2% in the following year.

[19] See here: http://www.eba.europa.eu/-/eba-publishes-opinion-on-the-application-of-customer-due-diligence-measures-to-customers-who-are-asylum-seekers-from-higher-risk-third-countries-or-te

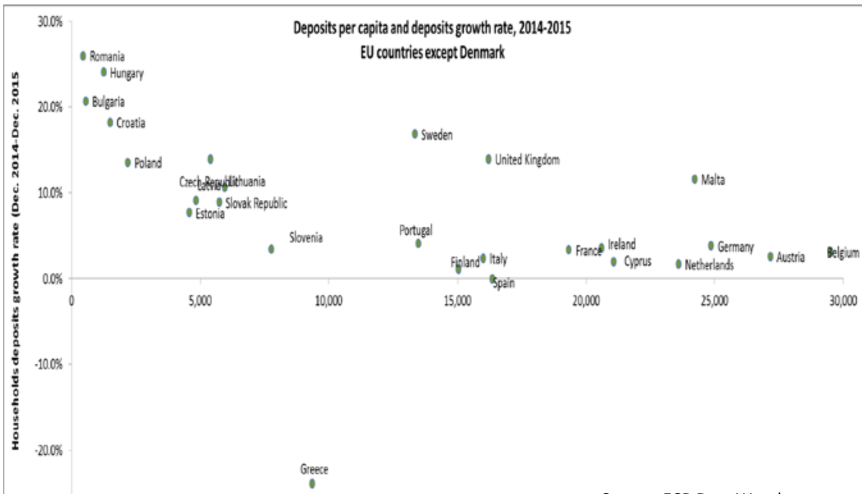
Figure 10: Total households deposits (Million Euros), 2010-2015, EU countries except Denmark



Source: ECB Data Warehouse

81. Figure 11 plots deposits per capita against the growth rate of deposits in the period 2014-2015. This reveals that the highest increase occurred in Romania, with around 26%, followed by Hungary (24%), Bulgaria (20%), and Croatia (18%). On the other end of the spectrum, Greece registered a decrease of around 24%.

Figure 11: Deposits per capita and deposits growth rate, 2014-2015, selected EU Member States

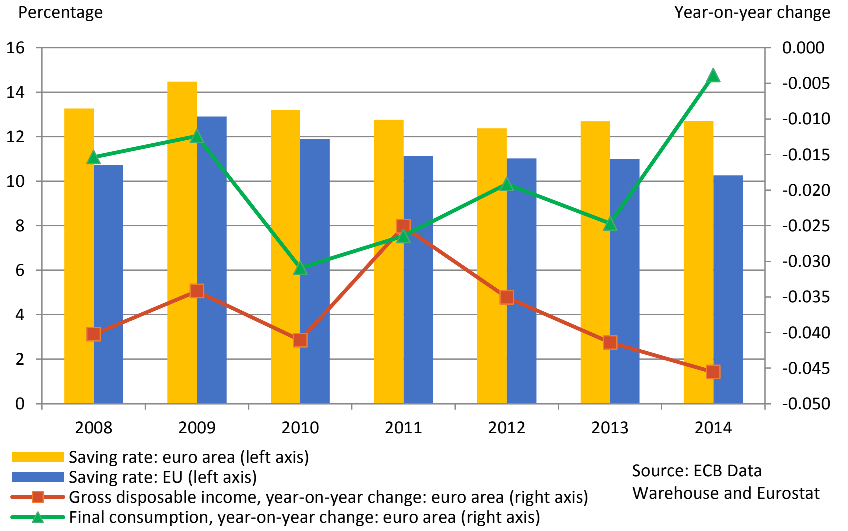


Source: ECB Data Warehouse, and World Bank

82. As no comprehensive income and consumption data is available for all EU MS, the graph in Figure 11 depicts the Euro area only, Figure 12, in turn, compares households' saving rate to the year-on-year changes in gross disposable income and in final consumption for both the EU and the Euro area. One possible reading of the chart is that households in the Euro area

might have reacted with caution to the financial crisis by increasing their savings rate in 2009.

Figure 12: Consumption, disposable household income & saving rate, 2008-14



Source: ECB Data Warehouse and Eurostat

83. Overall, the savings rate has since then decreased but has remained stable subsequently. Over the same period, households have continuously seen a decrease in gross disposable income with negative growth rates throughout, and correspondingly reduced their consumption, which have continued to see negative growth rates, too, albeit with decreasing negative growth rates. Several CAs reported that deposits remain of great importance in their jurisdictions, such as sight deposits and structured deposits appear to have become more attractive to consumers. One CA stated that, since interest rates of term deposits were more or less identical to sight deposits, these become more attractive as they offer greater liquidity as there is more flexibility for customers to withdraw their funds .

84. One CA reported a significant number of complaints about low interest rates on deposits when compared to the interest rates charged for loans. In another MS, the CA mentions that it is in the process of developing requirements related to the promotion of such products to address aggressive marketing practices for unregulated savings accounts.

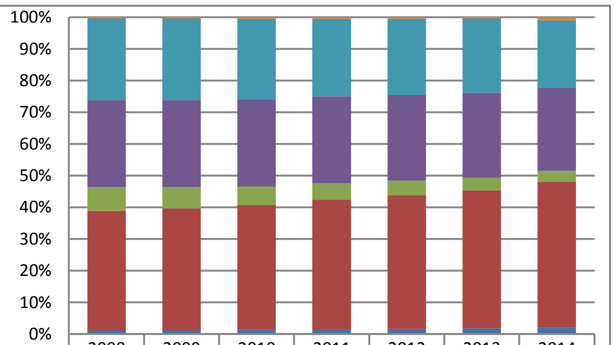
Payment services, including debit and credit cards

85. Consumers have several options when it comes to making retail payments, including cards, typically debit and credit cards, cheques (which are used a lot in some countries but are almost inexistent in others), and direct debits. Figure 13 shows the evolution of the distribution of total number of transactions by type of payment instrument, which in turn refers to card transactions, credit transfers, direct debits, cheques, e-money purchases transactions and other payment services.

86. In 2014, cards, credit transfers and direct debits have been the dominant form of payment, corresponding to 46%, 26.2% and 21.3% of total transactions, respectively. The period 2010-2014 saw an increase of transactions using cards and a decrease in the relative importance of credit transfers, direct debits and cheques.

Figure 13: Relative importance of payment instruments, as a percentage of the total number of transactions, 2008-2014

Source: ECB Data Warehouse

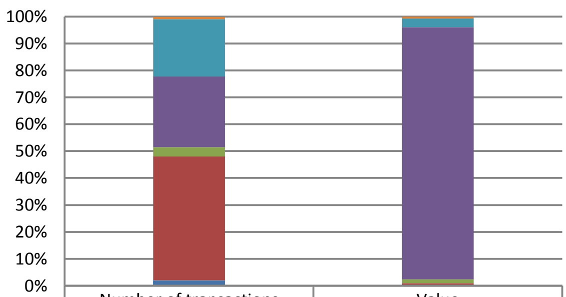


	2008	2009	2010	2011	2012	2013	2014
Other payment services	0.7	0.6	0.5	0.5	0.5	0.5	1
Direct debits	25.8	25.8	25.4	24.5	24.1	23.5	21.3
Credit transfers	27.5	27.5	27.6	27.5	27.1	26.9	26.2
Cheques	7.5	6.6	5.8	5.1	4.5	3.9	3.5
All cards except e-money function	37.7	38.6	39.4	41	42.2	43.5	46
E-money purchase transactions	1.1	1.1	1.3	1.4	1.6	1.8	2

87. While card transactions represent the biggest share of all transactions in 2014, their weight in terms of total value of transactions remains very small, at less than 1% of all transactions, as depicted in figure 14. And while credit transfers represent 94% of the value of transactions, directs debits represent just over 3%.

Figure 14: Comparison between relative importance of transactions and value of payment instruments, 2014

Source: ECB Data Warehouse



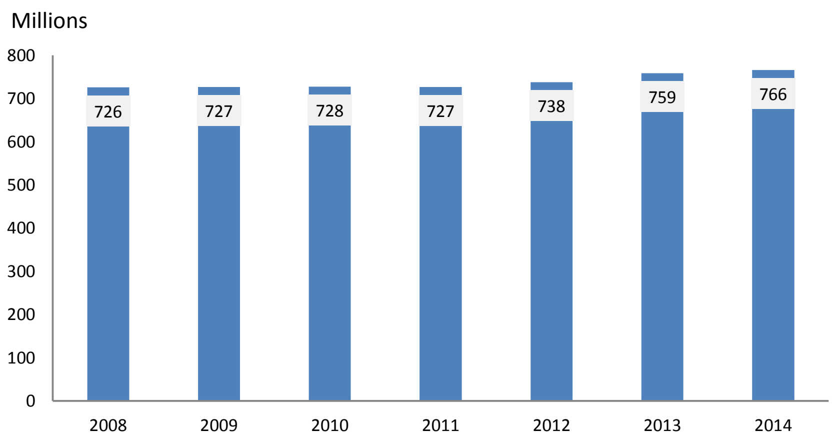
	Number of transactions	Value
Other payment services	0.8	0.8
Direct debits	21.3	3.2
Credit transfers	26.2	93.6
Cheques	3.5	1.5
All cards exc.ept e-money	46.0	0.9
E-money purchase transactions	2.0	0.0

88. An analysis of the data underlying figure 14 reveals differences between MSs in terms of the relative significance of each payment instrument when measured by number of transactions (not shown). While card transactions are the most frequently used instrument in the majority of MS, nine MS see credit transfers representing the most significant share, while in one MS it is direct debits and in another it is e-money transactions. Cheques have gradually become obsolete in most MS but remain very important in a several MS, including three MS with a share of 10% or more in each.

89. Figure 15 depicts the total number of cards issued in the EU. 766 million cards were issued in 2014, which represents an increase of 0.9% compared to the previous year. The evolution of cards issued is of particular interest to the EBA due to the EBA's remit in retail payments, and the continued increase in fraud across the 28 MSs.

90. The ECB's "4th report on card fraud"[20], published in 2015, provides the necessary context, as it compares fraud in different payment channels. Figure 16 shows that, between 2009 and 2013, card-not-present (CNP)[21] fraud has evolved into the most important channel of fraud, whereas ATMs and Point of Sale (POS) terminals have become less important.

Figure 15: Number of debit and credit cards issued in the EU , 2008-2014



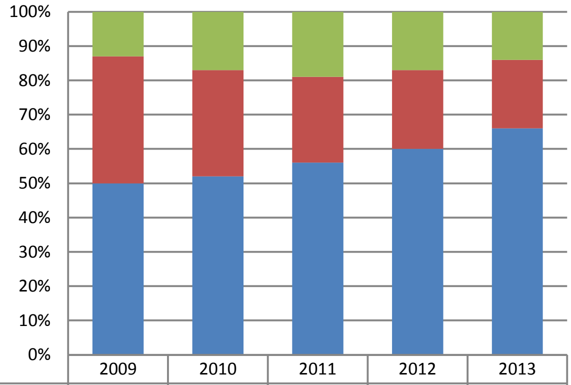
Source: ECB Data Warehouse

91. According to the same ECB's report, the total number fraud cases using cards issued in SEPA amounted to 11.29 million in 2013, which represents an increase by 24.7% compared to the previous year. In comparison, the total number of transactions increased by only 8.3% in 2013. In line with the trends observed for the value of fraud, the relevance of ATMs and POS terminals as channels for fraud has also decreased when looking at fraud volumes. The share of ATM fraud in terms of volume was lower than that in terms of value, owing to the high average values for fraudulent ATM transactions.

[20] https://www.ecb.europa.eu/pub/pdf/other/4th_card_fraud_report.en.pdf
[21] Card-not-present (CNP) is a payment card transaction made where the cardholder is not physically present at the time that an order is given and the payment done, e.g. mail-order, telephone or internet transactions.

Figure 16: Total value of card fraud using cards issued within SEPA, 2009-2014

Source: ECB Fourth report on card frauds



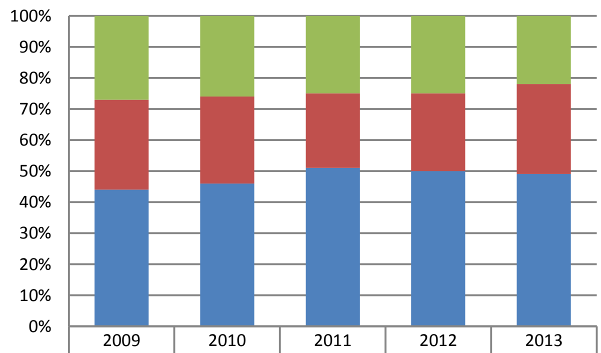
	2009	2010	2011	2012	2013
ATM (automated teller machines)	13	17	19	17	14
POS (point-of-sale)	37	31	25	23	20
CNP (card-non-present)	50	52	56	60	66

92. Domestic transactions accounted for 92% of all transactions, decreasing slightly, compared to cross-border transactions within SEPA which accounted for 6%. Figure 17 depicts the geographical composition (domestic vs. cross-border) of fraud as share of value of transactions, which remained fairly stable between 2009 and 2013. Domestic transactions also accounted for the largest share of fraudulent transactions in 2013 (49%), followed by cross-border fraud within SEPA (29%) and outside SEPA (22%). The share of cross-border fraud within SEPA increased slightly, to the benefit of the other two categories.

93. Compared with 2009, fraud as a share of the total value of transactions from an issuing perspective has diminished for the majority of MSs. 13 MSs have performed better than the average decrease for the Euro area and SEPA, which stood at around 18%. In 2013, card-not-present was the main channel for committing fraud using cards issued in all but one MS.

Figure 17: Domestic and cross-border fraud as a share of value of transactions, 2009/13

Source: ECB Fourth report on card frauds

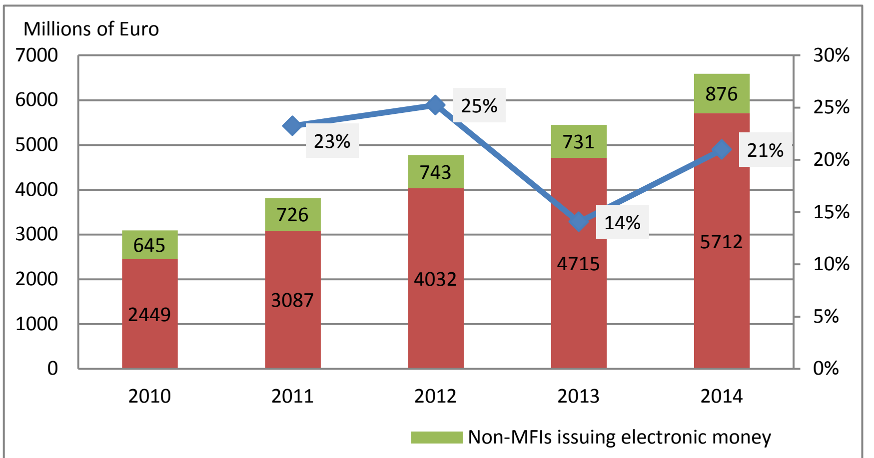


	2009	2010	2011	2012	2013
cross-border acquired outside SEPA	27	26	25	25	22
cross-border within SEPA	29	28	24	25	29
domestic	44	46	51	50	49

94. To address concerns regarding fraud in internet payments in particular, the EBA issued Final Guidelines on the security on internet payments in December 2014.[22] These Guidelines, which were developed jointly by the EBA and the ECB, apply since 1 August 2015 and remain in force until the security requirements under the revised Payment Services Directive (PSD2) will apply from late 2018 onwards. The PSD2 has conferred 11 mandates on the EBA, including six Technical Standards and five sets of Guidelines, which cover a wide range of topics, including a further tightening of security requirements.

95. Another type of payment instrument that falls under EBA's remit is electronic money. In essence, E-money is a digital equivalent of cash, stored on an electronic device or remotely at a server. The total outstanding amount of this payment instrument has increased steadily since 2010, as depicted in figure 18, which differentiates issuance between monetary financial institution (MFI) and Non-MFIs.

Figure 18: Outstanding amounts of e-money, 2010-2014



Source: ECB Data Warehouse

[22] See here: http://www.eba.europa.eu/-/eba-issues-guidelines-to-strengthen-requirements-for-the-security-of-internet-payments-across-the--1

Chapter 3: Actions taken to address issues identified in the previous year

96. In what follows below, this third and final chapter sets out the actions taken by the EBA, and to a lesser extent national competent authorities, to address the issues that had been identified in the 2015 report, which included: indebtedness; transparency and comparability of banking fees; innovation in payments; structured deposits; commercial selling practices; commercial use of banking consumer data; alternative financial services providers; and low interest rates. Some of these actions are already briefly referenced in chapter 1 or 2 but are elaborated upon in greater detail here.

Indebtedness

97. Similar to the topical issues arising from the trends identified in this year's report, last year's report had identified the issue of indebtedness. In order to address the issue, the EBA developed and eventually published, in June 2015, Final Guidelines on credit worthiness assessments, in support of Article 18 and 20(1) of the MCD, which requires MSs to "ensure that, before concluding a credit agreement, the creditor makes a thorough assessment of the consumer's creditworthiness." [23]

98. To that end, the Guidelines establish requirements for verifying consumers' income; documenting and retaining information; identifying and preventing misrepresented information; assessing consumers' ability to meet their obligations under the credit agreement; and considering allowances for consumers' committed and other non-discretionary expenditures, as well as for potential future negative scenarios.

99. In the same month, the EBA also issued Final Guidelines on Arrears and Foreclosure, in support of Article 28 of the MCD, which requires MS to "adopt measures to encourage creditors to exercise reasonable forbearance before foreclosure proceedings are initiated". [24] To that end, the EBA Guidelines establish requirements in terms of policies and procedures for the early detection and handling of payment difficulties including staff training, engagement with consumers, provision of information and assistance to consumers, resolution process and documentation of dealings with consumers and retention of records.

100. Both sets of Guidelines apply since the transposition date of the MCD and, at the time of writing this report, the 28 national competent authorities were in the process of submitting their comply-or-explain notifications to the EBA.

[23] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-creditworthiness-assessment

[24] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-arrears-and-foreclosure

101. MSs, too, took action to address this issue. One CA reported high court decisions in its jurisdiction declaring null and void certain floor-rate clauses in some mortgage contracts, due to lack of transparency in the information that had been provided initially. In another MS, the CA is in the process of developing new regulation that will prohibit any floor-rate clause.

102. With regard to risks stemming from credit products more widely, one MS introduced new legislation to deal with high-cost, short-term credit, which has restricted the use of rollovers and continuous payments. This regulation also requires a risk warning in advertising materials; introduces caps on the cost of the credit; and proposes additional standards for price comparison websites. In other jurisdictions still, CAs introduced specific regulation and legislation to protect borrowers facing or in mortgage arrears. In another MS, the CA is planning to introduce a cooling-off period, i.e. the period to withdraw from the loan agreement, of 48 hours for consumer credits for less than 3 months duration. In order to align with the rights established under the CCD for loans with a repayment period of more than 3 months.

103. These CAs continue to supervise the regulation with recurrent inspections to credit institutions, mainly regarding the resolution of arrears in a timely manner, the transparency of borrower communications, fair process for borrowers in mortgage arrears and the need for process improvement and controls. Particular supervisory powers, including sanctions procedures, redress and compensation schemes for those borrowers, who suffered detriment or loss as a result of poor lender practices, are also being used by CAs.

Transparency and comparability of banking fees

104. In order to address this issue, the EBA delivered, in March 2015, the first of the four mandates conferred on the EBA in the Payment Accounts Directive (PAD). To that end the EBA published Final Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee. [25] The Guidelines are the first step towards developing standardised terminology across the EU and guided CAs in the development of provisional list of the most representative services of a payment account that are subject to a fee and offered by at least one Payment Service Provider in their jurisdiction.

105. The EBA received these lists by 18 September 2015, which will assist the EBA in developing standardised terminology that will be applicable across the EU single market and will be the basis for two new information documents: the pre-contractual Fee Information Document (FID) and the post-contractual Statement of Fees (SoF). At the time of writing this report, the EBA is in the process of developing a consultation paper with draft technical standards on the common terms and definitions and on the FID and SoF. The EBA is planning to issue a

[25] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-standardised-fee-terminology-for-payment-accounts-in-the-eu

consultation paper with draft requirements for these three technical standards later in 2016, and to publish the final requirements in early 2017.

106. In terms of responses by national competent authorities, some CAs already introduced significant measures to allow for comparability of banking fees, such as pre-contractual information requirements. The measures include, in some cases, standardised documents or fee disclosure requirements, such as quarterly notification to supervisory authority of the most common charges and fees applied in the previous quarter; notification to clients of statement of annual fees charged; or a recommendation to define standardised actions to be charged.

107. In one MS, the CA implemented basic current accounts with a minimum range of services provided to consumers and total exemption from fees and charges for low income households. In another MS, amendments to its Basic Bank Account Regime entered into force in 2015, making this regime available to all credit institutions, instead of being available only to those that voluntarily subscribed it. Under this regime, credit institutions cannot charge fees, expenses, and other costs that exceed 1% of the minimum wage set in that MS. Another MS reported that following the national implementation of the PAD, banks are obliged to offer a bank account on credit basis with basic features form June 2016 onwards. This account is accessible to any citizen of the MS including refugees and asylum seekers.

Innovation in payments

108. Innovative payments, such as mobile and fast payments[26], were another consumer trend observed in the Consumer Trends Report 2015, including several security issues that arise for this innovation. The EBA identified and assessed these risks but has decided not to progress this work any further at this stage, due to the pending entry into force of the revised PSD2, the priority the EBA has given to the development of the 11 mandates conferred on the EBA in the Directive, and the currently unknown extent to which the Directive, once it applies from 13 January 2018 onwards, will address the risks the EBA has identified. The EBA will be continuing this work later in 2016.

109. With regard to national initiatives taken, one CA reported that it had carried out an assessment of its authorization and licensing process for payment institutions. Another CA reported that financial education initiatives are being implemented in order to increase users' financial literacy and awareness regarding the risks involved in digital payment transactions.

Structured deposits

110. The EBA has not issued any requirements related to structured deposits since the publication of last year's report. This is partly due to the fact that the transposition date of the Directive

[26] Payment instructions carried out in shorter timing outside the regular payment system, usually with a higher cost for the payer.

that has conferred intervention and market monitoring powers on the EBA was postponed from 3 January 2017 to 3 January 2018, subject to the EU legislators endorsing the move.

111. The product has also dropped in significance in a majority of MS. The few respondents that still refer to it reported that regulatory concerns are related primarily to the lack of transparency of the features and costs of such products. In addressing this issue, some CAs supervise the advertising and pre-contractual information materials from financial institutions for structured deposits, in order to check their compliance with the disclosure rules in place.

Commercial selling practices

112. Last year's report identified commercial selling practices as an issue, and resultant mis-selling across the Union. Amongst of the causal drivers identified were inappropriate sales incentives as well as deficient oversight and governance of financial products by manufacturers and distributors. The EBA took two initiatives to address this issue.

113. In July 2015, the EBA issued Final Guidelines on Product and Oversight Arrangements for retail banking products.[27] The Guidelines provide a framework for robust and responsible product design and distribution by manufacturers and distributors. The first part of the Guidelines consists of requirements for manufacturers with regard to their internal control functions; the identification of the target market; product testing; disclosure; product monitoring, remedial actions, and distribution channels.

114. The second part consists of requirements for distributors related to the distributor's governance; the identification and knowledge of the target market; and information requirements. The Guidelines will apply from 3 January 2017 and, at the time of writing this report, national authorities were in the process of submitting their comply-or-explain notifications.

115. Furthermore, the EBA published, in December 2015, a Consultation Paper on remuneration policies and practices for sales staff.[28] The draft Guidelines apply to remuneration paid to staff employed by credit institutions, creditors, credit intermediaries, payment institutions and electronic money institutions, when providing deposits, payment accounts, payment services, electronic money, mortgages, and other forms of credit to consumers.

116. The Guidelines provide a framework for financial institutions to implement remuneration policies and practices that will improve links between incentives and the fair treatment of consumers, thus reducing the risk of mis-selling and related conduct costs for firms. They do so by requiring that the management body is responsible for the design and monitoring of remuneration policies and practices, which should take into account the rights and interests

[27] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-product-oversight-and-governance-arrangements-for-retail-banking-products

[28] See http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-remuneration-policies-for-sales-staff

of consumers; that conflicts of interests are to be prevented; that quantitative and qualitative criteria are used for determining the level of variable remuneration; and that documents are to be retained for auditing purposes. At the time of writing the report, the EBA is assessing the responses it has received, with a view to publishing the Final Guidelines later in 2016.

117. MS and CAs also implemented measures to address issues arising from commercial practices, which include the following:

- requirements aimed specifically at bundling and contingent selling, by specifying that regulated entities must not make the sale of a product or service contingent on the consumer purchasing another product or service;

- public statements addressed to insurance firms, banks and other financial intermediaries in relation to the distribution of credit protection insurance;

- publication of best practices regarding repayment instalments for credit card balances;

- thematic reviews into how payday lenders treat customers in arrears, about the quality of advice by debt management firms, and into early arrears management in unsecured lending;

- requirements that stipulate that all forms of marketing and advertising of credit products by financial institutions have to promote responsible borrowing; the monitoring and assessing of the criteria used by providers for combining various services in a package as well as the appropriateness of the methodology used for defining fees;

- the implementation of rules that impose a disclosure of the sum and/or calculation method of fees that must be paid for advice, before the actual advice is provided;

- specific requirements for both sales incentives and performance management, which set out how financial institutions should design and monitor appropriate pay and performance systems in order to ensure positive consumer outcomes;

- themed inspections to gauge the extent to which the design, management and operation of incentive arrangements in the industry were in the best interests of consumers. The inspection found failures by financial institutions to recognise and mitigate the inherent risks in remuneration arrangements, including excessive emphasis on rewarding sales volumes above suitable consumer outcomes.

Innovative uses of consumer data

118. In the previous year's edition of the report, the EBA raised concerns about how data is used by financial institutions as an additional source of revenue, and how this might affect consumers. In order to be able to make a well-informed decision about which, if any, action the EBA should take, the EBA issued, in April 2016, a Discussion Paper on the innovative use of consumer data.[29]. The Discussion Paper states that financial institutions have always used the data that consumers provide but that, in recent years, the EBA has noticed that some financial institutions have started using such data in innovative ways. They have done so across the EBA's regulatory remit comprising mortgages, personal loans, payment accounts, payment services, and electronic money. Also, new entrants in the market, such as 'FinTech' or large digital companies, have been seen to use consumer data in a way that may change the way the market will evolve in the coming years.

119. Payment data, among other types of consumer data, is of particular interest to the EBA because consumers engage in payment transactions often, and do so each time they pay for the purchase of products and services through their payment accounts or payment cards. Unlike other, one-off types of data provided by consumers, payments data therefore provides financial institutions with a continuous insight into consumers' purchasing habits and preferences.

120. This Discussion Paper identifies the risks and potential benefits of innovative uses of data to consumers, financial institutions, and financial integrity more widely. The EBA hopes that the responses to the Discussion Paper will allow it to make a better informed decision on what, if any, regulatory and/or supervisory actions are needed to ensure that the regulatory framework mitigates the risks while also allowing market participants to harness the benefits from this innovation. The EBA welcomes responses until 4 August 2016.

Alternative financial services providers

121. In February 2015, the EBA issued an Opinion on lending-based crowdfunding, to convey its views on one particular alternative source of financial services.[30] Crowdfunding as an innovative service is not regulated by any EU Directive or Regulation, and can therefore also not fall into the EBA's scope of action. The EBA was therefore not in a position to develop requirements addressed to financial institutions, if it had so wished.

122. Instead, the Opinion was addressed to the EU Commission, Parliament and Council, and concluded that, in order to ensure that all participants can have confidence in this innovative phenomenon, convergence of the regulatory and supervisory practices of crowdfunding across the EU is desirable. This is so not only to avoid regulatory arbitrage, but also to ensure a level-playing field for all participants across the EU Single Market.

[29] See http://www.eba.europa.eu/documents/10180/1455508/EBA-DP-2016-01+DP+on+innovative+uses+of+consumer+data+by+financial+institutions.pdf

[30] Seehttp://www.eba.europa.eu/documents/10180/983359/EBA-Op-2015-03+%28EBA+Opinion+on+lending+based+Crowdfunding%29.pdf

123. In the Opinion, the EBA explained that, in order to address some of the risks arising from this phenomenon, the EU legislators should consider clarifying the applicability of existing EU law, such as the Payment Services Directive. Since then, in September 2015, the Commission has published its *Action Plan on Building a Capital Markets Union*, which makes reference to crowdfunding as a potential contribution to the objectives of its Action Plan.[31]

Interest rates

124. The topic of interest rates was identified in last year's report particularly in the context of low interest rates, but also in the context of variable interest rates and how these rates are calculated, which is often not understood by the consumer.

125. With regard to variable rates, the MCD introduces, in Article 24, provisions to ensure that when variable rates are used, any indexes or reference rates used to calculate the borrowing rate are clear, accessible, objective and verifiable by the parties to the credit agreement and the competent authorities; and historical records of indexes for calculating the borrowing rates are maintained either by the providers of these indexes or the creditors. The EBA Guidelines on creditworthiness assessment, published to support CAs in the transposition of the MCD, include a requirement for creditors, when assessing the consumer's ability to meet obligations under the credit agreement, to make prudent allowances for potential negative scenarios in the future, including for an increase in benchmark interest rates in the case of variable rate mortgages.

126. National authorities have also been active in respect of this issue and some reported the introduction of requirements that oblige banks to inform clients before they enter into a loan contract about the risks of interest rates rises and their impact on monthly repayments.

[31] See http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-action-plan_en.pdf

Annex: Data sources, their methodologies and definitions

Lending for house purchase and credit for consumption

Source: Data Warehouse from ECB.

Geographical coverage: EU 28 countries.

Data refers to households and non-profit institutions serving households.

Deposits/savings accounts

Source: Data Warehouse from ECB.

Geographical coverage: 27 countries - Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom. Data from Denmark not included (no disaggregated data provided).

Population

Source: The World Bank

Geographical coverage: EU 28 countries.

Total population is based on the de facto definition of population, which counts all residents regardless of legal status or citizenship-except for refugees not permanently settled in the country of asylum, who are generally considered part of the population of their country of origin. The values are midyear estimates.

Banked population

Source: The World Bank - Global Findex (Global Financial Inclusion Database)

Geographical coverage: EU 28 countries.

The account ownership denotes the percentage of respondents who report having an account (by themselves or together with someone else). For 2011, this can be an account at a bank or another type of financial institution, and for 2014 this can be a mobile account as well (see year-specific definitions for details) (% age 15+).

Cards and other payment instruments

Source: Data Warehouse from ECB.

Geographical coverage: 27 countries – Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom; Data from Croatia included since 2013 (no data provided for previous periods)..

Source: ECB Fourth report on card frauds.

Geographical coverage: EU 28 countries.

Gross Domestic Product (GDP)

Source: Eurostat

Geographical coverage: EU 28 countries.

Eurostat definition: “GDP (gross domestic product) is an indicator for a nation´s economic situation. It reflects the total value of all goods and services produced less the value of goods and services used for intermediate consumption in their production.”

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