by

to the European Banking Authority consultation paper

**Introduction**

1. The CML is the representative trade body for the residential mortgage lender industry that includes banks, building societies and specialist lenders. Our 125 members currently hold around 95% of the assets of the UK mortgage market. In addition to lending for home-ownership, the CML members also lend to support the social housing and private rental markets.
2. We welcome the opportunity to respond to the European Banking Authority’s (EBA) consultation on guidelines for the Mortgage Credit Directive’s (MCD) creditworthiness assessment, EBA/CP/2014/42 [*Draft guidelines on creditworthiness assessment*](https://www.eba.europa.eu/documents/10180/926843/EBA-CP-2014-42%2B%28CP%2Bon%2BGLs%2Bon%2Bcreditworthiness%29.pdf).
3. We have some general comments as well as specific comments on the guidelines and the implementation timetable. Our response only relates to a handful of aspects of the EBA’s consultation so we have chosen to give our comments under these headings.
4. We are happy for the EBA to make our response publicly available.

**General comments**

1. Mortgage lenders in the UK already do detailed assessments of customers’ ability to afford their mortgage. We believe this helps ensure good outcomes for customers, helping to ensure they can meet their terms and conditions of their loan.
2. We would have preferred there were no further consultations on the MCD following the publication of the MCD itself on 4 February 2014. The UK has already begun implementing the MCD. Further European publications are not only disruptive to firms’ implementation projects. Further publications also create uncertainty about further supplementation to the MCD adopted on 4 February 2014.

**Comments on the guidelines**

1. We recommend the EBA keeps its guidelines at a high level and does not provide additional detail. This will allow member states to implement the guidelines in a way that suits their national markets. We note the Financial Stability Board (FSB) took this approach in its [*FSB Principles for Sound Residential Mortgage Underwriting Practices*](http://www.financialstabilityboard.org/wp-content/uploads/r_120418.pdf?page_moved=1).
2. The EBA can ensure such flexibility for member states by not developing its guidelines with examples. We recommend the removal of statements that follow the sentence that begins, “The factors may include…” in guideline 4.3 and “…including for example…” in guideline 6.1. The UK already meets these guidelines and we do not believe there is a need for further guidance.
3. We have some comments in specific areas.

*Identification of groups of loans with higher risk profiles*

1. We are very concerned about guideline 7.1. This guideline is more prudential rather than conduct regulation and firms are likely to be dealing with their approach to such loans through their credit risk policies rather than their responsible lending policies.
2. This guideline also appears to duplicate work the FSB has already done in this area. Principle 7.2 of the FSB document above is almost identical to the EBA’s guideline 7.1. We consider the FSB principles are already well established and that it is unnecessary for the EBA to make provisions in this area.
3. We strongly recommend the EBA removes guideline 7.1 to avoid blurring of the distinction between conduct regulation and prudential regulation and to prevent duplication of existing work in this area.

*Assessment of the customer’s ability to meet his or her obligations under the credit agreement*

1. We recommend the EBA removes the reference to “normal” in guideline 4.4 regarding what firms should do where loans extend beyond retirement. We think this change removes any uncertainty about a normal retirement age. It also ensures member states can make provisions according to local characteristics. Retirement ages will vary by member state, for example.

*Additional requirements*

1. We do not believe any further requirements are necessary.

**Implementation timetable**

1. The timetable for implementation of these guidelines is potentially very challenging given the steps that will be required. This would be challenging at any time but firms will need to make such changes alongside those they already have to make for the MCD.
2. Overall we estimate this process is likely to take several months. The EBA will need to evaluate consultation responses and then the UK’s regulator, the FCA, will need to consider its course of action and, potentially, to consult on and make changes to its rules. Even if this were complete by autumn 2015, it will be extremely challenging for firms to make last-minute amendments to the swathe of systems changes needed for the MCD.
3. The timetable to implement the MCD is already very challenging. We recommend the EBA reconsiders the timetable and allows member states longer to implement these rules. We also encourage the EBA to take the steps recommended herein to minimise the impact of any change on firms.

**Contact**

1. We have prepared this response with our members. Please contact Andrew MacLachlan (andrew.maclachlan@cml.org.uk) with any questions or comments.