



## ACCIS Association of Consumer Credit Information Suppliers

### ACCIS Response to Financial Services User Group (FSUG) Position Paper on the London Economics Study on Means to Protect Consumers in Financial Difficulty

In March 2013 the Financial Services User Group (FSUG) published a position paper on a Study by the London Economics on the means to protect consumers in financial difficulty, where it presented a set of recommendations for future EU policy measures to protect consumers and reduce over-indebtedness.

ACCIS acknowledges the importance of the ongoing policy debate on over-indebtedness and protection of consumers in financial difficulty and welcomes the FSUG contribution to this debate. ACCIS and its members are fully aware of the acute personal difficulties that consumers can suffer as a result of indebtedness, and support the view that measures should be taken to help prevent and/or reduce such difficulties. ACCIS also notes the ongoing study on the over-indebtedness of European households conducted by Civic Consulting for the European Commission (Directorate-General for Health and Consumers), which we understand is expected to be published before the end of 2013.

ACCIS would like to comment on the FSUG position paper and present its views on the future policy measures addressing over-indebtedness proposed. The key comments are the following:

1. **ACCIS supports the FSUG recommendation that the legal regime addressing over-indebtedness and protecting consumers in financial distress should address all stages of financial difficulty. Particular attention should be paid to the important role that can be played by credit bureaus in preventing over-indebtedness at the inception of the relationship between creditor and borrower and at all other stages of financial difficulty identified by the FSUG.**
2. **Relevant, accurate, timely and sufficient information plays a central role in preventing over-indebtedness and supporting the overall functioning of the credit market.**
3. **Credit bureaus are a crucial source of objective information and therefore play an important role in preventing over-indebtedness.**
4. **Recent EU legislation rightly recognises the importance of creditworthiness assessments and access to credit information. Further improvements, however, could be made by promoting the use of credit bureaus, increasing the availability of relevant credit information and by ensuring that the information used in creditworthiness assessments is as complete as possible.**



**5. It is important to ensure that the European and national data protection and privacy rules do not excessively restrict the availability of credit information and its use in reducing over-indebtedness.**

1. ACCIS supports the FSUG recommendation that future policy measures should address not only the consequences, but also the causes of financial difficulties and should include tools to prevent individuals from getting into financial difficulties.

The principle that prevention is better than the cure is shared by industry and policy makers alike and should continue to be the guiding principle of any policy aiming to protect consumers in financial markets. As noted, however, in the preliminary report on the over-indebtedness of European households presented by Civic Consulting in January 2013<sup>1</sup>, measures to identify households at risk of becoming over-indebted at an early stage are only common in *some* Member States.

Therefore, ACCIS strongly believes that **pre-emption of financial distress should be the key focus of future EU policy measures** seeking to protect consumers in financial difficulty and reduce over-indebtedness.

2. Information plays a central role in the prevention of over-indebtedness as well as in supporting the overall functioning of the credit market.

When a lender has to decide whether to grant credit, a complete picture of an individual's financial situation and outstanding debt obligations is necessary. In order for a creditworthiness evaluation to be meaningful and perform its role of preventing irresponsible lending and borrowing, **the information available to lenders has to be reliable and of sufficient depth and breadth**. The information has to fully reflect the indebtedness of the borrower and the likelihood that he will repay the loan.

A lender can only make a well-informed lending decision based on a complete picture of the borrower's financial situation and credit performance. Making information, that is as accurate and complete as possible, available to lenders reduces information asymmetries and helps to prevent the borrowers from concealing their financial obligations, whether intentionally or unintentionally.

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<sup>1</sup> Civic Consulting, The Over-indebtedness of European Households: Updated Mapping of the Situation, Nature and Causes, Effects and Initiatives for Alleviating Its Impact, Summary Report for Stakeholder Workshop, January 2013. Available at: <http://www.bristol.ac.uk/geography/research/pfrc/news/pfrc1301.pdf>.



Therefore, complete and reliable credit information not only contributes to preventing over-indebtedness, but also helps to reduce the costs of borrowing to consumers.

3. **Credit bureaus are already playing and will continue to play an increasingly crucial role to support lenders and borrowers by helping them to lend and borrow responsibly.** Availability of credit information is important for credit bureaus' credit scoring activities, which contribute to preventing over-indebtedness and improving the functioning of the credit market. In particular, credit scoring allows lenders to treat borrowers fairly and objectively. It reduces the potential for discrimination to be introduced to the credit granting process by individuals, by performing an objective statistical assessment of the value of certain data items against a given outcome. In the case of credit underwriting, where large amounts of information (sometimes conflicting) is available, it enables that information to be fairly and consistently weighted and assessed. Therefore, credit scoring is fundamental for the objective evaluation of separate pieces of information (even of a contradictory nature), supporting the creditworthiness evaluator to take the final decision based on qualitative elements and internal lending policies. **To work well, credit scoring needs sufficient depth and breadth of information.**

The role of credit bureaus in supporting the functioning of the credit market has been stressed by the World Bank in its report "General Principles for Credit Reporting" published in September 2011<sup>2</sup>. According to the report, credit reporting systems reduce information asymmetries and are therefore an effective tool for preventing irresponsible borrowing and lending. Credit reporting systems enable creditors to better predict future repayment prospects based on a debtor's past and current payment behaviour and level of indebtedness. They also serve to discipline debtors' behaviour: debtors are motivated to maintain good credit histories by paying down debts as they fall due in order to benefit from the most favourable credit terms in the future.

As regards the data that should be available to credit bureaus, World Bank's General Principle 1 states as follows: *"Credit reporting systems should have accurate, timely and sufficient data - including positive - collected on a systematic basis from all relevant and available sources, and should retain this information for a sufficient amount of time."*

The importance of credit reporting systems in preventing over-indebtedness was also recognised by the Financial Stability Board in its report on consumer finance protection published in October 2011<sup>3</sup>.

<sup>2</sup>World Bank, General Principles of Credit Reporting, September 2011, available at: [http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Credit\\_Reporting\\_text.pdf](http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Credit_Reporting_text.pdf).

<sup>3</sup>Financial Stability Board, Consumer Finance Protection, October 2011, available at: [http://www.financialstabilityboard.org/publications/r\\_111026a.pdf](http://www.financialstabilityboard.org/publications/r_111026a.pdf)



4. The role of credit bureaus must be recognised in the policy debate on over-indebtedness. **Recent EU legislation in the field of consumer and mortgage credit rightly stresses the importance of creditworthiness assessments and ensuring full and non-discriminatory access to credit databases. Future policy measures could further improve the effectiveness of creditworthiness assessments and the quality of the available credit information by promoting the use of credit bureaus and by ensuring that the information used in creditworthiness assessments is as complete as possible.**

ACCIS welcomes the inclusion, in the recent proposal for an EU Mortgage Credit Directive, of a provision requiring the performance of a thorough creditworthiness assessment (Article 14 of the draft Directive). A similar provision is included in Article 8 of the Consumer Credit Directive. To be complete, such an assessment should take account of as much relevant information as possible and should include both negative and positive information about the creditworthiness of a consumer. Importantly, creditworthiness assessments should include not only an assessment of the borrower's financial ability to repay the debt (i.e. affordability), but also the likelihood that he will be willing to do so and will not delay the payments or seek to avoid them. Data from credit bureaus can be essential in both these assessments, subject to sufficient data being available.

It is also a welcome development that the EU legislator recognises the importance of access to credit databases and requires Member States to ensure such access by creditors to all the databases in their territory (Article 16 of the draft Mortgage Credit Directive and article 19 of the Consumer Credit Directive). However, ACCIS believes that in order to fully reap the benefits of consulting credit bureaus and relevant scoring, further steps are needed. Consulting credit databases should become the standard practice in credit assessment across the EU and should be performed in a manner leveraging the knowledge and experience which have been established to date. Best practices on the use of credit databases should be developed and shared between the industry and policy makers in all EU Member States, with the focus on promoting wide access to credit databases. At the EU level, the process of developing the best practices would benefit from coordination by the European Commission.

**Credit databases should be consulted both prior to granting a loan and on a regular basis over the lifetime of the loan.** This would improve the quality and completeness of creditworthiness assessments and ensure that all available information relevant for a credit decision is considered. Regular consulting of the databases during the lifetime of the loan would help to detect the changes in a borrower's situation. This would enable the parties to address any problems at an early stage and to prevent further deterioration of the borrower's financial situation.



Finally, it is important to address the issue of the availability of credit data, ensuring that both positive and negative data is made available to creditors in making their lending decisions. Without full credit data sharing, responsible lending and borrowing cannot be fully achieved. Therefore, the future policy measures to reduce over-indebtedness and protect consumers in financial difficulty should include tools to enhance the availability of credit information. At present, inconsistent approaches in different Member States mean, in particular, that the positive data which is so important in determining and verifying the extent of a consumer's existing credit commitments at the time of application, and thus helping to assess affordability, is not uniformly available to credit bureaus across the EU.

In particular, the tools to enhance the availability of credit information should address two important aspects: **the breadth and depth of data** available to creditors.

As regards the breadth of data, creditors should have access to, and be encouraged to consult in their credit assessment, the widest possible data relevant for a lending decision, including both negative and positive information about a borrower's credit history, as well as non-traditional data (e.g. the records of utility bills or rent payments).

The depth of information refers to the retention time of the information, which needs to be sufficiently large to enable a meaningful credit assessment of a borrower. The standards on the depth and breadth of the available credit information should be promoted through best practices and self-regulatory measures from the industry, validated at the EU level, or through recommendations by the European Commission. Such standards should also take into account the requirements established in the EU banking legislation (CRD IV legislative package)<sup>4</sup> concerning the depth of data, as well as the approach taken by the Member States' banking regulators concerning the information provided by credit bureaus<sup>5</sup>.

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<sup>4</sup> Paragraph (h) of Article 176(1) of EU Regulation No 75/2013 on Prudential Requirements for Credit Institutions and Investment Firms provides as follows: "irrespective of whether an institution is using external, internal, or pooled data sources, or a combination of the three, for its probability of default estimation, the length of the underlying historical observation period used shall be at least five years for at least one source. If the available observation period spans a longer period for any source, and this data is relevant, this longer period shall be used."

<sup>5</sup> For example, the Spanish Central Bank (Banco de España), in its Circular 1/2013, published in the Spanish Official Bulletin on 31 May 2013, stresses that the activity of credit bureaus in providing credit information is complementary to the information provided by the Central Bank, and that lenders should be take this activity into account when granting a credit. According to the Circular, for the information provided by credit bureaus to be useful, it should contain both negative information (information about failures to pay), as well as positive information (data on the indebtedness of the borrower).



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- 5. It is also important that neither the depth and breadth of the available information, nor the ability of lenders, credit bureaus and others to make use of it to prevent over-indebtedness, is excessively restricted by other European and national legislation, such as data protection and privacy rules.** The interaction between the collection and use of personal data by credit bureaus on the one hand, and the interpretation and development of privacy legislation on the other hand, is an important feature of this debate.

In order to play the fullest part in the prevention and alleviation of the effects of over-indebtedness, credit bureaus need to hold significant amounts of personal data. ACCIS also recognises the need for extensive and effective privacy protection for consumers as subjects of these data. Such protection may be very specific to data held by credit bureaus, and can include enhanced rights in relation to access to data by data subjects, specific rights to challenge data and (where necessary) have it corrected, and additional notification and transparency provisions. These and other protection methods all exist in relation to credit bureaus in various Member States, and ACCIS is firmly of the opinion that proportionate privacy protection and the holding of sufficient data by credit bureaus can co-exist comfortably.

It is, however, essential that the new and general EU Data Protection Regulation, currently discussed in the European Parliament and the Council, which is aimed (in ACCIS's opinion) at other sectors, does not have unintended negative effects on credit bureaus. In particular, it is crucial to ensure that the proposed rules regarding the legal basis for processing personal data, consent requirements, automated profiling, data minimisation, the right to be forgotten and data portability, do not have the unintended and potentially very serious consequence of reducing the depth and breadth of data available to be deployed in the fight against over-indebtedness. Whilst ACCIS fully supports the principle that consumers should have strong privacy protection in the digital age, we would suggest that in some Member States privacy considerations feature too prominently in the debate over credit data sharing, particularly in relation to positive data. We believe that a balanced approach is necessary: if satisfactory answers can be found to privacy questions, then consumers should be offered the protection and benefits in relation to over-indebtedness that full data sharing can bring.