

EBA/GL/2015/11

19.08.2015

EBA Guidelines

on creditworthiness assessment

Section 1 – Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010¹. In accordance with Article 16(3) of Regulation No 1093/2010, the competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 19.10.2015. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website to compliance@eba.europa.eu with the reference 'EBA/GL/2015/11'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p.12).

Section 2 – Subject matter, scope and definitions

Subject matter and scope of application

5. These guidelines provide further detail on requirements set out in Articles 18 and 20 (1) of Directive 2014/17/EU² to assess the consumer's creditworthiness in respect of credit agreements which fall under the scope of Article 3 of Directive 2014/17/EU.

Addressees

Addressees of these Guidelines

6. The guidelines are addressed to:
 - a. competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 (EBA authority) which are also competent authorities as defined in point (22) of Article 4 of Directive 2014/17/EU. They apply to the extent that those authorities have been designated as competent for ensuring the application and enforcement of those provisions of Directive 2014/17/EU to which these guidelines relate; and
 - b. are also addressed to financial institutions as defined in Article 4(1) of Regulation (EU) No 1093/2010 which are creditors as defined in point (2) of Article 4 of Directive 2014/17/EU.

Addressees of information requirements

7. Irrespective of whether or not an EBA authority is addressed under paragraph 6(a), where a Member State has designated more than one authority in accordance with Article 5 of Directive 2014/17/EU and one of them is not an EBA authority, the EBA authority designated under that Article should, without prejudice to national arrangements adopted under Article 5 (3) MCD:
 - a. inform without delay the other designated authority of these guidelines and their date of application;
 - b. ask that authority in writing to consider applying the guidelines;

² Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.02.2014, p.34).

- c. ask that authority in writing to inform either the EBA or the EBA authority within two months of the notification under subparagraph (a) whether it applies or intends to apply these guidelines; and
- d. where applicable, forward without delay to the EBA the information received under subparagraph (c).

Definitions

8. Unless otherwise specified, terms used and defined in Directive 2014/17/EU have the same meaning in the guidelines. In addition, for the purposes of these guidelines, the following definition applies:

Balloon payment: the remaining amount of principal that becomes due and payable on the final instalment payment for a loan that is not fully amortised.

Outsourcing

9. In the case where the activity of the creditor is in whole or in part outsourced to third parties, or carried out by another entity in other ways, creditors should ensure that, in doing so, that they comply with the requirements established in the CEBS Guidelines on outsourcing³. This includes, in particular, CEBS Guideline 2, which provides that ‘the ultimate responsibility for the proper management of the risks associated with outsourcing or the outsourced activities lies with an outsourcing institution’s senior management’.

Section 3 – Implementation

Date of application

10. These guidelines apply from 21 March 2016, except that the information requirements referred to in paragraph 7 apply from [publication date in the official languages + 1 day].

³ See CEBS (2006), *Guidelines on outsourcing*, at <https://www.eba.europa.eu/documents/10180/104404/GL02OutsourcingGuidelines.pdf.pdf>

Section 4 – Requirements regarding creditworthiness assessment

Guideline 1: Verification of the consumer's income

- 1.1 When verifying a consumer's prospect to meet his/her obligation under the credit agreement as referred to in Article 18 of Directive 2014/17/EU, the creditor should make reasonable enquiries and take reasonable steps to verify the consumer's underlying income capacity, the consumer's income history and any variability over time.
- 1.2 In the case of consumers that are self-employed or have seasonal or other irregular income, the creditor should make reasonable enquiries and take reasonable steps to verify information that is related to the consumer's ability to meet his/her obligations under the credit agreement, including profit capacity and third-party verification documenting such income.

Guideline 2: Documentation and retention of information

- 2.1 The creditor should maintain complete documentation of the information that leads to mortgage approval, and maintain this documentation for at least the duration of the credit agreement.
- 2.2 The creditor should ensure that a record with an adequate explanation of the steps taken to verify income is readily available for competent authorities. The record should at least document the income history collected for each applicant.

Guideline 3: Identification and prevention of misrepresented information

- 3.1 To reliably carry out creditworthiness assessments, the creditor should design loan documentation in a way that helps to identify and to prevent misrepresentation of information by the consumer, the creditor, or a credit intermediary.

Guideline 4: Assessment of the consumer's ability to meet his/her obligations under the credit agreement

- 4.1 When assessing the consumer's ability to meet his/her obligations under the credit agreement, the creditor should take into account relevant factors that could influence the consumer's ability to meet his/her obligations and without inducing undue hardship and

over-indebtedness. The factors may include other servicing obligations, their interest rates, and the outstanding principal on such debt; evidence of any missed payments; as well as directly relevant taxes and insurance, where known.

- 4.2 The creditor should establish sound processes to assess the consumer's ability to meet obligations under the credit agreement and maintain up-to-date records of those procedures. The creditor should review these processes at regular intervals.
- 4.3 If the loan term extends past the consumer's expected retirement age, the creditor should take appropriate account of the adequacy of the consumer's likely income and ability to continue to meet obligations under the credit agreement in retirement.
- 4.4 The creditor should ensure that the consumer's ability to meet obligations under the credit agreement is not based on the expected significant increase in the consumer's income unless the documentation provides sufficient evidence.

Guideline 5: Allowance for the consumer's committed and other non-discretionary expenditures

- 5.1 When assessing the consumer's ability to meet obligations under the credit agreement, the creditor should make reasonable allowances for committed and other non-discretionary expenditures, such as the consumer's actual obligations, including appropriate substantiation and consideration of the living expenses of the consumer.

Guideline 6: Allowance for potential future negative scenarios

- 6.1 When assessing the consumer's ability to meet obligations under the credit agreement, the creditor should make prudent allowances for potential negative scenarios in the future, including for example, a reduced income in retirement; an increase in benchmark interest rates in the case of variable rate mortgages; negative amortisation; balloon payments, or deferred payments of principal or interest.