



EBA CONSUMER TRENDS REPORT 2015

EBA

EUROPEAN
BANKING
AUTHORITY

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Abbreviations

BSG	Banking Stakeholder Group
CARRPD	Directive on Credit Agreements Relating to Residential Property
EBA	European Banking Authority
EC	European Commission
ECB	European Central Bank
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
ESA	European Supervisory Authority
ESMA	European Securities and Markets Authority
EU	European Union
GDP	Gross Domestic Product
ITS	Implementing Technical Standard
JC	Joint Committee (of the three ESAs)
MCD	Mortgage Credit Directive
NSA	National Supervisory Authority
PAD	Payment Accounts Directive
PII	Professional Indemnity Insurance
POG	Product Oversight and Governance
PSD	Payment Services Directive
RTS	Regulatory Technical Standard

Executive Summary

One of the tasks of 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 under 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) and electronic money.

In order to identify and assess the trends for these product categories, a number of different sources for data and information were used, including national supervisory authorities (NSAs) in the 28 EU Member States (MS); the EBA's Banking Stakeholder Group (BSG); national ombudsmen across the European Economic Area (EEA), via the Financial Dispute Resolution Network (FIN-NET), as well as statistical datasets and reports produced by independent research institutes and other organisations.

Eight relevant trends have emerged that may form the basis for potential future work:

- i. *Household indebtedness*, with a specific focus on mortgages as households across the EU are exposed to increasing amounts of debt;
- ii. *Transparency and comparability of banking fees*, as banking fees are one of the main sources of consumer complaints in the banking sector;
- iii. *Innovation in payments*, and concerns about the most appropriate trade-off between convenience, efficiency and security;
- iv. *Structured deposits*, as the low interest-rate environment incentivises an increasing number of consumers to search for higher-yield products;
- v. *Commercial selling practices*, and remuneration in particular, as key causal driver of mis-selling;
- vi. *The use of banking consumer data*, which is increasingly used by financial and other institutions to generate additional revenue;
- vii. *Alternative financial services providers*, as an increasing number of new actors are entering the market to support, or compete with, incumbent providers; and finally
- viii. *Interest rates* and their effects on consumer contracts, both on deposits and loans.

The EBA has already started to address some of the trends and issues identified in this report, and it will use the findings to provide further detail on its work programme for 2016, which will be published in autumn 2015.

Background

1. One of the tasks of 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, March 2013 and February 2014.² Each annual report sets out the trends that the EBA has observed identifies the consumer issues that may arise, or have arisen, from these trends, and describes the approach the EBA will be taking to address them. In addition, the report provides a description of relevant actions taken by competent authorities to address those issues.
2. The market segments of relevance to the EBA comprise the 'pure' retail banking products that fall under the mandate and scope of action of the EBA's consumer protection and financial innovation work. These include mortgages, personal loans, deposits (including structured deposits), payment accounts, payment services (including debit/credit cards) and electronic money.
3. Similar to the 2014 edition, the 2015 edition of the Consumer Trends Report is primarily based on the consumer protection priorities identified by NSAs in the 28 EU MS. In addition, the EBA analysed statistical datasets and reports produced by independent research institutes and other organisations on the market trends across several categories of financial services. 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 in 2015. Finally, the EBA received input from national ombudsmen across the EEA, via the Financial Dispute Resolution Network (FIN-NET) as well as complaints data on banking products received from both NSAs and FIN-NET members.
4. The trends and topics that have emerged from the resultant analysis are described in this report, which presents a selection of the data received and also explains the measures in the 2015/2016 EBA work programme to address them.
5. This year's edition is split into three main sections. This report begins by listing the topics identified in 2014 and a description of the steps the EBA has taken to address them.
6. The second section addresses the retail banking products under the EBA's scope of action. The EBA will retain this section and these topics therein throughout future editions of the Consumer Trends Report, as they constitute the core products and services that are subject

¹ See EBA Regulation at <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>, <http://www.eba.europa.eu/-/eba-publishes-consumer-trends-report>, and <http://www.eba.europa.eu/documents/10180/534414/EBA+Consumer+Trends+Report+2014.pdf>

to continuous monitoring by the EBA, i.e. mortgages, deposits, accounts, payment services etc. The third section refers to more topical issues that also fall under the EBA's scope of action and which were identified from the sources referred to above. Future editions may see the topics in this section change over time, in line with the input received from the different sources consulted by the EBA.

Topics identified in 2014, and actions taken since then

7. The topics identified in the Consumer Trends Report 2014 were the following:
- Household borrowing;
 - Bank account switching and fees;
 - Traditional payment methods such as cash, debit and credit cards, cheques, bank transfers;
 - Non-traditional payment methods, such as mobile payments and e-wallets;
 - Virtual currencies;
 - Crowdfunding;
 - Mis-selling of products;
 - Comparison websites; and
 - Financial literacy.
8. The following paragraphs describe actions taken by the EBA, as well as by NSAs and other relevant institutions on these topics. The list of measures taken by the National Competent Authorities (NCAs) included in the report is not an exhaustive one, as it includes a subset of the most common measures or refers to significant actions taken.

Household borrowing

9. As in previous years, the topic of household borrowing remained relevant in 2013 with the effects of the global crisis continuing to give rise to key consumer protection concerns, such as high indebtedness, excessive fees and interest rate evolution and effects, responsible lending, and poor treatment of consumers in mortgage arrears and foreclosure. While the EBA has a wide remit over mortgages, the EBA can only become active in respect of credit (including consumer credit) that is provided by credit institutions, as the Consumer Credit Directive does not fall under its scope of action.
10. The EBA continued its work on the topic of mortgages, more particularly following the mandates under the Mortgage Credit Directive (MCD). To that end, the EBA finalised its work on the Minimum Amount of Professional Indemnity Insurance (PII) for mortgage intermediaries. In June 2014, the EBA published final Regulatory Technical Standards (RTS) on the minimum monetary amount of PII or comparable guarantee for mortgage credit intermediaries. This specifies an amount for each individual claim (EUR 460 000) and an aggregate amount per calendar year for all claims (EUR 750 000). The technical standards were adopted and published in the Official Journal of the EU on 19 September 2014.

11. In addition, the EBA published two consultation papers in November 2014 on draft Guidelines on creditworthiness assessments and on arrears and foreclosure. The draft Guidelines were issued to support the transposition of Articles 18, 20 and 28 of the MCD, and provide greater detail on how creditors should give effect to aspects of these articles. At the time of writing this report, the responses to the consultations were still being assessed by the EBA. As and when any final Guidelines are published by the EBA, they would be intended to be applicable from the transposition date of the MCD on 21 March 2016. The remaining good practices are retained, as a further support and reference point for competent authorities, in a revised EBA Opinion on good practices for mortgage creditworthiness assessments and arrears and foreclosure, including expected mortgage payment difficulties.
12. In addition, some national authorities introduced amendments to national legislation in order to increase consumer protection in relation to contract clauses. In one case, there is now a cap on the Annual Percentage Rate (APR) for consumer credit loans so that it must not be higher than five times the legal interest on outstanding liabilities in that MS. One national authority has recommended that banks within its jurisdiction are cautious towards any loan-to-value (LTV) ratio in excess of 90% in lending for house purchases and should assess the impact on loan applicants of a minimum interest rate of 6% and a maximum repayment period of 25 years. Another national authority intensified its work with providers in order to improve transparency and pre-contractual information on mortgage contracts with interest rate floor clauses.
13. Some MS have extended provisions from the Consumer Credit Directive to national legislation on mortgages. One national authority mentioned that supervision of consumer credit providers has been intensified and risk-based principles have been introduced to its supervisory practices.
14. Regarding creditworthiness assessments, one national authority issued a supervisory benchmark to help ensure that, before the conclusion of the credit agreement, the creditor uses sufficient information to assess the consumer's creditworthiness. Another national authority amended its legislation to specify the processes for creditworthiness assessment as well as quantitative limits.
15. On the topic of borrowers in arrears, one national authority reported that, while overall levels of mortgage arrears have fallen since 2013, the number in arrears (and especially in long-term arrears over two years) remains high. Following the introduction of a revised national code of conduct (in 2013), the national authority initiated a themed inspection of its implementation. Another national authority adopted a code of conduct on arrears handling, with a view to helping creditors and borrowers in financial difficulties to work out alternative repayment arrangements or final settlement options, taking into account the specific circumstances of individual borrowers.

Bank account switching and fees

16. This topic was very relevant in the 2014 edition of the Consumer Trends Report, and concerns were primarily raised regarding the transparency of fees and account switching processes for consumers.
17. Since then, the Payment Accounts Directive³ (PAD) was adopted in July 2014. The PAD improves the comparability of account fees through, firstly, the establishment of standardised terminology for fees of services that are linked to a payment account, and, secondly, the introduction of two documents that disclose the level of fees: the fee information document (FID) and the statement of fees (SoF). In order to promote switching, the PAD also lays down requirements to guarantee the availability of a switching service.
18. The EBA is actively involved in the transposition of the PAD, and has started delivering the mandates conferred on it in the PAD in respect of the comparability of fees connected with payment accounts. These are explained further in the final section of the report.
19. With regard to initiatives taken by individual national authorities, one national authority reported it is reinforcing financial education programmes to increase awareness of the costs related to bank accounts. Another national authority has recommended good practices to credit institutions on the simplification and standardisation of bank accounts, and introduced a basic account that has basic features and is available to all consumers.

Traditional payment methods such as cash, cards, cheques and bank transfers

20. Last year's report also highlighted some issues related to payment services. A significant trend was the increase in the usage of card-based payments, with a corresponding decrease in cash transactions. Some respondents were concerned with the impact of this trend for specific consumer groups less familiar with card payment features.
21. Since then, the EBA issued final Guidelines on the Security of Internet Payments in December 2014.⁴ The Guidelines, which were developed over two years, are a response to recent increases in fraud related to internet payments across the EU. They will set minimum security requirements for payment service providers across the EU, and will provide enhanced protection against payment fraud for EU consumers. The Guidelines are applicable as of 1 August 2015.

³ Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features. See PAD at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0092>.

⁴ See at <http://www.eba.europa.eu/regulation-and-policy/consumer-protection-and-financial-innovation/guidelines-on-the-security-of-internet-payments>.

Non-traditional payment methods, such as mobile payments and e-wallets

22. In last year's report, the major trends reported by national authorities included an increasing trend of mobile payments overtaking over-the-counter payments as a result of a substantial growth in ownership of smartphones and public appetite to use the underlying technology. This has triggered the development of banking applications, mobile wallets, quick response codes and contactless payments.
23. One national authority highlighted that new payment institutions are coming to the market, posing challenges with regard to identifying which, if any, form of regulation and/or authorisation is required for these new products and providers.
24. The EBA is actively following the phenomenon and underlying innovations, and is yet to take a view on what, if any, actions it should take, beyond the increased security requirements it will develop as part of the transposition of the PSD2. In addition, one national authority conducted an assessment of a sample of firms offering banking and payment services through a mobile channel and published a final thematic report in September 2014.

Virtual currencies

25. In December 2013, the EBA issued a warning to consumers on the risks related to virtual currencies (VCs). Given that the EBA observed a nascent but continuously growing trend of VCs being used as a means of payment, the EBA continued its work on the topic and assessed whether VCs can and ought to be regulated.
26. Following a thorough assessment of VCs carried out jointly with other European authorities, the EBA issued an EBA Opinion in June 2014 addressed to the Commission, EU Council and European Parliament as well as NCAs.⁵ In the Opinion, the EBA concluded that, while there are some potential benefits of VCs, such as faster and cheaper transactions, these are less pronounced in the European Union.
27. In the Opinion, the EBA also identified more than 70 risks across several categories, including risks for users; risks for market participants; risks related to financial integrity, such as money laundering and other financial crimes; and risks for existing payments in conventional (fiat) currencies. Based on its analysis, the EBA concluded that a regulatory approach to address these risks would require a substantial body of regulation, some components of which would be unprecedented and in need of further development. As an immediate response, the EBA issued an Opinion on VCs addressed to the EU Council, the Commission and the European Parliament setting out the components that a regulatory approach to VC would need to include. The Opinion was also addressed to NSAs and recommends that they discourage financial institutions from buying, holding or selling VCs while no regulatory regime is in place.

⁵ See at <http://www.eba.europa.eu/documents/10180/657547/EBA-Op-2014-08+Opinion+on+Virtual+Currencies.pdf>

Crowdfunding

28. As reported in last year's edition, the EBA was actively engaged in the topic of crowdfunding. During 2014, the EBA, working alongside ESMA, conducted a thorough analysis of the risks and benefits of crowdfunding, focusing on the lending-based variant.
29. There was an increase in activities of lending-based crowdfunding platforms in several MS, while in others crowdfunding activities remained marginal in size. This was particularly the case in MS where the lending activities are reserved for credit institutions. Therefore, some MS have expanded their efforts on crowdfunding at a national level. Different degrees of market development across MS have resulted in different types of national regulatory frameworks being introduced across some MS, which in turn has given rise to the risk of market fragmentation that may impede the development of this market, as well as the risk of regulatory arbitrage.
30. Having taken these developments into account, and following a long analysis, in February 2015, the EBA issued an Opinion on lending-based crowdfunding.⁶ The Opinion was addressed to the Commission and the European Parliament and Council; it identified a series of risks and assessed the extent to which they can and ought to be addressed within the EU legislative framework.
31. In the Opinion, the EBA concluded that convergence of supervisory practices in crowdfunding across the EU is desirable, not only to avoid regulatory arbitrage, but also to ensure a level-playing field for all participants across the EU Single Market. The EBA explained that in these early stages of the development of crowdfunding, regulatory convergence should be based on existing EU law, and recommended that EU legislators clarify its applicability.

Mis-selling of products

32. In last year's report, this topic was important for several members of the EBA BSG as well as several NCAs, as some cases of mis-selling practices resulted in enormous detriment to consumers, and in some events to record redress amounts.
33. Since then, the EBA has progressed work on this topic and published a Consultation Paper on draft Guidelines on Product Oversight and Governance (POG) in November 2014, which aims to provide a framework for robust and responsible product design and distribution to avoid future cases of detriment.
34. Another item already finalised is the work that the EBA carried out jointly with EIOPA and ESMA on self-placements. The three authorities issued a reminder note in July 2014 addressed to firms, reminding them about the regulatory requirements applicable to the

⁶ See at <http://www.eba.europa.eu/-/eba-recommends-convergence-of-lending-based-crowdfunding-regulation-across-the--1>

placement of financial instruments that they, or their group companies, have issued with depositors, retail investors and policy holders. The ESAs have stressed that these practices may breach some of the rules governing financial institutions and may result in significant consumer detriment. Institutions should not allow the pressure on their capitalisation needs to affect their compliance with regulatory requirements, such as the rules governing conflicts of interest, remuneration, provision of advice and suitability and appropriateness of products. Respecting consumer needs and demands, as well as providing investors and customers with appropriate information, remains compulsory for financial institutions.

35. One national authority published the findings of follow-up thematic work on financial incentives for sales staff, which showed that the authority's intervention to date had resulted in significant change to reduce risk to consumers, in particular at the largest retail banks. There was an increased awareness and focus on financial incentives at all types of firms. This national authority is continuing its work looking at how firms manage the performance of their sales staff and whether pressure put on staff (through, for example, sales targets) increases the risk of mis-selling.
36. One national authority reported that its supervisory activity in this field was focused on the assessment of the adequacy of intermediaries' internal procedures governing the joint selling of insurance policies and banking products (i.e. loans, mortgages), the qualification of insurance policies as compulsory or discretionary, and the provision of clear and accurate information to customers on the risks and the effects of the jointly sold products.

Comparison websites and financial literacy

37. EBA's mandate with regard to financial literacy is laid down in Article 9(1)(b) of the EBA Regulation and requires the EBA to review and coordinate financial literacy and education initiatives by the competent authorities. Considering the limited legal mandate concerning both items the EBA has not yet taken any specific action with regard to these two issues.

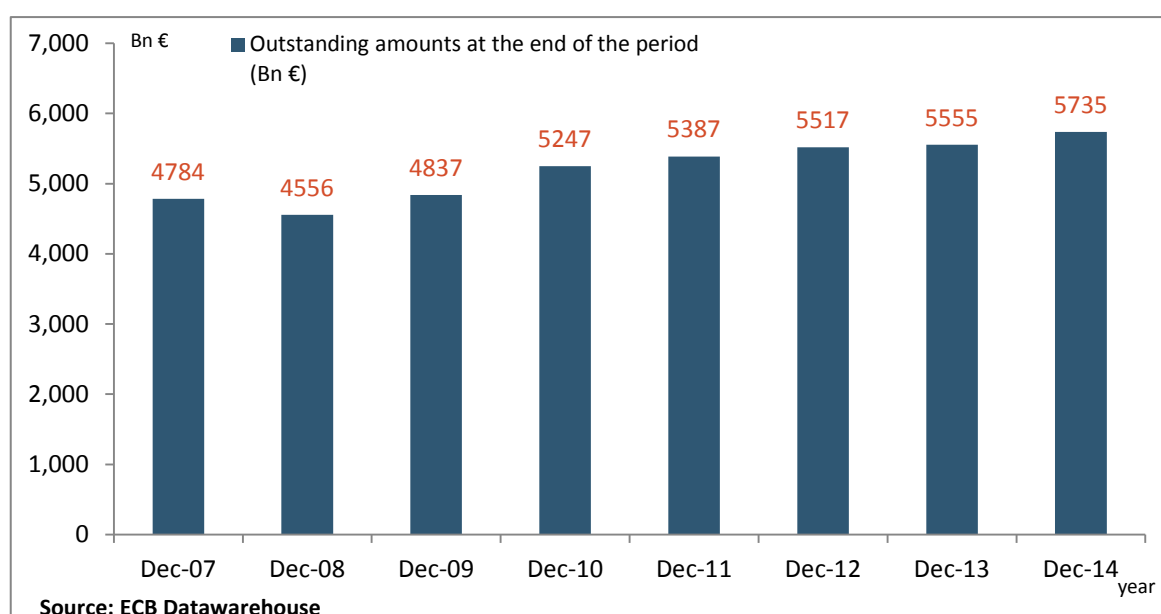
Annually recurring topics

39. This section provides a summary view of the retail banking products and services that fall within the EBA's consumer protection remit, which are: mortgages, other loans (as provided by credit institutions), deposits including structured deposits, payment accounts, and payment services such as debit and credit cards.
40. In order to ensure the widest possible coverage of consumer trends within the EU, the EBA availed itself of a large variety of different data sources, including the European Central Bank (ECB) and the World Bank, as well as national authorities, which provided quantitative data and qualitative narratives in support of the data. To gather the most reliable and up-to-date trends and figures, the EBA is using relevant data sources to ensure the widest coverage within the EU 28 MS.

Mortgages

41. At the end of 2014, the outstanding amounts on lending for house purchases in EU countries⁷ amounted to EUR 5 735 billion in aggregate. Figure 1 shows the development over time, including a 3.2% rise between 2013 and 2014, which is a significant jump compared to the more modest increases in the previous year.
42. The recent increase suggests that mortgage lending in the EU may revert back to the annual growth rates seen before the financial crisis in 2008.

Figure 1: Lending for house purchases, 2007-2014



⁷ Data refers to households and non-profit institutions serving households.

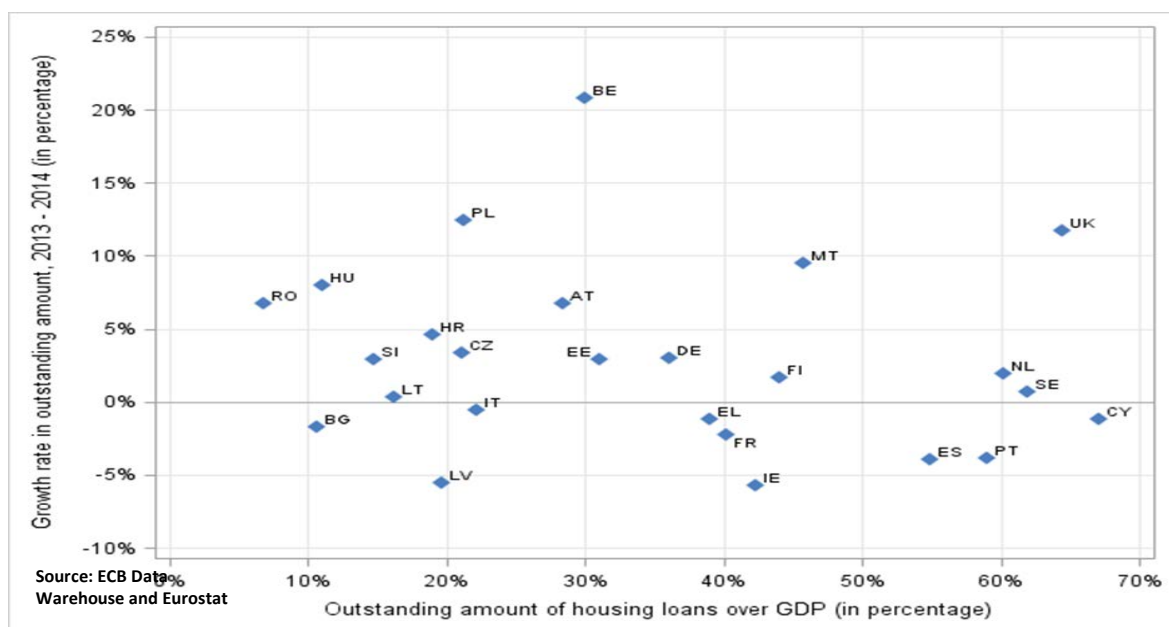
**Figure 2: Lending for house purchases for households, outstanding amounts, Dec. 2014
(bn €)**

Member State	Amount	Member State	Amount	Member State	Amount
United Kingdom	1 432	Austria	94	Hungary	11
Germany	1 048	Finland	90	Romania	10
France	862	Poland	90	Croatia	8
Spain	581	Ireland	78	Estonia	6
Netherlands	395	Greece	70	Lithuania	6
Italy	359	Czech Republic	33	Slovenia	5
Sweden	267	Luxembourg	25	Latvia	5
Belgium	121	Slovakia	17	Bulgaria	4
Portugal	102	Cyprus	12	Malta	4

Source: ECB Data Warehouse

43. The outstanding amounts for mortgages continue to be significant in all MS, but also to vary between them, as illustrated by the 2014 figures displayed in Figure 2. Twenty MS are below the average, which is strongly influenced by four MS where outstanding amounts are substantially high.

Figure 3: Lending for house purchases as a percentage of GDP, in 2014, and lending for house purchases growth rate, 2013-2014⁸

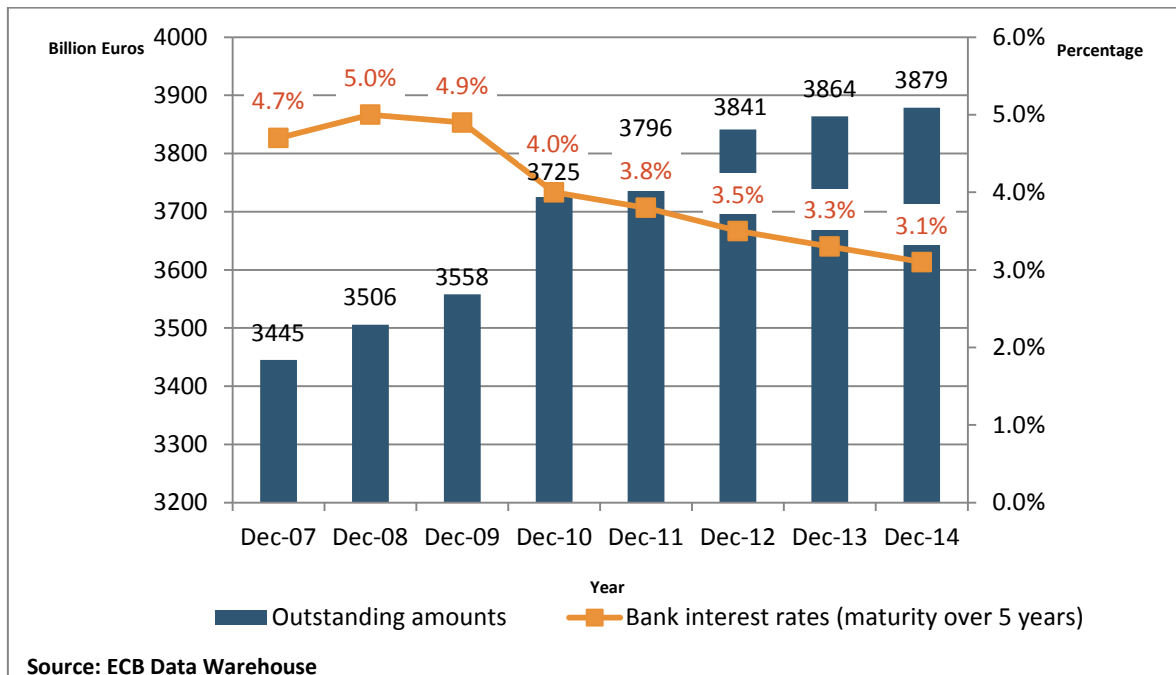


44. However, this aggregate trend masks significant differences between MS. As shown in Figure 3, while nine MS have experienced a decrease (depicted below the horizontal line), seventeen MS have seen an increase, including some of 10% or more. Figure 3 also shows that some MS that registered the higher percentages of outstanding housing loan amounts

⁸ GDP indicator for 2014. Data for Denmark, Luxembourg and Slovakia were not available.

over Gross Domestic Product (GDP) (depicted in the upper right quadrant) also registered a significantly high growth rate between 2013 and 2014.

Figure 4: Evolution of lending for house purchases and bank interest rates, euro area, 2007-2014



45. Figure 4 compares the development of outstanding mortgage amounts since 2008 with that of the average interest rate for house purchase loans (with an original maturity of five years or more) in the euro area. Continuous reductions in central bank interest rates have led to a reduction in interest rates for loans, which in turn appears to have helped stimulate aggregate mortgage lending. As rates are expected to continue to be very low for the foreseeable future, the number of mortgage contracts entered into is expected to continue to grow, and so are the concomitant risks of consumer detriment arising from these trends. These may materialise in a number of ways, including:

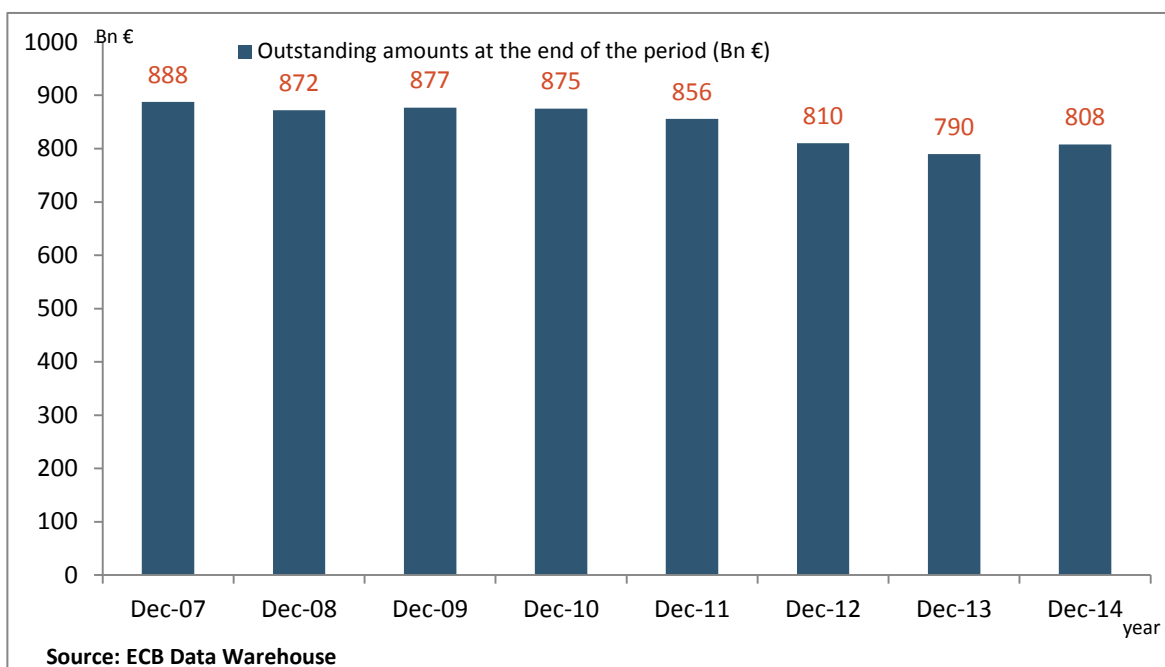
- Excessive high LTV and loan-to-income (LTI) ratios;
- Excessive duration of loans, in some cases contracts exceeding 25 years;
- Negative equity loans, as the underlying collateral is valued below the outstanding mortgage amount;
- Unsatisfactory creditworthiness assessments;
- Unfair treatment of consumers in payment arrears;
- Excessive fees and charges, e.g. application fees, and early repayment charges;
- Potential increase in interest rates leading to higher indebtedness.

46. Other related recent trends reported by respondents and that may have an effect on households' mortgages are:
- Sales of loan books to unregulated entities;
 - The effect of negative values of index rates (e.g. Euribor) on variable rate mortgages.
47. The EBA will monitor the extent to which any of these risks will materialise and has already begun initiatives to address some of them. These are outlined in the final chapter of this report.

Consumer credit

48. In addition to loans for house purchases, households also resort to credit providers in order to be able to buy other products or services. This is commonly referred to as consumer credit, including credit card and overdraft debt; and in some jurisdictions covers personal loans. The EBA has only a limited regulatory remit over this market segment, as the Consumer Credit Directive does not fall under its scope of action. Instead, the EBA can only become active in respect of credit (including consumer credit) that is provided by credit institutions. The EBA's monitoring effort on this market segment is therefore limited, too.

Figure 5: Evolution of consumer credit in the EU, 2007-2014

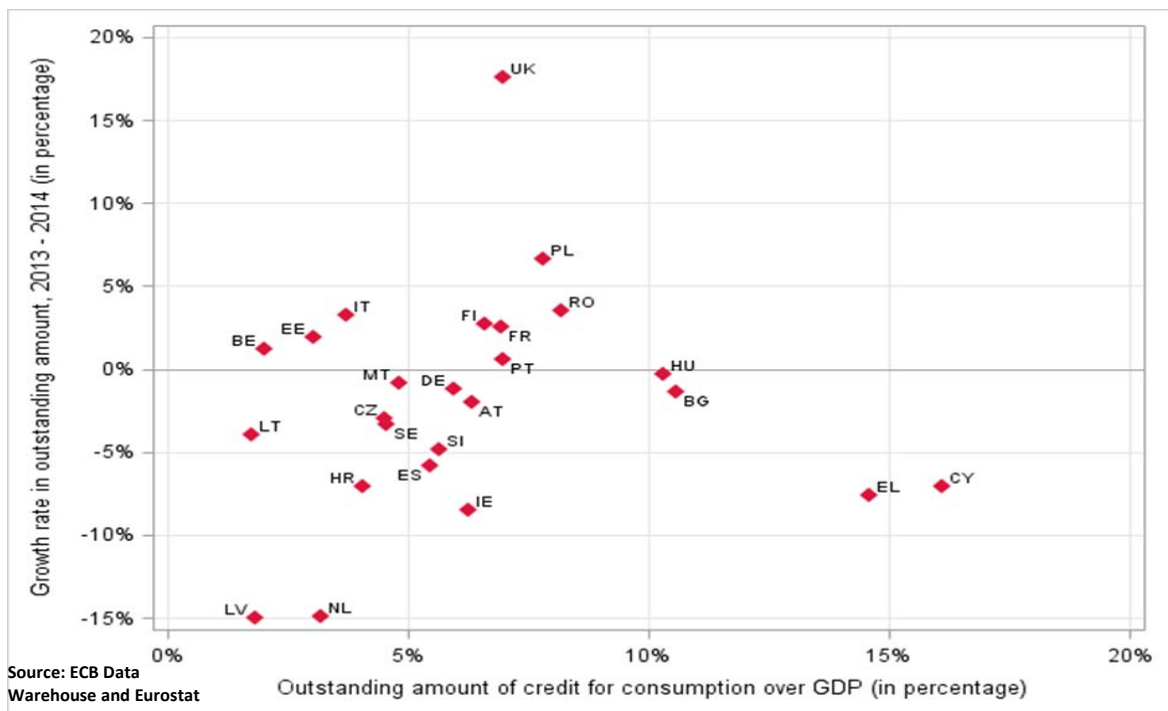


49. Figure 5 shows that the outstanding amounts⁹ at the end of 2014 represented EUR 808 billion, having increased 2.2% from 2013. The trend of deleveraging by banks is evident between 2007 and 2013.

⁹ Data refers to households and non-profit institutions serving households.

50. As Figure 6 indicates, the majority of MS have experienced a decrease in outstanding amounts of consumer credit between 2013 and 2014. The increase in the total outstanding amount was backed by one particular MS that stands out with a steep increase. Looking at the relative values of outstanding amounts over GDP, in more than half of the MS that indicator was between 4% and 8%. In both MS with the highest relative value there was a significant decrease between 2013 and 2014, which suggests that deleveraging continues.

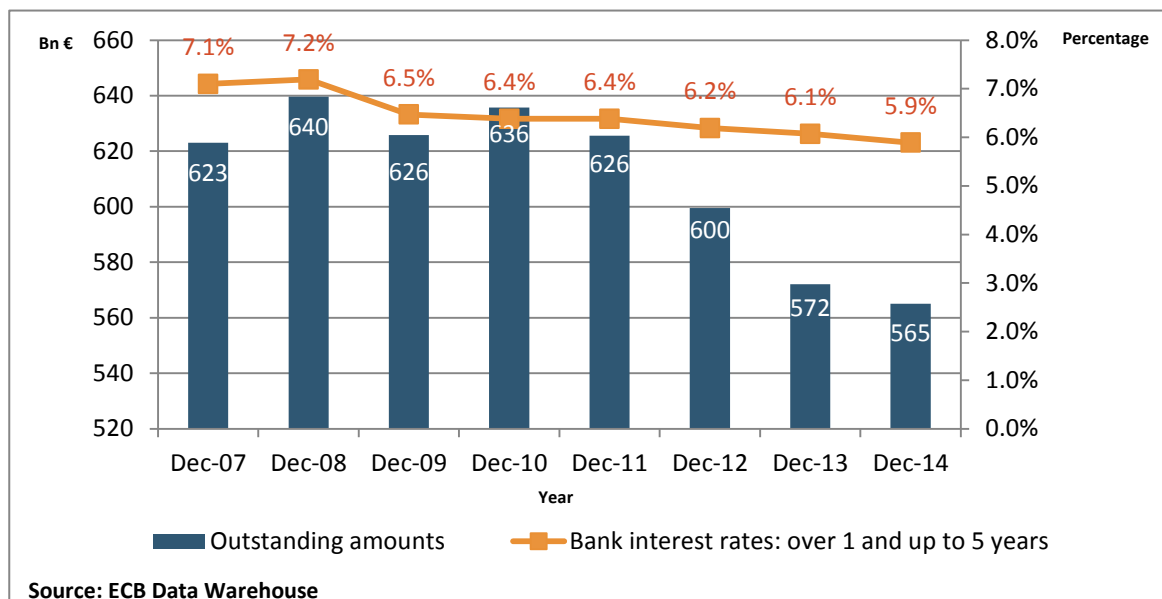
Figure 6: Credit for consumption as a percentage of GDP, in 2014, and credit for consumption growth rate, 2013-2014¹⁰



51. Figure 7 compares the development of outstanding consumer credit amounts since 2008 with that of the average interest rate for consumer credit (with an original maturity over 1 and up to 5 years) in the euro area. Continuous reductions in central bank interest rates have led to a reduction of interest rates for loans, however the deleveraging seems to continue in the euro area, while consumers also remain cautious when borrowing.

¹⁰ GDP indicator for 2014. Data for Denmark, Luxembourg and Slovakia were not available.

Figure 7: Evolution of consumption credit and bank interest rates, euro area, 2007-2014



52. Nevertheless, risks of consumer detriment remain with regard to consumer credit. The way these may materialise 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;
- In some markets, increase of high cost ‘fast’ loans, usually accessible over the phone or on the internet, with quick credit assessment response;
- In other markets, lack of information requirements regarding revolving credits.

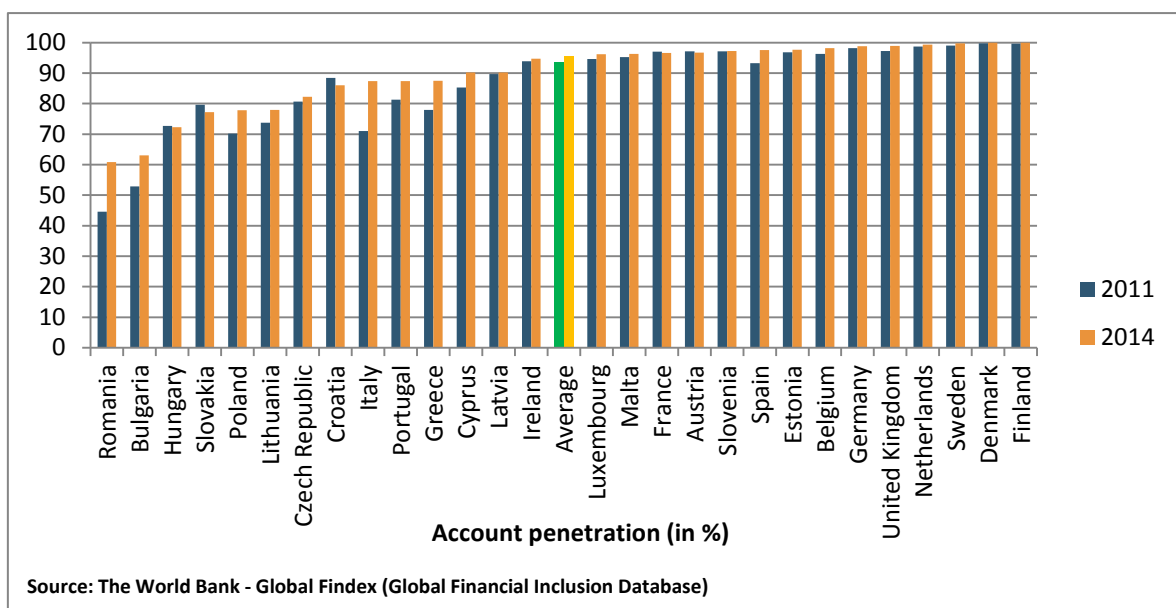
Payment accounts

53. Opening a payment account is the necessary first step for a consumer to be able to engage with financial services. Access to a payment account is therefore crucial for the development of financial markets. In this context, research by the Commission found that some prospective customers do not open payment accounts, either because they are refused this or because they are not offered adequate products.¹¹ The potential demand for payment account services in the Union is therefore currently deemed to be under-exploited.

¹¹ See at http://ec.europa.eu/finance/finservices-retail/docs/inclusion/20130508-impact-assessment_en.pdf.

54. Survey data by the World Bank¹² on bank account penetration in the EU shows that the percentage of respondents to the survey who indicated they have an account (individually or collectively) has increased by 1% (growth on average) between 2011 and 2014. Figure 8 shows that the average in bank account penetration in 2014 is 95%. Nine MS registered an increase of 5% or more, of which three recorded growth rates of 20% or more. Recent EU MS still had considerable percentages of unbanked population in 2011 and their growth rates are naturally higher.

Figure 8: Penetration of bank accounts in the population, 2011 and 2014¹³



55. The PAD launches the framework for MS to introduce measures to allow all consumers to have access to a payment account with basic features, requiring that MS ensure that these accounts are available in all or a sufficient number of credit institutions to guarantee access for all consumers, and these accounts should not be exclusively for online usage.
56. A key issue regarding payment accounts is the transparency and comparability of fees. This is one of the major reasons for consumer complaints regarding bank accounts. The lack of information regarding fees for services linked to a payment account is also considered to be one of the constraints on consumers opening an account.
57. While some MS have already introduced significant measures to address pre-contractual information, there are still a number of jurisdictions without any such requirements. The PAD aims to address these issues by introducing two information documents: a pre-

¹² The Global Findex database.

¹³ Denotes the percentage of respondents who report having an account (either individually or jointly with someone else). For 2011, this can be an account at a bank or another type of financial institution, and for 2014, this can also be a mobile account (see year-specific definitions for details) (% age 15+).

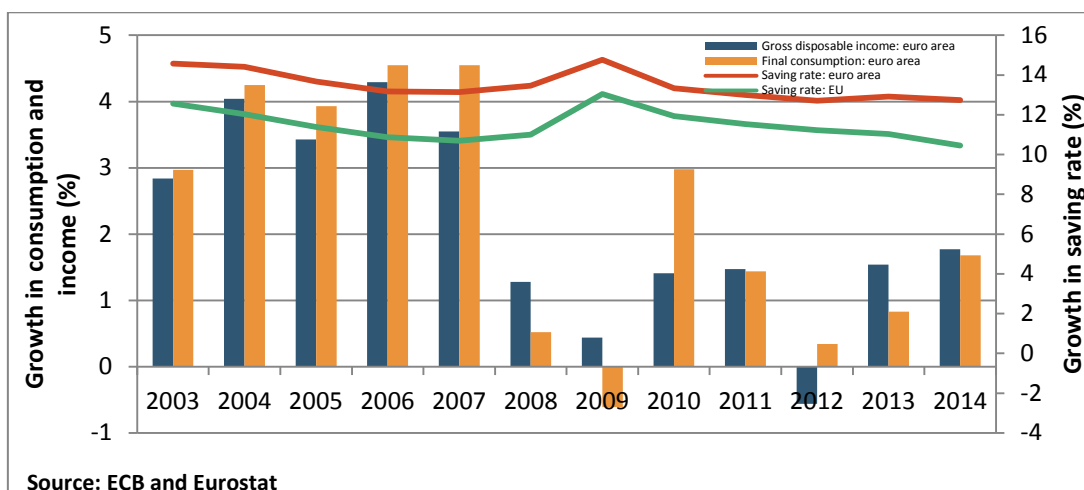
contractual Fee Information Document (FID); and a post-contractual Statement of Fees (SoF).

58. The EBA has started working on the mandates conferred on it in the PAD, which includes the development of common terminology for services and the design of these two disclosure documents, as well as their corresponding symbols. The two documents will be developed through Implementing Technical Standards (ITS) by September 2016.
59. Moreover, the lack of comparability of fees is also a barrier to consumers choosing the most suitable account, either for the first time or when considering switching providers.
60. The PAD introduces a framework for a switching service which will be initiated by the receiving payment service provider (provider for the new account) at the request of the consumer. The exchange of information regarding the account holder's incoming credit transfers, standing orders for credit transfers and direct debit mandates that are to be switched will be required to be carried out within a specific timeframe.

Deposits

61. Household savings have remained high even though households have suffered significant reductions in disposable income. Figure 9 depicts how the financial crisis hit households' disposable income and consumption, with a decrease in both indicators in 2008 and 2009. In these years however, the percentage of savings over disposable income grew the most, revealing that households made a considerable effort to adjust their consumption patterns in line with their income levels, while also increasing their savings (in relative terms, in line with their income).

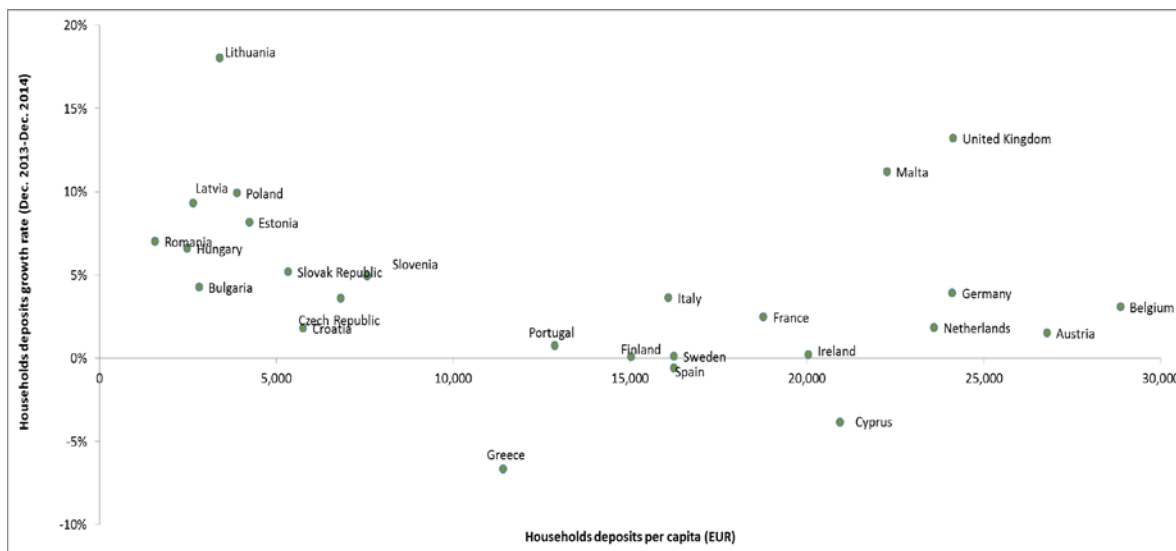
Figure 9: Growth of consumption, disposable household income & saving rate, 2003-14¹⁴



¹⁴ Growth of nominal consumption and nominal gross disposable income of households (annual percentage rates) and the saving rate (percentage of gross disposable income).

62. The country-by-country analysis shown in Figure 10 indicates that savings have grown in a majority of MS. In some MS the growth rate in deposits was 10% or more (including two MS where per capita values are among the highest), while the average growth rate was 4.2%.

Figure 10: Deposits per capita and deposits growth rate, 2013-2014¹⁵



Source: ECB Data Warehouse and World Bank (for population)

63. Given the continued and growing savings rates across most MS, the EBA will continue monitoring the evolution of deposits and any risks to consumers that may arise. The focus will be on the monitoring of structured deposits in particular, as the EBA has been given a specific mandate with regard to structured deposits in the Regulation on markets in financial instruments (MiFIR).¹⁶ This is developed further in section 'Additional topics identified for 2015' where the topic of structured deposits is explained.

Payment services, including debit and credit cards

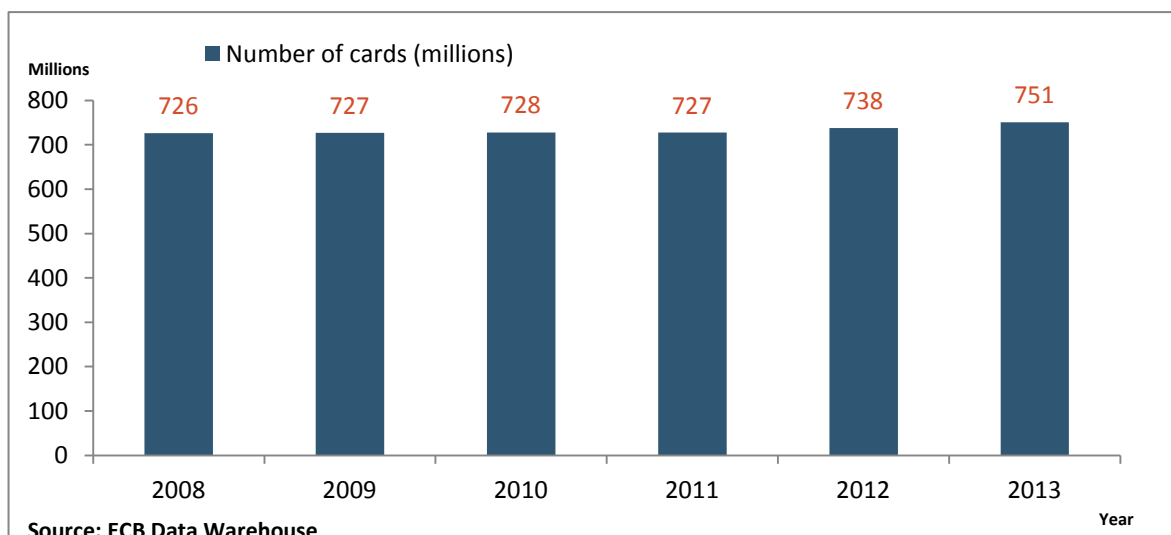
64. The Payment Services Directive¹⁷ provides a list of services that are considered to be payment services. These include the execution of payment transactions, such as direct debits, payment transactions through a payment card or a similar device, and credit transfers, including standing orders.
65. Amongst these, debit cards are now a standard feature offered with a payment account provided by credit and payment institutions, allowing for withdrawals from Automated Teller Machines (ATM) and/or payments at Point of Sale (POS) facilities. In parallel, credit cards have also become widespread in most MS, although the penetration rates vary greatly between MS.

¹⁵ Population indicator for 2013 (last available). Luxembourg is an outlier and data for Denmark is not available.

¹⁶ See MiFIR at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R0600>.

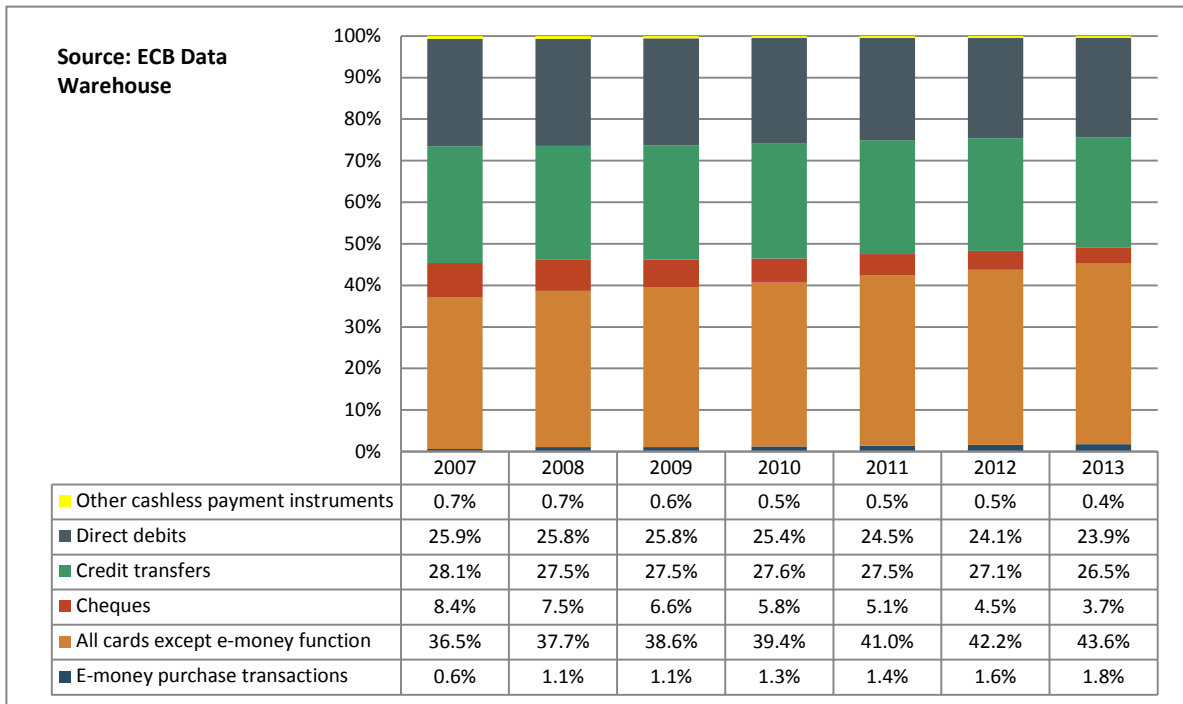
¹⁷ See Directive 2007/64/EC at <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32007L0064>.

Figure 11: Evolution in number of cards (debit and credit) issued in the EU (millions), 2008-2014



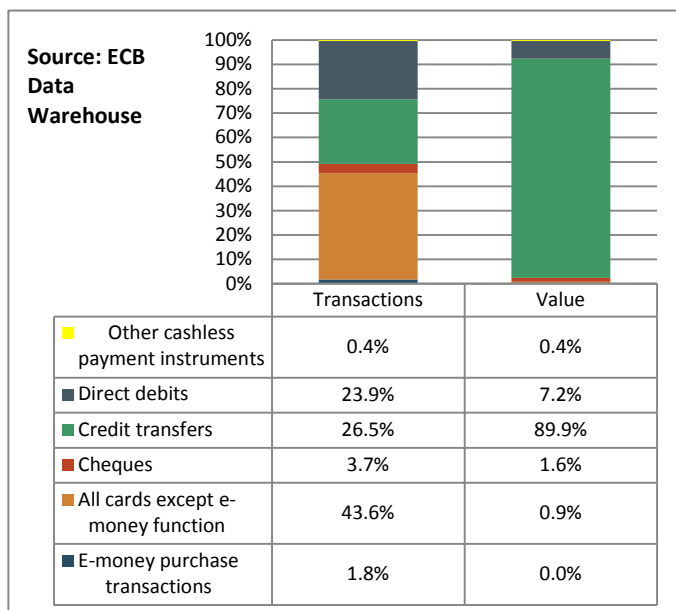
66. Figure 11 shows the evolution in total cards issued in the EU. In 2013, there were around 751 million of cards issued, an increase of 1.8% compared to 2012, higher than the increase of 1.4% in the previous year. There was an increase in the number of cards issued per capita in 16 MS.
67. In 2013, 22 MS had an average number of cards issued per capita of more than 1, with 12 MS falling within the range of 1 to 1.5 cards, and 8 within the range of 1.5 to 2. Five MS had less than 1 card issued per capita.
68. Figure 12 shows the evolution in the distribution of total number of transactions carried out by type of payment instrument, where 'payment instruments' refers to card transactions, credit transfers, direct debits, cheques, e-money purchases transactions and other cashless payment instruments.
69. In 2013, cards, credit transfers and direct debits have been the dominant form of payment by far, corresponding to 43.6%, 26.5% and 23.9% of total transactions, respectively. During the period 2011-2013 there was an increase of transactions using cards and a decrease in the relative importance of credit transfers, direct debits and cheques.

Figure 12: Evolution of the relative importance of payment instruments, as a percentage of the total number of transactions, 2007-2013



70. However, while card transactions occupy the biggest share of transactions in 2013, their weight in terms of total values of transactions remains very small, less than 1%, when compared to the value of credit transfer transactions. Figure 13 shows this distribution, with credit transfers representing almost 90% of the value of transactions, and direct debits taking 7.2%.

Figure 13: Comparison between relative importance of transactions and value of payment instruments, 2013



71. Looking at the importance of each payment instrument in terms of transactions, on a country-by-country analysis in 2013, card transactions are the highest in almost half of the MS, while credit transfers represent the highest in a similar share of MS. Direct debits are the highest in one MS, and e-money transactions in one other, taking an 88% share of transactions. Cheques have gradually become obsolete in almost half of the EU MS but remain very important in a few MS, with a more than 10% share of transactions in 4 MS.

72. The main concerns raised with the EBA with regard to payment instruments related to: debt accruals when using revolving credit feature in credit cards; introduction of contactless technology without the consumer's knowledge; and security of internet payments.
73. The EBA will be working to address these issues. As a first step, the EBA published final Guidelines on the security of Internet Payments, in December 2014, which will provide enhanced protection against payment fraud for EU consumers.
74. In addition, it appears that the Payment Services Directive (PSD2) will confer several mandates on the EBA. Finally, the Regulation on interchange fees for card-based payment transactions (Interchange Fee Regulation, IFR) has conferred a mandate on the EBA with regard to payment card schemes to develop RTS establishing requirements to ensure payment card schemes and processing entities are independent in terms of accounting, organisation and decision making.

Additional topics identified for 2015

75. As described in the background, in this third section, the EBA will present the topical issues identified by national authorities, the EBA BSG and by FIN-NET members. The EBA analysed the input received and identified common threads across the various sources. The resulting aggregated list comprises the following topics:
- 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
 - Interest rates.
76. Unsurprisingly, some of the topics that had been identified in the 2014 edition of the report, or slight variations thereof, continue to emerge as being relevant for 2015, such as: indebtedness, bank account fees, innovation in payments, commercial practices (including mis-selling) and alternative financial services providers (including crowdfunding). Amongst the topics that arise for the first time are the commercial use of banking consumer data, and interest rate-related issues.
77. The following paragraphs provide a picture of how each of these topics is relevant and how the EBA may progress its work in 2016 to address them.

Indebtedness

78. Consumer indebtedness is primarily a result of individuals taking out mortgages and personal loans to finance household consumption. The topic of household indebtedness remains a high priority for many respondents, some of whom are concerned about risky forms of long-term credit, non-transparent credit offers and high interest rates in some MS in a general low interest-rate environment. Consumers paying excessive fees for their credit were also highlighted; as were interest rate fluctuations and unsatisfactory creditworthiness assessments, which can potentially lead to significant debt repayment problems. In respect of mortgages, concerns were raised regarding the protection of

consumers against the risk of simultaneously losing their house and still owing money to their mortgage lender and/or other creditors.

79. The data on mortgages and other loans included in the previous section of this report suggest that households across the EU are exposed to increasing amounts of debt. There are a number of factors that might have contributed to this trend, which include consistently low interest rates. Central banks across the EU have kept very low interest rates over a prolonged period of time. These low interest rates have secured funding in the markets and there are signs of rising levels of loans provided by financial institutions to businesses and households.
80. A more divergent trend refers to household income. While household income levels have risen in some MS, as there were some signs of economic recovery and these might have led to newer/higher amounts of debt, in other MS there was a decrease in income levels mainly due to medium/long-term unemployment.
81. These trends were also mentioned by some respondents, referring to disposable monthly income diminishing as a result of unemployment, with significant effects on debt repayments. In one MS, over the last five years households' purchasing power decreased by 10% and the unemployment rate increased by more than 6 percentage points. However, the negative effects on the credit market have been partially mitigated by the reduction in interest rates.
82. In another MS, the outstanding housing loan balance per capita remains high, primarily due to the availability of interest-only mortgages until 2012 and rising house prices in the last 10-15 years. In 2013, the fiscal stimulus for new mortgages was significantly restricted. However, this reform has yet to affect the increasing number of arrears in mortgage debt payments (over 100 000 households are in arrears).
83. Several other respondents mentioned the increase in loan arrears as a significant issue. These refer to both mortgages and other loans such as consumer credit or credit card usage. In one jurisdiction, non-performing loans have risen primarily due to a noticeable decrease in income and an increase in unemployment as a result of the financial crisis. In the jurisdiction in question, non-performing consumer loans had increased in Q4 2014 to 49.5% of the total loan portfolio (from 47.3% in the period in the previous year); and non-performing mortgage loans had increased to 28.1% of the total loan portfolio compared to 26.1% in 2013.
84. In another MS, 14.5% of private residential mortgage accounts were in arrears as of December 2014. However, the same market also saw a decreasing number of accounts that were in arrears for more than 90 days.
85. Within the context of this topic, the EBA has progressed its work on responsible lending and arrears handling, with the publication, in November 2014, of the draft Guidelines on

creditworthiness assessment, and on arrears and foreclosure. The Guidelines provide details of how creditors should give effect to aspects of Articles 18, 20 and 28 of the MCD.

86. Following a two-month consultation period, both sets of Guidelines were published on 1 June 2015, with an implementation date of 21 March 2016 (i.e. the transposition date of the MCD).
87. The Guidelines on Creditworthiness are based on the provisions of the *Opinion of the European Banking Authority on Good Practices for Responsible Mortgage Lending*, which was published on 13 June 2013, i.e. before the MCD was adopted, and which was reviewed by the EBA when it was developing the Guidelines. As a result, only relevant provisions within the Opinion were considered for these Guidelines. In addition, the Guidelines are aligned to the specific principles of the Financial Stability Board's Principles for Sound Residential Mortgage Underwriting Practices, which are relevant to the provisions of Articles 18 and 20(1) MCD. The Guidelines establish requirements for verifying consumers' income, documenting and retaining information, identifying and preventing misrepresented information, assessing the consumer's ability to meet his/her obligations under the credit agreement, considering allowances for the consumer's committed and other non-discretionary expenditures, as well as allowances for potential future negative scenarios.
88. Similarly, the Guidelines on Arrears and Foreclosure are based on the provisions of the *Opinion of the European Banking Authority on Good Practices for the Treatment of Borrowers in Mortgage Payment Difficulties*, which was also published on 13 June 2013, i.e. before the MCD was adopted. In this case also, only relevant provisions within the Opinion were considered, as the Guidelines establish requirements in terms of policies and procedures, engagement with consumers, provision of information and assistance to consumers, the resolution process, documentation of dealings with consumers and the retention of records.
89. The remaining good practices are retained, as a further support and reference point for competent authorities, in a revised EBA Opinion on good practices for mortgage creditworthiness assessments and arrears and foreclosure, including expected mortgage payment difficulties. The revised EBA Opinion will be published at the same time as the Guidelines.
90. The EBA will continue to monitor the market and assess any need for additional regulatory and/or supervisory measures, so as to contribute to enhanced consumer protection across EU MS. However, as mentioned earlier, the EBA has a limited remit over consumer credit.
91. National authorities have taken several measures to address issues arising from these trends. The most common issues tackled relate to arrears handling and responsible lending. Several national authorities have revised existing legislation, created new legislation or are currently working on new legislation to introduce requirements for creditworthiness

assessments by loan providers. One national authority reports that the main source of consumer complaints is credit institutions not being willing to find solutions to address payment difficulties. One national authority was reported to have been actively holding mortgage providers responsible for their policies and procedures towards households in arrears.

92. One national authority has established a good practice code for borrowers in mortgage payment difficulties consisting of three measures: a restructuring plan that includes a period with interest-only payments and interest rate moderation; if the restructuring plan is not feasible, the client may request a capital reduction, which the bank may accept or reject (similar to a write-off); and finally, if after 12 months following the restructuring the parties do not reach an agreement on capital reduction, the client can give the property to the bank in lieu of repayment. Another national authority already has in place a code of conduct on mortgage arrears, which provides for a strong framework to protect borrowers facing or in mortgage arrears, enabling the delivery of solutions by lenders for each arrears case, and requires lenders to make every reasonable effort to agree an alternative repayment arrangement and to explore all of the options available.
93. Some measures taken refer to the limitations of LTV ratios. One national authority mentions that the legal limit for the maximum LTV has been very gradually reduced, from 103% in 2015 to 100% in 2018. The same national authority reports tightening LTI values as well. Another national authority stated that a binding maximum LTV ratio for housing loans will enter into force in July 2016, with a maximum LTV ratio of 90% (95% for first-home purchases) of fair value of the collateral at the time the loan is granted.
94. One national authority reported the introduction of a new law in summer 2013 that established a cap on interest rates for loans under €2 000. The purpose of the new law was to restrict issues such as indebtedness associated with these types of loans.
95. Some national authorities reported that often arrears issues occur as a result of loans provided by non-banking providers of consumer credit and the poor creditworthiness assessments carried out by them, and that these entities do not fall within the supervisory remit of those national authorities, as a result of which they could not take any action.
96. Other authorities referred to low levels of financial literacy as a driver for high indebtedness and payment difficulties. In some jurisdictions, measures have been put in place to raise awareness and information, particularly with regard to topics such as the costs of loans and consequences of payment arrears.

Transparency and comparability of banking fees

97. This topic covers issues regarding the transparency and comparability of fees for banking products and services, including those related to current accounts, mortgages, loans and payment services. In addition, issues related to the switching of payment accounts are included in this topic. Not all of these concerns were raised in all markets.

98. Several respondents highlighted that banking fees are one of the main sources of consumer complaints, particularly in terms of a lack of transparency that impedes consumers in making informed choices, the comparability of fees, and excessive pricing.
99. Another issue is related to consumer complaints regarding charges applied when consumers are in vulnerable situations such as payment arrears, or when consumers use overdraft facilities that incur high fees. For example, in one jurisdiction it was described as normal for account providers to charge their clients in arrears additional fees to cover costs arising from paperwork, calls and letters, which are added to customers' arrears and increase their debt level further still.
100. The lack of transparency and comparability also emerges in the context of payment accounts, where it was identified as the biggest constraint for consumers switching between account providers.
101. On the topic of complaints regarding pricing, one MS reported that consumers complained about some banks applying fees for depositing money into the account, usually when funds are transferred in.
102. To address some of these issues, the EBA began work in 2014 on the implementation of its mandates in the Payment Accounts Directive (PAD). In March 2015, the EBA issued Guidelines addressed to national authorities with criteria they should use to provide the EBA with a provisional list of at least 10 and no more than 20 of the most representative services in their jurisdiction that are linked to a payment account and subject to a fee.
103. This is the first step towards a standardisation of fee terminology, with a view to facilitating comparison within and across MS. In the next step, the EBA will draft RTS for standardised terminology for the most common services, which are to be submitted to the Commission by September 2016, and will be implemented by MS at a later stage. In parallel, the EBA is already working on the development of two fee disclosure documents: the Fee Information Document (FID), and the Statement of Fees Document (SoF) and their common symbols. These documents will allow consumers to compare fees and costs related to payment accounts with a pre-contractual document, the FID; and to be informed through the SoF of the costs they have incurred in the previous year while using the payment account and its services. The EBA will undertake consumer testing in 2015 and 2016 for these documents and symbols and submit them by September 2016 as ITS under the PAD.
104. The EBA will continue to assist national authorities in the implementation of the Payment Accounts Directive, which should be transposed in all MS by September 2016.
105. Some national authorities have already introduced significant measures to allow for comparability and disclosure, such as pre-contractual information requirements, in some cases with standardised documents or fee disclosure requirements (e.g. statement of annual fees charged).

106. With regard to charges applied to overdraft facilities, in one MS new rules for overdrafts were introduced, with the aim of simplifying and standardising the fee structure. Another national authority mentioned that the fees charged per transaction over the overdraft limit have been subjected to a ceiling. One national authority has established good practice criteria to address the charging of fees for organisational arrangements. Another national authority reported that there are plans from the national legislators to enact a law that obliges banks to publish interest rates charged for overdraft facilities on the internet and to offer advice to customers drawing extensively on overdraft facilities.
107. Regarding comparability issues, one national authority reported that, following commitments made in previous years to develop requirements for a harmonised disclosure of fees on the front page of leaflets, the authority recently introduced harmonised terminology requirements into national law.

Innovation in payments

108. The monitoring of financial innovation is one of the EBA's mandates under its founding regulation. Several respondents noted the emergence of new market entrants providing new solutions for consumers for payments via mobile and internet.
109. The major issues regarding innovations in payments that have been reported by respondents concern the trade-off between user friendliness and user privacy/safety, and issues that can arise if no appropriate balance is found, such as fraud; consumers' unawareness of the specific characteristics and risks of the innovative services; and the precautions they should take when using those services.
110. The issue arises in particular when the innovative services are offered by providers that are not authorised, within the context of the European legislation, therefore not regulated or supervised, and where consequently risks are left unaddressed. Additionally, level playing-field issues arise if regulated entities within the same market provide similar services but are required to comply with higher regulatory standards than their non-authorised competitors.
111. In terms of market actors, firms that provide third-party initiation of payments and account information aggregation services (generally referred to as third-party payment providers (TPPs)), have increasingly made their presence felt across payment markets in the EU. Party payment initiation refers to customers authorising payments to be initiated on their behalf by TPPs. To carry out this initiation, the TPPs may require confidential credentials from customers. Account information aggregation refers to the case when consumers use providers to aggregate information on the payment accounts they hold with more than one account provider. In this case, too, confidential credentials may be processed by the TPP. At the time when this report was being drafted, EU legislators were finalising the revision of the PSD, which aims to regulate these service providers, in order to ensure that they provide payment services in a secure manner.

112. Some respondents mentioned the introduction of contactless technology as an important innovation in their market. In some cases, consumer complaints have emerged regarding the lack of information on the risks and characteristics of this technology, and the fact that traditional debit cards are being replaced by newer variants with contactless technology without consumers' consent.
113. Other respondents reported that while the market for online payments has been growing steadily over the last decade, the market for mobile payments has grown much more rapidly in recent years and is expected to become a very popular payment method. A concern was raised that these services use less reliable authentication and verification methods compared to other payment channels, a concern that is considered to be only partially mitigated by the observation that mobile payment solutions also tend to have fewer functionalities.
114. Another trend in this market is the rising number of different payment methods for e-commerce. New entrants differ in business models ranging from offering a pure technical solution for shopkeepers to offering credit-based solutions to customers purchasing on websites. An issue with these types of service providers is the safety and privacy of transaction data.
115. A common view when addressing innovative solutions is the need for regulators to ensure adequate consumer protection without damaging the benefits of innovation. A challenge for national regulators comes from providers seeking to benefit from regulatory arbitrage.
116. While carrying out its mandate on monitoring financial innovation, one of the market segments the EBA is actively investigating are innovative types of payment methods. The EBA considers payments to be innovative if innovation is found in the underlying technology, the business model, the concept, the channel used to make the payment, or the instrument itself.
117. The EBA has started carrying out some work in this area, which it intends to progress further in the months ahead. The EBA's analysis has so far focused on identifying the risks that arise from innovative types of payments; on the conditions under which these risks may materialise; and on the causal drivers of each risk, as these will point towards the regulatory and/or supervisory measures that would need to be taken to mitigate the risk. The risks considered are separated into risks to end-users; risks to market integrity; risks to regulators; and risks to market efficiency.
118. From the analysis carried out, the EBA will determine which, if any, action needs to be taken to address any regulatory gaps identified. The EBA will be monitoring the developments of the revised Payments Services Directive (PSD2) and will then decide on next steps.

Structured deposits

119. Deposits are one of the core products that fall under EBA's scope of action and include the subset of structured deposits. MiFID 2 defines structured deposits as a 'deposit (...), which is fully repayable at maturity on terms under which interest or a premium will be paid or is at risk, according to a formula involving factors such as: (a) an index or combination of indices, excluding variable rate deposits whose return is directly linked to an interest rate index such as Euribor or Libor; (b) a financial instrument or combination of financial instruments; (c) a commodity or combination of commodities or other physical or non-physical non-fungible assets; or (d) a foreign exchange rate or combination of foreign exchange rates.'¹⁸
120. As mentioned earlier, the EBA has been given a specific mandate with regard to structured deposits in the MiFIR. Article 39(2) requires the EBA to 'monitor the market for structured deposits which are marketed, distributed or sold in the Union'. Articles 41 and 42 of the same Regulation provide mandates regarding EBA's temporary intervention power and product intervention by competent authorities. The EBA received a request from the Commission in May 2014 to specify the criteria and factors that the EBA and competent authorities should take into account when determining whether there is a significant investor protection concern with regard to structured deposits or a threat to the orderly functioning and integrity of financial markets. In December 2014, the EBA published its final technical advice¹⁹ to the Commission laying out criteria and factors for exercising these powers.
121. The EBA will continue working on this topic throughout 2015 and 2016, by developing approaches to be used by supervisors when exercising this new power, with a view to promoting a consistent approach across MS.
122. Several respondents identified structured deposits as a product that increasingly gives rise to concerns, particularly related to their complexity and/or product features that are less understandable for consumers. One national authority has introduced recent regulation requiring credit institutions to provide adequate explanations of the main characteristics of the deposit contract, which has to be especially detailed in the case of structured deposits.

¹⁸ See MiFID2 at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0065&from=EN>.

¹⁹ See at <http://www.eba.europa.eu/-/eba-issues-final-technical-advice-on-criteria-and-factors-for-intervention-on-structured-deposits-under-mifir>.

Commercial selling practices

123. The EBA continues to look at instances of mis-selling across the Union. One of the key causal drivers identified for mis-selling is inappropriate commercial selling practices, with inappropriate sales incentives.
124. Several respondents considered this topic to be relevant. Some respondents considered the displacement of 'relationship banking' by 'transaction banking' to be hazardous for consumers. The main issues reported by respondents refer to inappropriate advice given to consumers; sales incentives as the principal driver for offering a product to a consumer, which include lack of transparent criteria for payment of bonuses; and lack of disclosure of the characteristics of a product in order to facilitate selling. Some respondents identified that sales incentives, specifically when bonuses are dependent on sales amounts, are the principal driver for offering a particular product to a consumer.
125. The EBA has addressed these issues through a number of initiatives it has embarked on in 2014/15. The EBA progressed its work on EBA Guidelines on Product Oversight and Governance arrangements. The Guidelines deal with the establishment of product oversight and governance arrangements for both manufacturers as well as distributors as an integral part of the general organisational requirements linked to the internal control systems of firms. The requirements refer to internal processes, functions and strategies aimed at designing and bringing to the market retail banking products for groups of consumers, and reviewing them over their life cycle. They establish procedures relevant for ensuring the interests, objectives and characteristics of the target market are met.
126. At the time of writing this report, and following a consultation between November 2014 and February 2015, the EBA was in the process of assessing the responses received and is expecting to issue final Guidelines by summer 2015.
127. In the context of the Joint Committee (JC) of the ESAs, in June 2014 the EBA issued, jointly with ESMA, the final EBA Complaints-handling Guidelines²⁰, developed on the basis of the existing complaints-handling guidelines established by the EIOPA. The three ESAs consider that these Guidelines ensure a consistent approach to complaints-handling across the EU. Consumers can purchase financial services and products in the investment, banking and insurance sectors across the entire EU Single Market and these Guidelines will allow them to refer to a single set of complaints-handling arrangements. EU consumers will therefore be able to rely on the same approach irrespective of what type of product they have purchased and where they have purchased it.
128. In addition to strengthening consumer protection, the Guidelines will also allow firms, some of which sell products from more than one sector across the EU, to streamline and standardise their own complaints-handling arrangements. National regulators, too, will be

²⁰ See at <http://www.eba.europa.eu/-/esma-and-eba-publish-harmonised-guidelines-for-handling-consumer-complaints-across-the-eu>.

able to supervise the same harmonised requirements across all sectors of financial services in their own jurisdictions.

129. Finally, the EBA is working along with the other two ESAs on issuing Guidelines for Cross-selling Practices. The Guidelines are aimed at EU competent authorities and develop further how EU firms engaging in cross-selling practices in the financial sector should comply with the general conduct of business standards expected toward customers. In particular, the Guidelines will provide an approach for supervising firms valid across the EU and give more scope for EU customers to take better informed purchasing decisions.
130. While cross-selling financial products can benefit customers by reducing the cost of purchase, cross-selling can also result in customers purchasing products that they do not necessarily want or may be unsuitable for their needs or will bind consumers in a long-term contractual agreement. In order to address these risks, the three ESAs developed requirements for enhanced disclosure and transparency around prices, costs and other non-price features, such as how the risks change as a result of buying products as a package. The draft Guidelines also require that all relevant information is communicated in a timely and exhaustive manner, thereby improving customer understanding of the cross-sold package. The draft Guidelines were consulted on in late 2014 and are aimed at helping to establish a coherent and effective approach to the supervision of firms with regard to cross-selling. At the time of writing the report, the three ESAs are assessing the consultation responses and are expecting to publish final Guidelines later in 2015.
131. With regard to the measures taken by national authorities, one national authority carried out a themed inspection in 2014 to gauge the extent to which incentive arrangements were operated in the best interests of consumers in their design, management and monitoring. While all firms in the review had a process in place for the design and approval of incentive schemes, there was a failure to recognise the inherent risks in remuneration arrangements and to mitigate those risks accordingly.
132. The key findings of that authority were: greater emphasis placed on rewarding higher volumes of sales than achieving suitable consumer outcomes; bonus payments paid fully or largely on the achievement of sales volumes and targets, with little emphasis on the quality of sales to the consumer; limited use of penalties or deterrents against poor sales practices; widespread use of branch targets in the banking sector as a means of focusing on the bank's goals; incentives earned on an 'all or nothing' basis; and regular and robust sales quality monitoring not performed consistently.
133. Some respondents highlighted that these issues also arise at a cross-sectoral level, for example when consumers ask for a mortgage or loan and are cross-sold insurance or other products that are lucrative for the sales staff and their employer.
134. One national authority reported on its ongoing work on new regulation banning commission for insurance intermediaries; on supervision of the advice given by banks to

their clients; and on financial education projects for different target groups, such as through a national network for authorities, companies and organisations to give inspiration in the area of financial education.

135. One national authority issued an industry letter to inform firms, setting out the issues identified on this topic, and required all banking, insurance and investment firms to review and restructure their remuneration arrangements in light of the Guidelines set out. This national authority mentioned that behavioural economics is an area that it is currently looking at as more firms now use techniques such as framing of information (e.g. a judgment is made on the benefit of a choice) in order to increase sales.
136. One other national authority issued a supervisory circular to financial institutions in September 2014 related to the selling of financial products or services to elderly people and other vulnerable groups. Institutions are recommended to issue an internal guideline on the procedures they should follow when selling products and which aspects should be taken into consideration when selling products to these customer groups. It was also emphasised that sales incentives should not lead to unexpected selling practices which are against the best interests of a customer.

Commercial use of banking consumer data

137. Under the scope of its mandate to monitor financial innovation, the EBA identified this topic, as some respondents indicated it as an increasing trend in their jurisdictions. The topic refers to the commercial use of internal data available to banks (such as payment transaction data), which is then in some cases also combined with data from external sources.
138. The issue of concern to the EBA is how data is used and how this might affect the customer, as well as the role private consumer data may play as a source of revenue for banks and other financial institutions.
139. At present, consumer data held by financial institutions mainly encompasses consumer's transaction data, financial information and personal information such as date of birth and address. In the future, consumer data might also include data owned by other innovative providers, such as internet service providers that intend to enter the financial market and already possess customers' data.
140. The EBA is at a preliminary stage of its work but has identified concerns with regard to the lack of privacy, as consumers might not be aware of which financial institutions and/or third parties are using personal data or in what way. As a result, should their data be relayed to third parties, security and data protection issues arise as potential causes for misuse and/or detriment. The apparent lack of clarity on the application of data protection rules is also of concern in this context.

141. In one MS this topic has reportedly received great public attention when a major bank disclosed it had plans to utilise customer data in order to relay third-party commercials to its consumers on its website based on consumer profiles created with a combination of personal, transaction and external data. Most major banks in this jurisdiction are described as researching and developing new ways of making use of such data (e.g. in the development of new banking products and services).
142. In another MS it was reported that consumers may not be fully aware of how their data is used by banks and to what extent their privacy is protected, particularly given that banks are innovating to produce commercial propositions on grounds of the data collected at every step in the interaction with the customer.

Alternative financial services providers

143. Alternative types of financial services providers have remained relevant for the EBA. Some respondents raised concerns that non-bank payment services give rise to risks to consumers and other market participants, because they do not have to the same set of prudential regulations to which banks are subject.
144. The EBA has observed an increasing number of new actors entering the financial services market, providing services that compete with or support traditional providers. While some of these actors and activities are already established across a significant number of MS, others are at a very early stage of development.
145. Some respondents raised concerns regarding safeguards for consumers when dealing with crowdfunding platforms. Platforms provide an alternative source of funding as well as opportunities for potential higher returns for capital invested. In all types of crowdfunding, the flow of funds is of interest to the EBA, given its scope of action and its general payments remit.
146. The EBA started its analysis of lending-based crowdfunding in autumn 2013, with a view to determining the potential risks to participants in this market (i.e. lenders, borrowers and platform providers); the drivers of these risks; and to assess the extent to which regulation would be required to ensure that market participants can have confidence in this particular market innovation. The EBA also identified business models and assessed the extent to which the identified risks are addressed in existing EU directives and regulations or national regulatory frameworks that are already in place or planned.
147. As mentioned earlier in this report, the EBA published the EBA Opinion on lending-based crowdfunding in February 2015. In the Opinion, the EBA concluded that the convergence of practices across the EU for the supervision of crowdfunding was 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. The EBA considered that this convergence should be based on existing EU law, and recommended that EU legislators provide clarity on the applicability of said law to lending-

based crowdfunding. The Opinion proposed several regulatory measures and also recommended that should EU legislators consider developing a possible regulatory framework, existing national regulations for crowdfunding be considered.

148. The EBA also concluded that the Payment Services Directive (Directive 2007/64/EC) is the Directive that is most feasibly applicable to lending-based crowdfunding, covering the payments-related aspects of crowdfunding activities. However, the lending-related aspects are not covered by EU law, leaving several risks and risk drivers that the EBA had identified unlikely to be addressed. This included a lack of or insufficient requirements on any due diligence processes and assessment of borrowers' creditworthiness conducted by a platform, and a lack of or insufficient safeguards against platform default. For these risks and risk drivers, the EBA suggested potential ways to address them, including requirements regarding due diligence procedures on projects advertised on a crowdfunding platform, and requirements regarding internal procedures and to address platform defaults.
149. The EBA will continue to monitor the market and its evolution to assess whether further action is required, continuing also in close cooperation with ESMA to maintain a cross-sectoral approach. The EBA will also contribute to the Commission's work on crowdfunding, providing input and participating in the discussions on the way forward.

Interest rates

150. Reference interest rates in the European context have remained low over the last two years. The ECB has kept the main refinancing operations (fixed rate) at close to zero, in order to make it less attractive for people to save and more attractive to borrow and, thus, to encourage people to spend money or invest.²¹
151. With regard to loans, and more specifically to loans with variable interest rates, it is common market practice in some MS for credit institutions to provide mortgages and other loans with a variable interest rate which may be linked to a reference rate such as the Euribor or Libor. The extent to which these rates are calculated is often not understood by the consumer. Some respondents mention that consumers complain that the indexes used in the calculation of the loan rates are not easily accessible and publicly available. In another MS, it was reported that consumers say they are unaware of the interest rate that applies to their loans and the change of parameters influencing the change of variable interest rates. Another reason for complaints is a fluctuation in the variable interest rate which was not in accordance with the contractual term (i.e. it did not follow the fluctuation of the reference rate included in the contract).
152. Some respondents mentioned that consumers tend to believe that the interest rates that are applied to them must always be in sync with the interest rates that are determined by

²¹ Excerpt from: <https://www.ecb.europa.eu/home/html/faqinterestrates.en.html>

the ECB. This is not always the case, as some products are not directly dependent on those rates.

153. Some national authorities have introduced requirements regarding the disclosure of interest rates and underlying reference rates. One national authority has made it compulsory for creditors to use borrowing rates that are a function of an external reference rate, either directly (reference rate plus spread) or indirectly (the borrowing rate may be an initial rate set in the contract, and its change is a function of an external reference rate). This national authority monitors the compliance by financial institutions with transparency regulations by carrying out off-site inspections.
154. The issue of floor-rate clauses was reported as very relevant in one MS. These floor rates establish a limitation on the extent to which borrowers can benefit from lower interest rates, should the reference index used to set mortgage rates decrease. In this MS, the national authority has established specific regulation, focusing on transparency criteria, and required banks to revise the adaptation of floor-rate clauses included in their home loan portfolios accordingly.
155. The EBA Guidelines on POG aim to introduce requirements on information provision for manufacturers and distributors when financial products are created and sold. These requirements mention that manufacturers should ensure that the product is deemed appropriate for the interests, objectives and characteristics of the identified target market(s), and should assess the degree of financial capability of the target market. The information disclosure requirements mention that manufacturers should provide the distributors with a description of the main characteristics of the product, including the total price of the product to be borne by the consumer, including all related fees, charges and expenses.
156. The EBA will continue to monitor issues that can potentially lead to consumer detriment and should there be indications that there is a need for the EBA to step in on these matters, it will engage in doing so.

Annex 1: Data sources, their methodologies and definitions

Lending for house purchases and credit for consumption

- 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).
- 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).

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 (either individually or jointly with someone else). For 2011, this can be an account at a bank or another type of financial institution, and for 2014 this can also be a mobile account (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 not included (no data provided).

Gross Domestic Product (GDP)

- Source: Eurostat
- Geographical coverage: 25 countries - Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden, United Kingdom. Data from Denmark, Luxembourg and Slovakia not included (no data available).

- 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.’



EUROPEAN BANKING AUTHORITY

Floor 46 One Canada Square, London E14 5AA

Tel. +44 (0)207 382 1776

Fax: +44 (0)207 382 1771

E-mail: info@eba.europa.eu

<http://www.eba.europa.eu>