



EBA CONSUMER TRENDS REPORT 2018/19

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EBA

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AUTHORITY

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List of abbreviations

ADR	alternative dispute resolution
AML	anti-money laundering
APRC	annual percentage rate of charge
ATM	automated teller machine
CA	competent authority
CCD	Consumer Credit Directive
CTR	Consumer Trends Report
DGS	deposit guarantee scheme
DGSD	Deposit Guarantee Schemes Directive
DSTI	debt-service-to-income
EBA	European Banking Authority
ECB	European Central Bank
ESA	European supervisory authority
ESIS	European Standardised Information Sheet
EU	European Union
FER	Financial Education Report
FID	fee information document
FIN-NET	Financial Dispute Resolution Network
FinTech	financial technology
IT	information technology
ITS	implementing technical standards
KID	key information document
LTI	loan-to-income

LTV	loan-to-value
MCD	Mortgage Credit Directive
MiFID II	revised Markets in Financial Instruments Directive
MiFIR	Regulation on Markets in Financial Instruments
MS	Member State
NPL	non-performing loan
PAD	Payment Accounts Directive
POS	point of sale
PRIIP	packaged retail investment and insurance-based investment product
PSD2	revised Payment Services Directive
PSP	payment service provider
RTS	regulatory technical standards
SoF	statement of fees

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Executive summary

The Founding Regulation of the European Banking Authority (EBA) requires it to collect, analyse and report on consumer trends, which the EBA does in the form of its Consumer Trends Report (CTR), which is published regularly. The report covers the retail banking products and services that fall within the EBA's consumer protection mandate, such as mortgages, consumer credit, deposits, payment accounts, payment services and electronic money. It reflects on the trends observed in the European Union (EU) in respect of these products and services and on the issues identified by competent authorities (CAs) that may result in consumer detriment.

This edition of the report identifies the following main findings for each of those products and services:

- *Mortgages* have experienced a relatively steady increase in the past 5 years in both the volume and the value of lending for property purchases across the EU. The main issues that emerge are related to households' indebtedness and lending practices, the level of fees, and challenges for early repayment and loan refinancing.
- *Consumer credit* has been relatively stable in the past 5 years, with a slight increase in credit for consumption. The main issues arise from the cost of short-term credit, the misuse of consumer credit, poor creditworthiness assessment and insufficient contractual and pre-contractual information.
- *Payment services and e-money* have been characterised by payment cards continuing to be the most widely used payment instrument, despite the increased use of digital and online payment services. The main concerns identified are related to the application of the incoming security requirements to new payment services and solutions, the transparency of fees and charges, and unauthorised and/or fraudulent payment transactions.
- *Payment accounts* have been characterised by a high percentage of the EU population having access to these accounts, but the level of account management fees, the refusal to open and the blocking of payment accounts are mentioned as frequent issues.
- *Deposits* are slightly decreasing, in line with a decline in the savings rate. The main issues identified are the negative impacts of the low interest rate environment, the level of the maintenance fees and financial institutions unilaterally revoking some contracts.

The report also outlines the topical issues that the EBA has identified as being relevant to consumers in the EU as identified by various stakeholders, including CAs, national and EU consumer associations, the members of the Financial Dispute Resolution Network and EU industry associations. The topical issues for this edition of the CTR are in order of relative importance, and identify actions that the EBA and CAs may decide to carry out, taking into account relevant legislative developments that the European Commission and/or EU co-legislators may be initiating.

- *Fees and charges* — as a result of decreasing interest rate income, fees and charges were reported to be used as an alternative revenue stream. The main issues identified relate to the fees and charges on payment accounts, cost of payment services and cost of loans. The EBA could assess the effectiveness of the regulatory measures undertaken to improve the transparency and disclosure of information.
- *Indebtedness, responsible lending and creditworthiness assessment* — the risk of consumers' over-indebtedness is fuelled by the low interest rate environment, poor creditworthiness assessment practices, the use of multiple marketing channels and misleading commercial practices. The EBA intends to assess these issues further to identify the appropriate measures to ensure better outcomes for consumers.
- *Financial literacy and education* — the most relevant issues identified were the negative consequences stemming from the low level of financial education, as well as the need for targeted education in relation to the new providers and complex services and tools used in the financial market. While the EBA will continue monitoring the national financial literacy and education initiatives, financial institutions should provide consumers with appropriate information that is adjusted to their needs and financial situation.
- *Transparency and disclosure of pre-contractual information and changes to contractual terms and conditions* — the main concerns raised relate to the transparency of banking fees and costs, the disclosure of pre-contractual information to consumers, and the unilateral amendment of contractual terms and conditions by financial institutions. CAs and the relevant EU institutions, including where relevant the EBA, could assess whether the undertaken initiatives are effective and sufficient.
- *Data breaches and cyber-security* — the digitalisation of financial services may expose consumers to new risks and threats such as the risk of misuse of personal financial data and cyber-crime. While CAs should pay increased attention to these risks, the EBA aims to facilitate cooperation between CAs and try to harmonise the approaches taken.
- *Cross-border selling of products and services* — the relevant issues identified were the lack of awareness of the actors involved in cross-border agreements and their responsibilities and redress mechanisms, and the lack of adequate enforcement powers by host supervisory authorities. The EBA aims to ensure effective cooperation between home and host CAs in the supervision of the financial institutions providing cross-border services.

Finally, a comparison with CTR 2017 suggests that, while some of the topical issues identified in this edition of the CTR had already emerged, others are appearing for the first time.

Consumer Trends Report 2017	Consumer Trends Report 2018/19
Indebtedness (including 'Commercial lending practices' and 'Household borrowing, creditworthiness assessment and arrears handling')	Indebtedness, responsible lending and creditworthiness assessment
Banking fees and costs	Fees and charges
Selling practices (cross-selling and sales incentives)	Cross-border selling of products and services
Innovation in payments	X
Foreign currency loans	X
Alternative financial services providers	X
Innovative uses of consumer data	Data breaches and cyber-security
X	Financial literacy and education
X	Transparency and disclosure of pre-contractual information and changes to contractual terms and conditions

The EBA intends to use the findings of the CTR 2018/19 as a basis when shaping its work programme in the consumer protection area for 2020 and beyond.

Background

1. One of the mandates conferred on the EBA is to collect, analyse and report on consumer trends, as laid down in Article 9(1)(a) of the EBA Regulation¹. In order to fulfil this mandate, the EBA regularly publishes a Consumer Trends Report (CTR), and has done so in March 2013², February 2014³, June 2015⁴, June 2016⁵ and June 2017⁶.
2. Each report sets out the trends and issues that the EBA has observed that year for the products and services within its remit, identifies the topical consumer protection issues that arise or have arisen for consumers and reflects on the initiatives that the EBA has taken in response or is considering for inclusion in its work programme for the following year(s).
3. The CTR 2018/19 is the first biennial publication of the report. EBA plans to publish the report every 2 years in the future, mainly to allow sufficient time for the EBA to react on the issues and trends identified and to avoid repetition of some topics, which tend to be recurring.
4. The products and services that are covered in the EBA's CTR comprise all retail banking products and services that fall within the scope of action of the EBA's consumer protection mandate. This includes mortgages, consumer credit⁷, payment services and electronic money, payment accounts and deposits (including structured deposits). This edition of the report, which covers the years 2018 and 2019, sets out the trends and issues that the EBA has identified and analysed from a consumer protection perspective.
5. The CTR 2018/19 is primarily based on the consumer protection priorities identified by national competent authorities (CAs) in the 28 EU Member States (MSs). Further input was received from a selection of national and EU consumer associations, the members of the Financial Dispute Resolution Network (FIN-NET) and EU industry associations. All of these stakeholders were asked to name the topical issues they had observed and the trends and related issues that they therefore considered the EBA should address in 2020 and beyond. This was further complemented by the EBA's analysis of statistical datasets and reports, produced by public sources, such as Eurostat, the European Central Bank (ECB) and the World Bank, on market developments across various categories of financial services.
6. The 2018/19 edition of the report differs from previous reports in that it uses additional sources of information and is more detailed and more comprehensive. As before, however, the report is split into two sections. Chapter 1 covers the retail banking products and services

¹ Regulation (EU) No 1093/2010 establishing an European Supervisory Authority (European Banking Authority). See <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02010R1093-20160112&from=EN>.

² See <http://www.eba.europa.eu/-/eba-publishes-consumer-trends-report>.

³ See <http://www.eba.europa.eu/-/eba-publishes-consumer-trends-repo-1>.

⁴ See <http://www.eba.europa.eu/-/eba-updates-on-consumer-trends-in-2015>.

⁵ See <https://www.eba.europa.eu/documents/10180/1360107/Consumer+Trends+Report+2016.pdf>.

⁶ See <http://www.eba.europa.eu/documents/10180/1720738/Consumer+Trends+Report+2017.pdf>.

⁷ Provided by credit institutions only.

within the scope of action of the EBA's consumer protection mandate and that are therefore monitored by the EBA.

7. The information on retail banking products and services comprises a short introduction to the product/service, the applicable EU legal and regulatory framework, the evolution of the product/service, the observed trends, relevant complaints data from CAs and FIN-NET members, and the most common issues relevant to the product or service. Where relevant, reference is made to the initiatives that the EBA and the national CAs are carrying out in relation to these products and services. The report, however, does not reflect all supervisory activities that may have been undertaken by CAs to address the issues identified.
8. The report also provides a summary of how the EBA has fulfilled its separate mandate under Article 39(2) of Regulation (EU) No 600/2014 on Markets in Financial Instruments (MiFIR)⁸ to monitor the market for structured deposits which are marketed, distributed or sold in the Union.
9. Chapter 2 outlines topical issues that the sources have identified as relevant to the EBA. These issues tend to vary between the editions of the report, which reflects the varying inputs received over time and from the different sources consulted by the EBA. The topics include 'Fees and charges', 'Indebtedness, responsible lending and creditworthiness assessment', 'Financial literacy and education', 'Transparency and disclosure of pre-contractual information and changes to contractual terms and conditions', 'Data breaches and cyber-security' and 'Cross-border selling of products and services'.
10. As highlighted in Chapter 2, while the topical issues of 'Fees and charges' and 'Indebtedness, responsible lending and creditworthiness assessment' recur from the previous edition of the report (2017), others, such as 'Data breaches and cyber-security' and 'Cross-border selling of products and services', have slightly changed. The other topical issues identified in the CTR 2018/19 have not been covered in the last few editions of the report.
11. The description of the topical issues consists of a brief introduction of the topic and its relative importance, the relevant issues that have been identified as arising from the topic across the EU, and the regulatory and/or supervisory measures the EBA and CAs have already undertaken to address some of the relevant issues. In addition, the EBA has identified for each topical issue actions that the EBA and CAs may decide to carry out, taking into account relevant legislative developments that the European Commission and/or EU co-legislators may be initiating.

⁸ Regulation (EU) No 600/2014 Regulation on Markets in Financial Instruments.

Chapter 1: Retail banking products and services

12. This section covers the retail banking products and services within the scope of action of the EBA's consumer protection mandate. These products and services are monitored by the EBA and feature in every edition of the report. These include mortgages, consumer credit, payment services and electronic money, payment accounts and deposits. In addition, the report covers structured deposits in fulfilment of the EBA's separate mandate under MiFIR to monitor the market for structured deposits which are marketed, distributed or sold in the EU.

Mortgages

Introduction

13. Mortgage loans are offered by credit institutions, building societies or other lenders and are often secured against a consumer's property. A mortgage loan usually comes with a lower interest rate and a longer redemption period than other types of consumer credit. However, if a consumer fails to fulfil their repayment obligations and their mortgage has been secured against their property, lenders may be in a position to seize and resell the consumer's home to pay off the loan. Lenders are free to accept or reject a consumer's mortgage application⁹.
14. Taking out a mortgage loan is likely to be one of the most important financial decisions a consumer will make in their lifetime¹⁰. 'On average, around 1 in 4 Europeans [sic] households currently has a mortgage loan — however, in some [European] countries [...], more than half of the population (not only home-owners) are mortgage holders'¹¹. Mortgages continue to be the most common form of collateral that is used for housing loans across the EU.

Evolution and trends

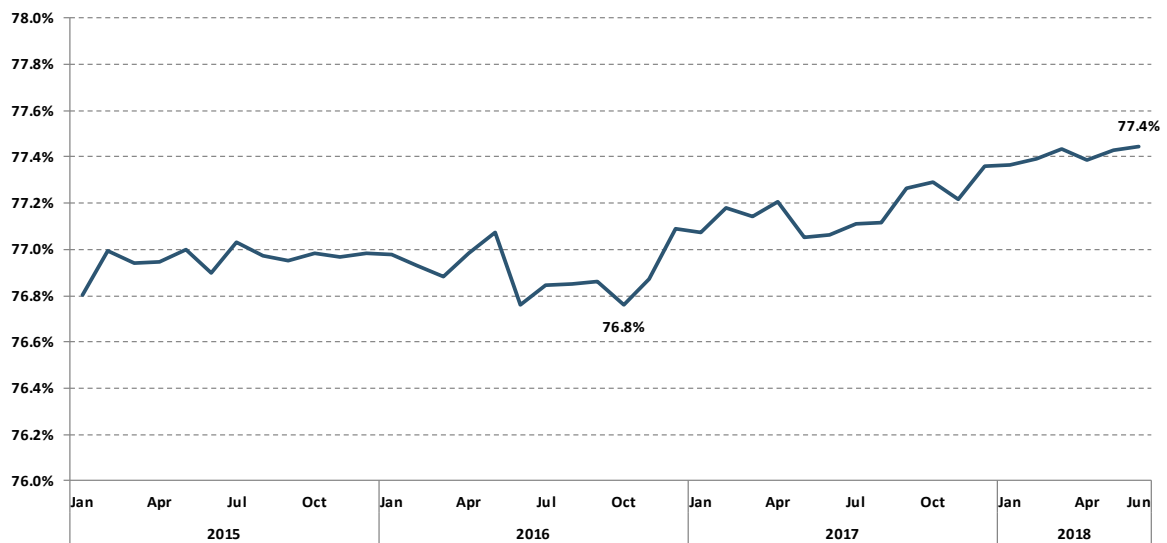
15. Mortgages have a big impact on consumers' personal finances, representing in excess of 77% of loans to households in EU MSs in 2017 (see Figure 1). There has been a small but steady increase in the percentage of loans (+69 basis points) being drawn down for house-purchasing purposes, up from 76.8% in June 2016 to 77.4% in June 2018.

⁹ European Union's consumer web pages. See https://europa.eu/youreurope/citizens/consumers/financial-products-and-services/mortgages/index_en.htm.

¹⁰ EMF-ECBC Mortgage Guide for Consumers. See <https://hyppo.org/ecbc/market-initiative/mortgage-consumer-guide/>.

¹¹ European Mortgage Federation, EMF-ECBC: Celebrating 50 years of funding the real economy — benefits of mortgage and housing markets. See <http://www.yourmortgage.eu/mortgage-markets-in-the-eu/>.

Figure 1: Mortgages as a percentage of loans to households in EU MSs

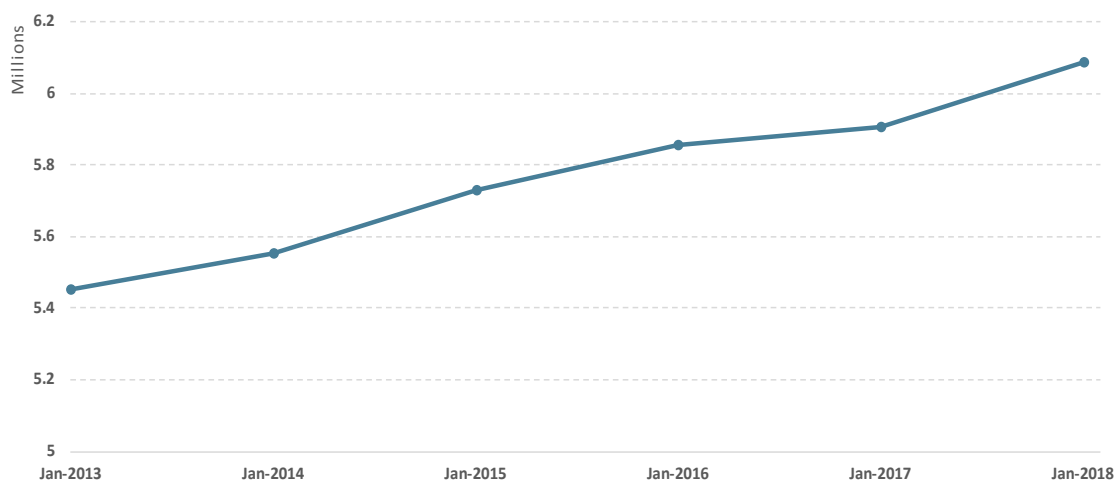


Source: ECB.

Note: 26 EU MSs, excluding Denmark and Sweden.

16. Lending for house purchases rose in a steady upwards trajectory, from EUR 5.85 trillion in January 2016 to EUR 6.08 trillion in January 2018, representing an increase of EUR 229 billion in that 2-year period (see Figure 2).

Figure 2: Amounts (in euros) of lending for house purchases, 2013-2018



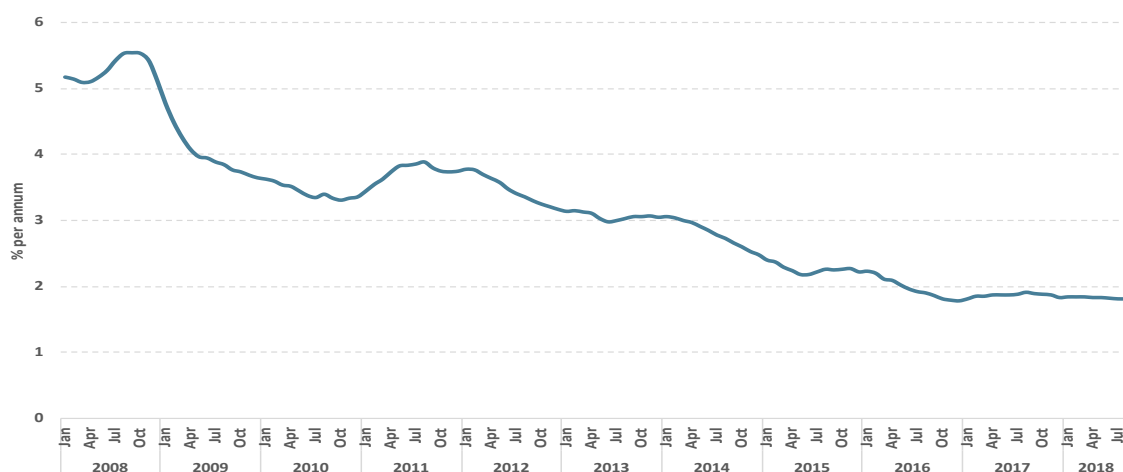
Source: ECB.

Note: 27 EU MSs, excluding Denmark.

17. There has been a relatively steady increase in both the volume (Figure 1) and the value (Figure 2) of lending for house purchases across the EU over the past 5 years (2013-2018). A significant number of CAs also reported an increase in the volume and value of new mortgage drawdowns in their jurisdictions.

18. Figures 1 and 2 indicate that, while consumers in the EU drew down more mortgages in 2017 and the first half of 2018 than in 2016, this increase in lending to households for house purchases, in terms of both volume and value, has been quite modest. It is worth noting that the modest increase in mortgage drawdowns on average across the EU masks the fact that this overall trend was not observed in all EU MSs. A small number of CAs noted a reduction in the number of mortgage agreements concluded in their countries. In addition, based on the information assessed, it was not possible to determine the extent to which the ‘new mortgages’ reported represent entirely new lending or existing loans that have been restructured, and thus are considered ‘new mortgages’ from a contractual perspective.
19. The annualised agreed rate of lending or the cost of borrowing for house purchases fell from 5.3% in June 2008 to 1.8% in June 2018 (see Figure 3). The annualised agreed rate of lending for house purchases has remained relatively constant since 2017 (around 1.8% in 2017 and 2018). This may imply that borrowing funds for consumers to buy their own home is likely to be less costly than it was in 2008.
20. Based on the data presented in Figure 3, the overall cost of borrowing for home purchases across the euro area as a whole should have decreased over the past 10 years because of the decrease in the rate of lending for house purchases. However, this figure does not reflect the differences that continue to exist between euro area countries in respect of consumers’ access to, and the availability of, affordable mortgage credit. Consumers in some euro area countries continue to find it more costly or difficult to borrow for home purchase than consumers in other euro area countries, which are less affected by the legacy of the financial crisis. This is considered further in this report, both in the ‘Relevant issues’ sub-section related to mortgages and in the topical issue ‘Indebtedness’ that is covered in Chapter 2 of this report.

Figure 3: Annualised rate of lending for house purchase in the euro area, 2008-2018



Source: ECB.

Legal and regulatory framework

21. For the purpose of this report, 'mortgages' are understood, in the context of Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property (the Mortgage Credit Directive, MCD) as credit agreements, entered into by consumers, which are secured either by a mortgage or by another comparable security commonly used in an MS of the European Union on residential immovable property and used to acquire or retain property rights in land or in an existing or projected building.
22. The purpose of the MCD, which was to be incorporated into Member States' national law by 21 March 2016, is to develop a more transparent, efficient and competitive internal EU market, through consistent, flexible and fair credit agreements relating to immovable property, while promoting sustainable lending and borrowing practices, and financial inclusion, thus providing a high level of consumer protection.
23. Among other things, the MCD places an obligation on lenders to assess a consumer's creditworthiness in accordance with common EU standards, and for consumers to be provided with a European Standardised Information Sheet (ESIS) setting out detailed information on the conditions, including the consumer's right to repay their credit earlier than determined in the contract ('early repayment'). The MCD also introduces requirements for the calculation of the annual percentage rate of charge (APRC).
24. The entry into force of the MCD across the EU in 2016 also brought about the introduction of a number of Level 2 and 3 measures developed by the EBA, which supplemented or clarified some of the provisions contained in the MCD itself. These include:
 - Regulatory Technical Standards (RTS) on the Minimum Monetary Amount of Professional Indemnity Insurance or comparable guarantee to be held by credit intermediaries under the MCD (EBA/RTS/2014/08). These RTS specify the amount of the professional indemnity insurance or comparable guarantee that mortgage credit intermediaries need to hold. This is a measure that provides consumers with greater protection in the event of a claim.
 - An EBA decision specifying the benchmark rate under the MCD (EBA/DC/2016/145). In certain circumstances, creditors must use this benchmark rate to calculate the illustrative examples for variable rate mortgages. These illustrations must be provided to consumers on the ESIS.
 - EBA Guidelines on Creditworthiness Assessment (EBA/GL/2015/11) supplementing Articles 18 and 20(1) of the MCD. These guidelines provide greater detail on how consumers' creditworthiness is to be assessed by creditors.
 - EBA Guidelines on Arrears and Foreclosure (EBA/GL/2015/12) supplementing Article 28 of the MCD by requiring creditors to exercise reasonable forbearance before starting foreclosure proceedings.

Relevant issues

Quick take-aways

CAs reported the following common issues for consumers arising from mortgages, which are elaborated in detail below:

- levels of household indebtedness;
- concerning lending practices;
- level of fees and charges, and their transparency;
- challenges for early repayment of a mortgage loan;
- mortgage loan refinancing.

25. The most common issues related to mortgages raised by CAs, applicable to the majority of the MSs, are the level of indebtedness of consumers, including the effect of the low interest rate environment, and responsible lending practices. A number of CAs also reported issues related to the fees and charges applied to consumers when drawing a mortgage. These topics are considered in greater detail in Chapter 2 of this report because, while closely linked to developments in the EU mortgage market, they are also relevant to other retail banking products and services that fall within the scope of action of the EBA's consumer protection mandate.
26. A large number of CAs have identified as an issue in their jurisdictions the challenges encountered by consumers willing to repay their mortgage early, including the imposition of unreasonable delays. Pursuant to Article 25 of the MCD, consumers have a right to repay their mortgage earlier under certain conditions that may vary from MS to MS. In a number of MSs, creditors may seek fair and objective compensation for costs directly linked to the early repayment from consumers who wish to exercise this right; however, sanctions should not be imposed on consumers who choose to repay their mortgage early. Nevertheless, the costs imposed on consumers who exercise their right to early repayment represent an issue for several CAs.
27. A number of CAs noted that consumers have engaged in mortgage loan refinancing or have chosen to repay their existing mortgage loan early, so that they could capitalise on the lower interest rate environment. Several CAs reported that consumers appear to have restructured their mortgage in arrears so that they could afford to meet their mortgage repayment obligations, albeit at a lower rate, and/or renegotiate their outstanding loans by combining them with their mortgage. A few CAs indicated that credit institutions were unwilling to renegotiate the terms and conditions associated with an existing loan agreement or presented consumers with unfavourable refinancing terms and conditions, presumably in an effort to encourage the consumer not to look to break their existing mortgage agreement.
28. A few CAs observed an increase in the popularity of fixed interest rate mortgages among consumers in their jurisdictions in recent years, though variable rate mortgages continue to be

very common among consumers across most of the MSs. Individual CAs reported that (i) there were some initial indications to suggest that the trend of an increase in fixed interest rate mortgages may be coming to an end, perhaps in response to the expected increase in the variable interest rate in the near future; (ii) the gap between spreads on fixed and variable rate loans is an issue; and (iii) the cost of drawing down mortgage loans can significantly vary between MSs because of the difference in the levels of the variable rates, which subsequently affects the cost of the mortgage.

29. Multiple CAs referred to macroprudential measures imposed by CAs, such as the loan-to-value (LTV), loan-to-income (LTI) and debt-service-to-income (DSTI) ratios, as well as maturity limits that have been introduced in recent years and the positive impact they are having on consumer protection.
30. A small number of CAs highlighted the issues surrounding floor-rate clauses being inserted in mortgage credit agreements, with one of them noting that these types of clauses were on the increase, while another CA referred to the push for greater transparency around floor-rate clauses and called on creditors to analyse these contract clauses on an individual basis. A few CAs also identified issues around the releasing of collateral upon the conclusion of a mortgage credit agreement.
31. Other mortgage agreement-related issues raised by a few CAs include consumers not understanding the terms and conditions associated with their mortgage loan, creditors requesting excessive information from consumers, unilateral modification of mortgage contractual terms and the inclusion of incorrect revocation instructions in mortgage credit agreements.
32. A few CAs reported issues related to the foreign currency loans. One CA noted a sharp drop-off in Swiss franc loans in its jurisdiction since 2015, presumably as a consequence of the incorporation into national law of the new requirements of the MCD on foreign currency mortgage loans set forth under Article 23 of the Directive. Another CA reported that returning emigrants with mortgage capital in neither euros nor US dollars, such as in pounds sterling or Norwegian kroner, were now experiencing difficulties in drawing down mortgages in their home country, the inference being that these difficulties can be attributed to the foreign currency mortgage loan provisions contained in the MCD and the way these provisions have been incorporated by EU MSs.
33. A small number of CAs also referred to issues related to the structure and composition of the property market in their country. The overvalue price of immovable properties (i.e. homes) and/or how properties are valued was highlighted by some CAs, whereas the constraints related to insufficient supply of housing stock were evidenced by another CA.
34. A few CAs referred to the insufficient training levels of those (sometimes known as financial advisers) offering or selling mortgage products in their jurisdictions. In relation to that, it should be noted that Article 9 and Annex III of the MCD contain knowledge and competence

requirements for the staff of creditors, credit intermediaries and appointed representatives. However, it was acknowledged that it may take some time for all those currently involved in the offering and selling of mortgage credit products to consumers across the EU to meet the required knowledge and competence requirements set out in the MCD.

35. Other mortgage-related issues that remain relevant to some CAs include bundling practices, e.g. when consumers wish to draw down a mortgage with a particular creditor but to take out mortgage protection insurance with another provider; difficulties experienced by first-time buyers attempting to enter the mortgage market to buy their first home; arrears handling; and low levels of mortgage switching.

Complaints

36. Of the total numbers of complaints reported by CAs in 2017, on average 23% relate to mortgages (with a median of 19%). The most common reasons for consumers' complaints about mortgages received by CAs in 2017 — beyond the issues elaborated upon in the 'Relevant issues' sub-section above — include advice and terms and conditions associated with the mortgage credit agreement, administrative matters (including creditors' failure to provide a mortgage), the provision of insufficient information, issues surrounding the sales process, real estate financing in general terms, intermediaries and fraud.
37. In addition, FIN-NET members reported that the most common reasons for complaints by consumers in relation to mortgages were fees and costs, including initial mortgage-related set-up costs and associated charges, issues around the granting and refusal of mortgage credit agreements, mortgage-related insurance products, technical errors, foreign currency mortgage loans, and general administration and customer service-related matters.

Consumer credit

Introduction

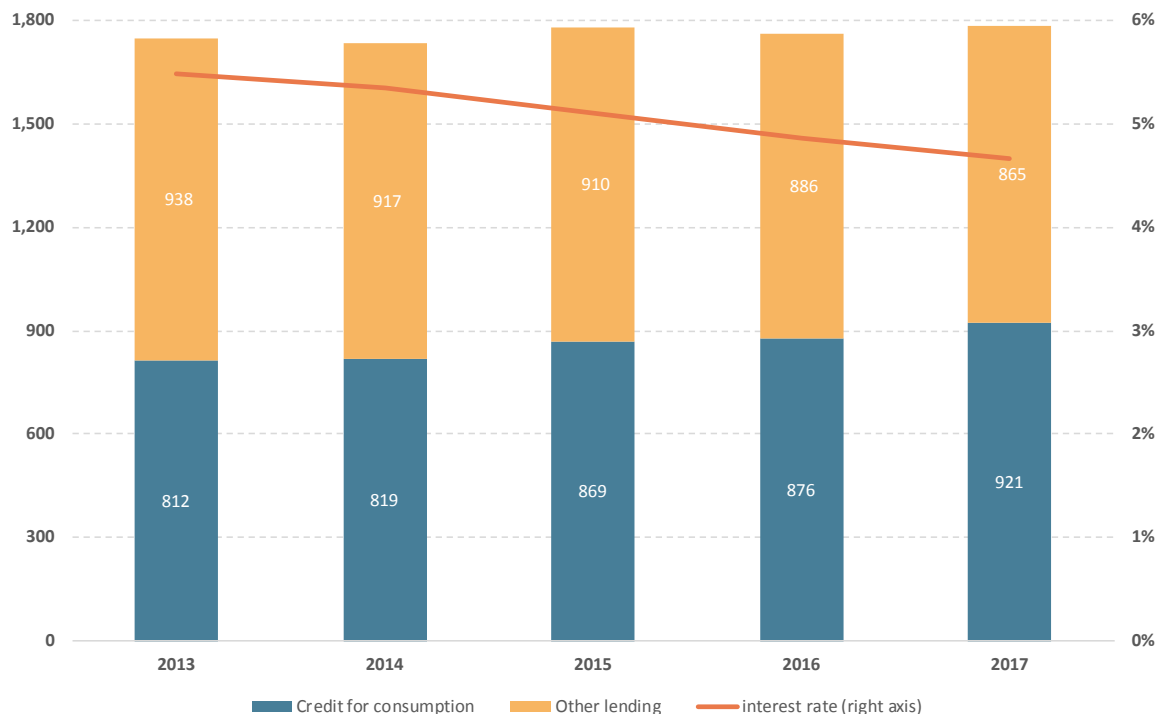
38. Households resort to different forms of credit not guaranteed by mortgages, in order to pay for goods and services that they are unable or unwilling to immediately pay for in full. This is commonly referred to as consumer credit and it includes different products such as personal loans, car finance and revolving credit¹², which includes credit cards, overdrafts and other credit lines.

Evolution and trends

¹² Revolving credit is a type of credit facility that allows drawdown of credit, up to a fixed credit limit, and repayments on a flexible basis subject to a minimum amount paid in each period. Repayments refresh the available credit. If the minimum repayment amount is low, relative to the amount outstanding, and the customer chooses not to repay more, it can take a long time to repay the principal, and total interest charges may be high.

39. The volume of consumer credit¹³ has been relatively stable for the past 5 years, with a steady growth of credit for consumption, which increased by 5.1% between 2016 and 2017 (Figure 4).
40. In line with the observed trend, most CAs reported that the demand for consumer credit has increased in their jurisdictions, both in terms of volume and value of loans. The reason for this trend suggested by some national CAs is the decrease in the interest rate in the EU. However, it should be noted that there are other factors that may have influenced the demand for consumer credit, e.g. a sustained growth of private consumption. One CA also reported that stricter amortising requirements on residential mortgages created some pressure on consumers' current disposable income.

Figure 4: Consumer credit, 2013-2017 (billion EUR, outstanding amounts)



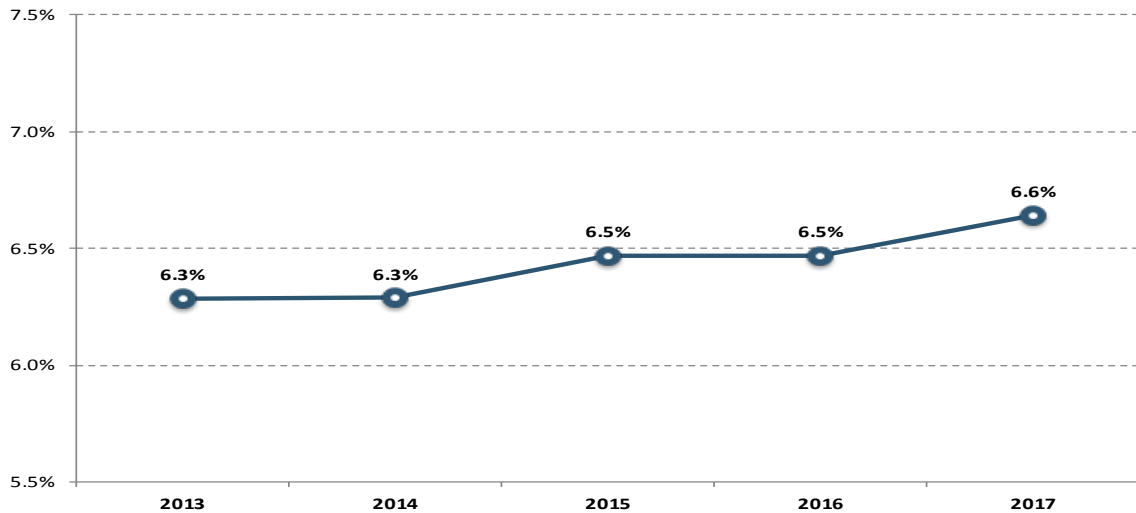
Source: ECB.

Note: 28 EU MSs.

41. Moreover, the ratio of outstanding amounts of credit for consumption to all loans has been relatively stable throughout the past 5 years, between 6.3% in 2013 and 6.6% in 2017 (see Figure 5).

¹³ Consumer credit comprises loans granted for mainly personal consumption of goods and services, and other loans, such as for business or education.

Figure 5: Credit for consumption to all loans (outstanding amounts), 2013-2017



Source: ECB.

Note: 28 EU MSs.

Legal and regulatory framework

42. Acknowledging the different types of credit offered to consumers, which have appeared and evolved over the years, the EU legislature adopted the Consumer Credit Directive (CCD) on credit agreements for consumers, which has been applicable since 11 June 2008¹⁴.
43. The CCD does not fall within the scope of action of the EBA's consumer protection mandate, and therefore the EBA has limited regulatory remit and monitoring competence over this market segment. However, the EBA can act in respect of any form of credit (including consumer credit) provided by credit institutions for prudential or financial stability reasons, and also in respect of ancillary credit to other products and services that fall within the remit of the EBA's consumer protection mandate, such as payment services and electronic money, and the providers of these services, i.e. payment and electronic money institutions.
44. Therefore, it is important to highlight the relevance of the CCD, which aims to achieve a more transparent, efficient and well-functioning internal EU market in consumer credit while ensuring a high level of consumer protection. Furthermore, the CCD is relevant to many CAs, whose regulatory remit often extends to the respective national law transposing the CCD.
45. The CCD established an important set of rules regarding pre-contractual and contractual information to be provided to consumers. In particular, consumers must receive adequate and comprehensive information on the conditions and costs of the credit and on their obligations,

¹⁴ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.

so they can make an informed decision on whether to enter into the credit agreement. Pre-contractual information must be provided in a standardised format.

46. In addition, the CCD established a new set of obligations for lenders, who are now required to provide adequate explanations to consumers, to enable the consumer to assess whether the proposed agreement corresponds to their needs and financial situation, and to assess consumers' creditworthiness (including affordability) prior to the conclusion of a credit agreement, as well as before any significant increase in the total amount of credit.
47. In addition to the rules set out in the CCD, some CAs applied the EBA Guidelines on Creditworthiness Assessment (EBA/GL/2015/11) and extended the rules established by the MCD, related to the assessment on credit agreements for consumers on residential immovable property, to the assessment of the consumers' creditworthiness before concluding a consumer credit agreement.
48. Furthermore, within the framework of the European Council Action Plan on non-performing loans (NPLs), the EBA has been requested to issue detailed guidelines on banks' loan origination, monitoring and internal governance to address, in particular, issues such as transparency and borrower affordability assessment. The EBA is planning to consult on those guidelines later in 2019.

Relevant issues

Quick take-aways

CAs reported the following common issues for consumers arising from consumer credit, which are elaborated in detail below:

- the high cost of short-term consumer credit;
- misuse of consumer credit;
- poor creditworthiness assessment practices;
- over-indebtedness and arrears;
- insufficient pre-contractual information;
- inadequate information over the lifetime of the contract.

49. Regarding consumer credit, the main issues identified by CAs relate to trends that emerge in the distribution of specific products, such as short-term high-cost consumer credit (also referred to as instant credit, fast credit or payday loans) and revolving credit, as well as responsible lending practices that are still not settled or continue to be a priority for some CAs due to the current increase in new lending.
50. In the case of short-term high-cost consumer credit, one of the main issues identified by a number of CAs is the continuing increase in the number of sales of these products. Some CAs reported that these loans are increasingly provided online or through mobile applications and

that the steps and procedures of the granting process are minimised in order to increase the speed at which the consumer receives the funds. The cost of these credits has been observed as much higher than the cost of other ordinary personal loans, due to, inter alia, a higher estimated default risk. Many of these loans were considered to be ‘pre-approved’¹⁵ and their creditworthiness assessment to be often based on automated algorithms. Some CAs are concerned about the creditworthiness assessment process of institutions that offer such loans, which may insufficiently verify the customer’s repayment ability.

51. In addition, some CAs noted that the institutions that provide short-term high-cost credit are outside the remit of CAs or are fully digital credit providers acting in the market under the freedom to provide services, while established in another EU MS where less strict rules apply, thus obstructing the oversight and enforcement objectives of the host country’s CA.
52. Another issue related to consumer credit identified as relevant to consumers is related to the mismatch between the borrowing goal for consumers and the type of credit product provided, with two CAs particularly identifying the misuse of revolving credit. One CA reported a trend whereby consumers choose credit cards with low repayment ratios to pay low instalments, implying that capital amortisation is done over a very long term. This, together with the high interest rates usually charged in similar types of credit, can lead to consumers paying a significant amount of interest. Another CA reported that financial institutions provide revolving credit to supply loans that have a mismatch between the lending goal of the consumer and the type of credit product provided to them (e.g. revolving credit without a clear ending date, related to products whose value decreases significantly over time).
53. Poor creditworthiness assessment issues continue to be a problem reported by CAs. Some of the issues are related to specific consumer credit products, such as car financing or salary-backed loans, while others are common across all consumer credit segments. A few CAs reported, that when assessing the consumer’s creditworthiness, a high percentage of institutions do not use credit register databases, as it is not required by law. Creditworthiness assessment is considered in greater detail in Chapter 2 of this report, because the issue is also relevant to other retail banking products and services that fall within the scope of action of the EBA’s consumer protection mandate.
54. Although consumer credit accounts for a smaller percentage of the total amount of consumer debt than mortgages, its impact on the family budget may be more pronounced when drawn irresponsibly. Therefore, a considerable number of CAs mentioned over-indebtedness and arrears situations as key issues in the context of consumer credit. Some of them are highly concerned by the levels of personal loans in arrears, even in a situation of increasing economic activity.
55. A number of CAs reported the process of arrears handling as a major issue related to consumer credit. In addition, two CAs observed failures of financial institutions to inform consumers

¹⁵ In this context, ‘pre-approved’ refers to loans based only on payment accounts data without proper income verification. In some instances, these were unsolicited loans offered to consumers.

about the sale of their debt to third parties. The sale of consumer debts to third parties may have a negative impact on consumers in the NPL secondary markets when consumer protection framework is not complete. The European Commission recognises this and initiated a legislative proposal¹⁶ to improve the situation by introducing a number of additional safeguards, in order to limit potential risks from the sale of consumer loans and performing credits. As previously mentioned, the EBA is also in the process of developing guidelines on banks' loan origination, monitoring and internal governance, which could potentially address some of the related issues.

56. Some CAs reported that pre-contractual information continues to be insufficiently provided to consumers by financial institutions, either generally for all products or for specific product types. In particular, these CAs observed a lack of information concerning the terms and conditions of credit, penalties and early repayment.
57. In addition, these CAs expressed concern about the inability of some consumers to understand the complicated and confusing information provided by financial institutions during the pre-contractual phase. This trend is exacerbated by insufficiently trained employees who sell credit to finance goods and services without being in a position to further assist consumers. Misleading advertising and mis-selling practices were also referred to by a few CAs.
58. Some CAs also identified as an issue the provision of inadequate post-contractual information to consumers. Although a few CAs identified this issue in general terms, others highlighted specific concerns, such as (i) lack of clarity and transparency of the documentation presented to customers regarding early settlement and (ii) delays in notifications of changes of the applicable interest rate (in cases of loans granted at variable interest rates).
59. Some CAs identified the increasing and non-transparent fees or high interest rates during the contract life as other major issues. These topics are reflected separately in Chapter 2 of the report, since they are also relevant to other retail banking products and services that fall within the scope of action of the EBA's consumer protection mandate.

Complaints

60. From the total number of consumer complaints reported by CAs in 2017, on average 17% relate to consumer credit (with a median of 25%). The top reasons for consumer complaints as identified by CAs were the level of fees, various issues related to pre-contractual and contractual information, debts and debt collection, levels of interest rates and management issues.
61. In addition, FIN-NET members reported that the most common reasons for complaints by consumers in relation to consumer credit were overdue amounts, interest rates charged, issues with repayment difficulties or charges on early repayment, fees and charges, and credit cancellation.

¹⁶ COM(2018) 135 final.

Payment services and electronic money

Introduction

62. Secure, efficient, innovative and user-friendly payments are beneficial for consumers, enabling them to access a wider range of goods and services, including through e-commerce. For the purposes of this report, ‘payment services’ refers mainly to those activities or acts carried out by consumers that imply placing, transferring or withdrawing funds, and that are executed through the use of different payment instruments¹⁷, including payment cards, typically debit and credit cards, credit transfers, cheques (used in certain countries but almost non-existent in others), direct debits and electronic money.
63. In order to better understand the different payment instruments that consumers may use when making a payment, the EBA has summarised below the main characteristics and functions from a consumer point of view of the different payment instruments that are also referenced throughout this section of the report:
- a payment card is a device that can be used by its holder either to conduct payment transactions or to withdraw money;
 - a credit transfer is a payment service which allows a payer to instruct the financial institution holding their account to transfer funds to a beneficiary¹⁸;
 - a cheque is a written order from one party, i.e. the drawer, to another, i.e. the drawee, which is normally a credit institution, requiring the drawee to pay a specified amount on demand to the drawer or to a third party specified by the drawer;
 - a direct debit is a payment service for debiting a payer’s payment account, potentially on a recurrent basis, whereby a payment transaction is initiated by the payee on the basis of the payer’s consent¹⁹;
 - electronic money is electronically stored monetary value which is issued on receipt of funds for the purpose of making payment transactions and which is accepted by a natural or legal person other than the electronic money issuer²⁰.

¹⁷ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market defines ‘payment instrument’ as ‘a personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used in order to initiate a payment order’.

¹⁸ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market defines ‘credit transfer’ as ‘a payment service for crediting a payee’s payment account with a payment transaction or a series of payment transactions from a payer’s payment account by the payment service provider which holds the payer’s payment account, based on an instruction given by the payer’.

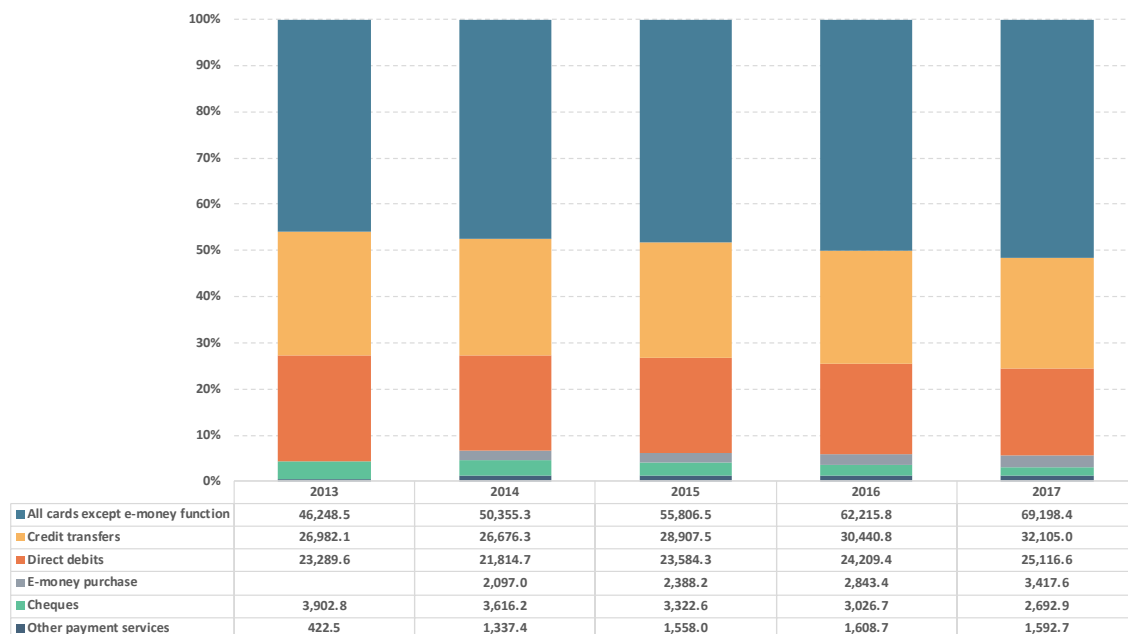
¹⁹ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market defines ‘direct debit’ ‘as a payment service for debiting a payer’s payment account, where a payment transaction is initiated by the payee on the basis of the consent given by the payer to the payee, to the payee’s payment service provider or to the payer’s own payment service provider’.

²⁰ According to Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, ‘electronic money’ means ‘electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC, and which is accepted by a natural or legal person other than the electronic money issuer’.

Evolution and trends

64. It should be noted that the newly regulated payment services under the revised Payment Services Directive (PSD2)²¹ (i.e. payment initiation and account information services) are not reflected in the trends described in this report because PSD2 applies since 13 January 2018 and there are no reliable data available.
65. According to Figure 6, in 2017, cards, credit transfers and direct debits were the most important forms of payment, corresponding to 51.6%, 24% and 18.7% of total transactions, respectively. The period 2013-2017 shows an increase in transactions using cards and a relative decrease in the use of credit transfers, direct debits and cheques. The total number of non-cash payments in the EU increased to 134 billion in 2017, 7.3% more than the previous year. The importance of paper-based transactions continued to decrease, with the ratio of paper-based transactions to transactions initiated electronically standing at around 1 to 10. Although the relative importance of electronic money is still limited, it must be highlighted that the total number of payments with this payment instrument is growing slowly but steadily every year.

Figure 6: Total number of payments per type of payment service (millions), 2013-2017



Source: ECB Data Warehouse.

Note: In some instances, the totals are not shown, to protect statistical confidentiality or because the available components would not be representative of the group as a whole.

66. Payment cards have been the prevailing payment instrument in the EU in the last few years, with the majority of retail payment transactions being executed through them. As is shown

²¹ Directive (EU) 2015/2366 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

above in Figure 6, the number of card transactions rose in 2017 to 69.2 billion, 10.1% more than the previous year.

67. Regarding the above, while card transactions were the most frequently used instrument in the majority of MSs, in 2017 four MSs saw credit transfers representing the largest proportion, while, as in 2015 and 2016, in one MS it was direct debits and in another it was e-money transactions.
68. The significance of payment card transactions in terms of total value remains very small (EUR 3.05 trillion), as can be noted in Table 1. This is because the table also shows wholesale payments.

Table 1: Total value of payments per type of payment instrument (billion EUR), 2013-2017

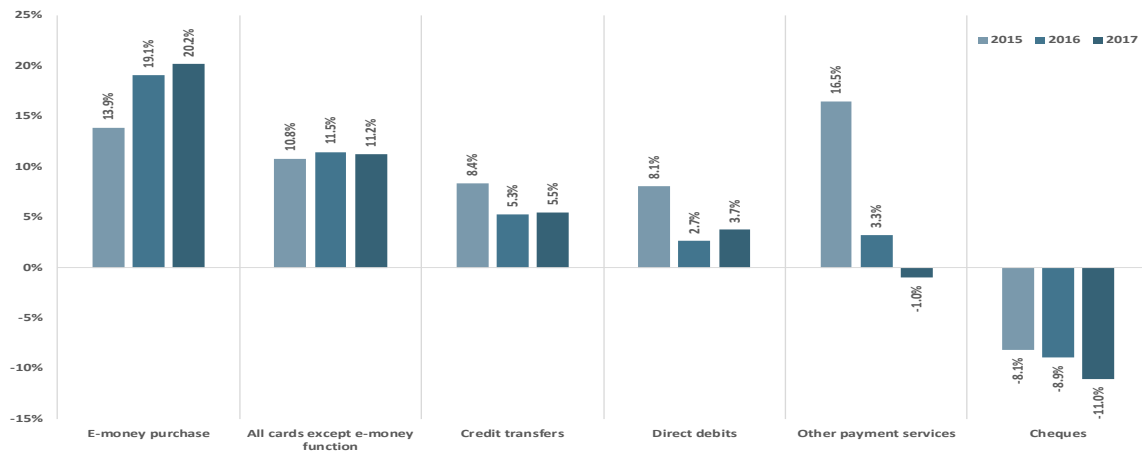
Period	Credit transfers	Direct debits	Cheques	All cards except e-money function	Other payment services	E-money purchase
2013	234,949.9	18,445	4,072.7	2,375.6	1,095.5	
2014	236,925	8,054.8	3,555.5	2,558.8	3,460.9	73.6
2015	257,514.2	8,861.6		2,854.3		95.7
2016	262,579.5	8,580.2		2,919.8	3,504.5	119.4
2017	272,035.4	8,739.8		3,052.3	3,568.8	142.1

Source: ECB Data Warehouse.

Note: In some cases, totals are not shown, to protect statistical confidentiality or because the available components would not be representative of the group as a whole.

69. The information on the total number and value of payments per payment service reflects the trend that electronic payments in general are steadily increasing in terms of number and value. Consumers tend to use electronic payment instruments more than before, which also confirms the trend highlighted by several stakeholders that the new and innovative technologies introduced in the EU payments market are growing in use and popularity among consumers.
70. Figure 7 depicts the evolution of the usage of credit transfers, direct debits, cards, e-money and other payment services among payment service users. One can compare, inter alia, the decline in the use of cheques with the growth in the use of e-money in the EU. Cheques have not been a commonly used payment instrument in most MSs but remain important in two MSs, where they have a share of more than 10%. Electronic money appears to have been growing steadily throughout the period in question.

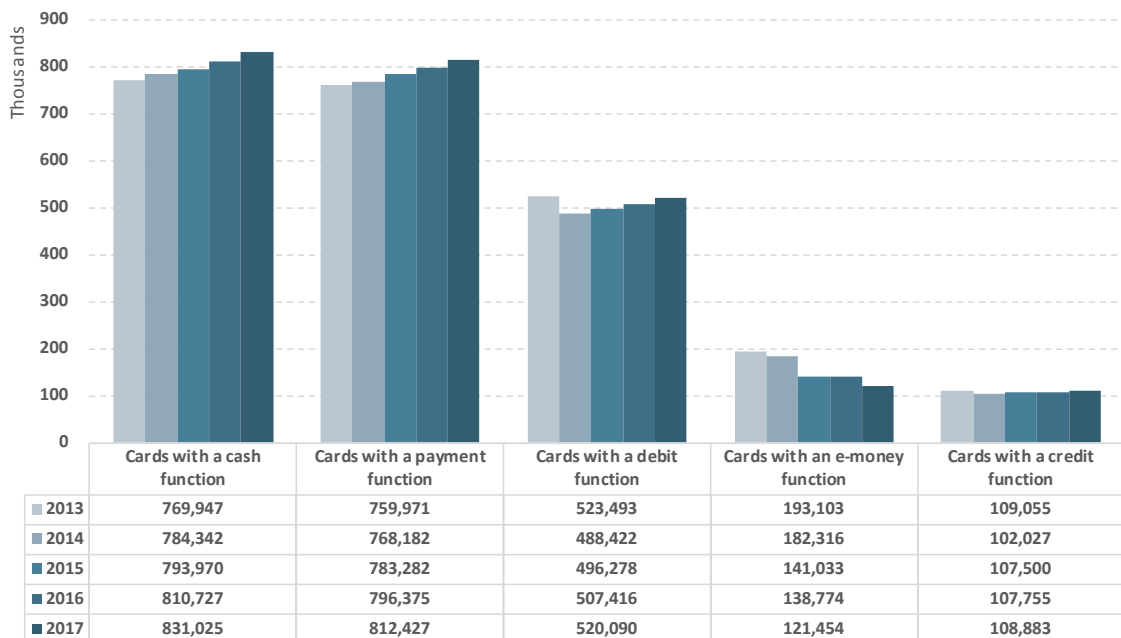
Figure 7: Annual percentage changes in the number of payments, 2015-2017



Source: ECB Data Warehouse.

71. Figure 8 depicts the total number of cards issued in the EU. In 2017, 831 million cards with a cash function were issued, which represents an increase of 2.4% compared with the previous year. The number of cards with a payment function in the EU increased by 2.0% in 2017 to 812 million. With a total EU population of 513 million, this represented around 1.6 payment cards per EU inhabitant.

Figure 8: Number of cards issued by resident payment service providers (thousands), 2013-2017



Source: ECB Data Warehouse.

72. Concerning fraudulent payment transactions, the European Payments Council's 2017 payment threats and fraud trends report,²² published in December 2017, arrived at the following main

²² See https://www.europeanpaymentscouncil.eu/sites/default/files/kb/file/2017-12/EPC214-17v1.0%202017%20Payment%20Threats%20and%20Fraud%20Trends%20Report_1.pdf.

conclusions concerning payment fraud: with regard to payment card fraud, ‘card not present’²³ and ‘lost and stolen’ fraud will continue to be the predominant drivers, while ‘skimming’²⁴ remains the most common fraud at automated teller machines (ATMs).

73. Furthermore, according to the Eurosystem oversight report 2016²⁵ released by the ECB in November 2017, the main type of fraud related to direct debits and credit transfers was the ‘issuance of a payment order by fraudster’. However, credit transfers and direct debits fraud rates remain at a minimal level.
74. Finally, in relation to fraudulent payment transactions, it is important to bear in mind that one of the PSD2 requirements applicable to all payment service providers (PSPs) relates to the reporting of fraud data on means of payment²⁶. In order to ensure that these provisions are implemented consistently among MSs and that the aggregated data provided to the EBA and the ECB are comparable and reliable, the EBA, in cooperation with the ECB, published in July 2018 the Guidelines on Fraud Reporting under PSD2 (EBA/GL/2018/05). These guidelines apply from 1 January 2019, with a first reporting period up to the end of 2019.
75. Concerning the channels through which payments are made (see Figure 9), it must be noted that around half (51%) of adult EU citizens used internet banking in 2017. This percentage is constantly increasing and has doubled since 2007, when it stood at 25%. This trend shows that consumers are gradually becoming more familiar with new and innovative ways of making payments, in particular the use of internet banking. Internet banking is particularly popular among 25- to 34-year-olds, with 68% using this facility, confirming that the new generations of consumers are those most willing to interact with their banks and payment institutions through new technologies. Moreover, the use of internet banking tends to increase in line with the education level of the user. While only 24% of those with no education or less than high school level used internet banking in 2017, 77% of those with high school education used this channel in the same year.

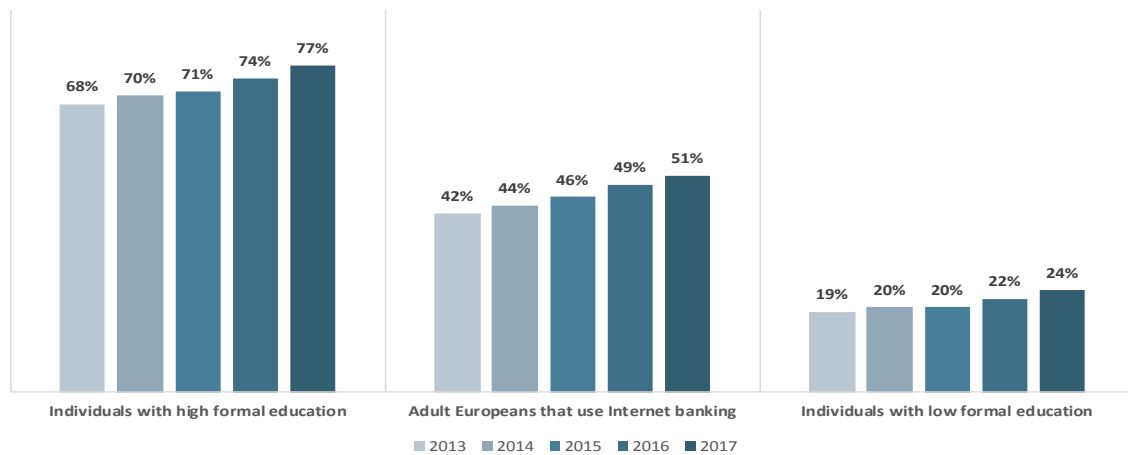
Figure 9: Percentage of adult EU citizens who used internet banking: individuals with low and high levels of education who used internet banking, 2013-2017

²³ ‘Card not present’ is a payment card transaction made where the cardholder is not physically present at the time that an order is given and the payment done, e.g. mail order, telephone or internet transactions.

²⁴ ‘Skimming’ is the installation of an unauthorised device to capture data from the magnetic stripe of a payment card.

²⁵ See <https://www.ecb.europa.eu/pub/pdf/other/eurosystemoversightreport2016.en.pdf?2ae0c243b5cab226b6d21c0115dbf609>.

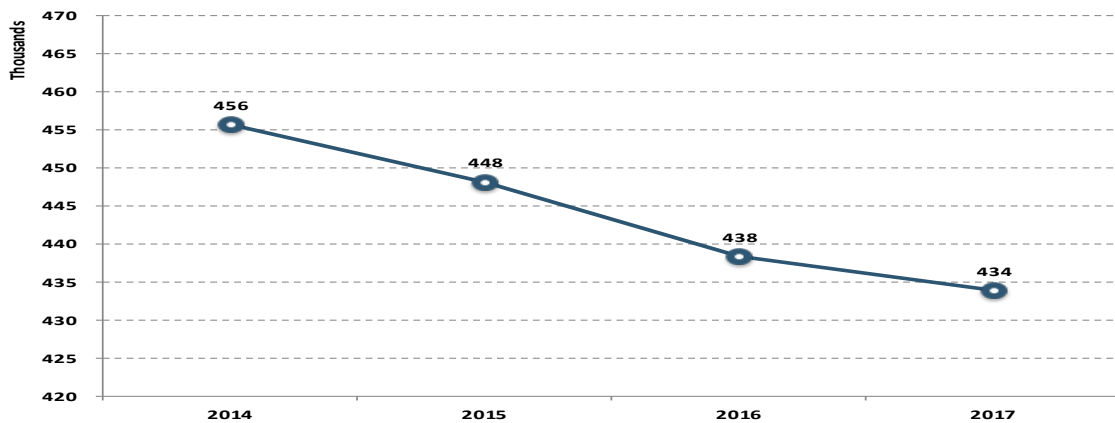
²⁶ Article 96(6) of PSD2 states that PSPs must provide ‘statistical data on fraud relating to different means of payment to their competent authorities’ and that the competent authorities must, in turn, ‘provide EBA and the ECB with such data in an aggregated form’.



Source: Eurostat.

76. In 2017, the total number of ATMs in the EU decreased by 1.0% to 433 900. Figure 10 shows the change in the number of ATMs in the EU. From 2014 to 2017, the total number of ATMs decreased by around 21 800 units. This decreasing trend in the number of ATMs may reflect the consolidation of the banking industry in general and the growth of electronic payments that has already been highlighted. Nevertheless, for certain consumers not used to or familiar with new and innovative ways of making payments (e.g. vulnerable populations or people living in remote or rural areas), the reduction in the number of operative ATMs could be an issue to take into account.

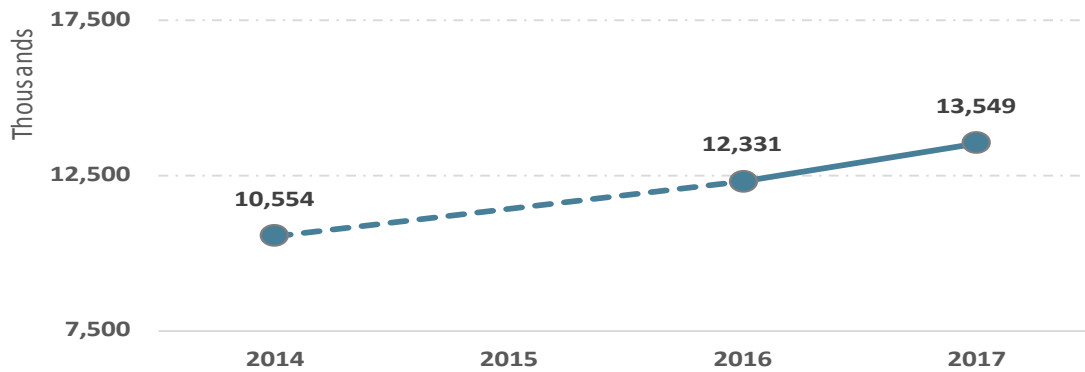
Figure 10: Total number of ATMs provided by resident PSPs, 2014-2017



Source: ECB Data Warehouse.

77. In contrast to the number of ATMs, the number of point of sale (POS) terminals increased by 9.9% between 2016 and 2017 to 13.55 million. Figure 11 shows the upward trend in the number of POS terminals in the EU. This growth may reflect the increasing use of credit and debit cards for payment transactions by consumers that has already been highlighted, as well as the rise in popularity among consumers of new and innovative technologies (e.g. mobile payments, including through smartphones payment applications) introduced in the EU payments market.

Figure 11: Total number of POS terminals provided by resident PSPs, 2014-2017

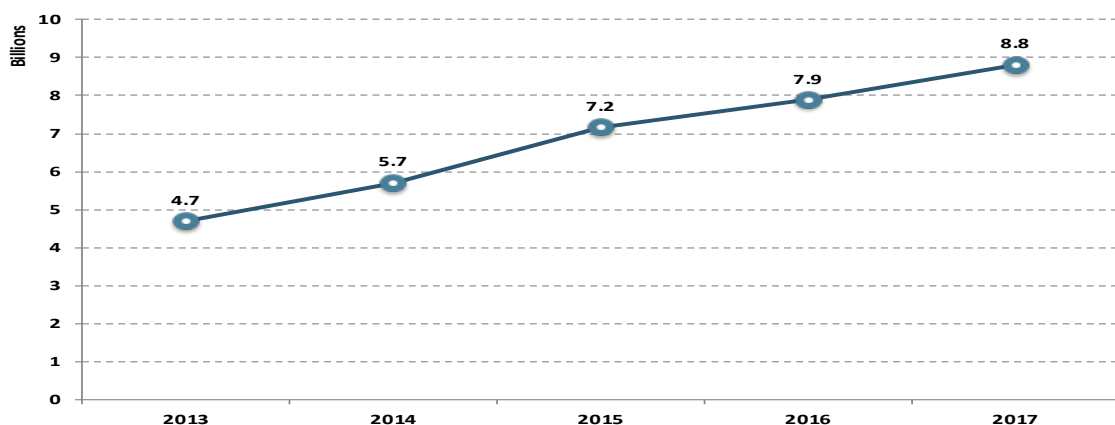


Source: ECB Data Warehouse.

Note: EU aggregated data for 2015 are not available.

78. Electronic money (e-money) is broadly defined as an electronic store of monetary value on a technical device that may be widely used for making payments to entities other than the e-money issuer. The device acts as a prepaid bearer instrument, and the transactions do not necessarily involve accounts. E-money products can be hardware based or software based, depending on the technology used to store the monetary value. Therefore, electronic money is considered a digital equivalent of cash, stored on an electronic device or remotely at a server. Figure 12 shows the steady increase in electronic money issued in the euro area from 2013 to 2017. This upward trend may confirm the growing use of prepaid e-money cards by consumers that has been reported by some CAs.

Figure 12: Electronic money issued in the euro area, 2013-2017 (billion EUR)



Source: ECB Data Warehouse.

Note: not seasonally adjusted, outstanding amounts at the end of the period.

Legal and regulatory framework

79. The payments market in the EU has been rapidly developing in the last few years, in terms of both the use of standard payment instruments and channels, and the new payment solutions. Recognising this trend, EU legislators have adopted a revised Payment Services Directive, which entered into force on 13 January 2016 and applies since 13 January 2018. PSD2 aims to

promote customer convenience and consumer protection, foster competition, facilitate innovation, strengthen security and contribute to the single EU payments market. PSD2 regulates, inter alia, new and innovative services — namely account information and payment initiation services — and the new types of entities providing them.

80. PSD2 has conferred 12 mandates on the EBA²⁷, including to develop 6 technical standards and 6 sets of guidelines, which cover a wide range of topics with the aim of supporting the objectives of PSD2. The following regulatory developments of PSD2 in the interest of consumers can be marked:

- RTS on strong customer authentication and secure communication under PSD2 (EBA/RTS/2017/02). These RTS aim to ensure appropriate levels of security for payment services, while at the same time maintaining fair competition between all PSPs and allowing for the development of consumer-friendly, accessible and innovative means of payment.
- RTS and Implementing Technical Standards (ITS) on the EBA Register under PSD2 (EBA/RTS/2017/10 and EBA/ITS/2017/07). These standards set out technical requirements on the development, operation and maintenance of a central electronic register operated by the EBA that provides aggregated and up-to-date information about payment and electronic money institutions authorised in the EU.
- Guidelines on Security Measures for Operational and Security Risks under PSD2 (EBA/GL/2017/17). These guidelines aim to ensure that PSPs have in place appropriate security measures to mitigate operational and security risks. This in turn should, inter alia, minimise disruption to the use of payment services by consumers.
- Consultation paper on the draft Guidelines on Information and Communication Technology and Security Risk Management (EBA/CP/2018/15). These draft guidelines establish requirements for credit institutions, investment firms, payment and e-money institutions on the mitigation and management of their information and communication technology risks and aim to ensure a consistent and robust approach across the EU. Once in force, these guidelines will replace the above-mentioned Guidelines on Security Measures for Operational and Security Risks.
- Guidelines on Procedures for Complaints of Alleged Infringements of PSD2 (EBA/GL/2017/13). These guidelines govern the process through which payment services users, including consumers, and other interested parties can submit complaints to CAs with regard to PSPs' alleged infringements of PSD2.
- Revision of the Joint Committee Guidelines on complaints handling for the securities and banking sectors (JC 2018 35). The scope of the guidelines was extended to cover the providers of the new payment services under PSD2, namely account information and payment initiation services, and the non-bank creditors and credit intermediaries under the MCD. The extension of the scope intends to ensure that consumers are

²⁷ See <https://www.eba.europa.eu/regulation-and-policy/payment-services-and-electronic-money/-/activity-list/MgiX6aveTI7v/more>.

provided with the same level of protection, irrespective of which regulated product or service they are purchasing and which regulated institution they are purchasing it from.

Relevant issues

Quick take-aways

CAs reported the following common issues for consumers arising from payment services and electronic money, which are elaborated in detail below:

- compliance with the safety and security requirements applicable to the new and innovative payment services and technologies introduced in the EU payments market;
- formulation and transparency of fees and charges related to payment accounts;
- unauthorised and/or fraudulent payment transactions.

81. The most common issue raised by the CAs relates to the new and innovative services and technologies introduced in the EU payments market and their growing use and popularity. These innovations cover the development of, inter alia, (i) mobile payments executed through applications installed on smartphones, (ii) fast/instant payment solutions, which allow the execution of retail payment transactions to be carried out in near-real time, and (iii) contactless solutions, which facilitate the use of payment cards, smartphones and other devices in day-to-day payment transactions.
82. The use of online banking has also increased. The ability to make fast, efficient and easy-to-use payments has been identified by the stakeholders as very interesting and convenient from the perspective of consumers, who can access and purchase a wide range of products and services with great speed, including through e-commerce. As an example of the growing use and popularity of these new and innovative services and technologies introduced in the EU payments market, one CA reported that 20% of the online purchases in its jurisdiction are already paid with a solution that allows consumers to make instant transfers, make online purchases and withdraw money using smartphones.
83. In order to address the security risks in the payments market in general, PSD2 mandated the EBA to develop the RTS on strong customer authentication and three sets of guidelines, which the EBA delivered in 2018. Throughout 2019, CAs informed they will pay close attention to how payment service providers comply with the requirements of the RTS on strong customer authentication in particular, which will apply from 14 September 2019 onwards. This will also be the focus of the EBA's supervisory convergence work throughout 2019, as envisaged in the EBA's work programme.
84. Other issues related to payment services identified by some CAs were unjustified levels of fees and charges invoiced to consumers (e.g. fees related to payment incidents or payment account maintenance fees), transparency of information about fees and charges and how they apply

to the services offered, issues related to the execution of payment transactions (including ATM transactions or booking of payments) and unauthorised and/or fraudulent payment transactions reported by consumers. More information about some of these issues is covered in greater detail in Chapter 2 of the report.

85. Many FIN-NET members and other alternative dispute resolution (ADR) bodies have identified unauthorised and/or fraudulent payment transactions as one of the most relevant issues for consumers in their jurisdiction, in particular related to the risk of financial loss and the financial impact of fraudulent transactions on consumers, which at times can be significant. Victims are often vulnerable groups of consumers (older people, trusting people, etc.), but it is also stated that all types of consumers can be exposed to this risk. In relation to this, one FIN-NET member argued that the low level of financial literacy and education of consumers is a big issue because consumers are providing their personal data without being aware of possible misuses.
86. Furthermore, other FIN-NET members reported that many consumers find that they lose a lot of money because it is difficult to lift the burden of proof (e.g. by providing evidence that they have not initiated a specific payment transaction). These stakeholders also shared their concerns that there is a risk that similar issues will arise in respect of the new payment and innovative payment services and methods.
87. Another FIN-NET member also commented that the abuse of stolen payment cards is still a common issue and that consumers do not usually understand the applicable legislation, especially in cross-border situations. A good example of such an issue is the disputable presumption that there is contract negligence of the consumer when their payment card is used by typing in the correct personal identification number (PIN).
88. Finally, among the reasons for upholding the complaints related to unauthorised and/or fraudulent payment transactions, one FIN-NET member reported that intermediaries do not ensure the required level of security for the payment transactions.
89. Another issue that was highlighted relates to abuses of automated debit orders validated by the payee. That CA received numerous complaints against merchants who took money out from consumers' accounts because these consumers, during a (telephone) sales conversation or on a website, had allegedly subscribed to a direct debit from their account without being aware of this or without being informed about it.
90. A few CAs indicated that an issue for consumers arises from the restrictions imposed on fund movements and disposals because of anti-money laundering (AML) regulation requirements. For example, one CA reported having received complaints in this regard due to the consumers' lack of understanding of AML regulations. Nevertheless, in some cases it was concluded that the institutions applied restrictions in an excessive or unjustified manner and were asked to remedy and solve the situation.
91. Regarding electronic money, a few CAs identified issues related to (i) prevention of fraud and money laundering, (ii) the possibility of financing illegal activities by using prepaid cards loaded

with electronic money for anonymous cross-border payments and (iii) the restrictions imposed on electronic money accounts based on AML regulations. In this regard, one CA informed that the use of prepaid cards, initially concentrated among young people, has spread widely, becoming one of the most popular services for financial inclusion in its jurisdiction.

92. Finally, it should be noted that the provision of payment services is closely linked to the maintenance of payment accounts; therefore, most of the risks identified or issues applicable to payment accounts are also applicable to payment services.

Complaints

93. The level of complaints about payment services submitted to CAs in 2017 was relatively high. These complaints made up an EU average of 33% (and median of 19%) of all complaints received by CAs. The most common reasons for consumers' complaints about payment services were the 'administration of the payment service' (inter alia, issues with the use of the service, transfers not executed, incorrect execution of credit transfers and direct debits, release of credit transfer funds, cancellation orders, unauthorised transactions) and 'charges and fees'.
94. In addition, FIN-NET members reported that the most common reasons for complaints by consumers in relation to payment services were unauthorised and/or fraudulent payment transactions.
95. The number of complaints submitted to CAs, FIN-NET and ADR bodies in 2017 related to electronic money was insignificant.

Payment accounts

Introduction

96. Payment accounts are widely popular among consumers, as they represent both the first step for accessing a larger variety of financial products and services and a flexible tool for managing personal finances. According to the established EU regulatory definition, a payment account is 'an account held in the name of one or more payment service users which is used for the execution of payment transactions'²⁸. The latter include any 'act, initiated by the payer or on his behalf or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee'²⁹.
97. Payment transactions performed by consumers mainly comprise receiving salary or other incomes, paying bills, purchasing goods and services, withdrawing money, transferring funds to third parties, and settling instalment debt in a safe and quick manner. In the light of their flexibility and easiness of use, payment accounts are vital to ensure consumers have access to

²⁸ See Article 4(12) of PSD2.

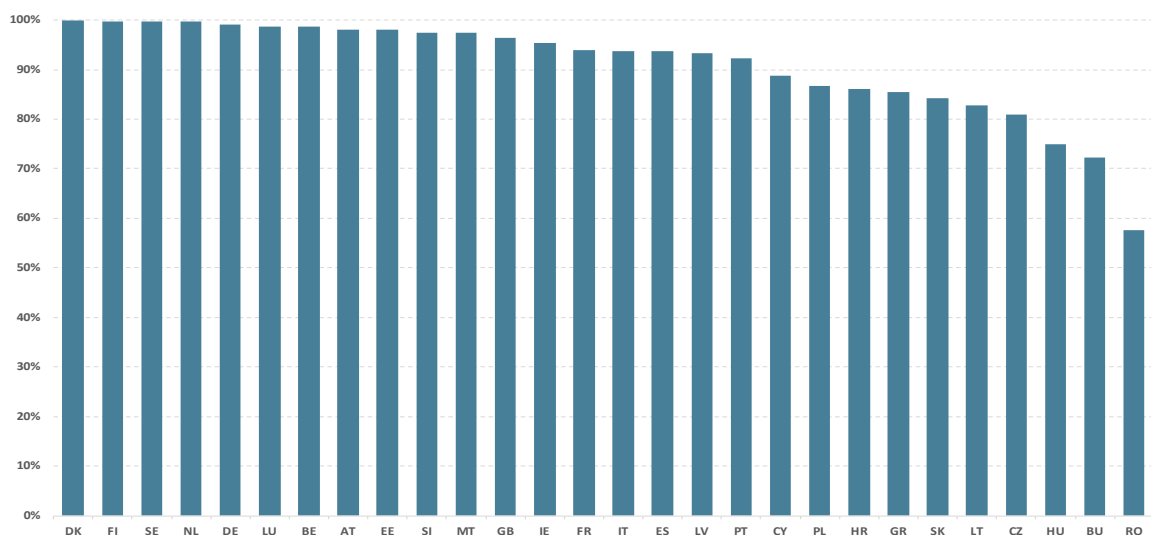
²⁹ See Article 4(5) of PSD2.

the financial system and other retail banking products, thus playing a pivotal role for both market integration and financial inclusion. To this end, they are offered by a number of financial institutions, including credit institutions and payment institutions, generally in the form of current accounts.

Evolution and trends

98. The number of people aged 15 years or over who hold a payment account in the EU, as seen in Figure 13, is substantial, although some divergences among the different EU MSs can be identified. Factors influencing the effective rate of penetration of payment accounts in the EU include the level of education, the fees related to the maintenance and use of a payment account, and the specific need (or lack thereof) to use payment accounts. In addition, while until the age of 60 the penetration of payment accounts reaches 90% in most countries, among older people the coverage sharply declines.

Figure 13: Percentage of the population aged 15 years or over holding a payment account in the EU



Source: 2017 — Global Findex Report.

99. In addition, the Global Findex Report 2017 identifies the cost of payment accounts as one of the top reasons for consumers aged 15 or over not to open a payment account. The report identifies the issue as relevant to several MSs.

100. A small number of CAs provided specific trends they have observed in this area. The trends identified are related to changes in the penetration of payment accounts in the population, the growing number of digital payment services, based on payment accounts available online, and the increased reliance on information technology (IT) services. These trends could also be read in conjunction with the topics covered in Chapter 2 of the report, namely the level and transparency of fees and charges on payment accounts and their comparability, as well as cyber-security and data breaches.

101. As far as penetration rates are concerned, no common trends seem to have emerged. However, some CAs noticed a slight increase in the number of current accounts held by consumers, with a particular move towards online and mobile banking despite a continuous prevalent use of manual transactions and ATM.
102. In relation to the ongoing development of technology, payment accounts become a crucial product for consumers, as digital payments are increasingly replacing cash payments. This is supported by the observation from a number of CAs of an increase in online, mobile and contactless payments, as well as widespread use of payment applications on smartphones providing a user-friendly way for consumers to manage their funds. This evolution allows consumers to open payment accounts through digital channels (online and mobile) and to make use of more sophisticated financial products and services.

Legal and regulatory framework

103. Given their importance for the effective development of a single market for retail banking products, EU legislators adopted specific rules on payment accounts through the Payment Accounts Directive (PAD), which has applied since 2016³⁰. The directive lays down provisions concerning the transparency and comparability of fees charged to consumers on their payment accounts held within the EU, and the switching of payment accounts within an MS, as well as rules aimed at enabling the opening of payment accounts on a cross-border basis. Finally, the PAD contains specific provisions on comparison websites and switching services explicitly authorised by the consumer.
104. In order to foster EU-wide comparability and transparency of fees and charges, the PAD mandates MSs to ensure that, in good time before entering into a contract for a payment account with a consumer, PSPs provide consumers with a fee information document (FID) on paper or another durable medium containing the standardised terms in the final list of the most representative services linked to a payment account. In addition, MSs must ensure that PSPs provide consumers, at least annually and free of charge, with a statement of all fees incurred, as well as, where applicable, information regarding the interest rates applied for services linked to a payment account statement of fees (SoF).
105. In relation to the above, the EBA issued the following legal instruments:
- EBA Guidelines on National Provisional Lists of the Most Representative Services Linked to a Payment Account and Subject to a Fee under the PAD (EBA/GL/2015/01);
 - draft RTS Setting out the Union Standardised Terminology for the Most Common Services Linked to a Payment Account, under Article 3(4) of the PAD (EBA/RTS/2017/04);

³⁰ Directive 2014/92/EU on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.

- draft ITS on the Standardised Presentation Format of the Fee Information Document and its Common Symbol, under Article 4(6) of the PAD (EBA/ITS/2017/03); and
- draft ITS on the Standardised Presentation Format of the Statement of Fees and its Common Symbol, under Article 5(4) of the PAD (EBA/ITS/2017/04).

106. The PAD also sets forth the rules and conditions according to which MSs must guarantee consumers' right to open and use payment accounts with 'basic features', with a view to contributing to financial inclusion. Basic features include '(a) services enabling all the operations required for the opening, operating and closing of a payment account; (b) services enabling funds to be placed in a payment account; (c) services enabling cash withdrawals within the Union from a payment account at the counter or at [ATMs]; (d) execution of the following payment transactions within the Union: (i) direct debits; (ii) payment transactions through a payment card, including online payments; and (iii) credit transfers, including standing orders, at, where available, terminals, counters and online facilities of the credit institution'³¹. These services must be 'offered by credit institutions free of charge or for a reasonable fee'³².

Relevant issues

Quick take-aways

CAs reported the following common issues for consumers arising from payment accounts, which are elaborated in detail below:

- the level of account management fees;
- refusals to open a payment account for consumers;
- blocked payment accounts.

107. Several CAs reported that consumers frequently complain about the amount of the account management fees, which were either increased or introduced for accounts that were formerly free of charge, or had recently been increased. In some cases, fees and charges are different from those agreed in the contracts originally signed by consumers and applied so far. Consumers often think that an account which was created as free of fees, specifically if such exemption is due to customer's loyalty, will maintain this condition for the account's entire life. In this regard, the applicable EU legislation allows modification of fees and charges as long as it is notified by the financial institution to the consumer in an individualised way, on paper or equivalent durable means, in clear and understandable terms and at least 2 months in advance.

108. In some cases, consumers complained that credit institutions had denied their request to open a basic payment account. In these cases, consumers may complain to the CA, bring an action

³¹ See Article 17 of the PAD. MSs may also request credit institutions to provide additional services which are considered essential for consumers based on common practice at national level.

³² See Article 17(6) and Article 18 of the PAD.

directly against the institution based on the latter's refusal to open a payment account or avail themselves of the local ADR body. Relatedly, one CA reported that consumers face recurring issues regarding the issuance of a certificate of refusal to open an account. Another CA indicated that consumers in debt or facing personal bankruptcy are not allowed to open a bank account, due to the high risk faced by the banks.

109. A number of CAs highlighted the relevance in their jurisdiction of 'blocked payment accounts' (i.e. payment accounts with temporarily disabled availability of all funds due to execution on monetary means in accordance with the law regulating the enforcement of funds due to unpaid obligations), liabilities not paid in accordance with the terms of the payment service user agreement, suspicion of unauthorised use and other issues. In this respect, it was reported that consumers complained about the inability to have at their disposal sufficient funds for basic life needs. Relatedly, one CA reported delays or non-execution of transfer orders from one credit institution to another, which may prevent banking mobility.

Complaints

110. Of the total number of complaints reported by CAs in 2017, on average 22% related to payment accounts (with a median of 19%). The top reasons for consumer complaints as identified by CAs were issues related to administration of payment accounts and processing of transactions, misrepresentation of charges and fees, introduction of fees for payment accounts formerly free of charge, and unauthorised and fraudulent payment transactions.

111. CAs also reported cases of consumers complaining that credit institutions have denied their request to open a basic payment account, and that they have introduced amendments in the terms and conditions of contract, giving rise to increased fees and charges. Finally, a number of CAs underlined that consumers may face issues when unable to have at their disposal sufficient funds for basic life needs following debt enforcement actions leading to payment account seizures.

112. In addition, FIN-NET members reported that the most common reasons for complaints by consumers in relation to payment accounts were termination of payment accounts by banks, application of maintenance fees, charges and interest rates, unauthorised and fraudulent payment transactions, legal succession and past due account notification fees.

Deposits

Introduction

113. A deposit consists of money placed into a credit institution for safekeeping. The account holder has the right to withdraw deposited funds, as set forth in the terms and conditions governing the deposit agreement. Deposits are often associated with payment accounts.

114. Deposits can assume different types, being most commonly 'term' or 'fixed-term' deposit accounts, which can be defined as a credit balance resulting from funds left in an account or

from temporary situations deriving from normal banking transactions and which a credit institution is required to repay under the legal and contractual conditions applicable. These deposits may have different terms of maturity, remuneration rates, minimum opening amounts and other conditions of access.

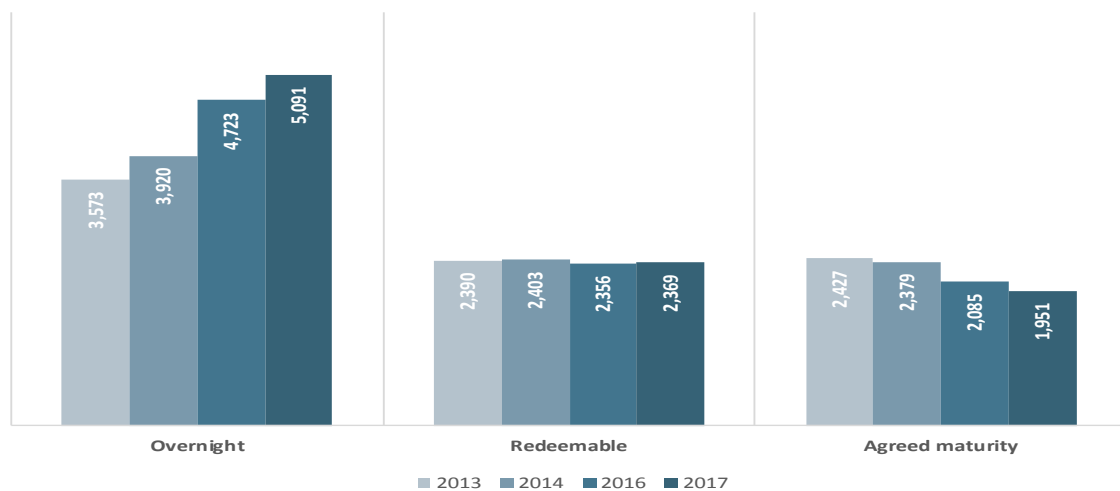
115. Deposits can also assume a more complex nature, commonly identified as ‘structured deposits’. These deposits are covered in a separate section of this chapter.

Evolution and trends

116. In December 2017, households and non-profit institutions held EUR 9 411 billion in deposits, of which 54.1% was in overnight deposits, 25.2% deposits redeemable at notice and 20.7% deposits with agreed maturity (see Figure 14).

117. Deposits held by households and non-profit institutions have grown in recent years. Figure 14 shows that deposits grew by 2.7% between 2016 and 2017 (in comparison with a 1.3% increase in the previous year).

Figure 14: Deposits by households and non-profit institutions, 2013-2017 (billion EUR, outstanding amounts)

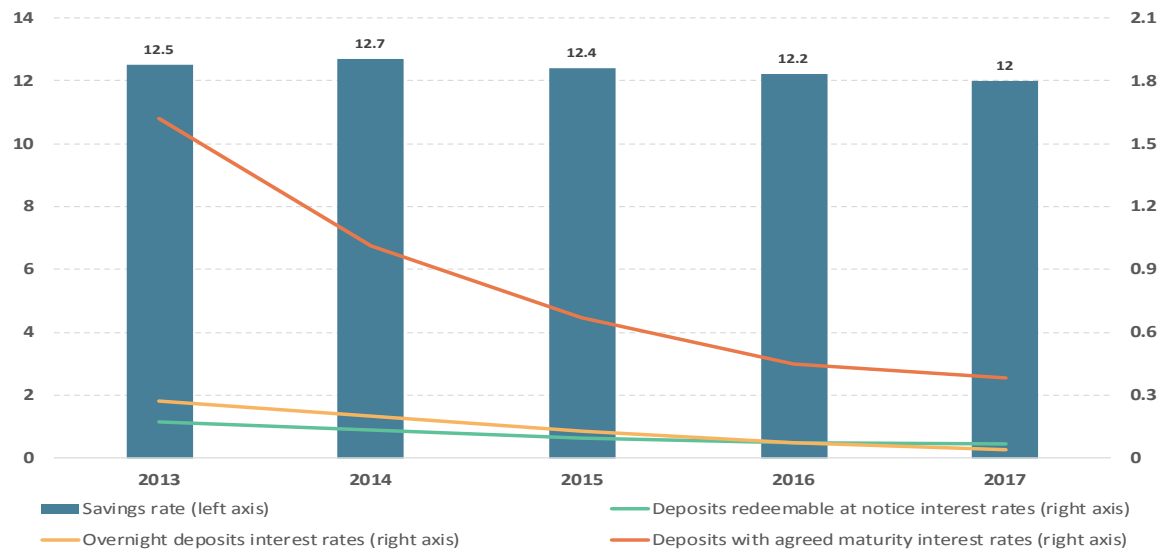


Source: ECB.

118. However, some CAs expressed concerns about the negative effect that the low interest rate environment may have on the reduction of household savings and the transfer of investment funds from deposits to more risky assets.

119. Figure 15 plots households’ saving rate from 2013 to 2017 and presents the interest rates for (i) overnight deposits, (ii) deposits redeemable at notice and (iii) deposits with agreed maturity. Based on the data, EBA observed that the saving rate has been falling slowly since 2015, mirroring the decrease in the interest rates for the deposits.

Figure 15: Savings rate and interest rates in the EU, 2013-2017



Source: ECB.

120. With regard to the evolution of the product, some CAs have observed an increase in the deposit contracts concluded through distance channels, namely online, as well as the number of banks offering deposits through that channel. Two of these CAs also informed that other entities have commenced offering, through the use of online platforms, services related to opening and comparing deposits in different collaborating banks across the EU.

Legal and regulatory framework

121. Since 1994, deposit guarantee scheme rules have been harmonised across the EU. From 2009 onwards, all EU MSs were required to increase coverage by their deposit guarantee schemes (DGSs) to a uniform level of EUR 100 000 per depositor at a bank.

122. Aiming to step towards a well-developed Banking Union and in order to create a safer and sounder financial sector in the wake of the financial crisis, the EU legislature approved the Deposit Guarantee Schemes Directive (DGSD)³³ to provide reinforced protection for depositors, with quicker pay-outs and improved information. This directive also requires that all DGSs be pre-funded to ensure that they will be able to fulfil their obligations towards depositors, contributing, by doing so, to increase confidence in the banking system.

123. Following the entry into force of the DGSD, EBA developed a number of guidelines supplementing the Directive. These include:

- EBA Guidelines on Methods for Calculating Contributions to DGSs (EBA/GL/2015/10) and Guidelines on DGS Payment Commitments (EBA/GL/2015/09). These guidelines aim to help to ensure consistent application of the new funding mechanisms provided for in the DGSD. The Guidelines on Methods for Calculating Contributions to DGSs also set out methods for calculating ex ante contributions to DGSs that are adjusted to the

³³ Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes

risk profile of each credit institution, thus promoting risk discipline and eliminating moral hazard.

- EBA Guidelines on Cooperation Agreements between DGSs (EBA/GL/2016/02). These guidelines aim to strengthen the resilience of DGSs and improve depositors' access to compensation, including in cross-border bank failures.
- In 2017, the EBA also developed a Report on the implementation of the EBA Guidelines on Methods for Calculating Contributions to DGS³⁴ and published information about DGSs' available financial means. The purpose of this work was to analyse if DGSs are adequately funded, and to ensure that information about funding levels and the use of DGS funds is publicly available.

Relevant issues

Quick take-aways

CAs reported the following common issues for consumers arising from deposits, which are elaborated in detail below:

- the low interest rate environment, including its impact on the remuneration of deposits and the use of deposits to pay off mortgage debt;
- the level of maintenance fees;
- unilateral revocation of contracts by financial institutions.

124. The majority of CAs identified the low interest rate environment as an issue that affects consumers' decisions. The continuing low interest rate environment has a negative impact on savers seeking returns from bank deposits. Based on the information provided by CAs, the continued depressed deposit rates have had an impact on the incentives for consumers to save. Moreover, this current low yield environment was seen to create incentives that influence consumers to take increased risks to secure the returns they need to provide for their future without fully understanding them, for example transferring savings into riskier instruments with higher rates of return, such as shares and equities.

125. Relatedly, another CA identified an issue about consumers who had increasingly opted to utilise savings to pay off mortgage debt. The same CA also reported that the decrease in the maximum LTV ratio allowed in the market for residential mortgages increased the incentive for consumers to invest their own savings when buying a house or a flat, especially for younger entrants to the housing market.

126. Nevertheless, some CAs reported that, despite the low interest rate environment, consumers' predilection for deposits has not lessened, because consumers are not willing to change their habits and still see deposits as the most convenient and safe tool for saving.

34

See <https://eba.europa.eu/documents/10180/2087449/Report+on+the+implementation+of+the+EBA+Guidelines+on+methods+for+calculating+contributions+to+DGS.pdf>.

127. Some CAs reported zero or even negative interest rates on deposits. Based on that, those CAs observed an increase in the maintenance fees and other related fees that exceeded the potential benefit for consumers of the low interest rates, implying a negative difference between expected and effective interest rates. This trend may be related to the high pressure in banks' balance sheets driven by this context.
128. A few CAs identified issues related to institutions revoking long-term (with relatively high interest rate) savings contracts with their customers. One of these CAs observed cases where the institution terminated the contract or changed the interest rate, although the necessary conditions for the termination of the contract or change of the interest rate were not fulfilled.
129. A very small number of CAs informed that some institutions offer products that are similar to deposits but are not covered by the deposit guarantee schemes. Hence, consumers can lose their deposits if those institutions go bankrupt.

Complaints

130. Of the total number of complaints reported by CAs, on average 4% relate to deposits (with a median of 4%). The top reasons for consumer complaints as identified by CAs were the level of fees, pre-contractual and contractual information, and deposit management issues.
131. In addition, FIN-NET members reported that the most common reasons for complaints by consumers were related to information requirements and interest rate settlements.

Structured deposits

Introduction

132. In addition to 'traditional' deposits, deposits can also assume a more complex nature, commonly identified as 'structured deposits'. According to Article 4(43) of the revised Markets in Financial Instruments Directive (MiFID II)³⁵, a structured deposit is a deposit as defined in point (3) of Article 2(1) of the Deposit Guarantee Schemes Directive, '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'.

³⁵ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

Legal and regulatory framework

133. Structured deposits were not specifically regulated at the Union level before the adoption of MiFID II, MiFIR and the packaged retail investment and insurance-based investment products (PRIIPs) Regulation³⁶. These three pieces of EU law, which came into force in January 2018, introduced specific requirements for structured deposits.
134. MiFID II introduces conduct of business requirements for entities that design and sell structured deposits. The PRIIPs Regulation requires entities producing or selling PRIIPs, including structured deposits, to provide the key information document (KID) to consumers. The aim of the KID is to provide consumers with consumer-friendly information about the key features of the product, including what they might gain if they invest, the risks they are taking and all the costs they will have to incur.
135. MiFIR mandates the EBA to ‘monitor the market for structured deposits which are marketed, distributed or sold in the EU’³⁷. In addition, MiFIR provides that the EBA may ‘temporarily prohibit or restrict in the Union: (a) the marketing, distribution or sale of certain structured deposits or structured deposits with certain specified features; or (b) a type of financial activity or practice’³⁸. MiFIR sets out a similar mandate and intervention powers for CAs, in respect of structured deposits that are marketed, distributed or sold in or from their MSs³⁹.

Evolution and trends, complaints and relevant issues

136. Comprehensive and reliable data on the evolution and trends of structured deposits are unfortunately not available at EU level. A very small number of CAs reported complaints about structured deposits, with issues related to sales, pre-contractual and contractual information, interest rates, withdrawals and fraud. However, structured deposits have not been identified as a consumer protection priority by CAs or other stakeholders that have provided input for the CTR 2018/19, and as a result no major issues have been reflected in the report.
137. Only one CA identified an issue related to the calculation of the credit risk summary indicator of the KID, as this indicator does not weight the EUR 100 000 threshold under the deposit guarantee scheme and thus increases the risk of structured deposits.

EBA work to fulfil its market monitoring and product intervention mandate under MiFIR

138. In fulfilment of its market monitoring mandate, in 2018 the EBA carried out an assessment of the structured deposits market across the EU. In this regard, the EBA requested input from CAs on structured deposits, including an assessment of the relevance of structured deposits in their jurisdictions and the relevant risks that had been identified, if any, in their markets.

³⁶ Regulation (EU) No 1286/2014 on key information documents for packaged retail and insurance-based investment products.

³⁷ Article 39(2) of MiFIR.

³⁸ Article 41(1) of MiFIR.

³⁹ Articles 39(3) and 42 of MiFIR.

139. On the relevance of the market for structured deposits, CAs observed that either structured deposits are not sold at all or the market size is small in terms of overall volume of sales and total stock of structured deposits. In most instances, this observation was based on qualitative assessments or estimations by CAs of the market size, based on information collected from a variety of sources, including surveys of credit institutions or banking associations, market research and supervisory work. Only 5 out of 28 CAs have established reporting requirements for firms on structured deposits, which allow them to determine the exact size of the market in their jurisdiction. In addition, three CAs deemed the low or decreasing importance of the market for structured deposits within their jurisdictions to be a result of the introduction of legislative changes or 'soft law' measures (i.e. rules that are not strictly binding, such as standards of conduct) that significantly constrained or even stopped the distribution of structured deposits.
140. In line with the low level or even absence of structured deposits observed by CAs, the large majority of CAs have not identified any material risks in this market, so far. As an exception, one CA reported concerns, in the context of the low interest rate environment in recent years, that long contractual terms for structured deposits do not allow consumers to be repaid before maturity date, which in turn can cause financial hardship. That authority therefore issued in 2016 a recommendation to credit institutions to limit the maturity of structured deposits to 2 years.
141. To supplement the information collected from CAs, and given the apparent absence of any data providers that would hold accurate and comprehensive data for the whole EU market size, the EBA took additional steps to try to confirm CAs' assessment of the relevance of the market for structured deposits. Firstly, the EBA analysed the effect of the evolution of the funding costs in the market for structured deposits and arrived at the view that the low-cost funding environment that followed the financial crisis in the EU can be plausibly assumed to have reduced sales volumes of structured deposits.
142. Secondly, the estimate of low sales volumes of structured deposits appears to have been confirmed by inferences the EBA made from the downward trend, shown by the European Securities and Markets Authority in its Report on trends, risks and vulnerabilities,⁴⁰ in the sale of capital-protected structured securities, which are a product that offers the same risk profile as structured deposits, and for which quantitative data were found to be more readily available.
143. Finally, the EBA conducted desk-based research into promotional activities of a small and therefore unrepresentative sample of credit institutions across a number of EU MSs, which showed that none of the credit institutions within the sample promoted specific issuances of structured deposits on their websites.

⁴⁰ See https://www.esma.europa.eu/sites/default/files/library/esma50-165-538_report_on_trends_risks_and_vulnerabilities_no.1_2018.pdf.

144. Going forward, in the fulfilment of its mandate on market monitoring and product intervention under MiFIR, the EBA aims to improve its understanding of the market for structured deposits by taking additional steps to obtain more accurate market data. The EBA's work will take into account the increased level of transparency of structured deposits, for example as a result of the publication of the PRIIPs KID for each structured deposit marketed from 1 January 2018.

Chapter 2: Topical issues

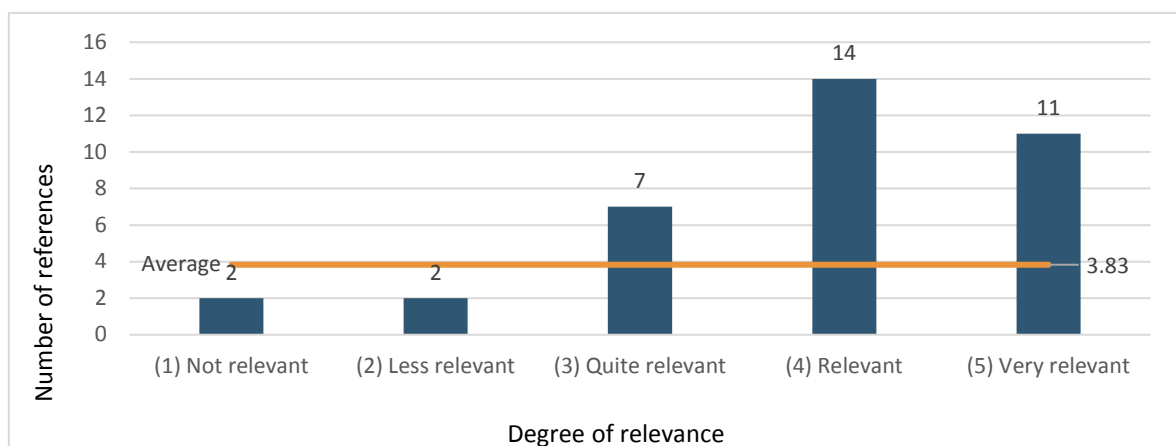
145. This section presents the topical issues identified by the various sources of information, namely national CAs, FIN-NET members, consumer associations and industry associations. Taking into account the input received, the EBA arrived at the following aggregated and prioritised list of topics relevant to consumers in the EU:

- fees and charges;
- indebtedness, responsible lending and creditworthiness assessment;
- financial literacy and education;
- transparency and disclosure of pre-contractual information and changes to contractual terms and conditions;
- data breaches and cyber-security;
- cross-border selling of products and services.

Fees and charges

146. The topic of banking fees and charges is a recurring issue that was identified as relevant to consumers by the various stakeholders. Figure 16 depicts the relative importance assigned to the topic of fees and charges by CAs and other stakeholders, which had a score of 3.83 out of 5, based on the feedback from 36 stakeholders.

Figure 16: Relative importance of the topical issue ‘fees and charges’



147. As a result of low interest rates and decreasing interest rate income, credit institutions have tried to find alternative revenue streams. Moreover, fees and charges related to banking products and services continue to be one of the main reasons for consumer complaints, especially regarding mortgages, consumer credit, payment accounts and payment services. This report splits the topic into three sub-categories: fees and charges on payment accounts, cost of payment services and cost of loans.

Issues related to fees and charges on payment accounts

148. Many stakeholders reported that banking fees and charges related to payment accounts are one of the most relevant issues for consumers in their jurisdictions, in particular in terms of lack of transparency, pricing and mischarged fees.
149. Many stakeholders have stated that on many occasions consumers are not properly informed about fees and charges related to payment accounts, including those related to overdrafts and overrunning. Some CAs have reported that one of the conflicts that had arisen for consumers was the fact that many of them thought that an account that was free of charge at the time of its creation, especially in those cases of loyalty (e.g. for either acquiring other products from the financial institution or linking expenses or incomes to the account by direct debits and credits), would maintain the same conditions indefinitely.
150. Another issue that was highlighted by many stakeholders as detrimental to consumers was the increase in the fees and charges applicable to payment accounts. As has been stated previously, the increase results to a certain extent from the low interest rates and the decreasing interest rate income, which led financial institutions to find alternative sources of revenue. In this context, many CAs and consumer associations identified the disclosure of pre-contractual and/or contractual information to consumers about the formation of the fees and charges on payment accounts as an important issue currently faced by consumers.
151. Many stakeholders also shared their view that financial institutions sometimes make errors, including errors of a technical nature, and charge undue fees and charges to their clients (e.g. incorrect calculation of fees in relation to overdrafts and overrunning).
152. Some consumer associations, while acknowledging the benefits of the PAD for the EU as a whole, indicated that there are cases in a few MSs where the cost of the basic payment accounts is higher than the cost of other payment accounts. This, in their view, undermines the purpose of the directive and could put vulnerable groups of the population in a disadvantageous position.

Regulatory and supervisory measures related to fees and charges on payment accounts

153. The EBA has remained active in the area of fees on payment accounts and their comparability by fulfilling the mandates conferred by the PAD. In March 2015, the EBA published the final report on the Guidelines on the PAD related to standardised terminology for payment accounts across the EU (EBA Guidelines on National Provisional Lists of the Most Representative Services Linked to a Payment Account and Subject to a Fee). Furthermore, on 5 May 2017, the EBA published its final report on three technical standards setting out the standardised terminology for services linked to a payment account, and the standardised formats and common symbols for the FID and SoF. These standards are intended to enhance the comparability of fees through standardised terminology and pre-contractual disclosure documents across the EU, and documents in accordance with them have been provided to customers since October 2018.

154. To address the issues related to the lack of transparency of information about payment accounts and the increase in the fees and charges related to payment accounts, many MSs have implemented the PAD, limiting the amounts that can be charged regarding the basic payment accounts, as well as developing comparison websites allowing consumers to compare the fees and charges of the diverse PSPs.
155. Comparison websites assist consumers in making informed decisions, may reduce the costs incurred by consumers when opening and using payment accounts, and are intended to foster competition. CAs have generally adopted two main approaches to deal with the risks arising from comparison websites: assessing comparison websites for their functioning, accessibility and accurateness; and making the results public and/or having a public authority providing the comparison websites.

Issues related to cost of payment services

156. In addition to the fees and charges related to payment accounts and loans, some of the stakeholders, including consumer associations, have selected the cost related to payment services as another topic that is particularly relevant to consumers, in particular the level of the cost of the services and the lack of transparency.
157. The various stakeholders have reported the unjustified level of the fees, as well as hidden or unclear fees linked to payment services. This issue is closely related to the increase in charges and fees related to payment accounts because the two are interlinked and the same factors apply to them. In addition, some consumer associations expressed their concerns with regard to the increase in the cost of using cash (e.g. the related payment services of placing or withdrawing cash from payment accounts at a branch or an ATM). These associations added that cash is still the preferred payment method for vulnerable groups of population and increasing its cost will have a significant negative impact on these groups of consumers.
158. Regarding the lack of transparency, some stakeholders have indicated that on many occasions consumers are not duly informed about the costs associated with credit transfers, card-based payments and money remittances. In other cases, it was reported that consumers are not properly informed about charges and fees related to cross-border conversion transactions carried out between euro area and other MSs: dynamic currency conversion. In addition, it was highlighted that consumers were not aware of the real cost of revolving credit cards or the fees related to cash withdrawals from ATMs.

Regulatory and supervisory measures related to cost of payment services

159. The supervisory and regulatory initiatives that have been undertaken on this topic by different CAs include, inter alia:
- recurring on-site and off-site inspections to verify if the pre-contractual and contractual information provided to consumers complies with the transparency regulations;

- developing websites allowing the comparison of the fees of PSPs;
- capping interchange fees for card-based payment transactions.

Issues related to cost of loans

160. Reference interest rates in the EU have remained low over the last 4 years and the ECB has kept the main refinancing rate at zero or close to zero. As highlighted in Chapter 1, outstanding loan volumes and values have been increasing in recent years.
161. The main issues related to the cost associated with loans, expressed by stakeholders, include, inter alia, unjustified levels of fees and charges, lack of transparency and mischarged fees.
162. Unjustified levels of fees and charges have been identified as one of the main reasons for the higher cost of credit. It has been noticed that sometimes consumers are charged (i) high handling fees when they apply for a mortgage; (ii) high fees for late or early repayments; and (iii) higher fees when consumers applied for loans with an annuity payment instead of loans with a flat line amortisation. In addition, it must be noted that in some countries short-term high-cost credit was identified as a product that is detrimental to consumers, as their cost is usually significantly higher than that of ordinary personal loans.
163. Many stakeholders have reported that the formation and the application of the fees are often unclear and not properly described in the contracts. The lack of transparency was also associated with the lack of knowledge or understanding of the terms of the loan agreements that are related to fees and charges.
164. With regard to mischarged fees, some stakeholders indicated that financial institutions are making errors in charging undue fees and charges to their clients. Related issues that were identified in some jurisdictions were related to the incorrect calculation of the APRC, the increasing cost of credit and the unilateral changes of pricing.

Regulatory and supervisory measures related to cost of loans

165. The supervisory and regulatory initiatives that have been undertaken on this topic by CAs include, inter alia:
- recurring on-site and off-site inspections — CAs monitor changes in the fees and charges and collect data on interest rates, fees and charges as well as legal procedures initiated by clients;
 - incorporation and development of banking customer websites where consumers can find basic information related to different retail banking products and services, including mortgage and personal credit;
 - mystery shopping — CAs assess the transparency of fees and charges on retail banking products and services offered to consumers.

Conclusion

166. In conclusion, it can be stated that some of the main concerns for consumers are the lack of transparency and the unjustified levels of fees and charges related to financial products and services. In fact, when consumers consider purchasing these products and services, at times either they are unaware of the total cost that they will bear or the actual price paid is significantly higher than the price indicated in the pre-contractual information.

167. Thus, in order to avoid any abuse or detriment to consumers it may be worthwhile for the EBA to evaluate the effectiveness of the regulatory measures undertaken to improve the transparency and disclosure of pre-contractual information and of the changes in contractual terms and conditions of the financial products and services offered to consumers.

Indebtedness, responsible lending and creditworthiness assessment

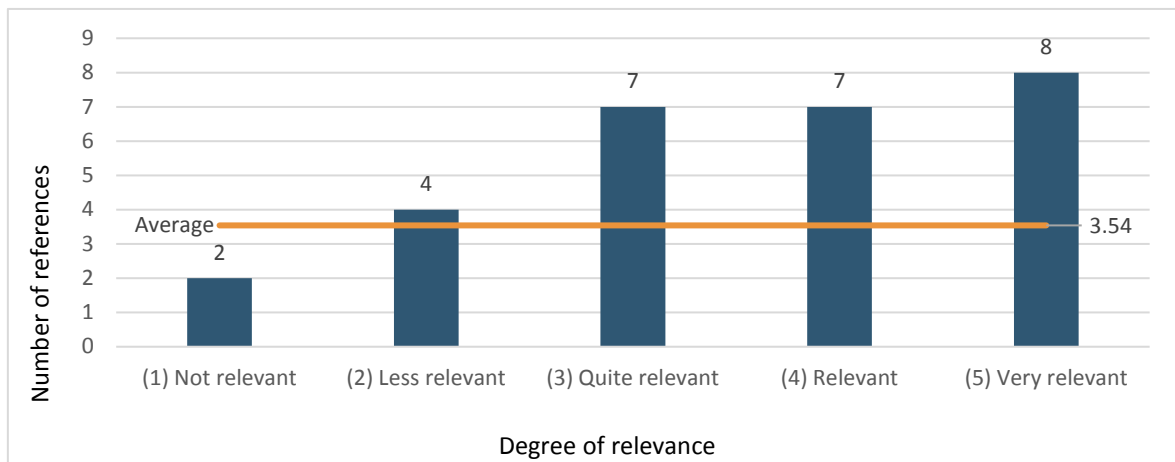
168. Indebtedness still represents an important concern for consumer protection in the EU. There is widespread concern with high indebtedness levels and with recent trends in the credit market that are considered to increase the risk of consumers' over-indebtedness in the future.

169. Various stakeholders, including CAs, consumer associations, industry associations and FIN-NET members, identified important trends/issues across the EU related to indebtedness, responsible lending and creditworthiness assessment. Among these are the low interest rate environment, poor and insufficient creditworthiness assessment practices, the proliferation of various marketing channels, the growing involvement of intermediaries in the credit-granting process, and misleading commercial practices, as explained below. These stakeholders have also identified other market practices that may be detrimental to consumers, such as the purchase of NPLs by unregulated entities.

Indebtedness-related issues

170. Figure 17 depicts the relative importance assigned to the sub-topic of indebtedness by CAs and other stakeholders, which had a score of 3.54 out of 5, based on the feedback from 28 stakeholders.

Figure 17: Relative importance of the topical issue ‘indebtedness’



171. The main issues related to indebtedness identified by the various stakeholders cover the impact and implications of the low interest rate environment, the increasing use of various marketing channels, and the trends in the mortgage and consumer credit markets.

The impact and implications of the low interest rate environment

172. The recent low interest rate environment has been identified as one of the factors behind the increasing levels of consumers' indebtedness in the EU, as it may have fostered consumers' willingness to borrow. However, some consumers, such as those with low incomes or unfavourable credit histories, may not have had access to credit at those lower rates, and so may have had to resort to high-cost credit, which, as highlighted in the report, may be detrimental to consumers.

173. Low interest rates may also have had beneficial effects on consumers and their ability to repay their debts. However, MSs may not have benefited equally from the effect of low interest rates, due to differences between countries in the costs of switching and taking a loan to a new provider.

174. The risk that future increases in interest rates might result in arrears and increased over-indebtedness is a major concern. This is especially relevant in countries where loans are mostly provided at variable rates, indexed to rates such as Euribor. In fact, the context of low interest rates may have created incentives for consumers to take up more expensive loans and ignore the effects of potential increases in interest rates. The risk of future increases in interest rates might have broader negative implications for the financial system as a whole, exposing mortgage and consumer loan portfolios of low quality. Therefore, it is important to continue monitoring the impact of low interest rates on consumers and the risks applicable to them.

175. In addition to the risk posed by an increase in interest rates, a less common concern highlighted was that a potential deterioration of broader macroeconomic conditions may have a negative impact on consumers' ability to repay their loans.

The increasing use of additional marketing channels

176. Another concern raised was the increasing use of additional channels to provide credit products. In particular, digital channels have been identified as a factor that facilitates access to credit by consumers and thus potentially promotes greater consumer indebtedness. These channels might also expose consumers to market practices that exacerbate behavioural biases such as present bias or overconfidence.

Trends in the mortgage and consumer credit markets

177. With regard to the mortgage credit market, a few CAs reported high LTV and LTI ratios for the loans that have been granted, as well as a heated housing market associated with a rise in housing prices.

178. The vulnerability of consumers who took out interest-only mortgages⁴¹ has been identified as an issue in a few countries. In those countries, low interest rates may have had an impact on consumers' ability to repay their loans at maturity, given that the saving capacity accumulated at the end of the interest-only period would be lower than originally foreseen.

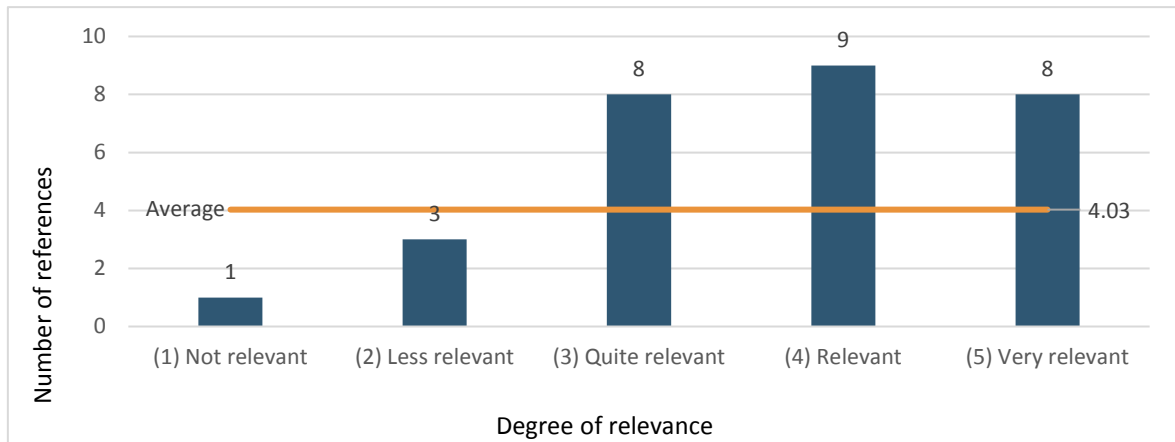
179. Regarding consumer credit, short-term credit, its high costs and the recurrent use of it to meet longer term borrowing needs have been identified as important concerns that may be detrimental to consumers. Debt spirals, in which the consumer takes out a new loan to fulfil old credit obligations, entering into a situation of over-indebtedness, have also been identified, with particular reference being made to revolving credit.

Issues related to responsible lending and creditworthiness assessment

180. Figure 18 depicts the relative importance assigned to the sub-topic of responsible lending and creditworthiness assessment by CAs and other stakeholders, which had a score of 4.03 out of 5, based on the feedback from 29 stakeholders.

⁴¹ Interest-only mortgages are mortgages where the borrower pays the mortgage interest each month without reducing the credit balance. The borrower repays the amount of the loan at maturity.

Figure 18: Relative importance of the topical issue ‘responsible lending and creditworthiness assessment’



181. The main issues concerned with creditworthiness assessment and responsible lending are poor creditworthiness assessment practices, specific lending practices, misleading selling practices arising from staff incentives, purchase of NPLs by unregulated entities and proliferation of service providers outside the regulatory perimeter.

Poor creditworthiness assessment practices

182. Poor creditworthiness assessment and lax lending practices by credit institutions are other important concerns. Creditworthiness assessment is important to avoid building up excessive risk and to embed responsible lending and borrowing practices, for both consumers and institutions. Therefore, potential or actual lack of compliance by creditors with creditworthiness assessment requirements represents a problem. Because the lack of precision in regulation has been identified as an obstacle to compliance, there are CAs which have introduced more detailed creditworthiness assessment requirements.

183. Another important issue related to creditworthiness assessment concerns the fact that credit institutions often do not incorporate critical information in their credit decisions. On this matter, consumer associations have expressed their concern about the need to identify the specific (limited) data needed to carry out creditworthiness assessment and collect only this type of data.

184. The growing use of automated models represents a less common concern. These automated models, which may be based, for instance, on artificial intelligence technology, may not just fail to consider relevant information about consumers, but also be discriminatory when details such as age, gender or language are used to inform lending decisions. Consumer associations have expressed their concern at the lack of transparency behind these types of algorithms.

185. An additional issue raised by consumer associations was related to creditworthiness assessment being carried out only once at a specific point in time (before entering the contract) without taking into account future changes in consumers' circumstances (e.g.

unemployment) or the economy (e.g. rise in interest rates). Furthermore, these consumer associations suggested that, while assessing the creditworthiness of the consumer, creditors should take into account the income and indebtedness of the whole household.

186. Another concern raised by consumer associations is that credit institutions focus predominantly on the overall credit risk assessment rather than on the assessment of consumers' actual ability to repay credit obligations in the present and over time. These associations suggested that creditors should provide more thorough information to consumers about their probability of default and whether it has changed over time.

Specific lending practices

187. Specific lending practices are still relevant from a consumer protection perspective in the EU. The offer of consumer credit in order to finance home purchases has been identified as an example of such a practice. The loosening of criteria for the granting of credit and the extension of maximum credit amounts and loan maturities are other examples.

188. Consumer associations have also identified bundling as a problem practice, with a negative impact not only on consumers' switching behaviour but also on the costs that they face. Other related issues of concern for consumers are the offer of unsolicited products (e.g. credit cards) by non-bank PSPs or ancillary/additional products (e.g. insurance) that raise consumers' credit obligations. These practices reinforce the vulnerability of low-income consumers. In addition, the provision of these ancillary products through digital channels seems to exacerbate the issue, especially when these products are being pre-selected by default.

Misleading selling practices arising from staff incentives

189. Misleading selling practices and misleading advertising have been identified as detrimental practices to consumers, which have also contributed to an increase in indebtedness. In this respect, the general misalignment of interests between credit institutions and consumers has been highlighted by some CAs, in particular the sales incentives. Some CAs also pointed out advertising practices that violate legal and regulatory requirements, especially when digital marketing channels are used.

190. Consumers not getting appropriate financial advice has been identified as one of the implications of such interest misalignment. Some CAs also drew attention to the need to ensure that consumers are provided with suitable and appropriate products.

Purchase of NPLs by unregulated entities

191. The purchase of NPLs by unregulated entities has been another concern expressed by stakeholders. Although the sale to non-bank institutions such as debt management firms allows banks to channel their resources towards viable financing of the economy, this phenomenon can pose risks to consumers where these firms are unregulated. Some stakeholders raised concerns around the lack of transparency about these purchases because

consumers in most cases are not properly informed about the purchase of their loan by an unregulated entity. In addition, it was highlighted that, once the NPL is sold to an unregulated entity, the level of consumer protection is no longer the same, which is a particular problem given the vulnerable position of consumers with NPLs. As highlighted earlier in the report, this may be because the regulatory framework in this area is incomplete from consumer protection perspective.

Proliferation of service providers outside the regulatory perimeter

192. Lower consumer protection might result from activities carried out by service providers that provide services ancillary to the retail banking products and services or provide unregulated services (e.g. crowdfunding services). It was pointed out that consumers might have different levels of protection depending on whether a service is being provided by an incumbent or by a new firm. An uneven application of rules might be detrimental to consumers, giving rise to multiple issues such as unsuitable complaints handling or alternative forms of financing that do not respect creditworthiness assessment or solvency requirements.

Regulatory and supervisory measures

193. The regulatory and supervisory initiatives that have been undertaken on this topic by various CAs include (i) regulations, guidelines and other regulatory measures, (ii) on-site inspections and off-site examinations, (iii) research, studies and thematic reviews, (iv) information sharing and awareness raising, (v) data collection from credit providers and (vi) credit registers.

Regulations, guidelines and other regulatory measures

194. The regulatory approaches adopted by a number of MSs in respect of indebtedness, responsible lending and creditworthiness assessments include the introduction of further domestic rules in the form of regulations, guidelines or other measures.

195. A large number of CAs referred to the introduction of rules around DSTI, LTV and LTI ratios in an effort to promote responsible lending and prevent over-indebtedness in their jurisdictions.

196. A number of CAs have issued or updated their rules in respect of responsible lending. For example, individual CAs have issued national guidelines in relation to overdrafts and overrunning, remuneration policies, and practices relating to the sale and provision of retail banking products and services.

197. The EBA issued guidelines on how creditworthiness assessments should be carried out. These guidelines, which are based on Article 18 and Article 20(1) of the MCD, require creditors to assess consumers' creditworthiness before entering into credit agreements for a mortgage and were introduced to ensure that consumers are protected, in a consistent manner, across the EU.

On-site inspections and off-site examinations

198. On-site inspections and off-site examinations are used by the majority of CAs to assess, inter alia, compliance with national rules on responsible lending, indebtedness and creditworthiness assessments. Some of these CAs have planned routine on-site inspections, with a few of them focusing specifically on consumer credit products and mortgage credit products. Individual CAs have carried out specific thematic on-site and off-site assessments of (i) the marketing of additional insurance products, (ii) the current behaviour and culture within lenders, in order to inform future supervisory work and to ensure consumers are treated fairly, and (iii) consumer credit advertisements, to ensure that consumers are provided with standardised information by way of a typical example rather than referring only to interest rates.

Research, studies and thematic reviews

199. Several CAs have commissioned or undertaken research on responsible lending, indebtedness, creditworthiness assessment and related topics. In one instance, a dashboard is used to score providers against a predefined list of indicators. These providers are then also (anonymously) scored against one another in respect of the domestic regulatory requirements on arrears handling by mortgage credit providers, and in respect of consumer credit. Another CA has undertaken research to establish how financial institutions were interpreting and applying the existing rules and guidance on creditworthiness assessment. The same CA also conducted a market study on how a consumer's credit information affects the likelihood of them being able to access a range of financial services including a mortgage, loan or credit card. A study on home mortgage loans is undertaken, on a periodic basis, by another CA.

200. Thematic reviews have also been carried out in respect of the distribution of loans, staff incentives, remuneration and performance management, motor finance, second charge and construction-stage financing, and housing corporation loans.

Information sharing and awareness raising

201. Another key consumer protection measure employed by a number of CAs is information sharing and awareness raising (financial education in the broadest sense). Many CAs publish the outcomes of the aforementioned research, studies and reviews in order to raise the awareness of the general public. Such publications included, among others, an overview of the conditions under which credit institutions grant loans, and a warning outlining the risks involved in entering a credit contract.

Data collection from credit providers

202. Almost all CAs have analysed already existing information, or requested additional information from credit providers, so they can undertake desk-based reviews, studies or examinations of one form or another, to gain a more complete understanding of their markets and to gauge the effectiveness of responsible lending, indebtedness and creditworthiness assessment measures that have been introduced in their jurisdictions. One CA uses, for example, annual

surveys to glean further information on mortgage loans and consumer credits. Data on indebtedness levels, for example, are gathered by looking at the returns received through regular reporting channels such as monthly reports, ITS supervisory reporting, quarterly supervisory quantitative reports on banks' lending practices and a quarterly bank lending survey.

Credit registers

203. Credit registers (either privately run or publicly operated) are established in many MSs. Some CAs explicitly identified credit registers as a creditworthiness assessment tool that can be used to identify and potentially prevent over-indebtedness. Credit registers can also be used by researchers, supervisors and policy makers as a basis upon which to get accurate data on the current state of the market, while also affording consumers an opportunity to review and potentially challenge the accuracy of the information upon which their credit rating is based. One CA has introduced a publicly run credit register that collects personal and credit information from lenders about consumer loans and other types of loans such as business loans or loans from moneylenders. This register provides borrowers with an individual report detailing their credit agreements. They can request that corrections be made, if inaccuracies are found. The register also provides the CA with better insights into financial markets, which in turn inform the work undertaken in other areas such as prudential supervision and statistics. Another CA is developing a central credit register to provide additional data to consumers. A third CA systemically records overdue debts arising from credit contracts.

Conclusion

204. With regard to indebtedness, the main concerns from a consumer protection perspective relate not only to recent trends in both the mortgage and consumer credit markets, but also to incentives associated with the low interest rate environment and the growing use of digital channels for provision of consumer credit, with the latter potentially having an impact in the future. With regard to responsible lending and creditworthiness assessment, which was considered the most relevant topic for consumers, a number of issues were identified that the EBA needs to assess further, in terms of both pre-contractual and post-contractual information, with the overall intention of allowing not only creditors but also consumers to have trust in the whole lending process.

Financial literacy and education

205. Previous editions of the report made reference to this issue, expressing the concerns about financial literacy and education identified in a number of MSs, and it seems to be emerging again.

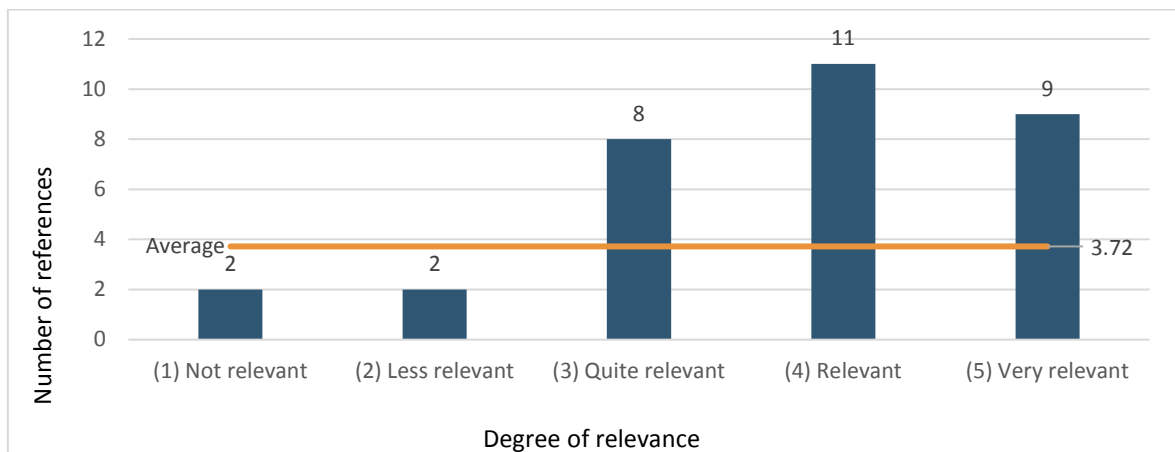
206. Financial literacy and education aim to improve consumers' ability to take better financial decisions, and they are increasingly becoming important for consumers, even more in the current landscape, as new and more complex financial products and services are constantly

emerging. Furthermore, they should contribute to a better allocation of resources and greater economic and financial stability and, therefore, foster prosperity for the whole society.

207. Nevertheless, several international studies carried out over the last few years have shown a low level of understanding of financial matters among consumers⁴². According to these studies, the general population, and depending on national circumstances specific target groups, need support to understand and effectively use certain financial products and services. One of the key takeaways from these studies is that the lack of familiarity with basic financial concepts may lead to over-indebtedness, irresponsible use of credit or inappropriate choices of products and services.

208. Against this background, it can be concluded that financial literacy and education deserve the attention of CAs that have the corresponding mandate and other stakeholders that participate in the financial markets. Figure 19 depicts the importance assigned to this topic by CAs and other stakeholders, which was a score of 3.72 out of 5, based on the feedback from 32 stakeholders.

Figure 19: Relative importance of the topical issue ‘financial literacy and education’



Relevant issues

209. Regarding financial literacy and education, the issues identified as most relevant by the various stakeholders are:

- a lack or low level of financial and economic knowledge among the general population, with associated negative consequences in some cases (e.g. over-indebtedness);
- a specific need for ‘digital financial education’ due to the increasing appearance and use of new and complex digital providers, tools and services in the financial market; and

⁴² See for example, Leora Klapper, Annamaria Lusardi and Peter van Oudheusden (2015), ‘Financial literacy around the world: Insights from the Standard and Poor’s ratings services’; OECD (2016), ‘Financial education in Europe: Trends and recent developments’; or Allianz (2017), ‘When will the penny drop?’, *International Pension Papers* 1/2017.

- the existence of specific vulnerable groups that are most affected by the lack of financial education, which may include the elderly, migrants, consumers with low levels of education and/or income, young people and the unemployed.

Lack or low level of financial and economic knowledge among the general population

210. Concerning the lack or low level of financial and economic knowledge among the general population, some CAs and FIN-NET members explicitly mentioned the following points about their jurisdictions: inadequate financial literacy; low level of financial education; difficulty in comprehending how certain financial products work; population not sufficiently equipped with the minimum knowledge they need to have in order to take informed financial decisions.
211. Furthermore, a few of these CAs stated that many households have high levels of debt, which may be at least a partial implication or consequence of inadequate financial literacy. Moreover, some FIN-NET members highlighted that a large number of the complaints submitted to them by consumers are related to a lack of financial literacy and to a poor understanding of terms and conditions in the contracts entered into by consumers.
212. In that regard, several CAs have identified the following specific issues and areas that need to be improved in relation to financial literacy and education: (i) insufficient knowledge of the methods for calculation of the price of products/services or interest rates; (ii) insufficient knowledge or understanding of the general terms and conditions of different banking products and services; (iii) insufficient knowledge of basic financial terminology; (iv) lack of understanding of risks related to the use of financial products and services, particularly indebtedness; and (v) poor financial behaviour, especially in relation to borrowing.
213. According to some consumer associations and industry associations, consumers need not only to access the information but also to be able to understand it. In addition, according to consumer associations, even if consumers are 'financially literate' they may not necessarily make a rational decision, mainly because the terms and conditions may be opaque and not understandable. In relation to this, consumer associations considered that consumers' lack of financial education should not be used as an excuse for financial institutions to provide complex and costly products.
214. Furthermore, some consumer associations highlighted that the cost of financial literacy and education may at times be very high and that there is a mismatch between the time when the financial education is provided and the time when the knowledge is actually needed (applied). Therefore, they think that it would be better to combine financial education with other measures or actions aimed at providing simplified information to consumers or offering personalised advice to consumers whenever they need to make an important financial decision.

Specific need for digital financial education

215. The issue of a specific need for digital financial education has been reflected by a number of CAs and industry associations. They argue that financial technology (FinTech) solutions and the innovative technologies are developing very rapidly and, as a result, have found many consumers unprepared to face them. In a world driven by innovations which affect every economic sector, including the retail financial sector, consumers need to be able to understand the offers they get and how new innovative financial products and services work.
216. Further, it is argued that contracts regarding financial services are being subscribed in an increasingly complex digital environment. Therefore, awareness raising through some specific form of education should be considered, with a particular focus on the new digital environment and remote conclusion of contracts rather than pure financial education.
217. Industry associations also expressed their concerns that the emergence of new types of digital financial service providers may put consumers in a difficult situation where they are not in a position to understand whether these providers are fully authorised or registered and consequently allowed to provide the service in question. Limited understanding of new business models (new forms of cross-selling and tying, unclear contracts resulting from box-ticking, unclear data use in cases of screen-scraping-based services) and associated risks, including security risk as a result of an increasingly complex ecosystem, were also mentioned as concerns arising from this.

Financial literacy and education for specific vulnerable groups

218. Concerning the issue of financial literacy and education for specific vulnerable groups, according to the information received, the most vulnerable groups in the population and, therefore, those who may need the most help, attention and specific targeted programmes are the elderly, migrants, consumers with low levels of education and/or income, young people and the unemployed.
219. The topic of vulnerable populations has become a priority for several CAs, which have identified the need to start providing financial education at primary schools, and start re-educating elderly people and other vulnerable groups of consumers. In that respect one CA reported that it is working on this topic with the aim of understanding what underlies the notion of vulnerability, and how it could be addressed through regulation or supervision.

Initiatives on financial literacy and education

220. Most CAs have undertaken different types of financial literacy and education initiatives or actions in order to tackle the issues presented above, namely the lack or low level of financial and economic knowledge among the general population. Nevertheless, it must be taken into account that some CAs do not have an explicit remit covering financial education, while the others share responsibility for that with other national organisations. The following paragraphs provide a summary of these initiatives or actions.

221. To address the lack or low level of financial and economic knowledge, a number of CAs have developed websites or specific portals that provide information to consumers on financial products and services and the related innovations, as well as recommendations and tips for personal finance. Some of these CAs have also carried out surveys in order to find out and investigate the level of financial literacy and education among their populations.
222. Following the same objective, some CAs have organised media campaigns to raise consumer awareness about, for example, (i) the steps to be followed when filing a complaint to a financial institution or (ii) the risks of investing in cryptocurrency and foreign exchange. In addition, a few CAs carried out specific educational programmes targeting vulnerable groups such as migrants, offered training modules for primary and secondary schools, and organised lectures in schools about the roles of CAs, the euro, the security features of banknotes and coins, and the functioning of the banking system as a whole.
223. Some other CAs have organised events in order to have a personal face-to-face exchange with consumers and provide them with relevant information. Other CAs indicated that they actively participated in the development, publication and execution of a national strategy on financial literacy and consumer protection aiming to cover several areas in the banking sector (e.g. electronic payments, loans, savings) and/or relevant target groups identified (e.g. progressive strategy for schools).
224. The EBA's role in financial education is set out in Article 9 of its Founding Regulation, which confers on the EBA the mandate to 'review and coordinate financial literacy and education initiatives by the CAs'.
225. To fulfil its mandate, the EBA started to collate national education initiatives and store them in an EBA internal repository available to national authorities to inform themselves of the work done by other authorities. However, during 2017, the EBA arrived at the view that it would provide added value to assess the initiatives in the repository, learn valuable lessons and make this assessment public via a report. Following this decision, the EBA developed and eventually published in March 2018 the Financial Education Report (FER)⁴³. The FER is based on the EBA repository, which consists of 84 financial education initiatives taken by the CAs, primarily during 2016 and 2017. The FER presents a general view of the most common approaches used by the CAs as reported in the initiatives collated in the repository. The FER also sets out CAs' insights into financial education by presenting the lessons learned and experiences gained by CAs when carrying out the financial education initiatives included in the EBA repository.
226. The main conclusions were that:
- most CAs agree on the need to improve financial education because of the increasingly complex financial choices that citizens must make;
 - the most common subject of financial education initiatives is personal finance management, followed by financial products and services;

⁴³ See <https://www.eba.europa.eu/documents/10180/2087449/EBA+Financial+Education+Report.pdf>.

- consumers in general are, by far, the most widely targeted group;
- online resources are the most widely produced output, which is reflective of the digitalisation trend already observed in the formats used;
- CAs identify financial education needs primarily by surveying their populations, in their day-to-day work, from supervisory observations, through research based on the data collected from supervised entities and by analysing the information gathered from consumer complaints.

Conclusion

227. Taken into account all the above-mentioned considerations, it can be concluded that there is a general need to improve financial and economic knowledge, in particular with regard to digital financial education and the most vulnerable population. In this sense, EBA observed that the financial literacy and education initiatives and actions undertaken by CAs had been very diverse.

228. Nevertheless, financial institutions should provide adequate explanations of the products and services offered when selling them, to enable consumers to assess whether these products and services are appropriate for their needs and financial situation.

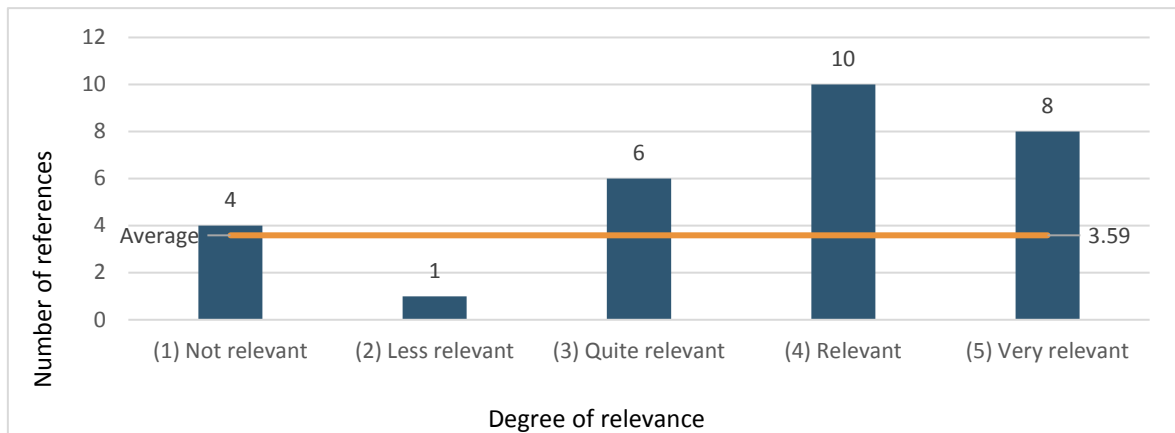
Transparency and disclosure of pre-contractual information and changes to contractual terms and conditions

229. Issues related to the transparency of banking fees and costs, the disclosure of pre-contractual information to consumers and the unilateral amendment of contractual terms and conditions remain very relevant for the majority of CAs and other stakeholders. Although a minority of CAs did not note any new and/or specific issues emerging in this area, recurring supervisory and regulatory initiatives were reported by those CAs, due to the paramount importance of consumers' awareness of their rights and obligations in accessing banking products and services.

230. There is an ongoing concern among the stakeholders that information provided to consumers is not complete, sufficiently clear, accurate or easy to understand for the average consumer. In that respect, lack of transparency may prevent consumers from making informed and appropriate financial decisions. The currently observed trend of increasing digitalisation of retail banking products and services further amplifies this issue by posing additional challenges to the effective disclosure of terms and conditions to consumers. In addition, at times it has been observed that consumers still face difficulties in understanding the language used in the contractual terms.

231. Figure 20 depicts the importance assigned to the topic of 'transparency and disclosure of pre-contractual information and changes to contractual terms and conditions' by CAs and other stakeholders, which was a score of 3.59 out of 5, based on the feedback from 29 stakeholders.

Figure 20: Relative importance of the topical issue ‘transparency and disclosure of pre-contractual information and changes to contractual terms and conditions’



Relevant issues

232. The most common issues related to transparency and disclosure of pre-contractual information and changes to contractual terms and conditions reported by CAs include the use of unfair and/or abusive contractual terms by financial institutions, the provision of inadequate pre-contractual information to consumers, the lack of transparency in the formation of fees and charges, the frequent recourse to unilateral modifications of contractual terms and conditions, delays in notifying consumers about changes of terms and conditions, and overloading consumers with complex information.
233. Some CAs found that pre-contractual information provided to consumers is not always fully consistent with regulation, while cases of failures to meet deadlines to give consumers pre-contractual information were also identified. Regarding the latter, some consumer associations even indicated that at times pre-contractual information is provided to consumers only after the contract has been entered into.
234. At times, CAs and consumer associations also noted the lack of consistency between the pre-contractual information provided to consumers and the actual terms and conditions of the agreement for provision of retail banking products and/or services, with the latter being much more complex and not understandable.
235. An important issue mentioned by various CAs concerns the unilateral change of contracts by financial institutions, especially those concerning charges and fees. In recent years, banks and other financial institutions have adopted several unilateral changes, due to the general decrease in interest rates, the effects of the financial crisis on bank revenues and the increased costs borne. This topic is frequently addressed by consumer complaints, thus prompting CAs to pay keen attention to actions undertaken by supervised entities in the light of the consequences for their relations with consumers and their reputation. By way of example, one CA reported it handled several cases where in which contractual information about changes in interest rates during the credit agreement was insufficient.

236. One of the biggest concerns identified by consumer associations was the overloading of consumers with complex and obfuscating information that cannot be understood even by educated professionals. In order to address this issue, they indicated that the focus should shift from the provision of thorough and complex information to the provision of rather summarised and simplified information at the time of concluding a contract, tailored to reflect the individual needs of the consumer.

Regulatory and supervisory measures

237. CAs attempted to tackle the issues at stake by adopting tailored regulatory and supervisory initiatives.

238. Some of the regulatory initiatives undertaken by CAs included the introduction of stricter requirements for the provision of pre-contractual information and the calculation of the effective interest rate: APRC. These rules apply to all types of consumer loans and require the regular publication of an informative list of loans provided to consumers which also includes the conditions under which credit has been granted.

239. Among the most relevant supervisory initiatives, CAs reported (i) on-site inspections of the compliance of creditors and credit intermediaries with the applicable requirements related to advice that needs to be provided to consumers when granting mortgages, (ii) inspections focusing on the opening of payment accounts, (iii) mystery shopping for credit products and (iv) on-site inspections to assess the disclosure of pre-contractual and post-contractual information and the monitoring of the application of standard contract terms with a view to examining whether these are contrary to the requirements of good faith and fair dealing to the detriment of the consumers.

240. In order to foster consumers' awareness and improve disclosure of information to consumers by financial institutions, various additional initiatives were undertaken by CAs, including (i) research on how financial market participants disclose information to consumers, (ii) research on mortgage switching, which informed the introduction of changes to national regulatory frameworks, (iii) desk-based checks or on-site inspections of how customers were informed of and had accepted amendments of contractual terms and conditions and (iv) updates of dedicated websites.

241. Regarding the issue of unilateral change of contracts by financial institutions, CAs undertook mainly regulatory initiatives to tackle it. One CA issued a supervisory benchmark on changes of framework contract on payment services and carried out thematic reviews on the provision of payment services by credit institutions, in particular by focusing on procedures concerning changes of contract by credit institutions. Another CA introduced specific criteria that should be followed by financial institutions in order to ensure that the rights of consumers are fully respected and that modifications of terms and conditions are compliant with the requirements of the law. Another CA launched a public consultation on the fairness of variation terms in

financial services consumer contracts, which has been done in the light of a number of rulings on variation terms by the Court of Justice of the EU.

Conclusion

242. The above narrative shows that consumers' awareness of fees, charges, and terms and conditions that apply to banking and financial agreements still needs to be improved. In addition, there are a number of issues identified related to disclosure of pre-contractual information and changes to the contractual terms and conditions that are still to be addressed, but it is important for the maintenance of the trust between consumers and financial institutions that there are regulatory and supervisory initiatives at EU and national levels trying to address those. Therefore, it is essential for CAs and the relevant EU institutions, including where relevant the EBA, to ensure that the initiatives undertaken are effective and sufficient.

Data breaches and cyber-security

243. Following a significant increase in digitalisation in the provision of retail banking products and services as well as rapid developments in the area of FinTech, the topic of data breaches and cyber-security has gained substantial attention during the last few years.

244. Consumer data held by financial institutions mainly encompass consumers' transaction records, financial and personal data: these can be exploited in several ways, either in a stand-alone/aggregate manner or through matching it with publicly available information about consumers available on social media. In this context, the use of services provided by third parties requires the adoption of appropriate security measures to protect the confidentiality, integrity and availability of customer/consumer data (in transit or at rest) and of the systems and channels that are used to process, transfer or store these data.

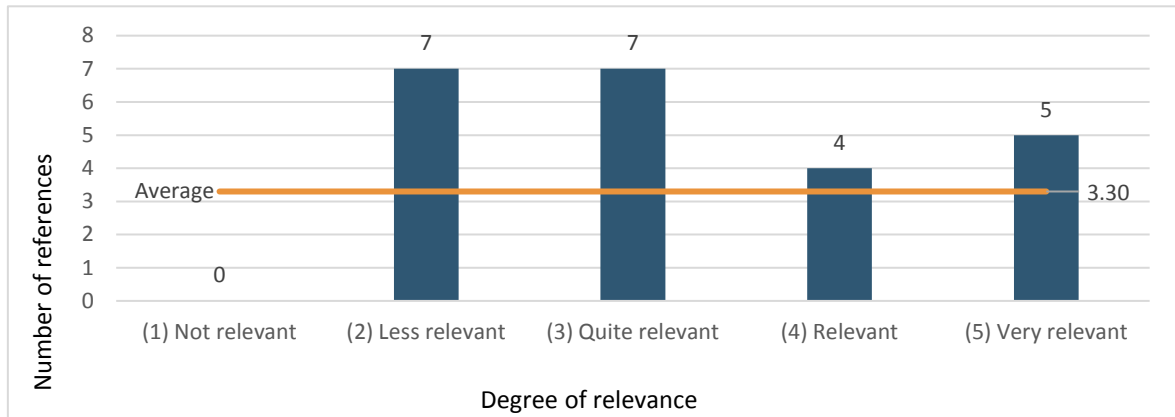
245. In the past, the EBA had identified the commercial use of banking consumer data as an important issue of concern. Therefore, it has paid specific attention to how data are used and how this may affect customers, as well as on the role private consumer data may play as a source of revenue for banks and other financial institutions. In this respect, in the last issue of the EBA CTR, several CAs reported innovative uses of consumer data by financial institutions as a relevant trend, including the creation and promotion of personalised but unwanted products and services, as well as the possible sale of consumer data to third parties. In addition, on 28 June 2017 the EBA published a Report on innovative uses of consumer data by financial institutions,⁴⁴ which presented the risks and potential benefits of the innovative uses of consumer data.

246. In this edition of the CTR, the trend referred to above has slightly shifted to data breaches and cyber-security. Many CAs considered the topic relevant to their jurisdictions, despite the fact that a number of the developments seem still far from becoming effectively material. Figure 21 depicts the importance assigned to the topic of data breaches and cyber-security by CAs and

⁴⁴ See <https://eba.europa.eu/documents/10180/1720738/Report+on+Innovative+uses+of+data+2017.pdf>.

other stakeholders, which had a score of 3.30 out of 5, based on the feedback from 23 stakeholders.

Figure 21: Relative importance of the topical issue 'data breaches and cyber-security'



247. Although data breaches and cyber-security have not given rise to significant issues in the retail financial market in most jurisdictions so far, supervisory authorities are aware of risks associated with cyber-crime and data breaches, and actively monitor those which may effectively emerge in the near future. Nonetheless, in the light of the dynamic development of FinTech innovations and consumers' positive response to digitalisation, some CAs are aware that among the biggest challenges for FinTech firms is the protection of consumer data and cyber-security (hacking attacks are the top threats that may hamper the development of FinTech services). In the view of a few CAs, only fully secure FinTech firms can be sustainable.

Relevant issues

248. In general terms, the majority of CAs noted that the increasing digitalisation of financial services may imply that consumers are exposed to 'newer' risks and threats in comparison with traditional financial products, including the risk of misuse of personal financial data and cyber-crime. In this respect, risks of fraud and theft of consumer data may emerge if stringent security systems are not in place to protect personal records, thus exposing consumers to substantial detriment due to system failures.

249. CAs also highlighted that cyber-attacks may result in loss of availability of financial services for consumers, and loss of consumer data, leading to harmful outcomes, such as fraud. High-profile attacks on individual firms clearly demonstrate the potential scale of impact on consumers in terms of data breaches. In this respect, a few CAs reported an increased volume of cyber-attacks, although no major incidents with losses of data from supervised entities were reported, due to proper prevention solutions in place.

250. In addition to what has been identified by CAs, consumer associations highlighted some concerns: (i) that the innovative financial services may lead to obtaining additional information beyond that needed for the provision of the service in question; and (ii) that consumers in

general struggle to understand some of the innovative services, which could expose them to fraudulent actions (e.g. consumers lured to ‘fake’ shops, which could then lead to the theft of consumers’ personal data, as well as — in the specific case of payment services — the payment account number and sensitive payment data).

Regulatory and supervisory measures

251. Despite the awareness of the importance of data security, a number of CAs pointed out that they do not have an explicit legal mandate in regard to the monitoring and control of the issues related to data breaches and cyber-security for consumer protection purposes; the latter being under the remit of different national authorities. In this regard, some CAs have put in place memorandums of understanding with competent national data protection authorities aimed at exchanging information on a regular basis, particularly with regard to incidents affecting the security of information systems. Along these lines, a large majority of CAs reported that they have been addressing emerging security issues through specific organisational arrangements, including by liaising with forums and other units responsible for the development and monitoring of FinTech initiatives.
252. Due to the relevance of IT security issues to the ongoing viability of financial institutions, the assessments of cyber-security risks have been carried out along with the discharge of supervisory tasks that are not related to consumer protection. CAs reported they have been requiring supervised entities to present their plans for major outsourcing and especially outsourcing in cloud services, where some find the main cyber-security risks lie at the moment. In some cases, financial institutions are regularly examined on site by dedicated IT supervisory teams, and key findings on IT security are stressed by supervisors within ongoing prudential monitoring of supervised entities.
253. On the regulatory side, in 2017 the EBA conducted an assessment of the current supervisory practices regarding cyber-security in the EU. Consequently, in December 2018, the EBA published for consultation its draft Guidelines on ICT [information and communication technology] and Security Risk Management, which set requirements for the institutions to manage their ICT risks (including cyber-security). Furthermore, in a response to the European Commission FinTech Action Plan, the European supervisory authorities (ESAs) are working on Joint Advice on the need for legislative improvements for ICT risk management requirements in the EU financial sector. The ESAs are also working to provide Joint Advice to the European Commission on the costs and benefits of developing a coherent cyber-resilience-testing framework for significant market participants and infrastructures within the whole EU financial sector with the aim of further building cyber-resilience in the EU.
254. In parallel, in December 2017 the EBA addressed the specificities of outsourcing to the cloud by developing Recommendations on Outsourcing to Cloud Service Providers (EBA/REC/2017/03). These recommendations have been fully integrated in the EBA draft Guidelines on Outsourcing (EBA/CP/2018/11) published for consultation in June 2018.

Conclusion

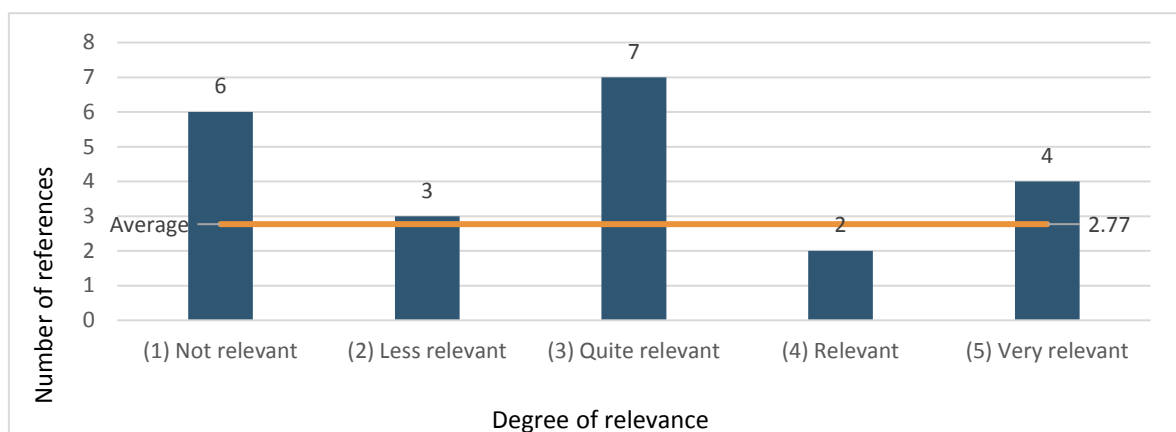
255. Technological innovations could potentially increase the risks for consumers, including the loss or unlawful exploitation of data. Although in most cases such risks have not materialised, CAs have started paying increased attention to them from different perspectives. Since most of these risks are common across the EU, there may be merit in increasing and facilitating the cooperation between CAs. At the same time, further coordination efforts may be needed to integrate the activities aimed at preventing IT risks from a microprudential perspective with the overarching goals of consumer protection.

Cross-border selling of products and services

256. Cross-border selling of banking products and services occurs when consumers purchase retail banking products and services provided in their country by financial institutions authorised or registered in another jurisdiction. Cross-border signing of contracts typically resorts to one or more means of long-distance communication, which include, among others, the internet, mobile applications, telephone and videoconference. The advance of technology and the increased familiarity of consumers with digital means provide a case for growing cross-border selling of retail banking products and services.

257. Figure 22 depicts the importance assigned to the topic of cross-border selling of banking products and services by CAs and other stakeholders, which had a score of 2.77 out of 5, based on the feedback from 22 stakeholders.

Figure 22: Relative importance of the topical issue ‘cross-border selling of products and services’



The regulations governing some banking products and services falling into the remit of the EBA’s consumer protection mandate, such as residential mortgage credit⁴⁵, payment services⁴⁶ and

⁴⁵ 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 (Mortgage Credit Directive).

⁴⁶ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (Second Payment Services Directive).

consumer credit⁴⁷, have been harmonised across the EU in order to promote a real internal market, allowing EU financial institutions to offer their products and services across borders to consumers residing in other EU countries. The EU legislators aimed to strike a balance between a high level of consumer protection and the competitiveness of financial institutions, as such balance is essential for the completion of the internal market.

258. At present, the internal banking market is not fully exploited, as there seems to be a significant discrepancy between the numbers of domestic and cross-border providers (including financial institutions offering services and products solely on the Internet) and likewise between the number of contracts signed and/or products and services provided where the financial institution and the consumer are located in the same country and the number of those concluded on a cross-border basis.

259. Thus, the potential for further growth of cross-border provision of products and services is high. Some stakeholders also expect that the increase in cross-border activity will result in complex challenges for all parties involved (financial institutions, consumers, supervisory authorities), which may include (i) difficulties in determining the legal liability of each party involved and/or the applicable legislation, since it may be difficult to identify all contractual parties and their identities, as the contract is concluded without their physical presence; (ii) difficulties for supervisory authorities in effectively enforcing consumer protection provisions upon financial institutions established in other countries; (iii) the lack of understanding and knowledge of the existence and functioning of cross-border redress mechanisms.

Relevant issues

260. Cross-border selling of products and services is a growing concern among stakeholders. Nonetheless, it is important to highlight that, overall, stakeholders reported that they had limited evidence of consumers resorting to foreign financial institutions to access the traditional banking products and services falling under the remit of the EBA or experiencing major issues with their use.

261. On the one hand, some stakeholders identified this as being of low importance for the clients of financial institutions, which may be explained by the absence of a fully mature cross-border market for banking products and services, resulting from the non-existence of such offers in their national markets.

262. On the other hand, some stakeholders stated that there is a considerable amount of banking products and services provided in their jurisdictions on a cross-border basis. However, they also noted that consumers in general do not seem to resort to such types of agreements.

263. Some CAs highlighted that it is difficult for consumers to identify all the actors involved in the agreement, and therefore there is a degree of uncertainty regarding the legal liability of each

⁴⁷ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (Consumer Credit Directive).

entity involved in the provision of retail banking products and services, especially in the case of cross-border provision of products and services. The use of digital technology can also pose difficulties for the consumer in identifying with whom the responsibility for their protection as a consumer lies, especially if the agreement includes a credit intermediary, i.e. a third party.

264. Consumer confidence may be affected when consumers are not sure about their rights and obligations as regard the applicable legal and regulatory framework from the perspective of cross-border selling of retail banking products and services, in particular whether the applicable legislation is that of the home MS, where the financial institution is established, or the host MS, where the service or product is sold.
265. Other CAs referred to the lack of understanding and knowledge of the existence and functioning of cross-border redress mechanisms, which may potentially decrease consumers' confidence in cross-border banking agreements. This was also complemented by feedback from consumer associations that consumers find it difficult to submit complaints to home CAs (the authorities that have authorised or registered the financial institution providing cross-border services in their jurisdiction).
266. Some CAs also pointed out that one explanation for the lack of consumer confidence in these types of agreements is the lack of adequate enforcement powers by host supervisory authorities if banking products or services are provided in their jurisdiction by an entity established abroad or solely on the internet, with one CA reporting that in the last 2 years foreign (EU) short-term and fully digital credit providers have entered its internal credit market. These providers have been authorised or registered in another EU MS, where the rules and regulatory requirements are more relaxed, with the intention of avoiding the supervision of the host CA.

Regulatory and supervisory measures

267. The evolution of cross-border selling of products and services is an important topic for the EBA. Consequently, the EBA is carrying on with the analysis and collecting information on potential national barriers for FinTech firms that provide services on a cross-border basis. Previously, on 15 March 2018, the EBA published the document *The EBA's FinTech Roadmap: Conclusions from the consultation on the EBA's approach to financial technology (FinTech)*⁴⁸, which aimed to enhance consumer protection, promote a sound, effective and consistent level of regulation and supervision, prevent regulatory arbitrage and promote equal competition, and contribute to the monitoring of new and existing financial activities. It set out six priority areas of work:
- authorisation and regulatory perimeter issues;
 - regulatory sandboxes and innovation hubs;
 - impact on business models, prudential risks and opportunities;
 - cyber-security;

⁴⁸ See <https://www.eba.europa.eu/documents/10180/1919160/EBA+FinTech+Roadmap.pdf>.

- consumer and conduct issues, including work on the potential national barriers for FinTech firms that provide services on a cross-border basis;
- AML and counter-terrorist financing.

268. In addition, the Joint Committee of the ESAs, which includes the EBA, aims to identify potential risks to financial stability across the financial markets with a view to supporting consistent approaches and clear convergent guidance to supervisors and market participants⁴⁹. According to the ESAs' 2018 report, 'The steadily growing phenomenon of Fintech/digitalisation of financial services creates new opportunities but also new risks for consumers'. Therefore, the ESAs' Subgroup on Cross-Border Supervision of Financial Services will continue to work on identifying the issues and challenges experienced by CAs in the supervision of the cross-border provision of financial services that may negatively affect customer protection and/or the proper function of the single market for consumers; and on enhancing the cooperation between home and host CAs in the supervision of firms providing cross-border retail financial services. Following its work, the Joint Committee of the ESAs may, potentially and if necessary, identify regulatory and/or supervisory measures which may need to be taken⁵⁰.

Conclusion

269. Despite the harmonisation of regulation applicable to some retail banking products and services provided within the EU (i.e. mortgages), consumers do not seem to resort to financial institutions authorised in other countries when making use of a specific banking product or service.

270. However, the increasing use of means of long-distance communication facilitates the growth of cross-border agreements. This may potentially lead to an increase in the challenges for CAs in order to ensure a consistent level of regulation and supervision of consumer legislation. Therefore, it is essential to ensure effective cooperation between home and host CAs in the supervision of the financial institutions providing cross-border services and the agreements they conclude with consumers, to fully contribute to the internal EU market for financial services.

⁴⁹ The Joint Committee of the ESAs has addressed, among other issues, the challenges arising from rapid developments in information technology, including FinTech, and its impact across the financial markets. For more information, see the Joint Committee risk reports of autumn (JC 2017 46) and spring (JC 2017 09).

⁵⁰ For more information on the ESAs Joint Committee work programme, see <https://esas-joint-committee.europa.eu/Publications/JC%20Work%20Programme/ESAs%20Joint%20Work%20Programme%202018%20%28JC%202017%2053%202018%29.pdf>.



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