

EBA/GL/2015/12 (consolidated version)

01 June 2015



EBA Guidelines

on arrears and foreclosure

		Application date
		21.03.2016
Amended by:		
	EBA/GL/2024/10	22.10.2024

Section 1 - Compliance and reporting obligations

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Status of these guidelines

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

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Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by 21.10.2024. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website to compliance@eba.europa.eu with the reference 'EBA/GL/2024/10'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.

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4. Notifications will be published on the EBA website, in line with Article 16(3).

¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p. 12–47)

Section 2 – Subject matter, scope and definitions

Subject matter and scope of application

5. These guidelines provide further detail on requirements set out in Article 28 of Directive 2014/17/EU² in respect of credit agreements which fall under the scope of Article 3 of Directive 2014/17/EU.

Addressees

Addressees of these Guidelines

6. These guidelines are addressed to:

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- a. competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 (EBA authority) which are also competent authorities as defined in point (22) of Article 4 of Directive 2014/17/EU; and

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- b. are also addressed to financial institutions as defined in Article 4(1) of Regulation (EU) No 1093/2010 which are creditors as defined in point (2) of Article 4 of Directive 2014/17/EU.

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Addressees of information requirements [deleted]

7. [deleted]

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Definitions

8. Terms used and defined in Directive 2014/17/EU have the same meaning in the guidelines.

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² Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

Outsourcing [deleted]

9. [deleted]

Section 3 - Implementation

Date of application

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

Section 4 – Requirements regarding arrears and foreclosure

Guideline 1: Establishment of policies and procedures

- 1.1 The creditor should establish, and keep up to date, procedures to detect, as early as possible, consumers going into payment difficulties.
- 1.2 The creditor should establish, and keep up to date, policies and procedures for the effective handling of and engagement with consumers in payment difficulties. The consumer engagement policy should include that the creditor provides adequate information, for example, through websites and written materials, and support for consumers in payment difficulties.
- 1.3 The creditor should provide adequate training for staff dealing with consumers in payment difficulties.

Guideline 2: Engagement with the consumer

- 2.1 When a consumer goes into payment difficulties, the creditor should work with the consumer to establish why the difficulties have arisen and for the creditor to take appropriate steps.
- 2.2 Any interaction by the creditor with the consumer in relation to their payment difficulties should respect the consumer's privacy.
- 2.3 The creditor, as well as any agents acting on behalf of the creditor, should maintain a level of contact and communication with a consumer in payment difficulties that is proportionate to the information requirements, and not excessive.

Guideline 3: Provision of information and assistance to the consumer

- 3.1 The creditor should communicate clearly and in plain language.
- 3.2 The creditor should provide support and, at least, the following information to consumers in payment difficulties:
 - a) the number of payments either missed or only paid in part;
 - b) the total sum of the payment shortfall;

- c) the charges incurred as a result of the payment shortfall;
- d) the importance of the consumer co-operating with the creditor to resolve the situation.

3.3 In cases where the consumer's payment difficulties persist, the creditor should provide the following information to the consumer:

- a) information regarding the consequences of missing payments (e.g. costs, default interest rate, possible loss of property, etc.); and
- b) information about available government/public schemes or support.



Guideline 4: Resolution process [deleted]

4.1 [deleted]

Guideline 5: Documentation of dealings with the consumer and retention of records

5.1 The creditor should document the reasons why the possibility(ies) of forbearance measures offered to the consumer in accordance with Article 28(1) MCD are appropriate for his/her individual circumstances and should make and retain adequate records of its dealing with the consumer in payment difficulties for a reasonable period of time.

Guideline 6: Outsourcing

6.1 In cases where the activity of the creditor is in whole or in parts outsourced to third parties, creditors, which are not any of the financial institutions referred to in paragraphs 9 to 11 in EBA Guidelines on outsourcing arrangements (EBA/GL/2019/02), should ensure, that they comply with the requirements established in those Guidelines, including the final responsibility of institutions when outsourcing.³

³ EBA Guidelines on outsourcing arrangements (EBA/GL/2019/02) [EBA BS 2019 xxx \(EBA Draft Guidelines on outsourcing arrangements\).docx \(europa.eu\)](#) which repealed the CEBS guidelines on outsourcing of 14 December 2004 with effect from 30 September 2019.