

EBA/GL/2015/11

01 June 2015

Final Report

Guidelines on creditworthiness assessment

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1. Executive Summary

Article 18 of Directive 2014/17/EU on credit agreements for consumers relating to residential immovable property (Mortgage Credit Directive or 'MCD') requires that, before concluding a credit agreement, the creditor makes a thorough assessment of the consumer's creditworthiness, taking appropriate account of factors relevant to verifying the prospect of the consumer to meet his/her obligations under the credit agreement. Article 20(1) MCD provides that the assessment of creditworthiness shall be carried out on the basis of information on the consumer's income and expenses and other financial and economic circumstances which is necessary, sufficient and proportionate.

In order to ensure that these high-level provisions are implemented and supervised consistently across the 28 EU Member States ('MS'), and to support the transposition of the MCD, the EBA is issuing Guidelines on creditworthiness assessment ('the Guidelines'). The Guidelines provide greater detail on how effect should be given to the relevant MCD provisions in Articles 18 and 20(1), and thus contribute to the EBA's objective of achieving a convergence of supervisory practices for the directives that fall into the EBA's scope of action.

The Guidelines establish requirements on the verification of the consumer's income; documentation and retention of information; identification and prevention of misrepresented information; assessment of the consumer's ability to meet his/her obligations under the credit agreement; allowance for the consumer's committed and other non-discretionary expenditures; and allowance for potential future negative scenarios.

These guidelines were subject to a two-month consultation period between December 2014 and February 2015, and 19 responses were received. The Feedback Statement includes a summary of the comments received, the EBA's feedback to those responses and changes made to the draft Guidelines.

There was broad agreement amongst the respondents to the Guidelines. However, a number of respondents commented that they should be more high-level; whilst others commented that they were not detailed enough. As the aim of the Guidelines is to provide greater detail on how to give effect to the relevant provisions of the MCD, they necessarily contain a certain level of detail. However, they do not aim to be prescriptive, allowing MS to comply in different ways, and therefore preserving flexibility for national markets.

Some respondents commented that some of the Guidelines were repetitious, and suggested deletions and/or mergers. Comments were also made that draft Guideline 7.1 had more a prudential nature than consumer protection nature. The EBA has taken on board these comments and removed any repetition by merging some of the Guidelines and deleting draft Guideline 7.1.

2. Background and rationale

Background

1. Directive 2014/17/EU 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 or 'MCD') was adopted on 4 February 2014 and published on 28 February 2014. The deadline for Member States ('MS') to transpose the provisions of the MCD into national law is 21 March 2016.
2. The MCD aims to develop a more transparent, efficient and competitive internal market, through consistent, flexible and fair credit agreements relating to immovable property, while promoting sustainable lending and borrowing and financial inclusion, and hence providing a high level of consumer protection (Recital 6 MCD).
3. For most consumers, the commitment to a mortgage credit agreement is the most significant financial commitment that they will ever make. While the benefit to consumers of mortgage credit is the financial assistance that it gives them to acquire private ownership of residential immovable property, there are also risks associated with this lending which can result in detriment to consumers, to creditors and to financial stability generally, for example, the detriment caused by consumers' inability to meet their obligations under the credit agreements.
4. The MCD states, in Recital 55, that it is essential that the consumer's ability and propensity to meet the obligations under the credit agreement is assessed and verified before a credit agreement is concluded, and that the assessment of creditworthiness should take into consideration all necessary and relevant factors that could influence a consumer's ability to meet the obligations over its lifetime. The MCD, in Articles 18 and 20(1), sets out provisions on creditworthiness. Article 18 MCD requires that MS shall ensure that, before concluding a credit agreement, the creditor makes a thorough assessment of the consumer's creditworthiness. That assessment shall take appropriate account of factors relevant to verifying the prospect of the consumer to meet his obligations under the credit agreement.
5. In addition, Article 20(1) MCD provides that the assessment of creditworthiness referred to in Article 18 shall be carried out on the basis of information on the consumer's income and expenses and other financial and economic circumstances which is necessary, sufficient and proportionate. The information shall be obtained by the creditor from relevant internal or external sources, including the consumer, and including information provided to the credit intermediary or appointed representative during the credit application process. The information shall be appropriately verified, including through reference to independently verifiable documentation when necessary.

6. In order to ensure that these high-level provisions will be implemented and supervised consistently across the 28 EU MS, and to support the transposition of the MCD, the EBA is issuing guidelines. The guidelines provide greater detail on how effect should be given to the relevant MCD provisions in Articles 18 and 20(1), and thus contribute to the EBA's objective of achieving a convergence of supervisory practices for the directives that fall within the EBA's scope of action.
7. The guidelines are based on the provisions of the Opinion of the European Banking Authority on Good Practices for Responsible Mortgage Lending ('the 2013 Opinion'), which was published on 13 June 2013, i.e. before the MCD was adopted, and which was reviewed by the EBA when developing the Guidelines.

Rationale

8. As the MCD sets out in Recital 55, it is vital that, prior to the conclusion of a credit agreement for residential immovable property, the creditor assesses and verifies the consumer's creditworthiness. Failure to do so can have negative consequences for the consumer, the creditor and, ultimately, financial stability, as consumers may be unable to meet their commitments under the credit agreements and, as result, the level of defaults in a market may increase. In order for the EBA to be able to fulfil its statutory objectives of protecting consumers, ensuring the viability of financial institutions and contributing to financial stability, detailed guidelines on creditworthiness assessments are necessary. These guidelines provide assistance to MS in the transposition of Articles 18 and 20(1) MCD and assist the competent authorities ('CAs') in giving effect to the provisions within these articles.
9. In recognising the importance of drawing on established international practice, the EBA drew on the Financial Stability Board's Principles for Sound Residential Mortgage Underwriting Practices¹ ('FSB Principles') in the development of these guidelines. The FSB Principles had previously been used in the development of the EBA instruments which predated the MCD, including the 2013 Opinion. In addition, Recital 55 MCD advises that the MS should be encouraged to implement the FSB Principles. These guidelines are therefore aligned to the specific FSB Principles which are relevant to the provisions under Articles 18 and 20(1) MCD.
10. Now that the MCD has been adopted, the EBA has reviewed the 2013 Opinion in light of the provisions of Articles 18 and 20(1) MCD. As a result, only relevant provisions within the 2013 Opinion were considered for these guidelines.

¹ FSB: Principles for Sound Residential Mortgage Underwriting Practices (2012)
http://www.financialstabilityboard.org/wp-content/uploads/r_120418.pdf

3. Guidelines

EBA/GL/2015/11

EBA Guidelines

on creditworthiness assessment

Section 1 – Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010². In accordance with Article 16(3) of Regulation No 1093/2010, the competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

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

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).

Section 2 – Subject matter, scope and definitions

Subject matter and scope of application

5. These guidelines provide further detail on requirements set out in Articles 18 and 20 (1) of Directive 2014/17/EU³ to assess the consumer's creditworthiness in respect of credit agreements which fall under the scope of Article 3 of Directive 2014/17/EU.

Addressees

Addressees of these Guidelines

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

Addressees of information requirements

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

³ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.02.2014, p.34).

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

Definitions

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

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

Outsourcing

9. In the case where the activity of the creditor is in whole or in part outsourced to third parties, or carried out by another entity in other ways, creditors should ensure that, in doing so, that they comply with the requirements established in the CEBS Guidelines on outsourcing⁴. This includes, in particular, CEBS Guideline 2, which provides that ‘the ultimate responsibility for the proper management of the risks associated with outsourcing or the outsourced activities lies with an outsourcing institution’s senior management’.

Section 3 – Implementation

Date of application

10. These guidelines apply from 21 March 2016, except that the information requirements referred to in paragraph 2 apply from [publication date in the official languages + 1 day].

⁴ See CEBS (2006), *Guidelines on outsourcing*, at <https://www.eba.europa.eu/documents/10180/104404/GL02OutsourcingGuidelines.pdf.pdf>

Section 4 – Requirements regarding creditworthiness assessment

Guideline 1: Verification of the consumer's income

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

Guideline 2: Documentation and retention of information

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

Guideline 3: Identification and prevention of misrepresented information

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

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

- 4.1 When assessing the consumer's ability to meet his/her obligations under the credit agreement, the creditor should take into account relevant factors that could influence the consumer's ability to meet his/her obligations and without inducing undue hardship and
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over-indebtedness. The factors may include other servicing obligations, their interest rates, and the outstanding principal on such debt; evidence of any missed payments; as well as directly relevant taxes and insurance, where known.

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

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

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

Guideline 6: Allowance for potential future negative scenarios

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

4. Accompanying documents

4.1 Feedback on the public consultation

11. The EBA publicly consulted on the draft proposal contained in this paper. The consultation period lasted for two months and ended on 12 February 2015. 19 responses were received, of which 15 were published on the EBA website.
12. This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary. In many cases several industry bodies made similar comments or the same body repeated its comments in the response to different questions. In such cases, the comments, and EBA analysis are included in the section of this paper where EBA considers them most appropriate.
13. Changes to the draft Guidelines have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

14. The EBA posed two questions in the consultation paper:
 - Question 1: Do you agree with the proposed Guidelines? If not, outline why you disagree and how the Guidelines could be improved. Please respond separately for each of the five guidelines.
 - Question 2: Are there any additional requirements that you would suggest adding to the Guidelines? If so, outline the reason(s) for each proposed additional requirement.
 15. There was broad agreement to the draft Guidelines amongst those who responded to the consultation. However, a number of respondents commented that the Guidelines should be more high-level so as to retain the flexibility, as intended in the MCD, for MS to give effect to the provisions of the MCD. In contrast, other respondents commented that the draft Guidelines were not detailed enough; and that some of the terms were vague and should therefore be defined, including for example, requests for a definition of 'payment difficulties'. In addition, some respondents commented that the EBA does not have a mandate to issue these guidelines.
 16. A number of respondents commented that draft Guideline 1.2 does not add any further detail over and above Articles 18 and 20(1) MCD.
 17. Respondents commented that draft Guideline 4.1 implies that if a consumer becomes over-indebted, it could be argued that the creditworthiness assessment was not conducted
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correctly. Others commented that creditors would not always know what the taxes and insurances will be, as required in draft Guideline 4.3. There were also comments made regarding draft Guideline 4.4, namely that it could be difficult for creditors to forecast a consumer's income at retirement. Some also commented that the term 'normal retirement age' should be amended in draft Guideline 4.4 because with changing retirement provisions across the MS, the concept of 'normal retirement age' is difficult to define.

18. A large number of respondents questioned the inclusion of draft Guideline 7.1 in these guidelines, with some concerned that the requirement could result in some groups of consumers being denied access to mortgage credit. Others commented that the requirement was more prudential in nature and did not fit within a set of consumer protection guidelines.
19. A number of respondents requested that a new requirement on responsible borrowing should be added to the Guidelines and that the Guidelines should include an obligation on consumers to provide information to creditors. Other respondents requested that a definition of irresponsible lending should be added to the Guidelines.
20. Some respondents requested that the Guidelines include a requirement that the creditors should use a database as part of the creditworthiness assessment. There were some comments from respondents that the draft Guidelines are incompatible with data protection laws and, in particular, consumers' privacy.
21. In addition to the responses received to the public consultation and following input regarding the potential supervisory structures that Member States might adopt in line with Article 5 of Directive 2014/17/EU, the EBA decided to clarify how the guidelines apply where there is a competent authority as defined in Article 4(2) of Regulation (EU) No 1093/2010 ('EBA authority') which has responsibility under Article 5(3) for cooperating with other authorities designated as competent for applying the Directive.
22. To that end, and as stated in paragraph 6 (a) of the Addressee Section of the Guidelines, the Guidelines will apply to EBA authorities alone, and only to the extent that the EBA authority has been designated as competent for ensuring the application and enforcement of those provisions of Directive 2014/17/EU to which the Guidelines relate.
23. If, for example, an EBA authority is not designated as competent for ensuring the application and enforcement of the main provisions of Directive 2014/17/EU to which the Guidelines relate, and only has the cooperation responsibility referred to above, then only the Information Requirements set out in Paragraph 2 of the Addressee Section of the Guidelines ('Information Requirements') are addressed to that EBA authority.
24. In that case the EBA authority can consider itself compliant with the Guidelines if it complies with the Information Requirements. The information requirements have been added to the Guidelines in order to encourage all competent authorities to apply consistent supervisory practices and ensure common application of Directive 2014/17/EU, while recognising that the structure of the Directive is such that the guidelines can only be addressed directly to

EBA authorities. Other competent authorities cannot be made subject to the same ‘comply or explain’ obligations that apply to EBA authorities, and so the information requirements encourage them to apply the guidelines on a voluntary basis.

Summary of responses to the consultation and the EBA's analysis

No.	Summary of responses received	EBA analysis	Amendments to the proposals
General responses that were not linked to a specific question			
1.	<p>The majority of respondents (8 out of 14) were broadly supportive of the draft Guidelines.</p> <p>Three respondents favoured more specific or detailed guidelines. One thought there was too much of a focus on income, and that more detail should be provided on other elements of the creditworthiness assessment. Two thought that the Guidelines gave too much latitude to creditors, and favoured more standardisation for consumer protection reasons.</p>	<p>The EBA considers that there is inevitably a balance between providing detail in the Guidelines and respecting the flexibility the MCD provides for MS. The aim of the Guidelines is to provide greater detail on how financial institutions should give effect to the relevant creditworthiness provisions of the MCD, consistent with the EBA's aim of greater supervisory convergence. Therefore, they necessarily contain a certain level of detail. However, they do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets. In addition to the MCD, they also draw on the Financial Stability Board's Principles for Sound Residential Mortgage Underwriting Practices and the existing EBA opinion on Good Practices for Responsible Mortgage Lending to elaborate on the MCD provisions but not to introduce new requirements.</p>	
2.	<p>In contrast, four respondents preferred broader or less detailed guidelines. They thought this would help maintain the MCD's aim of providing flexibility for MS to implement according to the characteristics of their national markets. Two thought it was particularly important to ensure that the guidelines do not go beyond the decisions taken when approving the MCD, which could introduce new requirements or lead to doubts around interpretation. Two respondents noted the importance of the guidelines providing objectivity rather than vagueness.</p>	<p>Respondents' comments on individual guidelines are considered in the relevant sections below.</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
3.	Four respondents were concerned that publication of guidelines would lead to an increased litigation risk against creditors. To reduce this risk, one respondent thought it would be helpful for the Guidelines to make it clear that interpretation is made at national level.	The EBA confirm that it is for MS to implement the MCD through national regulation, and for the CAs to determine how to implement these guidelines.	None
4.	Three respondents raised doubts about EBA's mandate to issue these guidelines, given that there is no explicit delegation in the relevant MCD articles.	As stated in the consultation paper, these guidelines are issued pursuant to Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010. It is clear from the various tasks allocated to the EBA by the Directive that the MCD is within the area of the EBA's competence.	None
5.	Two respondents noted the importance of striking the right balance between the responsibilities of firms and consumers, and felt that the Guidelines should do more to promote the concept of responsible borrowing.	<p>The EBA intends these guidelines to provide greater detail on how financial institutions should give effect to MCD creditworthiness provisions, so the audience being addressed is the CAs and creditors. Therefore the Guidelines would not be an appropriate medium for promoting responsible borrowing to consumers. The EBA does indeed recognise though that responsible borrowing by consumers is a necessary complement to robust creditworthiness assessments by creditors.</p> <p>The MCD considers the financial education of consumers in relation to responsible borrowing and debt management in Article 6, and notes that the Commission will publish an assessment of the financial education available to consumers in MS, and identify examples of best practices which could be further developed. This would be a more</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
		appropriate route for the promotion of responsible borrowing than these guidelines.	
6.	Two respondents felt that the MCD implementation timetable is challenging, and that the publication of guidelines would put further pressure on creditors' implementation projects.	The EBA notes that these guidelines do not introduce new requirements, but instead intend to provide clarity to the CAs and creditors on how to implement the creditworthiness aspects of the MCD. Therefore their aim is to aid MCD implementation, according to the timetable set down in the MCD.	None
7.	One respondent requested clarification that the Guidelines include no suitability requirement, as they considered that some guidelines may be misinterpreted as introducing a 'de facto' suitability assessment e.g. in relation to 1.1 (verification of the consumer's income), and 4.1 (assessment of the consumer's ability to meet his/her obligations under the credit agreement).	The EBA can confirm the Guidelines do not introduce a suitability requirement.	None
Responses to specific questions			
Question 1: Do you agree with the proposed guidelines? If not, outline why you disagree and how the guidelines could be improved. Please respond separately for each of the seven guidelines.			
Guideline 1.1:	Five respondents stated agreement with Guideline 1.1, but one respondent commented that it needed to be more detailed and go further.	The EBA considers that there is inevitably a balance between providing detail in the Guidelines and respecting the flexibility which the MCD provides for MS. The aim of the Guidelines is to provide greater detail on how financial institutions should give effect to the relevant creditworthiness provisions of the MCD, consistent with the EBA's aim of greater supervisory convergence. Therefore they necessarily contain a certain level of detail.	None
8.	One respondent commented that the benefit of this guideline is disputable as it adds little to Articles 18 and 20(1) MCD and is more a high-level principle than a helpful clue.		

No.	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>However, they do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets.</p>	
9.	<p>Five respondents commented that the collection of lifetime income data from a consumer would be onerous for both the consumer and the creditor, and that the creditor should base the assessment on the information at the time of granting the credit.</p> <p>i. Two respondents commented that the requirement regarding income history and income variability should apply to consumers with irregular income only.</p> <p>ii. Two respondents recommended that the requirement to assess the consumer's income over the life of the mortgage be removed or, if it is retained, that it be for a specified period of time in order to secure proof of employment and the level of income.</p> <p>iii. Another respondent suggested that the EBA should use, instead of 'the consumer's income history and any variability over time', the following wording: 'including the consumer's underlying income capacity, and the consumer's income history, if relevant, and any variability over a sufficiently long period of time'.</p> <p>iv. Another respondent suggested the following rewording of Guideline 1.1: The creditor should make reasonable enquiries and take reasonable steps to verify a consumer's prospect to</p>	<p>The EBA considers that income variability can apply to consumers with largely stable income, for example, consumers who may receive, for example, overtime, performance awards. Therefore, the EBA considers it appropriate that income variability should be considered for all consumers.</p> <p>Article 18 MCD requires that the thorough creditworthiness assessment 'shall take appropriate account of factors relevant to verifying the prospect of the consumer to meet his obligations under the credit agreement.' As the consumer's obligations under the credit agreement last for the term of the agreement or the lifetime of the mortgage, then the EBA considers it appropriate that the creditor should consider the consumer's income over his lifetime as a factor relevant to verifying the prospect of the consumer to meet his obligations under the credit agreement.</p> <p>In addition, Recital 55 MCD states 'that assessment of creditworthiness should take into consideration</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>meet his/her obligation under the credit agreement including the consumer's underlying income capacity, and the consumer's income history and any variability over time.</p> <p>v. A respondent commented that salary slips and annual tax returns, for example, should be acceptable to confirm income.</p> <p>vi. A respondent requested that it should be clear in the guideline that this requirement applies only before granting credit and not after the credit has been granted, so that the guideline is not misinterpreted as a requirement to monitor the consumer's income on a periodic basis in the context of creditworthiness assessment. Two respondents commented that Article 18(6) MCD only requires that creditworthiness is reassessed prior to a significant increase in the total amount of credit.</p> <p>vii. Three respondents commented that creditors cannot predict events such as divorce, job loss, etc. which can have an impact on future income but which would not be known at the time of granting the mortgage.</p> <p>viii. One respondent commented that the creditor should not be required to make future projections about the consumer's income as the consumer's income situation at the time of granting the mortgage only is relevant.</p> <p>ix. One respondent commented that the 'consumer's income history' should be removed or the 'reasonable effort' principle</p>	<p>all necessary and relevant factors that could influence a consumer's ability to repay the credit <u>over its lifetime</u>' (emphasis added).</p> <p>The EBA accepts that some events, such as divorce or ill health, cannot be anticipated by the creditor in the assessment of creditworthiness unless the consumer, voluntarily, provides the creditor with this information.</p> <p>The EBA confirms that it is for MS to implement the MCD through national regulation, and for the CAs to determine how to implement these guidelines, including which documents will be acceptable to comply with this guideline and how the creditor should assess the consumer's underlying income capacity and the consumer's income history.</p> <p>The EBA can confirm that Guideline 1.1 does not require that creditors regularly assess consumer's creditworthiness after the credit has been granted and drawn, unless as required under Article 18(6).</p>	

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	should be added.		
10.	<p>One respondent commented that the creditor should define and assess income history on the basis of its own risk policies. A further respondent commented that the Guidelines should permit the creditor to use its knowledge of the consumer's profile to determine the level of income history required and that there should be a distinction between existing and new customers.</p> <p>One respondent commented that it is important to consider how long a consumer has been in employment in determining the stability of the consumer's ability to repay the mortgage.</p>	<p>In implementing these guidelines, the CAs can include specificities regarding how income history and the length of the consumer's employment should be determined and analysed by the creditor.</p>	None
11.	<p>One respondent requested clarification on what is meant by 'reasonable enquiries'.</p>	<p>The EBA considers that the word 'reasonable' is commonly understood and that, therefore, a definition is not required. It is open to the CAs to define this term when they are implementing these guidelines, if they deem it necessary for their markets.</p>	None
12.	<p>One of the respondents also indicated that it must be clear that the assessment is carried out at the time when the credit agreement is concluded. Another two respondents referred to the need for personal data protection.</p>	<p>The EBA can confirm that Guideline 1.1 does not require that creditors regularly assess consumer's creditworthiness after the credit has been granted and drawn, unless as required under Article 18(6).</p> <p>The EBA agrees that creditors must comply with national and European data protection rules, and does not consider that these guidelines are incompatible with data protection legislation.</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
<p data-bbox="143 655 304 683">Guideline 1.2:</p> <p data-bbox="241 751 277 778">13.</p>	<p data-bbox="371 336 1070 440">Five respondents stated agreement with Guideline 1.2 but one respondent commented that it needed to be more detailed and go further.</p> <p data-bbox="371 480 1070 767">One respondent commented that the benefit of this guideline is disputable as it adds little to Articles 18 and 20(1) MCD and is more a high-level principle than a helpful clue. Another respondent suggested that this guideline is redundant and should be deleted as the wording in Article 20(1) is sufficient: ‘The information shall be appropriately verified, including through reference to independently verifiable documentation when necessary’.</p> <p data-bbox="371 807 1070 863">Six respondents requested that the term ‘that is provided sources that are independent of the consumer’ be clarified.</p> <p data-bbox="371 887 1070 1062">One respondent commented that the requirement in Guideline 1.2 on the creditor to use information that is independent of the consumer appears inconsistent with Article 20 MCD. The respondent commented that the guideline should not be more restrictive than the Level 1 text.</p>	<p data-bbox="1106 655 1675 778">The EBA has considered the comments made that draft Guideline 1.2 may imply a greater requirement than that set out in Article 20(1) MCD, and has deleted Guideline 1.2 accordingly.</p>	<p data-bbox="1709 687 1906 743">Guideline 1.2 has been deleted.</p>
14.	<p data-bbox="371 1102 1070 1350">Two respondents commented that Guideline 1.2 should also encourage creditors to consult external credit databases when performing creditworthiness assessments. One respondent commented that the MCD in paragraphs 20, 59, 60 of the preamble and Article 21 MCD should recognise the usefulness of consulting a credit database and encourage the use of external databases.</p>	<p data-bbox="1106 1158 1675 1294">Article 21 MCD specifically relates to database access. The EBA considers that further detail is not required to assist financial institutions in giving effect to Article 21 MCD.</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>The respondent proposed the following rewording of Guideline 1.2:</p> <p>‘The creditor should use necessary, sufficient and proportionate information, that can be evidenced and that is provided by sources that are independent of the consumer. In particular, the creditor should consult independent external credit databases, in order to obtain information on the consumer’s creditworthiness.’</p>		
Guideline 1.3:	<p>Five respondents stated their agreement with Guideline 1.3, but one respondent commented that it needed to be more detailed and go further.</p> <p>One respondent commented that the benefit of this guideline is disputable as it adds little to Articles 18 and 20(1) MCD and is more a high-level principle than a helpful clue.</p>	<p>The EBA considers that there is inevitably a balance between providing detail in the Guidelines and respecting the flexibility which the MCD provides for MS. The aim of the Guidelines is to provide greater detail on how financial institutions should give effect to the relevant creditworthiness provisions of the MCD, consistent with the EBA’s aim of greater supervisory convergence. Therefore, they necessarily contain a certain level of detail. However, they do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets.</p>	None
16.	<p>Eight respondents commented that the requirement for ‘third party verification documenting income’ is vague and needs to be specified. It is not clear which source of information is acceptable and if the creditor is required to contact independent third parties such as the tax authorities. The receipt of a copy of a pay slip or declaration of income tax should be acceptable. One respondent suggested the following</p>	<p>As stated above, the Guidelines do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets. It is open to the CAs to define ‘third party verification documenting such income’ and ‘profit capacity’ when they are implementing these guidelines, if they deem definitions necessary for</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>rewording to Guideline 1.3: 'In the case of consumers that are self-employed or have seasonal or other irregular income, the creditor should make reasonable enquiries and take reasonable steps to verify additional information that is related to the consumer's ability to meet his/her obligations under the credit agreement, including profit capacity and third party verification documenting such income.'</p> <p>One respondent commented that it is almost impossible to assess the profit capability of consumers or to get third party verification and, instead, a tax return should be enough if combined with a credit history and/or documents such as household bills or evidence of rent paid should suffice.</p>	<p>their markets.</p> <p>The EBA confirms that it is not the intention of this guideline that the consumer must show profitability for the entire duration of the credit agreement.</p>	
17.	<p>Three respondents commented that once Guideline 1.1 is complied with then there should be no need for additional, specific requirements for consumers with seasonal incomes or for self-employed consumers, and requested clarification from the EBA as to why more stringent rules apply for assessing creditworthiness of these consumers. It was recommended that the term 'additional information' should be replaced with 'specific information'.</p>	<p>The EBA considers that additional measures should be taken to verify income where the consumer's income is subject to variability. To ensure the accuracy of the income information provided, the EBA considers it necessary that the creditor should obtain, from the consumer, information which is verified by an independent third party.</p>	<p>The EBA has revised the wording of Guideline 1.3 (now Guideline 1.2) as follows:</p> <p>'In the case of consumers that are self-employed or have seasonal or other irregular income, the creditor should make reasonable</p>

No.	Summary of responses received	EBA analysis	Amendments to the proposals
Guideline 2.1: 18.	Two respondents completely supported the requirements of this guideline, although one of the respondents was of the view that the requirements should be expanded with additional criteria and considerations relevant for decision-making by creditors.	The Guidelines on creditworthiness assessment provide high-level requirements in order to support MS in the transposition of the MCD. As defined by the MCD, during that process MS are entitled to be even stricter in certain areas. If MS recognise this suggestion as relevant, they are in a position to reflect it in their national regulations in the most appropriate way.	enquiries and take reasonable steps to verify information that is related [...]’
19.	Three respondents referred to the practice of electronic storage of the complete documentation used in the process, including credit agreements and changes that could potentially follow. One of them also mentioned electronic recording of all criteria used in the process of assessment as well as the complete decision-making process, which is suitable for supervisory practices. Two of those respondents suggested that it should be clearly defined if the digital copies are sufficient for fulfilling this requirement. So, one respondent proposed the amendment by adding ‘allowing digital copies is needed’.	Bearing in mind the different legal treatment of the usage of electronically stored information and documentation across the MS, this requirement does not provide details regarding the layout of the documentation.	None
20.	Three respondents were of the view that the term ‘mortgage approval’ should be replaced by a more precise term, ‘conclusion of credit agreement’. In addition, one of the respondents was of the view that only the CAs should have access to those documents, and that	The intention was to make a clear distinction between mortgage and other types of loans, so the term ‘mortgage approval’ is used. Furthermore, the process of creditworthiness assessment ends with the mortgage approval, and the conclusion of credit agreement is the logical step forward, although in	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	further clarification is needed on whether consumers could also access this documentation. Therefore, the following amendment is suggested: 'The creditor should maintain the record of the relevant information that has led to the conclusion of the credit agreement and maintain this documentation available for the competent authorities for the duration of the credit agreement'.	some cases the borrower can withdraw from the contract. Referring to the suggested amendment and access to the documentation, the EBA is of the view that there is no obstacle for creditors to use this documentation for their internal purposes (e.g. data management system, internal audit, etc.) and that the documentation should be available to the CAs.	
21.	Two respondents referred to the significant administrative burden of retaining the complete documentation. One of the respondents was of the view that minimising the documentation is in line with the principle of proportionality, so the following amendment is proposed: 'the creditor should maintain a record of the relevant information that leads to mortgage approval'.	Bearing in mind the principles of responsible lending and the role of these records during supervisory activities, the EBA considers that the complete documentation is needed for fulfilling this purpose.	None
22.	Three respondents were of the view that the national legislation regarding time periods for keeping the documentation in credit files, the manner of its filing and the rules for access to the documentation should be appropriately taken into consideration.	As mentioned under the heading 'Background and rationale', these high-level provisions will be implemented and supervised consistently across the 28 EU MS. If the national regulation already complies with these provisions, or if it is even stricter, there is no need to introduce additional regulations.	None
Guideline 2.2:	Two respondents supported the requirements of this guideline, although one of the respondents was of the view that the	The Guidelines on creditworthiness assessment provide high-level requirements in order to support	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
23.	requirements should be expanded with additional criteria and considerations relevant for decision-making by creditors.	MS in the transposition of the MCD. As defined by the MCD, during that process MS are entitled to be even stricter in certain areas. If MS recognise this suggestion as relevant, they are in a position to reflect it in their national regulation in the most appropriate way.	
24.	<p>One respondent was of the view that requirements including excessive data history regarding incomes could cause problems both for the consumers and for the creditors. The respondent also wondered if this requirement means that banks should create additional records or IT systems in order to comply. Therefore, the following amendment is proposed: ‘the record should at least include a statement of the source and the period for which the income history has been verified’.</p> <p>Two respondents questioned the adequacy of the term ‘income history’. One of the respondents suggested using a more precise term that should suit all guidelines, while the other respondent was of the view that ‘reasonable effort’ was a more suitable term, having in mind the problems consumers might have when gathering the adequate verifications of their income.</p>	The Guidelines do not aim to be prescriptive and allow flexibility for the CAs to determine how to implement them, including whether to define or specify: ‘income history’; which documents will be acceptable to comply with this guideline; and how the creditor should assess the consumer’s underlying income capacity and the consumer’s income history.	None
Guideline 3.1: 25.	One respondent was of the view that misrepresentation of information could be avoided if the loan application is unconditionally based on reliable and external sources of information, instead of information gathered in the form of a questionnaire.	Following the provisions of Article 18 and 20(1) MCD, the information shall be obtained by the creditor from relevant internal and external sources, including the consumer and third parties involved in the process (credit intermediary, appointed representative). Therefore, the added	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>Four respondents were of the view that this guideline does not take into account the European standardised information sheet ('ESIS') requirements in the MCD and represents an additional requirement of unclear added value. One of the respondents suggests deletion of the guideline because the MCD sufficiently explains how the information should be gathered.</p>	<p>value of this guideline is to design the loan documentation in a way that gives the appropriate balance between the sources mentioned.</p>	
	<p>Five respondents were of the view that this guideline introduces subjective criteria for deciding loan documentation and is well presented. According to one of these respondents, it is almost impossible to integrate such criteria into banking procedures, so the deletion of the guideline is proposed. Additionally, two of the respondents questioned the actual role of well-designed loan documentation in the process of creditworthiness assessment. One of the respondents suggested the following amendment: 'the creditor should design the loan documentation in a way that avoids the risk that the consumer may misunderstand the information provided by the creditor or the credit intermediary', and two others suggested additional clarification of the term 'loan documentation', in line with MCD requirements.</p>		
26.	<p>Three respondents were of the view that this guideline shifts the responsibility for misrepresentation from the potential borrower to the creditor, which should not be the case. One respondent pointed out that borrowers can deliberately deliver false or rearranged information in order to obtain personal benefits.</p>	<p>As already mentioned, the added value of this guideline is the design of the loan documentation in a way that gives the appropriate balance between all available sources. The accent should be on reliable sources and the identical understanding of the information provided by all participants in the process. It could help in the identification and</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
		prevention of misrepresented information, but it cannot be the only instrument in the prevention of fraud.	
27.	Two respondents referred to the existing national regulations or practices which could be taken into account in order to avoid misrepresentation.	As mentioned under the heading 'Background and rationale', these high-level provisions will be implemented and supervised consistently across the 28 EU MS. If the national regulation already complies with these provisions, or if it is even stricter, there is no need to introduce additional regulations.	None
Guideline 4.1: 28.	Two respondents stated that they agreed or supported this guideline.	The EBA notes the comments made by the respondents.	None
29.	Six respondents commented that Guideline 4.1 implies that it could be concluded that the creditworthiness assessment was not completed correctly if the consumer later becomes over-indebted or goes into payment difficulties. The respondent commented that the MCD requires the creditor to assess the 'probability' of consumers meeting their obligations under the mortgage credit agreements. The respondent recommends that the wording 'without causing the consumer undue hardship and over-indebtedness' be deleted. Two respondents suggested that Guideline 4.1 should be reworded as follows: 'The creditor should assess the consumer's ability to meet his/her obligations under the credit agreement without causing the consumer undue hardship and over-indebtedness, while taking into account data protection rules that may apply in the relevant jurisdiction.'	The EBA considers that a consumer could become over-indebted if he/she is granted credit without consideration of all relevant factors, including any 'other financial commitments' (Recital 55 MCD). To avoid repetition, the EBA has merged Guidelines 4.1 and 4.3 accordingly.	Yes, draft Guidelines 4.1 and 4.3 have been merged into the following Guideline: 'When assessing the consumer's ability to meet his/her obligations under the credit agreement, the creditor should take into account

No.	Summary of responses received	EBA analysis	Amendments to the proposals
			<p>relevant factors that could influence the consumer's ability to meet his/her obligations and without inducing undue hardship and over-indebtedness. The factors may include other servicing obligations, their interest rates, and the outstanding principal on such debt; evidence of any missed payments; as well as directly relevant taxes and insurance, where known.'</p>
30.	Two respondents requested that the EBA clarify the term 'undue hardship'. One respondent commented that the term 'over-indebtedness' was also a vague term.	The EBA considers that the terms 'undue hardship' and 'over-indebtedness' are commonly understood terms and, therefore, definitions are not required. It is open to the CAs to define these terms when they are implementing these guidelines if they deem it	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
		necessary for their markets.	
31.	One respondent commented that the creditor must balance collecting information from the consumer with the general principles of personal data protection.	The EBA agrees that creditors must comply with national and European data protection rules, and does not consider that these guidelines are incompatible with data protection legislation.	None
Guideline 4.2: 32.	Two respondents stated that they agreed or supported this guideline.	The EBA notes the comments made by the respondents.	None
33.	<p>Three respondents commented that the wording of this guideline may cause misunderstanding. It should be clarified if the guideline requires that the consumer's creditworthiness is assessed on a regular basis or if the processes should be reviewed on a regular basis. The respondent recommended that the guideline be reworded.</p> <p>One respondent commented that to review consumers' creditworthiness periodically would cause conflict between the consumer and the creditor and is unnecessary and bureaucratic.</p>	<p>The EBA can clarify that Guideline 4.2 refers to the <u>review of the processes</u> to assess the consumer's ability to meet obligations under the credit agreement. The EBA has amended the wording of the guideline so that it is clearer.</p>	<p>Guideline 4.2 has been amended as follows:</p> <p>'The creditor should establish sound processes to assess the consumer's ability to meet obligations under the credit agreement and maintain up-to-date records of those procedures. The creditor should review these processes at regular intervals.'</p>
34.	One respondent commented that it is overly burdensome to require creditors to 'review their processes at regular intervals'	The EBA's view is that it is important that processes are reviewed to ensure that they remain effective	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	as they are currently revised to take into account legislation changes not at regular intervals.	and that they are up to date, including taking into account any changes in legislation. The EBA does not accept that processes cannot be reviewed regularly.	
35.	One respondent commented that the word 'regular' is vague and should be amended to 'regular, at least once a year' or something similar.	It is for MS to implement the MCD through national regulation, and for CAs to determine how to implement these guidelines, including whether to specify the regularity with which processes should be reviewed.	None
Guideline 4.3: 36.	Two respondents stated that they agreed or supported this guideline.	The EBA notes the comments made by the respondents.	None
37.	Two respondents commented that it may be difficult to obtain information regarding other servicing obligations, as a common register of consumer's indebtedness does not exist in every country. Therefore this information can only be received from consumers. The respondent suggested that common registers for private debt might be raised in this context. One respondent supported the consideration of other servicing obligations in the creditworthiness assessment but commented that not all information is available at the time of granting the mortgage.	The EBA considers that the consumer's other servicing obligations is a relevant factor for 'verifying the prospect of the consumer to meet his obligations under the credit agreement' (Article 18 MCD) and that information can be gathered by the creditor from the consumer during the creditworthiness assessment. In fact it is difficult to consider how a creditor could achieve the requirement in Article 18 without considering the consumer's other obligations which it is likely will have to be paid from the same income on which the assessment of creditworthiness is based.	None
38.	One respondent commented that the substance of Guideline 4.3 is already covered by Guideline 4.1 and that	The EBA agrees that some elements of Guideline 4.3 are already stated in Guideline 4.1, and has merged Guidelines 4.1 and 4.3 accordingly.	See the revised wording of the newly merged

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>Guideline 4.3 should be deleted.</p> <p>One respondent suggested that the reference to ‘evidence of delinquency’ be removed as it is not required under the MCD and that creditors may not be able to obtain information about a consumer's criminal convictions.</p> <p>Four respondents commented that the creditor would not know about all of the directly relevant taxes and insurances at the time of the creditworthiness assessment. One respondent suggested the following rewording: ‘... The factors may include without limitations/for example other servicing obligations, their interest rates, and the outstanding principal on such debt; evidence of delinquency; as well as directly relevant taxes and insurance statutory payments.’</p>	<p>Guideline 4.3 refers to delinquency of the other servicing obligations, not the consumer’s criminal convictions. Guideline 4.3 has been amended to make this clearer.</p> <p>The EBA has inserted the words ‘where known’ after the reference to ‘taxes and insurance’.</p>	<p>Guidelines 4.1 and 4.3 above.</p>
39.	<p>One respondent disagreed with this guideline's implication that over-indebtedness and payment difficulties result from inappropriate creditworthiness assessment.</p>	<p>The EBA considers that a consumer could become over-indebted or suffer undue hardship if he is granted credit without consideration of all relevant factors, including ‘any other financial commitments’ (Recital 55 MCD).</p>	None
40.	<p>Two respondents expressed concern that this guideline, by listing the factors that creditors should consider, could in fact limit the factors considered to only those listed – for example, it does not include life events or situations such as divorce, etc. One respondent recommends the deletion of the list of examples from this guideline.</p>	<p>The EBA considers that the term ‘may include’, directly before the list of factors to be taken account of, adequately displays that this is not an exhaustive list and therefore does not prohibit creditors from considering other factors such as life events.</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
41.	One respondent commented that the guideline does not take account of Article 21 MCD which requires that creditors use the loan database used in their Member State when assessing creditworthiness.	The aim of the Guidelines is to provide greater detail on how financial institutions should give effect to the relevant creditworthiness provisions of the MCD. The EBA considers that further detail is not required to assist financial institutions in giving effect to Article 21 MCD.	None
42.	One respondent stated their agreement to the content of Guideline 4.3 but suggested that it should be deleted as it is adequately covered by Recital 55 MCD.	The EBA considers that this guideline is consistent with Recital 55 MCD.	None
Guideline 4.4: 43.	Two respondents stated that they agreed or supported this guideline.	The EBA notes the comments made by the respondents.	None
44.	<p>Two respondents recommended that the EBA remove the word ‘normal’ regarding what creditors should do for loans that extend into retirement so as to allow the CAs to make provisions aligned to local characteristics.</p> <p>One respondent suggested that Guideline 4.4 be deleted as it is covered by the broader Guideline 4.1 and because the creditor cannot know what pensions will be available to the consumer at the time of retirement, and also the consumer may have his own plans on retirement to repay the mortgage such as to sell the property on retirement and move to a smaller property.</p> <p>Four respondents commented that it is difficult for a creditor to forecast a consumer's income at retirement because of changes</p>	<p>The EBA considers that if the consumer plans to retire or will reach the national retirement age during the mortgage term then the consumer’s income after retirement is a necessary consideration in ‘verifying the prospect of the consumer meeting his obligations under the credit agreement’ (Article 18 MCD). The creditor should therefore establish the prospect of the consumer meeting his obligations after retirement. The EBA, therefore, does not agree that Guideline 4.4 should be deleted.</p> <p>The EBA accepts that the national retirement age applicable at the time of assessing creditworthiness is the age that should be considered. For clarity, the</p>	The reference in Guideline 4.4 (now Guideline 4.3) to ‘normal retirement age’ has been replaced with the ‘consumer’s expected retirement age’.

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>to retirement ages, to pension systems across Europe and differences across consumers in their retirement savings. The respondent commented that the impact of retirement on the consumer's income is relevant if the consumer will retire during the term of the mortgage.</p> <p>One respondent commented that this guideline can only be complied with if the consumer can substantiate their future pension income in figures from their pension provider. In the absence of this information, only past experience of income reductions can be considered by the creditor.</p> <p>One respondent commented that Guideline 4.4 should be deleted because it is already covered by Guideline 6.1.</p>	wording of Guideline 4.4 has been amended.	
45.	One respondent commented that consideration of the consumer's retirement is a standard part of the credit approval process. The respondent interpreted the guideline to mean that the creditor should use appropriate standard calculations based on information available from the consumer's employment and income statements and, where possible, documentation from the consumer's pension scheme.	The EBA notes that as the requirements set out in this guideline are already part of creditors' practice, there should be limited impact on creditors in complying with this guideline.	None
Guideline 4.5: 46.	Two respondents stated that they agreed or supported this guideline.	The EBA notes the comments made by the respondents.	None
47.	One respondent commented that this guideline should take into account statistical data as well as documentation. For example,	The aim of the Guidelines is to provide greater detail on how financial institutions should give	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	when assessing trainee lawyers or doctors, statistical data can be used for the probability of the consumer becoming qualified and the increase in income as a result.	effect to the relevant creditworthiness provisions of the MCD, consistent with the EBA's aim of greater supervisory convergence. In implementing these guidelines, CAs may, taking into account their national markets, include the use of statistical data in their national requirements.	
Guideline 5.1: 48.	Two respondents stated that they agreed with or supported Guideline 5.1.	The EBA notes the respondents' comments.	None
49.	Two respondents commented that creditors should be allowed to use a standard amount for reasonable living expenses as creditors would not be able to substantiate the living expenses of the consumer.	As stated above, the Guidelines do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets. In implementing these guidelines, the CAs may, taking into account their national markets, include a standard amount for living expenses in their national requirements.	None
50.	<p>One respondent commented that creditors do not have information about consumers' living expenses and to request it from consumers would be an intrusion into their privacy. One respondent suggested the following rewording of Guideline 5.1: 'When assessing the consumer's ability to meet obligations under the credit agreement, the creditor should make reasonable allowances for committed and other non-discretionary expenditures, such as the consumer's actual obligations, including appropriate substantiation and consideration of the living expenses of the consumer.'</p> <p>One respondent commented that creditors do not have access</p>	<p>The EBA considers that the consumer's living expenses are a relevant factor for 'verifying the prospect of the consumer to meet his obligations under the credit agreement' (Article 18 MCD) and that information can be gathered by the creditor from the consumer during the creditworthiness assessment.</p> <p>The EBA does not agree that this guideline places a higher requirement on creditors than required by the MCD. The EBA considers that this guideline is consistent with Recital 55 MCD.</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>to a database with the living expenses of each consumer and that the CAs should provide guidance on how they expect this requirement to be implemented. Another respondent commented that the guideline goes 'well beyond' the MCD as the MCD requires that the creditor consider information in its possession when assessing creditworthiness. The respondent commented that the MCD does not require creditors to look at consumers' private affairs to predict future scenarios for the consumer.</p> <p>One respondent stated their agreement with the content of Guideline 5.1 but suggested that it should be deleted as it is adequately covered by Recital 55 MCD.</p>		
51.	<p>One respondent commented that creditors already consider the consumer's net income less discretionary and non-discretionary expenses based on a predetermined level of expenditure for the consumer's income level. The expenditure amounts are reviewed annually and include an additional percentage to take account of unexpected expenses. The respondent also commented that creditors consider if consumers are likely to retire during the life of the mortgage and take account of this in the creditworthiness assessment.</p>	<p>The EBA notes that as the requirements set out in this guideline are already part of creditors' practice, there should be limited impact on creditors in complying with this guideline.</p>	None
<p>Guideline 6.1: 52.</p>	<p>Two respondents stated that they agreed with or supported Guideline 6.1.</p>	<p>The EBA notes the comments made by the respondents.</p>	None
53.	<p>One respondent commented that Guideline 6.1 should be</p>	<p>The EBA considers it necessary for a creditor to</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>deleted because the element of Guideline 6.1 regarding a reduced income on retirement is included in Guideline 4.4, and the remaining factors listed in Guideline 6.1 could be merged with Guideline 4.3 because they relate to the structure of credit. Another respondent commented that creditors cannot design negative macroeconomic scenarios that may affect individual consumers.</p> <p>One respondent commented that this guideline requires creditors to conduct stress tests, and commented that the assumptions for such tests should be set by the creditor or supervisory authority. The respondent pointed out that consumers can treat such tests as a breach of contract or of their basic rights. The respondent requested that the guideline include an element to educate consumers on the risks to their meeting the commitments in the mortgage agreement. Another respondent commented that the industry is cautious of requiring creditors to make allowances for future scenarios other than for stress-testing.</p> <p>One respondent commented that Guideline 6.1 should be deleted because creditors cannot predict changes in a consumer's circumstances over time and information about changes to interest rates are covered by the European Standard Information Sheet (ESIS).</p>	<p>make allowances for potential future negative scenarios when assessing a consumer's creditworthiness and that this is information that the creditor can gather from the consumer during the creditworthiness assessment. The EBA, therefore, does not agree that Guideline 6.1 should be deleted.</p>	
54.	One respondent commented that the guideline goes 'well beyond' the MCD as the MCD requires that the creditor	The EBA considers that Guideline 6.1 is consistent with the MCD and in particular refers to	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>consider information in its possession when assessing creditworthiness. The respondent commented that the MCD does not require creditors to look at consumers' private affairs to predict future scenarios for the consumer.</p> <p>Two respondents commented that the list of factors to be considered should be deleted because it should be left to the CAs to provide guidance on these factors having considered their national markets. The respondents suggested the following rewording of Guideline 6.1: When assessing the consumer's ability to meet obligations under the credit agreement, the creditor should make prudent allowances for potential quantifiable negative scenarios in the future, including for example, a reduced income in retirement; an increase in benchmark rates in the case of variable rate mortgages; negative amortisation; balloon payments; or deferred payments of principal or interest.</p>	<p>Recital 55 MCD.</p> <p>The EBA considers that the list included in Guideline 6.1 is consistent with Recital 55 MCD and therefore does not agree to its deletion from the guideline.</p>	
55.	<p>One respondent commented that Guideline 6.1 would be difficult to implement and suggested that the wording 'potential negative scenarios in the future' is replaced with the wording 'scenarios which are foreseeable'.</p>	<p>The EBA does not agree with the suggestion of a wording change to Guideline 6.1 and is of the view that the wording 'potential negative scenarios in the future' accurately captures the intention of this guideline as stated above.</p>	None
56.	<p>One respondent commented that it is unclear how creditors should take account of potential future negative scenarios and suggested that it is only possible if conservative debt-to-income ratios are used. The respondent suggested that the guideline is amended to include reference to the use of conservative debt</p>	<p>As stated above, the Guidelines do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets. It is open to the CAs to include debt to income ratios when they are implementing these</p>	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	to income ratios, in particular for low to medium income consumers.	guidelines if they deem it necessary for their markets.	
57.	One respondent commented that creditors already consider the impact of changes in interest rates and of reduced income at retirement in assessing creditworthiness. The respondent requested that the guideline be clarified to state that only robust negative future scenarios should be considered, i.e. if the consumer will retire in the near future, as less robust scenarios are only speculative.	The EBA notes that as the requirements set out in this guideline are already part of creditors' practice, there should be limited impact on creditors in complying with this guideline.	None
58.	One respondent stated that Guideline 6.1 should be deleted as it is adequately covered by Recital 55 MCD.	The EBA does not agree that this guideline should be deleted as the aim of the Guidelines is to provide greater detail on how financial institutions should give effect to the relevant creditworthiness provisions of the MCD.	None
Guideline 7.1:	One respondent stated that they agreed with Guideline 7.1. One respondent commented that they were not opposed in principle to this guideline.	Given that Guideline 7.1 has more of a prudential focus, the EBA has deleted this guideline and instead retained it as a Good Practice in its Opinion on good practices for mortgage creditworthiness assessments and arrears and foreclosure, including expected mortgage payment difficulties.	Guideline 7.1 is deleted.
59.	Four respondents commented that Guideline 7.1 is a prudential issue and is covered by creditors' credit risk policies. The respondents recommended that the guideline be deleted to avoid blurring the distinction between prudential and conduct regulation. One respondent requested clarification from the EBA on the extent to which this guideline is a prudential consideration of the borrower's risk profile and, if it is a prudential consideration, then why it is necessary in addition to		

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p data-bbox="371 336 450 360">CRD IV.</p> <p data-bbox="371 408 1070 624">Four respondents commented that the risk profile of the mortgage depends on consumer's individual circumstances and risk levels will vary between consumers. The respondents also commented that the MCD addresses different mortgage types such as foreign currency mortgages and variable rate mortgages.</p> <p data-bbox="371 663 1070 879">Two respondents commented that the term 'groups of loans with a higher risk profile' is unclear and questioned if it refers to foreign currency loans or variable rate loans. The respondents stated that if the guideline does refer to variable rate mortgages and foreign currency mortgages then these are already covered by the MCD.</p> <p data-bbox="371 919 1070 1174">One respondent commented that this guideline appears to suggest that mortgage consumers should be considered in the same way as the insurance industry considers insurance consumers. The respondent commented that Guidelines 1 to 6 adequately achieve the requirement to assess creditworthiness of the consumer, and Guideline 7 regarding groups of consumers adds no additional value.</p> <p data-bbox="371 1214 1070 1359">One respondent commented that creditors already assign consumers to a specific risk category during the initial discussions about the mortgage, for example, self-employed consumers working in a high-risk industry generally have a</p>		

No.	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>higher risk profile.</p> <p>One respondent stated that Guideline 7.1 should be deleted as segmentation is already part of the creditworthiness process and the universality of the guideline could create legal uncertainty for consumers.</p>		
<p>Question 2: Are there any additional requirements that you would suggest adding to the guidelines? If so, outline the reason(s) for each proposed additional requirement.</p>			
<p>General comments:</p> <p>60.</p>	<p>Four respondents do not believe that any further requirements are required.</p>	<p>The EBA notes the comments of the respondents.</p>	<p>None</p>
<p>61.</p>	<p>Four respondents state that the Guidelines should include a guideline on responsible borrowing, which would oblige the consumer to provide information to the creditor regarding their financial circumstances and situation.</p>	<p>The EBA intends these guidelines to provide greater detail on how financial institutions should give effect to MCD creditworthiness provisions, so the audience being addressed is the CAs and creditors. Therefore the Guidelines would not be an appropriate medium for promoting responsible borrowing to consumers. The EBA does indeed recognise that responsible borrowing by consumers is a necessary complement to robust creditworthiness assessments by creditors.</p> <p>The MCD considers the financial education of consumers in relation to responsible borrowing and debt management in Article 6, and notes that the Commission will publish an assessment of the</p>	<p>None</p>

No.	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>financial education available to consumers in MS, and identify examples of best practices which could be further developed. This would be a more appropriate route for the promotion of responsible borrowing than these guidelines.</p>	
<p>Guidelines 1.1-1.3:</p> <p>62.</p>	<p>Two respondents commented that temporary State support should not be included as income in the assessment of creditworthiness.</p> <p>Two respondents commented that creditors should be obliged to ask questions of consumers to determine their income level and that supportive documentation issued by reliable external sources should be obtained.</p> <p>One respondent commented that Guideline 1.1 should include a verification of expenses as cited in Article 20(1) MCD.</p>	<p>As stated above, the Guidelines do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets. It is open to the CAs to set requirements regarding what should be included as income, how to determine income level and documentation when they are implementing these guidelines, if they deem it necessary for their markets.</p> <p>The EBA considers that Guideline 5.1 includes the consideration of a consumer's committed and other non-discretionary expenditures in the creditworthiness assessment.</p>	<p>None</p>
<p>Guidelines 2.1-2.2:</p> <p>63.</p>	<p>One respondent suggested that requirements regarding documentation and its retention should also include expenses, and suggested that extracts from bank accounts should be sufficient to document expenses.</p> <p>Two respondents were of the view that the record should also retain criteria and considerations used by creditors in the decision-making process. Such an amendment could be of assistance to the CAs in the supervisory process on whether the assessment is made in accordance with the principles of</p>	<p>The Guidelines on creditworthiness assessment provide high-level requirements in order to support MS in the transposition of the MCD. As defined by the MCD, during that process, MS are entitled to be even stricter in certain areas. If MS recognise this suggestion as relevant, they are in a position to consider their national regulation in the most appropriate way.</p>	<p>None</p>

No.	Summary of responses received	EBA analysis	Amendments to the proposals
Guideline 3.1:	<p>responsible lending.</p> <p>Two respondents proposed that the loan application should be based on reliable and external sources of information instead of on a self-reporting questionnaire.</p>	<p>As already mentioned, the added value of this guideline is the design of the loan documentation in a way that gives the appropriate balance between all available sources. The accent should be on reliable sources and the identical understanding of the information provided by all participants in the process.</p>	None
64.	<p>One of the respondents also drew attention to the possibility of false or incomplete data in credit registers, which could lead to misrepresentation of the borrower's financial situation, as well as to the imprecision of scoring used in the creditworthiness assessment process.</p>	<p>The EBA considers that the suggested addition to the guidelines is already covered by Guideline 1 as they require the creditor to 'make reasonable enquiries and take reasonable steps to verify the consumer's underlying income capacity, the consumer's income history and any variability over time.</p>	None
Guidelines 4.1-4.5:	<p>Two respondents commented that creditors should be obliged to ask questions of consumers to determine their income level and obtain supportive documentation issued by reliable external sources.</p>	<p>The EBA confirm that it is for MS to implement the MCD through national regulation, and for the CAs to determine how to implement these guidelines.</p>	None
66.	<p>Two respondents commented that loan to income and debt to income ratios should be used by creditors and intermediaries. The CAs should define acceptable levels of these ratios. The respondent commented that consumer organisations consider 33% to be an appropriate loan to income ratio.</p> <p>Two respondents commented that where loan to value ratios are used, the maximum allowed should be 100%. The respondent also commented that the loan to income ratio is more important than the loan to value ratio. One respondent stated its view that it is 'contradictory and ineffective' to not include these tools in the Guidelines.</p>		

No.	Summary of responses received	EBA analysis	Amendments to the proposals
67.	Two respondents commented that the level of information requested of the consumer should be proportional and should take account of national and EU rules on personal data protection.	Guideline 1.1 states that the creditor should ‘make reasonable enquiries’.	None
68.	One respondent commented that ‘irresponsible lending’ should be defined.	The EBA does not consider that a definition of ‘irresponsible lending’ would provide greater detail on how financial institutions should give effect to the relevant creditworthiness provisions of the MCD.	None
69.	One respondent commented that to retain flexibility for MS the references to examples in Guideline 4.3 should be removed.	As stated above, the Guidelines do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets. The EBA will amend the wording of this guideline to reflect that the list of factors in Guideline 4.3 is not an exhaustive list and therefore the CAs can add to that list if required in their national markets.	None
Guideline 5.1: 70.	One respondent commented that consumers vary in their ability to manage their incomes and expenses and consumers usually demonstrate their ability to manage their finances through their credit history. The respondent suggested an additional guideline, Guideline 5.2, as follows: ‘The creditor should assess the demonstrated ability or inability of the consumer to manage his or her income and expenditures by obtaining and evaluating the credit history, as well as other relevant factors that could influence payment obligations, obtained from relevant independent databases used in the Member State for assessing the creditworthiness of consumers’.	The EBA disagrees with the suggestion by the respondent to include the proposed new guideline as this is already captured by Article 21 MCD.	None

No.	Summary of responses received	EBA analysis	Amendments to the proposals
71.	Two respondents stated their support for the guideline but suggested that creditors should request three months' bank statements from consumers so as to identify consumers' actual obligations.	As stated above, the Guidelines do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets. The CAs may specify a time period when implementing these guidelines.	None
Guideline 6.1: 72.	Another respondent also stated its support for the guideline but added that older consumers should not be discriminated against by creditors.	The EBA agrees with this comment and confirms that it is not the intention of this guideline that older consumers would be discriminated against.	None
73.	One respondent commented that the EBA could ensure flexibility for MS by not including examples in its guidelines and suggested that the examples included in Guideline 6.1 be deleted.	As stated above, the Guidelines do not aim to be prescriptive, allowing MS to comply in different ways, therefore preserving flexibility for national markets. The list of scenarios in Guideline 6.1 is not an exhaustive list and therefore CAs can add to that list if required in their national markets.	None
Guideline 7.1: 74.	Two respondents stated that they were not opposed in principle to the guideline but stated their concern that the identification of risk groups may result in discrimination based on the definition of risk groups. The respondents commented that it should not be left to creditors to define the risk groups and that such definitions should always be updated.	Guideline 7.1 has now been deleted.	Guideline 7.1 has been deleted.

4.2 Cost-benefit analysis / impact assessment

4.2.1 Problem identification

25. Irresponsible lending decisions and inappropriate creditworthiness assessments can cause detriment for consumers⁵ and create risks to the solvency of creditors and in the end to the stability of the broader financial system, as the financial crises in 2008 showed. In the aftermath of that crisis, on grounds that mortgage underwriting practices in one country could be transferred globally through securitisation, the FSB issued Principles for Sound Residential Mortgage Underwriting Practices, in line with what the G20 mandated.
26. In the EU, a variety of national regulatory provisions is aimed at addressing these problems. There remains, however, significant heterogeneity across MS regarding the level and content of regulatory requirements, in particular with respect to the coverage of non-credit institution mortgage lenders. The lack of a harmonised framework currently leads to considerable scope for regulatory arbitrage and severely hampers the efficient functioning of the Internal Market. Being of non-binding nature, the 2013 Opinion falls short of solving this effectively and achieving the implementation of the relevant provision of the MCD.

4.2.2 Policy objectives

27. At the highest level, these requirements are intended to contribute to improving consumer protection in the EU, promoting the safety and soundness of the European banking system as well as the stability, effectiveness and integrity of the financial system in a broader sense. In addition, they should foster convergence of regulatory and market practices across the EU. More specifically, these requirements aim at transparent, efficient and competitive mortgage markets as well as flexible and fair credit agreements relating to immovable property by promoting creditors' sustainable lending decisions. At the technical level, the purpose of these requirements is to give MS further detail on the provisions of Articles 18 and 20(1) of the Mortgage Credit Directive and to assist the CAs in giving effect to those provisions.

4.2.3 Baseline scenario and options considered

28. To achieve these objectives, EBA could either
- keep the current Opinion on Good Practices for Responsible Mortgage Lending (Option 1)
 - convert the practices of that Opinion which are relevant to Articles 18 and 20(1) MCD into Guidelines and revise the remaining parts of that Opinion (Option 2)

4.2.4 Analysis of costs

⁵ EBA: Consumer Trends Report (2014)

29. Option 1 represents the baseline scenario without any further regulatory intervention at European level. In that case, the above-mentioned problems of consumer detriment and risks to creditors' solvency as well as financial stability and suboptimal market outcomes would persist. There would not be any incremental costs, neither for the CAs nor for mortgage creditors or consumers caused by the non-conversion of the relevant practices of the existing 2013 Opinion into Guidelines. At the same time, the potential benefits to consumers, creditors and mortgage markets would not be reaped.

Survey

30. In order to inform the Impact Assessment of the adoption of Option 2 and, in particular, the impact of these proposed EBA guidelines in terms of the compliance effort that will need to be made by financial institutions, the EBA gathered information from the CAs about the extent to which their existing national requirements already meet the Guidelines. The EBA received detailed responses regarding credit institutions (CIs) from 21⁶ CAs and responses regarding non-credit institutions (NCIs) from 12 CAs. In a number of MS, non-credit institutions do not provide mortgage credit, and in other cases it has not yet been determined which authority will supervise non-credit institutions when providing mortgage credit. Therefore, several MS did not include responses to the survey for non-credit institutions.
31. Table 1 below shows, for each guideline and for each creditor type (credit institution and non-credit institution), the extent to which existing national requirements meet, exceed or are lower than the proposed Guidelines, or whether there are no national requirements in place at all.

⁶ One CA did not respond under Guidelines 3.1 and 4.4.

Table 1: Overview of responses			Number of MS where the proposed guidelines are already met		Number of MS where the proposed guidelines are not currently met		Total responses	Percentage of MS where the proposed Guideline is already met or exceeded
			MS where the proposed Guideline is already met	MS where higher requirements than the proposed Guideline is already in place	MS where lower requirements than the proposed Guideline are in place	MS where no requirements at all are in place		
G1	1.1	CI	16	1	3	1	21	81%
		NCI	8	1	3	0	12	75%
	1.2*	CI	13	0	4	4	21	62%
		NCI	6	0	3	3	12	50%
G2	2.1	CI	14	2	4	1	21	76%
		NCI	5	1	3	3	12	50%
	2.2	CI	16	0	3	2	21	76%
		NCI	6	0	3	3	12	50%
G3	3.1	CI	12	0	5	3	20	60%
		NCI	5	0	3	3	11	45%
G4	4.1*	CI	11	0	6	4	21	52%
		NCI	6	0	4	2	12	50%
	4.2*	CI	15	0	4	2	21	71%
		NCI	6	0	4	2	12	50%
	4.3*	CI	10	0	5	5	20	50%
		NCI	5	0	2	4	11	45%
	4.4	CI	11	0	5	5	21	52%
		NCI	7	0	1	4	12	58%
G5	5.1	CI	13	0	6	2	21	62%
		NCI	7	0	1	4	12	58%
G6	6.1	CI	11	0	5	5	21	52%
		NCI	6	0	2	4	12	50%

*The survey of CAs conducted as part of the impact assessment was based on the draft guidelines as published in the consultation paper (Consultation Paper EBA/CP/2014/43) which had slightly different content to the final guidelines.

32. The following is a summary analysis of the likely cost impact on creditors in implementing each of the proposed Guidelines.

G1: Verification of the consumer's income

33. In relation to point 1.1 under this Guideline, only one MS currently has no requirements at all on credit institutions. There is a smaller level of national requirements that correspond to Guideline 1.2 in that four MS have no requirements in place for credit institutions and three MS have none for non-credit institutions. Therefore in the majority of MS the implementation of this Guideline will result in no or limited cost impact on creditors.

G2: Documentation and retention of information

34. The majority of MS already have requirements on both credit institutions and non-credit institutions in place that meet or exceed the two points under this Guideline. Of the remaining MS, only three MS have no requirements on non-credit institutions and only one MS has no requirement on credit institutions regarding Guideline 2.1. Two MS have no requirements on credit institutions and three MS have no requirements on non-credit institutions regarding Guideline 2.2. Therefore, creditors in a small number of MS will incur costs to implement this Guideline.

G3: Identification and prevention of misrepresented information

35. Costs will be incurred by creditors to design loan documentation to comply with this Guideline. However, this will not be the case in 12 of 20 MS where such a requirement already exists for credit institutions and in five of 11 MS where a requirement on non-credit institutions that meets this Guideline already exists.

G4: Assessment of the consumer's ability to meet his/her obligations under the credit agreement

36. Table 1 above shows a reasonably even spread across the four points under this Guideline with half of MS having requirements on credit institutions and non-credit institutions that meet or exceed this Guideline. Therefore creditors in half of MS will not incur any costs to implement this Guideline. In approximately one third of MS national requirements exist which are lower than Guideline 4. Therefore, only limited costs should be incurred by credit institutions in those MS because requirements (albeit lower than the Guideline) already exist.

G5: Allowance for the consumer's committed and other non-discretionary expenditures

37. 13 of 21 MS already have requirements on credit institutions in place that meet the proposed Guideline. Similarly, seven of 12 MS have requirements on non-credit institutions that meet the proposed Guideline. Of the remaining MS, two have no requirements at all in place for credit institutions and four MS have no requirements at all for non-credit institutions, thereby suggesting that creditors across most MS will incur no costs or limited costs in implementing this Guideline.

G6: Allowance for potential future negative scenarios

38. Regarding Guideline 6, 11 of 21 MS already have requirements in place on credit institutions that meet or exceed this Guideline. In relation to non-credit institutions, six of 12 MS have requirements in place on non-credit institutions that meet or exceed this Guideline. Therefore, it is likely that creditors will incur set-up costs in a number of MS in putting in place measures to implement this Guideline.
39. In summary, as Table 1 shows, there is already a high level of requirements in place across the MS that meet the proposed Guidelines. This means, therefore, that the cost to creditors in implementing these Guidelines will be low generally across MS.
40. In addition, the CAs may need to incur one-off costs for adjusting their legal frameworks and possibly also for more intensive ongoing supervision of mortgage creditors' lending decisions.

4.2.5 Analysis of benefits

41. Option 2, the conversion of the practices of the EBA Opinion relevant to Articles 18 and 20(1) MCD into Guidelines – and the revision of the Opinion's remaining parts –, would yield significant benefits. Mortgage consumers would benefit from improved, EU-wide protection, including against the risk of over-indebtedness. Creditors would similarly benefit by a reduction in the probability of losses due to irresponsible lending decisions and inappropriate creditworthiness assessments.

4.2.6 Overall assessment and conclusion

42. Consequently, the conversion of the practices of the current EBA Opinion relevant to Articles 18 and 20(1) MCD into Guidelines and revision of the Opinion's remaining parts (Option 2) is the preferred option.

5. Next steps

43. The Guidelines will be translated into the official EU languages and published on the EBA website. The deadline for CAs to report whether they comply with the Guidelines will be two months after the publication of the translations. A compliance table will be published on the EBA website after the expiry of the two-month period according to Article 16(3) of the EBA founding regulation.
44. The Guidelines apply from 21 March 2016, except that the information requirements referred to in paragraph 2 apply from [publication date in the official languages + 1 day].