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## **A New Retail Credit Regime for Europe – Setting the Right Priorities**

Prospectus for a new CEPS/ECRI Financial Task Force

A project of the European Credit Research Institute

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Four full-day meetings scheduled for  
11 May 2010  
July 2010  
September 2010  
November 2010

Chairman: **Rosa-Maria Gelpi**, Former Vice-President,  
BNP Paribas Personal Finance

Rapporteurs: **Achim Dübél**, Director, Finpolconsult/Berlin  
**Marc Rothmund**, Research Fellow, CEPS/ECRI  
**Maria Gerhardt**, Research Assistant, CEPS/ECRI

## *Introduction*

The recent institutional re-shuffle has charged new internal market Commissioner Michel Barnier with the task of evaluating costs and benefits of re-designing the regulatory framework currently governing the EU's retail credit market(s).

Barnier's team will have to set its sails for the headwinds if in favor of a policy decision tightening the legislative grip on a sector that moved into the spotlight in the wake of the financial crisis.

This is especially true as regards mortgage lending, with the EU executive encountering tough opposition to new rules. However, loans for house purchase account for the largest share in the credit portfolio of European households yet are not covered by EU-wide legislation: it is argued that the fragmentation of the EU's mortgage markets along national lines and the un-homogeneous nature of existing market deficiencies in the different member states rendered pan-European action irrelevant.

In addition, with responsible authorities in the 27 member states currently working on the transposition of the new Consumer Credit Directive (CCD) into national law, the Commission is urged by lenders and those member states gold-plating the CCD (i.e. applying certain provision to mortgage credit) to await the Directive's full implementation deadline set for June 2010 before considering further regulatory action.

Embedded in and related to the broader agenda of responsible lending and borrowing lay further widely debated topics such as financial advice standards, unfair commercial practices, the activity of credit intermediaries, the collection and access to personal credit information, or collective redress mechanisms.

Within the context of these discussions and in the light of the ongoing implementation of the new CCD, CEPS/ECRI proposes to launch a new Task Force that will look at how the EU could most efficiently respond to the challenges posed and deficiencies revealed by the financial crisis in the area of retail credit. The working group's activity thus constitutes a continuance of CEPS/ECRI's work in the area of retail financial services as exemplified by the Task Force on "Integrating Retail Financial Markets in Europe: Between Uncertainties and Challenges". After taking stock of the most recent EU policy developments and debates, the CEPS/ECRI Task Force will focus on the markets for consumer credit and housing loans and whether additional regulation is the best way of addressing existent shortcomings.

## ***Proposed topics of the CEPS Task Force***

Participants of the Task Force will be given the possibility to engage in a constructive dialogue concerning the decision upon the final terms of reference. However, CEPS/ECRI proposes several key issues to be discussed in the course of the four CEPS/ECRI Task Force meeting.

- ✓ A European concept of responsible lending and borrowing
- ✓ After dealing with consumer credits: should housing loans be up next?
- ✓ “Appropriate and suitable” credit: on the way to product standardization and certification?
- ✓ Credit reporting: balancing consumers’ interests and lenders’ needs
- ✓ (How) should credit intermediaries be regulated?
- ✓ Personal insolvency: common guidelines necessary?
- ✓ Collective redress: is a fully harmonised EU-wide system of collective Alternative Dispute Resolution Procedures (ADR) feasible?
- ✓ Tying and other potentially unfair commercial practices in the European retail financial services sector

In addition, this CEPS Task Force will provide a constant update on developments related to the policy decisions of the EU institutions.

### ***A European concept of responsible lending and borrowing***

The European Commission’s 2009 public consultation on responsible lending and borrowing<sup>1</sup> has underlined the importance of a European-wide debate in the aftermath of the financial crisis but failed to seek feedback on and/or establish a clear yet comprehensive definition of the two concepts. While the disregard of a concise conceptualisation of responsible borrowing can be justified, the Commission’s interpretation of responsible lending seems to limit its radius of action to the pre-contractual and (at best) contractual relationship between the lender and the consumer – despite the recognition by a wide variety of stakeholders of the importance of applying fair and responsible business practices beyond the point-of-sale.

This CEPS/ECRI Task Force aims to sharpen the concept of both responsible lending and borrowing, come up with agreeable working definitions and analyse their impact on the provision and consumption of retail credit in Europe. On the basis of these definitions, the CEPS/ECRI Task Force will study the need for as well as the costs and benefits of potential future regulatory action both on a horizontal (by taking a look at various forms of credit) as well as vertical level (by investigating the entire life-cycle of each financial product under scrutiny).

### ***After dealing with consumer credits: are housing loans up next?***

With approximately 70% in 2008<sup>2</sup>, loans for house purchase accounted for the largest share in the credit portfolio of European households yet are not covered by EU-wide legislation: fragmentation of the bloc’s mortgage markets along national lines, the un-homogeneous of existing market deficiencies as well as CCD gold-plating in various members states are among the top arguments of those rallying support against further regulation of the retail credit sector in Europe. With gold-plating not being an instrument

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<sup>1</sup> [http://ec.europa.eu/internal\\_market/finservices-retail/credit/responsible\\_lending\\_en.htm#consultation](http://ec.europa.eu/internal_market/finservices-retail/credit/responsible_lending_en.htm#consultation)

<sup>2</sup> “Lending to households in Europe (1995-2008) – ECRI Statistical Package 2009”, European Credit Research Institute (ECRI), Brussels.

of harmonisation and market integration, however, arguments for a closer legislative look at the retail mortgage sector are existent – and obvious. This CEPS/ECRI Task Force will assess current mortgage market realities in the EU and evaluate the costs and benefits of regulatory intervention, especially in the light of the financial crisis. Among the topics to be discussed also is a review of pre-contractual information requirements under the so-called “European Standard Information Sheet” (ESIS) and under the existent voluntary code of conduct for home loans.

### ***“Appropriate and suitable” credit: on the way to product standardization and certification?***

Consumers need to be able to understand the risks involved as well as to rely on product offers that meet his/her investment objectives and suit his/her individual financial situation. The financial crisis has revealed, however, that financial products not meeting these ‘requirements’ were and still are provided to a share of retail customers: non-existent statutory limits on loan-to-value (LTV) and loan-to-income (LTI) ratios in some Member States have led to the creation of loan products well exceeding 100% of the property price and/or the annual disposable income. With interest-only or self-certification mortgages, SMS loans or foreign currency loans, among others, also (unjustifiably?) having been labelled as ‘inherently unsuitable” products by some stakeholders, this CEPS/ECRI Task Force will look at whether (self-)regulatory efforts should limit the currently wide product range. Participants will discuss the option of introducing a set of standardised and/or certified financial products, the imposition of the obligation on lenders to offer ‘basic products’ and the necessity to draft guidelines on maximum LTV and LTI ratios.

### ***Credit reporting: balancing consumers’ interests and lenders’ needs***

The Consumer Credit Directive recognizes the assessment of a consumer’s creditworthiness as part of the lenders’ responsible lending activities and requires creditors to do so “where necessary on the basis of a consultation of the relevant database.”<sup>3</sup> Following the publication of the report of the European Commission’s “Expert Group on Credit Histories” in 2008<sup>4</sup>, this CEPS/ECRI Task Force will review the recommendations and discuss policy options ensuring, where deemed necessary, the transposition of the proposals. In the light of an integrated European financial services market, further harmonisation and/or convergence seem indispensable in areas such as credit information database content and data retention periods. Taking into consideration the work on common credit reporting concepts by the European Central Bank, the Task Force will also look at means to facilitate consumers’ access to own data and the possibility to have erroneous data corrected. Similarly, the group will discuss options to establish consumer redress mechanisms for the case of illegally or improperly used data resulting in (financial) damage to the consumer.

### ***(How) should credit intermediaries be regulated?***

According to a study published in early 2009<sup>5</sup>, 41.5% of all residential mortgages issued in the EU between 2006 and 2007 involved credit intermediaries. By gearing its consultation on responsible lending towards the (at EU-level) previously rather neglected part of the credit supply chain, the Commission underlined its determination to take a closer look at a framework governing credit intermediaries. This CEPS/ECRI Task Force proposes to examine the costs and benefits of the current regulatory patchwork and tries to evaluate

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<sup>3</sup> Directive 2008/48/EC

<sup>4</sup> [http://ec.europa.eu/internal\\_market/consultations/docs/2009/credit\\_histories/egch\\_report\\_en.pdf](http://ec.europa.eu/internal_market/consultations/docs/2009/credit_histories/egch_report_en.pdf)

<sup>5</sup> “Study on credit intermediaries in the internal market”, London Economics.

[http://ec.europa.eu/internal\\_market/finances-retail/docs/credit/credit\\_intermediaries\\_report\\_en.pdf](http://ec.europa.eu/internal_market/finances-retail/docs/credit/credit_intermediaries_report_en.pdf)

the necessity of differentiating between full-time and part-time intermediaries, tied and independent actors as well as between actors offering certain products (consumer credit, housing loans, etc.). Participants of the Task Force will also discuss possible registration and supervision regimes for credit intermediaries and ways to increase transparency surrounding their activities (remuneration structures, fees, conflict of interests, etc.)

***Consumer insolvency: common guidelines necessary?***

Income loss, unemployment, illness and/or change in family situations are among the main drivers for steadily increasing figures of consumer bankruptcy over the past years. The financial crisis has accelerated the negative development both in the US and Europe and the tremendous volume of non-performing loans of European consumers is a good indicator for the problems that still lie ahead. With efforts of retail credit market integration so far having focused on the (cross-border) supply of credit, issues evolving around the repayment of debt and consumer bankruptcies have not yet been addressed accordingly at the EU level. Personal insolvency regimes vary widely across the EU, from rules more favourable to creditors' rights to recuperation on the one side to frameworks strongly protecting consumers in their economic difficulties on the other. Few countries have no consumer bankruptcy legislation in place at all, mostly leaving individual borrowers unprotected from creditors' claims. The question arises whether there is a need for a common approach in Europe to reach a general framework for dealing with personal insolvency and financial consumer protection.

## ***Why this CEPS/ECRI Task Force and how does it work?***

This CEPS/ECRI Task Force's main objective is to involve the CEPS/ECRI constituency in the crucial EU policy processes relating to the wider responsible lending and borrowing debate. After the more comprehensive CEPS Task Force on the integration of retail financial services markets<sup>6</sup>, this new CEPS/ECRI project is specifically focusing on the consumer and housing credit markets.

This involves i) informing about policy formulation in the EU and its member states as well as ii) providing regular feed-in from the CEPS/ECRI Task Force into the relevant policy processes of the European Commission, the European Parliament and member state authorities.

In organizational and practical terms, the CEPS/ECRI Task Force will be based on **four full-day multi-stakeholder workshops** designed to create an open and informal but structured dialogue on regulatory priorities for the EU retail credit market(s) to be set by the new Commission.

The Task Force will constitute a unique forum of representatives from the European Commission (DG Internal Market and Services, DG Health and Consumers, DG Employment, Social Affairs and Equal Opportunities), Members of the European Parliament, officials from member states, representatives of financial services regulators, consumer representatives, business and industry (i.e. banks, consumer credit companies, credit registers, credit management service companies), NGOs and other stakeholders in order to facilitate an in-depth discussion and provide background research.

At the end of the Task Force, CEPS/ECRI will **publish** and circulate among EU and member state policy circles an authoritative analysis including policy recommendations together with a **CEPS/ECRI Task Force Report**, which will also be officially published in the CEPS Task Force Report publication series.<sup>7</sup> This report will be based on discussions in the meetings supplemented by research carried out by the rapporteurs.

The new CEPS Task Force on **A New Retail Credit Regime for Europe: Setting the Right Priorities** will meet four times between May and November 2010.

Chairman will be **Rosa-Maria Gelpi**, former Vice President of BNP Paribas Personal Finance. Rapporteurs will be Achim Dübel (Director, Finpolconsult/Berlin), Marc Rothemund (Research Fellow) and Maria Gerhardt (Research Assistant).

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<sup>6</sup> Integrating Retail Financial Markets in Europe: Between Uncertainties and Challenges (2010), CEPS Task Force Report, Brussels.

<sup>7</sup> For further information, please visit [www.ceps.eu](http://www.ceps.eu) or contact Marc Rothemund at [marc.rothemund@ceps.eu](mailto:marc.rothemund@ceps.eu).

## ***Proposed meeting schedule***

CEPS/ECRI proposes to organise the following meetings:

**Meeting 1 (11 May 2009)** will focus on **identifying the key issues** related to this CEPS/ECRI Task Force and will therefore fine-tune the broad draft agenda formulated in this Prospectus.

### **Draft Agenda**

<b>11.00-11.20</b>	<b>Introduction by CEPS/ECRI and Chair of Task Force</b> and presentation of the CEPS/ECRI Task Force Prospectus
11.20-11.45	Open Discussion
11.45-12.15	CEPS Task Force Results: Integrating Retail Financial Markets in Europe: Between Uncertainties and Challenges <b>Rym Ayadi - Senior Research Fellow, Head of Financial Institutions and Prudential Policy Unit</b>
12.15-13.15	Comments by the MEP, representative of the financial industry, credit information suppliers, consumer representatives
<b>13.15-14.15</b>	<b>Lunch</b>
14.15-14.45	A European concept of responsible lending and borrowing <b>Sarah Lynch, European Commission (DG MARKT, Unit H.3, Retail issues, consumer policy and payment systems)</b>
14.45-15.15	Discussion
15.15-15.45	After dealing with consumer credits: should housing loans be up next? <b>Achim Dübél, International Financial Services and Policy Consultant</b>
15.45-16.15	Discussion
<b>16.15-17.00</b>	<b>Wrap-up of meeting and agreement of terms of reference</b>

### **Meeting 2 (first half, July 2010)**

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- Key messages from the first meeting of the CEPS/ECRI Task Force
- “Appropriate and suitable” credit: on the way to product standardization and certification?
- Credit reporting: balancing consumers’ interests and lenders’ needs

### **Meeting 3 (second half, September 2010)**

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- Key messages from the second meeting of the CEPS/ECRI Task Force
- (How) should credit intermediaries be regulated?
- Personal Insolvency: common guidelines necessary?

### **Meeting 4 (first half, November 2010)**

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Presentation of the CEPS/ECRI Task Force draft report, open for discussion and comments to all participants (the report will be finalised after the last meeting followed by adoption through written procedure). CEPS will also table a set of key messages and recommendations which will need to be agreed upon by all participants and which will then serve as the main tool for communicating the results of the CEPS Task Force to policy-makers.

## **Participation**

This CEPS/ECRI Task Force is principally designed for ECRI and CEPS members but participation is open to non-members as well, at a fee.

The fee covers participation in all workshops, documentation, lunches and three copies of all reports produced. Upon request, CEPS will mail additional copies of the final report to persons identified by participants.

### **\* Fee Structure**

ECRI Members / CEPS Corporate Members: for free / €1,000

Non-members: € 5,000

To register, please use the Registration Form in the Appendix of this document.

### **\* If you have any questions regarding the Task Force, please contact:**

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**\* For registration**, see **APPENDIX** at the end of this prospectus.

#### **About CEPS**

The Centre for European Policy Studies, based in Brussels, was launched as an independent research institute in 1983 to encourage the study and discussion of public affairs in Europe. It aims:

- to provide decision-makers, inside and outside government, with authoritative and independent analysis of European affairs;
- to contribute to the public debate about European institutions and policies through sound research and judgement; and,
- to create a network of leaders and thoughtful individuals who are committed to working together to enhance the development of European integration and cooperation.

CEPS is funded by corporations, public bodies, membership fees and income from activities.

Website: [www.ceps.eu](http://www.ceps.eu)

#### **About ECRI**

The European Credit Research Institute provides in-depth analysis and insight into the structure, evolution and regulation of retail financial services markets in Europe. Through its research activities, publications and conferences, ECRI keeps its members and the wider public up-to-date on a variety of topics in the area of retail financial services at the European level, such as consumer credit and housing loans, credit reporting, responsible lending and consumer protection.

ECRI is an independent, non-profit research institute that develops its expertise from an interdisciplinary team and networks of academic cooperation partners. It was founded in 1999 by a consortium of European banking and financial institutions. ECRI's operations and staff are managed by the Centre for European Policy Studies.

Website: [www.ecri.eu](http://www.ecri.eu)

## CEPS/ECRI Task Force

# A New Retail Credit Regime for Europe: Setting the Right Priorities

*First meeting at CEPS - 1, Place du Congrès - Brussels  
Date: 11 May 2010*

*Participation in the Task Force is free of charge for ECRI members. A participation fee including all task force meetings of €1,000 applies for CEPS Corporate Members and €5,000 for non-members.*

Name	
First name	
Position	
Company	
Address	
Telephone	
Fax	
Email	

*Please tick correct box:*

<input type="checkbox"/>	My company is a corporate member of ECRI and participates free of charge.
<input type="checkbox"/>	My company is a corporate member of CEPS and pays € 1,000 (+21% VAT)
<input type="checkbox"/>	My company is not a corporate member of CEPS or ECRI and pays €5,000 (+21% VAT).
<input type="checkbox"/>	My company is interested in becoming a member of CEPS or ECRI. Please send additional information.

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