

June 25, 2021

Delivered Via Online Submission

Ministry of Finance
ul. Swietokrzyska 12
00-916 Warszawa

Re: Distance Marketing of Consumer Financial Services

Dear Sir or Madame,

The European Network of Credit Unions (ENCU) appreciates the opportunity to provide its position to the European Commission (Commission) concerning the Inception Impact Assessment regarding the Review of the Directive on Distance Marketing of Consumer Financial Services.¹ Credit unions (and credit cooperatives or savings and Loan Associations) are cooperative depository institutions are consumer-owned, not-for-profit financial cooperatives that promote financial inclusion in underserved European communities by offering their members affordable and easily understandable financial products. There are approximately 1,900 credit unions in the European Union (EU) with more than EUR 28 billion in total assets and 9 million physical person members.² ENCU represents members from Estonia, Ireland, Poland, Netherlands, Republic of North Macedonia, Romania, Moldova, Croatia, and Ukraine.

ENCU supports the Commission's objective to ensure "a framework for the distance marketing of financial services that is future proof, protects consumers in a digital environment, delivers a level playing field and reduces unnecessary burden for financial service providers." Digital banking products are continually changing and improving, and legislation should align with this changing environment and update rules and regulations accordingly. The Commission has effectively identified the core issues encompassing the distance marketing directive, including issues surrounding effectiveness due to increased digitisation, product-specific and horizontal application of the directive, and concerns enveloping cross-border transactions.

Distant marketing rules need consistency, standardization, and streamlining between the Directive and national-level regulation. Essentially, harmonization between the Directive and national-level frameworks are necessary to provide financial institutions with clear and efficient

¹ Inception Impact Assessment: Review of the Directive on Distance Marketing of Consumer Financial Services; see: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13048-Distance-marketing-of-consumer-financial-services-review-of-EU-rules_en.

² See "Credit Unions in Europe;" http://creditunionnetwork.eu/cus_in_europe.



guidance. Furthermore, compliance and adherence to the distance marketing directive requires policies and procedures, training, auditing, and other items, which require additional costs and resources. These costs increase when there are inconsistencies between the Directive and national-level regulation or other comparable laws. Additional processes and procedures must be followed to comply with discrepancies in rules and regulations that embody the same intent, which in effect deplete revenue.

There are several issues with the Directive, as the Commission is well aware, including:

- The distinction between national services and cross-borders.
- Loan transactions contain disclosures in CCD or MCD that are duplicative.
 - There is specific legislation on consumer and mortgage credit, and other recent legislation on investment products, assurances, etc.
- The Directive should take into account product specific and sectoral specific legislation to prevent overlap.
- GDPR changes have rendered much of the Directive ineffective.
- Mobile banking will be increasingly difficult due to regulation constraints.
- Need for consistency in contract execution.
- At risk for overlap:
 - Financial legislation- i.e., Insurance Distribution Directive, the Regulation on Packaged Retail and Insurance-based Investment Products and the Solvency II Directive; and
 - cross-sectoral legislation- i.e., e-commerce Directive and the General Data Protection Regulation.

Based on the aforementioned concerns, policy options 2: repeal of the Directive but moving the still relevant parts, once modernised, under another horizontal legislation; and 3: comprehensive revision of the directive, are arguably the best options to improve the Commission's objective for an effective distance marketing framework. The intent and substance of the Directive hold value. By utilizing the effective parts of the Directive and building on those aspects, the Directive has the potential to address and improve the current conditions effecting consumers impacted by distance marketing deficits. All participants within the market, regardless of license or charter should abide by the prescribed rules.

World Council appreciates the European Commission's efforts to address concerns regarding the distance marketing Directive. If you have any additional questions regarding our comments, please feel free to contact me at pmonford@woccu.org or +1-202-510-9347.

Sincerely,



A handwritten signature in black ink, appearing to read "Panya Monford".

Panya Monford, Esq.
Assistant General Counsel of Advocacy
World Council of Credit Unions