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**Loopholes in the lately amended Chapter 7 of the Finnish Consumer  
Protection Act regarding consumer credit**

Master's thesis

Programme HAJM, specialisation European Union Law

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Tallinn 2020

I declare that I have compiled the paper independently  
and all works, important standpoints and data by other authors  
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## **ABSTRACT**

The use of consumer credit has found a strong standing in today's consumer society. Since the millennium, credit markets in the EU are have gone through significant development regarding legislative changes and consumer protection. This research focuses on the EU and national laws regulating the consumer credit in the Republic of Finland. The aim of this thesis is to point out the possible loopholes the amended Chapter 7 of the Finnish Consumer Protection Act (CPA) might have and which the credit providers can use to charge more from the consumers than the regulator has determined. The hypothesis is that the latest amendment to Chapter 7 of the Finnish CPA and the current EU directives regarding consumer credit allow credit providers to exploit the vague interpretations, definitions on what is included into the credit fees and what is not. This thesis also argues that setting tight regulation on credit fees will cause credit providers to find less regulated or unregulated business models to issue credit to consumers. The research methodology in this research is a socio-legal method which takes into consideration the law reform's social factors and case studies from related fields to identify whether the targeted outcome of the newly amended provisions of the Finnish Consumer Protection Act is working properly.

Findings of this thesis indicate that even though the over-indebtedness problems are increasing, the EU has not harmonised the detailed definitions regarding consumer credit and over-indebtedness or found harmonised ways to mitigate the problems arising from the use of credit. Member State Finland has amended new provisions regarding consumer credit in 2019 which force the credit providers to take a smaller risk position, hence hindering the consumers' access to credit and reducing excess credit usage. The research indicates that credit providers will move to larger credit sums, longer credit maturities and look for alternative business models to charge clients more in the form of ancillary services.

**Keywords:** Consumer Credit, Consumer Credit Directive, Finnish Consumer Protection Act, Over-indebtedness, Finland, EU.

## **ABBREVIATIONS**

APP – Asset Purchase Programme

APR – Annual Percentage Rate

AVI – Regional State Administrative Agency of Southern Finland

BoF – The Bank of Finland

CCD – EU DIRECTIVE 2008/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC

CPA – Consumer Protection Act

EC – European Commission

ECB – The European Central Bank

ECJ – European Court of Justice

ECON Committee – The Committee on Economic and Monetary Affairs of the European Parliament

EU – The European Union

FIN-FSA – Finnish Financial Supervisory Authority

Finland – The Republic of Finland

Fintech – Financial technology

GDP – Gross Domestic Product

GDPR – The General Data Protection Regulation

KELA - The Social Insurance Institution of Finland

NBI – Finnish National Bureau of Investigation

SECCI – Standard European Consumer Credit Information

The Distance Selling Directive – Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC

UBO – Ultimate Beneficial Owner

UK – United Kingdom

US – The United States of America

## INTRODUCTION

Advancements in financial technology (Fintech) and consumer spending behaviour have brought cross-border lending, payment options and product innovations to the market with increasing speed. Since the 2007 financial crisis, the largest central banks have been lowering their interest rates and stimulating the economy by purchasing, for example, government debt. The European Central Bank (ECB) has used Asset Purchase Programmes (APP) as part of their Monetary Policy with the goal of keeping the inflation at 2% in the EU area in the medium term.<sup>1</sup> Through the APP, the ECB has also funded commercial banks in the European Union (EU). This has given banks and consumer lending companies access to affordable funding and enabled them to grow loan portfolios faster. This has generated spill-over effects in the form of increasing over-indebtedness.

In a recent study, the Organisation for Economic Co-operation and Development (OECD) revealed how businesses are adopting subscription models, where consumers commit to recurring charges as part of the service or product purchase agreement.<sup>2</sup> Many of the services require or prefer a credit card for the monthly recurring payments, and we can see international companies such as Apple Inc (Nasdaq: AAPL) and Amazon.com Inc. (Nasdaq: AMZN) issuing their own credit cards by collaborating with credit card technology providers. In general, consumer loans have a strong standing in today's consumer society. As the competition increases, we see more innovative products, services and even problems arising from the innovations and accessibility to credit. Consumer over-indebtedness and complex consumer loan fee structures combined with the overall debt increase have forced regulators to regulate the consumer credit businesses.

The aim of this thesis is to identify what are the possible loopholes the amended Chapter 7 of the Finnish Consumer Protection Act (CPA) and which the credit providers can use to charge more from the consumers than that the regulator has determined. The hypothesis is that the latest

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<sup>1</sup> European Central Bank. Monetary policy. Accessible: <https://www.ecb.europa.eu/mopo/html/index.en.html>

<sup>2</sup> OECD. (2019). Unpacking E-commerce Business Models, Trends and Policies: Business Models, Trends and Policies. OECD Publishing. p 81.

amendment to Chapter 7 of the CPA and the current EU directives regarding consumer credit allow credit providers to exploit the vague interpretations and definitions of what is included in the credit fees and what is not. This thesis also argues that having tight control over credit fees will cause credit providers to find less regulated or unregulated business models with which they can issue credit to consumers.

In 2013, before the current amendment was enforced, the Finnish Parliament approved an annual nominal interest ceiling for loans under EUR 2,000. The legislation targeted instant loan creditors, and shortly after the law was amended, multiple studies indicated that the legislation pressed creditors to issue larger loans with longer amortisations, making the problem of Finnish over-indebtedness worse while credit providers' profit margins stayed on high level.<sup>3</sup> On 29 May 2019, the Bank of Finland (BoF) published an article regarding the increasing over-indebtedness of Finnish households, which was one of the many articles where the central bank expressed its concern that the population suffering from over-indebtedness causes a macro-economic risk for the country.<sup>4</sup> The latest amendment to Chapter 7 of the Finnish CPA (596/2019) entered into force on 1 September 2019, imposing a nominal interest ceiling of 20% and a 0.01% daily fee limit for other costs, with an annual maximum of EUR 150 for the credit in use.<sup>5</sup> The reasoning behind the aforesaid low interest was to decrease problems arising from the increasing supply and payment default entries<sup>6</sup> arising from consumer credit issuance.<sup>7</sup> Latest statistics from Asiakastieto (Nasdaq:ATG1V) indicate that 381,700 people in Finland had a payment default mark at the end of September 2019, while the total population is circa 5.55 million people.<sup>8</sup>

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<sup>3</sup> Takalo T. (2017). Lyhytaikaisten kuluttajaluottojen sääntely. (Regulation on short-term credit). Kansantaloudellinen aikakauskirja – 113 vsk. 3/2017. 382-386.

<sup>4</sup> Aaltonen M., Koskinen K. (2017) New methods needed to rein in consumer credit. Accessible: <https://www.bofbulletin.fi/en/2019/2/new-methods-needed-to-rein-in-consumer-credit/>

<sup>5</sup> Laki kuluttajansuojalain muuttamisesta (Finnish Act amending the Finnish Consumer Protection Act) 596/2019. Finlex Data Bank.

<sup>6</sup> In Finland, a payment default entry can be registered in the central payment remarks registry by the creditor at the earliest after 60 days have passed from the original due date. The possibility of a payment default entry has to be mentioned in the credit agreement and a written demand for payment has to be presented to the consumer at least 21 days before the payment default entry is registered. Source: Luottotietolaki (Finnish Credit Information Act) 527/2007, as amended. Chapter 4(13).

<sup>7</sup> Ministry of Justice, Finland. Kuluttajaluottojen korkokatto laajenee ja tiukkenee syyskuun alusta. The Finnish Government. Accessible: [https://valtioneuvosto.fi/artikkeli/-/asset\\_publisher/1410853/kuluttajaluottojen-korkokatto-laajenee-ja-tiukkenee-syyskuun-alusta](https://valtioneuvosto.fi/artikkeli/-/asset_publisher/1410853/kuluttajaluottojen-korkokatto-laajenee-ja-tiukkenee-syyskuun-alusta)

<sup>8</sup> Asiakastieto. (2019). Maksuhäiriöisten henkilöiden määrä jo yli 380 000 – myös asuntolainoja jää maksamatta. Accessible: <https://www.asiakastieto.fi/web/fi/asiakastieto-media/maksuhairioisten-henkiloiden-maara-jo-yli-380-000-mynos-asuntolainoja-jaa-maksamatta.html>

The first part of this thesis focuses on the regulatory framework around consumer credit in the EU. The work starts by introducing how the EU consumer credit, consumer protection and distance selling directives have impacted the Member States, where the regulations derive from and assesses the credit definitions. The second chapter of this thesis analyses the concept of over-indebtedness in EU area and in Finland and its relation to mitigate possible future macro-economic risks arising from debt bubble. The third part of the thesis focuses on one EU Member State, namely Finland, and the laws governing the Finnish consumer credit. Finally, in the conclusion, I will discuss the findings in the light of the research question and hypothesis. All the translations used in this thesis are to be considered unofficial translations that have been translated by the author.

### **The scope of the research and the research methodology**

The scope of this research is limited to consumer credit and the consumer protection-related directives on the EU level, specifically in the Republic of Finland (Finland), and the latest amendments made to Chapter 7 of the Finnish Consumer Protection Act (CPA) regarding non-collateral consumer credit.<sup>9</sup> The effective date of the latest amendment was 1 September 2019, and it was Finland's largest legislative change regarding non-collateral consumer credit after the last amendment was enforced on 15 March in 2013, which imposed a 50% annual percentage rate of charge (APR) to consumer loans under EUR 2,000.<sup>10</sup> Non-collateral consumer credits, where real estate is the collateral, are outside the scope of the research as are vehicles that are registered in the register of transport services referred in the Finnish Transport Services Act (320/2017) together with any accessories which may be attached thereto. However, if, according to the contract, the consumer is also entitled to withdraw cash, it will be inside the scope of the research. For the research to bring to light any possible loopholes that the current enforced national level legislation has, it is fundamental to assess EU Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, which, together with various other EU directives, has set minimum disclosure rules for the EU Member States, including Finland.

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<sup>9</sup> *Supra nota* 5. Chapter 7(17a).

<sup>10</sup> Laki kuluttajasuojalain 7 luvun muuttamisesta (207/2013). Chapter 7(17a). Finlex Data Bank.

In this research, I will be using a socio-legal method deriving from qualitative research to get an inductive view of the relationship between research, theory and social impact of the law. Socio-legal methodology takes into consideration the law reform's social factors and case studies from the field of economics, over-indebtedness and consumer credit and tries to identify whether the targeted outcome of the newly amended provisions of the Finnish CPA is working properly.<sup>11</sup> Contradicting qualitative research methodology, quantitative methodology research focuses on statistics and numbers.<sup>12</sup> In various Finnish Government bills, the workgroups and Committee refer to quantitative data of over-indebtedness and tying fees to an APR number, hence using the methodology is justified. The sociological approach is used by presenting solely academic arguments to gain an understanding of how the public opinion, law and legal proceedings impact the involved parties. Also, other recent policy development practices in the field of non-collateral consumer credit will be evaluated. To understand the reasoning behind the changes in the consumer credit legislation, the parliamentary and independent authorities' attitude against increasing over-indebtedness will be assessed as well.

Main sources of data will be derived from the EU consumer credit-related legislation, legislation drafts, studies from the field of consumer credit, the Finnish national legislation, such as the Finnish Consumer Protection Act, as well as Finnish Legal and Commercial Committee memorandums. Related academic journals, books and research publications will be included. Electronic sources will work as supportive references.

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<sup>11</sup> McConville M. (2017). *Research Methods for Law*. (Eds). McConville M., Chui W. H. 2<sup>nd</sup> Edition. Edinburgh University Press. p 23.

<sup>12</sup> *Ibid.* p 50.

## 1. EU LAW AND NATIONAL LAWS ON CONSUMER CREDIT

EU law can be divided to primary and secondary sources.<sup>13</sup> The primary sources are EU Treaties and the secondary sources are secondary legislations (Directives, Regulations, Decisions, Recommendations), case law of the European Court of Justice (ECJ), General Principles and International Agreements.<sup>14</sup> The EU legal system sets the basis for the legal framework in the EU Member States. The EU regulations are generally applicable and “[...] shall be binding in its entirety and directly applicable in all Member States.”<sup>15</sup> Regarding the EU directives, Article 288 of the consolidated version of the treaty on the functioning of the European Union states that: “A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.”<sup>16</sup> If a country applies to become an EU Member State or is a Member State already, it needs to impose EU regulations and directives into its regulations and national laws and comply with them, as the EU law is supreme to the national laws. Directives are always required to be implemented in national law by the Member State’s legislative body. Hence, before Directives are enacted, they do not grant rights to individuals.<sup>17</sup> EU directives and regulations are the actual laws of the EU and hence, these are of fundamental importance.<sup>18</sup> EU law has set a minimum regulatory framework and disclosure legislation regarding non-collateral consumer credit within the Member States. Nevertheless, the Member States can enact provisions which are stricter than the EU regulatory framework regarding the non-collateral consumer credit laws and consumer protection.

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<sup>13</sup> Davies K. (2013). Understanding European Union Law. 5<sup>th</sup> Edition. New York: Routledge. p 53.

<sup>14</sup> Ibid. p 53.

<sup>15</sup> Ibid. p 56.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid. p 76.

<sup>18</sup> EU Directive Handbook. Understanding the European Union compliance process and what it means to you. Allen R. Bailey, Melinda C. Bailey. St. Lucie Press. 1997. p 27.

## 1.1. The definition of a non-collateral consumer credit in the EU

Traditionally, consumer credit has been described as short- and intermediate-term loans that are used to purchase consumer goods and services.<sup>19</sup> Non-collateral consumer credit is defined as a consumer credit where the creditor does not have a pledged security as protection in case the consumer defaults on payments.<sup>20</sup> As a result of digitalisation in the past decades, the traditional definitions of credit needed to be revised in order to carry out targeted harmonisation to strengthen the comparability of credit agreements.<sup>21</sup> The focus and definition for credit arises from EU directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (The CCD), which imposes a regulatory framework for the Member States. The CCD defines consumers in Article 3(a): “‘consumer’ means a natural person who, in transactions covered by this Directive, is acting for purposes which are outside his trade, business or profession” and creditors in Article 3(b): “‘creditor’ means a natural or legal person who grants or promises to grant credit in the course of his trade, business or profession”<sup>22</sup>. Before the harmonised legal framework, set by the latest amended CCD, was approved by the European Commission, some national consumer credit legislation definitions showed inconsistencies, fee disclosure calculations had variations and individuals were exposed to possible exploitation in the case of cross-border lending.<sup>23</sup> Member States had to transpose the directive by 11 June 2010, 24 months after the directive was enforced.

## 1.2. Credit types

Contemporary consumer credit is diversified enough to be classified in various ways. Typical uses of credit include, but are not limited to, credit cards, car loan, renovation credit, student loan, debt refinancing, account overdraft and credit facility.<sup>24</sup> Many credits are classified by how they are being used, and the most commonly used word for a credit in the point of a purchasing or when marketing consumer goods is the word financing. The motivation for using credit is the will to

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<sup>19</sup> Britannica – consumer credit. Accessible: <https://www.britannica.com/topic/credit-card>

<sup>20</sup> Merriam-Webster. Collateral. Accessible: <https://www.merriam-webster.com/dictionary/collateral>

<sup>21</sup> Bouyon S., Ayoub J. (2018). Consumer Credit, Digitalisation and Behavioural Economics – *Are new protection rules needed?*. ECRI Policy Brief No. 9. p 3.

<sup>22</sup> Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC. Article 3(a).

<sup>23</sup> Ibid.

<sup>24</sup> Durkin Thomas A., Ellihhausen G., Staten Michael E. Zywicki Todd J. (2014). *Consumer Credit and the American Economy*. New York: Oxford University Press. p 9.

adjust the size and timing of personal or household cash flows. E.g. a young person might need a student loan when they start studying at a university. To be able to graduate quickly, the student takes a credit from a bank against future cash inflows from their future employment. The bank can charge interest and other fees during this time as well as deepen the financial relationship with the potential future premium client.

Regardless, there being many product names and various uses for credit, credit can be mainly divided into three different classifications, which are non-instalment consumer credit, instalment credit and revolving credit.<sup>25</sup> Non-instalment credit is credit where the consumer needs to pay back the credit in one lump sum. Generally, the consumer repays interest and other possible credit fees for the time of using the credit. On the due date, the consumer either repays everything in full or renegotiates an extension for the due date. Instalment credit is a so-called closed-end credit where the consumer repays the loan according to the amortisation schedule agreed with the creditor. Generally, the instalment is paid on a monthly basis, for example, a house renovation loan. The third credit type is a revolving credit or continuous credit, which is a so-called open-end instalment credit. In this credit type, the consumer can use the credit freely within the contractual limits, and the credit is repaid at the consumer's preferred pace. Generally, the credit is a credit card which the consumer can use constantly, but they pay the creditor a minimum monthly instalment, which has been agreed upon when entering into the credit agreement.<sup>26</sup> For the sake of the clarity in this research, the credit under scrutiny is divided only between the three previously mentioned classifications of non-collateral consumer credit.

### **1.3.High cost credit**

High cost credit has traditionally been referred to as payday loans, small amount credit contracts, instant instalment loans or SMS loans. Central attributes for these loans are small credit sums, short maturities and that the consumer can apply for the credit using digital channels. In essence, any credit classification stated in the chapter Credit types can be a high cost credit.

EU Member States have no clear consensus of where the line between credit and high cost credit is. Most studies refer to high cost credit when the annual percentage rate (APR) exceeds 100 percent and turns into a three-digit number. The studies reveal that, even though the credits can be

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<sup>25</sup> Ibid. p 15-16.

<sup>26</sup> Ibid. p 15-19.

expensive and the consumer might understand this, the demand has not decreased substantially.<sup>27</sup> Due to the increasing demand and the over-indebtedness problems of the past decade, Member States' national consumer protection policies and legislators have actively been enacting laws to limit the costs that the creditors can charge and imposing guidelines for responsible lending and credit assessment.

In Finland, in case KKO:2015:60, the Supreme Court ruled that for an unsecured continuous credit of EUR 2,000, the interest rate on the credit could be considered unreasonable if the APR was at least 122.54 percent and the nominal interest was at least 118.90 percent.<sup>28</sup> The Supreme Court gave a ruling regarding the specific case and stated: “[...] *the case-law of the European Court of Justice (ECJ) provided little guidance as to when an individual term is to be regarded as unfair or the price as inappropriate*”.<sup>29</sup> As the ECJ only provides the framework for “reasonable costs”, it is up to the Member States to regulate on a national level when credit costs are to be considered as high cost credit. In 2016, the Finnish Consumer Ombudsman presented to the Finnish Government that in all aid cases they up ended with an amicable settlement when the creditors cancelled credit costs from the disputed part.<sup>30</sup> Due to the very few court rulings in Finland, legal praxis does not exist.

In October 2019, after the latest amendment to Chapter 7 of the Finnish CPA was enforced, the Finnish Consumer Ombudsman initiated a preliminary opt-in process for a class action suit regarding unreasonably high credit costs against two instant continuous credit providers in Finland.<sup>31</sup> At the time of submitting this graduation thesis, the outcome of the class action suit was not concluded.

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<sup>27</sup> Durkin T. A., Ellihausen G., Staten M. E., Zywicki T. J. (2015). Consumer Credit and the American Economy: *an overview*. Journal of Law, Economics & Policy, Forthcoming. George Mason University Legal Studies Research Paper Series LS 15-18; George Mason University Law and Economics Research Paper Series No. 15-34. p 24-25.

<sup>28</sup> Judgement of 15 September 2015, KKO:2015:60, Finnish Supreme Court, S2014/652.

<sup>29</sup> Ibid.

<sup>30</sup> Finnish Consumer Ombudsman. (2016). Kuluttaja-asiamiehen aloite kuluttajaluottolainsäädännön muuttamiseksi sekä kohtuuttomia sopimusehtoja koskevan sääntelyn tarkistamiseksi. (Consumer Ombudsman initiative to amend consumer credit legislation and review regulation on unfair contract terms). Motion for the Ministry of Justice, Finland 23.9.2016. Diary nr KKV/742/03.01/2016. Accessible: <https://www.kkv.fi/ratkaisut-ja-julkaisut/aloitteet-lausunnot-ja-kannanotot/2016/kuluttaja-asiamiehen-aloite-kuluttajaluottolainsaadannon-muuttamiseksi-seka-kohtuuttomia-sopimusehtoja-koskevan-saantelyn-tarkistamiseksi/>

<sup>31</sup> Finnish Competition and Consumer Authority. (2019). Finnish Consumer Ombudsman intervenes in unreasonable instant credit plan costs – *preliminary opt-in for class action begins*. 23.10.2019. Accessible: <https://www.kkv.fi/en/current-issues/press-releases/2019/23.10.2019-finnish-consumer-ombudsman-intervenes-in-unreasonable-instant-credit-plan-costs/>

## 1.4. Exclusions

The research focus is on all credit types that are within the scope of the CCD and Chapter 7 of the Finnish Consumer Protection Act (1978/38), as amended. Exclusions of the reviewed credit include but are not limited to<sup>32</sup>:

- Any credit agreement where the credit APR is zero percent
- Credit agreements where the collateral or another comparable security commonly used in a Member State relates to immovable property (Article 2(2)(a) of the CCD)
- Credit agreements where the purpose is to acquire or retain property rights to real estate (Article 2(2)(b) of the CCD)

The research will not assess the impacts of the 4<sup>th</sup> or the upcoming 5<sup>th</sup> Anti-Money Laundering Directive<sup>33</sup> regarding consumer credit, its definitions, credit assessment or responsible lending provisions.

## 1.5. Presenting non-collateral consumer credit information — responsibilities of the creditor set by the legislator

The approach of European consumer law is a so-called information approach.<sup>34</sup> The underlying expectation of the approach is to provide sufficient information for the consumer who can then make educated and informative choices within the free market. This approach has been the foundation of the EU consumer legislation.<sup>35</sup> The currently enacted CCD states that the types of offered credit are evolving with considerable speed. For the EU to offer sufficient consumer protection and free movement of goods and services within the Member State area, creditors have been imposed with obligations to present the credit agreement data in a standardised format. This is also applicable to credit intermediaries that assist consumers in undertaking credit agreements and/or concluding credit agreements on behalf of the creditor.<sup>36</sup> The key components regarding

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<sup>32</sup> Report from the Commission to the European Parliament and the Council on the implementation of Directive 2008/48/EC of credit agreements for consumers. (2014). European Commission. p 2. Accessible: [https://ec.europa.eu/info/sites/info/files/ccd\\_implementation\\_report\\_2014\\_en.pdf](https://ec.europa.eu/info/sites/info/files/ccd_implementation_report_2014_en.pdf)

<sup>33</sup> Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU.

<sup>34</sup> Scholes. A.N. (2012). Behavioural Economics and the Autonomous Consumer. Cambridge Yearbook of European Legal Studies, Vol: 14. p 297.

<sup>35</sup> Ibid. p 297.

<sup>36</sup> *Supra nota* 22. p 1. Sections 1-17.

the presentation and undertaking of credit agreements that affect all citizens of the EU Member States are the Standard European Consumer Credit Information (SECCI) and how to calculate the APR as stated in the EU CCD latest amendment<sup>37</sup>, distance marketing of financial services as referred to in the EU Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC, hereinafter the Distance Selling Directive.

The CCD also sets the framework for the Member States on how to legislate creditors and credit intermediators in order to provide end consumers an understandable way of evaluating and understanding the credit details and contractual terms and conditions they are about to undertake.<sup>38</sup> One of the most visible changes occurred in credit advertising, where the creditor or the intermediary now needs to present examples of credit pricing elements, total costs and the repayment schedule.

### **1.6.Precontractual information - SECCI**

The creditor is obliged, without the consumer's request and prior to signing the credit agreement, to present a SECCI document as referred to in the CCD Article 10.<sup>39</sup> SECCI provides key information of the credit in a standardised format, which enables the consumer to compare similar credit products and make informed decisions. SECCI presents the key metrics of the loan in a detailed manner. These elements specify, among other requirements; the type of credit, the total amount of the credit and conditions governing the drawdown, the duration of the credit, borrowing rate (namely nominal interest), the APR, the amount of payments, obligation to enter into ancillary service agreement and its costs and right of withdrawal and early repayment.<sup>40</sup> SECCI needs to be provided to the consumer in good time prior to the conclusion of the contract. SECCI can be presented to the consumer in writing or electronically, but it needs to be provided in a way it can be saved and reproduced unchanged (durable medium as set in Article 5(1) of Directive 97/7). In

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<sup>37</sup> Commission Directive 2011/90/EU of 14 November 2011 amending Part II of Annex I to Directive 2008/48/EC of the European Parliament and of the Council providing additional assumptions for the calculation of the annual percentage rate of charge.

<sup>38</sup> Vandone D. (2009). *Consumer Credit in Europe: Risks and Opportunities of a Dynamic Industry*. Heidelberg: Physica-Verlag.

<sup>39</sup> *Supra nota 22*. Article 5.

<sup>40</sup> *Ibid*. Article 5.

case C-49/11, the ECJ ruled that merely providing a hyperlink to a website does not meet the criteria of a durable medium.<sup>41</sup> However, the credit provider can e.g. guide the client to print out the SECCI document or send it via secured email that is compliant with the EU General Data Protection Act (GDPR) 2016/679.

SECCI does not allow for the presentation of information which is not set down in the CCD. Example of a price component that is excluded is an ancillary service that is not mandatory for the client to take upon undertaking the credit contract. However, if the creditor so chooses, it can provide the customer with additional information in addition to the requirements of the SECCI document, which can be annexed to the form.<sup>42</sup>

### 1.7. Analysis on calculating and presenting the APR in credit agreements

Non-collateral consumer credit has various fee components that enable creditors to tailor financial products for a specific purpose.<sup>43</sup> The aim of the APR calculation is to provide consumers with homogenous comparatives that are transparent and provide a comparable manner of assessing credit costs between creditors and intermediators. The APR formula enforced on the Member States is presented in Annex I of the CCD<sup>44</sup>:

$$\sum_{k=1}^m C_k (1 + X)^{-t_k} = \sum_{l=1}^{m'} D_l (1 + X)^{-s_l}$$

where:

- X is the APR,
- m is the number of the last drawdown,
- k is the number of a drawdown, thus  $1 \leq k \leq m$ ,
- $C_k$  is the amount of drawdown k,
- $t_k$  is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each subsequent drawdown, thus  $t_1 = 0$ ,

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<sup>41</sup> Judgement of 5 July 2012, Content Services Ltd v Bundesarbeitskammer, C-49/11, ECLI:EU:2012:419, paragraph 51.

<sup>42</sup> *Supra nota* 38. p. 105.

<sup>43</sup> Typical fees in consumer loans are opening fee, annual fee, membership fee, monthly fee that is paid together with each repayment and a provision percentage from the issued credit amount.

<sup>44</sup> The CCD. Annex 1. The law has later been complemented in Commission Directive 2011/90/EU.

- $m'$  is the number of the last repayment or payment of charges,
- $l$  is the number of a repayment or payment of charges,
- $Dl$  is the amount of a repayment or payment of charges,
- $sl$  is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each repayment or payment of charges.

The Commission has later adopted Directive 2011/90/EU in order to express a more accurate approach to calculating the APR.<sup>45</sup> In the formidable equation, the formula takes into account the total present value of drawdowns on one side and the total present value of repayments and payments of charges on the other side. The APR calculation leans on an assumption that credit amortisation occurs in an equal pace after drawing the credit down in full. Hence, it does not take into account how customers decide to use e.g. continuous credit. No deviations are included in the standardised calculation. As seen from the APR formula, the calculation takes into account any ancillary service cost prerequisite to obtain the credit and is a prerequisite that must be presented in the SECCI document. Ancillary services that are optional for the consumer shall not be part of the standardised APR calculation.

One of the central flaws of the standardised APR formula is that the APR does not treat credits of various sizes equally, as smaller credits with short maturities will suffer from a relatively high APR compared to larger credits with long maturities. Secondly, in case C377/14, the ECJ also discussed the question of how the credit withdrawal fee distorts the APR.<sup>46</sup> Therefore, the APR is the best option when comparing the exact same type of credits with the same conditions and withdrawal assumptions. Table 1 presents a closed-end consumer credit which is repaid using equal instalments.<sup>47</sup> It illustrates how other fees besides nominal interest can raise the APR of the credit proportionally high. A monthly invoicing fee can include e.g. the invoicing fee and monthly credit card fee if it is a prerequisite to obtain the credit. Chapter 7(6) of the Finnish Consumer Protection Act regarding Consumer Credit follows the CCD regarding credit fees and does not impose any additional requirements for creditors. Article 3(g) of the CCD states that *“total cost of the credit to the consumer means all the costs, including interest, commissions, taxes and any other kind of fees which the consumer is required to pay in connection with the credit agreement and which are known to the creditor, except for notarial costs; costs in respect of ancillary services relating to the credit agreement, in particular insurance premiums, are also included if, in*

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<sup>45</sup> *Supra nota* 32. p. 2.

<sup>46</sup> Judgement of 21 April 2016, E. G. Radlinger, H. Radlingerová v Finway a.s., C377/14, ECLI:EU:C:2016:28.

<sup>47</sup> The APR and the total fees have been calculated using the EC published “Annual percentage rate of charge calculator” with credit type “CCD.” The calculator has not been officially adopted by the EC. Accessible: [https://ec.europa.eu/info/publications/annual-percentage-rate-charge-calculator\\_en](https://ec.europa.eu/info/publications/annual-percentage-rate-charge-calculator_en)

addition, the conclusion of a service contract is compulsory in order to obtain the credit or to obtain it on the terms and conditions marketed;”. Hence, it is not mandatory to present e.g. ancillary service fees related to credit cards and virtual credit cards for the consumer. Member States can impose tighter regulation on which credit fees shall be included in the APR, as the CDD defines the minimum requirements only.

Table 1 – equal amortisation based on monthly payments

Credit sum	Amortisation period (months)	Annual nominal interest	Monthly invoicing fee	Total amount to be repaid	APR
5000	12	7 %	6 €	5 263,56 €	10,0 %
2000	12	7 %	6 €	2 148,60 €	14,3 %
1000	12	7 %	6 €	1 110,36 €	21,7 %
500	12	7 %	6 €	591,12 €	37,3 %
200	12	7 %	6 €	279,72 €	91,9 %
100	12	7 %	6 €	175,80 €	212,6 %

A study by Cherednychenko O.O. and Medndertsma J.-M., commissioned by the European Parliament ECON Committee, suggests that continuous credits, such as credit cards, are one of the most expensive types of credit in terms of interest and usage as customers can usually only pay the minimum monthly instalment and instantly redraw the credit. This can continue indefinitely and can be considered as “persistent debt”. They argue further that this “sweetbox” model is highly profitable as the customer will most likely never repay the debt in full.<sup>48</sup> The high percentage of payers who only pay the monthly minimum or close to the monthly minimum instalment out of all payer types has also been noticed in the United States of America (US), where the minimum repayment can be as low as two percent of the outstanding balance.<sup>49</sup> Even older studies from a time when the minimum monthly instalment might have been five to ten percent of the outstanding balance support the fact that credit cards are a fairly expensive credit option.<sup>50</sup> In their research on “Credit repayment decisions”, Mchugh S. and Ranyard R. concluded that consumers would repay higher instalments if they were presented “[...] information concerning the long-term consequences of alternative repayment options i.e. the associated total cost and loan duration.”<sup>51</sup>

<sup>48</sup> Cherednychenko O.O., Medndertsma J.-M. (2016). Mis-selling of Financial Products: *Consumer Credit*. (Assistant E.) Cujkova J. Directorate General for Internal Policies. Study requested by the ECON committee. IP/A/ECON/2016-17. p 13-14.

<sup>49</sup> Keys. B. J., Wang J. (2019). Minimum payments and debt paydown in consumer credit cards. *Journal of Financial Economics*. Vol: 131. p 529-530.

<sup>50</sup> Bertaut C. C., Haliassos M. (2006). *Credit Cards: Facts and Theories*. The Economics of Consumer Credit. (Eds.) Bertola G., Disney R., Grant C. The Massachusetts Institute of Technology Press. Cambridge, Massachusetts, London England. p 181.

<sup>51</sup> McHugh S., Ranyard R. (2012). Credit repayment decisions – *The role of long-term consequence information, economic and psychological factors*. *Review of Behavioural Finance*. Vol: 4. No: 2. p 110.

In most cases of continuous credit, information regarding the long-term costs of continuous credit is not available for consumers. Another wide research conducted in the US showed similar findings as the ones presented by McHugh S. and Ranyard R.<sup>52</sup>

When a creditor presents the APR for, e.g. a EUR 2,000 credit card, they rely on the assumption that the credit is withdrawn in full and repaid back as stated in Annex 1 on APR of the CCD. Table 2 presents a one-month-long credit which is repaid back within a month after a full withdrawal. The table also presents the typical fee structure of a credit card if the customer repays the full credit on the due date of the invoice. If the customer has been issued with a EUR 2,000 continuous credit but they decide to withdraw small sums and repay everything on the invoice and then redraw a sum equivalent to the repaid instalment, the APR they in fact are paying is much higher than what the example calculations in SECCI present. The use of continuous credit differs from consumer to consumer, hence the total fees measured in APR will have a wide range of fluctuation.

Table 2 – amortisation in one slump sum after one month

Credit sum	Amortisation period (months)	Annual nominal interest	Monthly invoicing fee	Total amount to be repaid	APR
5000	1	7 %	6 €	5 035,17 €	8,80 %
2000	1	7 %	6 €	2 017,67 €	11,10 %
1000	1	7 %	6 €	1 011,83 €	15,20 %
500	1	7 %	6 €	508,92 €	23,60 %
200	1	7 %	6 €	207,17 €	52,60 %
100	1	7 %	6 €	106,58 €	114,80 %

The APR, while not being perfect when discussing different credit types and consumer usage habits, has become the standard reference point in public and political discussion when discussing disproportionate credit fees and over-indebtedness caused by the fees.

## 1.8. The Distance Selling Directive

From the standpoint of the EU and the free movement of goods, services and capital, it has been essential to conduct rules for consumer protection in relation to consumer credit which is sold across the border and via online services. The majority of the sales of credit products is carried out through intermediators or online services where traditional customer identification, document

<sup>52</sup> Soll J. B., Keeney R. L., Larrick R. P. (2013). Consumer Misunderstanding of Credit Card Use, Payments, and Debt: *Causes and Solutions*. Journal of Public Policy & Marketing. Vol: 32. Iss: 1. p 66-81.

verification and credit assessments are being automated with increasing speed. The latest study by the Finnish Competition and Consumer Authority and the BoF revealed that foreign credit institution consumer credit balance sheets had tripled in size, totalling circa EUR 2 billion, while the total consumer credit market in Finland is worth circa EUR 22 billion.<sup>53</sup> The total GDP in Finland was EUR 232.01 billion in 2018.<sup>54</sup>

Before a consumer undertakes offered credit agreements as referred to in Article 2(b) of the Distance Selling Directive, the service provider must give the initial service agreement, in this context the credit contract, for review “*In good time before the consumer is bound by any distance contract of offer...*”<sup>55</sup> The directive enforces service providers to provide customers with the loan contract’s contractual terms and conditions and appendices as enforced by the national legislations as well as the information in the SECCI document as referred to in chapter 1.6. The consumer is also entitled to receive the previously mentioned documents in printed form by request.<sup>56</sup> Chapter 7(10-11) of the Finnish CPA enforce clear guidelines on how to provide all the required CCD documents for the client. In case the credit agreement is conducted via telephone or by any other means of telecommunication, SECCI shall be provided to the consumer in a permanent manner and without any delay.<sup>57</sup>

## 1.9. The right of withdrawal

Article 6 states that the consumer shall have the right to withdraw from the undertaken contract. The creditor has a duty to inform the consumer of their rights.<sup>58</sup> The SECCI document enforces all Member State credit providers to clearly state the number of days during which the contract can

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<sup>53</sup> Järvelä K., Raijas A., Saastamoinen M. (2019). Pikavippiongelmiä laatu ja laajuus. (The nature and extent of instant credit problems). Kilpailu- ja kuluttajaviraston selvityksiä 3/2019. Suomen Kilpailu- ja kuluttajavirasto. (Finnish Competition and Consumer Authority). p. 3. Accessible: <https://www.kkv.fi/globalassets/kkv-suomi/julkaisut/selvitykset/2019/kkv-selvityksia-3-2019-pikavippiongelmiä-laatu-ja-laajuus.pdf>

<sup>54</sup> The Statistics Finland. (2018). Bruttokansantuote (BKT) 1975-2018\*. (Gross Domestic Product 1975-2018\*). Kansantalouden tilinpito. Tilastokeskus. Accessible: [http://www.stat.fi/til/vtp/2018/vtp\\_2018\\_2019-06-20\\_tau\\_001.fi.html](http://www.stat.fi/til/vtp/2018/vtp_2018_2019-06-20_tau_001.fi.html)

<sup>55</sup> Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. Article 3(1).

<sup>56</sup> Ibid. Article 5(3).

<sup>57</sup> Kuluttajansuojalaki (Finnish Consumer Protection Act) 38/1978, as amended. Chapter 7(10) and (11). Finlex Data Bank.

<sup>58</sup> (2008). EC Consumer Law Compendium. *The Consumer Acquis and its transposition in the Member States*. (Eds.) Schulte-Nölke H., Twigg-Flesner C., Ebers M. Munich: Sellier. European law publishers. European Law Publishers. p 473.

be revoked. Consumer credit, as defined in the scope of this research, gives the consumer 14 days to use their right of withdrawal. Article 6 of the directive also provides the consumer the right to withdraw from the contract without any penalty or without giving a reason for the withdrawal.<sup>59</sup> Furthermore, according to Article 7(5), shall the consumer use their right of withdrawal, they must, without any delay and no later than 30 days after dispatching the notification of withdrawal, return the received sums.<sup>60</sup> If the consumer fails to return the sums, the withdrawal notification is to be considered void and the customer is considered to have undertaken the original contract in full.

### **1.10. A short history on the non-collateral credit business and legislative developments in the EU**

Retail credit markets in the Member States have significant differences depending on the maturity of the market and the concentration of the creditors. There exist very few banks or consumer credit companies which have market leadership in more than two Member States. Cross-border lending can be said to be non-existent.<sup>61</sup> The same issue extends to the credit demand from consumers. Possible explanations are the business models, the complexity of the regulatory frameworks and the lack of credit registers in the Member States.<sup>62</sup>

Consumer credit regulations in the EU Member States were more diversified before the reformed CCD in 2008, which forced the Member States to adopt the directive's provisions by 12 May 2010. The first CCD was enforced in 1986, and before the revision of the current CCD that started in 2002, the directive had been amended in 1990 and 1998.<sup>63</sup> The first directive (87/102/EEC) was enforced when access to consumer credit was still quite limited in some Member States and most Member States had independent currencies.<sup>64</sup> With the enactment of the latest amended CCD, the EC wanted to impose disclosure regulation regarding consumer credit, a foundation for future product innovations and adopt a single-market approach for cross-border consumer lending.<sup>65</sup> The

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<sup>59</sup> *Supra nota* 55. Article 6(1).

<sup>60</sup> *Ibid.* Article 7.

<sup>61</sup> Franken, S. M. (2009). *Consumer Credit, Debt and Bankruptcy – Comparative and International Perspectives*. Ed. Niemi J., Ramsay I., Whitford W.C. Oxford: Hart Publishing. p. 132.

<sup>62</sup> *Ibid.* p. 132.

<sup>63</sup> *Supra nota* 38. p. 100.

<sup>64</sup> *Ibid.*

<sup>65</sup> *Ibid.*

aim of the disclosure regulation was not only to set provisions and provide credit costs in a standardised format (SECCI), but to encourage consumers to shop around for the best credit that would fulfil their needs.<sup>66</sup> As pointed out in the previous chapters, the APR and SECCI are far from perfect and they exclude various fee components. Nevertheless, the CCD has been by far the greatest single Directive on consumer credit legislation of the modern EU era. The Member States, while following the provisions set in the CCD, have room to make legislative changes concerning the consumer credit issued in their country.

### **1.11. A short history on the non-collateral credit business and the legislative developments in the Republic of Finland — triggers for a new era of regulations on consumer credit**

In Finland, consumer protection was already efficient before the CCD was enforced, and it was based on a single act called the Consumer Protection Act of 1978. The original Act mostly covered selling and marketing situations and included provisions on the right of withdrawal. Compared to the other Member States, the Finnish public authorities have a significant freedom to decide what should be done regarding consumer protection in a particular situation. E.g. the Finnish Consumer Ombudsman, which supervises consumer protection, has the possibility to impose injunctions in case of unfair contract terms. The Consumer Ombudsman can also enact non-binding guidelines that are being referred to in Finnish case law, and the Consumer Ombudsman can choose to help individual consumers.<sup>67</sup> The practical upside of the power of the public authorities (e.g. the Consumer Ombudsman) has given an agile way to react to new financial products and market practices.<sup>68</sup> The Finnish Consumer Protection Act imposed better protection for consumers compared to the other Member States before the transposition of the CCD.

Finnish consumer credit businesses started transforming after the first instant loans were granted via SMS in 2005. Instant loans were a new type of financial product without any official or legal definition. The common traits for instant loans were high APR, which was due to the very short repayment time, closed-end credit type and the loans being based on a business model where the

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<sup>66</sup> *Supra nota* 61. p. 129-131.

<sup>67</sup> *Supra nota* 58. p. 26-27.

<sup>68</sup> *Ibid.* p 26-27.

credit provider was not legally obligated to carry out any credit assessments to ensure the repayment of the credit. The credit providers were also not under any supervision by a separate body or authority independent from the financial institutions before the credit providers were put under the scope of the Finnish Act on the Registration of Certain Creditors (747/2010).<sup>69</sup> Only when the credit provider is registered, pursuant to the Finnish Act on the Registration of Certain Creditors (747/2010), are they able to practice credit issuance.<sup>70</sup> Credit business was generally very profitable, which brought many credit providers to the Finnish market and made credit accessible to people who were previously excluded from the credit market. There was a wide consensus on that small instant loans caused over-indebtedness problems for some consumers and due to this, non-collateral consumer credit became a hot topic among the people, politicians and legislators.<sup>71</sup> While politicians usually have to use concepts such as “feeling and framing rules” that allow them to implement decisions that are politically more difficult through storytelling and impacting collectively shared feelings — in the case of consumer credit and over-indebtedness, the pressure for policymaking rose from the general public and from the collective feeling to limit consumer credit usage.<sup>72</sup> Chapter 7 of the Consumer Protection Act, which regulates consumer credit, has been revised multiple times during the past 12 years, and the major key points and developments leading to the latest amendment, enacted on 1 September 2019, will be further assessed in the chapter Finland – Consumer credit.

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<sup>69</sup> Makkonen A. (2014). Instant loans: *Problems and regulations in Finland*. Juridica International Series 22. p. 96-119.

<sup>70</sup> Laki eräiden luotonantajien rekisteröinnistä (Finnish Act on the Registration of Certain Creditors) 747/2010, as amended. Finlex Data Bank.

<sup>71</sup> *Supra nota 69*. p. 96-119.

<sup>72</sup> Autto J., Törrönen J. (2019). ”Yes, but all responsible Finns want to stop living on credit”: *Feeling rules in the Finnish politics of austerity*. Citizenship studies. Vol: 23. Iss: 1. p. 81-82.

## **2. CONSUMER SOCIETY AND OVER-INDEBTEDNESS ANALYSIS REGARDING CONSUMER CREDIT IN THE EU AND IN FINLAND**

Credit has historically been seen as an attempt to live beyond one's means or as a personal vicious debt cycle that will eventually lead to an economic catastrophe. It is argued that evidence supporting this is weak.<sup>73</sup> As discussed in the chapter Credit types, many things in life would be difficult or practically impossible to achieve without the possibility to change the timing of inflow and outflow of cash. Without a student loan, a young person would not necessarily get a higher education, which affects their future earning potential. Without a car loan, an employee might need to turn down possible employment offers. The modern commercial economy functions due to functioning financial services, which include credit services.<sup>74</sup>

Since the millennium, credit markets have experienced significant development regarding legislative changes on the EU level, changing distribution channels and supply chains and both consumers and service providers adopting digital tools at a fast pace.<sup>75</sup> As borrowing opportunities can enable consumers to maximise the timing of investments, the risk of the financial system being disturbed is increasing. During the 2008 financial crisis, short-term credit markets between banks were frozen as banks responded to the crisis by retaining cash and tightening their control over lending.<sup>76</sup> The impact on the financial market was substantial, affecting consumers and businesses globally as the majority of western countries suffered from severe recession. After the crisis stabilised, the consumer credit market has experienced a surge as it is seen as a means to access durable goods faster, and it has turned out to be one of the key drivers driving the capitalistic economy.<sup>77</sup>

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<sup>73</sup> *Supra nota 24.* p. 3.

<sup>74</sup> Levitin Adam J. (2018). *Consumer Finance Law: Markets and Regulation*. New York: Wolters Kluwer. p 1

<sup>75</sup> *Supra nota 21.* p. 3.

<sup>76</sup> Davison, L. (2019) The Temporary Liquidity Guarantee Program: *A Systemwide Systemic Risk Exception*. *Journal of Financial Crises*: Vol. 1 : Iss. 2, 1, p. 8-9.

<sup>77</sup> Hudson Edward A. (2015). *Economic Growth: How it works and how it transformed the world*. Delaware: Vernon Press. p. 291.

Edward A. Hudson researched the economic growth of the United Kingdom (UK) and the US and suggested that an innovative and consumer-oriented approach increased consumer demand, which helped the economy grow rapidly.<sup>78</sup> Industries grew until the market was saturated, and the growth was replaced by new growth industries. The S-shaped curve of the logistical model of adoption summarises the typical demand curve for a new product. First, early adopters purchase the product, which is followed by increased supply and demand and eventually, the market saturates. The modern-era commerce utilises credit to speed up the consumer adoption process by removing the barrier of not having enough cash. The increased consumer credit, consumer spending and productivity combined with governmental interventions using Keynesian economics have brought economic prosperity, stability and reduced economic fluctuations.<sup>79</sup>

## 2.1. Over-indebtedness arising from credit

Even though we live in a consumer society where the majority of our large investments are purchased on credit, over-indebtedness is one of the major factors in creating poverty, especially within the low-income households.<sup>80</sup> There is a common belief that by imposing stricter regulation on credit supply and by controlling the use of credit on a national level, we can make the problem of over-indebtedness smaller.<sup>81</sup>

The word over-indebtedness has been a disputed issue among the Member States and even today, no single definition exists for the word over-indebtedness in the EU or inside the Member State institutions. In a thorough research in 2008, the EC discussed the term over-indebtedness and its definition across the Member States.<sup>82</sup> In 2008, the EU Economic and Social Committee stated: *“The practical aim is to define a fundamentally identical framework to identify and typify situations in which households (...) are objectively unable, on a structural and ongoing basis, to pay short-term debts, taken out to meet needs considered to be essential, from their habitual*

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<sup>78</sup> Ibid. p. 290.

<sup>79</sup> Ibid. p 290-291.

<sup>80</sup> Gutiérrez-Nieto, B., Serrano-Cinca, C. and De la Cuesta, M. (2016), A multivariate study of over-indebtedness' causes and consequences, *International Journal of Consumer Studies*. p 189.

<sup>81</sup> Niemi J., Ramsay I., Whitford W.C. (2009). *Consumer Credit, Debt and Bankruptcy – Comparative and International Perspectives*. Oxford: Hart Publishing.

<sup>82</sup> European Commission. (2008). *Towards a common operational European definition of over-indebtedness*. Directorate-General for Employment, Social Affairs and Equal Opportunities. Inclusion, Social Policy Aspects of Migration, Streaming of Social Policies. p. 33. Accessible: [http://www.oee.fr/files/study\\_overindebtedness\\_en.pdf](http://www.oee.fr/files/study_overindebtedness_en.pdf)

*income provided by work, financial investments or other usual sources, without recourse to loans to finance debts contracted previously*". In the same research, the EC also stated that the Group of Specialists for Legal Solutions to Debt Problems at the European Council defined the word as a changing concept of paying a credit and having difficulties paying daily invoices.<sup>83</sup>

The Member State governments' approach to the definition can be categorised in two main types. The first category includes legal/administrative measures, such as debt enforcement, arrears in payments and imposing payment default marks.<sup>84</sup> The second category treats over-indebtedness as a subjective type: when the debtor or the household feels that they are over-indebted.<sup>85</sup> The subjective approach is multidimensional and complex, as it might refer to current cash shortage to pay invoices, but does not take into account e.g. personal assets/collateral the consumer might have. Also, according to some studies, consumers tend to underappreciate the possible changes in their lives, hence falsely projecting their capability to invest using credit.<sup>86</sup> Some researchers conclude that the main reason behind the over-indebtedness of a consumer is an unforeseen misfortunate life event rather than reckless spending habits.<sup>87</sup> This might be true, but lifestyle choices and self-control mechanisms also affect the decision-making.<sup>88</sup>

Different households handle different amounts of credit differently depending on their spending habits. It needs to be noted that when discussing household credit, the definition of a household varies based on the Member State legislation. The common European operational definition for a household is a person or group of persons who share the same living accommodation and pool some or all of their income and wealth.<sup>89</sup> The definition does not separate e.g. households where a young adult (the child) is over-indebted and the parents are not.

## **2.2.Over-indebtedness in the Republic of Finland**

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<sup>83</sup> Ibid. p. 33.

<sup>84</sup> Ferretti F. (2007). The Regulation of Consumer Credit Information Systems: is the EU Missing a Chance? *Legal Issues of Economic Integration*. Vol: 34 Iss: 2. p. 125.

<sup>85</sup> Niemi J., Ramsay I., Whiford W.C. (2009). *Consumer Credit, Debt and Bankruptcy – Comparative and International Perspectives*. Oxford: Hart Publishing. p. 94.

<sup>86</sup> *Supra nota 80*. p. 190.

<sup>87</sup> *Supra nota 84*. p. 125-126.

<sup>88</sup> Oksanen A., Aaltonen M., Rantala K. (2015). Social Determinants of Debt Problems in a Nordic Welfare State: a *Finnish register-Based Study*. *Journal of Consumer Policy*. Vol: 38. Iss: 3. p. 231.

<sup>89</sup> This definition is derived from the European System of Accounts methodology (ESA 95).

In Finland, over-indebtedness issues are being dealt with by various government agencies and legislative bodies. The Ministry of Trade and Industry is responsible for the policies, and the Ministry of Justice prepares legislation relating to credit and over-indebtedness. Other agencies dealing with over-indebtedness and credit policies are the Advisory Council on Consumer Affairs, the Consumer Ombudsman, the National Consumer Research Center (under the Ministry of Trade and Industry) and the National Research Institute of Legal Policy (under the Ministry of Justice). A European Commission study revealed that each of the institutions uses a different definition for over-indebtedness in their publications.<sup>90</sup> The Finnish Statistics did a wide questionnaire study on Finnish wealth in 2016, where they found that 58% of Finnish households have credit, and 18% of households owing credit have three times or more credit compared to their annual gross income.<sup>91</sup> The Bank of Finland (BoF) defines a household over-indebted when its credit exceeds the annual gross salary five-fold.<sup>92</sup> A thorough examination of the institution's publications and online articles does not reveal what the estimate of over-indebted households in Finland is based on the BoF's definition. Finnish Statistics measure indebtedness of dwelling units (based on address) and according to its latest study in 2017, approximately 2.5% of households have credit that is more than five times bigger than their annual gross salary. The debt calculations do not include e.g. debt arising from housing companies, nor does it include debt from instant loan companies that are registered as credit providers under the Finnish Act on the Registration of Certain Creditors 747/2010, as amended.<sup>93</sup> The Finnish government's analysis, assessment and research activities unit has also raised concern regarding the missing unified definition in the EU area which makes the study, comparison and interpretation of statistical material practically unusable.<sup>94</sup> Nevertheless, politicians, legislators and the BoF economists try to do comparative studies when drafting new laws and restrictions that mitigate over-indebtedness.

The Finnish over-indebtedness problem cannot be divided into clear categories due to reasons listed in the previous chapters. Personal bankruptcy in Finland is not possible, while legal

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<sup>90</sup> *Supra nota* 82. p. 34.

<sup>91</sup> Statistics Finland. (2016). Kotitalouksien varallisuus. (The wealth of households). Helsinki. Accessible: [http://www.stat.fi/til/vtutk/2016/vtutk\\_2016\\_2018-06-05\\_tie\\_001\\_fi.html](http://www.stat.fi/til/vtutk/2016/vtutk_2016_2018-06-05_tie_001_fi.html)

<sup>92</sup> Blomgren J., Maunula N., Hiilamo H. (2014). Sairastuttaako velka? 15 vuoden seurantatutkimus pitkäaikaisesti ylivelkaantuneista. Yhteiskuntapolitiikka Vol: 79 Iss:3. p 246-263.

<sup>93</sup> Statistics Finland. (2017). Velkaantumistilasto. (Statistics on debt). Tilastokeskus. Accessible: [https://www.stat.fi/til/velk/2017/velk\\_2017\\_2019-01-25\\_tie\\_002\\_fi.html](https://www.stat.fi/til/velk/2017/velk_2017_2019-01-25_tie_002_fi.html)

<sup>94</sup> Peura-Kapanen L., Aalto K., Lehtinen A.-R., Järvinen R. (2016). Ylivelkaantumisen ehkäisy ja hoidon tehostaminen. The Finnish government's analysis, assessment and research activities Publication Series 26/2016. p 22-23.

collections (enforcement) can last for as long as 15 years before the debt expires in commercial cases.<sup>95</sup> In 2005, Finnish researcher Muttilainen studied debt adjustments in Finland and found that 40% of the debt arises from consumer credit and almost half of the correspondents have connections to businesses.<sup>96</sup> The same study revealed that ill health (mental or physical) was a common reason behind credit problems, not only indifferent spending habits. This connection is also supported by several other studies conducted in other Member States.<sup>97</sup> A newer study revealed that the current measures that are meant to prevent over-indebtedness do not provide equal treatment for consumers and are usually offered when it is too late.<sup>98</sup> Research also points out that the increase of single-person households has increased the general use of credit, and while this is generally a problem in all ages and social economical statuses, there is clearly a higher risk for over-indebtedness among young people.<sup>99</sup> There is also clear evidence that young Finns leave parental homes earlier compared to other EU Member States (except for other Nordic countries), which has been identified as a risk factor increasing poverty and excessive use of credit.<sup>100</sup> In 2009, a study on instant credit usage among Finnish people under 29 years of age revealed that young people use instant credits mostly to cover everyday costs and purely for consumption purposes.<sup>101</sup> These findings are supported by a second register-based study on young Finns.<sup>102</sup> Both studies indicate that deficiencies in financial literacy is a major factor increasing over-indebtedness which can be seen especially among young adults. Over-indebtedness has also shown a strong connection with disability pension.<sup>103</sup> The studies do not reveal whether over-indebtedness increases the risk for poor health and unemployment or whether it is a consequence arising from these social issues.

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<sup>95</sup> Oksanen A., Savolainen I., Sirola A., Kaakinen M. (2018). Problem gambling and psychological distress: *a cross-national perspective on the mediating effect of consumer debt and debt problems among emerging adults*. Harm Reduction Journal. Vol: 15. Iss: 45. p. 2.

<sup>96</sup> Muttilainen, V. (2007). Velkajärjestelyt tuomioistuimissa. *Velalliset ja maksuohjelmat vuonna 2005*. (Debt settlements in courts. Debtors and payment programs in 2005). Oikeuspoliittisen tutkimuslaitoksen tutkimustiedonantoja 75/2007.

<sup>97</sup> *Supra nota* 82. p. 19.

<sup>98</sup> *Supra nota* 94. p. 9.

<sup>99</sup> Raijas A., Lehtinen A.-R., Leskinen J. (2010). Over-Indebtedness in the Finnish Consumer Society. *Journal of Consumer Policy* Vol: 33. Iss. 3. p 214-215.

<sup>100</sup> Oksanen A., Aaltonen M., Majamaa K., Rantala K. (2017). Debt problems, home-leaving, and boomeranging: *A register-based perspective on economic consequences of moving away from parental home*. *International Journal of Consumer Studies*. Vol: 41. Iss: 3. p 340-341.

<sup>101</sup> Autio M., Wilska T.-A., Kaartinen R., Lähteenmaa J. (2009). The use of small instant loans among young adults – *a gateway to consumer insolvency?* *International Journal of Consumer Studies*. Vol: 33. Iss: 4. p 409-411.

<sup>102</sup> Oksanen A., Aaltonen M., Rantala K. (2016). Debt problems and life transitions: *a register-based panel study of Finnish young people*. *Journal of Youth Studies*. Vol: 19. Iss: 9. p 1184-1203.

<sup>103</sup> Blomberg J., Maunula N., Hiilamo H. (2016). Do debts lead to disability pension? *Evidence from 15-year follow-up 54,000 Finnish men and women*. *Journal of European Social Policy*. Vol: 27. Iss: 2. p 120.

In Finland, there are two commonly observed measurements of over-indebtedness problems. The first is the number of individuals who have at least one registered payment default mark, which is considered to be a legal/administrative measurement of over-indebtedness.<sup>104</sup> Supporting evidence for the use of the legal/administrative approach of over-indebtedness can be found in the Finnish Government proposal for the Parliament of Finland to amend the provisions in consumer credit agreements, which was later enforced. The Government presented the Ministry of Justice with statistics regarding the increasing amount of summary civil cases with the concern that “for a long time, the courts have also been burdened with debt issues related to unpaid consumer credit”.<sup>105</sup> Court cases relating to credits can be quantified and, therefore, the numbers are comparable and also undisputable to a certain extent. It gives an indication of a possible increasing underlying credit problem on a macroeconomical level and hence, the legislator and involved parties also refer to quantifiable numbers in their motions and articles during the legislation drafting processes. The second most referred figure is the credit to net income ratio, which has increased almost every year during the past 20 years. The debt to net income ratio of Finnish households was 138 percent, while in Estonia, it was 80 percent, in Sweden, 188 percent, in Norway, 238 percent or 281 percent according to the situation at the end of 2018 or latest available.<sup>106</sup> The debt in these statistics does not include debt arising from housing companies, nor does it include debt from instant loan companies that are registered as credit providers under the Finnish Act on the Registration of Certain Creditors 747/2010, as amended. Current data does not reveal how the household net worth affects over-indebtedness either.<sup>107</sup> Therefore, it is hard to conclude how much the underlying Finnish household credit to net income ratio in reality is. Since the late 1980s, the Finnish Government has discussed the establishment of a centralised positive credit registry in Finland.<sup>108</sup> In the current Government Programme, the Finnish Parliament recorded that by 2023, Finland will have a positive credit registry, which would reveal the real indebtedness of people on an individual level.<sup>109</sup>

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<sup>104</sup> *Supra nota 6.*

<sup>105</sup> The Finnish Government. (2018). Hallituksen esitys eduskunnalle kuluttajaluottosopimuksia ja eräitä muita kuluttajasopimuksia koskevien säännösten muuttamisesta (luonnos). (Government proposal to Parliament on amending provisions on consumer credit agreements and certain other consumer contracts (draft)). Accessible: [https://api.hankeikkuna.fi/asiakirjat/d31aeb71-63a2-4003-9876-b0c0591699b9/d6c16ffa-e614-414f-b7cf-0e8ce4513ca3/LIITE\\_20181015120122.pdf](https://api.hankeikkuna.fi/asiakirjat/d31aeb71-63a2-4003-9876-b0c0591699b9/d6c16ffa-e614-414f-b7cf-0e8ce4513ca3/LIITE_20181015120122.pdf) p. 2-3.

<sup>106</sup> OECD. (2019). Household debt (indicator). Accessed on 20 October 2019. Accessible: doi: 10.1787/f03b6469-en

<sup>107</sup> Ministry of Finance, Finland. (2019). Report on means to prevent excessive household indebtedness – Report of the working group. Publications of the Ministry of Finance, Finland 2019:56. p. 14-15.

<sup>108</sup> Kontkanen E., Lång J. (2018). Selvitys positiivisia luottotietoja koskevan järjestelmän edellytyksistä.

(Explanation of the requirements for a positive credit registry). Oikeusministeriön julkaisu 26/2018. Ministry of Justice, Finland. Accessible: <http://urn.fi/URN:ISBN:978-952-259-701-4>

<sup>109</sup> Government Program, Finland. (2019). Government Program Point 3.4 Dynamic and thriving Finland. Accessible: <https://valtioneuvosto.fi/en/rinne/government-programme/dynamic-and-thriving-finland>

### 3. ASSESSING LAWS AND LEGAL NORMS GOVERNING FINNISH CONSUMER CREDIT

In Finland, consumer credit is regulated in Chapter 7 of the Consumer Protection Act (23/1978 as amended). Chapter 7(1) of the CPA (as amended) defines consumer credit as “*a credit granted or authorized by the lender under contract to the consumer in the form of a loan, deferral of payment or other similar financial arrangement.*”<sup>110</sup> Chapter 7 covers the regulation of consumer credit contracts, marketing and other contractual relations, such as customer identification and documentation, that shall be obeyed throughout the credit lifecycle from credit issuance to provisions regulating credit repayment. In addition, the Consumer Protection Act covers the regulation related to distance selling following the EU Distance Selling Directive as discussed in Chapter 1.8.<sup>111</sup> Chapter 7(13) of the CPA also enforces provisions on good lending practices that are outside of the scope of the CCD which will be discussed further in this chapter.

The CPA has evolved section by section as a response to the evolving credit business, products and financial technology. As for the amendments, the majority of the regulatory revisions have been initiated due to the rising over-indebtedness problem, a general increase in household debt, increase in payment default marks and new credit distribution methods and product innovations. A report on the means of preventing excessive household over-indebtedness by the Finnish Ministry of Justice states that the consumer who is applying and undertaking a credit agreement or any other financial service is in many respects in a weaker position than the professional service provider. Hence, the legislator is looking for means “to balance out the imbalance.”<sup>112</sup> To remedy this inequality, consumer protection provisions are enforced on financial service providers who are issuing credit. Legislation cannot react as fast as the business is evolving and can only try to

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<sup>110</sup> *Supra nota 57.* Chapter 7(1).

<sup>111</sup> *Supra nota 69.* p. 97-98.

<sup>112</sup> *Supra nota 107.* p. 35.

mitigate the obvious flaws, loopholes and spill-over effects which emerge and cannot be detained by e.g. the Consumer Ombudsman.

The first major amendment to Chapter 7 of the CPA were enforced in February 2010 before the CCD entered into force. The amendment enforced mandatory consumer identification and banned night-time lending between 11 p.m. and 7 a.m.<sup>113</sup> The previously allowed night-time lending had led to ill-advised consumer credit undertakings and increased the risk of fraud significantly. Chapter 7 of the CPA was amended for the second time in December 2010 as the provisions set forth in the CCD were implemented. In addition, the amendment updated the provision on credit definitions. In the CPA, open-end credit had been defined as continuous account credit, which was now replaced with a definition of continuous credit. Continuous credit reflected the new products and possible future product innovations and credit usage more accurately, as the previous wording referred to an attached bank account.<sup>114</sup> Chapter 7(7) of the currently enforced CPA still follows the credit definitions amended in 2010<sup>115</sup>:

- “1) continuous credit means a consumer credit that is continuously available to the consumer up to a predetermined credit limit without a separate credit decision by the lender;  
2) one-time consumer credit other than continuous credit;”

The second CPA amendment in 2010 also forced Finland to enact Article 20 of the CCD, which requires that “Member States shall ensure that creditors are supervised by a body or authority independent from financial institutions, or regulated.”<sup>116</sup> In Finland, credit providers can be credit institutions (such as traditional banks) as referred to in the Law on Credit Institutions (610/2014) or other consumer creditors as referred to in the Finnish Act on the Registration of Certain Creditors 747/2010, as amended. The Finnish Act on the Registration of Certain Creditors 747/2010, as amended, covers all other creditors than creditors subject to the Law on Credit Institutions.<sup>117</sup> Licensed creditors are supervised by the Regional State Administrative Agency of Southern Finland and institutions under the Law on Credit Institutions are supervised the Finnish

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<sup>113</sup> *Supra nota* 69. p. 98-99.

<sup>114</sup> Government Bill HE24/2010. Hallituksen esitys Eduskunnalle laeiksi kuluttajasuojalain muuttamisesta ja eräiden luotonantajien rekisteröinnistä sekä eräiksi niihin liittyviksi laeiksi. (The government's proposal to Parliament on amending the Consumer Protection Act and the registration of certain lenders, as well as some related laws).

<sup>115</sup> *Supra nota* 57. Chapter 7(7).

<sup>116</sup> Article 20 of the Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.

<sup>117</sup> *Supra nota* 70. Section 1(1).

Financial Supervisory authority. The Finnish Act on the Registration of Certain Creditors 747/2010 was amended later in 2016, when it was extended to peer-to-peer loan brokerage providers, which were outside the scope of the supervision of any authority as they were not specifically covered by Article 20 of the CCD.<sup>118</sup> Peer-to-peer loan brokerage is a good example of a credit brokerage and credit issuance innovation where the credit issuer does not necessarily legally own the credit receivables, but rather, offers a platform for creditors and credit consumers, where consumer credit can be applied for and managed. The scope of the CCD does not extend to peer-to-peer loan brokerage, and it has been up to the Member States to set regulations and provisions. The Finnish Act on the Registration of Certain Creditors 747/2010, as amended, requires any licensed creditor to be trustworthy, possess the necessary knowledge of the consumer lending business and for the person or legal entity to not be subject to any bankruptcy proceedings. To engage in consumer credit or peer-to-peer brokerage in Finland without an approved registration is a criminal offence punishable by a fine or a prison term of up to six months.<sup>119</sup>

### **3.1.Law reform in 2013**

Due to the increasing problems arising from undertaken short-term credit, the population over-indebtedness and payment default marks increased which lead to an amendment of the Chapter 7 of the CPA in 2013, with the addition of provisions on the maximum APR that creditors were allowed to charge for credits under EUR 2,000 .<sup>120</sup> The maximum APR was set to 50 percent plus the reference rate set out in the Interest Act (Korkolaki 633/1982, as amended). The aim was to force creditors to make better credit assessments, and the Finnish Government also assumed that the creditors would not issue credits over EUR 2,000, as it increases the credit risk and requires more capital and equity.<sup>121</sup> The amendment also prohibited charging for SMS services related to credit issuance, due date extensions and other credit management-related operations.<sup>122</sup> Creditors were left with the right to charge for phone services related to credit management, namely applying

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<sup>118</sup> Laki eräiden luotonantajien rekisteröinnistä (Finnish Act on the Registration of Certain Creditors) 853/2016 amendment. Finlex Data Bank.

<sup>119</sup> *Supra nota* 70. Section 13.

<sup>120</sup> Government Bill HE 78/2012. Hallituksen esitys Eduskunnalle laeiksi kuluttajasuojalain 7 luvun, eräiden luotoantajien rekisteröinnistä annetun lain sekä korkolain 2§:n muuttamisesta. (The Government's proposal to Parliament on amending Chapter 7 of the Finnish Consumer Protection Act, the Act on the Registration of Certain Lenders and Section 2 of the Interest Act). Section 3.1.

<sup>121</sup> *Ibid.* Yleisperustelut. Section 3.2.

<sup>122</sup> *Ibid.* Yksityiskohtaiset perustelut. Section 1.

for credit and maintaining it. In Government Bill 78/2012 regarding credit fee structure, the legislator notes that “From the point of view of the creditors, the real annual interest rate model has the advantage of not imposing a certain pricing structure on creditors, and creditors could continue charging the interest rate, both interest and costs, or costs alone.<sup>123</sup> In the latest amendment, this reasoning has gone through an inversion.

Before the amendment of 2013 was enacted, PhD O. Juurikkala argued that from a behavioural economics perspective, the instant loan market is problematic as, according to the theory, consumers ought to be choosing the best option available, yet they are choosing the expensive credits.<sup>124</sup> Nevertheless, empirical studies show that an individual is not the perfect decision-maker in the light of rational choice theory.<sup>125</sup> The average European citizen does not possess the adequate level of financial literacy to make their own credit assessments and make rational financial decisions.<sup>126</sup> Juurikkala stated that finding the right type of regulation is complex and proposed that setting a reflection period based on the behavioural economics theory could bring better results than merely imposing APR ceilings.<sup>127</sup> The reflection period was not included in the amendment. The 50 percent APR ceiling plus reference rate combined with the mandatory credit assessments put instant loan creditors out of business or forced them to rethink their business strategy and products. The legislator did not intervene in the fast credit issuance enabled by the automated credit assessment, which does not solve the impulsive behaviour that some consumers possess.

The 2013 law reform on credit interest and other fees failed, which led to a wide and years-long discussion on imposing stricter laws on credit interests and fees. The central problem of the reformed law was in the definition of credit in chapter 7(17a) of the CPA amended in 2013. The section stated; *“If the amount of the credit or credit limit is less than EUR 2,000, the effective annual interest rate under the credit agreement shall not be higher than the reference rate referred to in Article 12 of the Interest Act plus 50 percentage points.”* The wording allowed creditors to issue continuous credits (credit limits and credit cards) with a limit of EUR 2,000 or higher but, in fact, the creditors set contractual limitations which let the customer withdraw the money partially

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<sup>123</sup> Ibid. Yleisperustelut. Section 3.2.

<sup>124</sup> Juurikkala O. (2012). Pikavippien sääntely: *ei korkokattoa, vaan erityinen harkinta-aika*. Oikeus 41. p 452-453.

<sup>125</sup> Oodorović A. (2018). The 'new' paternalism in consumer credit regulation: *When, why, and how?* Anali Pravnog Fakulteta U Beogradu. Vol: 66. Issue:4. p 161-162.

<sup>126</sup> Mak V., Braspenning J. (2012). Errare humanum est: *Financial Literacy in European Consumer Credit Law*. Journal of Consumer Policy: Vol. 35: Iss. 3. pp 309-310.

<sup>127</sup> *Supra nota* 124. p. 452-453.

or added withdrawal and other costs from the second withdrawal onwards that were not disclosed at the point of the initial credit withdrawal. The Finnish Market Court set an injunction on one of largest consumer lending companies in 2018, prohibiting its approach in a credit limit product where the consumer was not charged for the initial withdrawal, hence the fee was excluded from the APR calculation, but the fee was charged from the subsequent withdrawals.<sup>128</sup> The general problem of imposing the APR ceiling is multidimensional in nature as the legislator and the creditor cannot control how consumers use the granted continuous credits. As I illustrated in chapter 1.7 on the use of an open-end credit, small fees raise the APR high even within the “reasonably priced” credits, and the law did not specifically state that the fees are charged based on the credit being used but referred to the credit amount which had been issued. This also enabled all credit providers to charge annual fees for the issued credits even if the consumer never used it (e.g. credit cards). The underlying fee structure for the continuous credit may also be one of the reasons for “persistent debt.”

The second mistake the legislators did was to assume that credit providers would not issue credits that were over EUR 2,000. In a Ministry of Justice news release in 2018, Finnish Minister of Justice Häkkänen noted how credit providers have adjusted their business models according to the current legislation and are mainly issuing credit amounts that are outside the scope of the regulated APR ceiling. He also stated that this is one of the main reasons for assessing and imposing new and tighter regulation.<sup>129</sup> Currently, the Finnish market offers up to EUR 60,000 of non-collateral consumer credit for private individuals.

### **3.2. Usury in Finland**

Usury is forbidden in Finland under chapter 36(6) and (7) of the Finnish Penal Code (39/1889, as amended). Regarding credit providers, Chapter 36(6) subsection 2 states that “A party shall also be condemned if it, in the course of lending, borrows or represents for itself or for another party

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<sup>128</sup> Finnish Competition and Consumer Authority. (2018). Market Court sets injunction on payday loan company IPF Digital Finland. Press release 5.4.2018. Accessible: <https://www.kkv.fi/en/current-issues/press-releases/2018/market-court-sets-injunction-on-payday-loan-company-ipf-digital-finland/>

<sup>129</sup> Ministry of Justice, Finland. (2018). Ministeri Häkkänen: Pikavippien sääntelyyn tulee kiristystä – Korkokatto myös yli 2000 euron luottoihin. (Minister Häkkänen: There will be tightening regulations for instant credit – Interest rate ceiling for loans over EUR 2,000). Accessible: [https://oikeusministerio.fi/artikkeli/-/asset\\_publisher/ministeri-hakkanen-pikavippien-saantelyyn-tulee-kiristysta-korkokatto-myoos-yli-2000-euron-luottoihin](https://oikeusministerio.fi/artikkeli/-/asset_publisher/ministeri-hakkanen-pikavippien-saantelyyn-tulee-kiristysta-korkokatto-myoos-yli-2000-euron-luottoihin)

interest or other financial advantage which is manifestly disproportionate to the lender's performance<sup>130</sup>:

- the amount of credit granted, duration of credit and other terms and conditions of the credit agreement;
- the credit risk associated with the credit granted;
- the costs of the lender's operations which are subject to a diligent credit procedure;
- the normal costs of financing the credit;
- ordinary overheads of credit operations.

In 2009, the Finnish National Bureau of Investigation (NBI) concluded that pay-day or instant loan lending is not to be considered as usury as their providers are not financial institutions as referred to in the Finnish Law on Credit Institutions (610/2014) and they do not offer similar credit products and hence, a comparison cannot be made under the Finnish Penal Code. The NBI also stated that compared to private individuals, credit providers have various operating expenses, such as rental fees and employee salaries.<sup>131</sup> There is no case law available in Finland in regards of usury and instant credit providers.

### **3.3. Assumptions regarding the APR calculation**

In December 2016, the Finnish Ministry of Justice enacted new provisions regarding the assumptions in calculating the APR in light of consumer credits (1123/2016).<sup>132</sup> The provisions on withdrawal assumptions in the CCD are not as specific. Specifically, Annex II of the Finnish provision (1123/2016) sets certain assumptions regarding the APR calculation on continuous credits and aims to mitigate the interpretation of different types of fee structure assumptions the credit providers could use when presenting the APR for the consumer prior to concluding the credit agreement. According to section 1 of Annex II, if a consumer approves the credit drawdown, the total amount of the credit shall be deemed to be drawn down immediately and in full. Section 2 provides that if the credit agreement provides different costs or interests for drawdowns, the credit

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<sup>130</sup> Rikoslaki (Finnish Penal Code) 39/1889, as amended. Finlex Data Bank.

<sup>131</sup> Reinboth S. (2013). Pikavippejä koskevia lakeja kiristetty useasti. (The laws on instant credits have been tightened up several times). Helsingin Sanomat. Accessible: <https://www.hs.fi/kotimaa/art-2000002622057.html>

<sup>132</sup> Oikeusministeriön asetus kuluttajaluoton todellisesta vuosikorosta (Finnish Ministry of Justice Decree on the effective annual percentage rate of charge on consumer credit) 1123/2016. Finlex Data Bank.

provider shall use the most common drawdown for the type of credit agreement following the highest cost and interest rate applicable.<sup>133</sup> The provisions do not define or quantify what is considered to be the most common type of drawdown type considering all possible options, hence it is subject to the credit provider's best knowledge to set it. According to Section 3 of the same provision, credit providers shall use the assumption to drawdown the credit at the earliest possible moment in case quantitative or other temporal withdrawal limits are set.<sup>134</sup> The clear drawdown assumptions in the provision have brought clarity for credit providers on how the APR should be calculated in the case of a continuous credit, and it effectively makes the comparison easier for the consumer, as there is little room for innovative ways to structure the drawdowns from the credit provider's point of view.

### **3.4. The right to an early credit repayment**

According to Chapter 7(28) of the CPA, consumers shall have the right to repay the consumer credit in full before the due date.<sup>135</sup> This can mean partial repayment of the debt or a full debt repayment before the credit is due. Finnish law does not, in fact, regulate the order in which the repayment allocation is organised, and credit providers can indicate the order of the payment allocation in their credit product's general terms and conditions. A typical order in which credit providers allocate the consumer's repayment is penalty interest (if applicable), nominal interest, other credit fees, capital, collection costs, penalty interest for collection costs. The Finnish enforcement organisation allocates the payments slightly differently by repaying the creditors in the following order: interest, capital, other credit fees and finally, court fees. In case there is a partial repayment, the credit provider can also determine if the money after the fees will be allocated to the capital as a prepayment for the upcoming instalment or if it reduces the capital balance from the end of the credit period decreasing the original repayment period. The creditor can also ask the consumer to assign where the prepayment is debited.

In addition, Chapter 7(27) of the provision states that "If the consumer prematurely pays off the credit in full or in part, the outstanding amount of the credit shall be reduced by the part of the credit cost which relates to the unused credit. However, the creditor may charge the full amount

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<sup>133</sup> Ibid. Annex II(1) and (2).

<sup>134</sup> Ibid. Annex II(3).

<sup>135</sup> *Supra nota* 57. Chapter 7(27).

of the actual costs incurred in carrying out that credit as specified in the credit agreement.” In Government Bill He 24/2010, the actual costs arising from the establishment of the credit agreement<sup>136</sup>:

- must have been noted in the credit agreement;
- must have arisen from the establishment of the credit agreement in question; and
- must be actual costs.

As an example, Government Bill HE 24/2010 states that actual costs can include costs arising from the credit assessment process (e.g. verifying identity, address), reviewing possible collateral and costs paid to a credit intermediary. Costs that have been generated, regardless of whether the credit was granted or not, shall not be included in the actual cost definition. This includes e.g. employee salaries, rent costs and marketing costs.<sup>137</sup> In case of an early repayment of a closed-end credit, the provisions of the Finnish CPA do not indicate whether the credit provider should repay for the consumer the costs related to the unused credit or if it is to be repaid only if the customer demands the repayment. A typical situation is when closed-end credit has e.g. an opening fee, which is paid upfront but, in fact, is divided over the maturity, and the customer prematurely repays the entire loan. There is no case law nor rulings from the Finnish Consumer Ombudsman regarding the issue. However, regarding the termination of a continuous credit agreement, Chapter 7(31) of the Finnish CPA clearly states that the credit provider shall reimburse all costs that have been prepaid by the consumer to the extent that they are payable after the termination takes effect.<sup>138</sup>

Chapter 7(28) of the current amended CPA gives creditors the right to compensation in the case of a premature repayment if it occurs fully or partially before the maturity. The interest rate on the credit shall be fixed and not linked to a reference rate. Chapter 7(28) of the CPA states that the amount of compensation shall not exceed one percent of the amount of the repaid credit. If there is less than one year left to the maturity at the time of the early repayment, the compensation shall be a half percent of the amount of the repaid credit.<sup>139</sup> However, the creditor cannot charge more than what the interest from the repayment date to the maturity date would be. The provision also sets down specific cases where the right for compensation does not exist<sup>140</sup>:

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<sup>136</sup> Government Bill HE 24/2010. Yleisperustelut. Section 4.2.

<sup>137</sup> Government Bill HE 24/2010. Yksityiskohtaiset perustelut. Section 1.1.

<sup>138</sup> *Supra nota* 57. Chapter 7(31).

<sup>139</sup> *Ibid.* 7(28).

<sup>140</sup> *Ibid.*

- within the last 12 months, the credit has been repaid prematurely up to a maximum of EUR 10,000;
- the repayment is made under a loan insurance (e.g. life insurance attached to the credit);  
or
- the repayable credit is based on a credit agreement attached to a current account.

### **3.5. Responsible lending practices**

CCD 2008/48/EC did not impose responsible lending practices for consumer credit providers or institutions. EU Directive 2014/17/EU concerning consumer mortgage credit agreements encouraged Member States to take initiative to support and educate consumers regarding mortgage credit agreements and help them make better decisions.<sup>141</sup> In Finland, the responsible lending practices provision was first introduced as an addition to the legislation as Government Bill HE 24/2010 and was later enacted with the amended CPA (746/2010).<sup>142</sup> The latest amended provisions of Chapter 7(13) of the CPA state that the creditor shall<sup>143</sup>:

- not market credit in a manner that could clearly impair the consumer's ability to carefully consider whether or not to obtain the credit;
- not use the granting of credit as the primary marketing method when marketing other consumer goods or services;
- not collect additional fees and charges for text messages or other communication services in the marketing or granting of credit or other customer service;
- provide the consumer with sufficient and clear information prior to the conclusion of the credit agreement, in order for the consumer to assess whether the credit is suitable for their needs and financial situation; and whether the consumer can terminate the ancillary service contract separately and what the consequences are for the consumer;

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<sup>141</sup> EU Directive 2014/17/EU.

<sup>142</sup> Government Bill HE 24/2010. Yksityiskohtaiset perustelut. Section 1.1.

<sup>143</sup> *Supra nota* 57. Chapter 7(13).

- in situations of payment delay, provide the consumer with information and advice on how to prevent the occurrence or worsening of payment difficulties, manage situations of inability to pay, and take a responsible approach to payment arrangements.

The good lending practice does not impose sanctions *per se*, but rather, it brings clarity from a legislative point regarding credit assessment and credit selling and is considered to be a flexible legal norm.<sup>144</sup> In 2017, the Finnish Market Court imposed three separate injunctions against consumer credit company 4finance Oy. In one injunction, the Finnish Market Court prohibited 4finance from continuing its process when they provided SECCI only after the consumer had entered into the credit agreement. The Market Court reinforced the injunction with a EUR 100,000 penalty payment.<sup>145</sup> In case KKO:2016:73, the Finnish Supreme Court additionally ruled that the consumer does not need to repay any costs or interests to the credit provider in case the credit provider has failed to provide the credit agreement using a durable medium.<sup>146</sup>

Today, a responsible lending doctrine is imposed on credit providers by debt and equity investors and external cooperation partners as well. Overall, the credit business is a capital-intensive business. Business investors can define various types of thresholds and covenants on what is considered to be responsible lending in their investment agreements. Breaking the set terms can trigger e.g. faster repayments or increase the yield of the investment.<sup>147</sup> A typical metric is setting a ceiling for non-performing loans (NPLs) per issued vintage.<sup>148</sup> Also, many collection companies share norms of responsible lending and can pressure credit providers by declining to cooperate if the company is not engaging in responsible lending practices according to collection company standards. As collection business demands intensive amounts of capital as well, the investors can impose the same responsible lending covenants on their businesses.

The essence of responsible lending is to put pressure on credit providers to carry out realistic consumer credit marketing and assessment to ensure that by issuing a credit, they are not financially defaulting the client. The assessment consists of e.g. checking the credit history for

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<sup>144</sup> *Supra nota 69*. p. 100-101.

<sup>145</sup> Finnish Competition and Consumer Authority. (2017). The Market Court imposed injunctions on the payday loan company 4finance. Press release 13.10.2017. Accessible: <https://www.kkv.fi/en/current-issues/press-releases/2017/13.10.2017-the-market-court-imposed-injunctions-on-the-payday-loan-company-4finance/>

<sup>146</sup> Judgement of 28 October 2016, KKO:2016:73, Finnish Supreme Court, S2014/975.

<sup>147</sup> Allman K., Escobar de. Nogales X. (2015). *Impact Investment: A Practical Guide to Investment Process and Social Impact Analysis*. John Wiley & Sons, Inc. New Jersey. p 257.

<sup>148</sup> A vintage can be defined e.g. as all loans issued between the first and last day of a calendar month.

payment defaults and assessing the consumer's financial situation, among others, their income, to ensure that there is enough free cash flow for credit repayments. Responsible lending has raised controversial opinions even among politicians. In 2019, Finland's largest newspaper Helsingin Sanomat reported how Nordea Bank had declined to issue student loans to students who possess a payment default mark.<sup>149</sup> Finnish student loans are government-guaranteed; hence, they are considered risk-free. The Finnish Ministry of Education and Culture and the Social Insurance Institution of Finland (KELA) had encouraged financial institutions to provide student loans even if the customer had a payment default mark, but Nordea argued that issuing more credit to a defaulted person cannot be called responsible lending according to their standards.<sup>150</sup>

### **3.6. Law amending Chapter 7 of the Finnish Consumer Protection Act (596/2019) – background and new provisions**

Before the latest amendment to Chapter 7 of the Finnish CPA was enforced on 1 September 2019, there had been eight Member of Parliament's Bills relating to amending the current APR ceiling legislation and one motion from the Finnish Consumer Ombudsman to the Ministry of Justice to amend the consumer credit legislation and review the regulation on unfair contract terms.<sup>151</sup> Government Bill HE 230/2018 on amending the provisions on consumer credit agreements and certain other consumer contracts was given to the Parliament of Finland on 16 November 2018. Due to the ineffective law reform in 2013 which had caused credit providers to issue credits over EUR 2,000 with high fee structures, the government saw a need for a new and tighter reform of consumer credits.<sup>152</sup> The over-indebtedness of the population has also kept increasing even though consumers on the verge of a default had less existing credit agreements than before. This meant that the size of the overall debt had continued to increase.

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<sup>149</sup> Liiten M. (2019). Moni pankki kieltäytyy antamasta opintolainaa, jos hakijalla on maksuhäiriömerkintä – Kela ihmettelee: ”Opintolainahan on pankeille täysin riskitön”. (Many banks refuse to grant a student a loan if the applicant has a payment default mark – KELA wonders: “Student loans are completely risk-free for banks). Helsingin Sanomat. Accessible: <https://www.hs.fi/talous/art-2000006252156.html>

<sup>150</sup> Ibid.

<sup>151</sup> Government Bill HE 230/2018. Hallituksen esitys Eduskunnalle kuluttajaluottosopimuksia ja eräitä muita kuluttajaluottosopimuksia koskevien säännösten muuttamisesta. (Government Proposal to Parliament on Amending Provisions on Consumer Credit Agreements and Certain Other Consumer Credit Agreements). Yleisperustelut. Section 1.

<sup>152</sup> Ibid. Section 2.3.

In Bill HE 230/2018, the Finnish Government proposed abandoning the currently valid model where the regulator sets an APR ceiling for credit agreements. The new provisions in Chapter 7(17a) of the Finnish CPA would set an annual nominal interest of 30 percent for a credit which has been drawn down and is in use. Imposing the interest to be charged only for the credit which is in use hinders the credit providers' intention to create innovative technical limitations to the credit agreements' terms and conditions. The 30-percent interest includes any reference rate attached to the base interest. The Government stated that the lower ceiling would not prevent credit providers from pursuing profitable lending in the future. On top of the annual nominal interest, credit providers would be allowed to charge a maximum credit cost of 0.01 percent per day for the credit sum or credit limit stated in the credit agreement. If the duration of the credit agreement is a minimum of 30 days, the creditor is allowed to charge EUR 5 and in case the credit sum stated in the agreement is high, the credit provider can charge a maximum of EUR 150 annually in other fees than the annual nominal interest.<sup>153</sup> The credit costs cannot be charged in advance for a period that is longer than one year. Chapter 7(6) of the Finnish CPA defines credit costs as<sup>154</sup>: “[...]”*credit costs*” means the sum of the interest, costs and other charges payable to the creditor by the consumer for the purposes of the consumer credit relationship; credit costs also include the cost of insurance and other ancillary services related to the credit agreement, provided that the conclusion of the ancillary service agreement is a prerequisite for obtaining the credit on market terms.”

The aim of the new proposed provisions was to create a more transparent manner by setting only two cost elements that the credit providers could charge from the customers. By setting a limit for the interest and daily fee for the credit actually in use, the law also removes the risk of the credit provider capitalising on the possible daily chargeable fees to increase the interest fees of the credit. However, the provision does not neutralise the logic of issuing a closed-end instalment credit, letting the credit accrue fees and interest and repaying the loan with a new instalment loan and capitalising the accrued fees and interests from the previous credit into the new credit. The example contradicts the responsible lending practice provisions and is likely to be very risky for the credit provider but is not sanctioned. In addition, the proposed provision forces credit providers to charge interest mainly from credit agreements. Giving up on the APR-based calculation also makes the work easier for the district courts, as calculating the APR based on various assumptions and drawdowns and repayments is difficult as it is open to interpretation differences. However,

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<sup>153</sup> Ibid. Section 3.

<sup>154</sup> *Supra nota* 5. Chapter 7(6).

calculating the daily fees from the credit in use might be just as difficult. It was not proposed that the new provisions would be retrospectively imposed on credit agreements that were signed before the enforcement of the new provisions as it was not considered reasonable for the credit providers.<sup>155</sup> It was also proposed that Chapter 7(6) of the Finnish CPA would get a new subsection, which would define the charge rate of the interest in credit agreements. The purpose was to clarify that the interest rate on a credit refers to the APR and would correspond to the definitions set in the CCD.<sup>156</sup>

The Government wanted to introduce strict sanctions into the law in case credit providers breached the set cost ceilings. The new provision of Chapter 7(17a) of the Finnish CPA states: *“If the creditor or the credit intermediary violates the provisions of this section, the consumer shall not be obliged to pay interest on the credit or any other borrowing costs.”* Credit providers usually have a few credit products to offer for the consumer, and they follow the general predetermined price lists, hence violation in one credit can cause possible extensive losses regarding the whole product portfolio. Nevertheless, the law does not express whether, in the case of a breach in credit fees, the credit provider has the right to claim the actual costs in the credit agreement from the consumer. The same Chapter 7(17) of the Finnish CPA states *“Notwithstanding the provisions of Articles 27 and 28, if the consumer repays the credit prematurely, paragraphs 2 and 3 shall apply. If the credit is due, paragraphs 2 and 3 shall apply notwithstanding the provisions of Article 35.”*<sup>157</sup> It could be arguable that in a situation where there is a cost breach, whether or not the consumer repays the loan, the credit provider shall have the right to claim back the actual costs arising from the establishment of the contract.

Regarding the charges for extending the credit agreement’s maturity, the Government proposed that credit providers shall have the right to charge EUR 5, provided that the extension is longer than 14 days. The annual maximum fee for the extensions is set to EUR 20, allowing credit providers to issue four separate extensions to the credit agreement maturity or postpone the agreed due dates.<sup>158</sup>

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<sup>155</sup> Ibid. Section 5.

<sup>156</sup> Ibid. Section 7.

<sup>157</sup> *Supra nota 151*. Laki kuluttajasuojalain muuttamisesta. 7 luku – Kuluttajaluotot, subsection 17a.

<sup>158</sup> Ibid. Subsection 17b.

In Bill HE 230/2018, the Government also presented a short comparative study regarding the other Nordic countries (Norway, Sweden and Denmark). At the time the Bill was published, neither Norway nor Denmark had any regulations regarding consumer credit fees or maturities. As an exception, in 2016, Denmark imposed a 48-hour-long reflection period regarding non-collateral consumer credits where the maturity is three months at most. Sweden amended its consumer credit legislation in 2018, and it was enforced on 1 September 2018 (SFS 2018:478). According to the new legislation, credit providers have to warn consumers that they are undertaking a high-interest-rate credit if the credit APR is 30 percent plus reference rate. The APR ceiling for a high-interest-rate credit is set at 40 percent plus reference rate according to the Swedish Interest Act (1975:635). The APR limitations do not apply if the credit is predominantly a commodity or a mortgage credit.<sup>159</sup>

The Finnish Government Bill HE 230/2018 was amended by the Finnish Commerce and Law Committee in its report TaVM 39/2018. The Commerce Committee suggested that to force credit providers to carry out even better credit assessments, the annual nominal interest proposed by the Government should be lowered from 30 percent to 20 percent. In the report, the Commerce Committee reasoned that by lowering the chargeable interest rate by 10 percentage points, there will not be any impact on the already existing credit agreements and agreements signed before 1 September 2019, nor will it impact consumers who have payment difficulties due to default.<sup>160</sup> The Commerce Committee also proposed not to impose a maximum cost of credit on hire-purchase of a transport which is registered under the Finnish Act on Transport Services (320/2017). Such a hire-purchase transport can be e.g. a car or a boat including the possible accessories.<sup>161</sup> If the consumer has the right to draw down cash under the credit hire-purchase agreement conducted under the Act on Transport Services, then the maximum fee ceilings on the credit agreement would be applicable.

Neither the Commerce nor the Law Committee amended other provisions proposed to Chapter 7 of the Finnish CPA.

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<sup>159</sup> Ibid. Yleisperustelut. Section 2.1.

<sup>160</sup> Valiokunnan mietintö. (Committee report). TaVM 39/2018 – HE 230/2018. Valiokunnan yksityiskohtaiset perustelut. Section 1.

<sup>161</sup> Ibid.

### **3.7.Law amending Chapter 7 of the Finnish Consumer Protection Act (596/2019) – Adapting to a new regulatory environment**

The amended provisions proposed by the Finnish Commerce and Law Committees regarding Chapter 7 of the Finnish CPA were approved by the Finnish Parliament as such, and the new amended law came into effect on 1 September 2019. The law imposed on consumer credit fees and interest is the most restrictive one in the Nordic countries. The fact that Finland abandoned the legislative model to issue credit cost limitations based on the complex APR calculation has brought clarity to marketing and presenting the fees in credit contracts. The currently valid maximum APR of a closed-end consumer credit is circa 29.5 percent, taking into account the daily fee charge of 0.01% for the credit in use.

Impact of the new and amended provisions was wide. Practically any institution offering credit had to issue new products and new terms and conditions which obey the new provisions. The most explicit change covered the closed-end credit products, where consumers follow a pre-set repayment schedule. It is the simplest one to follow and make compliant with the latest law. The regulation mainly drives credit providers to issue continuous credit products which may not have expiration dates. Already before the law was effective, the market saw various innovative ways of continuing to charge other fees than the interest from the continuous credit. One international credit card modified their wording regarding premium credit cards, which now have different tiers and benefits. As the credit card provider also offers an unappealing “plain vanilla” option without any benefits that is in accordance with the law, they can charge more from the membership cards than the daily fee limit allows. In addition, by changing the previously free services to optional ancillary services, credit providers can charge fees outside the scope of the provisions. If any service is considered to be an ancillary service, in accordance with the provision in Chapter 7 of the Finnish CPA, the costs are not presented in the SECCI document or as part of the APR calculation.

Currently, there are no laws in Finland regulating consumer credit costs where an entrepreneur signs a consumer credit agreement as a legal entity. Typically, one of the company owners will give a personal pledge regarding the prepayment of the credit. The Ultimate Beneficial Owner (UBO) of the company can be a single private individual. In this situation, credit providers can charge unlimited credit costs through the legal entity from the private individual who has given the personal pledge, and the credit is in arrears. It also needs to be noted that in Finland, pawnshops

which are regulated by The Law on Pawnshops (1353/1992, as amended) are not impacted by the new legislation, and there are no limitations on chargeable credit fees or interest in the law.<sup>162</sup> Pawnshops are neither required to carry out any credit assessments for the clients as the item works as a pledge for the issued credit. However, they are required to follow responsible lending practices and provide the customer with details regarding the credit agreement including the fee and interest structure prior entering into the agreement.<sup>163</sup> In the US, studies conducted after a state-level small instant credit was restricted indicated that there was an increase in pawnshop credit usage.<sup>164</sup>

### **3.8. Complexity around continuous credit products in the light of the new provisions**

According to the definition of credit costs in Chapter 7(6) of the CPA, all of the credit costs that the consumer has to undertake and the prerequisites for obtaining the credit must be very clear. Assessing various credit card terms and conditions and price lists attached to continuous credits points out several problems in how even Finland's largest credit providers present the material for the consumers. By obtaining the credit, the consumer undertakes the credit agreement, general terms and conditions and a price list. Yet, the price list includes several fixed fees or even percentage fees that exceed the daily fee limit set forth by the law, and they are not offered separately as an ancillary service but as a service which the consumer has to undertake to obtain the credit (there is no "plain vanilla" product available). A list of components that the credit providers are currently charging:

- Monthly fee or maintenance fee for the credit card (fixed fee)
- Monthly invoicing fee (fixed fee)
- Transfer of money from credit card to bank account (fixed fee and/or percentage of the amount)
- Paying invoice directly from credit card (fixed fee and/or percentage of the amount)
- Cash withdrawal fee, domestic and international (fixed fee plus percentage of the withdrawal amount)

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<sup>162</sup> Laki panttilainauslaitoksista (Finnish Act on Pawnshops) 1353/1992. Finlex Data Bank.

<sup>163</sup> Ibid. Chapter 4(14-15a).

<sup>164</sup> Bhutta N., Goldin J., Homonoff T. (2016). Consumer borrowing after payday loan bans. *Journal of Law & Economics*. Vol: 59. Iss: 1. p 256-257.

- Cash withdrawal at the point of purchase (fixed fee plus percentage of the withdrawal amount)
- Balance request from an ATM (fixed fee)
- Renewal of credit card (fixed fee)

Even if the customer is not using the continuous credit, the price lists indicate that the customer is being charged for the possibility to do so in the form of monthly card fee. There is also a possibility to charge the maximum EUR 150 in other costs in advance. The general terms and conditions of credit providers have clauses which state that the fees are being limited in accordance with the new provisions in Chapter 7 of the Finnish CPA, and if the consumer has been charged more than what is allowed by law, the overcharged costs will be returned to the consumer's credit account. There is no case law available which would reveal if it is in accordance with the law to simply return the overcharged fees in case the cost limits set forth by law are breached. Neither is there a possibility for the consumer to cross-check if the fees have been charged correctly without manual calculations based on the credit statement.

## 4. CONCLUSIONS

EU-level legislation that regulates consumer credit has not seen any major amendments after the enforcement of the CCD. The CCD, together with the Distance Selling Directive, has in general set forth a great regulatory framework for the Member States. The minimum requirements of the CDD regarding consumer credit definitions and disclosure rules are beneficial for the less-developed Member States and lets more advanced Member States amend their national laws easily without breaching the directive provisions. However, as the research pointed out, there are several legislative provisions, such as Annex I of the CCD governing the APR calculation methodology and defining high cost credit, that should be amended to better reflect the current economy which evolves around continuous credit and is going towards subscription-based business models which are linked to consumer credit.

The problem of over-indebtedness is a wide problem which concerns all the Member States. Even though it is an important topic, it is astounding how ununified the definitions and measurements of over-indebtedness are across the Member States and how, even in Finland, each institution uses different definitions in their publications, while the publications might additionally cross-reference each other. As there is no clear direction to which EU-level directives regarding consumer credit are moving, Member State governments are constantly regulating credit providers within their own regulatory environment. This can make it difficult to enact possible amendments to EU-level directives in the future. Regulatory changes in the consumer credit cost structure is also expensive, from large international banks to small national banks, which are burdened by various other laws and regulations as well.

Amendments to Chapter 7 of the Finnish CPA derived mainly from the increasing over-indebtedness of the Finnish population, which can be seen as an increase in payment default marks and in summary civil cases in district courts. It was clear that the previous amendments to the CPA provisions in 2013 did not have the desired impact. The latest amendment in 2019 is generally well written as it removes the link to a problematic APR approach regarding credit costs

and simplifies the fee structure especially from the consumer's point of view. The law imposes extremely strict sanctions for credit providers in case the consumer credit cost provisions are breached, hence it can be assumed that the businesses will establish strict internal measurements to comply with the provisions. By limiting credit costs other than the interest, the law encourages credit providers to issue continuous credit products and handle the credit risk better in the long term.

Continuous credit availability combined with subscription-based purchasing may lead to more people gaining "persistent debt" as discussed in chapter 1.7 Analysis on calculating and presenting the APR in the credit agreements. Credit providers will most likely start offering bigger continuous credit products for clients and, with the large possibilities offered by flexible credit, providers try to prevent the customer from default and to also decrease the chance of the customer switching to a competitor. Small continuous credit providers will most likely be more aggressive in offering ancillary services related to credit usage for which they can charge while maintaining the clients in a "sweet-box". When the credit amounts in use and the ancillary service costs in euros are small, converting the actual cost the consumers are paying for the credit in use into an APR number becomes difficult.

Due to the wide use of different electronic registers, it is also reasonably straightforward to identify which consumers have connections to companies or are, in fact, entrepreneurs and are being offered unregulated "consumer credit" through legal entities if they are unable to retrieve personal credit. It would be recommended to reform Finnish laws to include credit fee limitations for small and medium-sized enterprise (SME) loans where an individual has given personal pledge.

Chapter 7(27–28) of the Finnish CPA regarding consumers' right for an early repayment does not conflict with the new credit cost provisions, but it is controversial that consumers who repay the credit prematurely might have to pay more in other credit costs than in interest to the credit provider. From the credit provider's point of view, it is reasonable that actual costs arising from establishing the contract can be covered in such a situation. The prerequisite to announce the actual costs separately in the credit agreement gives transparency for the consumer, but from the credit provider's point of view, there might exist contractual obligations that restrict showing a part of the costs (e.g. credit intermediary fees).

Overall, the latest amendment of Chapter 7 of the Finnish CPA regarding consumer credits has not shown major loopholes that the credit providers could utilise. Regarding the credit providers' clauses in terms and conditions which allow the return of overcharged fees, it would be recommended for the credit providers to present, without request, an annual calculation of the charged fees and repayments in the name of transparency. There is also a risk that credit providers who charge the annual maximum of EUR 150 in other fees in advance will not return the overcharged fees. An average consumer does not have the means or the know-how to assess whether the daily fee or charge of 0.01% was breached. The recommended charge calculation document should also clearly note the fees arising from ancillary services. There is a considerable chance that customers will not notify the overcharge and as the law does not, in fact, force the credit provider to return the overcharged fees unless the consumer requests it, it makes the consumer vulnerable for exploitation. There is also a high risk that ancillary services that were free previously, such as accrual of flight points from using the credit, will be offered as chargeable ancillary services. The Finnish Government is recommended to amend the definitions in Chapter 7 of the Finnish CPA on continued credit fees or create new provisions which specifically clarify the continuous credit cost structure and to also clarify whether the fees regarding the unused credit shall be returned to the customer without request. As a last note, due to the strict laws, credit providers will continue targeting the middle-class and upper-middle-class population more aggressively, whereas lower income individuals might suffer from poor access to credit and might be offered more expensive unregulated alternatives, such as pawnshop and SME credit.

## 5. SOURCES

### Scientific books;

(2008). EC Consumer Law Compendium. *The Consumer Acquis and its transposition in the Member States*. (Eds.) Schulte-Nölke H., Twigg-Flesner C., Ebers M. Munich: Sellier. European law publishers. European Law Publishers.

Allman K., Escobar de. Nogales X. (2015). *Impact Investment: A Practical Guide to Investment Process and Social Impact Analysis*. John Wiley & Sons, Inc. New Jersey.

Davies K. (2013). *Understanding European Union Law*. 5<sup>th</sup> Edition. New York: Routledge.

Durkin T. A., Ellihausen G., Staten M. E., Zywicki T. J. (2014). *Consumer Credit and the American Economy*. New York: Oxford University Press.

Hudson E. A. (2015). *Economic Growth: How it works and how it transformed the world*. Delaware: Vernon Press.

Levitin A. J. (2018). *Consumer Finance Law: Markets and Regulation*. New York: Wolters Kluwer.

McConville M. (2017). *Research Methods for Law*. (Eds.) McConville M., Chui W. H. 2<sup>nd</sup> Edition. Edinburgh University Press.

Niemi J., Ramsay I., Whitford W.C. (2009). *Consumer Credit, Debt and Bankruptcy – Comparative and International Perspectives*. Oxford: Hart Publishing.

OECD. (2019). *Unpacking E-commerce Business Models, Trends and Policies: Business Models, Trends and Policies*. OECD Publishing.

Vandone D. (2009). *Consumer Credit in Europe: Risks and Opportunities of a Dynamic Industry*. Heidelberg: Physica-Verlag.

## Scientific articles;

Autio M., Wilska T.-A., Kaartinen R., Lähteenmaa J. (2009). The use of small instant loans among young adults – *a gateway to consumer insolvency?* International Journal of Consumer Studies. Vol: 33. Iss: 4. p 407-415.

Autto J., Törrönen J. (2019). ”Yes, but all responsible Finns want to stop living on credit”: *Feeling rules in the Finnish politics of austerity*. Citizenship studies. Vol: 23. Iss: 1. p 78-95.

Bhutta N., Goldin J., Homonoff T. (2016). Consumer borrowing after payday loan bans. Journal of Law & Economics. Vol: 59. Iss: 1. p 225-259.

Blomberg J., Maunula N., Hiilamo H. (2016). Do debts lead to disability pension? *Evidence from 15-year follow-up 54,000 Finnish men and women*. Journal of European Social Policy. Vol: 27. Iss: 2. p 109-122.

Blomgren J., Maunula N., Hiilamo H. (2014). Sairastuttaako velka? *15 vuoden seurantatutkimus pitkäaikaisesti ylivelkaantuneista*. (Does credit make one sick? *15-yearlong follow up study of long-term over-indebted people*). Yhteiskuntapolitiikka Vol: 79 Iss:3. p 246-263.

Davison, L. (2019). The Temporary Liquidity Guarantee Program: *A Systemwide Systemic Risk Exception*. Journal of Financial Crises: Vol. 1: Iss. 2, 1, 1-39.

Durkin T. A., Ellihausen G., Staten M. E., Zywicki T. J. (2015). Consumer Credit and the American Economy: *an overview*. Journal of Law, Economics & Policy, Forthcoming. George Mason University Legal Studies Research Paper Series LS 15-18; George Mason University Law and Economics Research Paper Series No. 15-34.

Ferretti F. (2007). The Regulation of Consumer Credit Information Systems: *is the EU Missing a Chance?* Legal Issues of Economic Integration. Vol: 34 Iss: 2. p 115-131.

Gutiérrez-Nieto, B., Serrano-Cinca, C. and De la Cuesta, M. (2016), A multivariate study of over-indebtedness' causes and consequences, International Journal of Consumer Studies. p 188-198.

Juurikkala O. (2012). Pikavippien sääntely: *ei korkokattoa, vaan erityinen harkinta-aika*. (Regulation of instant leverage: *not a ceiling on interest rates but a specific reflection period*). Oikeus 41, 452-460.

Keys. B. J., Wang J. (2019). Minimum payments and debt paydown in consumer credit cards. Journal of Financial Economics. Vol: 131. p 528-548.

- Mak V., Braspenning J. (2012). Errare humanum est: *Financial Literacy in European Consumer Credit Law*. Journal of Consumer Policy: Vol. 35: Iss. 3. Pp 307-332.
- Makkonen A. (2014). Instant loans: *Problems and regulations in Finland*. Juridica International Series 22. pp 96-119.
- McHugh S., Ranyard R. (2012). Credit repayment decisions – The role of long-term consequence information, economic and psychological factors. Review of Behavioural Finance. Vol: 4. No: 2. p 98-112.
- Odorović A. (2018). The 'new' paternalism in consumer credit regulation: *When, why, and how?* Anali Pravnog Fakulteta U Beogradu. Vol: 66. Issue:4. p 156-176.
- Oksanen A., Aaltonen M., Majamaa K., Rantala K. (2017). Debt problems, home-leaving, and boomeranging: *A register-based perspective on economic consequences of moving away from parental home*. International Journal of Consumer Studies. Vol: 41. Iss: 3. p 340-352.
- Oksanen A., Aaltonen M., Rantala K. (2015). Social Determinants of Debt Problems in a Nordic Welfare State: *a Finnish register-Based Study*. Journal of Consumer Policy. Vol: 38. Iss: 3. p 229-246.
- Oksanen A., Aaltonen M., Rantala K. (2016). Debt problems and life transitions: *a register-based panel study of Finnish young people*. Journal of Youth Studies. Vol: 19. Iss: 9. p 1184-1203.
- Oksanen A., Savolainen I., Sirola A., Kaakinen M. (2018). Problem gambling and psychological distress: *a cross-national perspective on the mediating effect of consumer debt and debt problems among emerging adults*. Harm Reduction Journal. Vol: 15. Iss: 45.
- Peura-Kapanen L., Aalto K., Lehtinen A.-R., Järvinen R. (2016). Ylivelkaantumisen ehkäisy ja hoidon tehostaminen. The Finnish government's analysis, assessment and research activities Publication Series 26/2016.
- Raijas A., Lehtinen A.-R., Leskinen J. (2010). Over-Indebtedness in the Finnish Consumer Society. Journal of Consumer Policy Vol: 33: Iss. 3. p 209-223.
- Scholes. A.N. (2012). Behavioural Economics and the Autonomous Consumer. Cambridge Yearbook of European Legal Studies, Vol: 14. p 297-324.
- Soll J. B., Keeney R. L., Larrick R. P. (2013). Consumer Misunderstanding of Credit Card Use, Payments, and Debt: *Causes and Solutions*. Journal of Public Policy & Marketing. Vol: 32. Iss: 1. p 66-81.

Takalo T. (2017). Lyhytaikaisten kuluttajaluottojen sääntely. (Regulation of short-term credit). Kansantaloudellinen aikakauskirja – 113 vsk. 3/2017. p 382-386.

**Other sources;**

Asiakastieto. (2019). Maksuhäiriöisten henkilöiden määrä jo yli 380 000 – myös asuntolainoja jää maksamatta. (Over 380,000 people have defaulted – mortgages also go unpaid). Accessible: <https://www.asiakastieto.fi/web/fi/asiakastieto-media/maksuhairioisten-henkiloiden-maara-jo-yli-380-000-myos-asuntolainoja-jaa-maksamatta.html>

Bouyon S., Ayoub J. (2018). Consumer Credit, Digitalisation and Behavioural Economics – *Are new protection rules needed?* ECRI Policy Brief No. 9.

Britannica – consumer credit. Accessible: <https://www.britannica.com/topic/credit-card>

Cherednychenko O.O., Medndertsma J.-M. (2016). Mis-selling of Financial Products: *Consumer Credit*. (Assistant E.) Cujkova J. Directorate General for Internal Policies. Study requested by the ECON committee. IP/A/ECON/2016-17.

European Central Bank. Monetary policy. Accessible: <https://www.ecb.europa.eu/mopo/html/index.en.html>

European Commission. (2008). *Towards a common operational European definition of over-indebtedness*. Directorate-General for Employment, Social Affairs and Equal Opportunities. Inclusion, Social Policy Aspects of Migration, Streaming of Social Policies.

Finnish Competition and Consumer Authority. (2017). The Market Court imposed injunctions on the payday loan company 4finance. Press release 13.10.2017. Accessible: <https://www.kkv.fi/en/current-issues/press-releases/2017/13.10.2017-the-market-court-imposed-injunctions-on-the-payday-loan-company-4finance/>

Finnish Competition and Consumer Authority. (2018). Market Court sets injunction on payday loan company IPF Digital Finland. Press release 5.4.2018. Accessible: <https://www.kkv.fi/en/current-issues/press-releases/2018/market-court-sets-injunction-on-payday-loan-company-ipf-digital-finland/>

Finnish Consumer Ombudsman. (2016). Kuluttaja-asiamiehen aloite kuluttajaluottolainsäädännön muuttamiseksi sekä kohtuuttomia sopimusehtoja koskevan sääntelyn tarkistamiseksi. (Consumer Ombudsman initiative to amend consumer credit legislation and review regulation on unfair contract terms). Motion for the Ministry of Justice, Finland 23.9.2016. Diary no. KKV/742/03.01/2016.

Government Bill HE 230/2018. Hallituksen esitys Eduskunnalle kuluttajaluottosopimuksia ja eräitä muita kuluttajaluottosopimuksia koskevien säännösten muuttamisesta. (Government Proposal to Parliament on Amending Provisions on Consumer Credit Agreements and Certain Other Consumer Credit Agreements).

Government Bill HE 78/2012. Hallituksen esitys Eduskunnalle laeiksi kuluttajasuojalain 7 luvun, eräiden luotoantajien rekisteröinnistä annetun lain sekä korkolain 2§:n muuttamisesta. (The Government's proposal to Parliament amending the Chapter 7 of the Finnish Consumer Protection Act, the Act on the Registration of Certain Lenders and Section 2 of the Interest Act).

Government Bill HE24/2010. Hallituksen esitys Eduskunnalle laeiksi kuluttajasuojalain muuttamisesta ja eräiden luotonantajien rekisteröinnistä sekä eräiksi niihin liittyviksi laeiksi. (The Government's proposal to Parliament to amend the Consumer Protection Act and the registration of certain lenders, as well as some related laws).

Government Program, Finland. (2019). Government Program Point 3.4 Dynamic and thriving Finland. Accessible: <https://valtioneuvosto.fi/en/rinne/government-programme/dynamic-and-thriving-finland>

Järvelä K., Rajjas A., Saastamoinen M. (2019). Pikavippiongelmiä laatu ja laajuus. (The nature and extent of the instant credit problems). Kilpailu- ja kuluttajaviraston selvityksiä 3/2019. Suomen Kilpailu- ja kuluttajavirasto. (Finnish Competition and Consumer Authority).

Kontkanen E., Lång J. (2018). Selvitys positiivisia luottotietoja koskevan järjestelmän edellytyksistä. (Explanation of the requirements for a positive credit registry). Oikeusministeriön julkaisu 26/2018. Ministry of Justice, Finland. Accessible: <http://urn.fi/URN:ISBN:978-952-259-701-4>

Liiten M. (2019). Moni pankki kieltäytyy antamasta opintolainaa, jos hakijalla on maksuhäiriömerkintä – Kela ihmettelee: ”Opintolainahan on pankeille täysin riskitön”. (Many banks refuse to grant a student a loan if the applicant has a payment default mark – KELA wonders: “Student loans are completely risk-free for banks). Helsingin Sanomat. Accessible: <https://www.hs.fi/talous/art-2000006252156.html>

Merriam-Webster. Collateral. Accessible: <https://www.merriam-webster.com/dictionary/collateral>

Ministry of Finance, Finland. (2019). Report on means to prevent excessive household indebtedness – Report of the working group. Publications of the Ministry of Finance 2019:56.

Ministry of Justice, Finland. (2018). Ministeri Häkkänen: Pikavippien sääntelyyn tulee kiristyksiä – Korkokatto myös yli 2000 euron luottoihin. (Minister Häkkänen: There will be tightening regulations for instant credit – Interest rate ceiling for loans over EUR 2,000).

Accessible: [https://oikeusministerio.fi/artikkeli/-/asset\\_publisher/ministeri-hakkanen-pikavippien-saantelyyn-tulee-kiristyksia-korkokatto-myo-yli-2000-euron-luottoihin](https://oikeusministerio.fi/artikkeli/-/asset_publisher/ministeri-hakkanen-pikavippien-saantelyyn-tulee-kiristyksia-korkokatto-myo-yli-2000-euron-luottoihin)

Muttalainen, V. (2007). Velkajärjestelyt tuomioistuimissa. *Velalliset ja maksuohjelmat vuonna 2005*. (Debt settlements in courts. Debtors and payment programs in 2005). Oikeuspoliittisen tutkimuslaitoksen tutkimustiedonantoja 75/2007.

OECD. (2019). Household debt (indicator). Accessed on 20 October 2019. doi: 10.1787/f03b6469-en

Reinboth S. (2013). Pikavippejä koskevia lakeja kiristetty useasti. (The laws on instant credits have been tightened up several times). Helsingin Sanomat. Accessible:

<https://www.hs.fi/kotimaa/art-2000002622057.html>

Report from the Commission to the European Parliament and the Council on the implementation of Directive 2008/48/EC of credit agreements for consumers. (2014). European Commission. Accessible: [https://ec.europa.eu/info/sites/info/files/ccd\\_implementation\\_report\\_2014\\_en.pdf](https://ec.europa.eu/info/sites/info/files/ccd_implementation_report_2014_en.pdf)

The Finnish Government. (2018). Hallituksen esitys eduskunnalle kuluttajaluottosopimuksia ja eräitä muita kuluttajasopimuksia koskevien säännösten muuttamisesta (luonnos). (Government proposal to Parliament on amending provisions on consumer credit agreements and certain other consumer contracts (draft)). Accessible: [https://api.hankeikkuna.fi/asiakirjat/d31aeb71-63a2-4003-9876-b0c0591699b9/d6c16ffa-e614-414f-b7cf-0e8ce4513ca3/LIITE\\_20181015120122.pdf](https://api.hankeikkuna.fi/asiakirjat/d31aeb71-63a2-4003-9876-b0c0591699b9/d6c16ffa-e614-414f-b7cf-0e8ce4513ca3/LIITE_20181015120122.pdf)

The Statistics Finland. (2016). Kotitalouksien varallisuus. (The wealth of households). Helsinki. Accessible: [http://www.stat.fi/til/vtutk/2016/vtutk\\_2016\\_2018-06-05\\_tie\\_001\\_fi.html](http://www.stat.fi/til/vtutk/2016/vtutk_2016_2018-06-05_tie_001_fi.html)

The Statistics Finland. (2017). Velkaantumistilasto. (Statistics on debt). Tilastokeskus. Accessible: [https://www.stat.fi/til/velk/2017/velk\\_2017\\_2019-01-25\\_tie\\_002\\_fi.html](https://www.stat.fi/til/velk/2017/velk_2017_2019-01-25_tie_002_fi.html)

The Statistics Finland. (2018). Bruttokansantuote (BKT) 1975-2018\*. (Gross Domestic Product 1975-2018\*). Kansantalouden tilinpito. Tilastokeskus. Accessible: [http://www.stat.fi/til/vtp/2018/vtp\\_2018\\_2019-06-20\\_tau\\_001\\_fi.html](http://www.stat.fi/til/vtp/2018/vtp_2018_2019-06-20_tau_001_fi.html)

Valiokunnan mietintö. (Committee report). TaVM 39/2018 – HE 230/2018.

## **EU and international legislation;**

Commission Directive 2011/90/EU of 14 November 2011 amending Part II of Annex I to Directive 2008/48/EC of the European Parliament and of the Council providing additional assumptions for the calculation of the annual percentage rate of charge.

Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU.

Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC.

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

## **Other countries' legislation;**

Korkolaki (Finnish Interest Act) 633/1982, as amended. Finlex Data Bank.

Kuluttajansuojalaki (Finnish Consumer Protection Act) 38/1978, as amended. Finlex Data Bank.

Laki eräiden luotonantajien rekisteröinnistä (Finnish Act on the Registration of Certain Creditors) 747/2010, as amended. Finlex Data Bank.

Laki eräiden luotonantajien rekisteröinnistä (Finnish Act on the Registration of Certain Creditors) 853/2016. Finlex Data Bank.

Laki kuluttajansuojalain muuttamisesta (Finnish Act amending the Finnish Consumer Protection Act) 596/2019. Finlex Data Bank.

Laki kuluttajansuojalain 7 luvun muuttamisesta (Act amending the Chapter 7 of the Finnish Consumer Protection Act) 207/2013. Finlex Data Bank.

Laki panttilainauslaitoksista (Finnish Act on Pawnshops) 1353/1992, as amended.

Luottotietolaki (Finnish Credit Information Act) 527/2007, as amended. Finlex Data Bank.

Oikeusministeriön asetus kuluttajaluoton todellisesta vuosikorosta (Finnish Ministry of Justice Decree on the effective annual percentage rate of charge on consumer credit) 1123/2016. Finlex Data Bank.

Rikoslaki (Finnish Penal Code) 39/1889, as amended. Finlex Data Bank.

**Other court decisions;**

Judgement of 15 September 2015, KKO:2015:60, Finnish Supreme Court, S2014/652.

Judgement of 28 October 2016, KKO:2016:73, Finnish Supreme Court, S2014/975.

Judgement of 5 July 2012, Content Services Ltd v Bundesarbeitskammer, C-49/11, ECLI:EU:2012:419.

Judgement of 21 April 2016, E. G. Radlinger, H. Radlingerová v Finway a.s., C377/14, ECLI:EU:C:2016:28.

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