



**The Parliament of Romania
Senate**

Bucharest, 13 June 2018

Courtesy translation

**OPINION of the ROMANIAN SENATE
on the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on credit managers, credit buyers and the recovery of collateral
COM (2018) 135 final**

The Romanian Senate, pursuant to art. 6, art. 148 (2) and (3) of the Romanian Constitution and the Protocol no. 2 annexed to the Treaty of Lisbon amending the Treaty on European Union and the Treaty on the Functioning of the European Union, signed in Lisbon in 13rd December 2007, has examined the **Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on credit managers, credit buyers and the recovery of collateral - COM (2018) 135 final**.

Having in view the report of the Committee for European Affairs, **the Plenum of the Senate**, issued on 13 June 2018 an OPINION, as follows:

(1) Considers that the proposal for a Directive respects the principle of subsidiarity, as member states have failed to take effective measures to intervene on the cross-border side of the divestiture of non-performing loans.

Therefore, only the creation of an EU-wide framework would ensure uniform entry conditions for the buyers and managers of the credits and a „passport” for them to carry out their activities throughout the single market.

It also considers that the proposal for a Directive respects the principle of proportionality in terms of the legal form chosen but, in terms of content, is inadequate to the objectives it proposes.

(2) Notes that, in the current version, the draft Directive contains provisions that would weaken the current national legislative framework on some of the levels that are intended to be regulated.

(3) Requests:

a) explicitly limiting the scope of the Directive to non-performing loans only, because by harmonising the procedure of credit divestiture (irrespective of their quality) and credit management (irrespective of their quality), it would come to more permissive requirements on the quality of the persons who manage the performing loans. Furthermore, there is no

justification for the difference in treatment with concerning the access to the business when the credit transferees choose to directly manage their purchased loans, respectively a much relaxed procedure compared to that applicable to the loan managers, keeping different requirements may have the effect of damaging the debtors;

b) supporting the correlation between the legal requirements applicable to the transferees (except professional creditors) who administer directly the purchased credits with those applicable to the loan managers;

c) ensuring conditions enabling creditors to know the necessary information to determine the deleverage of a credit applicant by imposing on the creditors and transferees (regardless of the entity category) the obligation to report information about non-performing loans transferred to a registry established for this purpose at European level (eg. at the level of the European Banking Authority), which is able to provide information on non-performing loans ceded. In this respect, the draft Directive should also provide for the form and periodicity of reporting to be established by EU-wide regulations issued for this purpose.

(4) Draws attention to the creation, in the proposal for a Directive, of a secondary market for non-performing loans, but without measures to protect debtors. The proposal has a lower level of protection than national legislation and exposes consumers to a possible risk, in particular by creating the possibility of cross-border credit transfer.

With regard to *Title V, Accelerating extra-judicial enforcement of collateral*, draws attention to the fact that the proposed scheme affects companies by limiting the possibility of credit restructuring or granting a second chance.

p. President of the Senate

A handwritten signature in black ink, appearing to read 'Iulian-Claudiu MANDA', with a long horizontal stroke extending to the right.

Iulian-Claudiu MANDA