

# Credit scoring and AI

## - The consumer perspective

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# CREDITWORTHINESS ASSESSMENTS: CHALLENGES AHEAD

- Relevance for consumer vs. creditor?
- Which data is used?
- Quality of data accessed?
- Transparency of automated decision-making/scoring?
- Control over data access?



# EU LEGAL LANDSCAPE

## AI Act: High-risk classification

- Risk management system
- Transparency requirements
- Training, validation and testing of data
- Fundamental rights impact assessment
- Supervision

## General Data Protection Regulation: data protection

- Data minimisation
- Consent-based data use
- Article 9 personally sensitive data
- Right to access personal data
- Rules on automated decision-making

## Consumer Credit Directive: creditworthiness assessment

- Use of financially relevant data
- Right to human intervention for automated decision-making
- Strict prohibition to use personally-sensitive data (Art. 9 GDPR) and data from social media
- Right to correct data in databases

## Payment Services Directive/Regulation: Open Banking

- Third party data access (consent vs. permission, relationship with GDPR?)
- Techniques of data access (dedicated interface API vs. screen scraping)

## DEEP DIVE CONSUMER CREDIT DIRECTIVE

- Transposition to national law till the 20th of Nov.
- German draft bill includes all obligations regarding creditworthiness assessments but:
  - Proportionality of required information
  - Uncertainty regarding processing of bank account information
  - Unspecified obligation to explain credit decisions
- Specific rights in the case of automated processing of personal data

# DEEP DIVE CONSUMER CREDIT DIRECTIVE

- **Ineffective CWA for small credits**
  - “information (...) which is necessary and proportionate to the *nature, duration, value and risks* of the credit for the consumer”
  - An 18-year-old consumer with €150 pocket money per month accumulated €3,107.74 in debt in three months due to fees and late payment charges.
- **Uncertainty regarding processing of bank account information**
  - Art. 9 GDPR–Data and bank account information include: political opinions, religious or philosophical beliefs, trade union membership, health data, data concerning a natural person's sex life or sexual orientation
  - Information on capacity to repay loans through PSDII/PSR-Interface
  - Personal habits and sensitive data should not influence credit decisions

# DEEP DIVE CONSUMER CREDIT DIRECTIVE

- **Human intervention for automated processing of personal data in the CWA**
  - clear and comprehensible explanation
  - express the consumer's own point of view to the creditor
  - request a review
- **Compared to GDPR: Extension of the scope**





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