Options for new Forms of Participation in the EU. A comparative study of EU's financial regulation

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EXECUTIVE SUMMARY

The promotion of European Citizenship and participation of citizens in EU decision making are key aims of the European Union. However, while considerable attention has been focused on citizenship in the political sphere, less has been said about the meaning of citizenship in the economic, the social, and the financial spheres. Following the literature on the financialization of the everyday, this study focuses on the meaning of citizenship in the financial sphere. We illustrate the image of an ideal European financial citizen, as reflected in (and shaped by) EU regulation. We compare this image in two EU directives, on credit (2008) and on payment accounts (2014), and highlight the influences which shaped it, with a particular focus on new forms of citizen participation. The paper argues the image of the ideal financial citizen reflected in these directives is that of a confident, empowered and active citizen, 'making markets work'. At the same time, however, this image is complemented by the image of a vulnerable citizen, both shielded from the market and encouraged to participate in it. Compared to political citizenship, financial citizenship appears to be more demanding, requiring high levels of human capital, time and attention to detail. Citizenship in the financial sphere is more inclusive, based on the will to participate in the market, as opposed to the more exclusive nature of political citizenship.

1. INTRODUCTION

Participation in the EU is highly dependent on the ways good citizenship is understood and embedded in the political, social and economic realms. Images of citizenship can be derived from the ways in which policies and regulations are institutionalized in different policy arenas in general and from the ways political and economic images of citizenship interact. Within the economic arena we chose to focus on the financial realm, building upon the literature on the financialization of the economy in general (Palley, 2007) and the financialization of everyday life in particular (Erturk et al. 2007, van der Zwan, 2014). Financial citizenship, we assert, co-exists, competes, contradicts and complements political citizenship. As financial tools become available to wider groups in the EU and elsewhere the ways citizens participate in finance change. As financial products become readily available to more of the population, this has been accompanied by "discourse which emphasize[s] individual responsibility alongside risk-taking and calculative assessment" (van der Zwan, 2014, p. 111). With financialization of citizenship, the relations between the individual and the community at large are also understood in more individualistic terms. The management of risk through individual investment and self-management, rather than through collective solutions affects not only the way we understand economic and financial citizenship but also participation in public policy. While the study of everyday financialization has grown, the role of the state and public policy processes remain understudied (van der Zwan 2014 p. 113), allowing for the current paper's discussion of the role of EU regulation in shaping financial citizens.

This paper explores how EU public policy and regulation on financial consumer protection are shaping the image of an ideal European financial citizen, and how this image shapes and is being shaped by traditional and new forms of participation in the EU's public policy process. Different ideals of European citizenship, in finance as well as in other economic spheres, have direct impacts on public policy and financial regulations and institutions. These ideals reflect not only how citizens are seen, but what policies are aimed at them, and ultimately how they participate in the market and indirectly also in the political sphere.

The empirical analysis is based on process tracing and analysis of two EU directives, which reflect central aspects of access to basic financial services: credit and payment accounts. The first is the Consumer Credit Directive (2008) [CCD] which aims to foster the integration of the consumer credit market in the EU. The second is the Payment Account Directive [PAD] (2014), which provides citizens of EU member states the right to open a bank account in a different member state, providing for easy comparison of bank fees, easy switching of bank accounts, and mandating access to a low cost, basic payment account. The comparison between the two directives allows for viewing change and development over time, from the early 2000's until 2014. We focus on three questions: First, what are the images of the ideal European financial citizen, as reflected in the consumer credit directive [CCD] (2008) and the payment accounts directive [PAD] (2014)?; Second, what were the different influences on the policy process shaping the two directives under study?; Third, what forms of citizen participation were involved in shaping these images?

We have identified a bifurcated image of the European financial citizen: the first image is of an engaged, informed financial citizen, participating actively in the market. This image is complimented by a second image, that of a vulnerable citizen, given access to a basic, low cost option, with a limited requirement to engage actively in the market. The first, idealized, of these two images differs markedly from the data the Commission collected on consumer behavior in practice, which shows a consumer neither well-informed nor engaged in comparing and switching financial services.

While the financial sector argued for less (and less binding) regulation, consumer representatives pushed not only for more regulation, but for regulation informed by behavioral insights, protecting consumers from common pitfalls. This implies a more fully rational image of financial citizenship is favored by business interests, and a more bounded-rational image by consumers. Direct citizen participation in creating these directives spans from large scale surveys, to consumer testing of proposed measures, to online debate. Participation served to inform policy makers on current consumer issues and attitudes, but also to educate citizens on EU policies.

Coming out of the discussion of financial citizenship, the differences between financial citizenship and political citizenship in the EU become clear. The first difference is the more inclusive nature of financial citizenship, requiring foremost the will to participate in the market when compared with the more restrictive, contingent rules of political citizenship. This includes, for example, allowing even illegal residents of the Union access to a basic payment account. The content of financial citizenship includes the rights to non-discriminatory access to financial services, full information and confidence in carrying out transactions, but also the obligation to participate actively in markets, in an informed, reasoned manner. This obligation makes EU financial citizenship thicker than political citizenship, demanding citizens engage actively in the market, requiring time and effort towards 'making markets work' via careful and informed decisions. However, in terms of context, this means that the level of required skills, education and human capital is relatively high in order to make financial citizenship work in practice. Finally, in terms of substance, the two directives can be argued to be encouraging more consumption of financial services and credit, rather than simply offering consumers more protection if they choose to do so. The resulting image of an ideal EU financial citizenship is that of a more-or-less rational individual, willingly engaging in markets, investing time, effort and mental capacity in comparing and choosing financial services, fulfilling the obligation to make markets work. However, at the same time, this image of a confident active citizen is complemented by that of a vulnerable consumer, which is exempt from the obligation to actively engage and compare, instead given access to a basic, low cost service.

The analysis and the discussion proceed next with a section that outlines the theoretical framework. This is followed by an empirical section that presents our empirical finding and process tracing analysis. The next section provides a discussion and the final concludes.

2. Participation, Types and Images of Citizenship: Theoretical Framework

The first part of this section draws out the tensions and complementaries between five dimensions of political and financial citizenship. The second focuses on influences on the policy process and on citizen participation, and the third zooms in on forms of citizen participation in the EU, and on recent development in this regard in recent years.

2.1 The image of the ideal financial citizen

Regulation is not only about strict social, political and economic outcomes but also reflects policy makers' desired 'ideal citizenship' - with the end result of consumer behavior, cognition and identity. Paraphrasing Leczykiewicz and Wetherhill's discussion of the image of the consumer in the EU, regulation can be seen as aiming to close the gap between "an actual person whom EU institutions have in mind when they devise regulation and … a projected person who will emerge as a result of the regulatory and deregulatory efforts" (Leczykiewicz and Wetherhill 2015: 1). The resulting image is understood as a matter of political contention, aiming to highlight the different influences on shaping this image, and the role of citizens themselves in this regard. This question gains high relevance in the context of the European Union and the concept of European citizenship. This concept is contested and debated in the political sphere, seen by some as "too much state building", and by others, such as the European Parliament and the Commission as a means of "self-advancement" and enhancing the legitimacy of their proposed policies (Warleigh 2001, p. 19). At the same time, however, the idea of citizenship in the financial or economic spheres is less controversial to an economic union, and therefore perhaps less discussed both in itself and with regards to its relations with the ideas and images of good EU political citizenship.

In the political sphere, citizenship is a relation between the individual and the community, a "membership status, which contains a package of rights, duties and obligations" (Faulks 2000, p. 13). Faulks suggests three main axes for the analysis of different kinds of citizenship: extent, content and depth, all viewed within the context within which citizens operate, making citizenship meaningful. Extent relates to the inclusiveness of membership: who is included, and who is included, and on what grounds. Content refers to the 'package' of rights and obligations. Depth relates to the 'thickness' or 'thinness' of citizenship in the individual's life, the level of demands on citizens time and resources (consider conscription or jury duty as examples of 'thick' citizenship demands) (see also Isin and Turner 2002, p. 2). Context relates to the conditions under which citizenship is realized, in which formal rights are enhanced or impeded by social stratification, ethnic or gender discrimination, etc.

What, then, is the equivalent of political citizenship in the financial sphere? This would relate to the set of rights and obligations of the individual as a participant in the market, the relation of this individual to the community, and the context within which these rights and obligations may be realized.

This understanding of the term shares some elements with Berry and Serra (2012) discussion of the term financial citizenship in the UK context, with relation to Labour's 'asset based welfare': the provision of welfare via encouraging and assisting citizens in accumulating wealth. While financial citizenship had previously been discussed as the opposite of financial exclusion, conferring upon citizens "the right and ability" to both participate in the economy and accumulate wealth, (Leyshon 2007, quoted in Berry and Serra 2012), Berry and Serra argue that financial citizenship is "a basic set of rights and responsibilities that should apply whether people are excluded or not" (Berry and Serra 2012, 20). They develop the concept by suggesting several aspects which they argue financial citizenship should comprise. Among others, they argue for a match between duties and entitlements, which should not be contingent on private sector provision, and a democratization of the financial system, including increased transparency and influence by individual on how savings are directed. They further argue for state support for saving, which should include both universal and means tested elements, the inclusion of behavioral economics insights in the design of policies, and a right to financial education for citizens.

We differ from Berry and Serra's view in two important respects. First, our definition does not focus on saving, but rather of market participation more generally. Second, our discussion of the term is empirical, rather than a normative: we ask how financial citizenship has been constructed at the EU level, rather than what elements it *should* include. For example, while Berry and Serra argue that the insights of behavioral economics are compatible with financial citizenship, we see this as a matter of political contention, open to deobate and influenced by the views of the different actors involved in the policy process.

The use of the term financial citizens, rather than just financial consumers, aims to capture a wider conception of the relation between the individual, the state, society and the marketa wider sense of what is accorded to- and expected of this individual. This opens a wider space for discussion than the framework of the market relationship between buyers and sellers. The discussion of financial consumers denotes an atomistic view of individuals in the market place, operating within the market's given rules-of-the-game, while our definition offers a wider view of possible relationships between individuals and institutions and setting the rules of the game in the political arena.

More specifically, and building on Faulks's conceptualization, we ask what are the dimensions of financial citizenship in the EU, which are being shaped by regulation at the EU level, and how do they compare with political citizenship in the EU? First is extent: what is the basis for inclusion or exclusion from citizenship. In the EU political citizenship is derived from national level citizenship, in turn determined by place of birth or a process of naturalization, based on anything from ownership of property to work skills to seeking asylum. What, then are the equivalent bases for exclusion or inclusion in the financial sphere? Do they differ from those in the political sphere?; Second is the content of financial citizenship: the set of rights and obligations which citizenship generates. In the political sphere, citizenship implies a progressive agenda of equal standing in terms of political rights and protection (Faulks 2000). In the political sphere, the content of rights and obligations in political EU citizenship would be a matter of contention. Would EU citizenship mean extending the most progressive set of rights from the most liberal member states to all other members? Would it mean extending a republican, obligation-heavy approach to citizenship to more liberal member states? It is here where a financial citizenship approach may offer a clearer and perhaps less contested conception of rights and obligations.

This leads to a third dimension, that of depth of citizenship. In the context of this paper, depth will be discussed with regards to citizen participation. While the EU has made conscious efforts to increase political participation by EU citizens (as will be depicted below), this participation, and by extension, the depth of citizenship, remains limited. However this is not necessarily the case regarding financial citizenship, which may be more demanding, or demanding in different ways on citizens' time. Relating to context, this paper will examine the conditions required to make financial citizenship 'work': at the very least, what is required of citizens in terms of cognition, human capital, skills and education in order to fulfill the image regulation is sketching. In the political sphere, the literature extends to a discussion of the types of human capital required for citizenship in the political sphere through different types of participation. While voting in an election or referendum ostensibly requires very little human capital or skill (and is in some cases simply mandatory), more sophisticated types of political participation require time, financial resources, formal and informal aspects of education and work experience etc. Finally, and adding to Faulk's dimensions, will be a discussion of the influence of policy makers on the substance of citizens choices. A normative perspective on political citizenship might assume might argue that political outcomes should not result from the rules of the political game. In practice, political life is rife with rules which affect outcomes, from gerrymandering and voter ID laws in the US context, to the over representation of certain types of interests or geographical areas via voting rules. What then, if any, may be the equivalent of this question in financial citizenship? The question here is the extent to which regulation determines not only the framework for citizens to participate in the market but also their preferences for how to participate in it. For example, what financial instruments to use and even more specifically what kinds and what extent of debt to take on.

Building on the different dimensions of financial citizenship, different types of citizens may be discussed as well. Political citizenship implies a single equal type of citizen, while maintaining an often complex system of multiple levels of residency, from the 'illegal' resident, to intricate work and study visa systems, to the permanent resident. What then is the equivalent in terms of financial citizenship? Is there but one such citizen or are there several, what is the hierarchy between them, if at all, and how do they differ on the above dimensions?

A starting point to these questions is Leczykiewicz and Wetherhill's (2015) edited volume, which offers several images of the European consumer: such as the 'confident' (rational, empowered by information) and the vulnerable consumer. Conversely, Franken (2009) offers the image of the average consumer, as formulated by the European Court of Justice, and adopted by the unfair commercial practices directive. The court depicted the average consumer as someone who is "reasonably well informed and reasonably observant and circumspect" (p. 144, quoting Case C-210/296 springenbeide v Amt fur lebensmitteluberwachung [1998] ECR I-4657).

What then is the relation between these and other possible images of EU citizens in the financial sector? What is the relation between the 'average', 'confident' and the vulnerable consumers, and how can these be related to the concept of financial citizenship. To what extent is the EU aiming to transform consumers or citizens from one type to another – what is, indeed, the ideal end result in the eyes of policy makers of different kinds?

Table 1 shows the dimensions across which financial citizenship will be assessed and compared to political citizenship.

Table 1: Dimensions of financial citizenship

Extent	Who is included / excluded?
Content	Rights and obligations
Depth	How demanding is citizenship? (thick vs. thin citizenship)
Context	Individuals' human capital, education, resources
Substance	What type of decisions / attitudes are encouraged?

(Based on Faulks 2000)

2.2 Influences on the policy process and citizen participation

The impact of different institutions and actors on shaping the image of the ideal financial citizen comes from member states, EU level institutions, business and consumer groups and direct citizen participation. The extent to which citizens had an impact on consumer protection regulation and the avenues through which they may exert influence over the policy process are a main focus of the third research question of this paper.

While the second research question aims for a broad understanding of the forces influencing the construction of the image of the ideal financial citizen, the third question focuses more specifically on the role played by citizens themselves in this regard. This focus stems from the focus on the concept of financial citizenship itself. This concept, comprised of rights and obligations, implies an active role for citizens, which may apply both within and beyond the market. Berry and Serra argue that "financial citizenship demands that citizens have the opportunity and capacity to shape the way the financial system operates" (Berry and Serra 2012, 25). The extent to which citizens participate in setting rules of the game is then a key empirical question in exploring the concept of financial citizenship itself.

In answering the second and third research questions, the focus will first be on the major changes which occurred during the policy process leading from the proposal to the final directive in either case. This will be done via a close comparison of the proposal and the final directive, and a review of policy documents by different actors and institutions, with the aim of determining who influenced the final form of these directives. Second, the focus will be on the role played by citizen participation in this regard. What role have citizens played in affecting the final form of the directives, and through what means were they involved in the policy making process.

The decision to focus on the changes from the draft to the final form of the directives limits the scope of our potential understanding of influences on the policy process. It is limited to influence exerted after the initial formulation of the draft proposal, it is limited to text-based evidence, and it emphasizes those institutions and actors with a formal role in the policy making process. However, while acknowledging these limitation, this approach allows for a feasible way forward towards answering the question of 'who governs', or at least 'who influences' the policy process once it is in motion (Golden, 1998).

The literature on citizen participation in the political sphere offers different views of the role and importance of citizen participation at the individual and collective levels. The question is, however, how these insights can be applied to financial citizenship. In the political sphere, citizen participation has been discussed as means for citizens to influence policy making and policy outputs, both at the individual level and from the perspective of the state; not only in terms of policy outcomes, but also in terms of decision making processes (Michels 2011). The benefits of citizen participation stem not only from their impact (good or bad) on policy outcomes but also from their contribution to building citizens' 'civil skills', broadening their ability to engage in political and civil activities. At the same time, seen from the state's perspective, citizen participation can play a role in enhancing policy legitimacy, especially when other sources of democratic legitimacy are limited (ibid). At the same time, citizen participation can be an educational tool, seeking to engage, inform and hopefully enlist citizens as advocates of proposed policies (Arnstein, 1969; Irvin & Stansbury, 2004). The pitfalls of participation should also be considered, however. Instead of engaging a wide cross section of citizens in the policy process, participation may again favor those well-endowed in the resources necessary for participation: time, money and civil skills (Brady, Verba, & Schlozman, 1995). This could mean a skewed representation of the makeup and preferences of the public, or it could mean an advantage for organized interest groups or industry, by their very nature far more interested-in and knowledgeable of the topic at hand.

In the case of financial citizenship, then, consumer participation can be considered from the perspective of the consumer or of the EU, in terms of influence on the policy process, but also in terms of its influence on consumers themselves, as a form of financial literacy education, or creating advocates for EU policy and perhaps for the EU more generally.

2.3 Citizen participation in the process of EU's public policy

The EU can be argued to be developing forms of citizen participation as a response to the Union's perceived democratic deficit and legitimacy issues (For example, Blondel, Sinnott and Svensson, 1998; Follesdal and Hix, 2006). This became especially relevant in the early 2000's, for instance after Irish voters initially rejected the Nice treaty (and following similar referendums later on in France and Denmark in the mid 2000's). The Commission argued that "the Union is often seen as remote and at the same time too intrusive. The Irish "no" highlights the impact of these problems. … This was reflected not only in the final outcome of the referendum, but also in the low turnout and quality of the debate which preceded it". The answer, political participation, is “likely to create more confidence in the end result and in the Institutions which deliver policies” (Commission 2001: 4, 11).

Following this 2001 white paper on EU governance, the EU initiated several different types of programs to engage directly with citizens. While the meaning of participation is not uniform even within the Commission, as “each DG seems to understand citizens’ participation somewhat differently” (Fischer-Hotzel, 2010: 341), these efforts can be said to be intended towards fostering debate, encouraging the participation of individuals, rather than associations or interest groups, and make use of online discussion tools and forums (cf. Plan D for Democracy, Dialogue and Debate, launched in 2005).

Broadly speaking, participation initiatives can be divided into more and less specific inputs into the EU policy process, ranging from wider, general debate, to citizen input into policies currently on the agenda. Examples of the first type of initiatives are the *Citizens’ Dialogues*, based on the model of town hall meetings which bring together citizens and politicians for joint debates. The EU organized 51 such dialogues in all member stated between 2012 and 2014 (EU Commission’s Website). Similarly, *Europe for Citizens* seeks to improve European citizens' knowledge of the EU, its history and diversity (Council Regulation 390/2014), thorugh such programs as *Town twinning,* intended to bring together citizens from twinned towns to debate issues regarding the EU political agenda (European Commission's Website).

Examples of citizen participation in the policy process range from calls for consultation on general issues to specific feedback on existing proposals to feedback on enacted legislation. Thus, *European Citizens’ Initiative* launched in 2011 allowing citizens to propose legislation to the Commission, through a petition, provided it meets a million signatures from seven member states. Different tools allow for citizen input in the legislative process itself, as the Commission published calls for ‘citizen and stakeholder input on both general future aims (the more general ‘*Roadmaps for New Major Initiatives’,* or the more detailed *‘Inception Impact Assessment*’). The Commission later publishes consultation papers (consultation/green papers) inviting answers to a set of questions put forward by the commission. Once a proposal has been published, there is a period of eight weeks for feedback to be submitted on the proposal, via an online form. “All feedback received may be published on the European Commission webpage and will be summarized and presented to the European Parliament and Council, with the aim of feeding into the legislative debate” (European Commission's Website).

The question is, then, through what forms and to what extent have consumers participated in the policy process on the CCD and PAD directives. How is participation seen and treated by different European institutions. Is it a tool of educating citizens, of increasing legitimacy, of engaging citizens or of placating them, of collecting information and making better policy or providing powerful stakeholders with a legitimate avenue of influence? Another question in this regard is what are the differences between the two directives in this regard, and how may this be related to the different images emerging from either directive.

The three sections above laid out the outlines for answering the three research questions. First, the dimensions of financial citizenship and the manner in which it compares with political citizenship. Second, different influences on the policy process through which the directives under study were shaped, with a focus on citizen participation. Third a further focus on citizen participation in the EU and changes which have been promoted by the Commission since the early 2000’s. The following section addresses these questions in practice in the policy process leading to the CCD and PAD.

3. Comparative Analysis of Images of Citizenship and Participatory Practices

This section first outlines the origins and content of the Consumer Credit Direct. The second part does the same for the Payment Account Directive. The third provides an analysis of the actors who shaped these two directives and their particular images of financial citizenship. The fourth part of the section deal with citizens participation in the two directives.

3.1 The Consumer Credit directive (2008)

The origin of the consumer credit regulation at the EU level dates back to the mid 1970's, culminating first in a 1986 directive. This directive was later amended in the CCD of 2008. These directives focus on providing consumers with specific kinds of information, such as a uniformly calculated yearly cost of a loan. Since this topic has appeared on the EU's policy agenda, it has been discussed in terms of balancing two separate and possibly conflicting goals: consumer protection and increasing market integration and freedom of movement.

A 1976 information memo by the Commission reported on draft proposals on the subject, responding to the "rapid expansion" in consumer credit (Commission 1976: 1). The memo identifies the problem of a lack of adequate information for consumers, as the consumer is often not "made aware" of the "precise cost" of the credit they have been offered. Consequently, the Commission gives two rationales for the regulation of consumer credit: the first being consumer protection, and the second being contributing towards increased freedom of movement of people and goods, through harmonizing national law on consumer credit (ibid, 2). Consumers of credit were argued to be especially vulnerable due to the ongoing nature of the transaction, which may not consider future changes in personal circumstances, and the consumer's immediate need for money, making them more amenable to conditions set by the lender (Commission 1995: 11-12).

The Commission's proposal for the 1986 directive was to cover nearly all kinds of credit, it was to mandate that all credit advertisements express the full annual costs of the credit, calculated using a uniform formula (Annual percentage rate – APR), that the consumer be given a written agreement stating the terms and the APR, and that consumers be given the option to repay the loan early, and receive an appropriate reduction on the cost of credit (commission 1995,: 14).

As the directive was negotiated in the Council, the Commission's proposal was "watered down" (ibid), leaving certain aspects of consumer protection to the member states, such as repossession of goods. Agreement on drafting the calculation of the APR was left to a later directive, adopted several years later. Member states were also allowed to add to the provisions of the directive, through a 'minimum clause'.

The Commission (1995) later pointed to two issues which developed over time regarding the 1986 directive. The first was that while "The Directive was designed to cover all forms of credit. Nevertheless it is better adapted to traditional forms than to more recent techniques" (ibid 2). Second, of the two purposes of the directive, consumer protection actually became the more prominent, as most member states adopted more stringent standards of consumer protection at the national level. As a result, as the commissions stressed:

> "This has created a paradox. The initial objective was harmonisation of consumer protection rules. The minimum level of harmonisation provided for in the directive has enabled the Member States to supplement the Directive's provisions in order to strengthen consumer protection. Hence, the Directive has only had a modest impact on harmonisation. It has above all provided an impetus and become a kind of floor for consumer protection standards" (Commission 1995, 3).

In 2008, a new directive on consumer credit was approved (Directive 2008/48/EC), replacing the 1986 directive. Addressing the limitations of the 1986 directive, this directive "is based on full (maximum) harmonisation", meaning that generally "Member States are precluded from adopting or retaining different national law provisions within the harmonised areas" (Department of Business Innovation and Skills 2012). The aim of full harmonization is again pursued in order to increase the cross border activity, as the Commission had found “that there had been little growth in cross border transactions” (Department of Business Innovation and Skills 2010) since the adoption of the previous directive.

The 2008 directive both adds elements of consumer protection and modifies some of the existing conditions. Notable additions include a requirement on “lenders to provide adequate explanations to consumers about the credit on offer”, and allow for consumers to ask questions, setting out the matters on which lenders must provide information. In addition, the directive adds an obligation on creditors to assess the creditworthiness of borrowers, either through information supplied by borrowers, or via a credit agency. When the loan is declined due to the information given by a credit agency, there is a duty to inform the consumer accordingly, and provide the consumer with contact information for the agency.

Amendments to existing consumer credit regulations include changes to the information lenders must provide borrowers, for instance a requirement to provide pre contractual information in a predetermined, standardized format, or provide a more representative example of the credit rates the consumer can expect to pay. According to the UK Department of Business Innovation and Skills, these changes have attracted scarce “public or media attention”, and more generally “[t]he changes are not politically or legally important”.

In the CCD, the Commission offers a coupling of increased consumer protection and the benefits of an increase in a cross-border credit market. While following the previous directive states seem to have prioritized consumer protection over expanding markets, this new directive is argued by the Commission to have squared this circle. The Commission argues that a causal link exists between the two, although it is perhaps opposite to what one might have imagined: it is consumer protection which brings about further cross border trade and removes distortions to competition. The main aim of the directive

> is to offer a high degree of consumer protection and thus to boost consumer confidence, enable free movement of credit offers across borders and remedy distortions of competition arising from differences in national laws regarding consumer credit.

At the same time, however, the Commission stresses that

> … it is not the objective of the Directive to incite consumers to take more credit, but rather to provide them with all necessary information and rights to thoroughly reflect before taking credit (commission 2014: 2)[1]

This is an interesting justification of consumer protection, arguing essentially that markets cannot expand without consumer confidence. This is not correcting a market failure per se, rather encouraging consumers to participate in the market. Rather than a tradeoff between equity and efficiency, there is in fact a mutually reinforcing trade-in. That is, market expansion through consumer protection. However, as the Commission later states explicitly, there does not seem to be anything in the directive encouraging consumers to take out more loans. Herein lies perhaps another contradiction in this directive: encouraging the development of cross border borrowing, without encouraging consumers to borrow more.

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[1] The first point, regarding the connection between consumer protection and expanding credit markets echoes a Commission report from 1995, which lays out a view tying the development of markets and higher standards of living to consumer confidence, arising from improved consumer protection. “One of the tasks of the European Union is the promotion of the harmonious development of economic activities and an accelerated raising of the standard of living of its population. These economic and social objectives … can only be achieved with the active participation of consumers. To encourage consumers to avail of these benefits, it was necessary to enable them to do so with confidence, secure in the knowledge that they would have the same level of protection as the enjoyed on their national markets” (Commission 1995: 11)

3.2 The Payment Account Directive (PAD 2014)

The second directive to be discussed was passed in 2014. It has a similar overarching goal, of enhancing the internal market for retail financial services. That is, reduce barriers for cross border activity in financial retail services. However, while the directive is partially framed in terms of encouraging providers of such services to expand cross national borders, the directive is at the same time focused on the expansion of consumer activity both within and beyond national borders. A third, and perhaps no less ambitious goal, is to allow citizens who do not currently have access to an account, to be granted access to a basic payment account, "allowing them to reap the benefits the internal market has brought about" (p. 2). That is, this directive is ostensibly beneficial to providers, consumers and even those who are not currently consumers. Put another way, this is a directive aimed at the goals of "both smooth functioning of the internal market and the development of a modern, socially inclusive economy" (PAD 2014).

How does the directive cater to several different audiences at once? The broad goals of the directive translate in practice into three concrete objectives. The first objective is to increase the comparability of payment account fees. This is to be done by first creating a list of the 10-20 most common and costly services relating to a payment account in each member state, and then the standardization of the terms used to denote these services across the EU. These standardized terms are then to be used in a document circulated to consumers and in an annual statement of fees, thus allowing them to both be aware of the fees they are paying and to compare services across different providers. An additional provision member state must follow is ensuring the existence of an impartial website to allow online comparison of fees.

A second focus of the directive is on consumer switching, setting out provisions for allowing consumers to easily switch their payment account provider. Both transferring and receiving payment account providers are tasked with responsibility for different aspects of the switching process, such as the provision of information, or the completion of the process in a timely manner. The directive includes provisions for switching within and across national borders, ensuring fees charged relating to switching are 'reasonable', and that unjust losses incurred by the consumer are promptly refunded.

The third aspect of the directive relates to access to a basic payment account. While the first two aspects relate to the functioning of the market through empowering and informing consumers to choose and switch accounts, this third aspects relates to those citizens who are currently without a bank account. This aspect is described in the directive in perhaps surprisingly social terms: "universal provision of payment services" and taking into account the needs of "vulnerable consumers".

The directive requires that payment account providers not be allowed to discriminate against any consumer wishing to open a payment account with basic features on the basis of nationality, residence or other characteristics, meaning any EU citizen should be allowed to open such an account anywhere in the EU. This non-discrimination should also apply to those consumers with no fixed address, asylum seekers and even people with no residence permit who cannot be expelled from the EU for legal or other reasons. At the same time, the conditions associated with such a basic account are also not to be discriminatory when compared to accounts of other types.

The basic account in question is to allow such basic functions as depositing and withdrawing funds, but also transferring funds, and allowing for online payments and the use of a debit card. An overdraft function, which was initially forbidden, in order to attract consumers who find this feature daunting due to the costs associated with it, was later added as a function of this type of account (see below).

While the directive does aim this kind of basic account at low income consumers, it is careful not to limit access to such an account only to this kind of consumers. An important point regarding this account is its cost to the consumer, which the directive designates should be low, or even free.

Thus, this directive aims at different goals – both social and economic, and at different types of consumers, from a sophisticated, transnational financial citizen, to a vulnerable resident who was thus far denied access to an account altogether. The directive is regulating both ends of the market, through two different kinds of mechanisms. For the sophisticated, active consumer, on the one hand, information and empowerment tools are offered, while for the vulnerable consumer, a no-frills, low cost (or even no-cost) option is offered.

Finally, the contribution of each of the directives to the construction of financial citizenship can be discussed. While much of the image of the ideal, confident consumer can be seen in the CCD, the PAD adds to it on two key points. First, the PAD adds a more inclusive view of citizenship, through according illegal residents access to a basic payment account. Second, the PAD also added the focus on vulnerable citizens, essentially splitting the image of the ideal consumer in two. The two directives are quite similar on most other dimensions making up financial citizenship (see summary of differences in table 2 below)

Table 2: different views of ideal citizenship in the two directives

	CCD	PAD
Aims of the Directive	Integration of the consumer credit market in the EU	Enhancing the internal market on retail financial services
Extent	Limited to Member state citizens	Extends to non- citizens
Types of citizens	Confident citizen	Confident as well as vulnerable citizens

3.3 Participation and Agenda Setting

3.3.1 The Consumer Credit Directive

The original proposal put forward by the Commission in 2002 was more comprehensive than the final directive. For example, the proposal covered more types of credit, most notably equity release mortgage credit; it covered surety agreements, and it included a duty to advise, meaning lenders were not only to provide "all the exact and complete information needed in respect of the credit agreement under consideration" (Commission 2002, article 6, para 2), but should also seek to provide "the most appropriate type and total amount of credit", with the ambitious consideration of "… the financial situation of the consumer, the advantages and disadvantages associated with the product proposed, and the purpose of the credit" (Commission 2002, article 6, para 2) (for a list of the changes between the proposal and the directive see Franken, 2009, pp. 134–5).

Several authors have pointed to a "watering down" (Franken, 2009, p. 134) of the proposal which occurred over time (Rott, 2005; Franken, 2009; for a discussion of the proposal see Nemeth & Ortner, 2003). The 2002 proposal was amended in 2004 by the European Parliament, "that was strongly influenced by the banking industry" (Rott, 2005: 384). The revised version of the directive was then criticised by "the consumer side as a serious drawback from the current level of protection back to the state of the 1970s" (Ibid: 388). Rott offers an analysis of the Commission's original proposal to regulate surety agreements, covering the rights of the guarantors of consumer credit, arguing that while the proposal addresses a topic thus far neglected at the EU level, it does so in a way which actually worsens the situation of consumers when compared to measures which already existed at the national level. Since the CCD proposal took the approach of full harmonization, this means consumers would be made worse off even in countries which previously had more stringent protection. The commission's amended proposal from 2005 omitted surety agreements and the protection of guarantors, as both were related primarily to mortgage agreements, which were also dropped from the amended proposal. Both changes corresponded with the amendments made by the European Parliament, and "meet concerns put forward by the banking sector" (Commission 2005, 5.3.2).

Franken (2009) offers an analysis of the changes between the proposal stage and the directive, asking to what extent the positions of the financial sector and of consumers were influential in the policy process, finding that “most of the amendments made” to the original proposal “… cater to the interests of the financial industry”, as only two of the amendments made to the proposal more or less coincide with the positions held by consumer organizations. These include the final directive only requiring full harmonization on a few aspects of the directive, and capping early repayment fees. Other changes, such as removing mortgage credit and surety agreements mentioned above from the directive, reducing the requirements on information provision from lenders and applying a ‘light information regime’ on overdrafts and other smaller types of credit. Regarding the duty to advise, in the 2005 amendment, the Commission stressed that despite requests from the banking industry, it retained the idea that providing information should go beyond fulfilling the information requirements, but also provide “additional explanations in order to enable the consumer to take a well-informed decision”. However, the Commission added that responding to requests by the banking sector and some member states, “it was clarified that the consumer is always responsible for his final decision to conclude a credit agreement” (Commission 2005: 7).

In terms of representation, Franken paints a picture of a very uneven playing field: at a 2003 hearing of the committee of legal affairs at the European Parliament, a single consumer organization (the European consumer organization, BEUC) was the only such organization invited, “whereas 10 European industry associations, four national banking federations, two individual banks, and a number of industry-funded groups were invited” (Franken, 2009: 141).

This impression of influence in favour of the financial sector comes from the second amendment of the proposal in 2008, leading up to the final directive. The Commission accepted the EP’s second amendments, arguing that the most significant and controversial change made regarded the fees creditors could charge for early repayment by consumers, making conditions less favourable for consumers, notably introducing “a provision whereby creditors may exceptionally claim a higher compensation than the caps if their loss is higher than the caps and consumers may ask for a reduction of the compensation if they can prove the opposite” (Commission 2008: 3).

3.3.2 The Payment Account Directive

The section below will focus on two aspects which represent relatively large changes with the original intent of the PAD proposal. The discussion focuses on two aspects of the basic payment account: eligibility to the basic account was expanded beyond EU citizens, to include refugees and those staying in the Union illegally, and a capacity for an overdraft was added to this type of account.

A summary of a pre-proposal consultation on bank accounts indicated that “Any extension of access to basic account services to non-residents is particularly opposed by the banking industry” (Commission 2012: 17). This is in line with the banking industry’s wider stance expressed in this consultation which objected to the regulation of access to a basic bank account, for instance due to issues arising from existing legislation on money laundering. This was in contrast to the stance taken by consumers, which supported EU legislation on access to basic payment account, pointing to difficulties in opening an account, due to such issues as providing sufficient forms of identification, or due to an adverse credit history (Commission 2012).

The expansion of access to the basic payment account occurred after the proposal stage, through an amendment suggested by the European Parliament. Credit for this change has been claimed by the Greens group in the EP, represented by German MEP Sven Giegold. "Crucial provisions, insisted on by the Greens, will ensure previously excluded groups - like refugees, visiting students from distant countries or blue card holders - can open a basic bank account, which is essential for daily life in modern society” (Euroactiv 2014).

A second interesting difference between the proposal and the directive is the question of whether or not the basic payment account should allow for the possibility of an overdraft. While the proposal specifically forbade this option, the directive reverses this intention. The 2012 summary of reactions to the consultation do not mention the possibility for an overdraft one way or another, possibly due to the manner in which this topic was not explicitly addressed in the questions for discussion put forth by the Commission. An impact assessment written by the Commission staff, which accompanied the 2013 proposal reiterated the Commission's recommendations to the member states regarding a basic payment account, which stated that "the payment service provider should not offer, explicitly or tacitly, any overdraft facilities in conjunction with a basic payment account. A payment order to the consumer's payment service provider should not be executed where such an execution would result in a negative balance of the consumer's basic payment account" (Commission Recommendation 2011/442/EU, section 3, 8). This, in turn, harkens back to a 2009 consultation for the 2011 recommendations, in which "The scope of the consultation was limited to the access to basic bank accounts, which include services such as payments and withdrawals but exclude overdraft facilities." (Commission Staff Working Paper 2011: 6).

This impact assessment suggests, however, as one of the possible policy options to improve the features of the basic payment account, that service providers be allowed to offer consumers a small 'buffer' overdraft capacity. Another interesting option discussed as part of improving the basic payment account was designating a minimum amount which cannot be seized by creditors – an idea stemming from such a feature existing in the German context.

The reticence regarding allowing an overdraft facility in the basic payment account may be accounted for by the view of such a facility as a cause of social concern, as many consumers do not know what level of interest they will be charged if they go into an overdraft, and the cost of going into an overdraft is cited as one of the reasons leading consumers to be reluctant of opening a bank account in the first place. "[T]he economic advantage of having access to an account and the means of payments associated with it may not be clear for the consumer, particularly if high fees and penalties are charged where, for example, overdraft facilities are used" (Commission 2013: 31).

The suggestion to allow an overdraft capacity was supported by the European Economic and Social Committee, stating that "it is up to the bank to decide whether or not it grants an appropriate overdraft facility" (EESC 2013: 7). However, it is most likely the European Parliament which can be attributed with the revised position of the directive regarding the overdraft facility. The manner in which the final form of the directive developed can be traced in the work of the EP committee on economic and monetary affairs, tasked with drafting the EP's suggested amendments to the Directive.

Thus, an early draft by the committee retains the proposal's prohibition of an overdraft facility, but suggests the possibility of adding a buffer capacity to the basic account, only regarding 'very small amounts', and under a favourable rate for consumers (26.6.2013).

Later meetings of the committee on Economic and Monetary Affairs revealed a difference of opinion between different MEP's regarding the issue of allowing an overdraft capacity on the basic payment account. While some insisted that an overdraft capacity should not be added, instead allowing for a small 'buffer' capacity, another view was to allow banks to offer consumers an overdraft capacity. When suggested, this capacity was to be constrained by a list of conditions protecting consumers, which were not included in the final version of the directive.

In the committee on Economic and Monetary Affairs (10.9.2013), there were two differing suggestions. The first, by MEP Sven Giegold was that consumers "may" have access to an overdraft, although under a list of restricting terms: "The conditions for accessing this facility shall be fully transparent and agreed upon by the Payment Service Provider and the consumer. The right to access the overdraft facility shall depend on the Payment Service Provider's assessment of the consumer´s creditworthiness. The amount of the overdraft facility shall be limited to one monthly gross income of the account holder." Giegold's explanation of this amendment is that it is based on “contributions by the German Association of Consumer Protection Organisations (VZBV) and the European Network of Credit Unions”.

However, the same document contains several other opinions on this issue: Thus, the amendment by Sylvie Goulard (ALDE, France) and Jean Lambert (UK, Greens) is that overdrafts not be offered, except with regards to “a temporary buffering facility for a very small amount”. They explained that this type of overdraft is not a loan, but rather a manner of ensuring that transactions are not cancelled due to a temporary lack of funds. A similar view was again suggested by Evelyne Gebhardt (SPD, Germany).

3.4 Forms of citizen participation

3.4.1 Citizen participation in the CCD

The Commission’s approach to debate on the CCD seems to have initially focused on participation via consumer organizations, rather than via direct citizen participation. In the mid 1990’s The Commission conducted several consultations on consumer protection in consumer credit and in financial services. In 1994, the Commission circulated a questionnaire of 48 questions “addressed to the Member States but also to European associations of creditors, traders and consumers. Other opinions were also invited, mainly from the academic community” (Commission 1995: 1). There were 50 replies to this questionnaire. However, there is little breakdown of the positions of the different stakeholders involved.

In 1996, a Commission Green paper was published with the aim of inviting comments on the adequacy of existing legislation on consumer protection in financial services, and the possible need for future initiative on the topic. The paper elicited 140 responses from the financial sector, consumer groups and organizations from member states. The views form the financial sector “generally emphasised the need to ensure the full functioning of the Single Market”, arguing that “If there is a need for action to strengthen consumer rights, priority should be given to voluntary initiatives” (Commission 1997: 3). Consumer organizations, on the other hand, criticized “the specific consumer protection content of the current legislation. These groups also deplored the absence of an overriding approach to consumer protection in the Single Market for financial service” (ibid).

More direct contact with consumers can be seen in a series of Eurobarometer surveys on financial services (from 1997 to 2001), which asked a representative population of consumers from member states about their views on financial services. Of special interest to the current discussion are the questions asked about the use of consumer credit. For example, in 2001 roughly 16,000 consumers were interviewed across the EU 15. Consumers were asked if they agree with the statement that “buying on credit is more useful than dangerous”: a third of respondents agreed with the statement and 52% percent disagreed. Second, half of respondents agreed with the statements that “you never know beforehand how much it is going to cost to borrow money”, while 40% disagreed with this statement.

The data from these surveys was mentioned by the Commission in the 2002 proposal for the CCD, demonstrating the need for EU action on this topic. The proposal cites data indicating the over 40% of consumers do not think that current legislation does not ensure enough transparency in financial services, 40% think legislation “does not provide adequate scope for seeking remedy against banks”, “more than 35% consider that the legislation does not protect their rights”, and no less than 70% of consumers are calling for greater, European-level harmonisation of the regulations that protect consumers” (Commission 2002: 4).

The Commission further mentions a process of consultation carried out by the Commission departments, presenting a discussion paper in 2001, and later holding consultations with “parties representing the Member States as well as the sector and consumers”, stating that “[t]he texts proposed in this proposal for a directive take account of these consultations” (Commission 2002, 3).

The Commission held further consultations before adopting an amended version of the directive proposal in 2005. The amended proposal lists the changes between the first and the amended version, stating the rationale for the change and in some cases the stakeholder which pushed for the change. These include 'stakeholders', member states and the banking sector, and no specific reference to consumer organizations.

3.4.2 Citizen participation in the PAD

Several forms of participation can be seen as part of the drafting and adoption of the PAD (see table 3 below). In 2011, a special Eurobarometor survey was carried out at the request of the DG Internal Market and Service, and published in 2012. The survey, on "Retail Financial Services" interviewed "26,856 European citizens aged 15 and above", asking about the use of financial services and their activity as consumers. The findings of the survey are striking. While 84% of citizens had at least a payment account, 10% did not even have a payment account. However, the survey concluded that among those with no account "there is little sense of exclusion or disenfranchisement", with over half of those with no account claiming they simply did not need one. A second striking result coming out of this survey is a relatively low level of consumer involvement: 52% of consumer simply accepted the first type of account of credit card they saw (although they were more selective regarding other types of products), 85% of current account holders have not switched or tried to switch account providers. The level of cross border trade is even lower, as 94% of consumers never bought a financial product outside of their home country. As might be expected, age, level of education and type of profession are linked to ownership of financial products, as mid-life, educated managers have the highest rates of payment account ownership, and students the lowest.

Towards the drafting of the directive (March 2012), the Commission published a consultation document on bank accounts and invited stakeholders, citizens, business and governments to comment. The consultation received 124 responses, 44% were by citizens and civil society actors, while 32% were delivered by the financial sector. The Commission's summary of the responses shows that in general consumers were in favour of EU action regarding bank accounts, while the financial sector saw the existing legal framework as sufficient.

A third type of participation was part of the 'debating Europe' online platform. As part of a three debates on the future of banking, the second post, from May 2013, was entitled "Do we need an EU directive on bank accounts?". This debate was launched, it should be noted, a week after the Commission had already adopted the PAD proposal. The following questions were raised as part of the debate:

> "What do YOU think? Do we need better transparency and comparability of bank account fees in the EU? Should it be easier to open a new account or switch bank accounts in Europe? And should the process of identity checks for new bank accounts be harmonized across the EU? Let us know your thoughts and comments in the form below, and we'll take them to policy-makers and experts for their reactions" (Debating Europe 2013).

The debate itself is stylized as a blog post, featuring questions and comments from online commenters, and opinions from interested parties, from an MEP to the CEO of ING Retail Banking in the Benelux countries, which sponsored the debate series. The comment section included 43 comments, which ranged from the euro sceptic ("No….we have had more than enough directives from your union thank you"), to the business-sceptic (All banking activity in EU has to be regulated. … They are using sensitive financial market info in their advantage, blackmail governments and make secret alliances serving their only purpose: "Get rich yesterday …") to the supportive ("Well, said… if there is a free circulation of money, there should be a unified way to handle it..").

A fourth kind of participation in the PAD is consumer testing built into the directive itself. Thus, consumer testing should be carried out by the EBA in developing standardized formats for displaying fee information, "in order to ensure that they are understandable and comparable for consumers" (PAD 2014: 20).

A more concrete example of input by consumers on a specific aspect of the directive is the positions taken by the BEUC regarding this directive. In a follow-up consultation regarding the composition of the lists of most representative services, the BEUC reiterated is position (which was not made part of the PAD), that the directive should have standardized all services regarding payment accounts, rather than 10-20, as the directive specifies. Going forward, the BEUC argued that all charges regarding overdrafts should be made explicit. The reasoning behind this demand is instructive:

For example, when shopping around for a payment (bank) account, the level of penalties for unarranged overdraft is not considered by most consumers among essential account features, while it is paid by many of them. For instance, 61% of French consumers have their bank account overdrawn at least once a year … This has to do with behavioural biases - most people tend to overestimate their financial capability and self-discipline, and underestimate the likelihood of their account being overdrawn in future (The European Consumer Organisation 2015: 2).

The BEUC further urges the Commission to use “behavioural insight principles” in designing the lists of representative services linked to the accounts, so that “those information documents are an effective prompt for consumers to compare fees and potentially switch accounts to the best product which suits their personal circumstances” (ibid: 4).

Table 3: Forms of citizen participation in the two directives

Participation tools	**CCD**	**PAD**
Written consultation	Mainly via consumer groups (extent of direct citizens' input unknown)	Via consumer groups and direct citizen input
Large scale surveys	Yes	Yes
Consumer testing	Not part of the directive	Yes, part of the directive
Online debate	No	Yes, but mainly as educational tool

4. Discussion: constructing ideal financial citizenship

4.1 Dimensions in citizenship

The question is now, then, what does the above discussion of the two directives mean in terms of the image of financial citizenship. The discussion will follow the dimensions proposed in the theoretical section above: extent, content, depth, context and substance.

The first dimension is the extent of citizenship: the inclusion and exclusion from financial citizenship. In this regard, the PAD makes a bold statement regarding the basis for inclusion: the will to participate in the market, to open an account, and by extension to participate in the legal labor market and economic life more generally, is the basis for inclusion, even when other criteria, such as national citizenship, permanent or even legal residency are not met. A similar inclusionary impulse can be seen regarding the conditions for opening a bank account in another member state, requiring that the consumer show a 'genuine interest' in doing so.

However, inclusion is limited by two important boundaries. The first is criminal behavior, including the misuse of accounts for the likes of money laundering. While this may seem like a trivial point, it should be noted that only specific types of financial criminal behavior restrict access to financial services, but not others (such as immigration laws). Second limit to citizenship is an adverse credit history, limiting access to new credit. While this again may seem like a trivial point, a comparison with political citizenship shows that access to citizenship is very seldom revoked or limited due to past behavior or even criminal activity (with the exception of disenfranchisement of felons, which is in itself a limited practice).

The second dimension is that of the content of citizenship: rights and obligations. The CCD stresses nondiscrimination between consumers in access to credit, and the PAD similarly stresses non-discrimination in access to opening a bank account in another country and in access to the basic payment account. A second point is the right to full, detailed and readily comparable information. This is even while in practice not all aspects of consumer information are regulated to the same full extent.

A third point and less concrete right is the right to consumer confidence: that is, the right to conduct business with the confidence that the cost of mistakes by service providers will not be borne by consumers, and that transaction will not fail due to a temporary shortfall in funds. At the same time, however, consumer confidence is a contested issue, as evidenced by the issue of an overdraft facility in the PAD. The very existence of an overdraft facility was seen as a deterrent to consumers from holding a bank account in the first place. Thus, there is a tension between enhancing consumer (and specifically vulnerable consumers) confidence in the market, and between extending market activity.

What are the obligations of financial citizens? The first and most important obligation is to participate in the market in an active manner: 'making markets work'. From opening a payment account to comparing prices of credit and terms of accounts, consumer have an implied duty to be active and involved.

This leads to a discussion of the depth of citizenship: the extent of demands on citizen's time and everyday life. In the directives above, citizenship is envisioned in rather 'thick' terms: the obligation to compare, calculate and switch is not a trivial drain on an individual's time and mental capacity. The provision of detailed information on charges and the cost of credit are a call for action, a guide towards fulfilling a civic duty.

The context within which financial citizens participate can be discussed in terms of the skills needed for market participation. Providing detailed information and means for comparison is in itself useless unless citizens have the free time, mental capacity, attention to detail and education all needed in order to process the information provided in a reasoned manner. For example, the CCD's decades long focus on the uniform calculation and presentation of the annual percentage rate (APR) on credit corresponds to material covered in post-secondary math education in the UK (Bitesize Website). Similar skills apply to the PAD as well, in comparing annual costs of accounts, potential costs of overdraft, etc. This point should not be taken lightly. The so called 'poverty industries' in the US context, including various forms of credit for poor consumers thrived as consumers took on debt they did not fully understand (Rivlin, 2010). The literature on the financialization of the everyday "ordinary people have become vulnerable to financial risk and do not possess the financial literacy to make informed decisions about financial planning" (van der Zwan 2014, 113), and that the resulting outcomes are uncertain for middle income households and bleak for lower income households (Erturk et al. 2007).

This leads to the final dimension, which is the substance of the decisions made. It can be argued that there is an inherent tension between regulation enhancing consumer information and choice and encouraging consumers to consume and borrow more. The CCD is the stronger example of this tension between the two purposes of the directive: consumer protection and increasing cross border trade. The Commission has argued it does not intend to impact on consumers decision to take on more credit. However, the underlying theory tying consumer protection to market functioning, implies boosting protection means taking out more credit: "Harmonisation of certain key elements of the consumer credit agreement will improve consumer confidence and encourage consumers to buy credit across borders in the EU" (Commission 2005: 5). Another example in this regard is the addition of the overdraft facility to the basic payment account. Again, this can be seen as simply allowing consumers the option to go into overdraft, or it can be seen as encouraging them to do so.

4.2 Different types of citizens, different types of influence

The dimensions above paint an image of a financial citizen whose citizenship is based in the will to participate in the market. Citizenship allows for the right to access financial products and credit unhindered by discrimination or national boundaries. This citizen chooses and consumes sophisticated, cross border financial products and credit in an informed and reasoned way, and in doing so makes markets work.

While this is the basic outline of the ideal financial citizen as sketched in the directives under study, the details of just how fully informed and rational this citizen is are a matter of political contention. While the consumer side, represented by the BEUC, and seemingly the original position taken by the Commission aimed for a more behaviorally informed, bounded model of consumer choice, the banking sector pushed towards a more fully rational image of consumers. This can be seen with regards to the change in the requirement to advise consumers on the most appropriate loan: while the directive proposal initially laid responsibility with the lenders, the amended proposal made it clear (at eh request of the banking sector) that ultimate responsibility for taking out the appropriate credit remains with the consumer, not with the lender.

At the same time, however, the introduction of a basic, low cost payment account implies an image of a vulnerable consumer which is not required to choose between different options. In this case, the vulnerable consumer is simply offered an adequate financial product to use, rather than having to choose between available market options. While this may seem as shielding vulnerable citizens form the market it is at the same time a transformative effort, at transforming these vulnerable consumers into more active financial citizens: giving these consumers a foothold in a market they previously could not or chose not to participate in.

This leads to a larger point, regarding the transformative nature of the construction of financial citizens. The data coming out of the Eurobarometer surveys discussed above not only indicated the relatively high percentage of non-consumers, the target audience for the low cost, basic payment account. It also revealed the gap between the actual and the ideal European financial citizen. If the Ideal citizen is fully informed in choosing financial products and credit, 40% of actual European consumers claim there is no way of knowing how much they are going to pay for credit, and nearly half of consumers simply choose the first financial product they are offered.

In this respect, the average consumer envisioned by the Court of justice, reasonably informed and aware of market prices and conditions is in itself a legal fiction, as roughly one in two consumer (perhaps a median consumer) are uninformed and unwilling to choose rationally. The directives discussed above, then, create the image of a more confident and informed financial citizen, with the aim of closing the gap between the existing and the ideal.

In this regard, the change in the nature of citizen participation between the 2008 and the 2014 directives may be instructive as well. The main difference in kinds of participation between the CCD and the later PAD is in the introduction of more direct forms of participation: inviting responses to consultations directly from citizens, using consumer testing as part of the directive, and engaging citizens in online debate. Beyond the input into the policy process, the extent of which is doubtful (for example, in debating an already adopted directive), a different kind of benefit is informing and educating consumers on EU policy in consumer protection. In the process, this type of participation also enhances the EU's legitimacy, through making the Union's policies more relevant and clear to consumers, and indeed shaping consumers, hopefully taking them from the consumer reflected in the survey data, towards the financial citizen reflected in the directives.

4.3 Comparative analysis

What does the discussion above teach us about the relation between political and financial citizenships? How do the different types of citizens relate to one another, and what is the relation between the two directives under study in constructing both different aspects of citizenship and different types of consumers?

The theoretical section above (section 2.1) sets out to lay the foundation for the discussion of financial citizenship through a comparison with political citizenship, building on the dimensions suggested by Faulks (2000). Section 2.1 laid out the meaning of these dimensions for political citizenship, and presented the manner in which these dimensions might be understood in financial citizenship. Table 4 below summarizes the aspects of political citizenship discussed above, and compares them with the aspects of financial citizenship as seen in the paper's findings.

The table highlights the higher inclusiveness of financial citizenship, but also its more demanding nature, requiring more of citizens, and requiring more in terms of context and skills in order to allow for rights to be carried out properly. At the same time it can be argued that the substance of citizen attitudes and choices of the ideal citizen in either case is not the same: while political citizenship might aim to create a pro union advocate, financial citizenship aims to create more avid consumers.

Table 4: Types of EU citizenship - comparing the political and the financial

Dimensions of citizenship	Political Citizenship	Financial Citizenship
Extent	Politically Exclusive, based on national law, birthplace	Market Inclusive, based on will to participate in the market
Content	Right to participate in the political process Obligations to abide law	Right to access to services Obligation to 'make markets work'
Depth	Very little demands (thin)	Demanding effort (thick)
Context (skills required)	Little required	Financial literacy (High school education) and capacities
Substance	Pro Political Union	Pro market integration

Table 5 compares three types of citizens: the confident, indeed ideal citizen, as would be implied from the two directives, the vulnerable citizen, and the average citizen, as reflected in the survey data on consumer behavior. The above dimensions were adapted to fit this type of comparison. These focus first on the prevalence of each type of consumer, as envisioned by policy makers and reflected in consumer data. In this view the confident consumer is the norm and the vulnerable an exception to the rule, while in practice the average, indifferent consumer represents about half of citizens. The second comparison relates to the relation to markets, embraced by confident citizens, feared and rejected by vulnerable citizens and treated as a necessary evil by the average citizen. Third, the skill set possessed (or assumed to be possessed) by either type of citizen is compared, ranging from considerable, to non-existent to overestimated.

Table 5: Types of financial citizens

	Confident (Ideal)	**Vulnerable**	**Average**
Prevalence (% of the population)	~90% (already had a payment account)	~10% (no payment account)	~50% (accepts first offer)
Attitude towards market participation	Willing participant	Suspicion / fear	Reluctant participant
Skills	Reasoning, comparison, decision making, bargaining	none	Overestimation of skills and knowledge

5. Conclusion

This paper argues that the EU's public policy processes reflect and are at the same time institutionalizing of two major images of an ideal financial citizens. The first and more dominant image is that of a confident, empowered and active consumer. However, this is complemented by the image of a vulnerable consumer, both shielded from the market and encouraged to participate in it. While evidence on existing consumer behavior in the EU implies an image of a consumer which for the most part does little to actively engage in the market, choosing and sticking to the first service they were offered, the directives studied aim to transform this consumer into an active participant in markets, informed, comparing and switching between different services and credit.

At the same time, the directives aim to transform those who are not consumers of financial services, into consumers of at least a minimal level of services: going from no payment account to a basic payment account. Thus the directives are transformative on two levels: making average consumers into ideal, confident ones, and transforming non-consumers into vulnerable consumers.

The paper discusses the term financial citizenship along several different dimensions. These include the inclusiveness (extent) of citizenship, the rights and obligations it confers (content), depth of citizenship, the context of skills and capital required for it to be realized, and policy designers influence on the substance of citizen choices. These dimensions sketch a picture of financial citizenship which is different from political citizenship in the EU. The basis for citizenship is both wider, based on willingness to participate in the market, but also narrower, based on past market behavior. Financial citizenship is more demanding than its political equivalent: active participation requires skill, education, time and attention to detail which Political citizenship does not. Finally, while seemingly neutral in terms of the substance of citizen choice, the directives can be seen as encouraging more consuming of financial services and more credit taking.

Different influences on the directives each painted a different image of the ideal citizen: while the financial sector pushed for less regulation of a less binding nature, consumer representatives asked for more regulation and for this regulation to be informed by behavioral insights on how consumers act in practice. Thus, while the financial sector can be seen as promoting a more ‘rational’ view of the consumer as autonomous and in need of little protection, Consumer representatives promoted a softer, more bounded-rational version of consumer rationality.

Citizen participation took several forms in the directives under study. This ranged from providing input into the policy process via responding to calls for consultation, to participating in online debate, informing them on EU policy. However, a different kind of participation occurred through their actions as consumers: participating in large scale surveys on their market behavior, consumer-testing the information tools proposed in the directives. Finally, the end goal of these directives is in itself participation in the market: participation is carried out foremost via the purse. New forms of participation in the second directive included the addition of online debate, and an emphasis on direct participation of citizens as individuals. However, this form of participation seems to do more to inform and educate about EU policies than to allow input into the policy making process.

While participation via consumer groups played an important and sometimes exclusive role in articulating citizen preferences, the most significant prompt for and input into the policy making process is arguably the large scale surveys on consumer behavior, informing the Commission on the unengaged, ill-informed nature of citizen participation in financial markets. The Commission’s response to this data, however, was not to accept the preferences of citizens as they are, but to aim to transform them. Citizen participation in this case was less about telling the Commission what consumers want, but who they need to become.

The relation between forms of participation and the ideal image of the citizen is not clear cut, and still requires further study. More and new forms of participation do not necessarily imply more influence on shaping this image, as the addition of online debate to the second directive implies. On the other hand, long standing, ‘corporatist’ participation via organized consumer groups can be seen as an important influence on shaping at least part of the image coming out of both directives. This highlights the continued role and importance of concentrated organized representation even when technology allows for more direct participation.

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