DIRECTORATE-GENERAL INTERNAL POLICIES OF THE UNION
- DIRECTORATE A -
ECONOMIC AND SCIENTIFIC POLICIES

Workshop

Mortgages and the European Commission's Green Paper "Mortgage Credit in the EU"

22 February 2006
European Parliament, Brussels

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EUROPEAN PARLIAMENT

DIRECTORATE-GENERAL INTERNAL POLICIES OF THE UNION
- DIRECTORATE A -
ECONOMIC AND SCIENTIFIC POLICIES

Workshop on Mortgages

Programme

22 February 2006-02
European Parliament Brussels
Room ASP A5G-2
09.00 – 12.30
15.00 - 17.00
(Interpretation EN, DE, FR)

09.00 - 10.30 Session 1

***Funding Aspects for a European Mortgage Market* (liquidity, choice of product, early repayment terms, collateral, portfolio and geographic issues...)**

Guest speakers: Mr Jean-Louis Godard, BNP Paribas; Responsable Gestion Actif Passif,
Mr Michal Handzlik, BPH Executive Director, Management&Controlling Retail
Mr Constant Thoolen, ING; Head Corporate Market Risk Management Retail
Mr. Antonio Torio, Grupo Santander; Head of Funding

10.30 - 12.00 Session 2

***Distribution Aspects in a European Retail Mortgage Market* (voluntary code of conduct, mutual recognition, EU standards, internet banking, tax and legal issues...)**

Guest speakers: Mr Alain Gourio, BNP Paribas; Responsable de la coordination juridique
Mr Michal Handzlik, BPH; Executive Director, Management & Controlling Retail
Ms Aldona Rylko, BPH; Legal councillor
Mr Wim Flikweert, ING Group; Marketing Manager Postbank.

12.00 - 12.30 Session 3

Regulatory Aspects in Mortgages ***(Better enforcement of existing Regulations, Euro mortgage, impact of existing EU legislation, one single piece of EU legislation to cover mortgages? Foreign lenders in national markets...)***

Guest speakers: Mr Hans-Otto Hagemeister, German Financial Services Authority; Director
Ms Susan De Mont, UK Financial Services Authority; Manager Mortgage Policy

15.00 - 17.00 Session 4

Consumer Issues in Retail Mortgages and others ***(Mutual recognition, voluntary code of conduct, credit data availability, EULIS, internet distribution, EU standard APR, standard document ...)***

Guest speakers: Mr Dominique Forest, BEUC; Senior Economic Adviser
Mr Manfred Westphal, member of Fin-Use
Mr Mike Bradford, Experian; Director of Data Protection
Ms Annik Lambert, European Mortgage Federation; Secretary General

Curricula Vitae

Michal Handzlik

Personal data:

Status	Married, 2 child
Nationality	Polish
Age	33 years, born: November 14th 1972

Professional experience:

2002-current	Bank BPH, Headquarter Warsaw Executive director, Management & Controlling Area *Supervision over Retail Controlling Department, Retail Collection Department and Loan Administration Department, participation in ALCO, Credit Committee, Release Management (700 FTEs in total, directly 15)* ▪Implementation of modern management information system (Management Planning & Controlling) – budget preparation process shortening and optimisation of analysts' number in branches ▪Change of budgeting system as well as procedure of monitoring targets realisation (experience from PKO BP) – in result, process simplification and shortening to less than month at the branch level) ▪Creation and implementation of sales controlling system in Retail Division ▪Implementation of MbO system in Retail Division ▪Contraction of first NPL sales contract in Poland with amount app. 100 mPLN ▪Contraction of first optional deal (contract) allowing to mitigate 100% consumer lending risk before asset securitisation possibility ▪Organization of Credit Analyse Centres and Retail Collection Centres – functional centralization and FTEs optimisation in back office units
2000-2002	PKO BP, Headquarter Warsaw Director, Planning & Controlling Department *Leading the budget process, realization of the budget monitoring, sectional analysis, participation in ALCO (35 FTEs in total, directly 10)* ▪Setting-up a new budget process – work time optimisation in branches and FTE reduction (analysts involved in planning previously) ▪Modification of FTP system and elaboration of product / bank services profitability model (ex-post) SyRoPiK and (ex-ante) Modigliani-Miller ▪Elaboration of modern 'reporting results' system (multidimensional tables) ▪Participation in project preparation (PKO is going to acquire iInteligo Bank) ▪Participation in interbank project on restructuring Wschodni Bank Cukrownictwa in Lublin (member of the banking team being responsible for verification GINB assumptions and preparation banks' business case)
1999-2000	PKO BP, Headquarter Warsaw Deputy Director, Electronic Products and Payment Systems Department Director, Accounting Office in Card Operations Centre *Managing bank cards and ATM settlement units, controlling complaints unit, COK finances (60 FTEs in total, 5 directly)*

1998-1999	PKO BP, II Branch Deputy director *Control over back-office (branch) units in PKO BP branch, support (administration) of ZORBA 3000 core system (100 FTEs in total, directly 10)*	Warsaw
1996-1998	PKO BP, II Branch Manager, Management Assistance Team *Creation (conception) and later assistance team steering (6 FTEs in total, directly 6)*	Warsaw
1995-1996	PKO BP, II Branch Manager, Saving Account Analytics Unit	Warsaw
1993-1995	PKO BP, II Branch Cashier	Warsaw

Education:

2005-current	Wyższa Szkoła Przedsiębiorczości i Zarządzania ▪Executive MBA Programme	Warsaw
2001-2003	Wyższa Szkoła Przedsiębiorczości i Zarządzania ▪Graduated from Management faculty, Finance & Banking ▪Master degree	Warsaw
2002	Institute of Business Development – Privatisation Centre ▪Graduated from Finance Directors study ▪Diploma/certificate	Warsaw
2000-2001	Vanderbilt University, Owen Business School ▪Graduated from BAI Graduate School, Operations & Technology ▪Diploma/certificate	Nashville, USA
2000	Lodz University, PA Management Centre ▪Graduated from Global Mini MBA ▪Program finished with diploma/certificate	Lodz
1995-1999	Polish Open University/Thames Valley University ▪Graduated from Management & Marketing, Finance ▪Bachelor degree with distinction	Warsaw
1993-1994	Warsaw University ▪Physics with Astronomy	Warsaw
1988-1992	High School	Warsaw

Constant Joseph Maria Thoolen

Personal Information

Surname		:Thoolen
Christian Names		:Constant Joseph Maria
Nationality	:	Dutch
Marital status	:	Married with a son
Date of Birth	:	20 January 1970
Place of Birth	:	Haarlem, The Netherlands

Educational background

Free University, Amsterdam	Econometrics	1993
London Business School	Master in Finance	1999

Working Experience

1993-1995	ING Bank Asset and Liability Management
	Member ALM Group
1995-1999	Trading Risk Management London
	Member MRM London Equity
	Head MRM London Equity
1999-2004	Market Risk Management Amsterdam
	Head of MRM Amsterdam Interest Rates
	Head of MRM Amsterdam
2004	Corporate Market Risk Management
	Head of CMRM Retail

Other information

Languages

Fluent:	Dutch
	English

Antonio Torío

Vice President – Financial Management, Banco Santander Central Hispano S.A., Madrid.

Mr. Torío is responsible for the Santander's national and international capital markets funding and hybrid capital raising, including commercial paper, senior debt, covered bonds, subordinated debt and preferred securities. Formerly he was responsible for fixed income origination at the Treasury and Capital Markets area of the Santander Group. Previously he held various positions at Lloyds Bank plc and Citibank N.A, in Madrid. Mr. Torío holds an MBA degree from the NYU Stern School of Business and a Bachelor's degree from Boston College.

Alain Gourio

Born on August 17th 1948.
PhD in law. International private law degree. Before joining the banking sector, he was an academic and a lawyer in Paris.
Previously head of the legal department of UCB, the BNP PARIBAS mortgage financial institution.
Now head of Group legal coordination at BNP PARIBAS.
Chairman of the French Banking Federation European legal Committee.
Member of the European Mortgage Federation Executive Committee and of the Legal Working Party.
Member of the EBIC mortgage credit Working Group.
Previously member of the Forum Group on Mortgage Credit and of the FSAP Expert Group on Banking.

Wim Flikweert

Name	: W.A. Flikweert
Date of birth :	25 january 1963
Nationality	: Dutch
Telephone	: (31) 20 584 6254
Education	
1983- 1987	: Erasmus University Rotterdam, Bedrijfseconomie
Professional experience	
1987 - 1992	: Productmanager Savings ABN AMRO Bank.
1992 - 1996	: Senior product manager Mortgages ING Bank.
1996 - 1999	: Head of the Product management department Regio Bank.
1999 - 2002 :	Senior Manager European Innovation Center Also account manager South West Europe
2002 - heden :	Segment manager Postbank, mortages

Also involved in mortgages projects from the perspective of ING

Hans-Otto Hagemeister

Born June 25, 1952 in Wuppertal, Germany

1971 – 1978	Study of Law, University of Cologne
1978 – 1980	Referendar at Landgericht Wuppertal
11, 1980 – 5, 1983	Assistant of Prof. Klemens Pleyer, Institute for Banking Law, University of Cologne
1983 – 1984	Assistant of Lawyer Dr. Hammes, Düsseldorf
1984 – 1985	Bankakademie e.V, Frankfurt; Assistant of the Chairman
6, 1985	Bundesaufsichtsamt für das Kreditwesen (German Banking Supervisory Authoritiy), sec. Supervising of Mortgage Banks
1992 – 4, 1996	Lawyer in Remscheid, Germany
5, 1996	Bundesaufsichtsamt für das Kreditwesen, sec. Su
7, 1998	Bundesaufsichtsamt für das Kreditwesen (since 5, 2002 Bundesanstalt für Finanzdienstleistungsaufsicht- BaFin); Leader of a Section for Supervising Cooperative Banks
1, 2006	Bundesanstalt für Finanzdienstleistungsaufsicht- BaFin, Leader of Competence Center for Pfandbriefe II – Special Audits of the Cover of Pfandbriefe

Susan de Mont

Personal Details

After graduating from St Hugh's College, Oxford, Susan joined Lloyds Bank. In 14 years at Lloyds, she worked in the retail branch network and in corporate lending, latterly as a Relationship Manager in Lloyds Bank Commercial Service, lending to medium-sized businesses in Central London. Between 1992 and 1994, she was seconded from Lloyds to the Building Societies Commission, the UK's then regulator for building societies, where she had supervisory and policy responsibilities. Since 1998 she has worked at the Financial Services Authority, firstly on building society policy and moving to the mortgage regulation team in 2001.

She managed the team which developed policy leading up to the successful introduction of the new UK mortgage regime in October 2004. As part of this, she liaised closely with UK industry and consumer stakeholders, commissioned and acted upon detailed cost-benefit analysis and oversaw a significant programme of consumer research.

Dominique Forest

Dominique Forest was responsible for Economic Affairs at Eurométaux, a European association promoting the interests of the Non-Ferrous Metals sector, from 1998 to late 1999. He was then dealing with statistics, internal market, trade and customs issues. His first job was as a researcher on parallel trade and exhaustion of trademarks rights for the European Brands Association, the European association promoting trademarks.

He has been trained as an economist (BA in Econometrics and MPh in Applied Economics). He is also a graduate of the College of Europe in Bruges.

As Senior economic adviser for BEUC the European Consumers' Organisation since December 1999, he is dealing with economic issues and in particular public utilities (telecom, postal services, electricity, gas, transport liberalisation), financial services (means of payment, consumer credit, mortgage credit, the Financial Services Action Plan), the Euro, trade (antidumping procedures and WTO negotiations), and competition matters.

As the main contact person between BEUC and its national members and the EU Institutions, Mr Forest was directly involved in organising and inputting into various formal and informal consultations and meetings. He has also represented BEUC in various fora and meetings, including Hearings and Conferences. Mr Forest has been involved in many consultative groups relating to financial services. He also addressed various Conferences and Hearings on financial services issues.

He has been a member of the Mortgage Forum and took part in the discussions on the Code of conduct on pre-contractual information in the area of Home Loans.

BEUC is a Brussels-based organisation representing the independent consumer associations from 29 European countries, including all the member states of the EU. The primary task of BEUC is to promote the interests of the consumer at all levels of the EU, to act as a strong consumer voice in Brussels and to try to ensure that the interests of the consumer are given their proper weight in the development of all Community policies. BEUC seeks to influence all EU policies which may affect consumers including policies relating to food, agriculture, environment, competition, single market, trade, financial services, legal interests, health, safety, etc.

Manfred Westphal

Manfred Westphal was born in Cologne, Germany, in 1956. After school in Bonn and his legal exam in 1986 he worked as a lawyer (mainly in civil and consumer law) from 1987 to 1990. From 1991 to 1992 he worked in the Department for Foreign Affairs. From 1993 to 2001 he was head of the financial services unit in AgV, the German Consumer Organisation. After introducing a new structure and a merger from three into one institution in 2001 he is head of the financial services department in the Verbraucherzentrale Bundesverband (vzbv), the federation of German consumer organizations.

He also is member in several European committees and panels, e.g. the Payment Systems Market Group of DG Internal Market and the Consultative Panel of CEBS, the Committee of European Banking Supervisors. Last but not least he is member and vice chairman of FIN-USE, a forum of 13 consumer and SME-oriented experts consulting the European Commission concerning financial services.

Mike Bradford LL.B (Hons) FCIB

Mike Bradford is the Director with corporate responsibility for Data Protection and Regulatory Affairs across Experian's International and Rest of World businesses.

He is an Associate Director of Experian International and is a member of Experian's Information Solutions division and UK, Ireland and Northern Europe Operating Boards.

At a European level he sits on the European Federation of Finance House Associations (Eurofinas) credit risk agencies working group and provides consultancy to the Association of Consumer Credit Information Suppliers (ACCIS) on data protection and consumer credit related issues, in particular relating to the draft Consumer Credit Directive.

Annik Lambert

Annik Lambert is Secretary General of the European Mortgage Federation. The Federation is the leading association representing the mortgage industry at European level. Its members grant 75% of Europe's outstanding mortgage loans.

Annik's main fields of expertise are regulation of credit institutions, consumer protection in the context of financial services, the impact of the Euro, contracts and taxation. Annik is responsible for the analysis of new EU proposals for regulation, which potentially affect mortgage credit activities within the EU, the drafting of position papers and discussion of these with the EU institutions. She represents the Federation in all public fora, including the European Institutions, the European Banking Industry Committee (EBIC), other European financial sector associations, consumer organisations, press and public conferences.

Annik qualified as a lawyer in 1982 and went on to study for a special degree in Financial Law, while at the same time training at the Brussels Bar. She joined the European Mortgage Federation in 1992 becoming Deputy Secretary General in 1995 and Secretary General in 2005.

Annik's Date of Birth is 28/06/1959

Contributions by experts-

Session 1

Presentation by
Michal Handzlik
Managing Director Retail Banking
Management and Controlling area

Funding Aspects for EU Mortgage Market

Michal Handzlik
Managing Director Retail Banking
Management&Controlling Area

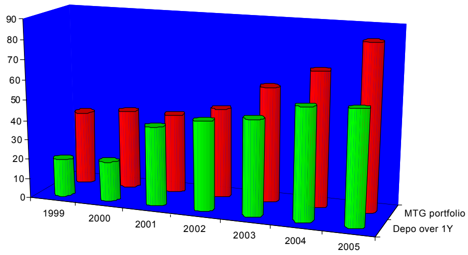
Mortgage Workshop, Feb 22nd'06, Brussels

Topics

- Mortgage Market Funding vs. Market Liquidity
- Funding possibilities
- Early Repayment Fee
- Collaterization & LtV Differences
- Portfolio & Geographic Issues

Liquidity of the Market

- Mortgage loans granted in Poland still on the level of 5-7% of GDP
- But growth equal to 30-40% y/y
- 70% financed by LT Deposits
- FCY oriented (interest differences)
- Limited market of backed bond securities (mortgage banks)
- The role of sights deposits (replication portfolios)
- And inter-bank (global) market



How to manage?

- Bank BPH:
  - 20% market share in new sales,
  - app. 0,8-1,2bln € granted y/y,
  - app. 200m € MBS issued 2005

A need for improvement!

Securitization — liquidity refresh

Property/land debt (MTG bond) — flexibility for growth

- Mortgage funding market definitely not yet integrated as a result of specific instruments differences in MS

Integration - EU chances

- Securitization issue in Poland:
  - Difficulty in transferring mortgage as collateral
  - Expensive & time-consuming (changes expected from March'06)

EULIS (& ESIS) – first Parliament concern

in connection to current achievements (AMRON, land registry) - support

---

- New MBS instruments / market are/is welcome
  - Law under development

Euromortgage – second Parliament concern

complementary to property debt (MTG bond) – limited popularity

Should ERF be adopted?

Option of early repayments → Refinancing transactions → Level of price competition

Early Repayment Fee → Yes (however in Poland limited to app. 20k €)

- because:
  - lack of interest income
  - extra cost with closing of liquidity (hedge) and currency position
- but:
  - with transparent rules for customers

- Fair method of calculation may be standardised & provided

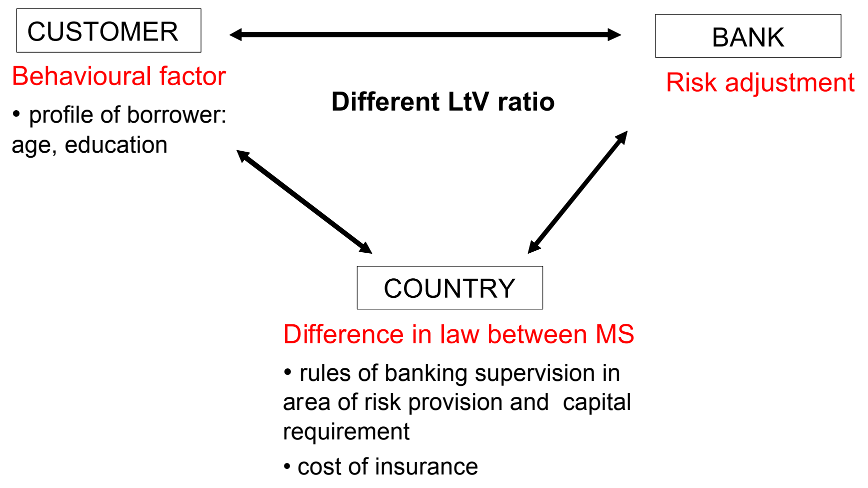
Mortgage collateral treatment

• Mortgage is one of the best type of collateral - when purchasing, current diversity among MS should be diluted	standardised appraisal / validation rules
• Cross border access to property registers for both information and registration	mostly legal & logistic issue
• In Poland: 2 systems under construction – property/land & mortgage loans (AMRON) registers	Centralised & accessible databases may link to MS solutions

From non-business perspective:

EULIS project should be continued and supported by EU funds.

LtV differences will not dilute…



…as it may change:

Influence of harmonised rules for LtV:

CUSTOMER → NO

BANK → PARTLY

COUNTRY → YES

Funding Aspects for EU Mortgage Market
Brussels, February 22nd'2005

Bank BPH

Portfolio & geographical issues

<u>Differences on mortgage markets in MS:</u>

Distribution channels
Construction of loans
Periods of financing
Structure of property owners
Financing mechanism

→

Law regulations
History of economy
Behavioural factors

Those <u>can</u> be standardised!

<u>Most important difference between Poland and other MS:</u>

- currency structure (>50% in CHF)
- wealth of customers - ability to taking a risk

Those <u>cannot</u> be standardised!

Funding Aspects for EU Mortgage Market
Brussels, February 22nd'2005

Bank BPH

Thank you

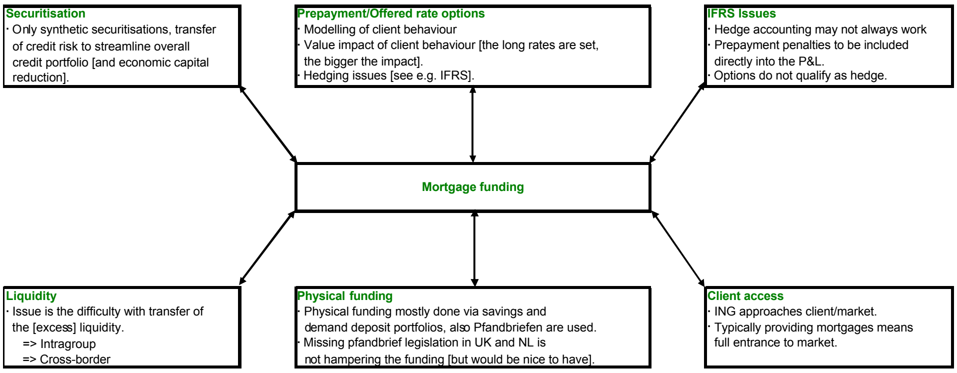
- Questions?

Presentation by
Constant Joseph Maria Thoolen
Corporate Market Risk Management
Head of CMRM Retail

Mortgage workshop
-
Funding

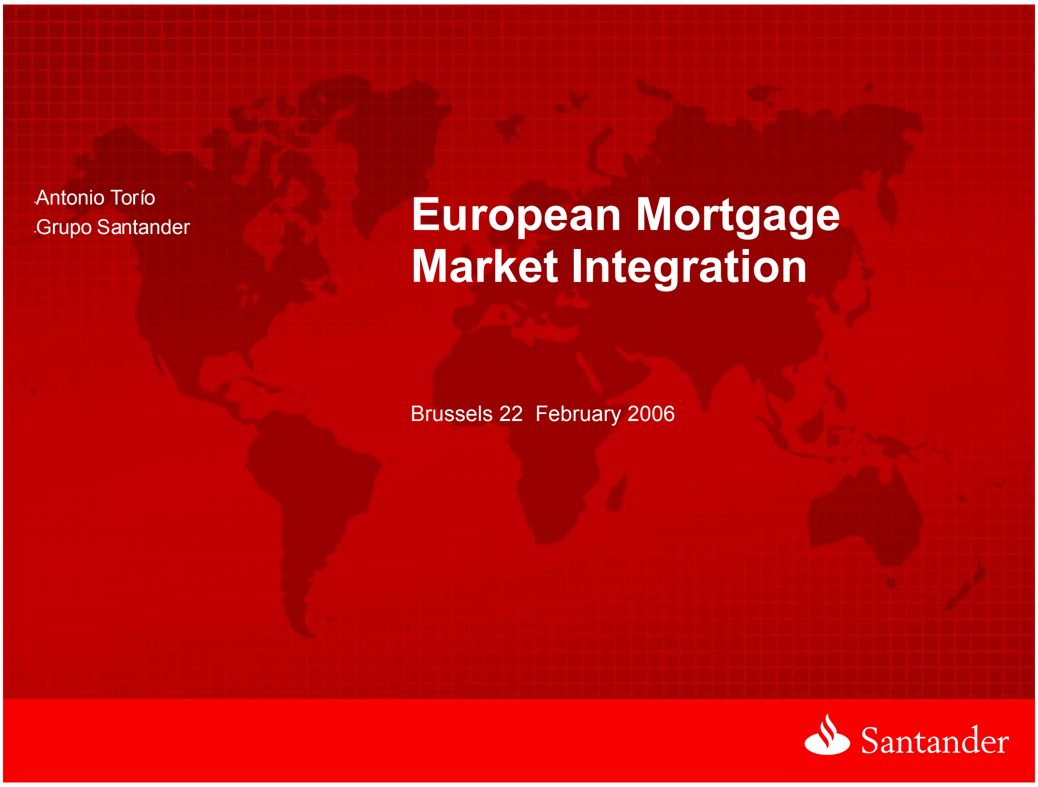
European Parliament, 22-Feb-2006

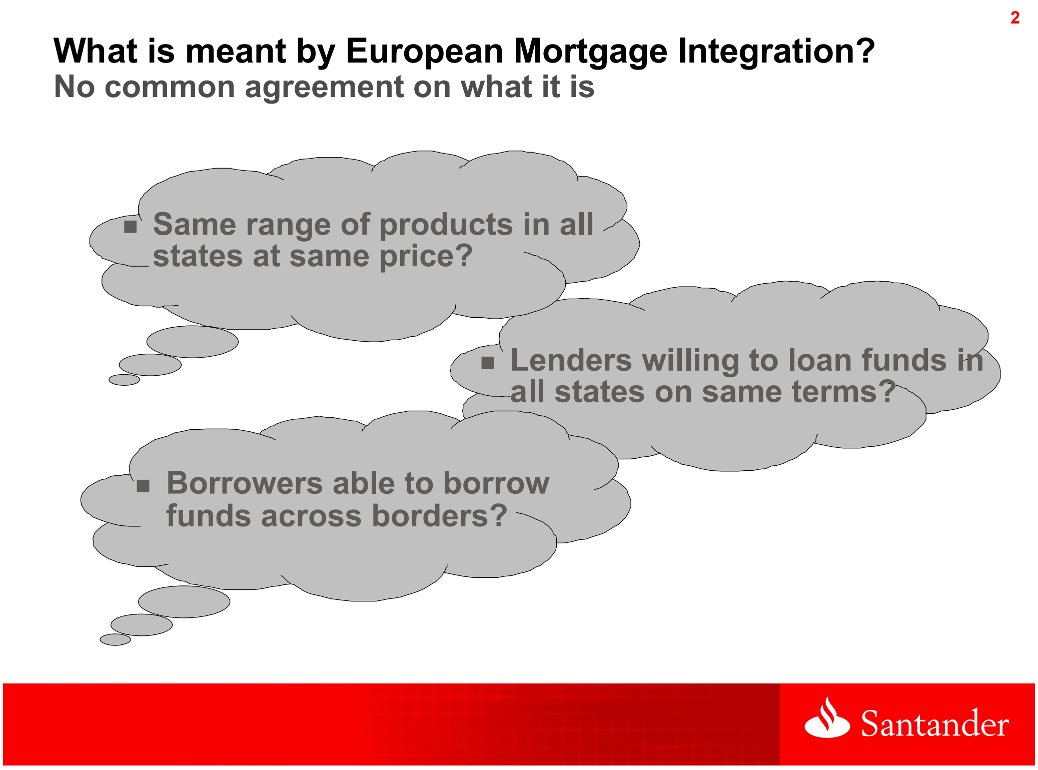
Mortgage funding aspects



- Mortgages are hedged for interest rate risk.
- Penalties received from [Retail] clients are used to compensate the professional break-funding costs.
- P&L risk for the bank in case penalty-free prepayments happen when market rates decreased and the mortgage coupon is high.

Presentation by
Antonio Torío
Vice President – Financial Management
Banco Santander Central Hispano S.A., Madrid





3

The European mortgage market is already quite efficient …

but greater market integration could still improve accesibility and pricing

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4

Is Harmonisation possible?

1- Harmonisation

1- Harmonisation	
LEGAL CHANGES Property Charges; Registration/Foreclosure Consumer protection; Valuation systems *Product Integration*	Requirements
PUBLIC INITIATIVE	Leadership
LEGAL HARMONISATION Not always possible, not always always desirable, always slow; Mutual recognition difficult	Hurdles
ADVANTAGES FOR THE CONSUMER Product Choice; High Protection; Lower Prices	Advantages
COMPLEX & SLOWER PROCESS	Impact & Feasibility

- Very difficult to change as it implies issues on sovereignty…
- …probably the result of extremely long, complex and slow processs…
- …and probably at a very high cost

VERY HIGH IMPACT BUT LOW PROBABILITY

WE THINK THAT THE EUROPEAN FINANCIAL INTEGRATION PROJECT ICAN HAVE MORE IMPACT IF LED BOTTOM UP

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Does M&A by itself integrate the mortgage market?

2- M&A

	2- M&A
Requirements	NO INTEGRATION REQUIRED
Leadership	PRIVATE INITIATIVE
Hurdles	DE FACTO RESTRICTIONS
Advantages	ADVANTAGES FOR THE CONSUMER: Small
Impact & Feasibility	EASY TO IMPLEMENT

LOW IMPACT BUT HIGH PROBABILITY

Just holding Banks in different countries does not add significant value for the consumer or the shareholder

A third way…

3-M&A + Integration

	3-M&A + Integration
Requirements	CUSTOMER +BUSINESS INTEGRATION Commercial Integration,; IT Integration Process Integration; Product Integration
Leadership	PRIVATE INITIATIVE
Hurdles	DE FACTO RESTRICTIONS
Advantages	ADVANTAGES FOR THE CONSUMER: Product Choice; High Protection; Low Costs
Impact & Feasibility	EASY TO IMPLEMENT

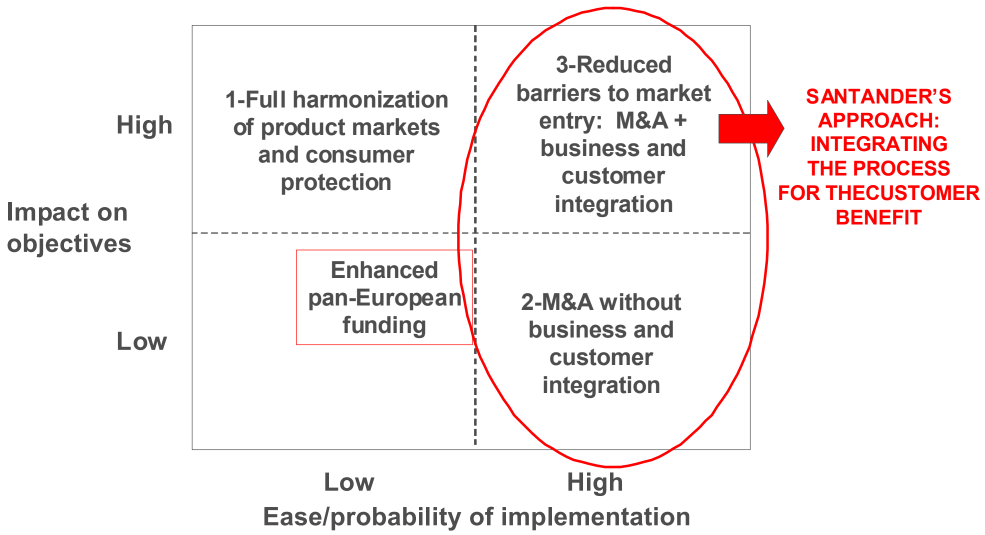
HIGH IMPACT AND HIGH PROBABILITY

Bottom up factory and customer integration is the most efficent way to generate economies of scale that result in better prices and mortgage accesability for customers

Reducing barriers to market entry and integrating operations is the most effective way to promote market integration

	Harmonisation	M&A's-JV's	M&A + CUSTOMER INTEGRATION
WHAT	▪ LEGAL CHANGES – Property / charges (registration / foreclosure) – Consumer Protection – Valuation (product integration)	▪ COMMERCIAL INTEGRATION	▪ COMMERCIAL INTEGRATION ▪ IT INTEGRATION ▪ PROCESS INTEGRATION – Underwritting – Customer protection – Product integration (legally posible)
WHO	▪ GOVERMENT DRIVEN (Slow process)	▪ PRIVATE COMPANIES LEADERSHIP (Immediate process)	▪ PRIVATE COMPANIES LEADERSHIP (fastest ▪ process)
THE HURDLES	▪ LEGAL HARMONIZATION – Not always possible (subsidiarity principle) – Not always desirable – Always slow (difficult natural recognition)	▪ LOCAL RESTRICTION (factual)	▪ LOCAL RESTRICTIONS (factual)
CONSUMER BENEFITS	▪ PRODUCT CHOICE ▪ HIGH PROTECTION ▪ SMALLER COSTS?	▪ SMALL VALUE ADDED	▪ PRODUCT CHOICE (If legally posible) ▪ HIGH PROTECTION ▪ SINGLE PROCESS MAKE IT EASIER ▪ SMALLER COSTS

In summary …
Liberalising individual markets to Pan Euro banks entry is both feasible and highly active



The issue of Funding
The European funding model is already very efficient

- Covered bonds are very efficient funding instruments…but compared to Fannie and Freddie require capital from the banks
- Securitisations vs. the US is more difficult on the basis that there is not an European standard

- **In these regards the creation of an European agency could facilitate European banks the full disposal of credits**
- **However the lack of standarisation is a strong hurdle; some minimum product standarisation would be desirable**

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Today the funding market consists of financial products based largely on local regulation

- Cédulas Hipotecarias
- Mortgage Pfandbriefe
- Obligations Foncieres
- Lettres de Gage
- UK Covered Bonds
- Residential Mortgage Backed Securities

Each of the funding instruments is widely traded, rated by the rating agencies and well understood by investors.

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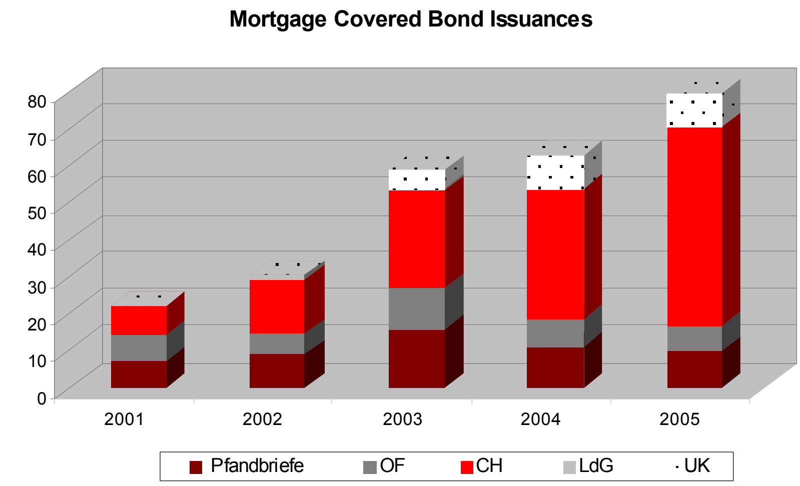
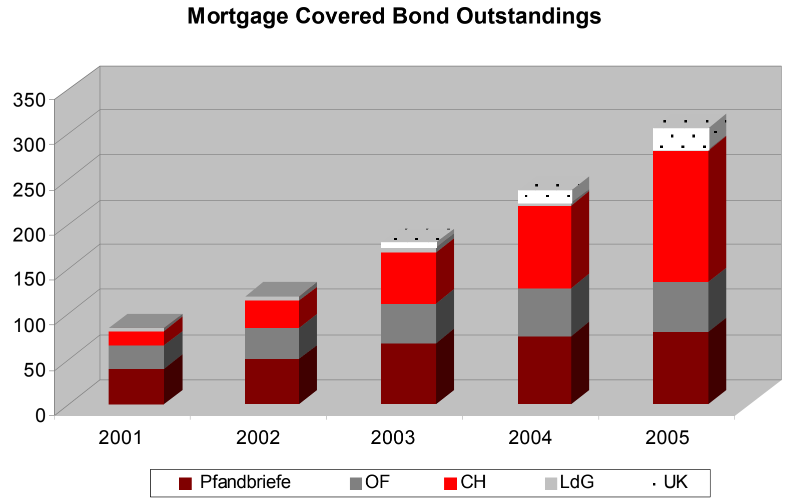
Spanish Cédulas Hipotecarias have gradually become a relevant market player in the last 5 years...



... to become one of the main sources of capital markets mortgage financing across Europe



13

Advantages of a more integrated mortgage market, for issuers and investors

- More diversified mortgage portfolios may be more attractive to some bond investors
- The US experience has shown that access to larger, mortgage pools facilitates access to lower funding costs
- Cross-border mortgage funding can allow institutions to reduce funding cost volatility associated to the credit cycle.

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14

Enhanced funding
Abbey and Santander work together to realise funding benefits

- Broadening of funding market reach for each entity
- Shared expertise in funding design; Cost saving in documentation preparation
- More can be done if there is more product standarisation

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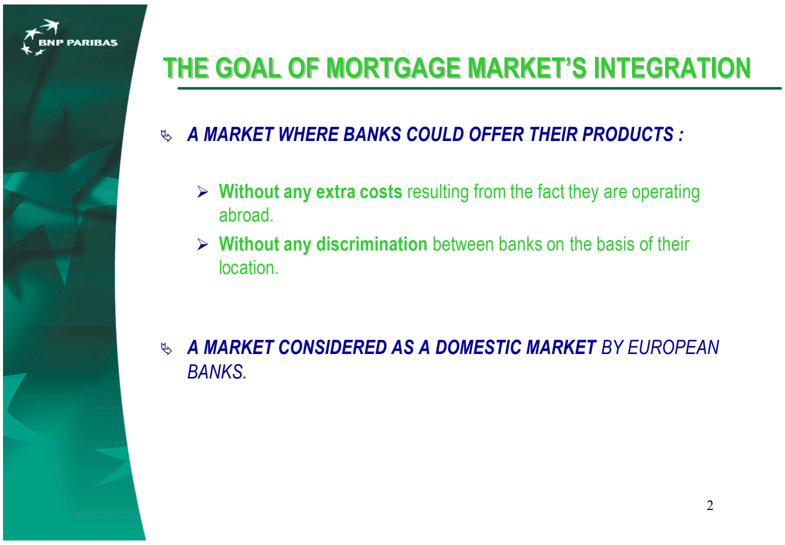
Santander
Santander World's Best Bank
EUROMONEY
2005
Awards for
excellence
FTSE4Good Index Series

Session 2

Presentation by
Alain Gourio
BNP Paribas, Responsable de la coordination juridique BPH



THE DIFFERENT WAYS OF CROSS-BORDER LENDING

- ***THE STAND-ALONE PRODUCT APPROACH***
  - **Free provision of services is rarely used (only as a test of a market).**
    - Mortgage is too complex to be sold on a pure distance relationship (Internet …)
    - A physical presence in the host country is necessary (at least for distribution, credit worthiness assessment, administration of defaults of payment and repossession).
  - **Frameworks used in practice :**
    - Branches (freedom of establishment without legal personality).
    - Setting up specialised subsidiaries (legally considered as local banks).
- ***THE STRUCTURE APPROACH***
  - **Taking over local banks.**
  - **Developping mortgage lending through retail business.**

4

AN INTEGRATION BASED ON THE SUPPLY

- ***AN IRREALISTIC CASE :***
  - **Consumer shopping through Europe to get the best mortgage credit.**
  - **Two exceptions :**
    - Border inhabitants.
    - Borrowers taking out a loan abroad as a consequence of the purchase of a property in this foreign country.
- ***THE REAL BUSINESS CASE :***
  - **Banks entring national markets proposing new and attractive products at a competitive price.**
  - **Banks taking over local institutions and streamlining supply and processes.**

3

WHATEVER THE DIFFERENT FRAMEWORKS CONSTRAINTS ARE THE SAME

- *THE CURRENT LEGAL FRAGMENTATION OF NATIONAL MARKETS IMPOSE IN PRACTICE TO COMPLY WITH THE DIFFERENT NATIONAL LAWS (especially in the consumer protection area).*
- *OBSTACLE TO ECONOMIES OF SCALE THAT SHOULD STEM FROM AN INDUSTRIAL ORGANIZATION.*
- *A KEY REQUIREMENT : TO CONCENTRATE AS MANY ELEMENTS OF THE VALUE CHAIN AT EUROPEAN LEVEL AS POSSIBLE.*

5

HOW EUROPE COULD FOSTER SUCH AN INTEGRATION PROCESS ?

- *IN REDUCING LEGAL FRAGMENTATION*
- *THE MAIN TOOL : HARMONISATION*
  - **Mutual recognition would not be efficient in the field of consumer protection.**
    - Significant risks of distortion of competition.
    - It is not likely to create consumer confidence.
  - **But not just any kind of harmonisation.**

6

FEATURES OF A SUITABLE HARMONISATION

- ***THE DEGREE :***
  - **Harmonisation should be full :** i.e. prohibiting any different national rules as far as harmonised areas are concerned.
- ***THE SCOPE :***
  - **Harmonisation should be targeted** : i.e. applying only to items deemed important for integration and consumer confidence.
  - **Main area :** consumer protection rules (information requirements, APRC, early repayment, legal caps on interest rates…).
- ***THE CONTENT :***
  - **To reach a level playing field adressing both needs of consumers and those of financial providers.**

7

Presentation by
Michal Handzlik
Managing Director Retail Banking
Management and Controlling area

Funding Aspects for EU Mortgage Market

Michal Handzlik
Managing Director Retail Banking
Management&Controlling Area

Mortgage Workshop, Feb 22nd'06, Brussels

Funding Aspects for EU Mortgage Market
Brussels, February 22nd'2005

Bank BPH

Topics

- Standardization of Internet distribution channel
- Implementing Code of Conduct

Funding Aspects for EU Mortgage Market
Brussels, February 22nd'2005

Bank BPH

Is Internet the first priority?

- Limited role as distribution channel in MTG loans:
  - behavioural barriers (mentality, culture)
  - expanded mortgage procedures (to other loans)
  - relatively unpopular electronic signature
  - still low access level to Internet (e.g. Poland)

- Introducing common rules can standardized approach but Internet seams to remains an information source only

Code of Conduct

- Transparency of information is essential for Bank BPH (Oper.Risk)
- Polish Bank Association & government representatives vs. ESIS
- Some remarks are still to discuss:
  - APRC methodology – spread on FCY currencies loans
  - catalogue of initial & additional cost needs to be defined

- Rules from CoC are widely implemented in Polish law:
  - *Consumer credit act* (up to app. 20k €)
  - Despite above, several banks apply them to all loans

Funding Aspects for EU Mortgage Market
Brussels, February 22nd'2005

Bank BPH

Tax & legal issues

- Polish law states:
  - *„Property and other ownership are subordinate to law of country, in where the subject is"*
- So mortgage loans applies jurisdiction of the MS in which property is situated.
- But every kind of limitations provided by local banks supervisions may imbalance this approach
- Reality: differences between should be addressed and solved (even the size of the inter EU mortgage trade is limited

Bank BPH

Tax deductions & official fees

- Cost of mortgage collateral:
  - *court fee (land register)*
  - *notarised paper*
  - *civil-law activity tax - 0,1% of value collateral*
- Polish tax system allows to reduce tax obligation by amount of interest from housing loan (if creditor operate under polish law rules)
- After accession date, all lenders with HQ in EU, can do the business in Poland (via subsidiary or cross border activity)
- So called 'discrimination' in tax area (tax deductible interest) in respect to wealthy nations from MS other than new members

Bank BPH

Key issues

- The most important areas of successful cross-border mortgage business:
  - Mutual recognition of national standards of valuation
  - *But EU standardisation of: definitions of values, content of appraisals, education and quality, corporate governance and ethics*
  - Access to property/land registers and data's base concerning consumer's credit liability –> Credit Bureau

Thank you

- Questions?

Presentation by
Wim Flikweert
Marketing Manager Postbank, Ing Group

ING

Mortgages on an European Level

(An ING Group Point of View)

February 22nd 2006

Agenda

- **Short introduction**
- **A look at it from our perspective: experiences**
    - Domestic branches
    - Cross border experiences
    - ING Direct
- **ING Conclusions**
- **Reactions on your topics**

ING: a world-wide group

Top 20 financial institutions in Europe

#	Name	Market value in EUR billion as of 16 January 2006
1	HSBC HOLDINGS	158.1
2	UBS	94.0
3	ROYAL BANK SCOTLAND	83.2
4	BANCO SANTANDER	70.6
5	ING	64.5
6	BNP PARIBAS	63.1
7	UNICREDITO	62.3
8	BARCLAYS	58.7
9	CREDIT SUISSE GROUP	56.8
10	HALIFAX BANK OF SCOTLAND	55.8
11	BBVA	51.9
12	ALLIANZ	51.3
13	AXA	50.7
14	SOCIETE GENERALE	47.2
15	DEUTSCHE BANK	47.0
16	LLOYDS TSB GROUP	42.0
17	ABN AMRO	41.8
18	CREDIT AGRICOLE	41.7
19	FORTIS	36.3
20	GENERALI	36.1

Source: Bloomberg

ING mortgage activities in Europa

Three lines of activity:

1. **The “traditional” way: domestic presence.**
   - Presence within the countries with traditional branches (Netherlands/Belgium/Poland), sales forces (Spain)
   - Strong position in Benelux

   Huge portfolio of mortgages

2. **Cross-border**
   - Selling mortgages in surrounding countries (from the Netherlands in Belgium/France/Germany
   - Follow the natives of the original countries

   Hardly any impact
   Small portion of the market (est. 1%)
   Inefficient

ING mortgage activities in Europa

3. **ING Direct**
   - Entrance with saving products with a direct approach
   - Expanding with mortgages (mostly face-to-face support of intermediary)

   Strong growth:
   - Germany (DiBa): 10% market share new mortgage production
   - Spain (active for 2.5 years) and Italy (active for 1.5 years) 1-2% market share and rapidly growing

Our conclusion:

- European expansion is possible, but you need to be rooted in the country.
- You need to be different. Make that possible!
- There are no major formal obstacles to enter a country
- Efficiency in back-office is hard to get, but is not crucial.

ING mortgage activities in Europa

What makes a market attractive?

- **Volume**

  (result of local conditions including fiscal environment)
  - Italy: small mortgages because of family finance.
  - England: huge market.
- **Access to clients**
  - Face-to-face is crucial. Can you buy distribution power (intermediairy?)
  - Consumer behaviour. How traditional are they? Can you reach them?
- **Status quo**
  - How much competition/fragmentation is there in the market (Germany)
  - Margins (Belgium: very low because of privacy legislation and strategy of the banks)
  - Are their historical barriers (Germany: Bausparen?)

ING mortgage activities in Europa

What makes a market attractive?

- **Legislation**
  - Is it clear who's the owner of the property (Eastern Europa)
  - Can you execute the loan when the client is not paying (Belgium/Poland)
  - How complicated is it (amount of legislation/authorities/consumer protection etc.).
- **Infrastructure**
  - Is their a reliable register of ownership?
  - Can you validate the value of the property?
  - Formal hurdles to take (legislation)
  - Uncertainty about rules (of the game)

ING Conclusions

1. We are far from a Pan European harmonization
2. But that doesn't prevent competition: each market has it's own characteristics and you have to be rooted in the local market. In Germany ING acquired 10% market share!
3. Market attractiveness and possibilities to enter are far more important than legal barriers.
4. (Deeply rooted) National laws, systems and processes often make sense. Effective harmonization requires huge legal and fiscal adjustments and results in uncertainty for a long time
5. The real obstacles are in the market itself
6. Our advice: stimulate entrance of foreign banks

   For instance: - easy access to infrastructure (registers)
   - stimulate specialization (funding/administration/distribution).
   - reduce rules/local hurdles

Your issue:
innovative products (equity release)

- **A perfect solution for pension problems**
- **All banks are aware of the possibilities**
- **But be aware of the risks for consumers (and consumer protection)**
- **And face a conservative market**

Your issues
Internet: no breakthrough yet

- Mortgages are complicated for most clients
- It is their most important investment
- More banks tried to sell mortgages through the internet, but this market is still too small
- Therefore multi distribution banks are reluctant to give benefits through the internet
- An interesting segment would be the market for re-arrangements

- Breakthrough will come when market is ready and hurdles are not too high:
  e.g. consumer protection makes it more difficult (consumer profiles/signatures, etc.)

Your other (retail) issues

Euromortgage

- What are the benefits?

Retail

- Do not harmonize to much (e.g: voluntary codes of conduct / early repayment etc.). There is always a reason, a history and a downside.
- Make sure that (foreign) newcomers can enter the market on the same conditions as the local players.

Session 3

Presentation by
Susan De Mont
Manager Mortgage Policy, UK Financial Services

FSA

Presentation to European Parliament Workshop

22 February 2006

Integrating European mortgage markets – learning from the experience of national regulation

Susan de Mont
UK Financial Services Authority

Key questions

FSA

- **If the case for community intervention is made:**
  - What sorts of tools should Europe use to foster integration?
  - What lessons can we learn from national regulation of mortgage credit?

Mortgage integration – priorities

- The Commission should tackle first those structural barriers that most hinder cross-border trading in the European mortgage market, such as:
  - funding;
  - increasing access to credit data;
  - developing common valuation standards;
  - encouraging the development of EULIS (a co-operative approach to common access to national land registry systems); and
  - raising market confidence in repossession procedures

Other issues

- Should the Commission wait for the conclusions of the funding group before publishing a White Paper?
- Should mortgage lending be restricted to credit institutions?

Why regulate mortgages?

FSA

- **UK: Government introduced regulation to address main causes of detriment in the national mortgage market**
- **EU: Commission aims to integrate mortgage markets to make them more efficient and competitive**

How did the FSA develop mortgage regulation?

FSA

- **Identify detriment**
  - Market failure/ consumer detriment
- **Cost-benefit analysis**
  - Legal requirement in FSMA to undertake and publish CBA on all rules
  - Use CBA to make the optimal selection of interventions
  - Benefits must outweigh costs

Presentation by
Hans-Otto Hagemeister
Bundesanstalt für Finanzdienstleistungsaufsicht,Director

Workshop on Mortgages

Some Regulatory Aspects on Mortgages

by

Hans-Otto Hagemeister,
Bundesanstalt für Finanzdienstleistungsaufsicht
(BaFin)
Bonn

I. Fixed rate mortgages

1. Different types of mortgage products
   (with floating interest rates or fixed interest rates and others)

2. In Germany large majority of fixed rate mortgages (> 90 %)
   Advantages for the customer :
   - planning reliability;
   - protection against changing interest rates

I. Fixed rate mortgages

3. In general : No right of repayment before the end of the fixed rate period;
   Reason : Refinancing of loans with fixed rate products (e.g. Pfandbriefe, uncovered bonds);

I. Fixed rate mortgages

4. If borrower had the right of prepayment, banks could offer fixed rate loans only with an add-on for this option risk

5. No solution : right of prepayment with prepayment indemnity
because of problems for the collateral if refinanced by Pfandbriefe

6. Borrower is protected by sec. 490 II 2 BGB : right of prepayment in case of legitimate interest (e.g. sale of property)

II. Euro Mortgage

1. Euro Mortgage (or Eurohypothec) could faciliate cross border lending.

Advantage for Banking supervisory purposes (e.g. for special audits of the collateral)

2. Euro Mortgage only as a non accessory security right, because of greater flexibility (like German „Grundschuld“ or Swiss „Schuldbrief“)

- possibility to secure loans with changing amounts
- changing the loan (new loan), securing more than one loan on one property
- advantages at partial sale of the loan in cases of syndication
- advantages for secondary market

II. Euro Mortgage

3. Necessary : Protection of the borrower against double payment

4. Not all the problems solved by a Euro Mortgage :

   Problems with Land registers
   Problems with Enforcement
   Problems with national prior rights
   Problems with insolvency law

Conclusio : Impact Study is necessary

III. Secondary Mortgage Market

A secondary mortage market is useful for
- diversification of risks
- improvement of refinancing
- improvement of capital allocation
- improvement of cross border lending

Measures should not damage the variety of mortgage loans.

Recent development in Germany : Register of Refinance

Thank You

Session 4

Presentation by
Mike Bradford
LL.B (Hons) FCIB

experian

Green Paper on Mortgages

Mike Bradford

Director
Data Protection and Regulatory Affairs
Experian International

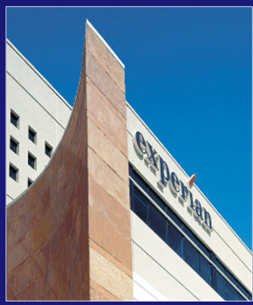
mike.bradford@uk.experian.com

What I will cover

experian

- Who are Experian?
- Where do we fit into the lending decision?
- Can the objectives outlined in the Green Paper be achieved? If so, how?
- Our experiences – what can we learn?

Who are Experian?

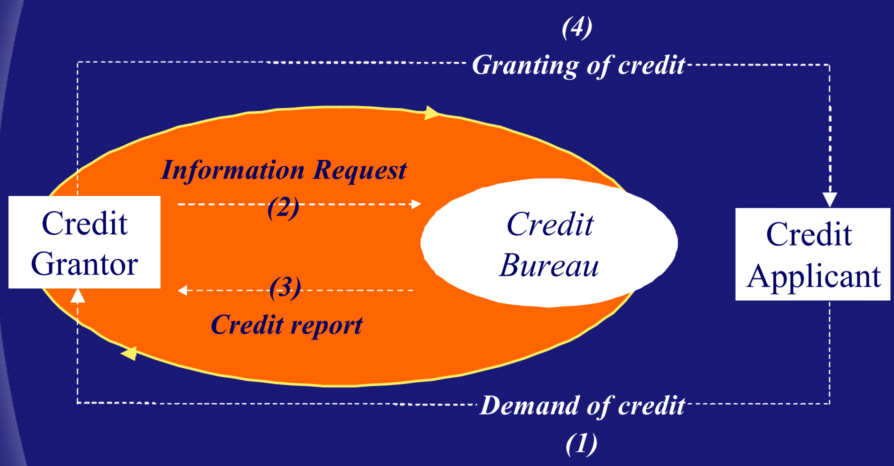


- 50,000+ clients in 60+ countries
- 12,000 people based in 28 locations
- Consumer credit bureaus in 13 countries
- 8 credit bureaus in EEA
- Credit databases of 300 million+ consumers world-wide

Where do we fit into the lending decision?

- Independent broker of information provided by lenders and third parties
- Lender accesses credit bureau to check credit history of applicant
- Applicant must be notified
- Lender updates credit bureau on repayments
- EC Data Protection Directive 95/46/EC
- Credit bureau is itself regulated
- Credit bureau does NOT make any lending decisions

Role of a Credit Bureau



Credit Bureaux in Europe

- European countries all have their own specific laws regulating credit
- Specific laws regulating the bureau, and national markets also differ
- Information collected by credit bureaux is regulated
- Development of credit bureaux in Europe is unequal

Public Versus Private Credit Bureaux

- Credit bureaux in Europe are largely privately owned
- Some public credit bureaux in Europe monitor the development of credit and levels of indebtedness / over-indebtedness
- Public registers in Europe differ from country to country
- Some public registers only collect negative information
- Financial institutions are legally required to report to public registries in some countries

Information Collected by Credit Bureaux

- National laws bring common and different features to the information collected
- Legislation establishes the maximum time that information remains on an individual’s file
- Legislation regulates the rights of access
- Credit bureaux collecting negative information only gather data that has previously defaulted
- Positive information contains other elements which allows for a more precise assessment

Mortgages Green Paper

- Is it realistic to propose a single market for mortgages?
- Will this result in more choice and lower costs for consumers?
- Growth in EU mortgage market…
- …but less than 1% cross-border
- Impacts of standardising regulation
- Removal of structural barriers that discourage lenders
- Encourage lender confidence through data availability

An example of data sharing

- UK credit and mortgage market
- World Bank report – legal protection and breadth of information
- 30 years of operation
- Two levels of credit data sharing:
  - Default
  - Full (including defaults, arrears and good accounts – ‘positive’ data)
- Credit data sharing in Member States
- Trends in emerging markets

Draft
Consumer Credit Directive

- Do we need a Mortgage Directive?
- Already cross-border access to databases
- Access to databases under non-discriminatory conditions
- No benefit in central default database
- Default and full credit information
- Uses of data throughout life of the mortgage

Lender benefits from credit data sharing

- Inclusive – cross-sector
- Non-competitive
  - Controlled through effective self-regulation
  - Data can only be used to prevent over-commitment and to promote responsible lending, NOT marketing
- On-line access – accuracy, speed, quality of decision and service

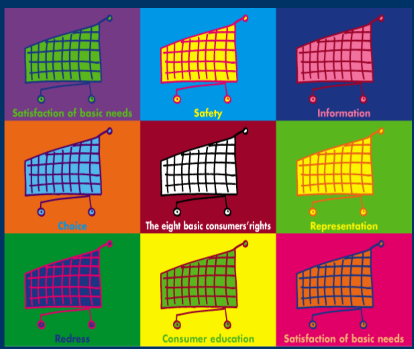
Benefits to consumers and lenders

- More access to credit tailored to individual needs
- Faster and non face-to-face decisions
- Greater convenience
- Lower costs
- Consumer choice
- Prevention of fraud
- Consumer access to information

Conclusions

- Differences in market dynamics – size, house-price growth, culture, etc
- Can a one-size-fits-all approach work?
- Premium on regulatory flexibility
- Maximum harmonisation lessons
- Assess impacts of further regulation on financial services sector
- Removal of structural barriers
- Encourage credit bureaus and data sharing

Presentation by
Dominique Forest
Senior Economic Adviser



The Internal Market in Mortgage Credit

ECON meeting

Brussels

22 February 2006

The Internal Market for Mortgage Credit

The Consumers' Perspective

Dominique Forest

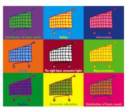
Senior Economic Adviser

The Internal Market for Mortgage Credit -
The Consumers' Perspective

1. What's in it for consumers?

- Social aspects, 'their' home
- Clear overall benefits?
- NOT calling into question consumers' confidence
- NOT calling into question Efficiency

⇒ Consumers appetite?



The Internal Market for Mortgage Credit - The Consumers' Perspective

1. What's in it for consumers?

- High degree of asymmetry of information & (technical) knowledge: consumers go 'local'
- Extension of choice ? consumer benefits : 'It's quality of choice that matters'
- Consumers expect to benefit from at least the same level of protection in the Internal Market as in their home country

⇒ Consumers' needs have to be the starting point

The Internal Market for Mortgage Credit - The Consumers' Perspective

2. Consumers' needs

- High level of consumer protection key for consumer confidence ⇒ consumer protection ? obstacle to 'competition' and 'innovation'
- 'Simple'/simpler legislation not always possible! (sophisticated products, bundled offers, information asymmetry)
- Self regulation not 'ideal' per se! The EU voluntary code of conduct backed by Commission Recommendation is in place – implementation disappointing
- Financial 'education' no panacea

⇒minimum harmonisation through binding rules

The Internal Market for Mortgage Credit - The Consumers' Perspective

3. Mutual recognition is not an option

- Mutual recognition/European passports not viable options
- Consumers cannot make an informed 'free choice of contract law'
- Same for 26th regime

⇒ Information and regulatory needs of consumers must be considered

The Internal Market for Mortgage Credit - The Consumers' Perspective

4. Priorities

- Getting clear, comparable information, 'plain English', comprehensive APRC, native language
- Standard presentation/same presentation structure
  ⇒ harmonising 'interfaces'
- More information – not less
- Access to redress

The Internal Market for Mortgage Credit -
The Consumers' Perspective

4. Priorities

- Consumer mobility is needed for competition to develop (too often consumers discouraged from switching - opportunity costs)

- Early Repayment Fees have to be limited (length & amount)

- Need for advice: impartial, high quality – best possible advice

- Positive role of caps on interest rates/usury rules

The European Consumers Organisation
Bureau Européen des Unions de Consommateurs

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Contribution by
Manfred Westphal
Member Fin-Use

Opinion on the European Commission's Green Paper "Mortgage Credit in the EU"

Executive summary

1. Taking-out a mortgage is for most European consumers the most important financial decision of their lives; mortgage debt is the main liability held by consumers and repayments constitute the single most important outgoing.

2. FIN-USE welcomes the Green Paper approach to a subject with a truly huge social and human dimension.

3. National and European consumer organisations have for many years consistently called for EU legislation in this area. In contrast, only consumer credits (for lesser amounts and shorter periods) have been regulated.

4. Today consumers do not want to contract cross-border with foreign lenders. To move towards an integrated market, those lenders therefore have to access consumers in their home market if consumers are to have a greater choice and access to a range of different offers, with the chance of lower prices and spreads.

5. Because of this, FIN-USE today is not calling for a complete regulation. Instead, regulation should be considered on a step-by-step basis and in some areas on a minimum harmonisation basis.

6. After the excellent work of the Forum Group, it would be a good idea to work on specific problems like early repayment, consumer information and APR in a specialised working group with experts from the consumer and the industry side.

7. The Green Paper does not set out its view of what integration really is; it just seemed to argue that national markets must ease business for lenders. The objective of an integration of EU mortgage markets should not disregard the fact that in a near future national markets will still exist and prevail.

8. Objectives for action on a European level should be diverse: not only integration of the mortgage markets, but also concrete fostering of competition by means of consumer protection (greater transparency and comparability) and making cross-border access easier for lenders.

9. FIN-USE believes that the report of London Economics on the costs and benefits of integrating EU mortgage markets is over-optimistic in its views on GDP growth.

10. What is needed is a careful, thorough consideration of the issue and not a hasty snap judgement. Regulation can help, but clearly not regulation alone as the developments must also be market driven. As to regulation full harmonisation methods do not sufficiently take into account the different national situations concerning competition, product preferences and the behaviour of consumers and credit institutions. Codes of conducts do not help as they are a fig leaf for the industry, especially poor quality lenders, and can only be effective under very specific conditions.

11. The wide range of topics addressed in the Forum Group Report cannot be tackled at the same time. Thus FIN-USE recommends proceeding step by step.

12. Consumer Protection

a. As consumer confidence is vital in such big markets as the mortgage markets FIN-USE believes that in the area of consumer protection some binding regulation is needed: on APR, on the availability of early repayment, the fairness of early repayment fees and variable interest rate variation and the circumstances when lenders can terminate loans and repossess homes.

b. The Voluntary Code of Conduct on Pre-Contractual Information for Home Loans of March 2001 has failed and must be replaced by binding legislation.

c. There should also be binding harmonisation of the Annual Percentage Rate of Charge (APRC). If this definition is restricted to costs levied by the lender then all other costs associated with the contract must be presented prominently and in an easily understandable way.

d. If lenders or intermediaries give advice on consumers this must reflect their real demands and needs. The benefits of such an approach would include reduced rates of default, repossession and over-indebtedness.

e. FIN-USE considers that an early repayment option is very important for consumers. Information on early repayment and its costs must be regarded as one of the essential points of the intended contract.

f. Early repayment fees represent a strong barrier to consumer mobility, competition and market integration and must be restricted to the clear cost (damage) they entail for lenders.

g. There should be rules for the adjustment of variable interest rates.

h. National usury Rules are important and should not be abolished when liberalising national markets.

i. Effective Enforcement and Redress is important; redress systems which are independent of industry should be encouraged and facilitated.

13. Legal Issues

a. Applicable Law: FIN-USE favours the status quo as for mortgage credit contracts (Rome Convention) and for the law applying to the collateral.

b. Client Credit-worthiness: As the data collected is of an extremely sensitive nature not only access for foreign lenders must be an issue but also effective rules protecting data privacy and ensuring accuracy, including special regulations concerning faulty entries into the database.

c. Property Valuation: The Commission should ensure that EU-wide valuation standards are acknowledged, at least concerning the basis of evaluation and experts' qualifications.

d. Forced Sales Procedures: A harmonisation of national laws seems very unlikely in the near future, but the Commission could as a first step collect and analyse national schemes.

e. Tax: FIN-USE believes that the Commission should investigate and address tax distortions for all parties.

1 Assessing the case for Commission action

Given the amount of money and the long time periods involved, taking-out a mortgage is for most European consumers the most important financial decision of their lives. Moreover, as a result of increasing property prices, mortgages involve ever-larger amounts of money and ever-longer periods of time, with mortgage repayments constituting the single most important outgoing during most European consumers' working lives.

Moreover, mortgage credit markets are, as rightly highlighted by the Commission Green Paper, amongst the most complex markets in which consumers engage.

FIN-USE fully recognises that mortgage lenders are businesses that, in order to be competitive, must be as efficient and effective as possible in their approach to housing credit. Nevertheless, FIN-USE welcomes the Green Paper's approach to a subject with a truly huge social and human dimension.

While lenders are valid stakeholders in any debate about housing credit, the same is true of consumers, since without consumers, there would be no market for housing credit.

FIN-USE recalls that national and European consumer organisations have for many years consistently called for EU legislation to protect consumers when they take-out mortgages on a cross-border basis. Paradoxically, consumer credits (for lesser amounts and shorter periods) have been regulated since 1990 via the Consumer Credit Directive. Indeed, the need to legislate on cross-border mortgages is evidenced by the fact that some Member States transposed the CCD in such a way that it also covers mortgages. This has however resulted in a situation where there are now quite different levels of consumer protection across the Member States.

FIN-USE notes that the Report by London Economics on the Costs and Benefits of integrating EU Mortgage Markets finds that full integration of EU mortgage markets would be of net benefit to the EU, and that consumers in particular would benefit through the role of more flexible mortgage products in allowing them to schedule their consumption more smoothly over time.

FIN-USE therefore welcomes this Green Paper. However, if its objective is to create a European mortgage market, then consumers across the EU must feel comfortable with comparing offers from, and in turn transacting with, mortgage lenders from other Member States. That scenario may develop some time in the future. For now however, integration of the market will instead involve other routes, with foreign lenders seeking to establish a presence on other markets, and thereby increasing the range of products available and competition between providers. The result should be markets with more diverse products, of better quality and better price, with much greater competition among suppliers.

2 Consumer protection

2.1 Information

FIN-USE strongly believes that the Voluntary Code of Conduct on Pre-Contractual Information for Home Loans March 2001 must be replaced by binding legislation. The independent analysis of the Code in 2003, two years after its supposed implementation, provided clear evidence that it had failed, with only approximately half of the mortgage lenders across the EU applying the Code, and of those a maximum of 6.5% providing the standard pre-contractual information required. Even if the Commission were to analyse the application of the Code of Conduct once again - as seems to be the case now – from our knowledge of consumer experiences we think that the results will not be much different.

FIN-USE's view is that stringent criteria have to be met if self-regulation such as codes of conduct are to work well. These are in brief:-

- A good code of practice
- Independent governance
- Full coverage of the industry
- Adequate resources
- Effective monitoring
- Enforcement powers and sanctions
- Regular review process
- Support of key stakeholders.

The Code of Conduct falls so far short of these criteria in almost every respect that the only conclusion that can be reasonable reached is that the Code is beyond being made to work effectively, and therefore legislation is necessary.

The necessary legislation can – in a first step – be dealt with on a national level supported by a EU framework regulation on a minimum harmonisation basis.

As information provision is a crucial issue in mortgage transactions, FIN-USE believes that such information must be harmonized at a high level of consumer protection. Consumers must be provided with an appropriate and balanced level of information necessary to allow them take an informed decision, in a manner and at a time when such information provision is most effective. In this context, FIN-USE finds that the aforementioned European Code of Conduct already sets some EU-wide precedents for standardized pre-contractual information, both in terms of content and format. However, this information must also include information about the method of calculation of the nominal interest rate, an explanation of the equivalent effective rate, and also information about the total cost of credit.

FIN-USE would call on the Commission to launch a study to ascertain the information needed by consumers in order to allow them easily and correctly access and in turn compare competing mortgage offers, while bearing in mind that consumers cannot be expected to be experts on increasingly complex mortgage products.

FIN-USE agrees with the Commission assertion that it is fundamental that precontractual information be provided at a stage that enables consumers to shop around and compare offers. While FIN-USE also acknowledges that there are different traditions and legislations in the various Member States, it should nonetheless be clear that pre-contractual information is precisely that – ex ante information which is provided before the consumer and lender enter into a contract and which is therefore non-binding.

Indeed, pre-contractual information should be provided sufficiently in advance of any signing of a contract in order to allow the consumer sufficient time to reflect on what is after all most likely to be the single most important (financial) decision of his/her life. Indeed, the lack of a cooling-off period when buying a house in some Member States means that it is even more important that consumers be provided with, and understand, pre-contractual information. An additional reason for replacing the Code of Conduct with binding legislation is its lack of definition of the key term “pre-contractual”.

FIN-USE also believes that the consumer should be entitled to certain minimum levels of information after the entry into force of the contact such as advance warning of interest rate changes (in the case of variable interest rate mortgages),
FIN-USE believes that the aforementioned principles underpinning a high, common level of consumer protection must apply irrespective of whether the consumer transacts directly with a mortgage lender or an intermediary. Codification via binding legislation would greatly facilitate compliance with such an information regime.

2.2 Advice Provision & Credit Intermediaries

FIN-USE believes that the provision of advice to borrowers cannot be made compulsory as consumer needs are very different as is their knowledge. However, if advice is given by lenders or intermediaries, it must meet professional standards and reflect the real demands and needs of consumers. Any advice that fails to take account of the consumer’s situation should be considered flawed. Demands and needs should be assessed on the basis of what the consumer has communicated to the advisor; merely posing a long list of questions from a standard questionnaire cannot be considered to be a well thought-out, balanced assessment. Rather, there should be clear standards for such advice, in addition to advance disclosure of any fees levied.

Concerning the activities of brokers and intermediaries FIN-USE believes that the rules applying to insurance intermediaries laid down in the Insurance Intermediaries Directive would serve as a good basis for regulating mortgage brokers and intermediaries and that information obligations need not only to apply on credit institutions, but also to brokers and intermediaries.

The benefits of such an approach, extending conduct of business rules to intermediaries no matter what financial services they are selling, would include reduced rates of default, repossession and overindebtedness.

2.3 Early Repayment

FIN-USE considers that an early repayment option is very important for consumers.

The right of early termination should not be subject to compensation in the form of fees. The bank is however entitled to ask for compensation for the damage it suffers due to the early termination of the contract. The bank might be damaged since it is possible that it can only conclude a credit contract on an interest rate lower than the one of the credit which is early repaid. On the other hand, it might be that the bank can sell the early repaid money to a higher interest rate; in this case it is only fair that the bank has to pay compensation to the borrower who paid back early.

FIN-USE does not ask for capping early redemption fees, but regards it highly important that the fee calculation method is fair and must only reflect the real damage of the bank less all saved expenses.

Concerning variable interest rate credits FIN-USE believes early repayment fees are not justified (most banks accept this).

In general, FIN-USE finds early repayment fees represent a strong barrier to consumer mobility and therefore competition and market integration and must, for this reason, be restricted to the clear cost (damage) they entail for lenders.

Information about early repayment must be regarded as one of the essential points of the intended contract. It should be provided pre-contractually, be clear, and allow the consumer to understand the importance that early repayment might have in the future for him as well its economic consequences. As such, the consumer right to early repayment should be a key element of any consumer education/empowerment programme, backed-up in turn by clear, standard, easy-to-compare information provided by lenders at a pre-contractual stage. But equally importantly, clear and comprehensive information must be provided to customers who are considering early repayment about the costs that they will face if they do repay early.

More specifically, FIN-USE proposes that the Commission carries out an independent study of the true cost of early mortgage repayment for lenders; the study should also take account of growing trends in mortgage markets.

The right of lenders to terminate mortgage contracts is an issue which FIN-USE believes must be balanced against the economic importance of mortgages to consumers; FIN-USE therefore favours restrictions on lenders' ability to terminate contracts. Consumers must also be fully and clearly informed of the circumstances allowing lenders to terminate mortgages as part of the pre-contractual information. In cases of a brief shortfall in repayments, a preliminary termination should be restricted. Indeed, such preliminary cancellations would lead to consumer insolvency and overindebtedness, without assisting in reclaiming the outstanding loan amount. An example of good consumer protection in this area is the Swedish Credit Act, whereby a lender is only entitled to early termination of a mortgage if it is foreseen in the contract, and if the consumer defaults on repayments for an extensive period, substantially detracts from the collateral or fails to make payment. In addition, the consumer must be allowed at least four weeks to pay off the outstanding balance.

2.4 Annual Percentage Rate

As the Green Paper states, APR is a key factor of the mortgage loan, as it also is for any type of loan. The APR determines – together with other cost factors currently not included in the APR - the "price" of the product. This is why its purpose is both information and comparison, as it is for any product.

FIN-USE believes there should be an EU standard, covering both the calculation method and the cost elements, including not only all costs arising for the lender, but also all associated charges, taxes etc. for the consumer, and in a harmonized manner (in many Member States for example, mortgage insurance is compulsory). Only in this way the APRC will serve its objective of providing a true, comparable cost to consumers. It should therefore better be named "Annual Percentage Rate of Charge" and not simply Annual Percentage Rate.

The APRC should figure in all commercial communications and advertising of the lender, as well as all documents given to the consumer at a pre-contractual stage and during the operation of the credit agreement. In cases where it is not possible to advertise one APRC because borrowers get very different APRCs according to their credit-worthiness – only an APRC can be advertised that is accessible to a majority of borrowers (see the regulation in the UK for consumer credits: the APR must be accessible to two third of the consumers).

FIN-USE considers that providing the consumer with separate information on the APR and on the costs not covered by the APR only risks leading to confusion, since it is not clear and easily understood by the consumer what the true “price” of the product is. But of course it would be a step forward to present the APR together with all the other cost elements in a kind of “cost box” as today this cost information is often scattered to the four winds, that is over the whole pre-contractual information and the contract.

Moreover, FIN-USE believes that the Annual Percentage Rate of Charge in consumer credits and in mortgage credits should be regulated in the same way; in its view, there is no reason why they should be regulated differently.

2.5 Usury Rules & Interest Rate Caps

Legally enforceable caps on interest rates are an example of the recognition by Member States of the indissociable social and human aspects of mortgage (and consumer) credits; they reflect the prevailing social circumstances in Member States and aim at protecting consumers from extortionate interest rates when seeking to fulfil one of the most important and basic human needs, namely the purchase of a home. That is why FIN-USE believes they should not be removed.

Given the aforementioned social and human aspect, FIN-USE agrees that usury rules should be examined in a broader, non-mortgage context that includes *inter alia* other consumer credits.

FIN-USE does not believe that interest rate caps impede market integration; only bad lenders try to make a profit out of interest rate terms that discriminate and harm borrowers. Usury rules help to support a market standard.

However, as national markets still are very different and will stay for quite a long time it doesn’t seem the task of the EU to tackle this problem in a full harmonisation manner but to leave it to the Member States, many of which have in place efficient legislation or jurisdiction.

2.6 Interest Rate Variation

In the case of mortgage credit contracts with variable interest rates, alterations of interest rate may only be allowed be if they are:

- justified by increased loan costs for the creditor or other increase of costs which the creditor could not reasonably have foreseen when the agreement was entered, or
- based on a clearly-defined index (tracker mortgage) which can easily be checked and calculated by the consumer.

Such restrictions – which should clearly be presented in the pre-contractual information and the contract – would prevent credit institutions from adjusting interest rates to the disadvantage of consumers in a high handed and non transparent fashion. This has been observed at least in those countries where there is no strong competition in variable rate mortgages. Changes must not be discretionary and must be monitored by the national supervision authorities.

On the more specific question of interest rate variation caps, FIN-USE believes it must be clearly defined how much – in the case of a tracker mortgage – the index must change in order to qualify for an alteration of the interest rate.

The date when any alterations may take effect must be clearly stipulated in the credit contract. Such measures would help ensure clear comparability of products and legal certainty.

2.7 Credit Contract

On the 26th regime, the green paper does not go into any sort of detail about what is involved. So for example, does it extend to prudential supervision as well as conduct of business regulation? Which companies can access it, only companies that operate cross-border in some sense or any domestic company? Would there be a new 26th regulator?

Even if a unified regime offers interesting potential from a cross-border perspective two questions arise immediate concern; the scope for widespread and growing consumer confusion, the danger that a uniform code would pose to the widely differing circumstances across the market of the union.

A fundamental weakness that makes the developing of a new regime even more complex is the dramatic absence of evidence about how consumers in different Member States fare when they enter the retail market. There is evidence about costs etc from firms showing compliance costs meeting regulation but nothing on the scale of problems and detriment that consumers face. In the absence of empirical research, it is not surprising that reports, such as for example the Mortgage Forum Report, tend to be “wish lists” from industry and consumers.

2.8 Enforcement & Redress

FIN-USE believes that Member States must be obliged to ensure the existence of independent, inexpensive, properly resourced, user-friendly and effective Alternative Dispute Resolution (ADR) and redress procedures, as the costs and time involved in seeking redress through the Courts can often deter consumers from taking actions to enforce their rights. The existence of such schemes would not only benefit consumers, but also act as a deterrent to unscrupulous lenders, while at the same time encouraging bona fide lenders. Indeed, experience with such schemes in different countries demonstrates that one of the best ways to deter unscrupulous lenders, while also encouraging good lenders, is to publicly “name and shame” guilty parties (e.g.,Ireland).

In addition to the aforementioned aspects, FIN-USE agrees that there is a need for a definition of cross-border lending so as to monitor lending that falls within its scope.

Ombudsman systems work better in some countries than in others. As consumer confidence plays an important role and as the resolution scheme should be as independent as can be, the European Recommendation on ADR should be followed in all cases. This means that FIN-NET membership should be reconsidered. In some countries, only industry-controlled ombudsman schemes are included. It would be preferable that the setting up of industry-independent dispute resolution schemes is encouraged and facilitated.

3. Legal issues

3.1 Applicable Law

FIN-USE supports mortgage credit contracts continuing to be subject to the general principles of the Rome Convention and thus subject to the mandatory rules of the consumer's country of residence (Article 5, par. 2).
As for the law applying to the collateral, here FIN-USE would also favour the status quo, i.e., application of the law of the country where the property is situated.

3.2 Client Credit-worthiness

FIN-USE agrees with the Commission that there are merits in a consistent approach to the rules applying to access to databases for both mortgage and consumer credits. While FIN-USE recognizes that databases are useful for lenders, they are nonetheless a sensitive issue for consumers.

As the data collected is of an extremely sensitive nature, effective rules protecting data privacy and accuracy must be implemented, including special regulations oncerning faulty entries into the database. National data security policies do not suffice if the data is to be passed to all Member States. It is not sufficient to merely define a strict set of legal uses. It is necessary to implement effective rules to correct entries as well as to establish rights to damages due to faulty entries and to ensure that corrections will be passed to all relevant institutions, including those in other Member States. Faulty entries can affect everyone. An effective protection against these types of abuse of databases is needed.

FIN-USE believes it would be necessary to independently supervise these databases, including who should have access to the data , which criteria must be met before data are communicated and what information (and when) a registered consumer should be entitled to access. Data about individual consumers should be communicable to a third party only for legitimate reasons, e.g., a creditworthiness scoring. The communicated and its result concerning his credit-worthiness and be informed of how to correct any incorrect data. It would also be desirable that different databases use the same definitions and parameters when determining different levels of payment neglect, and apply the same maximum periods for data storage, after which the data must be destroyed.

3.3 Property Valuation

FIN-USE agrees that the Commission should ensure that EU-wide valuation standards are introduced as to the basis of valuation and also experts' qualifications. Such a move would serve to ensure both compatibility and comparability. A single EU-wide standard (as opposed to mutual recognition of all the existing national valuation standards) would also be easier for consumers.

3.4 Forced Sales Procedures

FIN-USE notes that in the case of home loans, the pledged collateral is of great importance for consumers (and their families) e.g., the title deeds to the family home. Pre- and contractual information should clearly stipulate the circumstances allowing such collateral to be enforced by the lender, as re-possession of the family home is probably the most emotive aspect of mortgages credits.

As it will not be possible in the immediate future to harmonise the direct and indirect law of forced sales procedures throughout Europe or introducing a 26th regime, which completely ousts national regimes, the Commission should in a first step collect and analyse data about the procedures and procedural law within the EU.

3.5 Tax

FIN-USE agrees with the Recommendation that the Commission should investigate and address tax distortions, in order to ensure the removal of differences in fiscal treatment between local and foreign lenders. However, FIN-USE believes that the Commission should go further and work towards ensuring that all consumers in a given Member State are entitled to the same fiscal treatment, irrespective of the Member State where the mortgaged property or collateral is located, or the Member State where the lender is based.

4. Mortgage collateral

4.1 Land Registers

FIN-USE agrees that the Commission should continue to provide financial support to the EULIS initiative, to enable and encourage its expansion across the EU.

4.2 Euromortgage

FIN-USE would support the Recommendation to explore the concept of the Euromortgage (26th regime) in the context of its impact on the *lex rei sitae* and its rulings in detail, for example by way of an independent study, to assess its potential to promote EU mortgage market integration.

5. Funding of mortgage credit

FIN-USE supports the Commission proposal to create an ad hoc stakeholder working group to examine the need for and nature of action on the funding aspects of mortgage credit.

On the question of whether mortgage lending should be restricted to credit institutions, FIN-USE believes that the provision of mortgage credits from non-credit institutions would serve to improve competition, thus improving choice and price for consumers. However, mortgages provided by such institutions must be regulated in the same manner as mortgages provided by credit institutions.