

## ROADMAP

Title of the initiative: **Report on best practices aimed at avoiding foreclosure procedures for mortgages**

Lead DG/contact person: DG Internal Market and Services

Expected date of adoption of the initiative (month/year): October 2010

Date of modification: April 2010

### Initial IA screening & planning of further work

#### **A. Context and problem definition**

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

In the context of the problems in EU mortgage credit markets brought to light by the economic crisis, the Commission undertook to come forward with measures on responsible lending and borrowing in its Communication to the Spring European Council Driving European Recovery of 4 March 2009<sup>1</sup>.

As part of a package of measures in this regard, the Commission will present in a report the findings of an analysis of national measures and practices aimed at avoiding foreclosure procedures for residential mortgage loans.

What are the main problems identified?

As a consequence of the economic crisis and its impact on employment and lending interest rates, homeowners in several Member States are struggling to maintain their mortgage payments. Consequently, foreclosures and repossessions have risen.

In many Member States, public authorities and mortgage lenders have been developing practices to avoid the commencement of foreclosure procedures where possible and appropriate.

Is EU action justified on grounds of subsidiarity?

The Commission's analysis of the situation in all Member States puts it in a strong position to offer examples and best practices of solutions to avoid foreclosure procedures where possible and appropriate.

#### **B. Objectives of EU initiative**

What are the main policy objectives?

The purpose of this report on best practices is to provide examples and guidance for national public authorities and lenders on how solutions can be developed at a stage where it can still be ensured that citizens who are struggling to maintain their mortgage repayments do not find themselves subject to foreclosure procedures before strictly necessary.

Does the objective imply developing EU policy in new areas or of strategic importance?

No. This initiative should be seen in the context of the ongoing policy to enhance the single market for (mortgage) credit, while maintaining a high level of consumer protection throughout the EU.

<sup>1</sup> Communication for the Spring European Council, Driving European Recovery 4.3.2009 Page 7

## **C. Options**

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

Given the variety in the approaches to foreclosure prevention across the EU, a report highlighting examples and practices that could guide national authorities and lenders to find suitable solutions for their respective markets is an appropriate policy option.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

This initiative should be seen in the context of the measures on responsible lending and borrowing to be undertaken by the Commission in the same time frame.

Explain how the options respect the proportionality principle

A report on examples and best practices is a proportional response to the objective of informing and guiding national authorities and lenders on possible approaches to be taken to avoid foreclosure procedures.

## **D. Initial assessment of impacts**

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

This initiative is to be used to provide inspiration to national authorities and lenders on possible approaches that could be taken to avoid foreclosure procedures. If such approaches are followed, the main impact could be that that lenders and public authorities act to engage in dialogue with borrowers in difficulty to seek alternative repayment measures and that foreclosure is treated as a last resort action. This would have positive economic and social impacts for the borrower, the lender and the wider economy.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No impact on the EU budget.

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No significant impact on simplification/ administrative burden or on relations with third countries.

Who is affected?

If the practices and examples set out in the report are taken up by national public authorities, stakeholders that could be affected include consumers, credit institutions, non-credit institution lenders, and credit intermediaries.

## **E. Planning of further impact assessment work**

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Given the non-binding nature of this report, it is not anticipated that any further impact assessment work will need to be undertaken.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Commission services sent on 3 April 2009 a questionnaire to Member States in order to collect comprehensive information on measures already taken or intended to be taken in the near future in the Member States to avoid entering into foreclosure procedures. The Commission also asked about the recent evolution of defaults and foreclosures.

A summary of the information provided was discussed with Member States at a meeting held on 26 June 2009. Further bilateral contacts were then held. The Commission received replies from all 27 Member States plus Norway.

In addition, the Commission received information from the European financial services industry on foreclosure prevention measures and on non-performing loans.

The Commission services intend to update the information on the foreclosure prevention measures and on the evolution of defaults and foreclosures in the course of 2010.