



EUROPEAN COMMISSION

Internal Market and Services DG

FINANCIAL INSTITUTIONS

Retail issues, consumer policy and payment systems

Brussels, **29 March 2006, Rev. 1**
MARKT/H3/JR/CH (2006)

TERMS OF REFERENCE

MORTGAGE INDUSTRY AND CONSUMER EXPERT GROUP (MICEG)

1. BACKGROUND

In line with its Better Regulation principle, the Commission has been following a coherent and transparent process in the field of mortgage credit. Following an analysis of the responses to the Green Paper, a summary of which will be published shortly, we have decided that this process needs to be continued and that further work on some key targeted areas is required before any decisions on future policy orientations can be determined. One area where further work is deemed necessary is in the field of consumer protection.

The Forum Group report, published in December 2004, highlighted not only the differing views of industry and consumer representatives but also areas where agreement may be possible. The Green Paper consultation has shed further light on areas where consensus exists or where bridges may be built. Before drawing any conclusions on the Commission's future policy orientations, it is believed that a serious effort needs to be undertaken to assess to what extent agreement on targeted consumer confidence provisions is feasible.

2. OBJECTIVES

The general objective is to explore, with industry (EBIC) and consumer (BEUC, Euro Coop and COFACE) representatives to what extent consumer and industry representatives can agree on common principles on mainly four targeted consumer protection provisions, namely information, advice, early repayment and annual percentage rate (APR). Wherever possible, the discussions should move beyond the general principles and try to propose commonly acceptable standards. Equity releases will be considered as mortgage credit in the context of this dialogue.

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2.1. Information

Common standards for information are essential in enhancing consumer confidence and facilitating cross-border comparisons. From the lender perspective, common standards can minimise the costs of providing information in more than one jurisdiction. From the consumer perspective, the provision of accurate and focused information on mortgage credit is essential to enable consumers to understand the main principles of mortgage products.

Pre-contractual information is currently subject to a European Code of Conduct adopted in 2001. In the Green Paper consultation, several respondents made proposals to modify the European Standardised Information Sheet (ESIS) either by modifying existing items or adding additional items.

Taking this into account, industry and consumer representatives should seek to reach, among other, an agreement on whether the list of information requirements in the ESIS is still relevant and consider whether items could be added, removed, modified, etc.

The ultimate objective should be to agree upon the content and format of contractual information for consumers in the field of mortgage credit. The discussions should therefore not focus on whether the Code of Conduct should remain voluntary or be made binding, or on possible means to enforce the existing Code of Conduct.

2.2. Advice

The report of the Forum Group stated that consumer representatives believed that there should be a duty to give best possible advice and that the advice should be specified to consumers on a durable medium.

The Green Paper asked for general views on the provision of advice. Respondents' views on the provision of advice were mixed. On the one hand, many industry respondents and some user bodies voiced concerns about making advice mandatory, albeit for different reasons. The principle reasons cited were concerns about damaging an emerging "market for advice", the potential impact on prices, and the possible impact on consumers shopping around (consumer may be discouraged). On the other hand, some consumer representatives stated that the provision of advice should be obligatory. On the subject of whether conditions should be applied to any advice provided, respondents also presented a mixed picture.

The Expert Group should:

- assess whether the provision of advice should be compulsory or optional;
- consider whether advice should be a separate service or should be part of the information provided by a lender;
- reflect on who should give advice: lenders; specialised advice providers; etc.?
- explore the definition of principles for the provision of advice.

2.3. Early Repayment

Early repayment regimes differ considerably between Member States. In some, it is compulsory, whereas others leave it to the contractual parties to decide and others discourage its use, in particular because of its potential impact on refinancing methods.

The Forum Group report stated that consumer representatives and most industry representatives advocate the harmonisation of early repayment fees.

A majority of contributions to the Green Paper consultation appear to accept that early repayment should be a right for consumers, albeit with a corresponding right being granted to the lender to recoup his costs through fair compensation.

The Expert Group should consider:

- whether early repayment should be a contractual option or an unconditional right;
- whether the creditor should be entitled to claim early repayment fees, in which circumstances, based on which calculation method and with or without caps.

2.4. Annual Percentage Rate

The Forum Group report noted that there should be harmonisation of the APR in relation to both the method of calculation and the basis of calculation. This position was supported in the consultation on the Green Paper in order to facilitate the comparability and transparency of different offers.

The Expert Group should:

- assess the merits of having a specific mortgage APR;
- define the method of calculation for the APR in the field of mortgage credit;
- determine which costs should be included and which costs should be excluded;
- reflect on how the consumer can be made aware of the costs excluded from the APR.

3. MEETINGS

The Expert Group will be launched on 6 April 2006 and will run for a maximum of 9 months, ending in December 2006. Two types of meetings are planned: "political" and "technical".

3.1. Political

The purpose of the "political meetings" is, on the one hand, to conclude the process and, on the other hand, to offer a possibility, during the process, of addressing issues which could not be solved at "technical" level.

Three meetings are currently foreseen: kick-off; interim; final. The following dates are provisionally scheduled for political meetings:

- 6 April 2006
- 18 October 2006
- 12 December 2006

3.2. Technical

Five "technical meetings" will be held. Each of the meetings will deal with two topics in detail.

- 10 May 2006 (Information/Advice)
- 23 June 2006 (Early Repayment/APR)
- 13 September 2006 (Information/Advice)
- 9 October 2006 (Early Repayment/APR)
- 29 November 2006 (all four issues and any other issues deemed relevant)

3.3. Operation

The Expert Group shall be chaired by the Commission. The Commission will provide secretarial services for both the political and technical meetings.

4. PARTICIPANTS

In order to facilitate the dissemination of information and to ensure transparency in the proceedings, each association nominating experts (BEUC, Euro Coop, COFACE, EBIC as well as the EBIC member associations) will receive copies of all correspondence.

4.1. Participants

The number of participants should remain limited in order to guarantee the effective operation of the Expert Group and ensure the quality of expertise.

The technical meetings shall have not more than 20 participants. Participants will be nominated by industry and consumer representative bodies, represented by EBIC and BEUC, Euro Coop and COFACE respectively.

Industry (EBIC) and consumers (BEUC, Euro Coop and COFACE together) should nominate a delegation of up to 10 participants each. Participants should be either:

- national experts, coming from national organisations (for example, a bank) or national representative bodies (for example, a national consumer body); or
- European experts, working for a European association or organisation.

The nominated delegation should consist either of a mixture of national and European experts, or of national or European experts only. With a view to ensuring the quality of expertise, consumer associations may also be represented by academics of their choice.

As regards national experts, industry and consumer representatives should ensure, as far as possible, that their own delegation does not contain more than one national expert by Member State in order to ensure broad geographical representation.

4.2. Observers

In addition to their experts, the two delegations may have one observer each. Observers differ from official participants in that, unless invited by the Chair, they will not be allowed to take part in debates.

5. OTHER ORGANISATIONAL ASPECTS

5.1. Meeting Expenses

The Commission will reimburse consumer participants' travel and subsistence expenses in connection with the activities of the group in accordance with the provisions in force at the Commission.

5.2. Confidentiality

Information obtained by participating in the group may not be divulged.