



**EUROPEAN COMMISSION**

Internal Market and Services DG

**FINANCIAL INSTITUTIONS**

**Retail issues, consumer policy and payment systems**

**Brussels, 30 March 2009**

**FEEDBACK  
ON COMMENTS RECEIVED ON THE  
STUDY ON THE ROLE AND REGULATION OF  
NON-CREDIT INSTITUTIONS IN EU MORTGAGE MARKETS**

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11.  
Office: SPA2 04/82. Telephone: direct line (32-2) 299 78 70. Fax: (32-2) 295 07 50.

[http://ec.europa.eu/internal\\_market/](http://ec.europa.eu/internal_market/)  
E-mail: [Christine.Hauner@ec.europa.eu](mailto:Christine.Hauner@ec.europa.eu)

## 1. INTRODUCTION

As announced in 2007 in the Green Paper on Retail Financial Services<sup>1</sup> and the White Paper on the Integration of EU Mortgage Markets<sup>2</sup>, a study has been undertaken reviewing the role and regulation of non-credit institutions in EU mortgage markets to assess whether appropriate action at Community level is needed.

The objectives of this study were in particular to:

- Identify the Member States where non-credit institutions are allowed to provide mortgage credit;
- Provide information on the regulation and supervision of these undertakings;
- Provide information on the funding techniques non-credit institutions are allowed to use;
- Examine the size of the mortgage lending activity of non-credit institutions, both domestically and cross-border;
- Collect information on the barriers faced by non-credit institutions when engaging in cross-border mortgage lending activity.

The study concluded that 20 Member States allow domestic and foreign non-credit institutions to provide residential mortgage loans. Of these 20 Member States, 14 require that non-credit institutions undertake some form of notification, registration or authorisation in order to provide residential mortgage loans. Six Member States do not however require any notification, registration or authorisation. In principle, general conduct of business rules, including consumer protection laws, apply in all Member States.

The study also revealed that the market share of non-credit institutions in the Member States' national mortgage markets is small compared with the market share of fully-fledged credit institutions. Non-credit institutions in the UK have the highest market share (12 %), followed by the Netherlands (10 %) and Romania (9.7 %). In the six Member States that do currently not require any notification, registration or authorisation for non-credit institutions, only a marginal share of the lending market is taken by those lenders.

The study, carried out by London Economics, has been published on 2 December 2008. On the same day, the European Commission launched a public consultation on the study.

This document is a summary of the contributions received. Its objective is to present an overview of the opinions expressed and arguments presented by stakeholders in their contributions. The views expressed in this report have not been adopted or in any way approved or endorsed by the Commission.

---

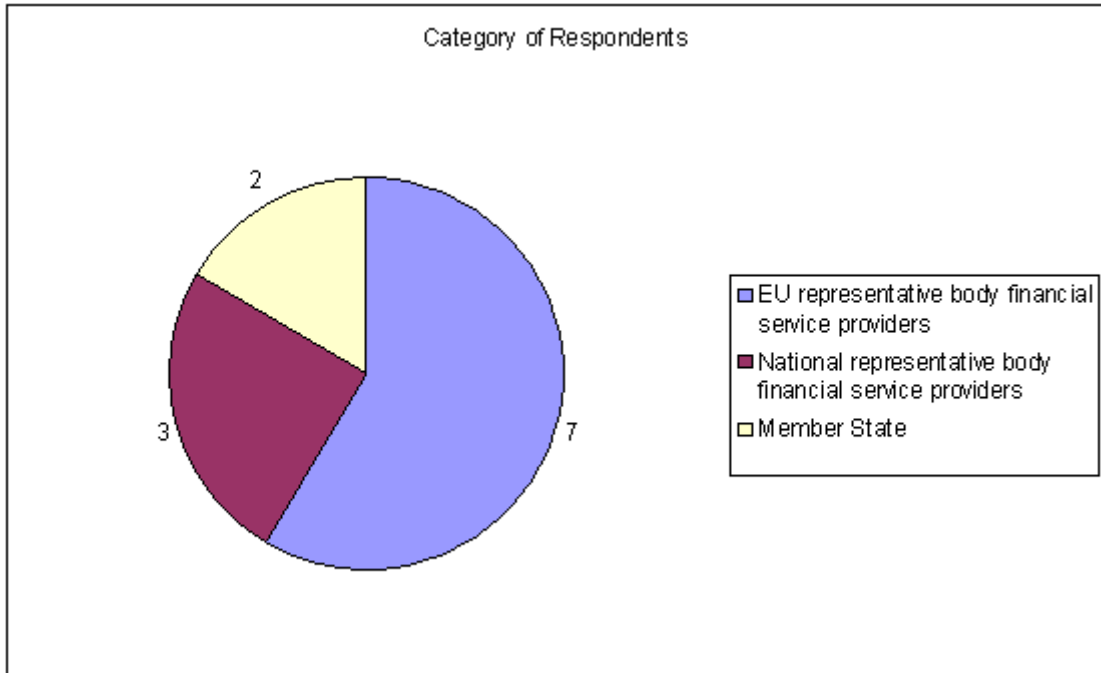
<sup>1</sup> COM(2007) 226, 30.4.2007.

<sup>2</sup> COM(2007) 807, 18.12.2007.

## 2. RESPONSES TO THE CONSULTATION

A total of 12 written responses were received.<sup>3</sup> Most of the contributions were received from representatives of the financial services sector. Two responses came from government authorities. No consumer response was received.

**Graph 1:** Contributions received by stakeholder category

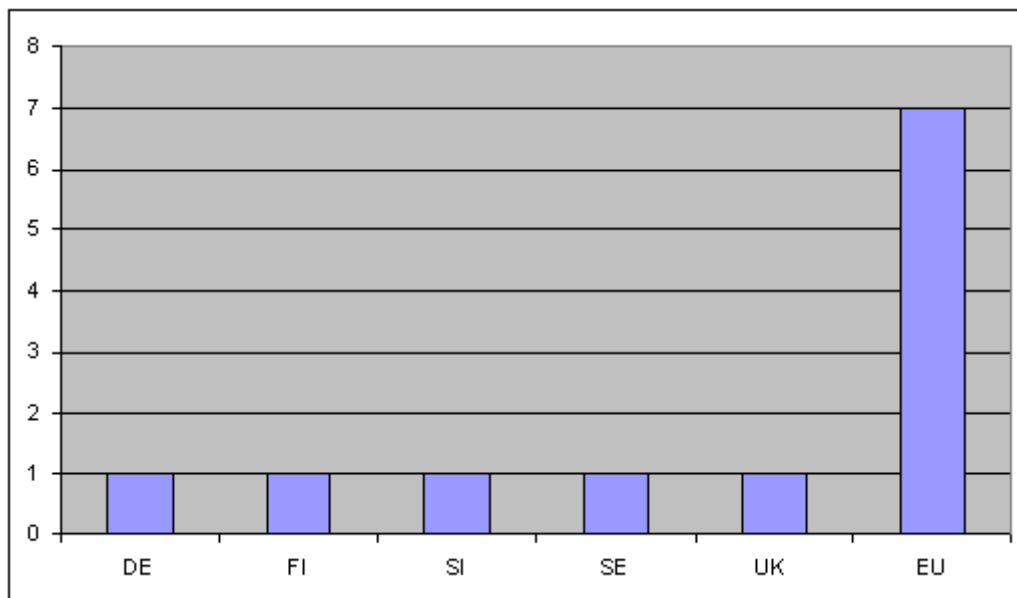


Contributors to the consultation came from five different Member States. More than half of the contributions came from EU-wide representative groups.

---

<sup>3</sup> The individual responses can be found on the following internet site: [XXX](#)

**Graph 2:** Contributions received by country of origin



### 3. GENERAL COMMENTS

Several of the respondents welcomed the report and shared the objective of the study to detect regulatory gaps on non-credit institutions active on EU mortgage credit markets.

While some contributions saw the relevance of this study in relation to events in the US, where non-credit institutions have been associated with irresponsible lending, other respondents warned that the experience of the US market risks polluting the regulators' perception of non-credit institutions in Europe. In this respect, it was pointed out that non-credit institutions in the UK received, unlike credit institutions, no financial support from the government, indicating the robustness of their business models. This conclusion was however questioned by other respondents.

Some contributions, in particular those from national public authorities, provided clarifications and additional information mainly regarding the legal framework in which non-credit institutions operate in their countries. The Finnish government pointed out that the market share of non-credit institutions in Finland was only 0.7 % over the period of 2000–2007 and not 7 % as indicated in the study.

## **4. SPECIFIC COMMENTS**

### **4.1. Regulation and supervision of non-credit institutions**

Most contributions highlighted the need for some control from regulators for non-credit institutions. Views were however divided on the adequate level of regulation. While the majority of the contributions addressing this issue advocated the principle 'same business, same risks, same rules' in order to ensure a level playing field between all mortgage lenders in the EU, others were in favour of a differentiated approach between lenders according to their potential risks to the functioning of the financial system and to depositors' protection. Respondents agreed however that the same conduct of business and consumer protection rules should apply to all lenders, regardless of their status or their method of funding.

There were also different views on whether there is a case for action at the EU level. A majority of responses dealing with this issue believe that no regulation of non-credit institutions at the European level was needed because of the diversity of the roles played by non-credit institutions within the respective national markets and the small market share of non-credit institutions. Rather, effective regulation on the national level would be the appropriate way forward. Others however favour EU intervention – irrespective of the current level of market shares – because of the high potential risk that loopholes in the regulation can represent for the whole financial community as illustrated by the current financial crisis.

### **4.2. Funding of non-credit institutions**

One contribution questioned the sustainability of the non-credit institutions funding basis, consisting mainly of own shareholder funds, securitisation and/or short-term loans, under the current market conditions. Another contribution noted that the proposed revision of the Capital Requirements Directive, that would require originators of securitised products to retain 5 % of the same risk exposure as the investor, would undermine the business model of many non-credit institutions. Several contributions pointed out that Article 22(4) of the UCITS Directive only allows credit institutions to issue covered bonds.

### **4.3. Cross-border mortgage provision**

Respondents pointed out that the lack of uniform regulation and supervision on non-credit institutions could pose problems where non-credit institutions engaging in cross-border lending only need to notify authorities in the host country as this could hinder the effective control of fulfilment of national requirements. In this respect, a passport should not lead to a situation of regulatory arbitrage. Furthermore, it has been underlined that the main barriers identified in the study for cross-border activity of non-credit institutions are not specific to their status but rather barriers related to the structure of the markets in the EU.

### **4.4. Others**

Several respondents raised concerns regarding the number of non-credit institutions interviewed for the study which, in their opinion, make it difficult to draw conclusions regarding their commercial practice and experience.