



FEDERATION BANCAIRE DE L'UNION EUROPEENNE
BANKING FEDERATION OF THE EUROPEAN UNION
BANKENVEREINIGUNG DER EUROPÄISCHEN UNION



EUROPEAN SAVINGS BANKS GROUP
GROUPEMENT EUROPEEN DES CAISSES D'EPARGNE
EUROPÄISCHE SPARKASSENVEREINIGUNG



EUROPEAN ASSOCIATION OF COOPERATIVE BANKS
GROUPEMENT EUROPEEN DES BANQUES COOPERATIVES
EUROPÄISCHE VEREINIGUNG DER GENOSSENSCHAFTSBANKEN



European Federation of Building Societies
Fédération Européenne d'Epargne et de Crédit pour le Logement
Europäische Bausparkassenvereinigung



Mr F. Bolkestein
Commissioner
European Commission
(C107 - 1/12)
BE - 1049
BRUXELLES

Brussels, 31 October 2003
03-073 Ref: AL/jj

Dear Mr Bolkestein,

Re: Joint Industry Response to the IFF-Report on the Implementation of the Code of Conduct for Home Loans

We are sending you herewith the Industry's joint response to the Report compiled by the "Institut für Finanzdienstleistungen e.V." (IFF) on the implementation of the Code of Conduct.

The signatory associations take note of the seemingly low percentage of institutions, which fully comply with the Code, but do highlight however that many banks fulfil a great number of essential requirements. These compliance levels can be largely attributed to the unfortunate cut-off date of the Study, which was identical with the implementation date and did not leave the institutions sufficient time to address starting problems, such as technical issues or additional staff training.

The Industry would very much like to underline its full commitment to the Code and its intention to continue to promote the Code with its Member organisations in order to reach the highest level of efficiency and full-compliance. We also agree with the Consultant that further monitoring of the implementation of the Code should be carried out at a later stage, possibly in 2005.

At the same time however, the Industry would like to highlight certain areas of the Consultant's Report, which are of concern to itself and its members and which have been addressed during a meeting with the Consultant to discuss the content of the report.

We remain at your disposal, should you wish to receive any further information.

Yours sincerely,

Nikolaus BÖMCKE
Banking Federation of the
European Union

Chris de NOOSE
European Savings Banks
Group

Hervé GUIDER
European Association of
Cooperative Banks

Judith HARDT
European Mortgage
Federation

Andreas ZEHNDER
European Federation of Building
Societies

Marc BAERT
EUROFINAS

From: The European Banking Federation
The European Savings Banks Group
The European Association of Cooperative Banks
The European Mortgage Federation
The European Federation of Building Societies
Eurofinas

Issue: Joint Industry Response to the Consultant's Report on
the Implementation of the Code of Conduct

To: The Commission

DG Markt:

To: Mr F. Bolkestein, Commissioner
Mr A. Schaub, Director General, Mr J-C. Thébault, Director
Cc: Mr U. Bader, Mr E. Ducoulombier, Mr T. Mackie

DG Sanco:

To: Mr D. Byrne, Commissioner, Mrs I. Benoliel, Deputy Head
of Cabinet
Mr R. Coleman, Director General, Mrs A. Pantelouri, Director
Cc: Mr J. Ring, Mr L. Cazemier

Summary: Please find herewith the Joint Industry Response to the
Consultant's Report on the Implementation of the Code of
Conduct.



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Europäische Bausparkassenvereinigung



European Agreement on a Voluntary Code of Conduct on Pre-contractual information for Home Loans

Joint Response of the Industry to the Consultant's Report on the Implementation of the Code of Conduct, 31 October 2003

-
- ◆ **European Banking Federation (FBE)**
 - ◆ **European Savings Banks Group (ESBG)**
 - ◆ **European Association of Cooperative Banks (EACB)**
 - ◆ **European Mortgage Federation (EMF)**
 - ◆ **European Federation of Building Societies (EFBS)**
 - ◆ **Eurofinas**
-

I. Principles

1. The Industry underlines its full commitment to the Code

The signatory associations take note of the seemingly low percentage of institutions, which comply 100%, but do highlight however that many banks fulfil a great number of essential requirements. From the credit sectors' perspective, this situation may be explained by the fact that, given the relatively short period of time between the implementation date and the cut-off date of the Study, the troubleshooting of initial problems may not yet have taken place and the training of sales personnel may not yet have taken full effect. Similar problems would be encountered with any new procedure, be it of a strictly commercial, regulatory or self-regulatory nature. For example, even Directives i.e. official instruments of legislation in the EU, are not always fully implemented in all Member States by the deadline.

In any case, the credit sector wishes to strongly emphasise its full commitment to the Code of Conduct. We are confident that the situation has already improved significantly by now. Indeed, even after the signature of the Code by the European Associations and a first wave of national implementation in September 2002, an increasing number of new signatory institutions have been recorded. We will continue to promote the Code with our Member organisations in order to reach the highest level of efficiency and full-compliance. This could be achieved notably through additional communication and training measures. In this context, it would be helpful if the IFF could make the questionnaires filled out by the interviewers available to the European Credit Sector Associations, so as to permit a follow-up in those cases where weaknesses have been encountered.

We subsequently welcome the IFF's suggestion for a follow-up study in the year 2005. This clearly indicates its belief that this is a first study in a dynamic process and that improvement is to be expected. We are convinced that a follow-up study will show considerable improvement in terms of the implementation of the Code of Conduct.

2. In retrospect, timing appears to be too short for the Industry

The survey was conducted on the basis of the situation as of 30 September 2002, which was the deadline for implementation of the Code. While this was in line with the Code agreement, the results of the survey clearly show that the timing was not ideal for various reasons:

- The industry, or perhaps even all parties to the dialogue, have apparently underestimated the task: we knew that a Code of Conduct and hence its implementation in this area was a completely new concept for the majority of Member States but did perhaps not realise that more time was necessary to guarantee an optimal implementation.
- The implementation of the Code of Conduct faced the same problems as experienced in the case of the implementation of binding European legislation: compliance should improve substantially after the trouble-shooting of technical difficulties and the necessary training of staff.
- Unlike binding European legislation, a European Code of Conduct does not supersede national law. This has resulted in problems of coherence between the European Code and national law in a number of cases/Member States, such as France, Spain and the UK.

The industry is therefore convinced that the current result of the survey can be attributed, to a large extent, to its unfortunate timing.

3. Conclusion

In conclusion, we agree with the Consultant that further monitoring of the implementation of the Code should be carried out at a later stage, possibly in 2005. In the meantime, the industry will continue in its efforts to achieve full implementation of the home loan agreement and would like to reassure the parties to the dialogue as well as the EU Institutions of its continued commitment.

II. Technical Comments on Methodology: national delegations' remarks

1. The credentials of IFF and its national subcontractors

The industry had already brought to the attention of the Commission the fact that the IFF INSTITUT FÜR FINANZDIENSTLEISTUNGEN E.V. is well known in Germany for primarily representing consumer positions (see our letter to Commissioner Bolkestein dated 17 February 2003 in Annex I).

Upon receipt of the survey, on 29th August, it became apparent to the industry that the consultant had entrusted the actual mystery shopping to the national consumer organisations. This means that the monitoring of the implementation of the Code of Conduct was carried out by one party to the Code agreement, who can be considered to have a particularly critical stance. The credit sector does not question the professionalism and good will of the IFF itself and the consumer organisations involved, and recognises the fact that representatives of consumer organisations have the relevant experience and information about the average consumer's problems when getting a home loan. However the industry wishes to underline that the involvement of a neutral body, which is not party to the dialogue agreement, could have avoided unnecessary debates about impartiality and neutrality.

As an example, the objectiveness and neutrality of the subcontractor responsible for the research in Greece, i.e. EKPIZO – Consumers' Association "The Quality of Life" is questioned by the Greek Banks signatories to the Code of Conduct (see Greek remarks under [Annex II](#)).

EKPIZO is - according to its declaration of purpose - a non-governmental and non-profit-making association, aimed at protecting consumer rights and improving quality of life. In this capacity, this association has initiated collective action against - at least - two Greek banks, concerning abusive terms in contracts for credit cards and home loans, respectively. The second collective action on home loans is still pending, attributing to the aforementioned association a "legitimate interest" to show by all possible means that the provision of home loans in Greece is problematic. EKPIZO is therefore not considered as being capable of adopting a neutral stance vis-à-vis the activities of banks concerning consumer protection, because its mission and activity up to now show that it tends to focus on the problematic aspects of the cooperation between banks and consumers.

2. Understanding of national specificities

A number of subjective elements seem to taint the national reports.

2.1 Disclosure of the European Standardised Information Sheet at national level

Assessment of the disclosure of the ESIS can be questioned on the basis of the following arguments:

▪ Definition of Pre-contractual Stage

It is national specificities that lead the mortgage lenders in a number of countries i.e. Belgium, Denmark, Germany, France, Ireland, the Netherlands, Austria, Portugal and Sweden, to issue the ESIS at the same time, or even, as an integrated part of the offer. This cannot in any case be interpreted as a breach of the Code's requirements as the offer is clearly part of the **pre-contractual stage** of the process. And while the IFF Study states there is no clear definition in the Code of when the "pre-contractual" information should be provided to a consumer (page 65 of the IFF Study), the industry would like to reiterate that the information should be given at the pre-contractual stage,

which means any time before the conclusion of the contract. Furthermore, this principle was discussed and agreed upon during the negotiations on the Code. Any subjective assessment by the Consultant on this situation is outside of the parameters of his task and is indicative of a negative bias.

- **Binding v. non-binding ESIS**

In addition, it appears the consultant did not take into account ESIS, which are considered binding for the lender. If this is the case, the industry fails to understand the reason since, from a consumer's point of view, it is irrelevant how the information is passed on. A binding ESIS is certainly not less desirable for the consumer than a non-binding one. It was simply agreed during our negotiations that a non-binding ESIS was the minimum requested.

- **Obligation at first contact**

Credit institutions must not and do not provide the full pre-contractual information (General and ESIS) at the first contact to a potential customer in order to avoid information overload, to enable the customer to shop around and also because in order to be able to provide an ESIS, a bank requires personal information from the borrower, which it would not have at this stage. So, if the interviewer might not have received the full set of pre-contractual information as listed in the home loan agreement at the first contact, this should not be interpreted as a failure or as incomplete information. During the dialogue negotiations, it was always highlighted that what is important is that the information is provided: the general information at the earliest possible stage and the ESIS at the latest with the offer.

2.2 The Danish situation

Despite numerous contacts - written notes and telephone- with the Danish competent bodies (Danish Consumer Council and the Association of Danish Mortgage Banks), the consultant was obviously not able to grasp an understanding of the Danish mortgage system (see Danish note under [Annex III](#)). As a consequence, it excluded Denmark, of which all of the 6 mortgage banks do apply the Code thoroughly, from its survey and therefore distorts the general conclusion. To summarise the situation, no Danish mortgage lender would ever consider granting a mortgage loan in the absence of the concrete reference to a property to be mortgaged. So if, as was the case, no information is given about the property to be mortgaged and there is therefore no possibility of valuing this property, there will never be any kind of follow-up on the lender's side, which is the reason why, out of 18 tests (see 2nd § p.40), no personalised offer was ever made. In an email dated 25th April, the Association of Danish Mortgage Banks clearly explained this situation to the consultant, insisting, to no avail, that he must send interviewers, who own/want to buy a property. As a conclusion, the Danish industry has the very disturbing impression that the consultant did not make the effort to understand their system and ended up with a, rather negative, judgement of their system rather than with a fair assessment of their implementation of the Code.

2.3 The French Situation

Another example would be the French national report, in which it is indicated that French banks would welcome a legislative amendment in order to avoid the risks related to the redundancy of the ESIS and of the loan offer. Without any basis for their argumentation, the authors estimate that, through lobbying actions, such an adaptation would lead to a reduction of the level of borrower protection. Such statements are unfounded as well as impossible to prove. Moreover, they are not necessary for the completion of the study, since they do not relate to the factual issue of compliance. A few lines below, the authors again depart from the hard facts in order to make a subjective judgment, i.e. to say that the Code will remain a dead letter for some years to come, totally ignoring the registered adhesions.

In reality, French banks have always stated that the correlation between the ESIS and the *offre Scrivener* is an issue of pure formality and does not relate to the scope of their obligations.

2.4 The Dutch Situation

It is a generally known and accepted fact that the typical applicant for a mortgage loan is in his/her early thirties, with a stable occupation and a more or less fixed adequate income. From the Dutch national report, it appears that at least 1/3 of the tests were conducted through young testers who *"told a vague story according to which they were in the final year of their studies, and only gave an approximation of their income, asking for an estimate of their maximum mortgage"*. Under these circumstances, many mortgage lenders would not - could not - give a complete offer with an ESIS and the information given to the mystery shoppers would inevitably be much less complete than in a more credible loan application. It is understood that this remark is also valid for a number of other Member States.

3. The methodological accuracy of the national reports

3.1 Weighting of information requirements: formal vs. material inaccuracies

The IFF furthermore does not seem to differentiate between formal and material inaccuracy. Formal/procedural inaccuracies such as missing "ESIS" heading or an incomplete name/address of the lender should not be weighted the same way as imperfections with regard to the main features of a loan (i.e. types of interest rates, reimbursing options). We would therefore rather suggest that the results are presented in a more weighted manner through a breakdown analysis on compliance with formal/procedural requirements and material or content requirements.

3.2 Understanding of the fundamental aim of the Code: setting a common minimum benchmark for pre-contractual information

In a number of cases, the report shows a lack of understanding of the aim of the Code, which is to set a minimum benchmark for pre-contractual information. The Consultant's remark concerning the format of the general information in Ireland for example (Annex 2.8, p.7) states that: "in only one case was there an attempt to use the relevant sections of the Code in the specified format. Even here however, there appeared to be confusion as the general information was provided in the format intended for the provision of the personal information". However, the agreement in the Code was that all the listed items of general information had to be given to the consumer but that the lender was free as to the format (unlike with the ESIS). The Code only prescribes that the "general information to be provided to the consumer should be in the same format as the initial information itself is provided". Moreover, during the negotiations of the Code, it was always stated that existing brochures could be used, even if they did not follow the same logical order. After all, there was no agreement that the general information should be standardized. The Consultant's questionnaire also implies that the brochure should be formulated in a national/regional language (IFF Study, Annex I, General Information, part 1, question 15). There are no such provisions in the Code of Conduct. The fact that the General Information in Ireland was ultimately provided in a standardised format should therefore not raise any kind of subjective judgement or criticism from the Consultant.

On the other hand there are a number of subjective comments, which criticise the lack of structure of the general information (see pages 26, 64). Italy believes that it is this freedom as to the format that prevented the mystery shoppers from rightly assessing the extent to which the general information is provided in Italy. Indeed, the general information is split

between different documents, a situation which is totally acceptable according to the Code of Conduct as noted above.

3.3 Consistency of Sampling

In Ireland for example, there is a difference/discrepancy in the number of samples. 30 tests done on consumers become a sample of 26 (which represents a 13% drop) with no explanation anywhere of where the difference of 4 samples comes from. What is the reason for this discrepancy?

4. The Standardised IFF Questionnaire

4.1 Adaptation of the Questionnaire to the National Situation

The Report analyses the procedure and the merits of having a standardised electronic questionnaire. Indeed, a standardised questionnaire facilitates the handling of input from a statistical point of view. It would however appear that no attempt has been made to adapt the questionnaire to take account of national legal requirements.

- The most obvious example can be found under questions 109 and 110 of the Questionnaire's Personalised Information Part 3 section, which relate to the client's obligation to deposit his savings or his salary with the mortgage lender. Under Belgian law, such a practice is contrary to mandatory law provisions and thus illegal, except in cases where the client obtains an interest rate reduction in exchange. However, the subtleness of such a response cannot be depicted under questions 109 and 110 of the questionnaire.
- The same comment could be made for the point concerning the "relevant" reflection period. The term "relevant" implies that there is a legal requirement to have a reflection period, which is not the case in Ireland and Germany.

4.2 Relevance and Formulation of Questions

- Some of the questions in the questionnaire, which were used to carry out the "mystery shopping" exercise, refer to issues which are not contained in the Code itself:
 - The questionnaire asks if the lender uses the same structure and sections for the general information as described in the Code of Conduct (IFF Study, Annex I, General Information, part 1, question 2). As noted under point 3.2, the Code only prescribes that the "general information to be provided to the consumer should be in the same format as the initial information itself is provided".
 - There are also no provisions in the Code, which specify that the brochure should be formulated in a national/regional language (IFF Study, Annex I, General Information, part 1, question 15)
- Furthermore, the way in which some questions are formulated might result in misleading answers i.e. there are two questions in the IFF questionnaire concerning the right to a reflection period:
 - One asks whether the general information specifies a reflection period (IFF Study, Annex I, General Information, part 1, question 43);
 - The other one asks whether the duration of the reflection period was stated (IFF Study, Annex I, General Information, part 1, question 44).

Neither of these questions specify that the duration of the reflection period shall only be specified where relevant (see wording of the Code of Conduct, part 1, General Information, Section B 11). In the Code, it is explicitly mentioned that the information should be given on the duration of the reflection period, *where relevant*. This is meant to indicate that in most Member States, a right of reflection does not exist at all (actually, only France has a legal right of reflection and in 4 Member States the offer is binding for a set duration). Therefore, a lender established in a Member State, which does not recognise a reflection right would always omit a reference to the duration of such a right. This should not however be interpreted to imply that the lender is not providing the complete set of general information according to the Code.

5. Disclosure of internal complaint schemes

The discrepancies in this disclosure can be attributed to a number of elements throughout Member States:

- In Greece, it was perceived that it would be sufficient for banks to indicate the Ombudsman scheme and not their internal complaint schemes. The European Commission was given the data necessary in the framework of the central register and was asked to indicate the need for any corrections: no follow up to this communication was made.
- In Belgium, the Mediation service for the financial sector is mentioned.
- In general, it was considered that if the complaint scheme was within the bank itself, reference to the bank was sufficient and there was therefore no need to repeat the address of the bank.

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Europäische Bausparkassenvereinigung
Fédération Européenne d'Épargne et de Crédit pour le Logement
European Federation of Building Societies



Mr F. Bolkestein
Commissioner
European Commission
(C107 - 1/12)
BE - 1049
BRUXELLES

Brussels, 17 February 2003
03-007 Ref: AL/jj

Dear Mr Bolkestein,

Re: Appointment of an external consultant to monitor the implementation of the Code of Conduct on Home Loans in the Member States

We refer to article 7.4 Part I of the Agreement on the Code of Conduct, which stipulates that the Commission will be responsible for assessing the satisfactory implementation of the Code of Conduct two years after its adoption. To this end, it was agreed that the Commission would present a Report based on a Progress Report presented by the industry (6 Credit Sector Associations that have signed the Code of Conduct) on one hand, and a survey conducted by an external consultant on the other.

We understand that the Commission has appointed IFF INSTITUT FÜR FINANZDIENSTLEISTUNGEN E.V. in Hamburg.

According to our information, it appears that this company is known in the German market for representing primarily consumers' positions.

We are therefore concerned that the consultant, who has been chosen, lacks the necessary neutrality to verify and assess the implementation of the Code of Conduct in an impartial manner. If this consultant were not to fulfil the basic condition of neutrality, we would clearly wish to express necessary reservations with regard to the results of the future survey.

In this context, we would be very grateful if the Commission would consider reassuring us that he/she will in any case be an impartial supervisor of the situation.

We would very much appreciate confirmation regarding the date on which the survey will begin as well as of the terms of the consultant's mandate. This would allow us to inform our respective members of the start of the survey.

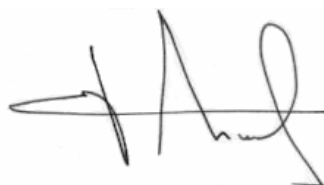
Concerning the Joint Progress Report to be presented by the industry, we are pleased to inform you that we are in the process of consolidating the data received from our respective members and expect to be able to present it by 15 March as agreed with your services.

We thank you in advance for your attention.

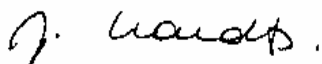
Yours sincerely,



Nikolaus Bömcke
Banking Federation of the European Union



Chris De Noose
European Savings Banks Group



Judith Hardt
European Mortgage Federation



Marc Baert
Eurofinas



Andreas Zehnder
European Federation of Building Societies



Henning Schoppmann
European Association of Public Banks



HELLENIC BANK ASSOCIATION

Ref. No. 1245

Athens, 10 September 2003

- 1) Mr. Frédéric de Brouwer
Head of Legal Department
- 2) Mr. Panos Papapaschalis
Assistant Legal Adviser
European Banking Federation

Subject: Final Report on Voluntary Code of conduct on Pre-Contractual Information for Home Loans

Dear Sirs,

With reference to your e-mail C0914/01-09-2003 on the above subject, we would like to make the following initial remarks –since we have not yet exchanged views with our members- in respect of the National Report for Greece and the iff's Report.

First of all, we would like to mention that we have serious reasons to doubt the objectiveness and neutrality of the rapporteur responsible for the research, which took place in Greece, i.e. EKPIZO – Consumers' Association "The Quality of Life". According to the European Commission's letter dated 17-03-2003 to the ECSAs concerning the external consultant who would examine the Code's implementation (FBE-Membernet, 28/03/03), the Institut für Finanzdienstleistungen has been selected as an independent research institute. Its rapporteur for Greece, however, does not provide the necessary guarantees of neutrality and impartiality.

In particular, EKPIZO is –according to its declaration- a non-governmental and non-profit-making association, aiming at protecting consumer rights and improving the quality of life. In addition to the fact that we wonder about its representativeness –in Greece there are a lot of other active consumer organisations- this association has initiated collective actions against –at least- two of our members, concerning abusive terms in contracts for credit cards and home loans, respectively. It is also worth noting that the second collective action on home loans is still pendant and so the aforementioned association has a "legitimate interest" to show in any possible way that the provision of home loans in Greece is problematic. EKPIZO as a whole cannot be neutral vis-à-vis the activities of banks concerning consumer protection, because its mission and activity up to now show that it tends to focus on the problematic aspects of the cooperation between banks and consumers. In any case and although we understand the purpose of monitoring the Code's implementation, we believe that this control should be based on certain prerequisites, i.e. impartiality and neutrality, which are not guaranteed in our case.

In respect of the methodology, we would like to mention that it is not clear in the report to what extent telephone contact and internet were used. In Greece this kind of communication for home loans is not really used.

As far as the results of the research are concerned, we will have a detailed exchange of views with our members in order to clarify to them and/or draw the relevant conclusions. It is obvious that several aspects could be improved and/or

amended vis-à-vis the implementation of the Code. Besides, this is one of the objectives of the whole exercise of monitoring its implementation.

As indicated in the iff's report, the Code of Conduct does not clarify when the "pre-contractual" information should be given to a consumer. In addition, missing data (such as the address of the lender or the indication that a copy of the Code is available) could arise from a different interpretation of the Code of Conduct. This kind of problems could be improved if deemed necessary. We should, however, remain flexible and not trapped by bureaucratic and burdensome procedures. From the iff's report it sorts out for example that there was no specific indication in the printed material of the majority of Greek banks whether the institution subscribed to the Code of Conduct. An explanation is that Greek banks –apart from the relative press releases- have indicated in the same leaflet of the Code their name and central address, considering that there was no need for further specification. In other words, the indication of the above elements in the leaflet of the Code could be considered as sufficient in order for consumers to assume that the said bank has adhered to the Code.

Concerning the internal Complaint scheme, we received information that according to the European Commission it was sufficient for banks to indicate the Ombudsman scheme. That's why our banks did not mention their internal complaint schemes. In any case, we communicated to the European Commission all the data necessary in the framework of the central register asking them to contact us if they need any corrections and there was no reaction.

Another remark is that project partners carried out the tests in their respective countries between February and April 2003. Even in the iff's Report it is –indirectly- recognized that credit institutions did not have sufficient time to provide updated brochures and leaflets concerning general information. The tests started only four months after the cut-off date for implementation.

Last but not least, it is mentioned in the iff's report that in France, Spain and the United Kingdom the Code is not applied. The main reason seems to be that their national legislations provide for similar and/or stricter information requirements and banks negotiate with their national competent authorities respectively in order to avoid duplication and confusion to consumers concerning the applicable framework. We believe that this factor should be seriously taken into consideration in combination with the fact that self-regulation and codes, which are applied at community level, should be supported by national authorities in order to ensure harmonization.

We remain at your disposal for any further clarification.

Sincerely yours,

Cristina Livada
Special legal advisor



R E A L K R E D I T R Å D E T

European Mortgage Federation
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3 September 2003
H160 – tbj/el

Att. Annik Lambert

The Danish comments on the report on implementation of the Code of Conduct carried out by the commissions' consultants.

The Association of Danish Mortgage Banks has now examined the consultants' report on the implementation of the code of conduct.

The conclusions in the report are very negative and basically the consultant appears to lack the understanding of the Danish system in spite of the fact that the Association of Danish Mortgage Banks supplied the consultant with a paper about the Danish mortgage structure during the course of the consultants' investigation.

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In this paper (enclosed) it was pointed out, that a mortgage loan in Denmark could only be granted if there is a property to be mortgaged. In effect no "none-binding" personalized loan offer can be made if no information about the property in question is available.

In order to enlighten or correct some of the conclusions in the report chapter 6,3 the Association of Danish Mortgage Banks find it necessary to make the following remarks:

In the second paragraph on page 40 it is pointed out that 18 tests were carried out in Denmark during which no personalized offer was made. Fairly enough, this leads the consultants to get in contact with the Danish Consumer Council and the Association of Danish Mortgage Banks in order to get an explanation of this rather disappointing result. The Association of Danish Mortgage Banks supplies the consultant with an e-mail of 25th of April 2003 in which the structures on the Danish mortgage system in short and practical terms are described.

Alongside with this mail the Association of Danish Mortgage Banks is in touch by telephone with Mr. Tiffe from the consulting agency, to which it is explained that he must use test assistants who are in possession of a property to which a mortgage loan can be granted. Actually, the person in the Association of Danish Mortgage Banks suggested that such a person could be found probably in the Danish Consumer Council, so that owners of real property could carry out the tests.

In the third paragraph on page 41 the Association of Danish Mortgage Banks is quoted for confirming that every offer from the 6 Danish mortgage banks usually includes a European standardized information sheet. The mail of 25th of April 2003 states that every home loan offer from a Danish mortgage bank includes a European Standardized Information Sheet.

In the fourth paragraph on page 41 it appears that the Danish Consumer Council made official (as opposed to anonymous) approaches to the Danish mortgage banks. It is hard to understand why these approaches have been made official because there was no need for an official approach in this situation. Any member or employee at the Danish Consumer Council owning a real property could get a loan offer from any of the Danish mortgage banks. Unfortunately, the fact that the approach is made officially invalidates the fact that the loan offers received all included the European Standardized Information Sheet.

Apparently, it is considered a big problem that it is a condition in order to get a loan offer that the borrower or the potential borrower possesses a real property. This leads the consultant to the wrong conclusion that the banks will only issue the European Standardized Information Sheet if the bank is sure that a loan contract will eventually be set up.

This is a wrong conclusion due to the fact that the mortgage bank is not able to assess the loan or the conditions if the property in question is not identified and valued.

Clearly, the entire problem comes from the fact that the consultant has not understood that nobody in Denmark would ask for a mortgage loan if they did not possess a property in which the mortgage could be taken out.

In the sixth paragraph on page 41 it is said that the Danish market is special because it is highly regulated and there is no variation in interest rates. This is true, but in this specific case it leads the consultant to the wrong assumption that "shopping around" for home loans is possible but not very common in Denmark. The right conclusions in this case would be that people wanting a mortgage loan would definitely shop around, but people who are not in possession of a real property would not shop around due to the fact that they would never qualify to get a loan if they could not point out a real property for mortgaging.

The consultant points out that credit institutions are trying to reduce costs and that this could be the reasons for not handing out personalized none-binding offers earlier in the process. The consultant again is not aware of the structure of the Danish mortgage system. There is no "earlier in the process" than the borrower asking the mortgage bank to make a loan offer. This is at no expense for the borrower and it is only binding for the mortgage bank. It requires, however, the mortgage bank to make a physical inspection of the property in question, unless the borrower is already a customer in the mortgage bank. In practise the banks make it a condition that the loan offer is reserved until a physical inspection is carried out.

The Association of Danish Mortgage Banks has right from the beginning been pointing out in negotiations with the Danish Consumer Council that the specific Danish system requires that the European Standardized Information Sheet is given as an integrated part of a loan offer because this is the first written contact between the parties and the loan offer is the first specific step to be taken on the road to taking out a mortgage loan.

The consultant has not understood that until the property in question is qualified and quantified nothing but standardized none-binding material can be issued to the borrower. The central point is the property, not the borrower, and it is apparently

impossible for the consultant to adjust his scope accordingly. These problems deriving from the Danish mortgage structure than rather from the Code of Conduct lead the consultant to the conclusion that the Danish tests must be excluded from the survey, because they could not be carried out anonymously.

Even more disturbing, the consultant refers to information from the Danish Consumer Council, that the Consumer Council had not received any material that looked like the material officially presented for the Consumer Council from the Association of Danish Mortgage Banks. This is disturbing because the Danish Consumer Council have nodded to the way that the Danish Mortgage banks have implemented the Code of Conduct early in the process due to the fact that the European Standardized Sheet is not only carrying the information dictated by the Code of Conduct but also the information required by the Danish Consumer Credit Act implementing the European Consumer Credit Directive.

The Danish Consumer Council have explicitly accepted the Association of Danish Mortgage Banks's proposal that the Code of Conduct should be implemented in a way that allows information to be given together with the information that already has to be given in accordance with the Danish Consumer Credit Act. This was considered to be less confusing than actually giving almost identical information twice.

Summing up, it is the opinion of the Association of Danish Mortgage Banks that the consultants have actually made a valued judgment about the Danish mortgage system rather than about the Danish implementation of the Code of Conduct. This is even more disappointing when you consider that the Association of Danish Mortgage Banks have tried seriously to explain the system to the consultant prior to his investigations.

Best regards

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