



EUROPEAN COMMISSION

Brussels, 19. 03. 2012
C/2012/1796 final

Dear President,

Thank you very much for the Opinion of the Nationalrat on the Proposal for a Directive of the European Parliament and Council regarding the loan contracts for residential property {COM (2011)142 final}. The Commission welcomes the constructive remarks of the Nationalrat that are a useful contribution for further discussions on the proposal.

Regarding the specific issues raised by the Nationalrat the Commission would like to provide the following replies:

Data protection:

The Nationalrat identifies the importance of applying data-protection legislation while assessing the consumer's creditworthiness. The Commission agrees that this is important. For this reason, the Commission has introduced several provisions. In its Article 14, the proposal for a Directive requires the assessment to respect the requirements with regard to necessity and proportionality set out in Article 6 of Directive 95/46/EC of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. In addition, the proposal sets an obligation for creditors to inform the consumer of the intended consultation of a credit data base prior to its actual consultation, and grants the consumer the right to access his/her information and the name of the data base so as to enable him/her to rectify, erase or block personal data concerning him/her where it is inaccurate or has been unlawfully processed.

Relationship with the Consumer Credit Directive (CCD):

The Commission notes the request of the Nationalrat for avoiding unnecessary duplication with Directive 2008/48/EC of 23 April 2008 on credit agreements for consumers (CCD). The Commission agrees that a consistent framework for consumers in the area of credit should be ensured. For this reason, the proposal for a Directive on credit agreements related to residential immovable property follows the structure of the CCD, notably the notions that information included in advertising should be provided to the consumer by means of a representative example, that detailed pre-contractual information should be given to him by means of a standardised information sheet and that the consumer should receive adequate explanations before the conclusion of the credit agreement. In addition, the Commission believes that the key concepts used in standard information to designate the financial characteristics of the credit should be in line with those in the CCD so that the same terminology refers to the same type of facts irrespective of whether the credit is a consumer credit or a credit related to residential immovable property. The Commission is fully aware that a number of Member States

Frau Mag. Barbara PRAMMER
Präsidentin des Nationalrates
Dr.-Karl-Renner-Ring 3
A – 1017 WIEN

apply selected provisions of the CCD to credit agreements not covered by the CCD, notably credit agreements relating to residential immovable property. In this respect, we nevertheless believe that a harmonised framework at EU level is necessary in order to enable the emergence of a single market for credit agreements relating to residential immovable property. In addition, it is important to take due account of the specificities of such credit agreements, and their possible consequences for consumers.

Impact of the proposal on the causes of the financial crisis:

The Nationalrat considers that irresponsible lending was certainly one element in the chain reaction which led to the financial crisis but that other key factors played a substantial role in the emergence of the crisis. The Commission agrees with this view. The objective of the present proposal here is a targeted one, aiming to ensure that creditors and credit intermediaries lend amounts that consumers can afford and that meet their needs and circumstances, as well as that consumers can make informed and sustainable decisions. This proposal will also ensure that all markets, products and participants are subject to adequate regulation and supervision. The Commission believes that the proposed standards will reduce the likelihood of consumers purchasing an unsuitable credit product and thus will contribute to promoting financial, economic and social stability in all EU Member States.

This proposal is complementary to a series of other measures proposed by the Commission which aim notably at strengthening the supervisory and regulatory banking framework in general. The latest proposal, the "CRD IV" adopted on 20 July 2011 {COM(2011) 453 and COM(2011) 452}, defines increased capital, liquidity and leverage requirements for EU banks in compliance with the international regulatory framework for banks agreed at the G20 level (the "Basel III" agreement).

Promotional loans:

The Commission takes note of the request of the Nationalrat for derogation concerning loans made available under government policy to promote house-building. The Commission is currently not aware of any evidence that shows that consumers who conclude these types of loans should not be provided with similar rights as those who are granted other types of mortgage credits. In particular, it believes that it is equally important for the consumer to be provided with adequate information on the loan and to be able to repay its financial commitments, regardless of the nature of the credit. This issue will however certainly be the subject of further discussion moving forward.

The Commission is very attentive to the views of national Parliaments on its proposals and appreciates the opportunity to exchange views on this issue with the legislature you represent.

Yours faithfully,

*Maroš Šefčovič
Vice-President*