

Courtesy Translation

TO

MR JOSÉ MANUEL BARROSO  
PRESIDENT OF THE  
EUROPEAN COMMISSION

***Regarding: Statement of the National Assembly of the Republic of Bulgaria on the Proposal for a Directive of the European Parliament and the Council regarding the loan contracts for residential properties, COM(2011)142***

DEAR MR BARROSO,

At a regular sitting of the Committee on European Affairs and Oversight of the European Funds (CEAOEF), held on 18 May 2011, the above-mentioned Proposal for a Directive was discussed. It was included in the Annual Working Programme of the National Assembly on European Union Issues (2011) under **section 26**.

Within the framework of the political dialogue, please find enclosed a copy of the approved CEAOEF Report, which includes a **positive assessment on the compliance of the draft EU Directive with the principles of subsidiarity and proportionality**, as well as some general remarks on the nature of the proposed act. The CEAOEF Report reflects also the position of the Budget and Finance Committee.

In this regard, the National Assembly of the Republic of Bulgaria, through CEAOEF, would like to contribute to the finalization of the Proposal for a Directive in the best possible way, expressing the following remarks:

1. The scope of the Directive should not be extended unnecessarily;
2. Minimum requirements for competency – valid for the creditors' commercial staff only;
3. Refinement of the text, concerning early repayment;
4. The choice of methodology and criteria for assessment of the credit rating should remain with the creditors;
5. Inclusion of a text, protecting the interests of the creditor;
6. The consequences of introducing a single passport for credit intermediaries at this stage is difficult to be foreseen and thus, national license regimes are preferable;
7. In regard to the credit intermediaries - strict regulations aimed at avoiding the conflict of interests in the service provision.

We highly appreciate that the Bulgarian Parliament's position will be taken into consideration during the further discussions on the draft proposal.

I avail myself of the opportunity to express my highest esteem.

Enclosure:

1. **CEAOEF Report** on the *Proposal for a Directive of the European Parliament and the Council regarding the loan contracts for residential properties - in Bulgarian;*
2. **CEAOEF Statement** (an integral part of the CEAOEF Report under section 1) – *working translation in English.*

*Yours sincerely,*

**PRESIDENT  
OF THE NATIONAL ASSEMBLY**

**TSETSKA TSACHEVA**

**STATEMENT**  
**OF THE COMMITTEE ON EUROPEAN AFFAIRS AND OVERSIGHT OF THE EUROPEAN FUNDS**  
**TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF BULGARIA**

After the discussion on the Proposal for a Directive of the European Parliament and of the Council on credit agreements relating to residential property (COM (2011) 142), the Committee on European Affairs and Oversight of the European Funds (CEAOEF), expresses the following statement, which is to be sent to the European institutions in the framework of the political dialogue:

1. CEAOEF notes that the Proposal for a Directive provides for the European Commission to be empowered to adopt a certain number of delegated acts at a later stage (as stated in Articles 6 (4), 8 (4), 9 (3), 10 (3), 14 (5) and 16 (2)). Since the proposed delegated powers are quite broad and affect rather disputable yet fundamental elements of the proposal, CEAOEF suggests the relevant subject areas to be covered by the Directive itself.

According to paragraph 7 of the Preamble, Member States shall be able to maintain or introduce national legislative provisions in areas outside of the current Directive scope. CEAOEF believes that such a provision is not necessary since its absence shall not prevent the Member States from regulating these issues in their national legislation.

CEAOEF supports the subject of the Directive Proposal, but considers the expansion of its scope unnecessary. Many of the Directive provisions, such as the analysis for creditworthiness determination, which is characterized by completely different criteria: database, collateral requirements, etc., are not applicable to physical persons or legal entities which are not consumers (especially micro, small and medium enterprises). Therefore, CEAOEF considers the text mentioned above misleading and suggests its deletion.

In order to strengthen consumer protection, in relation to similar provisions in the Consumer Credit Directive (CCD), CEAOEF proposes the introduction of a new provision, requiring the information from the European Standard Form to be analogical and included in the contract.

CEAOEF considers that the Directive Proposal contains texts related to the advice provision by lenders, respectively credit intermediaries, obligations to compare offers, and assessment as to whether the consumer has had sufficient time to evaluate these offers, which are not clear enough. Such unclarities would impede the Directive transposition into the national legislation and the texts' implementation would eventually lead to controversy. In this regard, CEAOEF states that the texts should be further developed, in order to specify and clarify their applicability.

2. CEAOEF expresses reservations about the introduction of minimum competence requirements for the creditors' staff and credit intermediaries (as established in Article 6). The Directive does not differentiate the creditors who offer or sell credit products to the consumers from the technical staff. Therefore, CEAOEF suggests that the requirements, as stated in Paragraph 1, shall only apply to the creditor's commercial staff. CEAOEF considers that the securing the appropriate qualification level of the commercial staff is an obligation to remain with the creditor.

3. The text in the pre-contractual information (established in Article 9, Paragraph 1 (i) of the Directive) concerning the possibility of early repayment is in antinomy with Article 18. This Article, in turn, provides an obligation for the Member States to secure a legal (contract-guaranteed) right to early repayment to the consumer. CEAOEF demands that the cases in which the user is being denied the opportunity for early repayment be stated in Article 18, as a general rule exception. If there is no such case, CEAOEF proposes the first part of the sentence to be erased.

4. CEAOEF supports the introduction of requirements for consumer creditworthiness. However, we recommend that the methodology and criteria chosen for assessing the creditworthiness remain a creditor's prerogative. CEAOEF proposes the deletion of this text.

5. CEAOEF is in favour of the introduction of consumer's early loan repayment rights. What's more, we consider appropriate, in parallel with the Consumer Credit Directive, to include a text entitling the creditor to a fair and objectively justified early repayment compensation. This text is important for the creditors who have used long term resources to provide long term mortgage loans at a high price. These funds can not be reinvested in the event of early repayment. In this way, the interest protection of both sides is being guaranteed, while achieving greater stability of the sector.

With view to a greater clarity of the Article 18 implementation, CEAOEF proposes that the conditions, under which the consumer's right set forth in Paragraph 1 can be exercised, should be specified.

6. CEAOEF welcomes the introduction of regulation on credit intermediation. With regard to the establishment of a single passport for credit intermediaries, predetermined by the practice of the insurance and investment companies, we believe that at this stage it would be difficult to foresee the effects of such requirements introduction.

CEAOEF underlines that the license regime implementation and the related supervision of credit intermediaries involves the allocation of significant resources by the Member States, especially in the field of banking supervision.

CEAOEF proposes a tighter regulation, in order to avoid conflicts of interest in the service provision by credit intermediaries.

In conclusion, CEAOEF supports the Proposal for a Directive of the European Parliament and the Council on credit agreements relating to residential property, as well as the Bulgarian Government Framework Position, considering that it is consistent with our country's best interest.