



EUROPEAN COMMISSION

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*Dear President,*

*Thank you very much for the opinion of the National Assembly of the Republic of Bulgaria on the Proposal for a Directive of the European Parliament and Council regarding the loan contracts for residential property (COM (2011)142), and apologies for the delay in responding to this opinion.*

*The Commission welcomes the support of the Bulgarian Parliament for this proposal and the constructive remarks provided, which are a useful contribution for further debates on this file.*

*Regarding the specific-issues raised by the Bulgarian Parliament, the Commission would like to provide the following clarifications.*

*The Commission understands the concerns of the Bulgarian Parliament in relation to the number and scope of delegated acts in the proposal. The framework and terminology for delegated acts was introduced under the Lisbon Treaty and is therefore still relatively new and it will take some time before the institutions and stakeholders alike are familiar with its usage. From our perspective, the Commission believes that the delegated acts are an important element to ensure a flexible regulatory framework in the field of financial services that is able to adapt to financial market and economic developments, including product innovation. This framework is furthermore consistent with the approach taken in other financial services files.*

*As regards the flexibility provided in the proposal for a Directive for Member States to regulate areas which are not covered by the proposal and to extend the proposal to other actors, such as small companies, the Commission believes it is important to be clear on what Member States can and cannot do. This facilitates the transposition phase. In this respect, Bulgaria will be free to choose in these areas.*

*The Commission also notes the reservations of the Bulgarian Parliament on the minimum competence requirements and would like to make clear that the requirements only apply to the creditor's commercial staff and not to all technical staff by including a definition of "staff" in Article 3. The Commission believes that this definition, by focusing on those*

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*staff who have contact with consumers and are engaged in the activities covered by the proposed Directive, provides an adequate delineation between the different types of staff.*

*The Commission notes the request for greater clarity in the provision on early repayment, in particular the inclusion of a list of exceptions for the right to early repayment as well as the inclusion of a corresponding right to fair and objectively justified compensation for the creditor. The issue of early repayment is an extremely sensitive one at the European level with a great diversity of practices both in terms of the ability of the consumer to repay and the costs incurred as a result. With this proposal the Commission aims to strike a delicate balance by introducing the principle of a right for consumers to be able to repay while giving Member States the flexibility to introduce conditions, including the possibility of fair and objectively justified compensation, that take into account national products, financing structures and market practices. While including a detailed list of exemptions in the proposal would provide some clarity for Member States, there is a risk that such a list becomes exhaustive and leads to a reduction in the level of consumer protection and competition in some Member States, neither of which the Commission would like to support.*

*The Commission notes the request of the Bulgarian Parliament for the methodology and criteria for assessing creditworthiness to be the sole responsibility of creditors. As stated in Article 14, "Member States shall ensure that creditors establish appropriate processes...". Consequently, Member States are free to choose whether to provide more detailed guidance on how creditworthiness should be assessed, for example by setting loan-to-value limits, or whether to give creditors the full freedom to determine how to assess creditworthiness. It should however be noted that the proposal provides for the possibility of introducing delegated acts to provide guidance on how to assess creditworthiness in order to take into consideration market or economic developments.*

*The Commission recognises the concerns of the Bulgarian Parliament in relation to the establishment of a passport for credit intermediaries and the administrative burden in terms of resources relating to the establishment of an authorisation, registration and supervisory regime for these institutions. Regarding the resource burden, the Commission in its impact assessment has recognised the fact that the establishment of a regime of authorisation, registration and supervision for all credit intermediaries could represent an important burden, particularly in countries where no such regime already exists. However, the Commission believes that such a regime is important, not only in terms of meeting Europe's G20 commitments to ensure that all actors involved in the origination and distribution of mortgage credit are adequately regulated and supervised, but also ensure the provision of high quality services across the EU. Finally, in relation to the passport, the Commission believes that this is a vital step forward for creating a single market as well as establishing a level playing field with other intermediaries in the insurance and investment services sectors, where such a passport already exists.*

*The Bulgarian Parliament identifies the importance of preventing conflicts of interest in the service provision by credit intermediaries. The Commission agrees that this is important and for this reason has introduced several provisions. In Article 5 the proposal for a Directive requires the creditor and credit intermediary to act honestly, fairly and professionally in accordance with the best interests of the consumer and furthermore that Member States ensure that the manner in which creditors remunerate credit intermediaries does not impede this provision. In addition, Article 10 provides for several disclosures for credit intermediaries in order to ensure transparency of relationships between creditors and credit intermediaries.*

*Finally, the Commission also takes note of the Bulgarian Parliament's suggestions for new wording to be inserted on the European Standardised Information Sheet, contractual information, and the need for clarifying the difference between aspects such as explanations and advice. These issues will undoubtedly be the subject of much discussion moving forward.*

*The Commission hopes that these clarifications address the main questions and issues raised in the abovementioned opinion and looks forward to further developing the political dialogue with the Bulgarian Parliament.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*