



The European Commission
DG Internal market

DIRECTOR GENERAL

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Danish comments to the Green Paper on Mortgage Credit in the EU

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Introduction

Denmark supports the work of the European Commission in the field of EU residential mortgage credit markets in order to assess the merits of Commission intervention in the this market and to enhance competition.

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Denmark also agrees that it is at present too early for any decisions on whether the Commission should act at all and that the Commission should only act where initiatives are expected to bring clear benefits to industry, markets and consumers without negative effects to existing national systems.

**MINISTRY OF ECONOMIC
AND BUSINESS AFFAIRS**

We support the application of a very open and transparent policy making process as is the case here.

In order to prepare the Danish answer we have consulted industry and users about the Green Paper. This letter therefore to a large degree also reflects the position of the industry and users. However this does not exclude individual comments from industry or users to the European Commission.

General remarks

The Green Paper covers questions concerning mortgage credit in the EU in general. There is thus no distinction between mortgage credit supplied by a specialised institution like a mortgage bank (in Denmark realkreditinstitut) and mortgage credit supplied by a commercial bank or yet another type of mortgage credit supplier. Indeed the Commission asks, whether mortgage credit could be supplied by other suppliers than credit institutions, and subsequently would not be subject to the regulation of credit institutions.

In Denmark the bulk of mortgage credit is supplied by specialised mortgage banks (realkreditinstitutter) issuing realkreditobligationer (Danish mortgage bonds) that are regulated in greater detail than commercial banks. Issuance of realkreditobligationer is an exclusive right of mortgage banks authorized by the Finanstilsynet (Danish FSA) to conduct mortgage-credit business in Denmark. Danish mortgage banks are subject to general EU regulation of credit institutions. In addition, national legislation imposes further regulations on mortgage banks aimed at limiting their risk profile and thus the risk inherent in realkreditobligationer issued. This is important considering the very significant importance of the Danish mortgage credit system to the entire Danish financial sector. The total outstanding of realkreditobligationer amounts to approx. 2 trillion DKK at the end of 2004 corresponding to around 133 pct. of Danish GDP.

It is therefore important for Denmark that any initiatives concerning mortgage credit should be compatible with national standards for acceptable risk profiles of the issued mortgage bonds. Should further integration of mortgage credit markets in EU be accomplished by initiatives by the Commission the covered bond market could gain equal importance for the whole EU. It therefore seems obvious that emphasis should always be on the risk profile of the bonds issued.

Considering the fact that other competitive products play an important role in the market, products from other suppliers such as commercial banks should be taken in consideration as well.

In general we believe that there is a role for the Commission in securing the basic infrastructure for a more integrated mortgage credit market in EU, where competition in the market will show which systems or institutions that are the most competitive. Basic infrastructure elements could be the code of conduct, efficient and effective judicial redress mechanisms and accurate and easily accessible land registers record. No EU-regulation on the product side should be introduced.

Consumer protection – code of conduct

The decision on financing a private home is usually the biggest economic decision a consumer makes in his life. It is therefore important that the consumer has the background for making such a decision and gets all the information necessary for making such a decision.

The Voluntary Code of Conduct on Pre-Contractual Information for Home Loans should be seen as an important element in consumer protection. Voluntary arrangements should be sought. Nevertheless should the consultation process by the Commission reveal an unsatisfactory implementation a binding legislation could indeed be a possibility. If binding legislation on consumer protection is found necessary it should be considered to introduce the same regulation as in the new Directive on credit agreements for consumers

Property Valuation

The regulation on property valuation by Danish mortgage banks is relatively detailed. When Danish mortgage banks sell their products abroad, the lending is based on realkreditobligationer. It is therefore essential, that the valuation rules are the same as when the lending takes place in Denmark. Unless one could be sure, that the different national valuation standards were indeed practically the same it is not considered advisable for the Commission to seek mutual recognition of national valuation standards.

It is however believed that there might be a cause in pursuing a single EU standard for both valuation processes and valuers. Such an EU standard could turn out to be the basis of a level playing field for covered bond recognition.

It is the Danish position that the responsibility for a correct valuation should always lie with the management of the mortgage bank.

Early repayment

The Commission invites points of views on the aspect of early repayment. It is the Danish position that early repayment is a product question. If the consumer wants a product with the possibility of early repayment he should choose between products with this facility in the market. In Denmark products with built-in options to call the issued bonds at par are based on bonds where this option is reflected directly. These bonds naturally trade at lower prices than bonds without this option. The consumer will have to decide whether to pay for this facility.

All contractual elements concerning this matter should be clear to the consumer at the time of entering into the contract regardless of product or supplier.

Enclosed is an explanatory note by the Danish association of mortgage banks on the early repayment functionality in the Danish system.

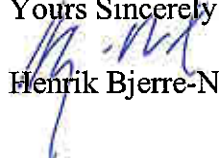
Credit contract

The Commission welcomes views on the merits of the standardisation of mortgage contracts, e.g. via a 26th regime instrument. It is assumed that a 26th regime could be introduced by a legal instrument sitting alongside, but without replacing, national rules, and available as an option to the parties to a contract.

As mentioned earlier it is of paramount importance for Denmark that the risk profile of Danish mortgage bonds are kept at a very low level due to the significant importance to the whole financial sector. At the present stage it is unclear how a 26th regime could be introduced and with what consequences in this respect.

As a last point Denmark would like to stress that a decision on the question of applicable law should be taken with a clear aim to avoid unnecessary competitive limitations.

Yours Sincerely


Henrik Bjerre-Nielsen