Svenska
Bankföreningen
Swedish Bankers' Association

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Public consultation on the review of the Mortgage Credit Directive

The Swedish Bankers´ Association represents banks and financial institutions established in Sweden. Our aim is to contribute to a sound and efficient regulatory framework that facilitates for banks to help create economic wealth for customers and society. We appreciate the possibility to give feedback regarding the review of the Mortgage Credit Directive (MCD). In this paper we would like to highlight some issues which are important for the Swedish mortgage banks. Regarding detailed answers to the consultation questionnaire, we refer to the answer from the European Mortgage Federation (EMF).

General comments

In general, we believe that the MCD is a well-functioning piece of legislation fulfilling its objectives to increase consumer protection and contributing to financial stability. While national mortgage markets are largely efficient, competitive and serve consumers well, it is our view that it is not possible at this stage to create a single, cross-border market for mortgages. The reasons for this are related to legal, infrastructural and cultural differences between Member States external to the mortgage industry itself. There are differences in product ranges across Member States often driven by structural characteristics of mortgage markets and the preference of consumers to shop around and contract locally, in their own language, regardless of the opportunities available in other Member States (MS). Further, the mortgage products are linked to the location of the property and will therefore be subject to national regulations.

Information to consumers

From our point of view the provision of pre-contractual information and the European Standardised Information Sheet (ESIS) has contributed to increase the level of consumer protection by making consumers more aware of costs and of the real obligations that consumers face when taking out a loan and make an informed decision. Also, the ESIS has improved consumers' ability to compare loans available on the market.

However, the amount of information provided in the ESIS and its prescriptive format has resulted in information overload and a document that does not necessarily work as well as it could. Consumer protection in the mortgage lending process is about striking the right balance between providing the necessary relevant information and avoiding information overload. There is an overlap in information requirements between the ESIS, information to be included in advertising, general information and information requirements concerning credit intermediaries and appointed representatives which contributes to the overload. Reduction and simplification of the information requirements would alleviate the information burden on consumers.

Also, the information requirements need to be better aligned to the digital environment, with less rigidity regarding presentation and the proof of their delivery in order to meet consumer expectations in respect of timing, convenience and expedience. This consideration applies to both standardised and to personalised information, and therefore to the ESIS.

Mortgage lending by non-credit institutions

To guarantee consumer protection, financial stability and fair competition, non-credit institutions should be subject to the same requirements as credit institutions. For this purpose, the MCD needs to be revised. While mortgages provided by banks are subject to both the rules in the MCD and to the capital requirements in CRR and CRD, mortgages offered by NCI:s are often obliged to follow only the rules in the MCD. This might lead to refinancing risks for consumers in case of a crisis situation where non-credit institutions would get in refinancing problems and also have consequences for overall financial stability of the market.

According to the Commission, the granting of mortgages by non-credit institutions remains a limited activity in most MS, though in some MS new actors have indeed entered the mortgage market, for example Sweden and the Netherlands. We believe this development will spread to more MS and the Commission now has an opportunity to ensure on EU-level that innovation and healthy competition does not come at the expense of consumer protection or financial stability.

In Sweden, non-credit institutions usually set up their funding structure involving one or more Alternative Investment Funds (AIF), which can be subject to some minimum capital requirements, but not for the purpose of covering exposures to mortgage clients. These capital requirements are negligible in a mortgage exposure risk context. The AIFs connected to the non-credit institutions that are offering mortgages normally issue debt instruments, which are in turn offered to insurance companies and other institutional investors. This means that it is possible to offer mortgages without having to hold capital for the credit risk exposure, by combining several "non-bank licenses". If a traditional bank offering mortgages subject to the capital requirements in CRR and CRD would create a similar setup, the activity would be subject to the rules in CRR and CRD. In other words, these activities would need to be covered with capital in the same manner as if the mortgage lending was offered directly from the credit institution. Same level of protection should be required for non-credit institutions and for banks in this context.

SWEDISH BANKERS' ASSOCIATION

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