



16/04/2007

EMF Note to the Council Working Party on Consumer Protection on Early Repayment (Art. 15 para. 2 of the CCD-Proposal)

With regard to the ongoing discussions on the CCD-Proposal in the Council and the work that is being carried out by the Council Working Party on Consumer Protection, the European Mortgage Federation¹ (EMF) would like to express its real concern about the proposals made with respect to the compensation in case of early repayment (Art. 15 para. 2 of the modified CCD-Proposal).

The EMF strongly believes that when discussing early repayment, the key criterion should be the lender's actual economic loss. If the debtor exercises his early repayment right, this implies a modification to the financial conditions and therefore the balance of the contract; the consequences of which can obviously not be estimated when concluding the contract as they depend on the moment when the right is exercised. Therefore, if this modification of the contract results in a loss to the lender, it is normal that the lender is entitled to full compensation as a principle.

After establishing the principle, the second stage is clearly to determine the basis of calculation of the compensation, to which the lender is entitled. To limit this compensation to 0.5% or 1%, depending on whether or not the fixed rate period exceeds one year, or indeed to any pre-fixed level, is totally arbitrary and not economically justified. Moreover, setting different rates of early repayment fees for longer or shorter periods has no relevance to the actual costs to the lender in a particular case. In conclusion, once the principle is established that the aim of the compensation is to cover lenders' losses (full compensation), there is no reason to differentiate between products, whether fixed or variable.

In this respect, it should not be forgotten that any limitation to the compensation, to which the lender is entitled, would automatically lead to lenders mutualising their risk. Consequently, the costs resulting from the introduction of caps would ultimately be borne by consumers.

On a final note, the EMF would also like to recall that it is strongly opposed to product harmonisation that would limit EU citizens' choice. It could therefore not support any measure that would lead to the prescribing of contractual terms, in this case the restriction of compensation, which would amount to such standardisation and therefore negatively affect product diversity and innovation, both of which are vital for efficient and competitive markets.

¹ Founded in 1967, the European Mortgage Federation represents the interests of mortgage lenders at EU level on both the retail and lending side. It groups national associations and individual lenders from amongst the EU 27 and the Accession Countries. Together, its members grant approximately 81% of residential mortgage loans in Europe. Mortgage lending is a growth industry. The volume of mortgage loans outstanding has more than doubled in nominal terms since 1996 and exceeded €5.1 trillion at the end of 2005, an 11% increase on the previous year.