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*The Co-operative Difference :
Sustainability, Proximity, Governance*

EACB Newsletter

Message from the CEO, Nina Schindler



The European co-operative banks collectively serve more than 223 million consumers, SMEs, and communities through 2700 locally operating banks. They are present in the economic centres of the EU Member States but also, very much so, in more rural areas. Originally set up by and for their clients, co-operative banks are strong believers in creating long term value and in taking a personalised approach.

Mortgages are an important part of European co-operative banks daily business. They aim to provide their clients with a mortgage credit that is tailored to their specific needs and circumstances. Rooted in communities they have in-depth knowledge of local property markets, development planning, support schemes etc. but they also keep an eye on more global developments. This being the case, co-operative banks have gained notable experience in the development of green mortgages and in how to best focus property finance on such a way as to support the green transition. They have also picked up on the increasing demand from clients to be offered digital channels for interaction with their banks and are looking at different options that technology offers to improve their service to customers. It is therefore no surprise that EACB members took a keen interest in the public consultation that was launched by the Commission on the review of the Mortgage Credit Directive the MCD review 22 November 2021. The topic will remain high on the EACB agenda in the coming months as the Commission is evaluating the feedback received on the consultation and we will be happy to remain in dialogue with the legislator on the topic.

3 Questions to Eric Ducoulombier, Head of the Retail and Payments Unit, European Commission (DG FISMA)



Eric Ducoulombier is, since 1 January 2019, Head of the Retail and Payments Unit in the European Commission (DG FISMA). Eric joined the European Commission in 1992, after having worked a few years in the private sector. He holds a Master Degree in European Law.

What is triggering the review of the Mortgage Credit Directive and what are the main issues that are important for the European Commission to consider in the review?

The Commission is responsible for evaluating every piece of EU legislation with a view to assessing whether it has reached its intended objectives. For the Mortgage Credit Directive (MCD), this responsibility is set out in Articles 44 and 45 which oblige the Commission to carry out a review and, where appropriate, to make legislative proposals to amend it.

The Commission launched an external evaluation study in 2020 and presented a report on the MCD application in May 2021. The report concluded that the MCD has been effective in raising the standard of consumer protection and has helped to harmonize mortgage lending practices across the Member States. However, the report considers that the MCD has had a limited impact on the creation of a single market, mostly for reasons falling outside the scope of the MCD. The report also pointed to the need to ensure that the MCD remains fit for purpose as the market develops and new challenges and opportunities arise, notably from digitalization and the sustainable finance agenda.

In line with this report, an important focus of the MCD review will be on possible adjustments in view of digitalization. The aim needs to ensure that consumers can benefit from digitalization. At the same time, potential risks need to be addressed. Another focus of the review is on enhancing sustainability, facilitating green mortgages. The Commission will also evaluate whether additional measures could further enhance the cross-border provision of mortgages in the single market. The Commission will assess whether there is a need to strengthen the support of consumers at risk of default or becoming over-indebted. Finally, any possible revision of the MCD would need to take into consideration the outcome of the ongoing negotiation on the Consumer Credit Directive proposal.

Digitalization and sustainable finance are two topics that have increased importance in the Commission's overall policy agenda over the past years. They cut across many other policy discussions. How are they being considered in the context of the MCD review?

Digitalization and sustainable finance will definitely be among the key themes of the MCD review. The financial services industry, including the market for mortgage lending, is being fundamentally transformed through digitalization. New market players, such as crowdfunding and peer-to-peer lending platforms, have entered the market. Digitalization enables new ways for disclosing information, new mechanisms to facilitate the comparison of offers as well as new possibilities to assess the creditworthiness of consumers based on artificial intelligence. Many of these innovations may bring substantial benefits to consumers, in particular in terms of easier access to products, easier access to information and lower costs.

Digitalization could also play an important role for the further development of the single market. The aim of the MCD review will be to ensure that consumers can benefit from these developments. However, it will also be important to address

potential risks. For instance, new market entrants may need to be regulated to ensure a high level of consumer protection. Information to consumers may need to be presented in a different way on digital devices to ensure that the consumer can easily understand the essential information but is not overloaded. Also, we will need to assess whether the use of artificial intelligence for creditworthiness assessment could create risks of discrimination and may need to be further regulated. The proposal for an Artificial intelligence act already contains certain rules.

On sustainable finance, the Commission will assess how the MCD can contribute to the sustainability goals. Buildings in the EU are collectively responsible for 40% of our energy consumption and 36% of greenhouse gas emissions. Improving energy efficiency is a key success factor. While the MCD does not hinder green mortgages, the Commission will assess whether any measures could be taken to encourage the uptake of green mortgages.

The EU mortgage markets are witnessing new market players next to the more traditional credit institutions such as cooperative banks. What are the main priorities for the European Commission in terms of these new players?

Digitalization may enable the emergence of new market players in the mortgage market. The lack of legal certainty about the rules applicable to these new forms of businesses may pose risks to consumer protection.

As a first step to regulate crowdfunding platforms, the Regulation for European crowdfunding service providers for business (ECSPR) -which became applicable in 2020- has established a regulatory framework (EU passport) for crowdfunding activity. However, the ECSPR does not apply to crowdfunding services to consumers regarding mortgage loans and consumer credit. With the proposal for Consumer Credit Directive, the Commission has proposed to complement the ECSPR and address protection of consumers taking consumer loans through peer-to-peer and crowdfunding platforms. Negotiations are still on-going on the proposal and their results will be taken into account for the review of the MCD.

The Commission's priority is to ensure that the same service is subject to the same rules and same level of consumer protection, irrespective of the business model.

Second Opinion from **Elisabeth Delahousse,**

Head of EU Affairs, Fédération Nationale de Crédit Agricole (FNCA)



Elisabeth Delahousse is the Chairwoman of the EACB Consumer Policy working group and a member of the EACB General Assembly. After many years at the Legal Department of Crédit Agricole SA, Elisabeth joined the Fédération Nationale de Crédit Agricole as Head EU Affairs. She has been proactively participating in the elaboration of new European regulations, with a particular interest in the defense of the cooperative model and values and the respect for the principles of European legislative method.

The EACB members consider that the MCD has performed well raising the level of consumer protection within the EU, while leveling the playing field. We also believe that the technologically neutral approach of the MCD allows the rules to adapt to new technologies and consumer expectations. Taking this together with the fact that the directive is relatively young and in order to comply with the better regulation principle, the EACB does not see a need for the directive to be reviewed.

Should a review however take place, then there are a number of points that should be considered from the point of view of cooperative banks.

In the current MCD, the requirements on advertising and pre-contractual information are rather detailed. It is not beneficial for either party, the bank, and the consumer, to require large quantities of information to be produced, sometimes multiple times at the different stages of the procedure. An overload of information might be confusing for the client and increases the costs for the creditor, without increasing the quality of information. The information overload is especially apparent when the consumers are disclosed information by digital means.

In its reflection on the potential review of the MCD, it appears that the Commission is looking into the concept of green mortgages. Cooperative banks consider that it is first of all the project that is green; a green credit is what finances a green project. Also, the characteristics of the green credits (duration, conditions of granting, applied rate, etc...) must remain of the competence of the competition, without interference of the authorities. In principle, an EU-wide definition of green mortgage would create legal certainty and transparency for customers and credit institutions. However, Cooperative banks also believe that the MCD is not the right framework to develop this concept. The EU-wide definition of what constitutes a green mortgage should be established on the basis of the work already done in line with the EU Taxonomy Regulation. Introducing a definition in the MCD would undermine the technical screening criteria of EU Taxonomy that have been developed for years.

Finally, we believe that, should the MCD be amended, focus should be on addressing the new market entrants; it should be ensured that peer-to-peer and crowdfunding platforms are captured within the scope of the directive - maybe with adaptations, as these players operate differently from the traditional mortgage providers.



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European Association of Co-operative Banks EACB - AISBL
The voice of 2.700 local and retail banks | 87 million members | 223 million customers
Rue de l'Industrie 26-38 1040 - Brussels BELGIUM
+32 (0)2 230 11 24 +32 (0)2 230 06 49 secretariat@eacb.coop