

EU Green Paper on Mortgage Credit in the EU

Set out on the following pages are excerpts from written responses to the EU Green Paper on Mortgage Credit in the EU from various commercial organisations, European bodies and European governments. These excerpts provide comment on the EULIS project. Copies of the full responses are available on –

http://europa.eu.int/comm/internal_market/finservices-retail/home-loans/comments_en.htm

HM TREASURY

UK Response to Commission Green Paper on Mortgage Credit in the EU

Alternatives to Regulation

In line with our post-FSAP priorities, the UK believes that alternatives to regulation should be fully explored before any decision is made on legislative interventions in EU mortgage markets.

The Commission's Green Paper itself highlights a number of areas where non-legislative action has begun to address barriers to market integration. The EU Code of Conduct and EULIS project are both examples of alternatives to regulation that have enjoyed some success to date and where there is scope for much more work. The UK also believes that credit data access and mortgage funding would benefit from similar cooperative initiatives. The evidence of EULIS shows that the costs of voluntary action would be modest. But there is real potential to increase market access, by reducing, for example, uncertainty over land ownership and valuation, and lack of access to borrower data. These represent significant barriers to mortgage market integration.

The Commission's Priorities

Encouraging the development of EULIS and recognising it as an example of good practice.

Land Registers and EULIS

The UK believes that clarity around land registration is another important pre-requisite of more integrated markets in mortgage credit across the EU.

The approach used in the EULIS project appears to have been successful in delivering enhanced access to land registration information amongst participating Member States. EULIS accepts that national arrangements differ considerably, but provides access to, and explains, those arrangements. It functions as a portal to those countries that have electronic registers, including the UK, where all three registers belong to EULIS, and already allows worldwide access to registered land titles.

EULIS is looking to develop a user fee system to provide longer term funding. We also note that the central EULIS budget for shared costs in 2006 is

€305,000. This clearly represents a wholly different order of costs compared to the multi-billion euro costs discussed in the London Economics study.

Given the success of this project to date and the efficiency with which it has begun to tackle barriers to cross border supply of mortgages, the UK would suggest that EULIS might serve as a useful for model or pilot for other non-legislative interventions to encourage greater mortgage market integration.

FBE OBSERVATIONS ON THE GREEN PAPER ON MORTGAGE CREDIT IN THE EU

Land Registers

Before making further assessments, the Commission would welcome input on the issues of accurate reflection of charges in land register, the EULIS project and the related funding.

We agree that, in order to be binding for main and third parties, charges affecting real estates must be registered in an official Land Register and made accessible to those who may have an interest in that information. Transparency and legal certainty are indispensable to allow lenders to operate cross-border. Ensuring that national Land Registers make all relevant information available to all parties in a swift and non-discriminatory way is necessary to guarantee a level playing field among lenders. This is particularly true with regard to the so called "hidden privileges" i.e. rights claimed over a real estate by a private or public creditor after the registration of the security into the Land Register. In some Member States such rights are ranked with a higher priority over other credits according to national law, without the need of any registration into the Land Register and regardless the time at which they were raised. Very often lenders may not be aware about the existence of hidden privileges, particularly when accessing a Land Register from abroad. These are actual obstacles to the cross-border activity.

We would recommend the existence of minimum requirements, especially with respect to creation, modification, extinction and priority ranking of rights in national Land Registers with an acceptable level of transparency. The procedures to be finally retained should be easily accessible, aiming at avoiding bureaucracy and time consuming administrative requirements to all parties involved. We are in favour of measures designed to ensure that registration and/or deletion of rights are made by order of receipt. Any other procedure would harm the reliability of the Registers and entail a lack of transparency with respect to their priority ranking.

With regard to the EULIS project, more coordination among Public Registers is to be welcome, although care should be paid to the level of additional costs drawn by the initiative. In accordance with the recommendations of the London Economics study, it is, in our view, necessary to promote and to support this project with financial input of the European Commission

Reply from the Forum Group on Mortgage Credit.

Assessment of EULIS

EULIS is a practical solution. It recognises the differences between the different legal environments and it enables users to understand and work with them. It provides the basic information required for making secured credit transactions, at relatively low cost and in a relatively short time, thereby also encouraging best practice. It is at a stage of development where further expansion is called for and would be welcomed by all, but without access to funding sources to facilitate such development.

BARCLAYS PLC

Response to the European Commission Green Paper: Mortgage Credit in the EU

The UK has good provision of land registers and there is much activity in the UK by HM Land Registry in relation to the electronic registry of charges and e-conveyancing. However, it is recognised that many Member States do not operate a comparable level of land registration access, and we would support continued Commission involvement in promoting development of and access to such registers. This could be fostered by extending the EULIS project to all Member States.

Citigroup, Inc. (“Citigroup”) is a financial services holding company with a variety of depository institution and lending subsidiaries that are located within the European Union member states. We write in response to the Commission’s request for comment on its Green Paper entitled Mortgage Credit in the EU (the “Green Paper”). We appreciate the opportunity to comment on the Green Paper.

Mortgage Collateral.

The Commission’s sponsorship of the EULIS project has helped to begin to address the issues surrounding property registers. Access to information regarding property ownership and any charges levied against property are essential to a fully functioning mortgage market. The Commission should continue to encourage additional member states’ land registries to participate in EULIS. Currently, 7 of 25 member states participate in EULIS.

As part of the Green Paper Comments November 30, 2005 Commission’s Financial Services Action Plan objective “To propose policy objectives and specific measures for improving the single market in financial services” it would make sense to expand EULIS to as many member states as possible.

Contribution by BANCO BILBAO VIZCAYA ARGENTARIA

The access to land registers is a fundamental issue in the context of real estate acquisitions. Having accurate, transparent and cross-border accessible land registers is a prerequisite for market integration and for the promotion of a level playing field for credit institutions.

Therefore, BBVA fully supports the enhancement of cooperation between owners and controllers of registers through the EULIS project, and would also back the establishment of a set of EU standards aiming for guarantying an easy access to these registers.

RESPONSE BY GMAC-RFC LIMITED TO THE COMMISSION OF THE EUROPEAN COMMUNITIES' GREEN PAPER: MORTGAGE CREDIT IN THE EU

Land Registers

We agree that effective land registration is fundamental to cross-border mortgage credit activity. Standardisation of registers is to be encouraged as an aid to such activity, and it is suggested that the EULIS Programme should be broadened to encompass all Member States. With regards future funding of such a programme, this should be the subject of further consultation..

Response by Cheltenham & Gloucester plc

Land registers

One of the principle barriers identified by the forum group was the different approach in different member states to registration. In some member states "hidden charges" exist which do not need to be registered on the land register. Also, different member states follow different procedures in terms of the way in which priority is both obtained and preserved.

The CML has suggested common protocols for the registration of charges and a shared understanding of what charges are registered: and we agree that this would be a significant improvement on the existing systems.

To that end we would support the EULIS project since the significant improvements made in the UK in land registration processes have given significant improvement to the flexibility of the mortgage and property market.

Response of the Royal Bank of Scotland Group to the Commission's Green Paper on Mortgage Credit in the EU

Land Registers

We are generally supportive of the Forum Group's Recommendations (numbers 30-37).

In the UK all charges are registered in a public register. In addition to enhanced interconnectivity and access to national registers (which we understand the EULIS initiative will enhance) there may be benefits in adopting as common EU standards

the rules on (for example) priority, notice and public registration that currently apply in those Member States with a public register.

We believe that the European Land Information Service initiative is worth pursuing, on the assumption that it will not increase costs for consumers.

As an industry leader in the UK housing industry, SearchFlow welcomes the European Commission's Green Paper on Mortgage Credit in the EU.

EULIS

The European Commission Green Paper on Mortgage Credit in the EU positions the EULIS pilot project as providing a possible solution to cross border access to land registries. 'Practical measures could include further support for the EULIS and a review of the access conditions and pricing structure in Europe.'

SearchFlow would strongly support this measure as we believe that a fully functioning EULIS would deliver great benefits to the EU consumer.

Expansion of the EULIS business case

SearchFlow believe that if EULIS is rolled out in its current format, then there has been a missed opportunity. The EULIS model is very limited in its aspirations as it only looks towards providing an online portal to access land registries. Expanding the remit of EULIS to include other sources of information, would, we believe, be universally welcomed by the mortgage and property industries and EU consumer alike. Other types of information could include environmental, water, drainage, planning, and mining activity. The availability of this information would depend to a large extent upon the sophistication of Member States' public registers but the EULIS scope should not preclude these areas.

Response of the Association of German Pfandbrief Banks (vdp) to the European Commission's Green Paper on Mortgage Credit in the EU

• Land registers

Land or mortgage registers fulfil an important function as a source of information about all property related transactions, charges, etc. The data provided by the registers should therefore give exhaustive information on charges over properties in the sense that all existing rights and obligations associated with the property must actually have been entered. It is also important that all lenders should have cross-border access to these registers on the same conditions.

The EULIS project, which is co-funded by the Commission, has made a significant contribution in this respect. We agree with the LE report's recommendation that the Commission should continue its financial support so that the project may be developed further. It would be desirable, and not least make handling more consumer friendly, if appropriate IT solutions were in place to allow real estate liens to be created by electronic means.

Mortgage Credit in the EU

Response by the Council of Mortgage Lenders to the EU Commission Green Paper

Land registers

The ability to gain access to land registers in different member states, to have common protocols for the registration of charges, a shared understanding of what charges are registered and what legal status is conferred by registration, would be a major step in establishing a common infrastructure for mortgage lending. Having established a precedent for action with the EULIS project, the Commission should continue to put resources and funding into this area. While market pressures might, eventually, promote developments in this area, given the public status of land registration and the need for attendant legal measures, the mechanisms for market-led initiatives may be limited. Experience in the UK suggests that successful developments in land registry practice such as on-line registration have come about through public initiative following consultation with industry stakeholders.

THE EUROPEAN ASSOCIATION OF CO-OPERATIVE BANKS COMMENT ON GREEN PAPER ON MORTGAGE CREDIT IN THE EU

Land Registers

Land registers record and, to a certain extent, determine legal property ownership rights. An understanding of their contents and operation, as well as easy access to them, is crucial for cross-border mortgage credit activity of any kind (including funding).

The EACB underlines the importance of accurate registration in public registers (including all charges that could affect property right, particularly hidden overriding interest) in combination with a transparent registration process for collateral as they already exist in many Member States since they are fundamental for lenders with view to risk assessment and limitation.

It has been recognize that the EULIS initiative of the Commission made an important contribution in this respect as it implies simplification, higher efficiency and speed of the procedure at a lower cost. In accordance with the recommendation of London Economics Study the EACB considers as essential that the Commission continues providing financial support to the EULIS initiative to encourage its expansion across the EU.

The European Banking Industry Committee (EBIC) welcomes the Commission's Green Paper on Mortgage Credit in the EU published on 19 July 2005 (Green Paper)

EBIC supports the EULIS project insofar as it implies simplification, higher efficiency and speed of the procedure at a lower cost. It enhances transparency and accessibility by providing easy access to electronic national land registers. As such it contributes to building a single European property market. EBIC would welcome the continued funding of this project by the Commission to encourage its expansion across the EU. In addition, EBIC would welcome to be kept informed by the Commission about the development of the EULIS project.

Position of the European Federation of Building Societies on the Green Paper Mortgage Credit in the EU

The EULIS (European Union Land Information Service) project developed by several EU Member States for a number of years and addressed by the European Commission in its Green Paper must be welcomed as a joint portal for Public Register inspection in all participating countries. It represents the first step into the right direction, i.e. towards attaining the objective of establishing a comprehensive European information data base.

EMF Position Paper on the Commission Green Paper on Mortgage Credit in the EU

The EMF supports the EULIS project insofar as it implies simplification, higher efficiency and speed of the procedure at a lower cost. It enhances transparency and accessibility by providing easy access to electronic national land registers. As such it contributes to building a single European property market. The EMF would welcome the continued funding of this project by the Commission to encourage its expansion across the EU. In addition, the EMF would welcome to be kept informed by the Commission about the development of the EULIS project.

EUROPEAN SAVINGS BANKS GROUP (ESBG) COMMENTS ON THE GREEN PAPER MORTGAGE CREDIT IN THE EU

Regarding the EULIS project, the ESBG is of the view that such a model of exchange of practices and information amongst some Member States is worth exploring further. The Commission should therefore continue to financially support the EULIS project.

**Opinion of the European Union of Developers and House Builders–
UEPC
on the EU Commission Green Paper on „Mortgage credit in the EU**

Land registry

Land registers or mortgage registers play an important part as centralised evidence of all procedures, charges etc relative to the land. These registers should therefore first of all provide exhaustive information on the charges on the land – to the effect that all existing rights and obligations must actually be entered up.

The EULIS project supported by the EU Commission has made an important contribution towards this.

We feel it necessary for the Commission to develop this project further with appropriate financial support. It would not least be desirable, also to ease handling for the consumer, if the creation of property liens could be ensured through proper EDP solutions.

**EUROPEAN COMMISSION GREEN PAPER ON MORTGAGE LENDING IN
EUROPE.**

The French Banking Federation's observations

This has already been recognised by the Commission through its funding of the pilot phase of the EULIS project, now concluded, which sought to enhance cooperation between owners and controllers of registers and facilitate cross-border access to them. The Commission questions whether it should continue to play an active role in funding such initiatives. Given the use of such registers by lenders and investors, one can assume that they would have a direct interest in contributing to and investing in such initiatives. The FBF's opinion: The objective of the European Land Information Service is to become a "hub" for interconnecting national land registers. The FBF favours this initiative. However, given the current level of cross-border transactions and the fact that the "business case" is still uncertain, the FBF feels that it is too early for the Commission to abandon its leadership and to ask lenders to contribute to this effort.

FIN-USE

EXPERT FORUM OF
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OPINION ON THE
EUROPEAN COMMISSION'S GREEN PAPER
"MORTGAGE CREDIT IN THE EU"

Land Registers

FIN-USE agrees that the Commission should continue to provide financial support to the EULIS initiative, to enable and encourage its expansion across the EU.

Position of the Verband der Privaten Bausparkassen e.V. on the Green Paper on Mortgage in the EU

The EULIS (European Union Land Information Service) project developed by several EU Member States for a number of years and addressed by the EU Commission in its Green Paper must be welcomed as a joint portal for Public Register inspection in all participating countries. It represents the first step into the right direction, i.e. towards attaining the objective of establishing a comprehensive European information data base.

But enhanced access to registers does not mean very much, as long as such registers do not furnish information about the legal rank and contents of mortgage security entered (e.g. bona fide protection issues, non-disclosed rights including priority rights, mortgage security currently in the process of being entered, etc.).

In the first place, dependable Public Registers are of overwhelming importance for national legal systems, real property owners and the real estate business; whilst their importance for credit institutions comes second. For this reason, it cannot be the task of the credit industry to design such registers, contentually, and to finance them.

In view of the wide differences among European register systems as regards real property classification (either by location or by ownership rights), the way in which registers have been structured (divisions, current up-dating), the contents of mortgage rights (comprehensive transcript of contractual clauses, often by hand, or of far-reaching references), other legal specialities concerning bona fide protection, priority of claims in the process of being registered, etc. suggest that hopes that further progress will be made in the short term would not be realistic. Using the services of foreign experts (notary publics, registration officers) as well as thorough knowledge of foreign legal provisions will also be necessary in future in the absence of reform efforts prior to uniformization also in this field (law of (real and personal) property, law concerning Public Registers)

Joint response of the Zentraler Kreditausschuss, the German Insurance Association and the German Association of Building Societies to the European Commission's Green Paper on Mortgage Credit in the EU

Land registers

Land or mortgage registers fulfil an important function as a source of information about all property related transactions, charges, etc. The data provided by the registers should therefore be complete in the sense that all existing rights and obligations associated with the property must actually have been entered. It is also important that all lenders should have cross-border access to these registers on the same conditions.

The Commission-funded EULIS project has made a significant contribution in this respect. We agree with the LE Report's recommendation that the Commission should continue its financial support so that the project may be developed further. It would be desirable, and not least make handling more consumer friendly, if

appropriate IT solutions were in place to allow security interests in property to be created by electronic means.

The publication by the European Commission in July of its Green Paper on Mortgage Credit in the EU refers and I am writing to you to formally apprise you of the Irish mortgage lending industry's views in respect of the questions posed within the Green Paper.

IMC supports the views of the Commission in these regards noting both the importance of such factors in terms of integration and the complexity of the issues which must be addressed. All of the stakeholders in the Irish market are supportive of the e-Conveyancing project which is underway and which should greatly assist in the efficiency, transparency and accuracy of Irish property registers. IMC supports the continued funding by the Commission of the EULIS project. The centrality of these matters cannot, however, be discounted as lenders cannot enter other markets without absolute certainty regarding the security of their collateral. As highlighted at the outset, the accuracy and transparency of such registers is a prerequisite to pure cross border lending.

RICS welcomes this opportunity to comment on the Commission's green paper on mortgage credit,

RICS sets out the following priorities for further Commission work:

To explore with market participants the development of a pan-European secondary mortgage funding market which would increase transparency, comparability and efficiency and so reduce costs to consumers.

To encourage international standards of property valuation that are widely recognised, understood and trusted by valuers, lenders, rating agencies and investors globally.

To encourage the continuing development of EULIS into a greater number of countries as a means to boost transparency and trust in cross-border activity.

THE RESPONSE BY THE ESTONIAN MINISTRY OF FINANCE TO THE GREEN PAPER ON MORTGAGE CREDIT IN THE EU

Collecting information in the form of EULIS project is a welcome initiative, as it enhances the possibilities of service provider and of consumer to receive more background information for concluding a transaction. However, it is highly important that the persons concerned are duly informed about the legal status of the registers represented on the web-pages and about how binding is the information in the according registers.

IRELAND'S RESPONSE TO COMMISSION GREEN PAPER ON MORTGAGE CREDIT IN THE EU

There would seem to be clear merit in some form of agreement regarding registration systems across the EU in view of the centrality of land registers to the operation of

property markets in all Member States. This centrality will become more evident (and necessary) as progress towards e-conveyancing in Member States accelerates. The land registration systems in Ireland operate on a self-financing basis and there appears to be no reason why this should not continue. However, a pan-European approach in this area could result in significant social and economic gains. Moves towards convergence, as with the EULIS project, should continue to be supported and encouraged by the Commission.

Ministry of Finance Sweden
Comments to the Green paper on Mortgage Credit

“Land register” is a central area where the Commission work should support a development that such registers reflect all relevant charges affecting property ownership rights (no “hidden mortgages”) and that all relevant information is available to all parties.

We regard the EULIS as a fruitful project and the Commission should encourage all parties concerned to develop it further and preferably take over the funding role. Further financial support from the Commission would however be desirable.