



European Banking Industry Committee

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European Agreement on a Voluntary Code of Conduct on Pre-contractual information for Home Loans

Third Progress Report¹ on Implementation in the European Union

by the

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April 2009

¹ See 1st and 2nd Progress Reports on Code of Conduct dated March 2003 and December 2005



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EXECUTIVE SUMMARY

I. Take-up of the Code: Continued wide coverage in 20 Member States & Norway²

Comparing against the results of its 2005 Progress Report, the Industry is pleased to report that the Code of Conduct is adhered to and implemented by lenders in 20 Member States and Norway (compared to 19 Member States & Norway in 2005) further to the adhesion and implementation of lenders in Slovakia. Moreover, the level of adhesion and implementation, and in some cases the coverage of the national market, has increased in a number of Member States. This increase has occurred despite the ongoing uncertainty regarding the future of the Code which, as the Industry has reported on previous occasions, accounts to a large extent for the hesitancy of Member States from the EU12 in particular to adhere to the Code. The Industry firmly believes that a number of the remaining gaps in coverage could be filled if a positive signal, which acknowledges the Industry's long-standing commitment to the Agreement, were to be sent by the Commission.

Based on the statistics at the end of 2008³, the level of adhesion and implementation, and coverage of the national market, is as follows:

- **Austria: Almost all members of the national associations** have adhered to and implemented the Code, representing **90%** of the national market⁴.
- **Belgium: 25 lenders**⁵ have adhered to and implemented the Code, representing over **90%** of the national market.
- **Cyprus: 10 lenders** have adhered to the Code and 9 have implemented. The 10 lenders represent **58%** (in terms of loans) of the national market.
- **Czech Republic: 13 lenders** have adhered to and implemented the Code, representing **78%** of the national market.
- **Denmark: All Danish mortgage banks** (6) have adhered to and implemented the Code. Together, they cover **94%** of the national market.
- **Estonia: 7 lenders** have adhered to and implemented the Code. Together, these lenders represent **96%** of the national market.

² See Table 1.1 below

³ Exceptions: BE, February 2009; BDB, January 2009; GR, January 2009; EFBS DE & AT Members, 2007.

⁴ Based on 2005 figures.

⁵ As at end February 2009, further to a series of mergers.



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- **Finland: 337 lenders** have adhered to and implemented the Code. Together, they cover **99%** of the national market.
- **France: 42 lenders** have adhered to the Code and have implemented. Adhering lenders represent 45% of the national market.
- **Germany: A very large number of members of the National Associations⁶** have adhered to and implemented the Code, representing a **very large share** of the national market.
- **Greece: 20 lenders** have adhered to and implemented the Code, representing **95%** of the national market.
- **Hungary:** The Hungarian Bank Supervisor has issued a Recommendation (Nr. 9/2006) (http://www.pszaf.hu/en/left_menu/regulation/pszafen_recommendations/pszafen_recommendations_20061204_1.html), which integrates the information elements of the Code and also goes beyond them.
- **Ireland: 12 out of 14 lenders** have adhered to and implemented the Code, representing **86%** of the national market.
- **Italy: 425⁷ lenders** have adhered to and implemented the Code. Together, they have a **79%** market share (in terms of branches).
- **Luxembourg: 15⁸ lenders** have adhered to and implement the Code, covering **more than 90%** of the national market.
- **Malta:** The provisions of the Code of Conduct were fully incorporated into Malta's domestic legislation as from 1 October 2005. As such, **all Maltese banks** are obliged to comply with the provisions of the Code which have become law.
- **The Netherlands: 131 lenders** have adhered to and implemented the Code. Together, they cover **99%** of the national market.
- **Norway: 10⁹ lenders** have adhered to and implemented the Code, representing approximately 7% of the total number of banks (150, of which 130 are savings banks (all savings banks provide the ESIS at the request of the consumer) granting home loans in Norway, amounting to 40% of the market share in the Member State.
- **Poland:** No Polish lender has so far adhered to the Code. Consumers are however considered to be very well protected due to the existing information rules.

⁶ Verband Deutscher Pfandbriefbanken (vdp), Bundesverband deutscher Banken (BdB), Bundesverband Öffentlicher Banken Deutschlands (VÖB), Deutscher Sparkassen- und Giroverband (DSGV), Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), Verband der Privaten Bausparkassen (VdpB) and Landesbausparkassen (LBS).

⁷ Compared to the last Report, the number of adherents has decreased as a result of intensive mergers and acquisitions in the Italian Banking Industry.

⁸ Based on 2005 figures.

⁹ Based on 2002 figures.



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- **Portugal: 21¹⁰ lenders** have adhered to and implemented the Code. Together, they represent **95.4%** of the national market. This figure includes consumer credit because no separate figures available.
- **Slovakia: 25 lenders** have adhered to and implemented the Code. Together they cover **100%** of the national market.
- **Spain:** No Spanish lender has so far adhered to the Code. Consumers are however considered to be very well protected due to the existing national rules on transparency and consumer protection. Spanish lenders are waiting for the government to harmonise existing national rules with the European Code on home loans in order to assure coherency. Once this harmonisation is in place, all lenders are expected to adhere.
- **Sweden: 89 lenders** have adhered to and implemented the Code. Together, they cover **90%** of the national market.
- **UK: All of the CML's members** have adhered to and implemented the Code. Together, they cover **100%** of the national market.

Depending on the Member State, the source of the figures above is either the national statistics provided by the National Authority (National Bank, national body responsible for statistics) and/or the statistics or estimates from the national trade associations.

The coverage of the Code is between 90 and 100% of the national market in **14 Member States** (AT; BE; DE; DK; EE; EL; FI; LUX; MT; NL; PT; SE; SK; UK). In other Member States, the coverage is between 45% and 86% i.e. in FR (45%), CY (58%), CZ (78%), IT (79% in terms of branches) and IE (86% as a result of new entrants in the market).

While to a large extent the level of adhesion and implementation of the Code of Conduct, and therefore the coverage of the national market, has remained largely stable, it is however evident from the figures above that, compared to the results of the 2005 Progress Report, the situation has evolved:

- In **8 Member States** (CY; CZ; EE; FI; FR; NL; SE; UK), the level of adhesion and/or implementation, and in some cases the level of coverage of the national market, has increased.
- Where there are further differences in reported figures as compared to 2005, i.e. in BE, GR, IE and IT, this can either be explained by intensive mergers and acquisitions or the arrival of new entrants in the market, who are awaiting the outcome of the Commission's deliberations regarding the future of the Code before committing to it).

¹⁰ Based on 2002 figures.



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- It should also be noted that where national market coverage is not complete i.e. in those Member States where not all lenders adhere to or implement the Code, very often these lenders specialise in credit products other than home loans or are new to a national association (see 1.1.2).

The adhering lenders in 13 Member States and Norway (BE; CY; CZ; DE; DK; EE; EL; IE; IT; NL; SE; SK; UK) **publicise their application of the Code**. In **3 Member States** (AT; LUX & PT), publication of application of the Code depends on individual lenders (see Table 1.5). Application of the Code is generally publicised via the websites of the lenders and national associations, in branches and in brochures.

Depending on the Member State and the lender, copies of the Code are made available in **branches**, permanently via the **lender's or national trade association's website** or are **handed out on request**.

Implementation costs consist mainly of staff training costs, IT costs and costs related to the adaptation and printing of documentation. The level of costs is difficult to quantify but is estimated as being low in some Member States (CY) and very high in others (e.g. in the UK, the FSA estimated circa £70 million on a one-off basis and £139-£150million recurring costs).

Credit intermediaries are required to comply with the Code in 8 Member States: AT; BE; DE; DK; IT; NL; SK; UK. In **2 Member States**, the requirement for credit intermediaries to comply with the Code **depends on the terms of the contract with the lender:** CZ & EL.

II. Code's coverage

The Report also examines whether equity release loans¹¹, non-secured housing loans, secured loans with the mixed purpose of housing and consumption and buy-to-let loans are offered in the Member States and, if so, whether they are covered by the Code.

- **Equity Release Loans are offered in 16 Member States and Norway**¹²¹³: AT; CZ (some lenders); DE; DK; EE; ES; EL; FI; FR (rare); IE; IT; LUX; NO; NL; PT (some lenders); SE; UK.

¹¹ Equity release loans are secured loans taken out for consumer purposes.

¹² Not all kinds of credit lenders in these countries offer Mortgage Withdrawal Loans. Moreover, with the exception of Ireland, the Netherlands and the UK, mortgage withdrawal loans represent a very small proportion of national markets.

¹³ EBIC acknowledges that the recently published Commission Study on ERL reports that ERL are available in 13 MS (AT; BG; FI; FR; DE; HU; IE; IT; NL; RO; ES; SE; UK). The fact that the Industry Progress Report records that ERL are available in 16 MS & Norway can be explained by the use of different definitions.



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- **In 10 of the 17 countries where they are offered, depending on the lender, equity release loans are covered by the Code of Conduct:** AT (some lenders); DE; DK; FI; IE; IT; NO; PT (some lenders); SE; UK.
- **Non-secured housing loans are offered in 12 Member States¹⁴:** AT; BE (rare); CZ (rare); DE (some lenders); EL; ES (extremely rare); FR; IE; IT; LUX (1 lender); PT; SK.
 - **In 8 of the 12 Member States where they are offered, depending on the lender, non-secured housing loans are covered by the Code of Conduct:** CZ (depending on the loan structure); DE (some lenders), FR, IE, IT, LUX (1 lender), PT; SK.
- **Secured loans with the mixed purpose of housing and consumption are offered in 17 Member States¹⁵ and Norway:** AT; BE (rare); CY; CZ (rare); DE; DK; EE; ES; EL (some lenders), FI; IE; IT; NL; NO; PT; SE; SK; UK.
 - **In 15 of the 18 countries where they are offered, depending on the lender, secured mixed loans are covered by the Code of Conduct:** AT (some lenders); BE (as long as the aim of acquiring and retaining rights in real estate is the primary one); CZ; DE; DK; EE; FI; IE; IT; NL (only on the housing purposes part of loan); NO; PT (some lenders), SE; SK; UK.
- **Buy-to-let loans are offered in 14 Member States:** AT; BE; CY; CZ (under certain conditions); DE; ES; EL; FI; FR; IE; IT; PT; SK; UK.
 - **In 9 of the 14 Member States where they are offered, buy-to-let loans are covered by the Code of Conduct:** BE; CZ; DE; FI; FR; IE; IT; PT; SK.

Lenders in **17 Member States** (AT; BE; CY; CZ; DE; DK; ES; EL; FI; FR; IE; IT; NL; PT (some lenders); SE; SK; UK) **would support the application of the Code of Conduct to include mortgage withdrawal loans.**

Considering the importance of intermediaries in the loan-granting process, lenders in **17 Member States** (AT; BE; CY; CZ; DE (vdp, BDB, DSGVO, BVR & VÖB); DK; EE; GR; ES; IE; IT; LUX; NL; PT

¹⁴ Not all kinds of credit lenders in these countries offer non secured loans

¹⁵ Not all kinds of credit lenders in these countries offer secured mixed loans



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(some lenders); SE; SK; UK) **would support a proposal to extend the application of the Code to cover credit intermediaries.**

With the exception of the amortisation table, which in some Member States (AT (some lenders); CZ; DE (some lenders); FR; NL; UK) has been reported as being of little value or indeed as resulting in duplication, **lenders largely believe the information included in the ESIS to be useful and efficient**, and appropriate to guarantee transparency and comparability of mortgage offers.

While some lenders are of the opinion that there is no need for additional items to be included in the ESIS, others believe that the addition of **general risk warnings and information on foreign currency loans** could be useful. Those lenders who believe the addition of these elements could be useful estimate that the costs related to the amendment of the ESIS would be low to medium.

Consumer Testing has been carried out in 3 Member States: CZ; PT; UK.

III. Staff Training

In 17 Member States (AT; BE; CY; CZ; DE; DK; EL; FI; FR; IE; IT; LUX; NL; PT; SE; SK; UK) lenders have provided their staff with training activities on how to implement the Code. In many cases, training has taken the form of workshops or seminars or information has been made available to staff through the lender's intranet.

In 15 Member States (AT; BE; CY; CZ (some lenders); DE; DK; EE; EL; FI (some lenders); IE; IT; PT; SE; SK; UK), lenders perform regular checks on whether their staff complies with the Code.

IV. Difficulties Encountered

It has been/still is necessary to amend the text of the European Standardised Information Sheet (ESIS) in **only 3 Member States:** DK; IT; UK.

- In **Denmark**, for practical reasons, the Consumer Credit Act, which implements the Consumer Credit Directive, is worked into the Code of Conduct so that banks are not required to give the same information twice.
- In **Italy**, it was necessary to modify the text of the ESIS to implement the modifications on the early repayment penalty introduced by Law Decree 7/2007 converted by Law 40/2207 as well as to add the mandatory offer of index-linked mortgages with respect to the ECB rate on principal refinancing operations introduced by article 2, para. 5 of Law Decree 185/2008.



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- In **the UK**, the text of the ESIS had to be amended to take into account the Mortgage Conduct of Business Rules (MCOB).

While no amendment of the ESIS was necessary in **Belgium**, Belgian lenders do however make certain refinements to the ESIS in order to reflect national specificities. These precisions relate in particular to the nominal rate, the APRC, fixed-term loans and internal complaints schemes.

Similarly while there was no statutory requirement to amend the ESIS in **Portugal**, Deutsche Bank and Banco Espirito Santo have nevertheless amended its content to include information on the APRC, Euribor's calculation, payment plan details and interest rate promotions, for example.

Other Member States, notably **France and Ireland**, have noted **confusion from consumers as a result of overlaps** and redundancy between the ESIS and the 'offre préalable' in France, and the ESIS and the Letter of Offer in Ireland.

It is still necessary to amend national legislation to allow lenders to comply with the Code in **1 Member State** only: Spain. In **Spain**, a regulation to enforce the Code and resolve the problem of incompatibility between the Code and the national legislation is required.

The Code's provisions, or part of them (ESIS), were/will be integrated into the national legislation of **8 Member States**: DE; EE; HU; IT; MT; NL; PT; UK.

- **Germany**: The new legislation implementing the CCD will transform all relevant information contained in the current ESIS into binding national legislation by May 2010 at the latest. Therefore, even if a bank has not already adopted the Code, it will have to comply with its provisions 100% in future. Germany will consequently have 100% legally binding compliance with the Code.
- **Estonia**: The provisions were integrated by way of the Law of Obligations Act.
- **Hungary**: The Hungarian Bank Supervisor has issued a Recommendation (Nr. 9/2006) (http://www.pszaf.hu/en/left_menu/regulation/pszafen_recommendations/pszafen_recommendations_20061204_1.html), which integrates the information elements of the Code and also goes beyond them.
- **Italy**: Banks, which have adopted the Code, are not obliged to comply with the Italian regulation on Pre-contractual Information.
- **The Netherlands**: The European Code is integrated into the national Mortgage Code.



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- **Malta:** The provisions of the Code of Conduct were fully incorporated into Malta's domestic legislation as from 1 October 2005. As such, **all Maltese banks** are obliged to comply with the provisions of the Code which have become law.
- **Portugal:** The national legislation integrates the application of the Code's provisions in its Decreto-Lei No. 298/92, 31/12, Art. 77-B and on the Bank of Portugal's Instruction no. 27/2003, 17/11.
- **UK:** The Code of Conduct was originally based on the UK's Mortgage Code, which goes well beyond the provisions of the Code of Conduct. All the provisions of the Mortgage Code have now been translated into the UK's statutory regime. As such, any UK lender which used to comply with the Mortgage Code, and which must now comply with the UK's statutory regime, is complying with and exceeding the requirements of the Code of Conduct.

The current Progress Report also examines the stage of the loan granting process at which lenders hand over the ESIS to the consumer:

In **10 Member States** (AT; BE ($\pm 30\%$ of the credit applications); DE; DK (in the case of a binding offer); FI; FR; IE; NL; PT; SE), the ESIS is handed over to the consumer together with the loan offer.

In **8 Member States** (AT; BE ($\pm 60\%$); CY; CZ; EL; IT; LUX; UK), the ESIS is handed out to the customer at the personalised contact stage, during which the candidate borrower's details and needs are identified.

In **Estonia** and **Norway**, the ESIS is only handed out to the consumer on request.

The stage of the loan granting process at which lenders hand over the ESIS to the consumer and therefore the time before the conclusion of the contract which this leaves for the consumer to 'shop around' has been identified as a key issue with regard to the Code's implementation. The Industry's survey shows that although the timeframe varies from Member State to Member State and depends on whether the offer is legally binding or not (for more information, see EBIC letter to Commissioner Byrne dated 19 October 2004), in all cases the consumer has a sufficient period for comparison and reflection:

- In **Sweden**, the consumer has up to **2 weeks** to shop around. This period can be extended.
- In **France**, the consumer can shop around for up to **30 days**.
- In **Belgium**, the offer has to legally provide for a reflection period, which varies between **1 and 4 months** depending on the lender.



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- In **Portugal**, the consumer has **between 2 and 3 months**. Similarly, in **Ireland**, the consumer has around **3 months**.
- In **Denmark**, the consumer has **up to six months**.
- In **the Netherlands** and **Austria**, the consumer has **several weeks**.
- In the **Czech Republic, Germany, Estonia, Cyprus, Greece, Italy, Finland and the UK**, there is **no limit on the period of time** the consumer has to shop around.

Complaints about the Code and/or the ESIS have been received **in 3 Member States** only: DE (DSGV), IRL (extremely low) and IT (extremely low i.e. complaints received represent 0.037% of the annual number of mortgage loans).

RESULTS OF SURVEY

I. Take-up of the Code

1.1 How many lenders have adhered to and implemented¹⁶ the Code in your Member State?

1.2 What is the total market share in terms of home loans of these implementing lenders?

Member State	Adhered to Code	Implemented Code	Market Share of Implementing Lenders
Austria	Almost all members of the European Associations, which amounts to a wide majority of credit institutions granting Home Loans. <ul style="list-style-type: none"> o FBE: majority of its members o ESBG: 100% o EACB: 100% o EFBS: 100% o EAPB: 100% 	Almost all members of the European Associations, which amounts to a wide majority of credit institutions granting Home Loans. <ul style="list-style-type: none"> o FBE: majority of its members o ESBG: 100% o EACB: 100% o EFBS: 100% o EAPB: 100% 	90%
Belgium	25 ¹⁷	25	Over 90%
Cyprus	10	9	58% ¹⁸ (in terms of loans)
Czech Republic	13	13	78%
Denmark	6	6	94%
Estonia	7	7	99%
Finland	337	337	99%
France	42 ¹⁹	42	45%

¹⁶ For exactly what is meant by "implementation" please refer to "Part I: Terms of Implementation" of the Code Agreement.

¹⁷ As at end February 2009, further to a series of mergers.

¹⁸ Refers to the 10 adhering institutions

¹⁹ Based on the figures in the Commission's Register. Some restructuring has taken place in the sector, resulting in mergers in which case the actual figure may be lower.

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Germany	A very large number of members of the National Associations, which amounts to a wide majority of lenders granting Home Loans	A very large number of members of the National Associations, which amounts to a wide majority of lenders granting Home Loans	A very large share of the national market ²⁰
Greece	20	20	95%
Ireland	12	12	12 out of 14 (86%)
Italy	425 ²¹	425	79% (in terms of branches)
Luxembourg	15 ²²	15	90%+
Norway	10 ²³	10	40%
Portugal	21 ²⁴	21	95.4%
Slovakia	25	25	100%
Spain	-	-	-
Sweden	89	89	90%
The Netherlands	131	131	99%
UK	All CML members ²⁵	All CML members and all lenders originating regulated mortgage contracts	100%

1.1.1 For those lenders, who have adhered to but not implemented the Code, please indicate the reasons for this development, and, if applicable, the problems encountered:

- **Cyprus:** The bank that did not implement the Code does not offer home loans.

1.1.2 For those lenders, who have not adhered to the Code, please indicate the reasons for this decision:

²⁰ The composition of the German market does not allow for the calculation of the market share in mortgage lending for individual lenders.

²¹ Compared to the last Report, the number of adherents has decreased as a result of intensive mergers and acquisitions in the Italian Banking Industry.

²² Based on 2005 figures.

²³ Based on 2002 figures

²⁴ Based on 2002 figures.

²⁵ However, there is statutory FSA regulation which ensures compliance in relation to residential mortgages regardless of formal sign up by the CML on behalf of its members.



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- **Belgium:** Those lenders who have not signed up to the Code often only offer a few very specific products, which are offered to a specific section of the population. Market shares are very small.
- **Cyprus:** All banks which are members of the national Association and which offer home loans have voluntarily signed up to the Code.
- **Estonia:** Lenders, who have not yet signed up, are new members of the national Association and specialise mainly in other credit products.
- **France:** Several lenders reacted negatively to the Code of Conduct given that regulation on consumer information is already burdensome. These lenders felt that the objectives of the Code were already fulfilled by existing legislation on the loan offer. They expressed concerns about the legal environment and resented the absence of a reaction from National Authorities with regard to the Code when introducing new measures, which did not take the Code into consideration. This reluctance to adhere to and implement the Code was later compounded when the Commission announced possible European regulation.
- **Germany:** Lenders will continue to sign up to the Code in the context of the new legislation implementing the CCD, which will transform all relevant information contained in the current ESIS into binding national legislation by May 2010 at the latest. Therefore, even if a bank has not already adopted the Code, it will have to comply with its provisions 100% in future. Germany will consequently have 100% legally binding compliance with the Code.
- **Ireland:** On the recent establishment of the non-implementing lender in Ireland, it decided to await the outcome of the European Commission's consideration of the Code under the White Paper on Mortgage Market Integration, before implementing.
- **Italy:** The majority of these banks do not operate in the mortgage loan market.

Please explain which statistical or other source you have used to establish the market share in home loans and, if need be, how you have calculated them:

- **Austria:** EFBS/ Statistics of the Austrian National Bank (OeNB), End 2007.
- **Belgium:** Market share of the 25 members of the UPC compared to the total mortgage assets outstanding published by the Belgian Supervisory Authority (CBFA).
- **Czech Republic:**
 - FBE: Total of the individual market shares provided by the members of the Czech Banking Association.
 - EFBS: National bank, Finance Ministry (31.12.08), Overview of Home Loans – the share of the total was then calculated.
- **Denmark:** Danish National Bank.
- **Estonia:** Statistical data from the Estonian Financial Services Authority (FSA).



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- **France:** Data provided by the adhering lenders.
- **Germany:**
 - BDB: Deutsche Bundesbank, Banking Statistics, January 2009.
 - VdpB & LBS: Annual Report of the Association of German Private Bausparkassen (VdpB) & Bundesbank Statistics.
- **Greece:** Bank of Greece Bulletin of Conjectural Indicators, no. 117, January 2009.
- **Ireland:** Figures from Irish Mortgage Council (IMC) Members.
- **Slovakia:** Slovak Banking Association.
- **Sweden:** Swedish Bankers Association.
- **The Netherlands:** Nearly all Dutch banks and other mortgage providers subscribe to the (Dutch) Contactorgaan Hypothecair Financiers and subscribe to the Code of Conduct for Home Loans.
- **UK:** FSA reports and briefings.

1.3 During 2009 or 2010, do you expect?

Member State	New Adherents	New Implementations	Market Share
Austria	No	No	-
Belgium (90%)	Uncertain	Uncertain	Uncertain
Cyprus	No	No	-
Czech Republic	<ul style="list-style-type: none"> ▪ FBE: Uncertain ▪ EFBS: No 	<ul style="list-style-type: none"> ▪ FBE: Uncertain ▪ EFBS: No 	<ul style="list-style-type: none"> ▪ FBE: 20%
Denmark (96%)	No	No	-
Estonia (96%)	No	No	-
Finland (99%)	No	No	-
France	No	No	-
Germany (very large share)	See comments	See comments	-
Greece (95%)	No	No	-
Ireland (86%)	No	No	-
Italy (79%)	Yes	Yes	-
Luxembourg (90%)	No	No	-
Norway	No	No	-
Portugal (95.4%)	No	No	-
Slovakia (100%)	No	No	-

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Spain	-	-	-
Sweden (90%)	No	No	-
The Netherlands (99%)	No	No	-
UK (100%)	No	No	-

Comments:

- **Czech Republic:** Two members of the Czech Banking Association (CBA) have not yet adhered to the Code (each has around a 10% share of the mortgage market). The CBA has encouraged them to adhere but without success to date.
- **Germany:** Lenders will continue to sign up to the Code in the context of the new legislation implementing the CCD, which will transform all relevant information contained in the current ESIS into binding national legislation by May 2010 at the latest. Therefore, even if a bank has not already adopted the Code, it will have to comply with its provisions 100% in future. Germany will consequently have 100% legally binding compliance with the Code.
- **Ireland:** New lenders in the market are likely to wait for the Commission's decision regarding the Code before implementing.
- **Italy:** The new adherents are new lenders in the Italian mortgage market.

1.4 *In addition to the register available on the Commission's website listing the lenders complying with the Code, do the adhering lenders in your Member State publicise their application of the Code in any other form?*

Member State	Yes/No
Austria	Yes (some lenders)
Belgium	Yes
Cyprus	Yes
Czech Republic	Yes
Denmark	Yes
Estonia	Yes
Finland	No
France	No
Germany	Yes
Greece	Yes
Ireland	Yes
Italy	Yes



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Luxembourg	Yes: 1 lender No: 14 lenders
Norway	Yes
Portugal	Yes (some lenders)
Slovakia:	Yes
Spain	-
Sweden	Yes
The Netherlands	Yes
UK	Yes

Comments:

- **Austria:** EFBS - Via the websites of the Bauspar providers.
- **Cyprus:** All member banks that adhere to the Code are listed in the booklets, which are available at member bank branches and through the website.
- **Czech Republic:**
 - FBE: Adhering lenders mostly make copies of the Code available to consumers via their websites. The CBA announced the Code's adoption via a press release and some of its members did the same when they declared their adherence to the Code.
 - EFBS: Websites of the Bauspar providers. Some Bauspar providers publicise their application in their subsidiaries or through client magazines. Also, loan officers give information on the Code.
- **Denmark:** Via their websites.
- **Germany:**
 - vdp: Via the vdp website and in a vdp information brochure.
 - BdB: Via the BdB website. Also, some members provide information on their websites.
 - BVR: Some lenders have individual information on their websites. For the whole banking group, there is information about the Code on the website of the National Association of German Cooperative Banks (BVR).
 - VdpB & LBS: Through general information, via other media and the website of the VdpB.
- **Greece:** Via their websites and/or in branches and/or by paper copy handed out upon request.
- **Ireland:** Lenders generally make the Code available on their websites and in branches. The Code is also available on the IBF website.
- **Italy:** Primarily by affixing notices in branches and providing information via the websites of individual banks.
- **Luxembourg:** Via its website.

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- **The Netherlands:** On the website of the Nederlandse Vereniging van Banken (Dutch Bankers Association)
- **Portugal:** Those lenders which do publicise their application of the Code do so via their website, in branches and in their commercial simulations.
- **Slovakia:** Via annual reports, posters in subsidiaries, websites and via the Banking Association.
- **Sweden:** Via their websites.
- **UK:** FSA prescribed documentation and the Code of Conduct is available on request.

1.5 How do adhering lenders make copies of the Code of Conduct available to consumers?

Member State	Permanently via the website of the lender or of the national association	In branches	A paper copy is handed out on request	Other
Austria	Yes (some lenders)	Yes (some lenders)	Yes (some lenders)	-
Belgium	Yes	Yes	Yes	See comment
Cyprus	Yes	Yes	Yes	-
Czech Republic	Yes	Yes	Yes	Yes
Denmark	Yes	Yes	Yes	-
Estonia	Yes	Yes	Yes	-
Finland	No	Yes	Yes	-
France	Not known	Not known	Not known	-
Germany	Yes	Yes	Yes	Yes (some lenders)
Greece	Yes	Yes	Yes	-
Ireland	Yes	Yes	Yes	-
Italy	Yes (32.6%)	Yes (61.1%)	Yes (91.7%)	Yes (4.2%)
Luxembourg	No	Yes	Yes	
Norway	-	-	-	
Portugal	Yes	Yes	Yes	-
Slovakia	Yes	Yes	No	-
Spain	-	-	-	-
Sweden	Yes	Yes	Yes	-
The Netherlands	Yes	No	Yes	-



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UK	Yes	No	Sometimes	-
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Comments:

- **Belgium:** The Code is also provided in the “Prospectus” – a document provided for by the Belgian Law on Mortgage Credit
- **France:** The situation varies from one lender to another.
- **UK:** As a result of the amount of FSA documentation, the Code is available on request by consumers.

1.6 In terms of implementation cost, what type (staff training, information material etc.) and extent of costs arise for you/your members in view of the implementation of the Code?

- **Belgium:** Staff training, (printing and internal and external distribution of) information material, time needed to inform clients and to complete ESIS, time needed to compare ESIS from other lenders. Regarding costs, the documentation used by mortgage lenders for programming has not changed, in which case there have been no further costs.
- **Cyprus:** There is a small cost relating to the printing of information booklets. The cost is usually covered by the Association. Member banks also incur costs for staff training relating to the Code.
- **Czech Republic:**
 - FBE: Introductory staff training, software creation and implementation (including website creation and maintenance and information documents) were necessary but the exact costs vary from one member bank to another.
 - EFBS: Exact figures are difficult to provide, however, estimates would suggest €100,000.
- **Denmark:** Danish lenders implemented the Code in 2002 – there is no information available about costs.
- **Germany:** BVR - Costs of staff training, documentation, implementation and monitoring.
- **Greece:** The implementation cost consists mainly of IT software costs (each time a business change occurs, the software must be adjusted with the new data), marketing costs and staff training costs.
- **Ireland:** Aggregated figures are not available but significant IT costs and printing/publishing costs arise in particular.
- **Italy:** The type of costs associated with implementing the Code are primarily those concerning the production of informative materials, staff training and the management of the ESIS application system for updating new products.



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- **Portugal:** Costs mainly relate to staff training and IT implementation. The costs are not easily quantifiable.
- **Sweden:** IT systems and staff training. There are no figures available.
- **UK:** Costs associated with Statutory regulation (cannot separate out the Code element) FSA estimated circa £70 million on a one-off basis and £139-£150million recurring costs. The CML believe this to be much too low an estimate.

1.7 As regards cases where lenders are not directly in touch with candidate borrowers, how do adhering lenders implement the Code with respect to credit intermediaries? Are credit intermediaries required to comply with the Code in such cases?

- **Austria:** The Austrian Bauspar ensure that the Code is being complied with by credit intermediaries.
- **Belgium:**
 - Agencies: Lenders' agencies are expected to implement the Code in the same way as the lender itself. These agencies follow the lenders' instructions with regard to implementation of the Code.
 - Brokers: Brokers also implement the Code of Conduct, although it is difficult to monitor their compliance with the rules of implementation of the Code.
- **Cyprus:** There are no credit intermediaries for housing loans in Cyprus.
- **Czech Republic:** Credit intermediaries are supposed to hand out the ESIS in the same way as lenders do. However any such obligation, monitoring of compliance and sanctions etc. depend on contractual conditions as they are established between the particular lender and their partners.
- **Denmark:** Candidate borrowers will always receive a loan offer following the Code, regardless of their contact person/body.
- **Germany:** Yes.
- **Greece:** In principle, credit intermediaries are not required to comply with the Code. However, compliance of credit intermediaries depends on the terms of the contract between the bank and its credit intermediaries.
- **Ireland:** In Ireland, credit intermediaries are not required to comply with the Code, but some lenders issue the ESIS in all cases. Generally, the Code is included in intermediaries' mortgage application form and the mortgage Letter of Offer.
- **Italy:** In a case in which the bank uses a financial broker or intermediary, the broker or intermediary must agree in writing to adhere to the Code and provide the ESIS to consumers.



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- **The Netherlands:** In the Netherlands, a mortgage lender who has subscribed to the Code of Conduct for Home Loans has a duty to convene with a credit intermediary that the intermediary will comply with the Code.
- **Portugal:** Although credit intermediaries do exist in Portugal, the credit lender always has direct contact with the consumer.
- **Slovakia:** Yes.
- **UK:** FSA regulation covers credit intermediaries.

II. Code Coverage

The wording of the Code concerning its scope is as follows: “A “home loan” is a credit to a consumer for the purchase or transformation of the private immovable property he owns or aims to acquire, secured either by a mortgage on immovable property or by a surety commonly used in a Member State for that purpose”.



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2.1. Are the following types of loans offered and covered by the Code in your Member State:

	Equity Release Loans		Non-secured housing loans		Loans with mixed purpose of housing & consumption		Buy-to-Let Loans	
	Offered	Covered	Offered	Covered	Offered	Covered	Offered	Covered
Austria	Yes	Yes (some lenders)	Yes	No	Yes	Yes (some lenders)	Yes	No
Belgium	No	No	Yes (rare)	No (considered as consumer loans)	Yes	Yes (see comment)	Yes	Yes (see comment)
Cyprus	No	No	No	No	Yes	No	Yes	No
Czech Republic	Yes (some lenders)	No	Yes (rare)	Yes (depending on loan structure)	Yes (some lenders)	Yes	Yes	Yes (under certain conditions)
Denmark	Yes	Yes	No	No	Yes	Yes	No	No
Estonia	Yes	No	No	No	Yes	Yes	No	No
Finland	Yes	Yes	No	No	Yes	Yes	Yes	Yes
France	Yes	No (see comment)	Yes	Yes	No	No	Yes	Yes
Germany	Yes	Yes	Yes (some lenders)	Yes (some lenders)	Yes	Yes	Yes	Yes



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Greece	See comment								
Ireland	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Italy	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Luxembourg	Yes	No	Yes (1 lender)	Yes (1 lender)	No	No			
Norway	Yes	Yes	No	-	Yes	Yes			
Portugal	Yes (some lenders)	Yes (some lenders)	Yes (some lenders but only with a financial guarantee)	Yes	Yes	Yes (some lenders)	Yes	Yes	Yes
Slovakia	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Spain	Yes		Yes (extremely rare)		Yes		Yes		
Sweden	Yes	Yes	No	No	Yes	Yes	No	No	No
The Netherlands	Yes	No	No	No	Yes	Only on the part of the loan for housing purposes	No	No	No
UK	Yes	Yes	No	No	Yes	Yes	Yes	Yes	No

Comments:

- **Belgium:** Loans with the mixed purpose of housing and consumption are covered by the law on mortgage loans only if the purpose of housing is predominant. Otherwise the loan will be covered by the consumer credit law just like the other types of loans mentioned. With regard to buy-to-let loans, the Belgian law considers mortgage credit granted to a private person to acquire or to build a real estate in the frame of his



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personal private asset in order to let it for housing and/or for commercial purposes to someone else, as a regulated mortgage credit falling under the scope of the Mortgage credit law. For this reason, Belgian mortgage lenders accept that these credits also fall under the European Code of housing credit.

- **Czech Republic:** EFBS – mortgage withdrawal loans and loans with the mixed purpose of housing and consumption are not offered by Bauspar providers.
- **Denmark:** Legally, no distinction is made between loan purposes in Denmark. Therefore loans covered by the Code are quite simply those secured by a mortgage on a property that is legally defined as a home.
- **France:** Mortgage withdrawal loans are covered by the Consumer Credit Act.
- **Germany:**
 - DSGV: Non secured housing loans are usually not granted by DSGV members and no distinction is made between the purpose of the loan (purpose of housing or buy-to-let). Key is the purchase or building of an immovable property.
 - BVR: Non-secured housing loans are very rare in Germany. The bank has to know the intended purpose of the credit to apply the Code. Otherwise this credit is a “normal” bank credit. In the case of the other three forms of credit, mortgages are used as collateral, so the Code will apply.
 - VdpB & LBS: Buy-to-let loans are granted in Germany but data on them is not collected separately.
- **Greece:** This depends on the credit lender.
- **Sweden:** The Code is applied to all loans which are secured by a mortgage irrespective of the purpose of the loan.
- **UK:** Buy-to-let loans are excluded because of the commercial nature of the loan and the commercial use of the property. References in the Code to “consumer” and “home” do not therefore apply to a buy-to-let landlord.



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2.2 As a counterpart to the removal of Equity Release Loans from the scope of the Consumer Credit Directive, would you support extending the scope of the Code of Conduct to include them?

Member State	Yes/No
Austria	Yes
Belgium	Probably, but currently ERL are not offered in Belgium.
Cyprus	Yes
Czech Republic	Yes
Denmark	Yes
Estonia	See comment
Finland	Yes
France	Yes
Germany	Yes
Greece	Yes
Ireland	Yes
Italy	Yes
Luxembourg	-
Norway	No
Portugal	Yes (with the exception of Banco Credito Agricola)
Slovakia	Yes
Spain	Yes
Sweden	Yes
The Netherlands	Yes
UK	Yes

Comments:

2.2.1 In the affirmative, would modifications of the Code be needed to cover Equity Release Loans, and if so, which?

- **Belgium:** Many aspects differ from classical mortgage credit loans: rate calculation, repayments, end of the contract. However, the ESIS seems sufficiently general in its wording to also cover ERL and reverse mortgages, even if some of the 15 elements of it do not apply.
- **Czech Republic:** Yes.



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- **Denmark:** This is already the case in Denmark due to national legislation.
- **Estonia:** Equity release products are marginal in Estonia.
- **Germany:**
 - BVR: No, see answer to 2.1.
 - vdp: In Germany, Equity Release Loans, while not representing a significant market share, fall within the scope of the Code of Conduct.
 - VdpB & LBS: Modifications would not be necessary. Lenders offering these credits are not hindered from informing their customers using the ESIS. Nevertheless draft Article 247, paragraph 2, attachment 5 EGBGB foresees the ESIS for “real estate loans”.
- **Ireland:** In practice the code covers equity release loans, and the Irish Banking Federation (IBF) would be interested in formally extending this coverage, subject to a decision regarding the future of the Code and the definition of Equity Release. Many members already issue for such loans where the product is a loan secured on a mortgage property. In Ireland, the statutory Consumer Protection Code requires that entities offering equity release loans apply strict “Know Your Customer and Suitability” criteria.
- **Italy:** According to the current wording of the Code, Equity Release Loans are already covered.
- **Sweden:** No.
- **UK:** The ESIS would need to be modified in terms of the duration of the loan, the amortisation table and perhaps risk warnings or no negative equity guarantee.

2.3 Would you support a proposal to extend the application of the Code to cover credit intermediaries?

Member State	Yes/No
Austria	Yes
Belgium	Yes
Cyprus	Yes
Czech Republic	Yes
Denmark	Yes
Estonia	Yes
Finland	No
France	No
Germany	<ul style="list-style-type: none"> ▪ vdp: Yes ▪ BDB: Yes ▪ VÖB: Yes ▪ DSGVO: Yes ▪ BVR: Yes



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	▪ VdpB & LBS: No
Greece	Yes
Ireland	Yes
Italy	Yes
Luxembourg	Yes
Norway	-
Portugal	No (exception: Banco Espirito Santo)
Slovakia	Yes
Spain	Yes
Sweden	Yes
The Netherlands	Yes
UK	Yes

Comments:

- **Austria:** ESBG & EAPB - There should be a level playing field, with the same rules applying to the same business.
- **Belgium:** Extending the Code to credit intermediaries should also imply the constitution of a register specific to intermediaries, what would emphasise the respectability of their engagement.
- **Denmark:** Provided they are authorised to issue loan offers, otherwise it is probably not possible or relevant.
- **France:** Pre-contractual information is the responsibility of the lender.
- **Germany:**
 - BVR: Credit intermediaries should apply the Code. The principle “same business, same risks, same rules” must be applied.
 - VdpB & LBS: Credit intermediaries are bound by their representative power on behalf of the lender to hand over the information if they are tied agents. Brokers are not bound by the Code, but the loan offer which has been brokered needs to contain the information included in the Code if the lender has signed up to the Code.
- **Ireland:** The IBF would support a proposal to extend the application of the Code to cover credit intermediaries. However, the IBF would question how in practice mortgage intermediaries would comply with the Code given that there is no representative body for intermediaries. Compliance could only be ensured through intervention by national authorities. Creditors in Ireland provide an ESIS to consumers borrowing through a credit intermediary.
- **Sweden:** It is vital to have a level-playing field.

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2.4 In your view, which information items in the Code's European Standardised Information Sheet (ESIS) are not efficient?

- **Austria:** EFBS - the amortisation table is of no use for variable interest rate loans.
- **Belgium:** None. The Code was sufficiently examined before its publication and is still entirely plausible and applicable.
- **Cyprus:** No items have been reported as being useless or inefficient by consumers or member banks.
- **Czech Republic:**
 - FBE: The example of the repayment schedule has proved to be useless.
 - EFBS: None
- **Denmark:** None.
- **Germany:**
 - DSGVO: The handing out of amortisation schedules is not efficient in the case of variable interest rates. Every change in the conditions of the loan results in an incorrect amortisation schedule and at least misinformation of the consumer.
 - BVR: The ESIS is well-structured and there is no need to revise it.
- **Ireland:** In Ireland, there is unnecessary duplication with disclosures required by national legislation and regulatory codes. Also, the amortisation table shows a customer how much interest and capital they pay each year over the life of the Mortgage. However, interest rates may not remain the same until the end of the term which is usually 20 years etc., so it is questioned whether this table adds any value for the consumer.
- **Italy:** The current wording of the Code is efficient in guaranteeing transparency and comprehension of the mortgage products on offer.
- **The Netherlands:** The amortisation table.
- **Portugal:** All information in the Code is deemed to be useful and essential. However, it should be pointed out that the trend to increase the amount of information provided to the consumer during the mortgage process is close to reaching a point where it might become counterproductive.
- **Sweden:** None.
- **UK:** Amortisation tables. FSA research demonstrates that they are not wanted or used by UK consumers.

2.5 Which other additional information items to the Code's ESIS would you suggest/accept?

- **Austria:** EFBS – none.



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- **Belgium:** There is no need for additional items for the time being. The ESIS is an interesting, useful and well-measured document.
- **Czech Republic:** None.
- **Denmark:** None.
- **Finland:** There could be some historical data, for example how the interest rates of apartment prices have evolved.
- **France:** Minimum integration of other pre-contractual requirement for direct marketing and variable interest rate.
- **Germany:**
 - BDB: General risk warnings and information on foreign currency loans.
 - DSGVO: Information on foreign currency loans.
 - BVR: Risk warnings and information on foreign currency loans. Information overload should however be avoided.
 - VÖB: General risk warnings and information on foreign currency loans.
- **Greece:** Risk warnings and information on foreign currency loans.
- **Ireland:** The Commission should consider how further items might overlap with domestic legislation and regulation in some Member States, for example in Ireland, the statutory Consumer Protection Code, has relatively detailed requirements for lenders, retail credit firms and home reversion firms in areas such as "Know Your Customer" (KYC), suitability, notification and information provisions.
- **Portugal:** Information on cross-selling products (Barclays Portugal).
- **Spain:** In Spain, consumer protection rules are compulsory and very strict. Spanish lenders do not implement the Code of Conduct because there are divergences between the Code and national legislation.
- **Sweden:** None.

2.6 If the Code's ESIS was changed to include the information items you indicate above (2.5), what extra cost (high/medium/low) do you expect with regard to the implementation of these additional elements?

- **Belgium:** See answer to 2.5.
- **Czech Republic:**
 - FBE: See answer to 2.5.
 - EFBS: Depending on the items added, costs would be estimated as being middle to low.
- **Estonia:** Low/no cost. Given that a majority of mortgage credits in Estonia is issued in Euros, these loans are already included in the ESIS.
- **Finland:** Costs would be minimal.

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- **Germany:**
 - DSGVO: Low.
 - BVR: Some costs are expected but no estimates are available.
 - VdpB & LBS: The ESIS is currently being incorporated into national law. Therefore, no changes should be made at EU level.
 - VÖB: Minor costs expected.
- **Greece:** The main costs expected would relate to IT and marketing (adjustment of the software system, publication of new brochures)
- **Ireland:** Any change to the ESIS sheet would involve IT resources and internal staff training to ensure that the information is quality controlled.
- **Portugal:** Costs would be low to medium (Crédito Agricola & Barclays)

2.7 In case national consumer testing should have been carried out in your Member State on the Code in its present form, please relate any information you may have in this regard.

- **Belgium:** There is no information on consumer testing of the ESIS in Belgium. It is understood that on one occasion there was a precise difficulty with the Code, which was resolved by the Ombudsman, "Service de Médiation Banques – Crédits- Placements. It would therefore appear that all parties are satisfied with the Code.
- **Czech Republic:** During the spring and summer months in 2007 a testing organised by the biggest consumer organisation in the Czech Republic, the Consumers Defence Association, (CDA) took place. The focus was on monitoring the Code's implementation, evaluating its content and reviewing the benefits that it brings to clients.
- **Denmark:** No consumer testing has been carried out.
- **Portugal:** Consumer testing has been carried out by some organisations (e.g. DECO) and by the press. Banco Espirito Santo made some adjustments to the information available to consumers based on the conclusions deemed important (mainly regarding staff information).
- **Sweden:** No consumer testing has been carried out.
- **UK:** The FSA has conducted research on consumer reaction/use of the Key Facts Illustration (KFI).

III. Staff training

3.1 Have you/your members provided your staff with training activities on how to implement the Code?



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Member State	Yes/No
Austria	Yes
Belgium	Yes
Cyprus	Yes
Czech Republic	Yes
Denmark	Yes
Estonia	No
Finland	Yes
France	Yes, at the time of implementation
Germany	Yes
Greece	Yes
Ireland	Yes
Italy	Yes
Luxembourg	Yes
Norway	No
Portugal	Yes (see comment)
Slovakia	Yes
Spain	-
Sweden	Yes
The Netherlands	Yes
UK	Yes

Comments:

- **Belgium:** At the moment of implementation (2001-2002), this training took place at the level of the national mortgage credit association (UPC), with a study day and documentation for about 200 employees from the UPC members who attended the conference. Since then, training is carried out by the individual members.
- **Czech Republic:** Particularly for new staff with regard to the use of software relating to the ESIS.
- **Denmark:** As a general remark, staff has considerable experience from the implementation of the Consumer Credit Directive.
- **Estonia:** The Code is clear and complete – there is no need for special training.



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- **Ireland:** Where lenders do not provide specific training, they ensure information required to be provided under the Code is embedded in the sales process and forms part of the internal procedures which staff must sign-off on.
- **Italy:** Issues related to the ESIS are dealt with as part of the general staff training programme. More than a 1/3 of banks offer course specific to the Code's implementation.
- **Portugal:** Deutsche Bank Portugal did not provide formal training however information and guidelines about the Code were made available through the Deutsche Bank intranet. In other lenders, staff training was given via e-learning and class room training.
- **The Netherlands:** The training of staff is a regular part of the education of mortgage advisers.

3.2 Do you/your members perform regular checks on whether staff complies with the Code?

Member State	Yes/No
Austria	Yes
Belgium	Yes
Cyprus	Yes
Czech Republic	Yes (some lenders)
Denmark	Yes
Estonia	Yes
Finland	Yes (some lenders)
France	No
Germany	Yes
Greece	Yes
Ireland	Yes
Italy	Yes
Luxembourg	Not known
Norway	Not known
Portugal	Yes
Slovakia	Yes
Spain	-
Sweden	Yes
The Netherlands	See comment
UK	Yes

Comments:

- **Belgium:** This forms part of the usual training and updates for staff.

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- **Czech Republic:** Of those lenders that do carry out checks on staff compliance perform regular checks, some do mystery shopping and some organise training courses.
- **Denmark:** When necessary.
- **Estonia:** The last check was carried out in 2008.
- **Germany:**
 - DSGV: Random, internal administrative audit, auditing annual account.
 - VdpB & LBS: These checks are carried out by the Revision Department and Compliance Officers. Mystery shopping is also carried out.
- **Ireland:** The Code is also generally reviewed as part of lenders' internal compliance assessment processes.
- **Italy:** More than half of banks carry out regular checks to ensure compliance with the Code.
- **The Netherlands:** The Code is integrated in processes and systems.
- **Portugal:** Checks are carried out for example through internal audits and client satisfaction surveys.
- **Slovakia:** Checks are carried out by the revision department.
- **Sweden:** Checks are carried out but not on a regular basis.
- **UK:** The FSA essentially polices compliance.

IV. Difficulties encountered

4.1 Was it necessary to amend the text of the European Standardised Information Sheet (ESIS) because of domestic rules which are mandatory?

Member State	Yes/No
Austria	No
Belgium	No (a strict distinction is applied between the mortgage credit law (mandatory) and the Code (self-regulation))
Cyprus	No
Czech Republic	No
Denmark	Yes
Estonia	No
Finland	No
France	No (see comment)
Germany	No
Greece	No



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Ireland	No
Italy	Yes
Luxembourg	No
Norway	No
Portugal	
Slovakia	No
Spain	-
Sweden	No
The Netherlands	No
UK	Yes

Comments:

- **Belgium:** In the context of Belgian mortgage credit legislation, the ESIS does not really present any problems. The ESIS model has therefore not been modified. That said, to reflect Belgian specificities, Belgian lenders either make certain precisions in the right-hand column regarding the nominal rate, the APRC, fixed-term loans, internal complaints schemes or express their reply in such a way as to ensure that the Belgian specificity is taken into consideration.
- **Cyprus:** There is no obligation under the national law (Consumer Credit Act).
- **Denmark:** In Denmark, for practical reasons, the Consumer Credit Act, which implements the Consumer Credit Directive, is worked into the Code of Conduct so that banks are not required to give the same information twice.
- **France:** Legally, there have been no problems but in practice, there has been some confusion amongst consumers as they also receive the 'offre préalable', which is very similar to the ESIS. As such, amendments to the text could have been useful to avoid duplication of information.
- **Greece:** According to Greek legislation, lenders are required to provide pre-contractual information to consumers with respect to home loans, which may however be provided in general terms and not via the ESIS.
- **Italy:** It was necessary to modify the text of the ESIS to implement the modifications on the early repayment penalty introduced by Law Decree 7/2007 converted by Law 40/2207 as well as to add the mandatory offer of index-linked mortgages with respect to the ECB rate on principal refinancing operations introduced by article 2, para. 5 of Law Decree 185/2008.
- **Portugal:** Deutsche Bank and Banco Espirito Santo have amended the content of the ESIS to include information on the APRC, Euribor's calculation, payment plan details and interest rate promotions, for example.
- **UK:** Yes, as a result of the Mortgage Conduct of Business Rules (MCOB).



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4.2 Does legislation in your Member State need to be amended to allow lenders to comply with the Code?

Member State	Yes/No
Austria	No
Belgium	No (the Code is considered to be completely separate from the national legislation)
Cyprus	No
Czech Republic	No
Denmark	No
Estonia	No
Finland	No
France	Yes
Germany	No
Greece	No
Ireland	No
Italy	No
Luxembourg	No
Norway	No
Portugal	No
Slovakia	No
Spain	Yes
Sweden	No
The Netherlands	No
UK	No

Comments:

- **Belgium:** See answer to question 4.1
- **Cyprus:** No impediments have been reported so far with regard to the Code's implementation.
- **France:** Yes, to harmonise but lenders would like the ESIS and the 'offre préalable' to be merged in order to end the confusion for consumers and decrease the handling costs for banks. French lenders were authorized by the Commission to include several loans in a single ESIS in order to avoid the need to issue multiple ESIS for one operation and the French Banking Federation has written to National Authorities in order to improve the legal environment around the ESIS. For



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example, French national legislation has introduced a special pre-contractual document in the case of direct marketing (Loi de Sécurité Financière), which is not harmonised with the ESIS. In 2008, pre-contractual information on variable interest rates was also introduced, again without reference to the Code.

- **Ireland:** There are no impediments, but the details of the ESIS are similar to the Letter of Offer, which means the lender provides the borrower with two separate pieces of paper with the duplicated information. It is important to eliminate “oversupply” of information to consumers which detracts from the value of the data supplied in the ESIS.
- **Portugal:** The Portuguese Central Bank is however currently preparing a new Regulation regarding mandatory standardised mortgage information. The new Regulation document contains several differences compared with the present Code of Conduct, namely: new ESIS layout with additional information; obligation to supply the deeds contract at approval status and other information to the client after the contract.
- **Spain:** In Spain, consumer protection rules are compulsory and very strict. Spanish lenders do not implement the Code of Conduct because there are divergences between the Code and national legislation.
- **UK:** The UK complies with the Code in principle and in detail in most respects. The KFI represents a tailoring of the Code to UK consumer needs; as consumers do not shop across borders and neither the Commission nor the EMF expect this to be important over the medium term such tailoring is sensible.

4.3 Were the Code's provisions or part of them (ESIS) integrated into your national legislation?

Member State	Yes/No
Austria	No
Belgium	No
Cyprus	-
Czech Republic	No
Denmark	No
Estonia	Yes
Finland	No
France	No
Germany	Yes, from 2010 onwards (see comment)
Greece	No
Hungary	Yes
Ireland	No



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Italy	See comment
Luxembourg	No
Malta	Yes
Norway	No
Portugal	Yes
Slovakia	No
Spain	No
Sweden	No
The Netherlands	Yes
UK	Yes

Comments:

- **Belgium:** The Code's provisions are to be respected complementarily but voluntarily. As such, they are not considered as being a public order complementary to the Belgian law on mortgage credit and thus were not integrated in this law. The Belgian supervisory authority, the "Commission bancaire, financière et des Assurances" (CBFA), does not investigate whether mortgage lenders comply with the terms of the Code. In case of dispute, the civil law judges, but also the Ombudsmen (Service de médiation Banques-Crédit-Placements" and "Ombudsman des Assurances") can consider that a lender does not respect the Code.
- **Cyprus:** Obligations that are laid down in the Code are reflected in the national legislation.
- **Estonia:** The provisions were integrated by way of the Law of Obligations Act under requirements relating to pre-contractual information.
- **Germany:** The new legislation implementing the CCD will transform all relevant information contained in the current ESIS into binding national legislation by May 2010 at the latest. Therefore, even if a bank has not already adopted the Code, it will have to comply with its provisions 100% in future. Germany will consequently have 100% legally binding compliance with the Code.
- **Italy:** The current supervisory provisions expressly provide that banks may fulfill transparency requirements also through "initial information" and the "European Standardised Information Sheet" (ESIS). Moreover these provisions are currently under review.
- **Portugal:** The national legislation integrates the application of the Code's provisions in its Decreto-Lei No. 298/92, 31/12, Art. 77-B and on the Bank of Portugal's Instruction no. 27/2003, 17/11.
- **The Netherlands:** The European Code is integrated into the 1989 Dutch Code of Conduct on Mortgage Credit.

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4.4 *In your Member State, at which stage of the loan granting process do the lenders hand over the ESIS to the consumer on a general basis? How long before the conclusion of the contract would that leave the consumer for shopping around?*

- **Austria:** The ESIS is merged with the offer and thus gives the ESIS a binding status. This is the most valuable and useful effect for the consumer and still allows him to “shop around”.
- **Belgium:**
 - **Step 1:** 1st contact and general / marketing information or advertising
This step coincides, in principle, with disclosure of the Code of Conduct’s general information. Lenders’ basic brochure / “prospectus” available at the branch is explained orally and/or handed to the interested customer. It is possible that the candidate borrower makes this step by means of internet, including the consultation of the Code of conduct (and the ESIS model).
 - **Step 2:** Personalised contact and identification of candidate borrower details and needs In about 60 % of the cases (also major lenders): drafting and disclosure of the ESIS (ESIS is not binding). Lenders then give the candidate borrower the opportunity to examine (at home) the ESIS and to return or not afterwards to the lender to complete the credit demand. In this case, the credit demand becomes the next step. The candidate borrower completes a credit demand (requests an offer).
In the case of some (also major) lenders (about 10 % of the cases), it is immediately after the reception by them of the demand (thus in a third step) that they are able to draft the ESIS on the basis of the data in the demand and that this ESIS is (immediately) disclosed to the candidate borrower.
 - **Step 3:** Loan processing (internal procedure)
 - **Step 4:** Bank issues and sends an offer based on personalised information provided under step 2. In about 30 % of the cases (also major lenders) : deadline for ESIS disclosure (sent with the offer). The offer is binding for the lender

Remarks:

Obstacles, both legal and technical, including costs, which prevent Belgian lenders from disclosing the ESIS at step 2 (personalised contact):

(Reasons for disclosure in Belgium of the ESIS in step 4)

1. For reasons of procedure and programming;
2. When the credit lender works with independent intermediaries it is impossible to release the ESIS at an earlier stage.

Once the offer has been handed over, the consumer benefits from a legally-prescribed reflection period (the length is not specified in law). This reflection period varies between 1



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and 2 months depending on the lender. The consumer can use his ESIS to shop around right up until the end of this period, when the lender must receive agreement on the offer.

- **Cyprus:** Lenders hand over the ESIS at the initial interview stage before granting the loan application. There is usually no time limit for the consumer to shop around.
- **Czech Republic:** The ESIS is handed over to consumers during the 1st information meeting upon request (mostly).
- **Denmark:** The ESIS is handed over together with the loan offer, which is valid for 6 months. This clearly provides adequate time for shopping around and comparison of offers.
- **Estonia:** The ESIS is provided to the consumer on request during the meeting with the loan consultant. Since the terms proposed in the ESIS are not final, there is no time limit for shopping around.
- **Finland:** This can vary between banks. Usually, though, it is handed out together with the loan offer.
- **France:** For most lenders, the ESIS is handed over together with the "offre préalable" and the consumer has then a 10-day reflection period before signing the credit contract. Furthermore, the bank has to maintain its credit offer over a 30-day period; therefore, the consumer has a further 20-day period to make his decision and sign the contract if he wishes.
- **Germany:** The ESIS is handed over to the consumer in due time during the pre-contractual phase before the consumer is bound to contractual obligations. The time between the hand over and the legally binding agreement may vary according to the distribution model of the relevant bank. There are two techniques for granting a loan in Germany. According to the first technique, the consumer is given an (non-binding) invitation to make an offer and according to this approach, it may be possible to hand over the ESIS together with the invitation and subsequently before the offer. With the second technique, the offer binds the provider and the ESIS is given together with this offer, so as to avoid an overload of documents being issued to the consumer. In any case, both models involve the provision of the ESIS during the pre-contractual stage and allow time for comparison and reflection. In both cases, the consumer is not forced to conclude a loan contract.
- **Greece:** On a general basis, the ESIS is handed over to the candidate borrower at the initial stage of his inquiry and, in any case, before the filing of the application. On average, the procedure leaves the borrower with sufficient time to shop around.
- **Ireland:** The ESIS is sent with the letter of loan approval thus allowing consumers who have shopped around either directly or via brokers to decide between products and providers. Lenders generally provide the ESIS at the same time as the letter of offer, allowing consumers who have shopped around either directly or via brokers to decide between

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products and providers. The letter is not binding until signed and returned. Letters of offer will usually have a specified validity, typically around 3 months.

- **Italy:** The ESIS is provided to consumers once their actual needs have been identified or upon request.
- **Luxembourg:** The ESIS is usually handed over during the first meeting when the consumer requests a housing loan, or on request.
- **The Netherlands:** On a general basis, the ESIS is in the written offer. The consumer has several weeks to accept or refuse the offer and to shop around.
- **Portugal:** the ESIS is provided with the first simulation. At the moment of final approval, the consumer also receives the final ESIS regarding contract conditions. Between the moment of final approval and the conclusion of the contract, there is a period of two to three months during which the consumer can shop around.
- **Sweden:** Normally the ESIS is handed over when the loan offer is made. The consumer would then have one or two weeks to shop around. This period can be extended.
- **UK:** At the pre-contract information stage, i.e. after the initial disclosure document and before application.

4.5 General assessment and suggestions

- **Spain:** Regardless of the general information, the lender's offer is binding for a period of 10 days.
- **Ireland:** Given the resources which the industry has invested in the Code, the Commission should be asked to liaise more closely with the authorities in Member States to address issues which have arisen in relation to national legislative requirements. The requirement to produce amortisation tables should be reviewed as it is a complex process, resulting in potentially misleading information.

V. COMPLAINTS

5.1 Have you/your members received any complaints about the Code and/or the ESIS?

Member State	Yes/No
Austria	No
Belgium	No
Cyprus	No
Czech Republic	No
Denmark	No

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Estonia	No
Finland	No
France	No information available
Germany	See comment
Greece	No
Ireland	See comment
Italy	see comment
Luxembourg	No information available
Norway	No information available
Portugal	No
Slovakia	No
Spain	-
Sweden	No
The Netherlands	No
UK	No

Comments:

- **Germany:** DSGVO - Confusing, too much paper/information, same pieces of information in different documents (ESIS, binding offer, contract).
- **Ireland:** In Ireland, the Ombudsman for Credit Institutions noted in 2008 that 517 of 2615 complaints were related to mortgages (58 of these to redemption / change of mortgage). The Financial Services Ombudsman indicates that the number of mortgage complaints related to the Code is insignificant - overall there have been approximately 15 in the past 2 years but only one was upheld. It is possible that the low level of complaints in Ireland is due to the Consumer Credit Act information disclosure requirements, which mean that consumers are perhaps less aware of the Code and its ESIS.
- **Italy:** The number of complaints is extremely low. In 2007, there were 94 written complaints concerning the ESIS. On average, the annual number of mortgage loans amounts to 280,000.

5.2 *Please provide any information you might have on the reactions to the Code and/or the ESIS, which have been expressed by:*

Consumers and consumer organisations:

- **Belgium:** In its editorial published in November 2004 in Budget & Droits, the Belgian Consumers Association, Test-Achats, requests a Directive, which according to them, is the

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only way to favour harmonisation of the mortgage market. Moreover, according to the Consumer Association, such a directive should regulate more than just the provision of information. They suggest that a directive should consolidate those clauses in the different pieces of national legislation, which are favourable to consumers.

- **Cyprus:** The Code and the ESIS are useful for consumers because they inform consumer about the different offers available before getting a loan and consumers are given the opportunity to decide which one is best for them.
- **Czech Republic:** The demand for the ESIS from consumers is minimal.
- **Germany:**
 - vdp: Consumers sometimes complain about the amount of information documents they receive from the lender.
 - DSGVO: Confusing, too much paper/information, same pieces of information in different documents (ESIS, binding offer, contract).
 - BVR: Customers who are provided with the ESIS see it as superfluous, because the information it provides is already contained in the draft contract or discussed before concluding the contract. Most of the customers complain about the number of additional documents they receive (information overload).
 - VdpB & LBS: Consumers complain about the amount of information they receive from the lender.
- **Greece:** They find it very useful.
- **Italy:** Consumer associations carried out mystery shopping to assess the actual implementation of the Code of Conduct and adoption of the ESIS by the banking industry.
- **UK:** Not possible to quantify.

Lenders and Staff:

- **Cyprus:** Some lenders have noted that more time is required at the initial stage to explain the ESIS to consumers.
- **Germany:**
 - DSGVO - High costs, confusing, too much paper/information, same pieces of information in different documents (ESIS, binding offer, contract), which results in the lender having to explain when and in which situations the ESIS is required.
- **Greece:** They find it very useful and are aware of its significance.
- **Sweden:** In a purely national context, the Code is not a primary resource for the Swedish consumer. Indeed, it has been observed that the consumer is focused on the interest rate. The rates offered by different lenders are published daily in the newspapers and are always available on the websites and as such it is therefore easy for consumers to compare the rates



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and shop around at national level. This service is also offered by some companies. Furthermore it is noted that the information recommended by the Code is largely provided by mortgage lenders since they have to apply the Consumer Credit Act which already covers home loans.



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List of Abbreviations contained in the Report

APRC -	Annual Percentage Rate of Charge
BdB -	Bundesverband deutscher Banken
BVR -	Bundesverband der Deutschen Volksbanken und Raiffeisenbanken
CBA -	Czech Banking Association
CBFA -	Belgian Supervisory Authority
CDA -	Consumers Defence Association
CML -	Council of Mortgage Lenders
DSGV -	Deutscher Sparkassen- und Giroverband
EACB -	European Association of Cooperative Banks
EAPB -	European Association of Public Banks
EFBS -	European Federation of Building Societies
EMF -	European Mortgage Federation
ERL -	Equity Release Loans
ESBG -	European Savings Banks Group
ESIS -	European Standardised Information Sheet
FBE -	European Banking Federation
FSA -	Financial Services Authority
IBF -	Irish Banking Federation
IMC -	Irish Mortgage Council
KFI -	Key Facts Illustration
KYC -	Know Your Customer
LBS -	Landesbausparkassen
OeNB -	Austrian National Bank
vdp -	Verband Deutscher Pfandbriefbanken
VdpB -	Verband der Privaten Bausparkassen
VÖB -	Verband Öffentlicher Banken