



FSMA_2012_24 of 20/12/2012

Recommendations of the European Systemic Risk Board on lending in foreign currencies - implementation by the FSMA

Scope:

The recommendations covered in this document apply to mortgage companies that provide loans in foreign currencies (hereinafter 'registered companies').

Summary/Objectives:

On 21 September 2011, the General Board of the European Systemic Risk Board (hereinafter 'the ESRB') adopted Recommendation ESRB/2011/1 on lending in foreign currencies. This document details the content of Recommendation A and its implementation by the FSMA. This recommendation covers the requirements incumbent on registered companies to inform their clients, when offering loans in foreign currencies, of the risks associated with the negative developments in the exchange rate and foreign interest rates.

Dear Sir,
Dear Madam,

The ESRB is responsible for the macro-prudential oversight of the financial system within the European Union (hereinafter 'the EU'), in order to contribute to the prevention or mitigation of systemic risks, and to maintain financial stability within the EU. By virtue of Article 3, second paragraph, points d) and f) of Regulation (EU) No 1092/2010¹, the ESRB may issue recommendations on remedial action in response to the risks identified, and monitor the follow-up of its recommendations.

By virtue of Article 16, second paragraph of Regulation (EU) No 1092/2010, these recommendations may be either of a general or specific nature and may be addressed to the Union as a whole or one or more Member States, one or more of the ESAs, or one or more of the national supervisory authorities. With regard to the follow-up of its recommendations, Article 17, first paragraph, specifies that the addressees of a recommendation must communicate to the ESRB and the Council the actions undertaken in response to the recommendation and provide adequate justification for any inaction.

¹ Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board.

In this context the ESRB has adopted, on 21 September, Recommendation ESRB/2011/1 on lending in foreign currencies, addressed to the Member States and to the national supervisory authorities. Recommendation A underlines the risks associated with granting loans in foreign currencies to unhedged borrowers, in particular the risks associated with negative developments in the foreign exchange and interest rates that can affect borrowers' capacity to service their foreign currency debt, and aims to raise awareness amongst borrowers of such risks².

Section I. Scope

1. This document specifies the content of Recommendation ESRB/2011/1 that applies to registered companies³ that offer mortgage loans in foreign currencies.
2. Mortgage loans in foreign currencies are defined as loans to non-financial private borrowers (households and non-financial corporations) in currencies other than the local currency, i.e. currencies other than the legal tender of the Member State in which the borrower is domiciled.
3. Borrowers are considered 'unhedged' when they have no natural or financial hedge to mitigate the foreign exchange risks associated with lending in foreign currencies. For example, borrowers are considered to have a natural hedge where they receive income in a foreign currency (for instance as a result of export activities). Financial hedges normally presume a contract with a financial institution.
4. Articles 14 et seq. of the Law of 4 August 1992 on mortgage credit as well as Chapter IV of the Royal Decree of 5 February 1993 define the information requirements incumbent on registered companies when granting mortgage loans.
5. The draft European Directive on '*Responsible Lending and Borrowing in the EU*' contains specific provisions regarding the information that must be provided when granting loans in foreign currencies, such as information on the developments in the exchange rate and interest rates.

Section II. ESRB recommendations on risk awareness of borrowers

6. With regard to the risks inherent to loans in foreign currencies, registered companies must be particularly vigilant to ensure that the information provided to borrowers enables these borrowers to adequately appreciate the risks stemming from loans incorporating a foreign exchange risk, and in this way to make an informed choice on the acceptance of the credit.
7. The recommendations aim to require registered companies to provide borrowers with adequate information - in writing - on the risks associated with foreign currency loans when offering these loans. Such information should be sufficient to enable borrowers to make well-informed and prudent decisions. It should at least encompass the impact on instalments of a severe depreciation of the legal tender of the Member State in which a borrower is domiciled and of an increase of the foreign interest rates.

² For Recommendation A, the ESRB considers that there is no need to apply the principle of proportionality for its implementation.

³ A list of mortgage companies is available on the website of the FSMA (<http://www.fsma.be/fr/Supervision/finbem/hk/Article/lijsten/hk.aspx>)

8. Registered companies are also encouraged to offer customers domestic currency loans for the same purposes as foreign currency loans, as well as financial instruments to hedge against foreign exchange risk.

The FSMA is of the opinion that these recommendations provide useful clarifications concerning the application of Articles 14 et seq. of the Law of 4 August 1992 and Chapter IV of the Royal Decree of 5 February 1993, and will take them into account when carrying out its supervisory tasks where such an activity in foreign currencies is undertaken by the mortgage company.

* * *

Yours faithfully,
The Chairman,

Jean-Paul SERVAIS

Annex: FSMA_2012_24-1 / Recommendation of the European Systemic Risk Board of 21 September 2011 on lending in foreign currencies (ESRB/2011/1).