

European Mortgage Federation-European Covered Bond Council (EMF-ECBC)

Further Comments on the Proposal for a Directive of the European Parliament and of the Council on the Energy Performance of Buildings (recast)

15 September 2022

Executive Summary

- The EMF-ECBC recognises the strategic importance of the Energy Performance of Buildings Directive (EPBD) and supports the overall ambition of achieving a zero-emission building stock by 2050, as evidenced by its efforts since 2015 to mobilise the EU mortgage industry through the Energy Efficient Mortgages Initiative.
- However, we would like to express our concern regarding a number of the amendments tabled in the European Parliament's ITRE Committee to the European Commission's Proposal, which are not consistent with the realities of the real economy or aligned with banks' capabilities and their legal and supervisory commitments:
- *Mortgage Portfolio Standards:* Standards of this kind could have the contrary effect of limiting consumer access to mortgage finance, as lending institutions favour the financing of the EU's best performing buildings in order to meet 'targets' which are hard-wired into legislation. A large number of ITRE amendments variously establish stricter criteria than the European Commission's proposal. A much more appropriate way to achieve the objective of this article is by introducing voluntary mechanisms according to which mortgage lenders define the path of their mortgage portfolios towards 2030 and 2050 with a view to supporting potential clients in making their properties more energy efficient.
- *Minimum Energy Performance Standards:* While we recognise the need to put in place measures to achieve climate neutrality in buildings, targets must be realistic and achievable. Against a background of a rise in the price of materials (inflation), a shortage of materials and labor, we are concerned that the feasibility of meeting the – in many cases – more stringent targets proposed by a number of the ITRE amendments is seriously challenged and the risks of stranded assets are greatly exacerbated. Such more stringent criteria would also increase existing differences in the energy efficiency of buildings among EU Member States which are currently indeed extremely diversified.
- *Databases for Energy Performance of Buildings:* In order for financial institutions to support the financing of the climate transition, it is imperative that they are granted access to the energy performance data of buildings necessary to determine EU Taxonomy alignment and the permission to process that data. We regret that, across a majority of amendments, access of this kind, based on legitimate interest, is not facilitated; rather the tendency is towards anonymised and aggregated publicly available EPC data, which will not support the kind of assessments necessary to scale up green financing, nor enable financial institutions to efficiently meet the legislative and supervisory requirements they are facing.

Introduction

1. The EMF-ECBC recognises the strategic importance of the Energy Performance of Buildings Directive (EPBD) and supports the overall ambition of achieving a zero-emission building stock by 2050. In this context, since 2015 the EMF-ECBC has been mobilising the EU's mortgage and covered bond industries through the market-led and EU-funded Energy Efficient Mortgages Initiative (EEMI) and the EEM Label (EEML), as well as the market-led Covered Bond Label. Indeed, the EU's mortgage and covered bond industries will be instrumental in helping the EU meet its ambitious renovation targets and are fully committed to channelling private finance to support the Renovation Wave, NextGenerationEU and RePowerEU.
2. It is with these considerations in mind that the EMF-ECBC would like to express its concern regarding some of the amendments tabled in the European Parliament's ITRE Committee to the European Commission's Proposal for a recast EPBD.
3. We acknowledge the ambition aimed at reducing energy poverty, decreasing the EU's dependence on fossil fuels, and helping meet the EU's climate targets and also recognise the emphasis placed on finance to stimulate the Renovation Wave. As indicated above, the EMF-ECBC has long recognised the transformative role of the mortgage industry in financing the improvement of the EU's building stock and therefore in supporting the climate transition, as evidenced by its efforts through the EEMI, EEM Label and Covered Bond Label. However, it is imperative that policy ambitions are consistent with the realities and the challenges of the real economy, as well as the capabilities, roles, responsibilities and regulatory and supervisory landscape of and for the banking industry, and the mortgage industry more specifically. Against this background, we would like to highlight the following considerations:

Specific Considerations

Article 2 - Mortgage Portfolio Standards

4. The concept of 'Mortgage portfolio Standards' presupposes that mortgage lenders (and other financial market participants) can themselves improve the energy performance of the properties pledged as collateral for mortgage loans. However, lenders are not the owners of the underlying buildings in their loan portfolios. Rather the decision to improve the energy efficiency of properties is the choice and responsibility of borrowers, as owners, supported by lenders via specific instruments, such as energy efficient mortgages. Emulating other industry portfolio standards, for example car fleet emission standards where the car manufacturer is both the manufacturer and the owner of the vehicle, represents an oversimplification. This could have the contrary effect of limiting consumer access to mortgage finance, as lending institutions favour the financing of the EU's best performing buildings, rather than the worst performing ones, in order to meet 'targets' which are hard-wired into legislation. While this concern appears to be acknowledged by some MEPs in ITRE, there is a large number of amendments which, in seeking to define the scope and extent of such Standards, variously establish stricter criteria than the proposal initially adopted by the European Commission, which was already of significant concern for these reasons outlined above.
5. We would like to caution that standards of this kind in their current form will hinder the Industry's ability to support the Renovation Wave as already underway via the EEMI, EEM Label and EEM 'ecosystem' described above. We believe that a much more appropriate way to achieve the objective of this article is by introducing voluntary mechanisms according to which mortgage lenders define the path of their mortgage portfolios

towards 2030 and 2050 with a view to supporting potential clients in making their properties more energy efficient. Specific public guarantee schemes, fiscal incentives and preferential supervisory rules can furthermore support the development of the market in energy efficient mortgages and the financing of the Renovation Wave.

Art 9 - Minimum Energy Performance Standards

6. We recognise the need to put in place measures to achieve climate neutrality in buildings and support an approach with an initial focus on the worst performing buildings. However, in a number of European countries, a majority of residential and commercial real estate has an energy performance class G. Unless all of these residential and buildings are renovated by the cut-off dates proposed by the European Commission, their market value will be greatly compromised. Particularly, residential buildings with an energy performance class G or F will have to be renovated by the proposed cut-off dates comprised in the EPBD recast proposal or will otherwise risk having a market value equal to “zero”. The energy renovations required by the proposal for a recast Directive and reinforced by the ITRE Committee will therefore necessitate huge investments and will affect not only building owners but society as a whole. Indeed, even with public support mechanisms and regardless of any limit to public indebtedness, there is a significant risk of the creation of stranded assets — as investments might not correspond the increase in value— with negative social and financial implications for borrowers (especially where renovation is not economically viable (often the case for the most fragile households)) as well as financial institutions, that could undermine social and financial stability. Moreover, in order to secure an optimal level of energy renovations, it is important to facilitate renovations where they are not economically viable for the individual building and where they are expected to lead to a decrease in the overall emission of GHG from a life cycle perspective.
7. With these considerations in mind, we are extremely concerned that, with some exceptions which appear to seek to respond to the Industry’s concerns to some extent, the majority of amendments increase the minimum energy performance standards compared to the European Commission’s current proposal either by shortening the deadlines or increasing the required energy class. Targets must be realistic and achievable. Against a background of a rise in the price of materials (inflation), a shortage of materials and labor, the feasibility of meeting these targets is seriously challenged. We are concerned that the ITRE amendments will exacerbate the risks of stranded assets. We are also concerned that more stringent criteria would also increase existing differences in the energy efficiency of buildings among EU Member States which are currently indeed extremely diversified.

Article 19 – Databases for Energy Performance of Buildings

8. In order for financial institutions to fulfil their role in financing the Renovation Wave of buildings in Europe, it is imperative that financial institutions are granted access to the energy performance data of buildings necessary to determine EU Taxonomy alignment and the permission to process that data.
9. Indeed, data on the energy performance of buildings are essential for lenders to correctly assess the creditworthiness of a green or energy efficient mortgage or renovation loan and to determine alignment with the building related elements of the EU Taxonomy for sustainable activities. Unfortunately, as a result of different interpretations in the implementation of the GDPR, in some European countries access to EPC databases is prohibited for lenders.
10. To determine Taxonomy compliance, from a data protection perspective:

- a. the data would need to be present in the relevant EPBD IV national database. I.e. the database would need to be permitted to collect and store that data
- b. the database would need to be permitted to disclose that data to mortgage lenders in order for mortgage lenders to determine EUT of mortgage loans
- c. the mortgage lender would need to be permitted to collect that data
- d. the mortgage lender would need to be permitted to process that data to determine EU Taxonomy compliance.

11. It is also vital that financial institutions have access to data beyond that which is included in EPCs. Indeed, with regard to the EU Taxonomy's Technical Screening Criteria (for mitigation and adaptation), as well as the Do No Significant Harm Criteria, the EPC is insufficient to determine the building related elements of EU Taxonomy alignment. The data required to determine and demonstrate alignment is relevant for new and existing portfolios of mortgage lenders (e.g. for green mortgage loan, green bond and reporting purposes). It is relevant for renovation loans and for new construction loans.
12. Against this background, we regret that, across a majority of amendments, access of this kind, based on legitimate interest, is not recognised as a precondition for financial institutions in order to support the Renovation Wave, and this despite the fact that amendments previously proposed by the EMF-ECBC safeguard the privacy interests of mortgage borrowers and that the GDPR continues to apply in full. Rather the direction of travel in this area appears to be towards anonymised and aggregated publicly available EPC data, which will not support the kind of assessments necessary to scale up green financing, nor enable financial institutions to efficiently meet the myriad of legislative and supervisory requirements they are facing.