

|  |    |
|--|----|
| List of Graphs .....   | 10 |
| Executive Summary .....  | 11 |
| 1    Introductory Remarks .....  | 19 |
| 2    EU policy on mortgage credit markets up to the present time .....             | 21 |
| 3    Home loans in selected European countries .....                               | 26 |
| 3.1  Denmark .....   | 27 |
| 3.1.1 Importance of the housing market from an overall economic perspective .....  | 27 |
| 3.1.2 Product supply and public promotion of home ownership .....                  | 29 |
| 3.1.3 Type of refinancing .....  | 32 |
| 3.1.4 Current developments as a result of the global financial market crisis ..... | 32 |
| 3.2  Germany .....   | 34 |
| 3.2.1 Importance of the housing market from an overall economic perspective .....  | 34 |
| 3.2.2 Product supply and public promotion of housing ownership .....               | 36 |
| 3.2.3 Type of refinancing .....  | 40 |
| 3.2.4 Current developments as a result of the global financial market crisis ..... | 41 |
| 3.3  France .....  | 43 |
| 3.3.1 Importance of the housing market from an overall economic perspective .....  | 43 |
| 3.3.2 Product supply and public promotion of housing ownership .....               | 44 |
| 3.3.3 Type of refinancing .....  | 46 |
| 3.3.4 Current developments as a result of the global financial market crisis ..... | 47 |
| 3.4  Netherlands .....   | 48 |
| 3.4.1 Importance of the housing market from an overall economic perspective .....  | 48 |
| 3.4.2 Product supply and public promotion of home ownership .....                  | 50 |
| 3.4.3 Type of refinancing .....  | 51 |
| 3.4.4 Current developments in the wake of the global financial market crisis ..... | 52 |
| 3.5  Poland .....  | 53 |



|        |   |     |
|--------|---|-----|
| 3.5.1  | Importance of the housing market from an overall economic perspective .....               | 53  |
| 3.5.2  | Product supply und public promotion of housing ownership .....                            | 55  |
| 3.5.3  | Type of refinancing.....  | 57  |
| 3.5.4  | Current developments as a result of the global financial market crisis .....              | 58  |
| 3.6    | Spain .....   | 59  |
| 3.6.1  | Importance of the housing market from an overall economic perspective .....               | 59  |
| 3.6.2  | Product supply and public promotion of housing ownership .....                            | 61  |
| 3.6.3  | Type of refinancing.....  | 63  |
| 3.6.4  | Current developments as a result of the global financial market crisis .....              | 64  |
| 3.7    | United Kingdom.....   | 65  |
| 3.7.1  | Importance of the housing market from an overall economic perspective .....               | 65  |
| 3.7.2  | Product supply and public promotion of home ownership.....                                | 67  |
| 3.7.3  | Type of refinancing.....  | 69  |
| 3.7.4  | Current developments as a result of the global financial market crisis .....              | 70  |
| 3.8    | Summary and outlook .....   | 71  |
| 4      | Economic advantages and barriers to an internal European mortgage credit market .....     | 75  |
| 4.1    | Definition of market integration in economic terms .....                                  | 75  |
| 4.2    | Empirical results of European mortgage market integration .....                           | 76  |
| 4.3    | Potential advantages and disadvantages of an internal European market for home loans..... | 82  |
| 4.3.1  | Studies on integration of the European mortgage credit markets.....                       | 84  |
| 4.3.2. | Costs of integration .....  | 87  |
| 4.4    | Economic factors as obstacles.....  | 89  |
| 4.4.1  | Economic and market-based factors.....  | 89  |
| 4.4.2  | Other factors .....   | 91  |
| 4.5    | Expert interviews.....  | 92  |
| 4.6    | Conclusion .....  | 98  |
| 5      | Legal obstacles to an internal European market for mortgage credits.....                  | 100 |
| 5.1    | Real estate secured credits as a „legal product“ .....                                    | 100 |



|       |  |     |
|-------|--|-----|
| 5.1.1 | Typical product regulation for the legal product „real estate secured credit“ .....                          | 101 |
| 5.1.2 | Focal areas of product regulation.....   | 102 |
| 5.1.3 | Implications of domestic credit product regulations for cross-border credit distribution within the EU ..... | 104 |
| 5.1.4 | Possibilities for removing obstacles to integration and status of European harmonisation (overview).....     | 106 |
| 5.2.1 | Substantive and individual scope of application of the law on real estate secured consumer credits .....     | 109 |
| 5.2.2 | Contract initiation and conclusion .....   | 110 |
| 5.2.3 | Breach of contract by borrowers, including sanctions.....  | 111 |
| 5.2.4 | Creation, transfer and foreclosure of land charges .....   | 113 |
| 5.2.5 | Other legal obstacles to cross-border lendings.....  | 113 |
| 5.2.6 | Final evaluation .....   | 113 |
| 5.3   | Germany .....  | 114 |
| 5.3.1 | Substantive and individual scope of application of the law on real estate secured consumer credits .....     | 115 |
| 5.3.2 | Contract initiation and conclusion .....   | 115 |
| 5.3.3 | Breach of contract by the borrower, including sanctions.....   | 116 |
| 5.3.4 | Creation, transfer and foreclosure of rights in real property .....  | 117 |
| 5.3.5 | Other legal obstacles to cross-border lending activities.....  | 118 |
| 5.3.6 | Final evaluation .....   | 118 |
| 5.4   | France .....   | 118 |
| 5.4.1 | Substantive and individual scope of application of the law on real estate secured consumer credits .....     | 118 |
| 5.4.2 | Contract initiation and conclusion.....  | 119 |
| 5.4.3 | Breach of contract by the borrower including sanctions.....  | 122 |
| 5.4.4 | Creation and foreclosure of liens on property .....  | 123 |
| 5.4.5 | Other legal obstacles to cross-border lending activities.....  | 124 |
| 5.4.6 | Final evaluation .....   | 124 |
| 5.5   | Netherlands.....   | 125 |
| 5.5.1 | Substantive and individual scope of application of the law on real estate secured consumer credits .....     | 125 |
| 5.5.2 | Contract initiation and conclusion .....   | 125 |
| 5.5.3 | Breach of contract by the borrower including sanctions.....  | 126 |
| 5.5.4 | Creation, transfer and foreclosure of liens on property .....  | 128 |
| 5.5.5 | Other legal obstacles to cross-border lending activities.....  | 129 |



|       |  |     |
|-------|--|-----|
| 5.5.6 | Final evaluation .....   | 130 |
| 5.6   | Poland .....   | 130 |
| 5.6.1 | Substantive and individual scope of application of the law<br>on real estate secured consumer credits: Two-tier approach<br>of the regulatory regime ..... | 130 |
| 5.6.2 | Contract initiation and conclusion .....   | 131 |
| 5.6.3 | Breach of contract by the borrower including sanctions.....  | 132 |
| 5.6.4 | Creation, transfer and foreclosure of liens on property .....  | 133 |
| 5.6.5 | Other legal obstacles to cross-border lending activities .....   | 135 |
| 5.6.6 | Final evaluation .....   | 136 |
| 5.7   | Spain .....  | 137 |
| 5.7.1 | Substantive and individual scope of application of the law<br>on real estate secured consumer credits .....  | 137 |
| 5.7.2 | Contract initiation and conclusion .....   | 137 |
| 5.7.3 | Breach of contract by the borrower, including sanctions.....   | 139 |
| 5.7.4 | Creation, transfer and foreclosure of liens on property .....  | 141 |
| 5.7.5 | Other legal obstacles to cross-border lending activities .....   | 141 |
| 5.7.6 | Final evaluation .....   | 142 |
| 5.8   | United Kingdom.....  | 142 |
| 5.8.1 | Substantive and individual scope of application of the law<br>on real estate secured consumer credits: Two-tier approach<br>of the regulatory regime ..... | 143 |
| 5.8.2 | Contract initiation and conclusion .....   | 144 |
| 5.8.3 | Breach of contract by the borrower, including sanctions.....   | 146 |
| 5.8.4 | Creation, transfer and foreclosure of liens on property .....  | 148 |
| 5.8.5 | Other legal obstacles to cross-border lending activities .....   | 150 |
| 5.8.6 | Final evaluation .....   | 151 |
| 6     | Problems of the harmonisation approach .....   | 152 |
| 6.1   | Harmonisation of consumer credit .....   | 152 |
| 6.2   | Exclusion of early repayment fees .....  | 154 |
| 6.3   | Housing supply to subprime customers .....   | 158 |
| 6.4   | Problems faced by transformation countries.....  | 159 |
| 6.5   | Conclusion .....   | 160 |
| 7     | A proposal for promoting integration of European mortgage<br>credit markets.....   | 161 |
| 7.1   | The idea of systemic competition.....  | 161 |
| 7.2   | An optional European insurance contract law.....   | 163 |



|       |  |     |
|-------|--|-----|
| 7.3   | Examples of systemic competition in Europe.....                        | 164 |
| 7.3.1 | UCITS Funds .....  | 164 |
| 7.3.2 | The European company statute .....                                     | 166 |
| 7.4   | The European mortgage credit .....                                     | 167 |
| 7.4.1 | Implementation of an optional European mortgage credit<br>regime ..... | 167 |
| 7.4.2 | Diversity of products.....   | 170 |
| 7.4.3 | Transparency and consumer protection.....                              | 171 |
| 7.4.4 | The Eurohypothek.....  | 172 |
| 7.5   | Supplementary measures .....   | 173 |
| 7.5.1 | Expanding the EULIS project .....                                      | 173 |
| 7.5.2 | Access to credit registers .....                                       | 173 |
| 8     | Final conclusions.....   | 175 |
| 9     | List of literature.....  | 177 |