

MEETING OF THE LOAN RECOVERY WORKING GROUP

April 3, 1998

The Loan Recovery Forum held in October 1997 provided a valuable opportunity for persons interested in the procedures and regulations applicable to residential loan recovery to get together and discuss their respective views. At the conclusion of the Forum, the participants found that there is still confusion and uncertainty about several important issues. They agreed to continue to discuss these issues, develop further information on loan recovery practices and experience, and make recommendations on how to resolve remaining problems.

At the meeting of the Loan Recovery Working Group held April 3, 1998, members agreed to divide into subgroups to conduct further investigation of several issues, described below. Reports will be prepared with recommendations for improving the legal framework, court and execution procedures, and bank practices to assure maximum loan recovery in case of default. The results will be presented at a conference on housing finance, sponsored by USAID, to be held in Budapest in November 1998. Varoskutatas and the Urban Institute will provide assistance with designing and conducting the research and preparing and presenting the reports. The three issues are as follows:

1. Actual Experience of Banks with Loan Recovery Procedures

Much of the information available about loan recovery practices and procedures is anecdotal in nature. This may cause lenders to perpetuate practices that are based on invalid or outdated assumptions.

Research: What procedures are banks actually using to collect bad loans, how long do various steps of the process take, and what problems or complications are encountered? Case studies will be used to organize the data, and specific recommendations will be made on how to expedite and increase the effectiveness of loan recovery procedures.

Chair of the Subgroup: Balázs Horváth, KandH Bank

2. Use of Public Documents for Residential Loans

Lenders believe that foreclosure is not an efficient means of loan recovery because of the high cost and long time required. Under recent changes in the law, a court proceeding is not necessary to initiate foreclosure and execution if the loan contract is a public document. Banks do not routinely use this procedure for residential loans, apparently because they regard as too high the fees for preparing public documents.

Research: What are the actual costs of public documents in relation to the benefits of using them? Should use of public documents become standard procedure in

residential loans? How should the costs be allocated? How do the costs and benefits of public documents in Hungary compare to those in other countries?

Chair of the Subgroup: Gabriella Molnar, OTP

3. Post-Execution Procedures

a. Eviction: The new Civil Code amendments provide that if it is stipulated in the loan contract, a borrower in default must deliver the property empty of occupants. However, this provision is not self-executing and there is no indication of what happens if the borrower fails to comply.

Research: If the loan documents include this provision, can notice of a foreclosure sale operate as a writ of eviction? How will courts interpret the new regulation on the rights of residents who default on subsidized loans?

b. Effectiveness of Execution Procedures. Lenders believe that execution procedures are not efficient, and the relevant regulations do not encourage market operations based on competition.

Research: How effective are the current execution procedures? What long do they take and what percentage of the debt is actually recovered? Can better incentives be added to the current procedures?

Chair of the Subgroup: Olga Hildenbrand, Ministry of Justice