



**Members of Slovenian Parliament**  
National Assembly  
Republic of Slovenia

**Finance**

**Members of Committee on**

National Assembly  
Republic of Slovenia

**TOPIC: SUPPORT FOR THE LAW ON CHF DENOMINATED BORROWINGS (CHF LOANS).**

Respected Members of the Slovenian Parliament,

By means of this letter, ASUFIN, the Spanish Association of Financial Users and Patricia Suárez Ramírez, for and on behalf of the Asociación de Usuarios Financieros ("**ASUFIN**"), in her capacity as President, expresses its willingness to support for the law on CHF loans presented from the National Assembly, Republic of Slovenia.

We are pleased to learn that the Parliament of the Republic of Slovenia has started to address the issue of debtors with foreign currency denominated loans.

ASUFIN specializes in defending and protecting the legitimate rights and interests of financial services users.

ASUFIN is member of two of the most important European Associations: BEUC (The European Consumer Organisation) and Finance Watch.

The organization has founded a network community (fxloans.org) of other organizations throughout the world dedicated specifically to finding solution to foreign exchange mortgage loans in Europe and outside. FX-loans network is fighting together to make banking practices transparent and protect consumer rights violated by toxic banking product, highly risky mortgage product, intentionally promoted and sold to an unknowing borrower.

Fx loans mortgages were marketed in Spain in the years prior to the financial crisis. According to a study by ASUFIN published in 2016 based on data from more than 1,000 mortgage deeds provided by its members, more than 80% of the cases were marketed in 2007 and 2008.

As is well known, this type of mortgage had the particularity that the amount that was given to the client in euros was later changed to another currency. Most mortgages were established

in Swiss francs (CHF) or yen (JPY) on the recommendation of the Bank, although, with the depreciation of the euro, some customers changed to pounds sterling (GBP) or US dollars (USD).

In all cases, **the reference rate established for the calculation of interest rates is the libor of the selected currency**, unless the mortgage is referenced in euros, in which case the Euribor is applied in the majority of cases. In some cases, as in the case of Barclays, the libor is also applied if the mortgage is in euros.

The most active entities in the marketing of this type of mortgage were Bankinter, with a market share of approximately 52%, Banco Popular (now Banco Santander) with 14%, Barclays (now Caixabank) with 12% and Caixa Catalunya (now BBVA) with 7%.

However, they were not the only ones. ASUFIN has identified at least 27 entities that originally marketed this type of mortgage but, due to bank restructuring in recent years, are now part of another entity, as can be seen in the following list:

LIST OF FINANCIAL INSTITUTIONS THAT MARKETED FX MORTGAGES		
<b>1. BANCO SABADELL</b> - BANCO ATLÁNTICO - CAIXA PENEDES - CAM - BMN	<b>3. BANKIA</b> - CAJA SEGOVIA  <b>4. BANKINTER</b>  <b>5. BBVA</b> - BANCO VALENCIA - CATALUNYA CAIXA - UNIMM - CAIXA SABADELL	<b>7. CAIXABANK</b> - BARCLAYS  <b>8. DEUTSCHE BANK</b>  <b>9. IBER CAJA</b>  <b>10. KUTXA BANK</b>
<b>2. BANCO SANTANDER</b> - BANCO POPULAR - BANCO CASTILLA - BANCO GALLEGO - BANCO PASTOR - BANCO VASCONIA - TARGO BANK	<b>6. BCEISS</b> - CAJA ESPAÑA	

Thus, we can conclude that **there are currently 10 entities in our country** that have Fx loans in their portfolios referenced to the **libor**.

Since it became known in 2011 that the Libor and Euribor had been manipulated, ASUFIN has followed with interest the debate and the measures that have been taken to prevent this from happening again, such as the publication of the new European regulation on benchmarks (Regulation (EU) 2016/1011) to "*ensure the accuracy, robustness and integrity of benchmarks and their determination process*", avoiding failures and inaccuracies that could "*undermine market confidence, cause losses to consumers and investors and distort the real economy*".

The CNMV, as the competent authority, has been publishing communications informing of the new features of Regulation (EU) 2016/1011. Thus, on 13 January 2021, the CNMV published a document entitled "RECOMMENDATIONS FROM THE CNMV IN VIEW OF THE PROBABLE DISAPPEARANCE OF THE LIBOR INDEX BY THE END OF 2021" in which, among other things, it suggested that "**financial and non-financial institutions with**

**exposure to this index should consider adopting measures to adequately manage the transition".**

Based on this communication and in order to foresee the consequences for our members in particular and for consumers in general, ASUFIN has reviewed the deeds of Fx loans subscribed with different entities in order to check whether they have a back-up clause or not, and whether it can be considered transparent and not abusive.

**ASUFIN FILED CLASS ACTIONS AGAINST BARCLAYS IN 2017, BANKINTER AND BANCO POPULAR IN 2016.**

The court decision requires to Barclays that the loan have to be recalculated to euros and to reimburse ex officio the overpaid amounts, which amount to 60,000 euros on average, without the affected party having to litigate or appear in court.

All fx mortgages marketed by Barclays during the previous financial crisis and inherited by CaixaBank have been considered abusive and therefore null and void due to lack of transparency, according to the ruling of the collective judgment that ASUFIN has won against the bank. In addition, in a novel approach in the collective ones, the magistrate of the Commercial Court 3 of Barcelona, establishes that the bank is obliged to recalculate the loan in euros and return the amounts overpaid ex officio, without the affected party having to take an individual lawsuit or go to the bank office.

After that of Barclays, filed in 2017, the rulings of Bankinter and Banco Popular, filed in 2017, have yet to be heard.

ASUFIN supports the project of the **Slovenian Parliament** and we hope that all families affected by Fx Loans will finally be able to solve the problem.

En Madrid, a 21 de enero de 2021.



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