Andrew Duff
Member of the European Parliament

Mr Algirdas Šemeta
European Commission
Rue de la Loi 200
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Dear Commissioner Semeta,

Spanish Equity Release Scheme (SERS)

A "Spanish Equity Release Scheme" (SERS) has been was sold to a number of my constituents. This financial product was sold by a number of banks (I think nine) to approximately 900 British retirees who owned properties in Spain. The scheme was promoted as a lawful means of mitigating the impact of Spanish inheritance taxes on the inheritors, while providing them with an income stream.

As a result of the financial crisis, these investments depreciated significantly in value. One of the banks in question, Landsbanki Luxembourg, is now in liquidation. Many of the banks are seeking to repossess the affected properties and have started foreclosure proceedings in some cases.

Although at first glance this situation appears to concern an investment that failed because of market factors, having done some further investigation it is clear to me that the product was itself illegal. The key points that have led me to this view are as follows:-

- The Spanish Tax Office has ruled that a mortgage loan is not a valid scheme to reduce the value of a property, if the mortgage was not used in the purchase of the property;
- Customers therefore took out these contracts on the basis of an illicit proposition: if, as the banks propose, the inheritors reduce the value of their properties in the proportion of the outstanding loan when calculating the tax due, they are simply committing tax fraud;
- For example, one piece of marketing literature stated that SERS would permit a reduction of Spanish Inheritance Tax from up to 81% of the value of the property to zero;

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- The promotional literature also included positive product references from KPMG, PWC and Ernst & Young - yet all three organisations have stated that they never said these things;
- Some of the banks in question had not obtained authorization to operate in Spain;
- None of the banks in question had obtained clearance by the Bank of Spain for the product's publicity materials (a mandatory requirement);
- None of the IFAs employed by the banks were regulated to operate in the financial services markets, and some were already blacklisted when they were selected by the banks to sell the SERS.

It seems to me, therefore, that this financial product was a deliberate ploy on the part of the banks in question to deceive the tax authorities, and was marketed to potential customers as a legitimate financial product on the basis of false references.

That this product particularly targets retired older people living abroad adds to the impression of impropriety. Many of these people now find themselves in a highly stressful situation, and are being threatened by the banks with repossession, when it is they who have been wronged.

Could you possibly tell me whether you have been alerted to the problems surrounding SERS before? And what action do you think it appropriate for the European Commission to take in these circumstances?

With kind regards

Yours sincerely.

Andrew Duff

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