# WHAT A FUSS FOR 7 BILLIONS EUROS !!!



or



### **THE GREAT ESCAPE**

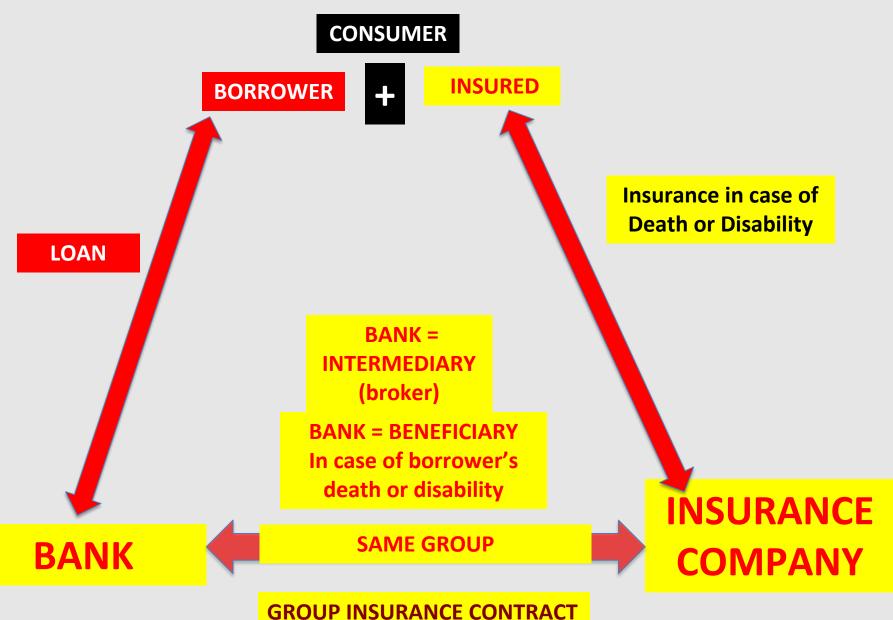
... of insured borrowers

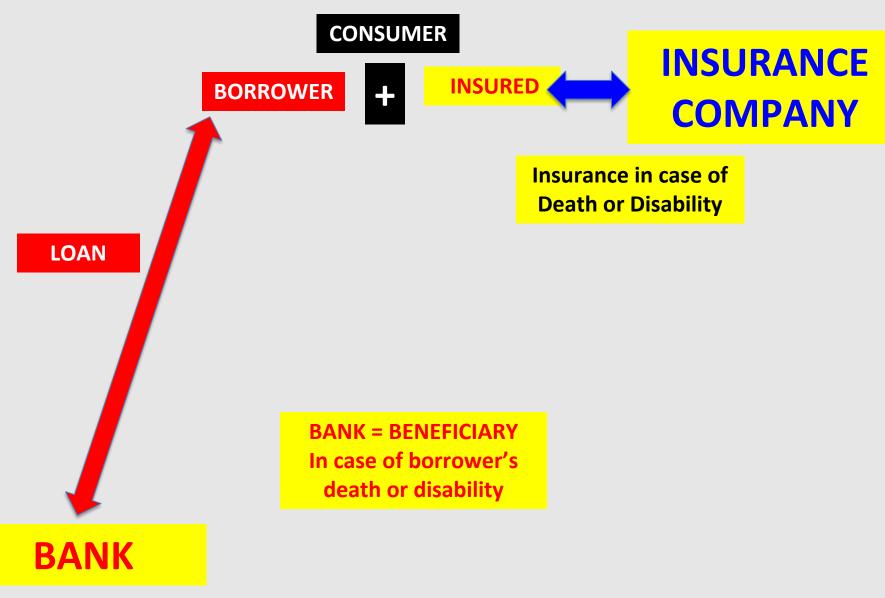
# a FRENCH EXAMPLE

# of the war between bancassurance operators and other insurers

**Personal Insurances for borrowers** 

### BANKINSURERS





### Personal Insurances for borrowers in France

## PREMIUMS 2017\* **7 billions €**

\*To be compared to : - Personal Income Tax : 70 billions €

# PROFITS 2017\* **3,5 billions €**

\*To be compared to : - French Social Security : loss 2017 : 4 billions €

# **Actual situation**

- To obtain the loan, the borrower accepts the Group Insurance contract proposed by the bank...
- and the whole operation (loan + insurance) is managed by the Bank-Insurance Entity

• Profits... : Bank-Insurance Entity

# Problem

 After 6 monthes, 2 years, 5 years, the borrower can think of another insurance contract... less expensive or with a better coverage

# How to escape ?

#### **General provision of the Insurance Code\* – Article L.113-2**

The insured, and the insurer as well, is entitled **to terminate** the insurance contract **every year** 

\* Life insurance excluded

New special provision of the Insurance Code – Art. L113-12-2 Act 17 March 2014 Insurances for borrowers (real estate)

The insured borrower is allowed to terminate the insurance contract **at any moment during the first year**. He has to propose to the bank another insurance contract, with same level coverage

# Question

### Termination decided by the insured

• only during the first year ? BANKINSURERS : YES !

or every year, during the entire lending period
?

### **OTHER INSURERS : YES !!!**

# Legal Problem

### Specialia generalibus derogant ?

Specialia : art.L.113-12-2 (only for borrowers : at any moment during the first year)

> Generalibus : art. L.113-2 (every year)

Cour de cassation (French Supreme Court) YES ! Specialia generalibus derogant

### Only way to terminate : at any moment during the first year, NOT AFTER

#### BANKINSURERS



<u>New Law 21 February 2017 : Both terminations allowed</u>

### Art. L.113-12-2

#### during the first year : at any moment

+

#### Art. L.113-2 after the first year : every year



### **OTHER INSURERS**



**BANKINSURERS** 

### **French Constitutional Court**

#### 1) Is the new Law (2017) against the French Constitution ?

### NO

#### **BANKINSURERS**





### **French Constitutional Court**

#### 2) Is the new Law (2017) applicable to on going contracts ?

### YES

#### BANKINSURERS



#### <u>New Law (1 April 2018) applicable</u> to on going contracts (1 January 2018) ?

YES

#### BANKINSURERS





### SPÉCIAL THANKS TO FRANZ XAVER MESSERCHMIDT











#### **CAST (in order of apparence)**