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GOVERNOR

Pursuant to Article 18, paragraph (10) and Article 28, paragraph (8) of the Act on Consumer Housing Loans (Official Gazette 101/2017) and Article 43, paragraph (2), item (9) and Article 77 of the Act on the Croatian National Bank (Official Gazette 75/2008 and 54/2013), the Governor of the Croatian National Bank hereby issues the

**Decision on the additional criteria for the assessment of consumer creditworthiness and on the procedure of collection of arrears and voluntary foreclosure**

**1 GENERAL PROVISIONS**

**Subject matter**

**Article 1**

(1) This Decision governs in detail the requirements for credit risk management in connection with consumer housing loans granted in accordance with regulations governing consumer housing lending, in particular:

- 1) additional requirements associated with consumer creditworthiness assessment;
- 2) the minimum measures that credit institutions are obligated to offer to consumers to reach an agreement on the collection of claims under agreements on consumer housing loans and the measures during a foreclosure procedure and reasonable and justified measures to be taken to facilitate the repayment of debt for the consumer and other participants in a credit relationship if the debt remains outstanding after the end of the foreclosure procedure.

(2) The terms used in this Decision shall have the same meaning as in regulations governing consumer housing loans and regulations governing the operation of credit institutions.

**Legal persons subject to the Decision**

**Article 2**

(1) The provisions of this Decision shall apply to:

- 1) credit institutions with head offices in the Republic of Croatia authorised by the Croatian National Bank to provide banking services;

- 2) credit institutions of the Member States that establish branches within the territory of the Republic of Croatia in accordance with the law governing the operation of credit institutions or are authorised to provide banking services directly within the territory of the Republic of Croatia;
- 3) branches of third-country credit institutions authorised by the Croatian National Bank to provide banking services within the territory of the Republic of Croatia; and
- 4) credit unions with head offices in the Republic of Croatia, authorised by the Croatian National Bank.

(2) The provisions of this Decision relating to credit institutions shall also apply to credit unions.

## **2 CONSUMER CREDITWORTHINESS**

### **Consumer creditworthiness assessment**

#### **Article 3**

(1) Before granting consumer housing loans as well as in the case of each significant subsequent increase in the amount of consumer housing loans, credit institutions shall assess consumers' creditworthiness. Credit institutions shall assess consumers' creditworthiness, taking into account own criteria prescribed by internal bylaws and regulatory requirements of the Croatian National Bank defining the determination of debtors' creditworthiness. Credit institutions shall have in place a reliable process for the assessment of consumers' ability to meet their obligations arising under loan agreements and regularly review this process.

(2) When assessing consumers' creditworthiness, credit institutions shall take into account consumers' existing obligations and other likely costs.

(3) Credit institutions shall prescribe by their internal bylaws the determination of minimum living costs as an important element in the determination of consumers' and their families' creditworthiness. Minimum living costs cannot be lower than the amount defined by legislation regulating the amount of salary exempt from seizure.

(4) When assessing consumers' creditworthiness, credit institutions shall determine in a secure and reliable manner the ability of consumers to earn income, consumers' income history and any departures over the observed period of minimum three months, supporting it by appropriate documentation.

(5) In the case of consumers who are self-employed or have seasonal or other irregular income, credit institutions shall verify in a secure and reliable manner the information relating to consumers' ability to meet their obligations under consumer housing loans, including their ability to earn income, and shall verify the documentation on income earned in such manner issued by third persons.

(6) Credit institutions shall also ensure that consumers' creditworthiness is not based on any expected material increase in consumers' income, except where sufficient evidence exists.

(7) If the repayment period for consumer housing loans exceeds the consumers' expected retirement age, credit institutions shall determine by their internal bylaws the manner of verification of the adequacy of probable consumers' income and their ability to continue meeting their obligations under agreements on consumer housing loans after retirement.

(8) When assessing consumers' creditworthiness, credit institutions shall take into account all the relevant factors that may affect consumers' ability to meet their obligations without causing unnecessary difficulties and consumers' over-indebtedness. These factors may include possible negative future events, such as for instance decreased income in retirement, timeliness in meeting other obligations, interest rate increase in the case of loans agreed with a variable interest rate, exchange rate changes in the case of consumer housing loans in foreign exchange, negative amortisation, balloon payment or deferred principal or interest repayment. When assessing consumers' ability to meet their obligations under loan agreements, credit institutions shall take into account the effect of possible exchange rate and interest rate changes.

(9) Credit institutions shall prescribe by their internal bylaws the process of consumers' creditworthiness assessment and ensure its implementation in accordance with the requirements referred to in this Article.

### **Keeping records on consumer housing loans**

#### **Article 4**

(1) For a reliable implementation of the procedure of consumers' creditworthiness assessment, credit institutions shall define loan documentation that shall consist as a minimum of the following documents and information:

- 1) applications for consumer housing loans;
- 2) determination of consumers' creditworthiness which shall include the determination of consumers' minimum living costs and documentation on consumers' income history and information providing relevant explanations of the steps taken to verify the income earned by consumers;
- 3) documentation on property used as collateral;
- 4) general information on debtors, co-debtors and guarantors;
- 5) where applicable, real estate valuation;
- 6) information on persons providing their real estate or other property as collateral for loan repayment;
- 7) decision on loan granting;
- 8) documentation on the testing of the effect of possible exchange rate and interest rate changes referred to in Article 3, paragraph (8) of this Decision;
- 9) where applicable, documents on subsequent procedures for the verification of debtors' creditworthiness;

10) documents on the procedure of collection, voluntary settlement, restructuring, postponement, etc., referred to in Article 5 of this Decision.

(2) Credit institutions shall keep the entire documentation with the information based on which consumer housing loans were granted as well as all other documentation and records at least for the duration of the relevant agreement on consumer housing loan or until completion of any court proceedings that may have been initiated based on such a credit relationship.

(3) Credit institutions shall make the documentation referred to in paragraph (1) of this Article available to competent authorities at their request. Credit institutions shall implement appropriate organisational procedures to ensure that decisions on granting consumer housing loans are not made based on wrongly presented information by consumers, credit institution employees or credit intermediaries.

### **3 COLLECTION PROCEDURE AND VOLUNTARY FORECLOSURE**

#### **Relations with consumers with payment difficulties**

##### **Article 5**

(1) Credit institutions shall set up a function for the monitoring and treatment of non-performing placements and define by an internal bylaw the criteria for early identification of placements to consumers with payment difficulties and have in place policies and procedures for efficient treatment of such placements and review such policies and procedures regularly.

(2) Credit institutions shall establish contacts with consumers with payment difficulties and provide to them all relevant information and support.

(3) Credit institutions shall ensure adequate professional training for employees involved in activities related to placements to consumers with payment difficulties.

#### **Measures for reaching an agreement**

##### **Article 6**

(1) When it is established that a customer has payment difficulties, credit institutions shall determine, jointly with the consumer, why they have occurred to be able to take appropriate further steps.

(2) Credit institutions shall communicate with consumers in a clear and simple language, which is easy to understand for consumers. In the communication with consumers in connection with their payment

difficulties, credit institutions shall respect consumers' privacy and keep contacts and communication at the level that is justified by business information requirements.

(3) Credit institutions shall provide support and as a minimum the following information to consumers with payment difficulties:

- a) the number of missed or partly executed payments;
- b) the total amount of arrears;
- c) the costs arising from unsettled arrears; and
- d) the importance of cooperation between consumers and credit institutions to resolve the situation.

(4) In cases of persistent payment difficulties, credit institutions shall provide consumers with the information on:

- a) the consequences of failure to settle obligations (e.g. costs, default interest, possible loss of property, etc.); and
- b) where applicable, information on available government/public forms of aid or support.

### **Measures for facilitating repayment**

#### **Article 7**

(1) When deciding on the measures for facilitating the repayment of consumer housing loans, credit institutions shall take into account the individual situation of consumers, their interests and rights and their ability to make further repayments. The measures for facilitating repayment that credit institutions are obliged to propose along with the information on the activities they plan to take or have taken to collect payment, and in any case before initiating foreclosure over the property used as collateral, may include:

- 1) total or partial refinancing of loan agreements; and/or
- 2) modification of the existing terms of loan agreements which may include:
  - a) extension of loan repayment period;
  - b) change of the type of consumer housing loan;
  - c) deferred payment of the entire or a part of the instalment or annuity over a certain period; or
  - d) interest rate change.

(2) If, upon completion of the foreclosure proceedings, the debt still remains outstanding, credit institutions shall offer consumers, and where applicable, other participants in the credit relationship, some of the measures for facilitating repayment referred to in paragraph (1) of this Article.

## **Documenting the procedure for the measures for facilitating repayment**

### **Article 8**

(1) In the case of loans to consumers with payment difficulties, credit institutions shall document, in the context of documentation referred to in Article 4 of this Decision, all the phases of the procedure it conducted and communication with the consumer.

(2) In particular, credit institutions shall enclose with the documentation an explanation of the reasons why particular measures for facilitating repayment that have been offered to consumers are found to be appropriate for the particular situation of individual consumers.

(3) Credit institutions shall keep the documentation and all records on contacts made, proposed measures for facilitating repayment and agreements reached with consumers with payment difficulties throughout the entire duration of the contractual relationship or until completion of any court procedures initiated.

## **4 FINAL PROVISIONS**

### **Entry into force**

#### **Article 9**

This Decision shall be published in the Official Gazette and shall enter into force on 1 January 2018.

No.: 284-020/10-17/BV

Zagreb, 23 October 2017

Croatian National Bank  
Governor

**Boris Vujčić, m.p.**