Finansinspektionen's Regulatory Code

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Finansinspektionen's general guidelines regarding credits in consumer relationships;

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Finansinspektionen provides the following general guidelines for the application of sections 2, 6, 12–14, 17, 28 and 36 of the Consumer Credit Act (2010:1846); Chapter 6, section 4 of the Banking and Financing Business Act (2004:297); and Chapter 9, section 1 of the Securities Market Act (2007:528).

Chapter 1 Scope and definitions

These general guidelines apply to undertakings under the supervision of Finansinspektionen which issue credit to consumers. However, they do not apply to undertakings conducting business with authorisation pursuant to the Certain Consumer Credit-related Operations Act (2014:275).

The guidelines set out in Chapter 5 should also apply to credits other than those issued to consumers when a natural person concludes an agreement for a guarantee or third-party pledge.

The guidelines state aspects that should be taken into account in particular with regard to

– granting loans (Chapter 2),
– housing loans (Chapter 3),
– early repayment of housing loans with fixed interest rates (Chapter 4),
– guarantees and third-party pledges (Chapter 5), and
– offsetting and payment of past-due loans (Chapter 6).

These general guidelines do not cover marketing and information provided to a consumer prior to the conclusion of a credit agreement, on which there are general guidelines set out in the Swedish Consumer Agency's general guidelines (KOVFS 2020:1) on consumer credit.

Definitions

The terms and expressions used in section 2 of the Consumer Credit Act (2010:1846) have the same meaning in these general guidelines. In addition, the following definitions apply:

early repayment date: the date on which a consumer repays a fixed-interest credit in advance;

comparison rate: the interest rate to which the interest rate of a fixed credit is compared when calculating the interest differential compensation;

interest differential compensation: the compensation to which a lender is entitled when a consumer repays a fixed-interest credit in advance;

date of interest change: the date on which the period of a fixed interest term expires according to a credit agreement and the borrower is able to settle the credit free of charge, provided that the date or period of notice has been complied with;

government securities: treasury bills and government bonds,

third-party pledge: a third-party pledge of property as collateral for the obligations of a borrower; and

condition amendment date: the date on which a new period of conditions in a credit agreement goes into effect.

Chapter 2 Granting of loans

Good lending practice

To section 6 of the Consumer Credit Act

A lender granting a loan to a consumer, both before a credit agreement is concluded and during the period of the contract, should start with the needs and prerequisites of the individual consumer.

This means, among other things, that the lender should

– dissuade the consumer from taking a loan if the circumstances of the case in question show that the loan is disadvantageous to the consumer, for example with regard to the type of loan or the repayment period of the loan; and

– take into account the consumer's ability to understand the information and evaluate financial decisions.

Credit assessment

Basis, control and payment capacity

To sections 6 and 12 of the Consumer Credit Act

Basis for credit assessment:

A lender’s assessment of a consumer's financial circumstances to fulfil a credit agreement as a general rule should be based on data on

1. the occupation of the consumer;
2. the income, expenses and debt of the consumer; and
3. guarantees given by the consumer.

The assessment should also be based on information about the purpose of the loan, if the loan is of such a nature that the purpose of the loan may be relevant for the assessment.

If the consumer is dependent on income of a self-proprietorship in order to repay a loan for which he or she has applied, the lender, if necessary, should also base the assessment on the economic development and position of the undertaking.

If the consumer has an employment situation where the income is irregular, the lender, as a general rule, should also base the assessment on data on the consumer's previous income and where that income comes from.

The lender should collect from appropriate sources the data on which the assessment is based. When the information is collected from the consumer, the creditor should clearly inform the consumer of the importance of providing accurate and up-to-date information.

Basis verification:
The data on which the credit assessment is based needs to be accurate and up to date. If the lender has cause to believe that the collected data is incomplete, inaccurate or out of date, the data should be verified in an appropriate manner.

For example, the lender should verify data collected from a consumer that is not supported by other data. Income data can be verified against taxable income and, if necessary, wage specifications. Data on the cost of living can be compared with standardised amounts which take into account all relevant costs of household consumption. Debt data can be verified against external sources. If such verification reveals that the consumer has applied for or been granted loans other than those the consumer has specified, the lender as a rule should ask the consumer about them.

Data collected from sources other than the consumer may also need to be verified because it may be incomplete, inaccurate or out of date.

Assessment of the consumer's payment capacity:

In order to assess the consumer's payment capacity, the lender should apply basic requirements and methods to ensure that the consumer can maintain a reasonable standard of living even after the loan has been granted.

Secured credits (to sections 6 and 12 of the Consumer Credit Act)

If collateral is provided for the loan, the lender should collect information about the collateral. Pledged collateral should normally not affect the credit assessment, except as stated in the third paragraph of section 12(a) of the Consumer Credit Act.

Multi-recipient loans (to sections 6 and 12 of the Consumer Credit Act)

Where the credit assessment relates to a multi-recipient loan, the lender should base its assessment on sufficient information on the financial circumstances of each of the borrowers. The lender, where appropriate, may decide to grant a loan on the basis of the joint payment capacity of the borrowers.

Documentation (to sections 6 and 12 of the Consumer Credit Act)

The lender should document the basis for a credit assessment.

Notification of credit refusal (to sections 6 and 13 of the Consumer Credit Act)

The lender should clearly inform the consumer of the reason why he or she has not received a loan by stating the basis for the decision. Where the basis for the decision is the result of a so-called loan calculation model, the lender should provide a more detailed explanation if the consumer so requests.

Credit commitment

To section 6 of the Consumer Credit Act

A credit commitment made to the consumer should be in writing and contain the terms of the commitment.

Credit agreement

Effective interest rate (to sections 6 and 14 of the Consumer Credit Act)

Where a credit agreement involves the right to draw on a line of credit on an ongoing basis, the effective interest rate in the agreement is stated as the annual interest rate calculated on the amount that corresponds to the granted line of credit.

Change in interest rate (to sections 6 and 17 of the Consumer Credit Act)

When changing the interest rate for a variable rate loan, the lender should state the reasons for the change if the consumer so requests.

If the interest rate on the loan has been raised due to increased borrowing costs, the lender should state the reasons for the increase in costs if the consumer so requests.

Change in credit limit (to section 6 of the Consumer Credit Act)

The lender should not increase an agreed credit limit unless the consumer has applied for such an increase.

Transfer of claim (to sections 6 and 28 of the Consumer Credit Act)

The lender should ensure that the credit agreement contains information on the lender's right to transfer or pledge a claim. The agreement should also specify that the consent of the lender is required if a claim is to be taken over by another debtor.

In conjunction with the transfer of a claim, for example in the case of securitisation, the lender should inform the consumer in particular of the nature of the transfer.

Repayment of purchase on credit (to section 6 of the Consumer Credit Act)

The conditions for repayment of purchase on credit should be such that:

– the amount to be paid at any time amounts to such that the amortisation payment made on the credit is reasonable over the repayment period; and
– the length of the repayment term does not exceed the life of the object subject to the loan.

Chapter 3 Housing credits in particular

For housing credits, the following also applies.

Housing cost calculation

To sections 6 and 12 of the Consumer Credit Act

A lender should establish a housing cost calculation as part of its assessment of a consumer's repayment capacity.

The lender should inform the consumer of the purpose of the calculation and the additional calculations it carries out using this calculation. The lender should also inform the consumer whether the calculations may be affected by changes in tax and benefit systems that have been decided but not yet implemented and changes in interest rates.

Term of conditions or fixed interest term exceeding three months

To section 6 of the Consumer Credit Act

If the term of conditions or fixed interest term in a credit agreement exceeds three months, the lender should remind the consumer in writing and at least one month in advance when a change in the term of conditions or the fixed interest term will occur.

In such a reminder, the lender should provide a clear information regarding

– the condition periods and the repayment and interest conditions offered,
– how to terminate the credit, if applicable;
– what consequence this will have for the loan if there is no response from the consumer, and
– the creditor's right to interest differential compensation.

With regard to information on interest terms, the lender should indicate the date from which the information is valid and that the interest offered can be changed on the date of the change of conditions.

When a change has been made to the term of conditions or fixed interest term, the lender should provide the date of the change at the latest on the first notification after the change.

Chapter 4 Early repayment of housing credits with fixed interest

To sections 6 and 36 of the Consumer Credit Act

Redemption conditions

The period for which interest differential compensation is calculated should be from the date of early repayment to the closest next date of interest change. In the absence of an interest rate change date, interest differential compensation should instead be calculated up to and including the final payment date according to the credit agreement.

If the loan is cancelled up to an interest rate change date, without having observed the date or period of notice, interest differential compensation may be calculated up to and including the closest next date of interest rate change. In this case, the interest rate of the loan for the last term of conditions may be assumed to be at the lending rate of the corresponding loan on the day of the early repayment.

If a lender has provided a consumer with information on the interest differential compensation that he or she is to pay, the lender should also inform of the period during which the consumer can repay the loan in advance at the stated amount.

Information

If the consumer so requests, the lender, prior to early repayment, should provide general information on how the compensation is calculated.

Calculation of interest differential compensation

Interest rate generally applicable to mortgage bonds

The creditor, when calculating the interest rate generally applicable to mortgage bonds at the time of payment, should use the interest rate on the government security that has a maturity or due date corresponding to the remaining fixed interest term of the credit and add a supplement.

If there is no government security with a maturity or due date corresponding to the remaining fixed interest term of the credit, the lender should use linear interpolation based on the two government securities with the maturity or due date immediately before and immediately after the fixed interest term of the credit. In the absence of such government securities, the lender should use the government security with the maturity or due date immediately before or immediately after the remaining fixed interest term of the credit.

The creditor should determine the supplement using a straight line where the supplement is indicated on the Y axis and the remaining fixed interest term of the credit is indicated on the X axis. The straight line should be adapted to the differences that can be calculated between mortgage bond rates and government security rates pursuant to the first and second paragraphs with the same maturity. The parameter values describing the straight line should be chosen such that the sum of the squares of the deviations between the straight line and the calculated differences between the interest rates is minimized (the least squares method).

When adjusting the straight line, the lender should only include mortgage bonds which

– are issued in SEK,
– are covered by agreements between issuers of mortgage bonds and market makers relating to trade on the secondary market;
– have an outstanding amount of at least SEK 3 billion, and
– have a maturity of less than seven years

The lender should determine quarterly which mortgage bonds are to be included in the straight line adjustment and give the same weight to mortgage bonds in the adjustment.

For credits with a remaining fixed interest term of up to seven years, the lender should determine the supplement as the Y value on the straight line for the corresponding maturity. For credits with a residual interest-rate term longer than seven years, the lender should determine the supplement as the Y value of the straight line for a term of seven years.

The lender should choose the sell rates applicable on government securities and mortgage bonds at the close of the preceding business day.

The lender, when calculating the interest differential payment, should convert the interest rate generally applicable at the time of payment to mortgage bonds to an annual effective interest rate, unless it is already expressed as such. The comparison rate, which is expressed as an annual effective comparison rate, is obtained by adding a one percentage point increase in accordance with section 36 of the Consumer Credit Act.

The lender should calculate the interest differential payment by calculating the following items' present value back to the day of the early payment using the annual effective comparison rate:

– all payment flows under the agreement up to and including the end of the fixed interest term; and
– capital debt at the end of the fixed interest term.

The difference between the calculated present value and the capital debt on the day of early repayment is the interest differential payment.

Interest rate on government securities (for section 36 of the Consumer Credit Act in its wording before 1 July 2014)

The lender should choose as the benchmark rate the sell rate for the government securities referred to in section 36 of the Consumer Credit Act, in its wording before 1 July 2014. Since interest rates change regularly, the lender should apply a procedure for determining the comparison interest rate, for example by using the closing interest rates from the preceding day.

The maturity or due date that should be used to determine the comparison rate should be the same as the remaining fixed interest term of the credit. If there is no government security with such a maturity or due date, the lender should use linear interpolation based on two treasury bills or two government securities with a maturity or due date immediately before and immediately after the credit's fixed interest term. If two government securities of the same kind with a shorter and longer maturity or due date than the remaining fixed interest term are not available, the nearest

– treasury bill should be used if the remaining fixed interest term of the credit is less than one year, or
– the government bond is used if the remaining fixed interest period of the credit is one year or longer.

The officially published rate on government securities should be converted into an annual effective interest rate when calculating the interest differential payment, unless it is already expressed as such. The comparison interest rate is then obtained after adding one percentage point, expressed as a comparison annual percentage rate.

The lender should calculate the interest differential payment by calculating the following items' present value back to the day of the early payment using the annual effective comparison rate:

– all payment flows under the agreement up to and including the end of the fixed interest term; and
– capital debt at the end of the fixed interest term.

The difference between the calculated present value and the capital debt on the day of early repayment is the interest differential payment.

Chapter 5 Guarantees and third-party pledges

For section 6 of the Consumer Credit Act, Chapter 6. section 4 of the Banking and Financing Business Act, and Chapter 9, section 1 of the Securities Markets Act

General

A lender should take into account that a guarantor or a pledgor may be interested in information relevant to the commitment prior to undertaking the commitment. This applies, for example, if the credit is granted to clear the borrower's finances or if there are a financial adjustment to the payee's finances or if there is any record of non-payment.

The lender should inform the guarantor or pledgor of any information in the credit check which is of interest to the guarantee or pledge and which cannot be disclosed and give the reasons for this. One example of this is when the borrower does not consent to the disclosure of confidential information.

The lender should inform the person providing collateral of the procedures that apply to the restoration of the collateral.

Guarantee

The guarantor's payment capacity

The lender should examine the guarantor's present and future repayment capacity and take into account his or her other financial obligations. The guarantee should only be accepted if the commitment is considered to constitute reliable collateral for the credit. The guarantee may be considered to constitute reliable collateral if the guarantor has

– financial circumstance which make it possible to repay the borrower's debt, or
– saleable assets that after a prudent valuation are deemed sufficient
for fulfilling the guarantee.

Entering into a guarantee contract

Before entering into a contract for a guarantee, the lender should inform the guarantor in writing about the nature of the commitment.

The information should include

– under which circumstances the guarantor may be forced to fulfil its guarantee,
– if there are several guarantors,
– the right of the lender, if any, to demand the full payment from any one or more of the guarantor;
– that the guarantee remains even if any potential community of interests with the borrower ceases, and
– that the guarantee may entail the sale of the guarantor's assets, including the home,

Unless there are special grounds for the contrary, the guarantee should be signed by the guarantor in person. Under such circumstances, the power of attorney should be in writing.

The lender, once the credit has been granted, should provide the guarantor with a copy of the credit agreement and the agreed guarantee commitment.

General guarantee without amount limits

General guarantees without amount limits provided by natural persons should only be used in a commercial setting when the guarantor has good and ongoing insight into the financial position of the borrower and its contact with the lender. One example is when a shareholder or an executive in a closely-held company signs a guarantee for the company's commitments.

Third-party pledge

The lender should inform the pledgor in writing prior to the pledge what the pledge entails.

The information should include

– that the asset may be sold if the borrower fails to fulfil its commitment;
– that the asset remains even if a potential community of interest with the borrower ceases;
– that the pledge can reduce the value of the asset as collateral for own borrowing, and
– that the pledge may affect the third party's control over the asset.

The lender should provide a copy of the credit agreement and all the terms of the pledge to the pledgor.

Information to the guarantor or pledgor after entering into the commitment

The lender should inform the guarantor or the pledgor as soon as possible if the lender becomes aware of any profound and lasting deterioration in the borrower's finances or any other information which may affect the guarantor's or pledgor's opportunities for recourse or cause the collateral to be to be utilised.

If the lender can assume that the guarantor or the pledgor has insight into the borrower's finances, it does not need to provide any information on the developments within the borrower. However, the lender should inform the guarantor or the pledgor of the suspension of payments granted to the borrower, unless it is obvious that the deferral is irrelevant for the guarantor/pledgor.

The lender should request the consent of the guarantor or pledgor in the event of a change in the conditions for a credit granted, if the change may affect their commitment.

Chapter 6 Offsetting and withdrawal of request to make a payment

For section 6 of the Consumer Credit Act

Offsetting

Offsetting should be used primarily when a lender and a consumer do not agree on payment in another way. The lender should apply prudence and common sense to its application of offsetting and with respect to the consumer.

Offsetting against a balance in an account

A lender that also provides deposit accounts to consumers should inform the consumer when an account is opened or a credit is granted that the lender may offset funds in the account against its claim.

The lender should not apply offsetting against account balances intended for the consumer’s necessary expenditure and that derive from, for example, paid salaries, pensions or comparable funds.

The lender should not use for offsetting funds in accounts designated by the consumer to meet payment service assignments.

Notification

The lender should immediately inform the consumer that offsetting has occurred and state the reasons for this.

Withdrawal of request to make a payment

If a consumer who has submitted a request to the lender to make a payment on a credit from a specified account held by the consumer with the lender requests that the request be withdrawn, the lender should ensure that this occurs as soon as possible.

These general guidelines shall enter into force on 1 November 2021 upon which Finansinspektionen’s general guidelines (FFFS 2014:11) regarding consumer credit shall be repealed.

ERIK THEDÉEN

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