

DECREE

No. 381

of 16 November 2016,

on applications, notifications and the submitting of statements pursuant to the Consumer Credit Act

Pursuant to Article 160 of Act No. 257/2016 Coll., on Consumer Credit, the Czech National Bank stipulates the following to implement Article 11(5), Article 12(3), Article 13(3), Article 14(3), Article 19(4), Article 20(3), Article 22(3), Article 30(4), Article 32(6), Article 33(4), Article 40(4), Article 42(5), Article 43(4), Article 59(5), Article 64(4), Article 65(4), Article 66(2) and Article 68(4) of the Act:

Article 1

Subject

- (1) This Decree sets forth the following pursuant to the Consumer Credit Act:
- a) the details of the essential elements of an application for
 1. authorisation to pursue the business of a non-bank consumer credit provider,
 2. authorisation to pursue the business of an independent intermediary,
 3. accreditation to organise professional examinations, a change in accreditation and extension of accreditation,
 - b) the details of the essential elements of a notification
 1. for the purposes of registering a tied agent and an intermediary of tied consumer credit,
 2. of an extension of the business of a tied agent and an intermediary of tied consumer credit,
 3. of the termination of the business of a tied agent and an intermediary of tied consumer credit,
 - c) the essential elements of a notification
 1. of the termination of the business of a non-bank consumer credit provider and an independent intermediary,
 2. of a change in the particulars of an accredited person,
 - d) the other essential elements of a notification of a change in particulars entered in the register and other information relating to the business pursued by a non-bank consumer credit provider, an independent intermediary, a tied agent and an intermediary of tied consumer credit.
- (2) This Decree furthermore stipulates
- a) the formats and other technical prerequisites of applications and notifications,
 - b) the manner of payment of the administrative fee for extending the validity of an authorisation,
 - c) the rules, form and manner of submitting annual statements on the business of a non-bank consumer credit provider.

Article 2 Definitions

For the purposes of this Decree

- a) “documents for the assessment of trustworthiness” shall mean proof of integrity pursuant to Article 163 of the Consumer Credit Act, a statement of legal capacity of a natural person and a statement containing particulars for the purpose of obtaining an extract from the Criminal Register and information and documents regarding the previous activities of a natural person or a legal entity over the last ten years, in particular regarding
 1. the imposition of a penalty for an administrative offence relating to the performance of employment, a position or business activity,
 2. a decision on insolvency or a dismissal of an insolvency petition due to lack of assets,
 3. the suspension or withdrawal of authorisation to pursue business or other authorisation, unless done on the basis of an application by the person holding the authorisation,
 4. the refusal of consent by a court of law or an administrative authority to the election, nomination or appointment to a position or to the acquisition of, or an increase in, a qualifying holding or control of a person where such consent was required, and
 5. expulsion from a professional chamber or an association of financial market entities,
- b) “financial reports” shall mean
 1. the annual reports and financial statements for the last three years or for the period for which the entity has been carrying on business if that period is shorter than three accounting periods; where the said entity is a member of a consolidated group, the consolidated annual reports and financial statements for the same period; if, pursuant to an act regulating accounting, the financial statements must be verified by an auditor, the audited financial statements shall be submitted,
 2. proof of income for the last three years, assets and debt in the case of a natural person,
- c) “business plan” shall mean the actually intended business plan of the applicant for the first three accounting periods, processed in the format of financial statements pursuant to an act regulating accounting,¹⁾ based on realistic economic calculations, and a commentary containing
 1. the applicant’s plans regarding the scope and amount of consumer credit provided and a description of how he intends to achieve them and the characteristics of the client target group and the applicant’s retail network,
 2. the main starting points and assumptions on which the plan is based and a justification of the links between the plan’s quantitative information and the feasibility of the planned business results.

Article 3 Non-bank consumer credit providers

The details of the essential elements of an application for authorisation to pursue the business of a non-bank consumer credit provider shall comprise the following information and documents:

- a) the objects of business based on categories of expertise,²⁾
- b) a certificate of incorporation no more than three months old,
- c) documents for the assessment of the trustworthiness of

¹⁾ Article 18 of the Act on Accounting.

²⁾ Article 3(1)(i) of Act No. 257/2016 Coll., on Consumer Credit.

1. the applicant,
 2. the members of the board of directors, the statutory body and the supervisory body of the applicant or other similar body of the applicant,
- d) documents proving the professional competence of the members of the statutory body or the board of directors of the applicant, the authorised representative or other director where they are directly involved in the provision of consumer credit or are liable for the provision of consumer credit,
 - e) the amount of initial capital,
 - f) the financial accounts of the applicant,
 - g) documents proving the source of the applicant's funds,
 - h) a plan of business activities,
 - i) draft rules of conduct towards persons interested in entering into a consumer credit contract,
 - j) draft internal regulations governing procedures and rules pursuant to Article 15(2) of the Consumer Credit Act,
 - k) the identification details of the parent undertaking and the certificate of incorporation or other similar certificate no more than three months old where the parent undertaking is a legal entity,
 - l) a description of the fact based on which the entity referred to in (k) is the parent undertaking, or a document proving this fact,
 - m) documents for the assessment of the trustworthiness of the parent undertaking; where the parent undertaking is a legal entity, also documents for the assessment of the trustworthiness of the members of the board of directors, the statutory body and the supervisory body or other similar body of that legal entity, and
 - n) financial accounts and other documents proving the source of funds of the parent undertaking.

Article 4

Independent intermediaries

(1) The details of the essential elements of an application for authorisation to pursue the business of an independent intermediary other than a bank authorised to carry on financial brokerage under a banking licence shall comprise the following information and documents:

- a) the objects of business based on categories of expertise,
- b) a certificate of incorporation or other similar certificate no more than three months old where the applicant is a legal entity,
- c) documents for the assessment of trustworthiness of
 1. the applicant,
 2. the members of the board of directors, the statutory body and the supervisory body of the applicant or other similar body where the applicant is a legal entity,
- d) documents proving the professional competence
 1. of the applicant where the applicant is a natural person,
 2. the members of the statutory body or the board of directors of the applicant, the authorised representative or other director where they are directly involved in the intermediation of consumer credit or are liable for the intermediation of consumer credit,
- e) the identification details of the parent undertaking and the certificate of incorporation or other similar certificate no more than three months old where the parent undertaking is a legal entity,

- f) a description of the fact based on which the entity referred to in (e) is the parent undertaking, or a document proving this fact,
- g) documents for the assessment of the trustworthiness of the parent undertaking; where the parent undertaking is a legal entity, also documents for the assessment of the trustworthiness of the members of the board of directors, the statutory body and the supervisory body or other similar body of that legal entity, and
- h) the identification details of each person for which the applicant will pursue the business of an independent intermediary if that information is known to the applicant at the time of submitting the application.

(2) The details of the essential elements of an application for authorisation to pursue the business of an independent intermediary which is a bank authorised to carry on financial brokerage under a banking licence shall comprise the following information and documents:

- a) the objects of business based on categories of expertise and
- b) the identification details of each person for which the bank will pursue the business of an independent intermediary if that information is known to the bank at the time of submitting the application.

Article 5

Tied agents and intermediaries of tied consumer credit

(1) The details of the essential elements of a notification for the purposes of registering a tied agent shall, in addition to the information listed in Article 30(3) of the Consumer Credit Act, comprise the following information and documents:

- a) the objects of business based on categories of expertise which the tied agent will perform for the principal,
- b) the identification details of the person referred to in Article 55(1)(e) of the Consumer Credit Act, and
- c) a statement made by the principal that the tied agent and its staff³⁾ are compliant with the conditions of competence and trustworthiness and other conditions set forth in the Consumer Credit Act relating to the pursuit of the said business.

(2) The details of the essential elements of a notification for the purposes of registering an intermediary of tied consumer credit shall, in addition to the information listed in Article 40(3) of the Consumer Credit Act, comprise the following information and documents:

- a) the identification details of the person referred to in Article 55(1)(e) of the Consumer Credit Act, and
- b) a statement made by the principal that the intermediary of tied consumer credit and its staff³⁾ are compliant with the conditions of competence and trustworthiness and other conditions set forth in the Consumer Credit Act relating to the pursuit of the said business.

(3) The details of the essential elements of a notification of an extension of the business of a tied agent or an intermediary of tied consumer credit shall comprise a list of the persons for which the fee is paid, including their identification details.

³⁾ Article 3(1)(h) of the Consumer Credit Act.

Article 6

Manner of payment of administrative fees

(1) The administrative fee for extending the validity of an authorisation to pursue the business of a non-bank consumer credit provider and an authorisation to pursue the business of an independent intermediary shall be paid by transfer to an account on the basis of a payment instruction issued by the Czech National Bank. The payment instruction shall contain the account number, the variable code and the amount.

(2) The administrative fee for extending the validity of an authorisation to pursue the business of a tied agent or an intermediary of tied consumer credit shall be paid by transfer to an account on the basis of a payment instruction issued by the Czech National Bank. The payment instruction shall contain the account number, the variable code and the amount to be paid corresponding to the number of persons for which the authorisation is to be extended on the basis of a list sent by the notifying party.

Article 7

Notification of a change in particulars entered in the register and other information relating to business pursued

The further essential elements of a notification of a change in particulars pursuant to Article 59(1) of the Consumer Credit Act shall comprise the identification details of the notifying party and, depending on the nature of the change,

- a) a specification of the change containing the existing information entered in the register and the information to be entered in the register, unless the information is to be deleted without replacement,
- b) documents proving a ruling of insolvency or entry into liquidation, where applicable, or
- c) a specification of the change in the information about compliance with the statutory conditions for the pursuit of business and, depending on the nature of the change, the documents set forth in this Decree for proving compliance with the condition for pursuing the said business.

Article 8

Notification of the termination of business

(1) The details of the essential elements of a notification of the termination of business of a non-bank consumer credit provider, an independent intermediary, a tied agent or an intermediary of tied consumer credit shall comprise the identification details of the notifying party.

(2) Where the notification of the termination of business is submitted by a tied agent or an intermediary of tied consumer credit through the principal, the essential elements of the notification shall also include the identification details of the tied agent or the intermediary of tied consumer credit.

Article 9

Accreditation to organise professional examinations

(1) The details of the essential elements of an application for accreditation to organise

professional examinations shall comprise the following information and documents:

- a) the requested scope of accreditation based on categories of expertise,
- b) a certificate of incorporation or other similar certificate no more than three months old if the applicant was incorporated before filing the application,
- c) documents for the assessment of the trustworthiness of
 1. the applicant,
 2. the members of the board of directors, the statutory body and the supervisory body or other similar body of the applicant where the applicant is a legal entity,
- d) documents proving the material, qualification, organisational and personnel prerequisites for the business of the accredited person,
- e) draft examination rules,
- f) the identification details of the parent undertaking and the certificate of incorporation or other similar certificate no more than three months old where the applicant is a legal entity,
- g) a description of a fact based on which the entity referred to in (f) is the parent undertaking, or a document proving this fact, and
- h) documents for the assessment of the trustworthiness of the parent undertaking; where the parent undertaking is a legal entity, also documents for the assessment of the trustworthiness of the members of its board of directors, the statutory body and the supervisory body or other similar body of that legal entity,

(2) The essential elements of an application for a change in accreditation to organise professional examinations shall comprise a statement of the change which the accredited person is applying for and information or a document pursuant to (1) relating to the change and proving compliance with the statutory conditions for the pursuit of business of the accredited person.

(3) The essential elements of a notification of a change in the information about an accredited person relating to a change in the conditions referred to in Article 63(2) of the Consumer Credit Act shall comprise a statement of the change and, depending on the nature of the change, information or a document pursuant to (1) relating to that change.

(4) The details of the essential elements of an application for the extension of accreditation shall comprise a statement made by the accredited person that the information and documents proving compliance with the statutory conditions referred to in Article 63(2) of the Consumer Credit Act which were attached to the application for accreditation or for a change in accreditation pursuant to (1) and (2) or to the notification of a change in the particulars of the accredited person relating to a change in the conditions referred to in Article 63(2) of the Consumer Credit Act pursuant to (3) are up-to-date.

Article 10

Business statements

(1) A non-bank consumer credit provider shall compile an annual business statement (hereinafter referred to as the “business statement”) as of the last day of the calendar year and submit it to the Czech National Bank within the time limit set forth in Article 14(2) of the Consumer Credit Act.

(2) The business statement shall contain the information referred to in Article 14(2) of the Consumer Credit Act and shall be sent on an electronic form via the Czech National Bank’s

internet application for data collection.

(3) The non-bank consumer credit provider or a person authorised to act on his behalf shall sign the business statement using an electronic signature.

(4) If a mistake is found or a correction is made to the information after the business statement has been submitted to the Czech National Bank, the non-bank consumer credit provider shall submit a business statement with corrected information to the Czech National Bank without undue delay in the manner specified in (2) together with information about the content of, and the reason for, the correction.

Article 11

Formats and other technical prerequisites of applications and notices

Applications and notifications shall be submitted in Portable Document Format (pdf) or, where pdf format cannot be used, in some other data format commonly used in electronic communication which does not allow changes in content.

Article 12

Common provisions

(1) If the nature of the matter precludes the submission of information or documents relating to an application or notification required by this Decree, the applicant shall state this fact in a separate appendix to the application or notification together with the reasons why the information or document cannot be submitted and give appropriate evidence of the reasons.

(2) If the applicant fails to prove compliance with any of the authorisation conditions in the application due to the preferential application of an international treaty that forms part of Czech law, the applicant shall specify that international treaty and the provisions the applicant is invoking.

Article 13

Effect

This Decree shall take effect on 1 December 2016.

Governor

Jiří Rusnok