

DECREE

No. 384/2016 Coll.

of 23 November 2016

on professional qualifications for the distribution of consumer credit

Pursuant to Article 160 of Act No. 257/2016 Coll., on Consumer Credit, the Czech National Bank stipulates the following to implement Article 60(6), Article 63(3) and Article 69(5) of that Act:

Article 1 Subject

This Decree sets forth

- a) the scope of professional expertise and competence based on categories of expertise for the provision or intermediation of consumer credit and further requirements for the form of the professional examination to verify them,
- b) the minimum scope of the requirements for the material, qualification, organisational and personnel prerequisites of an applicant for accreditation, and
- c) the minimum standard of the professional examination, the rules for the provision of the set of examination questions to accredited persons, the handling and updating thereof and the manner of conduct and composition of the board of examiners, the requirements regarding examination rules and the course, form, scope and manner of assessment of the professional examination.

Article 2

Scope of professional expertise (Regarding Article 60(6) of the Act)

(1) The scope of professional expertise of an employee of a person authorised to provide or intermediate consumer credit and a person authorised to intermediate consumer credit who is a natural person must correspond to the substance of the activities of those persons in the provision or intermediation of consumer credit so as to ensure the qualified performance thereof.

(2) A more detailed scope of expertise pursuant to Article 60(4) of the Act No. 257/2016 Coll., on Consumer Credit, (hereinafter referred to as the “Act”) is provided in an annex to this Decree.

Article 3 **Scope of professional competence** (Regarding Article 60(6) of the Act)

An employee of a person authorised to provide or intermediate consumer credit and a person authorised to intermediate consumer credit who is a natural person shall have professional competence based on which they can

- a) obtain information in a qualified manner so that it is possible to conduct a proper analysis of the requirements, needs, objectives and financial situation of the consumer,
- b) properly assess the requirements, needs, objectives and financial situation of the consumer and offer him suitable consumer credit,

- c) provide information in a qualified and comprehensible manner when communicating with the consumer so that the consumer himself can assess whether the consumer credit offered is commensurate with his requirements, needs, objectives and financial situation, and
- d) duly negotiate a consumer credit contract, changes thereto and the termination of obligations arising therefrom on behalf of and for the account of the provider or the consumer.

Article 4
Material prerequisites
(Regarding Article 63(3) of the Act)

- (1) The accredited person shall have premises suitable for organising professional examinations with an adequate number and capacity of examination rooms.
- (2) The accredited person shall have technical and programming means for organising professional examinations and storing documents on the conduct of professional examinations.¹⁾

Article 5
Organisational prerequisites
(Regarding Article 63(3) of the Act)

- (1) The accredited person shall have an organisational set-up with a sound, transparent, clear and comprehensive definition of activities and related competences and decision-making powers, which it shall stipulate in an internal regulation.
- (2) In the internal regulation the accredited person shall also specify
 - a) the security and control measures applied in processing and recording information concerning professional examinations, and
 - b) the rules for the appointment of the chair and members of the board of examiners.
- (3) The accredited person shall ensure that at least one board of examiners has been set up at the time when professional examinations are conducted.
- (4) The professional examination shall be conducted under the direct supervision of the board of examiners.

Article 6
Qualification and personnel prerequisites
(Regarding Articles 63(3) and 69(5) of the Act)

- (1) The board of examiners shall have an odd number of members and consist of at least three members.
- (2) A member of the board of examiners shall be trustworthy²⁾ and have a university education at least at a master's level.³⁾
- (3) If the accredited person is a person authorised to provide or intermediate consumer credit⁴⁾ or if another member of a business group of which the accredited person is a member

¹⁾ Article 71 of Act No. 257/2016 Coll., on Consumer Credit.

²⁾ Article 72 of Act No. 257/2016 Coll.

³⁾ Article 46 of Act No. 111/1998 Coll., on universities and on the amendment of other laws (Act on Universities), as amended.

⁴⁾ Articles 7 and 16 of Act No. 257/2016 Coll.

is such a person,⁵⁾ a majority of the members of the board of examiners must be independent of the accredited person, of the business group of which the accredited person is a member and of the other members of the business group.

(4) The remuneration of a member of the board of examiners may not be derived from the examination pass rate.

Article 7

Examination rules

(Regarding Articles 60(6) and 69(5) of the Act)

(1) The accredited person shall have examination rules in place setting forth at least the following requirements:

- a) an objective and impartial approach to all examinees; if the capacity of the examination date is exceeded, the examinees invited to the examination must be selected in an objective and impartial manner,
- b) proper identification of the examinee before the start of the professional examination,
- c) protection of examinees' personal data,
- d) an objective and impartial course of the professional examination,
- e) objective and impartial selection of the examination variant, including the manner of preparing the examination test,
- f) secrecy of the individual examination variants,
- g) balanced content of the professional examination,
- h) a reviewable record of the course and result of the professional examination and verification thereof by the board of examiners, and
- i) the possibility of, and a procedure for, an appeal or review of the result of a professional examination with the accredited person.

(2) The examination rules shall contain at least

- a) elaboration of the requirements under paragraph 1 into specific procedures and specimen documentation,
- b) rules for setting and publishing examination dates; the accredited person shall ensure at least one quarterly examination date if at least ten examinees sign up for that date,
- c) the content and scope of the professional examination,
- d) the minimum number of members of the board of examiners and the manner of their decision-making,
- e) rules for excluding an examinee from the professional examination and the possibility to review that decision,
- f) information on the level of fees related to passing the professional examination,
- g) information on whether the professional examination is written, oral or combined,
- h) rules governing the procedure to be followed if a member of the board of examiners is biased, and
- i) rules governing withdrawal from the professional examination and the absence of an examinee.

⁵⁾ Article 71 et seq. of Act No. 90/2012 Coll., on Business Corporations.

Minimum standard of a professional examination

(Regarding Article 69(5) of the Act)

Article 8

(1) A professional examination for the provision or intermediation of consumer credit other than for house purchase or consumer credit for house purchase shall last a total of 120 minutes.

(2) A professional examination for the provision or intermediation of specific-purpose consumer credit shall last a total of 90 minutes.

(3) A professional examination for the provision or intermediation of both consumer credit other than for house purchase and consumer credit for house purchase shall last a total of 180 minutes.

Article 9

(1) An examinee who is to provide or intermediate consumer credit other than for house purchase or consumer credit for house purchase shall be asked a total of 60 examination questions designed to test professional expertise based on the selected category of expertise.

(2) An examinee who is to provide or intermediate specific-purpose consumer credit shall be asked a total of 32 examination questions designed to test professional expertise.

(3) An examinee who is to provide or intermediate both consumer credit other than for house purchase and consumer credit for house purchase shall be asked a total of 92 examination questions designed to test professional expertise.

Article 10

(1) The professional competence of an examinee who is to provide or intermediate consumer credit other than for house purchase or consumer credit for house purchase or specific-purpose consumer credit shall be examined using two case studies based on the selected category of expertise; each of them shall contain five examination questions designed to prove professional competence pursuant to Article 3.

(2) The professional competence of an examinee who is to provide or intermediate both consumer credit other than for house purchase and consumer credit for house purchase shall be examined using three case studies; each of them shall contain five examination questions designed to prove professional competence pursuant to Article 3.

Article 11

(1) Each of the examination questions shall have four possible choices of answer.

(2) Three-quarters of the examination questions designed to test professional expertise and all the examination questions designed to test professional competence shall have one correct choice of answer. One-quarter of the examination questions designed to test professional expertise shall have one or more correct answers; each incorrectly chosen or missing choice of answer shall render the entire answered examination question incorrectly answered.

(3) Correctly answered questions that have one correct choice of answer shall be awarded one point, and correctly answered questions that have one or more correct answers and questions in the area of professional competence shall be awarded two points.

Article 12

To successfully pass a professional examination, an examinee must obtain at least

- a) three-quarters of the points attainable in all the examination questions,
- b) three-fifths of the points attainable in the examination questions concerning professional expertise, and
- c) three-fifths of the points attainable in the examination questions concerning professional competence, which shall be considered an independent area for calculation purposes.

Article 13

Rules for updating examination questions, the provision thereof to accredited persons and the handling thereof

(Regarding Article 69(5) of the Act)

(1) The set of examination questions shall be updated at least once every year. The number of the examination questions testing professional expertise may not decrease below 600 and the number of case studies may not decrease below 40 when updated. Professional examinations may be held using a pre-update set of questions for no more than a month after the publication of the update by the Czech National Bank.

(2) The Czech National Bank shall publish the set of examination questions with correct answers on its website. The Czech National Bank shall send the set of examination questions with correct answers to accredited persons using a data box whenever it is changed.

(3) The accredited person shall prepare the individual examination variants shortly before conducting the professional examination. The order of the correct answers to the individual examination questions shall be different for each examination variant. Each examinee shall receive his own examination variant. The accredited person shall take all the necessary measures to keep the individual examination variants secret.

Article 14

Effect

This Decree shall take effect on 1 December 2016.

Governor

Jiří Rusnok

Scope of professional expertise

I. Thematic areas of expertise necessary for the provision or intermediation of consumer credit other than for house purchase include:

- a) minimum expert knowledge of the financial market
 1. the financial market and its definition, role and importance,
 2. the rudiments of the theory of finance (the time value of money),
 3. financial mathematics (interest),
 4. the structure of the financial market (primary and secondary markets and money and capital markets),
 5. financial market participants (creditors, debtors, financial intermediaries),
 6. regulation and supervision of the financial market,
- b) the structure, entities and functioning of the market for consumer credit other than for house purchase
 1. consumer credit providers, independent intermediaries, tied agents, intermediaries of specific-purpose consumer credit, foreign intermediaries,
 2. the principles of a credit relationship and the basic parameters and obligations of contracting parties,
 3. debtor registers,
 4. types of consumer credit other than for house purchase (specific and non-specific loans, cash loans, overdrafts, credit cards, credit accounts),
 5. the risks of consumer credit other than for house purchase,
- c) regulation of the market for consumer credit other than for house purchase
 1. legal rules in the area of consumer protection law,
 2. the rudiments of related financial market regulations, civil law (in particular credit contracts) and commercial law,
 3. certain requirements for the pursuit of business (in particular the rules for dealing with consumers' complaints pursuant to Article 15(2)(g) and Article 25 of the Act),
 4. the rudiments of contractual law,
- d) lending and the products of consumer credit other than for house purchase
 1. the rules of conduct,
 - 1.1 the rules for the storage of documents and records pursuant to Article 78 of the Act,
 - 1.2 the rules for the prohibition of incentives pursuant to Article 79 of the Act,
 - 1.3 the information provided by a consumer and the rules for providing advice pursuant to Articles 84 and 85 of the Act,
 - 1.4 the information duties to the consumer pursuant to Articles 90 to 111 of the Act and consumer credit intermediation contracts pursuant to Articles 125 to 127 of the Act,
 - 1.5 the contractual terms pursuant to Articles 112 to 121 of the Act and the conditions of termination of an obligation pursuant to Articles 128 to 132 of the Act,
 2. payments related to consumer credit (interest, fees, commissions, the significance of the APRC),
 3. the rules of conduct towards consumers in default pursuant to Article 15(2)(h) of the Act (provision of information on default interest, default fees, credit contract refinancing, modifications of contract terms) and the procedure to be followed by a

- creditor in the event of default by a consumer pursuant to Articles 122 and 123 of the Act,
4. the rules for enforcing claims pursuant to Article 15(2)(i) of the Act (distraint by a court or court distrainer),
 5. the options for resolving disputes arising from consumer credit provision (e.g. the Financial Arbitrator),
 - e) complementary services related to consumer credit other than for house purchase
 1. the rudiments of insurance, securing of consumer credit through insurance (life insurance, insurance of the ability to repay consumer credit), assistance services,
 2. motor vehicle insurance (vehicle accident insurance, vehicle liability insurance),
 3. deposit accounts, payment accounts,
 4. the effect of complementary services related to consumer credit on the APRC,
 5. payment cards (in particular credit cards),
 - f) the principles of the process for assessing a consumer's creditworthiness
 1. assessment of a consumer's creditworthiness and the related regulations pursuant to Articles 86 and 89 of the Act.

II. Thematic areas of expertise necessary for the provision or intermediation of specific-purpose consumer credit include:

- a) minimum expert knowledge of the financial market
 1. the financial market and its definition, role and importance,
 2. the rudiments of the theory of finance (the time value of money),
 3. financial mathematics (interest),
 4. the structure of the financial market (primary and secondary markets and money and capital markets),
 5. financial market participants (creditors, debtors, financial intermediaries),
 6. regulation and supervision of the financial market,
- b) the structure, entities and functioning of the market for specific-purpose consumer credit
 1. consumer credit providers, independent intermediaries, tied agents, intermediaries of specific-purpose consumer credit, foreign intermediaries,
 2. the principles of a credit relationship and the basic parameters and obligations of contracting parties,
 3. debtor registers,
 4. the definition of specific-purpose consumer credit, its link to purpose, specific-purpose consumer credit for goods and services,
 5. the specificities of various types of specific-purpose consumer credit (e.g. leasing and hire purchase),
- c) regulation of the market for specific-purpose consumer credit
 1. legal rules in the area of consumer protection law,
 2. the rudiments of related financial market regulations, civil law (in particular credit contracts) and commercial law,
 3. certain requirements for the pursuit of business (in particular the rules for dealing with consumers' complaints pursuant to Article 15(2)(g) and Article 25 of the Act),
 4. the rudiments of contractual law,
- d) lending and the products of specific-purpose consumer credit
 1. the rules of conduct,
 - 1.1 the rules for the storage of documents and records pursuant to Article 78 of the Act,
 - 1.2 the rules for the prohibition of incentives pursuant to Article 79 of the Act,
 - 1.3 the information provided by a consumer and the rules for providing advice pursuant to Articles 84 and 85 of the Act,

- 1.4 the information duties to the consumer pursuant to Articles 90 to 111 of the Act and consumer credit intermediation contracts pursuant to Articles 125 to 127 of the Act,
- 1.5 the contractual terms pursuant to Articles 112 to 121 of the Act and the conditions of termination of an obligation pursuant to Articles 128 to 132 of the Act,
- 2. payments related to consumer credit (interest, fees, commissions, the significance of the APRC),
- 3. the rules of conduct towards consumers in default pursuant to Article 15(2)(h) of the Act (provision of information on default interest, default fees, credit contract refinancing, modifications of contract terms) and the procedure to be followed by a creditor in the event of default by a consumer pursuant to Articles 122 and 123 of the Act,
- 4. the rules for enforcing claims pursuant to Article 15(2)(i) of the Act (distraint by a court or court distrainer),
- 5. the options for resolving disputes arising from consumer credit provision (e.g. the Financial Arbitrator),
- e) complementary services related to specific-purpose consumer credit,
 - 1. the rudiments of insurance, securing of consumer credit through insurance (life insurance, insurance of the ability to repay consumer credit), assistance services,
 - 2. motor vehicle insurance (vehicle accident insurance, vehicle liability insurance),
 - 3. deposit accounts, payment accounts,
 - 4. the effect of complementary services related to consumer credit on the APRC,
- f) the principles of the process for assessing a consumer's creditworthiness,
 - 1. assessment of a consumer's creditworthiness and the related regulations pursuant to Articles 86 and 89 of the Act.

III. Thematic areas of expertise necessary for the provision or intermediation of consumer credit for house purchase include:

- a) minimum expert knowledge of the financial market
 - 1. the financial market and its definition, role and importance,
 - 2. the rudiments of the theory of finance (the time value of money),
 - 3. financial mathematics (interest),
 - 4. the structure of the financial market (primary and secondary markets and money and capital markets),
 - 5. financial market participants (creditors, debtors, financial intermediaries),
 - 6. regulation and supervision of the financial market,
- b) the structure, entities and functioning of the market for consumer credit for house purchase
 - 1. consumer credit providers, independent intermediaries, tied agents, intermediaries of specific-purpose consumer credit, foreign intermediaries,
 - 2. the principles of a credit relationship and the basic parameters and obligations of contracting parties,
 - 3. debtor registers,
 - 4. consumer credit for house purchase (definition, link to purpose),
 - 5. the risks of consumer credit for house purchase,
- c) regulation of the market for consumer credit for house purchase
 - 1. legal rules in the area of consumer protection law,
 - 2. the rudiments of related financial market regulations, civil law (in particular credit contracts) and commercial law,
 - 3. certain requirements for the pursuit of business (in particular the rules for dealing with consumers' complaints pursuant to Article 15(2)(g) and Article 25 of the Act),

- 4. the rudiments of contractual law,
- 5. real estate purchase contracts,
- 6. liens,
- d) lending and the products of consumer credit for house purchase,
 - 1. the rules of conduct,
 - 1.1 the rules for the storage of documents and records pursuant to Article 78 of the Act,
 - 1.2 the rules for the prohibition of incentives pursuant to Article 79 of the Act,
 - 1.3 the information provided by a consumer and the rules for providing advice pursuant to Articles 84 and 85 of the Act,
 - 1.4 the information duties to the consumer pursuant to Articles 90 to 111 of the Act and consumer credit intermediation contracts pursuant to Articles 125 to 127 of the Act,
 - 1.5 the contractual terms pursuant to Articles 112 to 121 of the Act and the conditions of termination of an obligation pursuant to Articles 128 to 132 of the Act,
 - 2. payments related to consumer credit (interest, fees, commissions, the significance of the APRC),
 - 3. the rules of conduct towards consumers in default pursuant to Article 15(2)(h) of the Act (provision of information on default interest, default fees, credit contract refinancing, modifications of contract terms) and the procedure to be followed by a creditor in the event of default by a consumer pursuant to Articles 122 and 123 of the Act,
 - 4. the rules for enforcing claims pursuant to Article 15(2)(i) of the Act (distraint by a court or court distrainer),
 - 5. the options for resolving disputes arising from consumer credit provision (e.g. the Financial Arbitrator),
 - 6. the rudiments of tax issues related to the provision of consumer credit for house purchase,
- e) complementary services related to consumer credit for house purchase
 - 1. the rudiments of insurance, securing of consumer credit through insurance (life insurance, real estate insurance, insurance of the ability to repay consumer credit), assistance services,
 - 2. deposit accounts, payment accounts,
 - 3. the effect of complementary services related to consumer credit on the APRC,
 - 4. payment cards (in particular credit cards),
- f) the principles of the process for assessing a consumer's creditworthiness,
 - 1. assessment of a consumer's creditworthiness and the related regulations pursuant to Articles 86 and 89 of the Act,
- g) the principles of the procedure for, and manner of, the valuation of things, rights and other assets provided as collateral for consumer credit for house purchase,
 - 1. the rudiments of the rules and procedures for the acceptance and valuation of consumer credit collateral arising from this Act and other legal rules pursuant to Article 15(2)(d) of the Act,
 - 2. the rudiments of the valuation of immovable property pursuant to the Property Valuation Act,
- h) the real estate market
 - 1. mortgage loans and other collateral, additional collateral,
 - 2. changes to reference interest rates for mortgage loans with floating interest rates; negative amortisations; balloon payments and deferred principal or interest payments,
 - 3. building savings schemes (building savings contracts, state support),
 - 4. the rudiments of the legislation governing real estate set forth in the Civil Code,
 - 5. foreign currency loans (in particular their risks),

- i) the set-up and functioning of the property cadastre
 - 1. basic knowledge of the Cadastral Act,
 - 2. the types of rights entries in the cadastre and cadastral proceedings.