

Content of question:

Which dependence between the risk profile of the obligor and the cash flow generated by the underlying property serving as collateral is considered material and how shall those cases where the owner is a housing cooperative or a community of dwelling unit owners be assessed?

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Approved by: **Pavel Vacek**

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Piece of law	Decree No. 123/2007 Coll.
Provision	Annex 15, A, II, 1, b), 2 Annex 4, 9, A, c), 2
Explanation	<p>Material dependence has been further specified neither by the Decree nor by the relevant Directive thus far. The approach remains up to the judgement of the liable entity which possesses relevant information on its obligors, including the evaluation of their risk profile and their ability to repay the loan. Just as in the case of other approaches applied in keeping with the above mentioned Decree, it is necessary to point out that the selected approach must be applied consistently over time.</p> <p>The issue of correlation has also been addressed by the Capital Requirements Directive Transposition Group (CRDTG) – its final standpoint is available under No. 209 on the European Commission's website (http://ec.europa.eu/internal_market/bank/regcapital/transposition_en.htm).</p> <p>If the income from letting a property is the sole income of a given obligor the condition pursuant to Annex 15, A, II, 1, b), 2 cannot be regarded as fulfilled. However, if there were, additionally to the income from the pledged properties, a sufficient income generated by some other property not legally pledged in favour of the creditor – the liable entity the condition could be deemed fulfilled until the time of establishing a legal burden, or if establishing a legal burden were out of the question.</p> <p>In the case of a community of dwelling unit owners this community is a legal entity; however, it is not a property owner. Therefore, pledging property would only be possible on the part of third parties – the owners. As a rule, the units' owners' contributions represent the community's predominant source of income and the income of the community is thus dependent on the incomes of the owners and not on an income generated by the pledged property.</p> <p>In the case of a housing cooperative the cooperative is an owner of the property which is occupied by the cooperative's members (usually tenants) or third parties (subtenants). In respect of recognising the property as eligible collateral the condition of the independence between the ability to service the</p>

	debt and the income generated by the property would have to be fulfilled.
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