

**THIS TEXT IS UNOFFICIAL TRANSLATION AND MAY NOT BE USED AS A BASIS FOR SOLVING ANY DISPUTE**

- Official Gazette of the Republic of Slovenia, No. 9/17 of 24 February 2017 (in force since 25 February 2017)

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Pursuant to the sixth paragraph of Article 63 of the Consumer Credit Act (Official Gazette of the Republic of Slovenia, No. 77/16; hereinafter: the ZPotK-2), and the third paragraph of Article 13 and the first paragraph of Article 31 of the Bank of Slovenia Act (Official Gazette of the Republic of Slovenia, Nos. 72/06 [official consolidated version] and 59/11), the Governing Board of the Bank of Slovenia hereby issues the following

**REGULATION**

**on the conditions for consumer credit intermediation for immovable property or the provision of advisory services in connection with such credit**

**1. GENERAL PROVISIONS**

**Article 1  
(content and application of regulation)**

- (1) This regulation sets out in detail:
- (a) the spatial, organisational, technical and other conditions that must be met by a credit intermediary for consumer credit intermediation for immovable property or the provision of advisory services in connection with such credit,
  - (b) the documentation and data that shall be submitted to the Bank of Slovenia in the application for obtaining or renewing an authorisation to intermediate consumer credits for immovable property or to provide advisory services in connection with such credit (hereinafter: authorisation),
  - (c) the administration of credit intermediaries' records of transactions concluded via intermediation, and
  - (d) the administration by banks and savings banks (hereinafter: banks) of records of intermediation agreements concluded with their credit intermediaries and consumer credit agreements for immovable property concluded via the intermediation of credit intermediaries.
- (2) The provisions of this regulation shall apply to credit intermediaries who provide services of consumer credit intermediation for immovable property or advisory services in connection with such credit on the basis of an intermediation agreement concluded with one of the following creditors:
- a bank that holds an authorisation to provide financial leasing services (leasing, renting) referred to in point 3 of the second paragraph of Article 5 of the Banking Act (Official Gazette of the Republic of Slovenia, Nos. 25/15, 44/16 [ZRPPB] and 77/16 [ZCKR]; hereinafter: the ZBan-2) and to grant mortgage loans referred to in the second indent of point 2 of the second paragraph of Article 5 of the ZBan-2 when such services are being provided in connection with immovable property for consumers;
  - a financial institution whose exclusive or principal business activities comprise the provision of financial leasing services in accordance with the ZBan-2 and in which a bank or a Member State bank holds at least 20% of the voting rights or at least 20% of the capital, or whose total assets amounted to at least EUR 50,000,000 at end of the previous financial

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year, and that has obtained a Bank of Slovenia authorisation to provide financial leasing services for immovable property in the territory of the Republic of Slovenia.

(3) Wherever this regulation makes reference to the provisions of other regulations, these provisions shall apply in their wording applicable at the time in question.

**Article 2  
(definition of terms)**

- (1) The terms used in this regulation are the same as those defined in the ZPotK-2 and the ZBan-2.
- (2) A credit intermediary in an ancillary capacity referred to in point 15 of Article 2 of the ZPotK-2 who provides services of consumer credit intermediation for immovable property or advisory services in connection with such credit shall also be deemed a credit intermediary.

**2. CONDITIONS FOR CONSUMER CREDIT INTERMEDIATION FOR IMMOVABLE PROPERTY OR PROVISION OF ADVISORY SERVICES IN CONNECTION WITH SUCH CREDIT**

**Article 3  
(intermediation agreement of consumer credit for immovable property)**

- (1) A credit intermediary may only provide services of consumer credit intermediation for immovable property or advisory services in connection with such credit on the basis of a written intermediation agreement of consumer credit for immovable property (hereinafter: intermediation agreement) concluded with a creditor referred to in the second paragraph of Article 1 of this regulation.
- (2) A determination of the scope of the responsibilities of the creditor and the credit intermediary in transgressing the scope of the credit intermediary's authorities referred to in the first paragraph of Article 4 of this regulation is a mandatory integral part of the agreement referred to in the first paragraph of this article.
- (3) In the event of the transgression of the credit intermediary's authorities, and should damage be incurred by the consumer during the provision of services of consumer credit intermediation for immovable property, the creditor and the credit intermediary shall be jointly and severally liable.

**Article 4  
(credit intermediary's authority to intermediate consumer credits for immovable property or to provide advisory services in connection with such credit)**

- (1) In the intermediation agreement referred to in the first paragraph of Article 3 of this regulation, the creditor and the credit intermediary acting therefor shall set out the scope of the authorities of the credit intermediary, in particular defining:

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- whether the intermediary presents and offers consumer credits for immovable property and/or assists in procedures before the conclusion of a credit agreement, whereby a consumer credit agreement for immovable property is concluded with consumers by the creditor, or
- whether the intermediary concludes consumer credit agreements for immovable property on behalf of the creditor, or
- whether the intermediary provides advisory services in connection with such credit.

(2) In addition to the authorities referred to in the first paragraph of this article, the creditor and a credit intermediary acting therefor shall also define in the agreement referred to in the first paragraph of Article 3 of this regulation the obligations in connection with consumer lending for immovable property or the provision of advisory services in connection with such credit that the creditor may transfer to the credit intermediary, and shall agree the method of communication for the exchange of information between the two in connection with the exercise of the authorities referred to in the first paragraph of this article.

(3) A credit intermediary for consumer credit intermediation for immovable property may neither solicit nor accept the settlement of the consumer's money liabilities for the account of the creditor for which his/she/it is acting.

**Article 5  
(conditions and qualifications for staff)**

For the performance of tasks in connection with the intermediation of consumer credits for immovable property or the provision of advisory services in connection with such credit, a credit intermediary shall hold a contract concluded with at least one person who has at least three years of working experience in providing lending or financial leasing services as defined in the ZBan-2.

**Article 6  
(technical and spatial conditions)**

(1) The business premises of a credit intermediary shall have a separate space that provides the consumer with the requisite level of privacy.

(2) A sign bearing the credit intermediary's business name and registered office or name and address shall be displayed in a visible location at the entrance to the business premises.

(3) A residential property may not be used as business premises.

(4) The business premises shall be equipped in a manner to provide for the safe, uninterrupted provision of the processes of consumer credit intermediation for immovable property or provision of advisory services in connection with such credit, and to allow the competent authorities to inspect and monitor the operations of the credit intermediary.

(5) The credit intermediary shall have at his/her/its disposal the requisite information technology support to allow in particular for the administration of records of transactions concluded via intermediation, and to provide pre-contractual information and other obligations on the basis of the ZPotK-2.

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**Article 7  
(organisational conditions)**

(1) A credit intermediary shall via internal rules set out the decision-making procedure and shall define persons' responsibilities in making decisions in individual work processes within the framework of the provision of services of consumer credit intermediation for immovable property or the provision of advisory services in connection with such credit with regard to the extent and range of consumer credits for immovable property.

(2) The credit intermediary shall put in place procedures and measures for protection of personal data in accordance with the law governing personal data protection. The protection of their personal data shall be ensured for consumers in all phases of the business process.

**Article 8  
(business units)**

(1) A credit intermediary may also provide services of consumer credit intermediation for immovable property or advisory services in connection with such credit at regionally separate business units, provided that the conditions set out in the second paragraph of Article 63 of the ZPotK-2 and the conditions set out in Articles 5 and 6 of this regulation are met.

(2) A credit intermediary who, after obtaining an authorisation, intends to open a new business unit in which he/she/it intends to provide services of consumer credit intermediation for immovable property or advisory services in connection with such credit shall inform the Bank of Slovenia accordingly in advance, and shall submit the documentation referred to in the first paragraph of Article 9 of this regulation relating to the fulfilment of the conditions set out in the second paragraph of Article 63 of the ZPotK-2 and the conditions set out in Articles 5 and 6 of this regulation.

**3. APPLICATION FOR AUTHORISATION**

**Article 9  
(application to obtain or renew authorisation)**

(1) An application to obtain or renew an authorisation shall be addressed in writing to the Bank of Slovenia by the credit intermediary or applicant, whereby the following information and evidence of the fulfilment of the requirements set out in the second paragraph of Article 63 of the ZPotK-2 shall in particular be submitted:

- (a) the business name or name, registered office or address, registration number and tax identification number, and code number of the principal business activity of the legal person or sole trader in question (hereinafter: the credit intermediary or applicant);
- (b) the memorandum of association or other relevant document;
- (c) the first names and surnames of the members of the senior management of the credit intermediary or applicant;
- (d) the first name and surname of the procurator of the credit intermediary or applicant;
- (e) a list of the persons authorised to represent the credit intermediary or applicant in statutory matters;
- (f) an extract from the companies register or another relevant public register from which the information entered in the register is evident;

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- (g) an indication of the services that the credit intermediary or applicant intends to provide within the framework of the authorisation, namely for:
  - the presentation or offering of consumer credits for immovable property, and/or
  - the provision of assistance in preparatory or pre-contractual administrative work, and/or
  - the conclusion of consumer credit agreements for immovable property on behalf of the creditor, and/or
  - the provision of advisory services in connection with such credit;
- (h) an indication whether the credit intermediary is or will be tied to one or several creditors, and if so, evidence that the creditor take full and unconditional responsibility for the activities of the credit intermediary;
- (i) a list of all creditors for whom the credit intermediary is acting or intends to act as an intermediary, together with a copy of the intermediation agreement concluded with the creditor or with all the creditors for whom the credit intermediary is acting or intends to act as an intermediary;
- (j) an indication of the Member States in which the credit intermediary, either directly or through a branch, acts as an intermediary for consumer credits for immovable property or provides advisory services in connection with such credit, or in which he/she/it intends to provide the aforementioned services;
- (k) documentation from which the fulfilment of the conditions with regard to the requisite knowledge and competence of the credit intermediary's staff and senior management in accordance with the fourth paragraph of Article 62 of the ZPotK-2 is evident:
  - evidence of the provision of training to staff and senior management in accordance with the training programme set out by the Bank Association of Slovenia;
  - evidence of the requisite knowledge and competence on the part of staff and senior management in the area of business with consumers who get into difficulties in connection with arrears in payments of past-due liabilities from credit agreements for immovable property;
  - the staff training plan in accordance with the training programme set out by the Bank Association of Slovenia;
- (l) documentation from which the fulfilment of the requirements with regard to remuneration policy set out in the third paragraph of Article 62 of the ZPotK-2 is evident;
- (m) documentation from which the fulfilment of the conditions set out in Section 2 of this regulation at individual business units is evident:
  - the address of the business unit or business units where services of consumer credit intermediation for immovable property or advisory services in connection with such credit will be provided,
  - documentation from which the total number of employees and number of persons who will perform tasks in connection with consumer credit intermediation for immovable property or provision of advisory services in connection with such credit, including evidence of their working experience;
  - a description of the business premises with a floorplan, and evidence of the right to disposal of the business premises for each business unit;
  - evidence of the sign bearing the credit intermediary's business name and registered office or name and address that is displayed in a visible location at the entrance to the business premises (e.g. a photograph of a nameplate with an inscription);
  - a statement that consumer credit intermediation for immovable property and the provision of advisory services in connection with such credit are not being pursued in a residential property;
  - a substantiated statement that the business premises are equipped in a manner to provide for the safe, uninterrupted provision of the processes of consumer credit intermediation for

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- immovable property or provision of advisory services in connection with such credit, and to allow the competent authorities to inspect and monitor the operations of the credit intermediary;
- evidence that the credit intermediary has at his/her/its disposal the requisite information technology support to provide for the administration of records of transactions concluded via intermediation, and to provide pre-contractual information and other obligations on the basis of the ZPotK-2, including information about hardware and software;
  - internal rules or other documentation (e.g. an organigram) that clearly discloses the organisation of the business process of consumer credit intermediation for immovable property or the provision of advisory services in connection with such credit, the decision-making procedures, a definition of the responsibilities of the persons who will provide services of consumer credit intermediation for immovable property or advisory services in connection with such credit, and will take decisions in individual work processes within the framework of the provision of such services with regard to the extent and range of consumer credits for immovable property, and the other work tasks of these persons;
  - documentation from which the procedures and measures for protection of personal data in accordance with the law governing personal data protection are evident;
- (n) the general terms and conditions and other bylaws, where they exist, based on which consumer credit intermediation for immovable property and advisory services in connection with such credit are provided;
- (o) evidence of the designation of one of more providers of alternative dispute resolution designated by the credit intermediary or applicant for resolving consumer disputes in accordance with Article 93 of the ZPotK-2 (e.g. an agreement concluded with the provider);
- (p) documentation from which it is evident that the credit intermediary or applicant has concluded a professional indemnity insurance policy covering the territory in which he/she/it is acting as an intermediary for consumer credits for immovable property, in the amount set out by Commission Delegated Regulation (EU) No 1125/2014 of 19 September 2014 supplementing Directive 2014/17/EU of the European Parliament and of the Council with regard to regulatory technical standards on the minimum monetary amount of the professional indemnity insurance or comparable guarantee to be held by credit intermediaries (OJ L 305, of 24 October 2014, p 1);
- (r) an extract from the criminal records or other evidence from which it is evident that the credit intermediary or applicant, and the members of the senior management and the procurator of the credit intermediary or applicant:
- have not been convicted *res judicata* of a criminal offence of an economic nature, a criminal offence involving legal transactions or a criminal offence against property, or other relevant evidence when such records do not exist;
  - have not been charged with a criminal offence prosecuted *ex officio* for which a prison sentence of a year or more may be imposed;
- (s) evidence that personal bankruptcy proceedings have not been initiated against the assets of the credit intermediary or applicant, or the members of the senior management and the procurator of the credit intermediary or applicant;
- (t) evidence that the credit intermediary or applicant, and the members of the senior management and the procurator of the credit intermediary or applicant have never been sanctioned in accordance with Article 94 of the ZPotK-2;
- (u) a statement by the credit intermediary or applicant that the consumer credit intermediation for immovable property does not contravene other regulations, in particular the law governing consumer protection and the law governing consumer protection from unfair business practices;
- (v) the consent of the credit intermediary or applicant that for the purposes of this procedure and supervision in accordance with the ZPotK-2 he/she/it permits the official records to be viewed, and data obtained, with regard to the fulfilment of the conditions for the provision of services of

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consumer credit intermediation for immovable property or advisory services in connection with such credit.

(2) In the event of a misdemeanour committed pursuant to Articles 95 or 96 of the ZPotK-2, the credit intermediary or applicant shall enclose evidence of the payment of the fine or the costs of the proceedings for the misdemeanour committed in the application to obtain or renew the authorisation in accordance with the third paragraph of Article 63 of the ZPotK-2.

**Article 10  
(notification of the Bank of Slovenia)**

(1) The credit intermediary shall notify the Bank of Slovenia of any changes in the information referred to in the third paragraph of Article 64 of the ZPotK-2, and any other changes that could affect the fulfilment of the requirements set out in the second paragraph of Article 63 of the ZPotK-2. The requisite documentation and evidence referred to in Article 9 of this regulation shall be enclosed in the notification referred to in the first sentence of this paragraph. The credit intermediary shall notify the Bank of Slovenia of the changes within five business days of their occurrence, with the exception of the information referred to in the third paragraph of Article 64 of the ZPotK-2, which shall be submitted by the deadline set out in the fifth paragraph of Article 64 of the ZPotK-2.

(2) The credit intermediary shall also notify the Bank of Slovenia if he/she/it has not acted as an intermediary of consumer credits for immovable property or provided advisory services in connection with such credit in the last six months. The credit intermediary shall notify the Bank of Slovenia accordingly within 15 days of six months having elapsed since the last provision of the aforementioned services.

**4. ADMINISTRATION OF RECORDS**

**Article 11  
(administration of records of credit intermediary)**

(1) A credit intermediary shall administer a record of the type and number of consumer credit agreements for immovable property concluded via his/her/its intermediation on the basis of agreed authorities referred to in the second indent of the first paragraph of Article 4 of this regulation, and on the amount of credit granted under such agreements, separately for each creditor for which he/she/it acts.

(2) The credit intermediary shall archive the record referred to in the first paragraph of this article for at least four years after the end of the financial year to which it relates.

**Article 12  
(administration of records of bank)**

(1) On its website a bank shall publish and regularly update a list of its credit intermediaries for consumer credits for immovable property that at a minimum encompasses the registration number and business name or first name and surname, and the registered office or the address of the individual

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credit intermediary, or a statement that it does not operate via credit intermediaries for consumer credits for immovable property.

- (2) The bank shall administer records of:
- all intermediation agreements concluded with its credit intermediaries for consumer credits for immovable property, amendments thereto, or the expiry thereof, and
  - the type and number of consumer credit agreements for immovable property concluded via its credit intermediaries, and the amount of credit granted under such agreements, separately for each credit intermediary with whom it cooperates.
- (3) The bank shall archive the records referred to in the second paragraph of this article for at least four years after the end of the financial year to which they relate.

**5. TRANSITIONAL AND FINAL PROVISIONS**

**Article 13  
(transitional provision)**

The credit intermediary or applicant shall enclose the following in the application referred to in the first paragraph of Article 9 of this regulation:

- a plan for ensuring the requisite level of knowledge and competence on the part of staff and a staff training plan in accordance with Article 102 of the ZPotK-2, and
- a plan for meeting the requirement set out in Article 103 of the ZPotK-2.

**Article 14  
(entry into force)**

This regulation shall enter into force on the day after its publication in the Official Gazette of the Republic of Slovenia, and shall begin to be applied on 3 March 2017.

Ljubljana, 21 February 2017

Dr Primož Dolenc  
Deputy-President,  
Governing Board of the Bank of  
Slovenia