

Regulatory News Alert

CSSF circular informing on the entry into force of the Law on Mortgage Credit

8 March 2017

Background

Following our previous alert on the publication of the Law of 23 December 2016, implementing the EU Mortgage Credit Directive, the CSSF issued a circular (17/651) to present the main provisions introduced by the Law and in particular the new Chapter 6 of the Consumer Code.

This CSSF Circular also intends to spread awareness on the entry into force of some EBA guidelines published in 2015 (cf. links below).

Scope of application

Chapter 6 of the Consumer Code applies to :

- Credit contracts secured either by a mortgage, or by an equivalent security on immovable property for residential use, or by a right related to immovable property for residential use; and
- Credit contracts for the purpose of acquiring or retaining property rights in land or in an existing or projected building

The scope is limited to credit agreements concluded with consumers, i.e. with natural persons who are acting outside their trade, business or profession.

Marketing approach: “Representative example” (Art. L.226-6)

Article L.226-6 of the Consumer Code provides that all the marketing materials regarding mortgage credit contracts, disclosing an interest rate or figures relating to the credit cost for the consumer should mention in a clear, concise and prominent way some basic information. Such information should be given by means of a representative example (Article L.226-6(2)).

The CSSF provides more detailed requirements that the illustrative case has to include:

- Total amount of credit and the duration of the credit agreement
- Total amount of the credit agreement should be at least equal to EUR 50,000 or a multiple of this amount and should not exceed EUR 800,000
- Duration of reimbursement should be equal to 5 years or to a multiple of 5 without exceeding 30 years
- Advertisement must specify that the representative case will serve as an example
- Provisions of the example shall be labelled in characters of a font size at least the same size as the one used for the other information of the advertisement
- The example shall be contained in the body of the main text of the advertisement and cannot be in a footnote

EBA Guidelines

Some Guidelines issued by the EBA in 2015 regarding Mortgage Credit Directive entered into force and clarified some provisions of the Directive such as:

- Creditworthiness assessment performed by creditors (e.g. verification of consumer financial data, information storage) ([EBA/GL/2015/11](#))
- Arrears and foreclosure (e.g. forbearance before foreclosure proceedings, interaction with the consumer) ([EBA/GL/2015/12](#))
- Passport notifications for credit intermediaries under the Mortgage Credit Directive (e.g. freedom to provide services, information requirements) ([EBA/GL/2015/19](#))
- Product oversight and governance arrangements for retail banking products (e.g. product design and distribution by manufacturers and distributors) ([EBA/GL/2015/18](#))

Credit Intermediary license

We also would like to highlight the fact that a license to conduct the activity of mortgage credit intermediary is now required. The license will be provided by the Ministry of Finance following the approval of the CSSF. The applicants have to demonstrate their professional reputation and appropriate knowledge in the area of mortgage credit.

Credit mortgage intermediaries pursuing this activity prior to the entry into force of the law have until 21 March 2017 to be compliant.

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