

Finansinspektionen's Regulatory Code

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Finansinspektionen's Regulations and General Guidelines on Certain Consumer Credit-related Operations;

decided on 16 June 2014.

Finansinspektionen prescribes the following pursuant to section 6 of the Certain Consumer Credit-related Operations Ordinance (2014:669).

Below the paragraphed regulations, Finansinspektionen provides *General Guidelines*.

Chapter 1 Scope and definitions

Scope

Section 1 These regulations apply to such undertakings that apply for authorisation to conduct operations or that conduct operations pursuant to the Certain Consumer Credit-related Operations Act (2014:275).

The provisions in Chapter 2, sections 3, 4 and 7 and Chapter 3, however, do not apply to foreign undertakings.

The regulations contain provisions regarding:

- applications for authorisation to conduct certain consumer credit-related operations (Chapter 2),
- ownership and management assessment (Chapter 3),
- other information that must be reported (Chapter 4),
- requirements regarding operations (Chapter 5), and
- reporting of information (Chapter 6).

Definitions

Section 2 The terms and expressions contained in these regulations and general guidelines have the same meaning as in the Certain Consumer Credit-related Operations Act (2014:275).

Chapter 2 Applications for authorisation to conduct certain consumer credit-related operations

Section 1 This chapter contains provisions governing the information that must be provided to Finansinspektionen by an undertaking applying for authorisation and approval of its articles of association or by-laws.

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General guidelines

Undertakings should use the application form available on Finansinspektionen's website.

Section 2 In its application an undertaking shall state its name, company registration number and address of business. The application shall be signed by an authorised signatory of the undertaking.

Ownership

Section 3 In its application an undertaking shall provide a description of its ownership structure.

The undertaking shall also append to the application the information for the ownership assessment set out in Chapter 3, section 2.

Where the undertaking belongs to the same group as another undertaking that conducts certain consumer credit-related operations, deposit institutions, electronic money institutions, payment institutions, credit institutions, investment firms, fund management companies, insurance undertakings or AIF managers, the names and company registration numbers of these undertakings shall be provided.

General guidelines

The undertaking may provide a general description of the ownership structure, for example, by providing an outline of the ownership or group that states the names and personal identification numbers/company registration numbers and ownership stakes.

Management list

Section 4 An undertaking's application shall include information about the members and, if any, alternate members of its board of directors and identify the chairman of the board of directors. The undertaking shall also identify the managing director or equivalent if such a position has been appointed and this person's deputy managing director, if applicable.

The undertaking shall also append the management assessment information pursuant to Chapter 3, section 3 for the persons identified in the first paragraph.

Financing of operations

Section 5 An undertaking's application shall provide details of how it intends to finance its consumer credit-related operations.

Ongoing judicial or arbitration proceedings

Section 6 An undertaking shall state in its application if it is a party to an ongoing judicial or arbitration proceeding that could result in financial uncertainty and risk for the undertaking's consumer credit-related operations, and if it is, describe the circumstances.

Articles of association or by-laws

Section 7 An undertaking shall append to its application its articles of association or its by-laws.

Business plan

Section 8 In its application an undertaking shall append a business plan prepared in accordance with sections 9–14.

The undertaking's operations

Section 9 An undertaking's business plan shall provide a detailed description of:

1. how it intends to conduct consumer credit-related operations,
2. the intended market and target group,
3. how it intends to receive loan applications,
4. the lender's estimated lead times from loan application to payment of the loan, and
5. flow charts demonstrating the administrative processes in place for the consumer credit-related operations.

Organisation

Section 10 The business plan shall include a schematic overview of how the operations of the undertaking will be organised. The overview shall specify who is responsible for each area or function.

The business plan shall also include a description of the various areas or functions within the undertaking conducting consumer credit-related operations and a general account of the activities carried out within each area/function.

Related services and other operations

Section 11 An undertaking's application shall also give relevant details of whether it provides or intends to provide related services and conduct operations other than those regarding certain consumer credit-related operations. In particular, an undertaking's business plan shall provide details of such operations and their scope.

The undertaking shall also state how it safeguards its financial soundness and ensures that Finansinspektionen's possibilities to exercise supervision of the undertaking are not impaired by the provision of or intention to conduct operations other than those concerning certain consumer credit-related operations.

Outsourcing agreements

Section 12 An undertaking's business plan shall provide information on whether it has outsourced or intends to outsource to a third party a certain task or certain operational functions that are part of its consumer credit-related operations. An undertaking shall also provide information on to whom such task was provided or intended to be provided, and details of the scope of the outsourced task.

Sound business practices

Section 13 An undertaking's business plan shall provide details of how the undertaking fulfils the requirements on sound business practices in accordance with Chapter 5.

Cross-border operations

Section 14 An undertaking's business plan shall provide details of how it intends to conduct certain consumer credit-related operations in other countries. In such cases, the undertaking shall also state the country in which it intends to conduct such operations and append a plan for such operations regarding the organisation, address and responsible managers of the branch in question.

Internal rules to combat money laundering and terrorist financing

Section 15 In its application, an undertaking shall append its procedures, etc. in accordance with Chapter 3, section 2 of Finansinspektionen's regulations and general guidelines governing measures against money laundering and terrorist financing (FFFS 2009:1).

The undertaking shall also provide details of its risk assessment in accordance with Chapter 2, section 3 of the same regulations.

Internal rules on lending

Section 16 In its application, an undertaking shall append its internal rules on lending in accordance with Chapter 5, section 2.

Chapter 3 Ownership and management assessment

Section 1 The provisions in this chapter specify the information that shall be submitted to Finansinspektionen in conjunction with an ownership or management assessment.

Ownership assessment

Section 2 An application for permission to acquire or increase a qualifying holding in an institution that conducts certain consumer credit-related operations shall be submitted in accordance with Finansinspektionen's regulations (FFFS 2009:3) governing ownership and management assessment.

Management assessment

Section 3 A notification about a change to an undertaking's board of directors or senior management must be made pursuant to Finansinspektionen's regulations (FFFS 2009:3) governing ownership and management assessment.

Chapter 4 Other information that must be reported

Section 1 In accordance with section 14 of the Certain Consumer Credit-related Operations Act (2014:275), in its notification an undertaking shall provide details of the outsourcing agreements set out in Chapter 2, section 12.

The undertaking shall submit a notification to Finansinspektionen no later than one month before the agreement will enter into force.

Related services and other operations

Section 2 An undertaking that intends to provide or change related services or operations other than those regulated by these regulations shall notify Finansinspektionen thereof. Notifications shall contain the information set out in Chapter 2, section 11.

The undertaking shall submit a notification in accordance with the first paragraph no later than one month before the planned change.

Chapter 5. Requirements regarding operations

Section 1 The provisions of this chapter stipulate the requirements that an undertaking must fulfil in order for its operations to be deemed sound in accordance with section 12 of the Certain Consumer Credit-related Operations Act (2014:275).

Internal rules on lending

Section 2 An undertaking's board of directors shall establish written internal rules on lending that clearly specify when decisions on providing loans can be taken within the undertaking.

These internal rules shall include information regarding:

1. Decision-making levels within the undertaking in order to grant loans and the conditions under which a loan may be granted,
2. credit limits,
3. the undertaking's procedure for changes to the terms of a loan agreement,
4. what information about the loans granted shall be reported to the undertaking's board of directors,
5. the undertaking's procedure for conducting credit assessments in accordance with the Consumer Credit Act (2010:1846),
6. how lending shall be documented in accordance with section 3,
7. how granted loans are to be monitored and followed up in accordance with section 4, and
8. how the undertaking intends to manage defaulted credits in accordance with section 5.

If the undertaking only mediates loans, it shall establish internal rules for mediating loans in accordance with paragraph 2, points 5-7.

General guidelines

The undertaking's internal rules should specify that loan decisions may not be taken by a lone decision-maker.

Documentation requirements

Section 3 An undertaking shall document information relating to a loan in such a way that the loan can be monitored. Loan decisions and the undertaking's monitoring in accordance with section 5 shall always be included in loan files.

If the borrower pledges collateral, the undertaking shall value such collateral and document the valuation in the loan file and inform the borrower of the valuation. If necessary, the undertaking shall perform a revaluation of the collateral.

The loan file must be kept securely, either electronically or in hard copy, and be easy to access and identify.

Obligation to monitor loans

Section 4 An undertaking shall have systems and procedures for monitoring and following up individual loans. If necessary, the undertaking shall adjust its assessment of the borrower's repayment ability and risk development.

The undertaking shall also have systems to follow up on its overall credit exposure and provide regular reports about risk development to the undertaking's board of directors.

Past-due credits

Section 5 An undertaking that provides loans to consumers shall have procedures for managing past-due credits. Such procedures shall include, among other factors, the undertaking's payment reminder process, receivables recovery process and the undertaking's management of receivables impairment and depreciation.

Certain variable remuneration

Section 6 An undertaking that provides loans to consumers may not permit variable remuneration to employees or directors to be affected by the number of loans granted or by the total granted loan volume.

Handling complaints

Section 7 An undertaking shall maintain effective and openly reported procedures for the prompt and reasonable handling of complaints about its operations.

The undertaking shall keep a record of each complaint and the measures taken for its resolution.

Exceptions

Section 8 Finansinspektionen may grant exemptions from the provisions in section 6, where special grounds exist.

Chapter 6 Reporting of information

Section 1 This chapter contains provisions governing the information that an undertaking shall report to Finansinspektionen.

Commenced operations

Section 2 An undertaking that is authorised under the Certain Consumer Credit-related Operations Act (2014:275) shall inform Finansinspektionen in writing when it commences consumer credit operations.

Material changes to the operations

Section 3 An undertaking shall continually update the business plan with the changes that take place in its operations.

The undertaking shall notify Finansinspektionen as soon as possible about changes to the business plan or the internal rules on lending that are of material significance.

Duty to inform due to auditor measures

Section 4 If an auditor at an undertaking that conducts certain consumer credit-related operations takes such measures as specified in Chapter 9, sections 43 and 44 of the Companies Act (2005:551), the undertaking shall promptly inform Finansinspektionen thereof.

Information reported to Finansinspektionen

Section 5 An undertaking shall report to Finansinspektionen, as of the balance sheet dates 31 March, 30 June, 30 September and 31 December, information regarding:

- the volume of loans,
- the volume of mediated loans,
- the number of loans,
- the number of customers,
- interest income,
- fee income,
- the number of non-performing loans,
- the number of applications for payment injunctions to the Swedish Enforcement Authority, and
- credit losses.

Information shall be submitted via Finansinspektionen's online periodic reporting service on its website according to the instructions provided there.

When translating into a currency other than Swedish krona, the spot rate that applies on the balance sheet date shall be used.

Section 6 Finansinspektionen shall have received the information in accordance with section 5 no later than 30 April, 10 August, 31 October and 31 January for the previous quarter.

With regard to the annual accounts, Finansinspektionen shall have received the information no later than the twentieth day of the second month following the

balance sheet date. If the annual financial statements do not coincide with any of the balance sheet dates, the information shall be reported on the reporting date immediately following the year-end financial statements.

Section 7 Finansinspektionen may decide on exemptions from the provisions set out in sections 5 and 6, if special grounds exist.

These regulations and general guidelines enter into force on 1 July 2014.

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