

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

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Pursuant to the sixth paragraph of Article 67, the second paragraph of Article 68 and the third paragraph of Article 70 of the Consumer Credit Act (Official Gazette of the Republic of Slovenia, No. 77/16; hereinafter: the ZPotK-2), point 2 of Article 107 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 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 the provision of services of consumer lending for immovable property

1. GENERAL PROVISIONS

**Article 1
(content of regulation)**

- (1) This regulation sets out in detail:
 - (a) the spatial, organisational and technical conditions, the conditions with regard to a transparent and stable ownership structure, and the other conditions that must be met by a provider of consumer credit in the form of financial leasing of immovable property (hereinafter: creditor);
 - (b) the documentation and data that shall be enclosed in the application for a Bank of Slovenia authorisation to provide financial leasing services for immovable property or to provide advisory services in connection with credit for immovable property in the territory of the Republic of Slovenia (hereinafter: authorisation);
 - (c) the form and content of the label by means of which a creditor proves that the authorisation has been obtained, the rules of conduct regarding the label, and the rules regarding the acquisition of new or additional labels and the return of labels;
 - (d) the administration of records of credit agreements concluded and effective interest rates agreed, records of credit intermediaries and transactions concluded via intermediation; and
 - (e) the content and method of reporting to the Bank of Slovenia.
- (2) The provisions of this regulation shall apply to creditors referred to in the fourth indent of the first paragraph of Article 58 of the ZPotK-2.
- (3) The provisions of Sections 2 and 3 of this regulation shall apply *mutatis mutandis* to banks and savings banks (hereinafter: banks) that hold or intend to obtain an authorisation to provide financial leasing services (leasing, renting) referred to in point 3 of the second paragraph of Article 5 of the ZBan-2 and to provide 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 or are to be provided in connection with immovable property for consumers.

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(4) 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) For the purposes of this regulation, the provision of services of consumer lending in the form of financial leasing of immovable property shall also include the provision of advisory services in connection with credit for immovable property referred to in Section 3.2.5 of the ZPotK-2.

2. CONDITIONS FOR CONSUMER LENDING IN THE FORM OF FINANCIAL LEASING OF IMMOVABLE PROPERTY

**Article 3
(conditions and qualifications for staff)**

- (1) A creditor shall have a person responsible for the management and correctness of the business process of consumer lending in the form of financial leasing of immovable property (hereinafter: responsible person), who shall have a qualification from a programme of four-year professional tertiary studies of the first level in accordance with the law governing higher education, and at least four years of working experience in the area of financial services as defined in the ZBan-2.
- (2) Persons who provide services of consumer lending in the form of financial leasing of immovable property shall have at least three years of working experience in the provision of lending or financial leasing services as defined in the ZBan-2.

**Article 4
(technical and spatial conditions)**

- (1) The business premises of a creditor shall have a separate space that provides the consumer with the requisite level of privacy.
- (2) A sign bearing the creditor's business name and registered office 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 lending in the form of financial leasing of immovable property, and to allow the competent authorities to inspect and monitor the operations of the creditor.
- (5) The creditor shall have at its disposal the requisite information technology support to allow in particular for the administration of the records set out in the first paragraph of Article 12 of this

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regulation, and to provide pre-contractual information and other obligations on the basis of the ZPotK-2.

**Article 5
(organisational conditions)**

- (1) A creditor 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 lending in the form of financial leasing of immovable property.
- (2) The creditor shall via internal rules set out the procedures in connection with the provision of services of consumer lending in the form of financial leasing of immovable property, which shall in particular include:
 - (a) the formulation of an assessment of the creditworthiness of the consumer and the valuation of immovable property in accordance with the ZPotK-2,
 - (b) the formulation of an internal lending proposal for the consumer with all the requisite documentation submitted by the consumer,
 - (c) the approval of the lending proposal, and the powers in granting consumer credits for immovable property,
 - (d) the conclusion of the credit agreement, the monitoring of payments of liabilities as they fall due, and the archiving of documentation, and
 - (e) the formulation of recommendations for consumers within the framework of the provision of advisory services set out in Section 3.2.5 of the ZPotK-2.
- (3) The creditor 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 6
(business units)**

A creditor may also provide services of consumer lending in the form of financial leasing of immovable property at regionally separate business units, provided that the conditions set out in the second paragraph of Article 67 of the ZPotK-2 and the conditions set out in the second paragraph of Article 3 and Article 4 of this regulation are met.

**Article 7
(transparent and stable ownership structure)**

- (1) A creditor shall have a transparent and stable ownership structure.
- (2) A transparent ownership structure means that there are clear links between the creditor and the other parties related thereto via ownership of at least 20% of the capital or via the holding of at least 20% of the voting rights, or via another type of link that provides for significant influence over the governance of the creditor.

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(3) A stable ownership structure means that there are no potential shareholder agreements or other links between owners that could have an adverse influence on the governance of the creditor.

3. APPLICATION FOR AUTHORISATION

Article 8

(application to obtain authorisation)

(1) An application to obtain an authorisation shall be addressed in writing to the Bank of Slovenia by the creditor or applicant, whereby the following information and evidence of the fulfilment of the requirements set out in the second paragraph of Article 67 of the ZPotK-2 shall in particular be submitted:

- (a) the business name, registered office, registration number, tax identification number, and code number of the principal business activity of the creditor or applicant;
- (b) the memorandum of association, partnership agreement or articles of association;
- (c) the first names and surnames of the members of the senior management of the creditor or applicant;
- (d) the first name and surname of the procurator of the creditor or applicant;
- (e) the first name and surname of the responsible person of the creditor or applicant, and the scope of his/her authorisations;
- (f) a list of the persons authorised to represent the creditor or applicant in statutory matters;
- (g) an extract from the companies register or another relevant public register from which the information entered in the register is evident;
- (h) an indication of the services for which the creditor or applicant wishes to obtain the authorisation, namely for:
 - the provision of services of financial leasing of immovable property
 - the provision of advisory services in connection with credit for immovable property;
- (i) documentation from which the fulfilment of the conditions with regard to the requisite knowledge and competence of the creditor's staff in accordance with Article 61 of the ZPotK-2 is evident:
 - evidence of the provision of training to staff 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 in the area of business with consumers who get into difficulties in connection with arrears in payments of past-due liabilities from financial leasing agreements for immovable property;
 - the staff training plan in accordance with the training programme set out by the Bank Association of Slovenia;
- (j) documentation from which the fulfilment of the requirements with regard to remuneration policy set out in Article 60 of the ZPotK-2 is evident;
- (k) 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 the services of consumer lending in the form of financial leasing of immovable property will be provided;
 - documentation from which the total number of employees and number of persons who will provide services of consumer lending in the form of financial leasing of immovable property are evident;
 - evidence of the qualifications and working experience of the responsible person and the persons who will provide services of consumer lending in the form of financial leasing of immovable property;
 - a description of the business premises with a floorplan, and evidence of the right to disposal of the business premises for each business unit;

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- evidence of the sign bearing the creditor's business name and registered office 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 lending in the form of financial leasing of immovable property is not being provided 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 lending in the form of financial leasing of immovable property, and to allow the competent authorities to inspect and monitor the operations;
 - evidence that the creditor has at its disposal the requisite information technology support to provide for the administration of the records referred to in the first paragraph of Article 12 of this regulation, and to ensure the provision of 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 lending in the form of financial leasing of immovable property, the decision-making procedures, a definition of the responsibilities of the responsible person and the persons who will provide services of consumer lending in the form of financial leasing of immovable property, and will take decisions in individual work processes within the framework of the provision of such services, and the other work tasks of these persons;
 - internal rules from which the procedures for providing services of consumer lending in the form of financial leasing of immovable property referred to in the second paragraph of Article 5 of this regulation are evident;
 - documentation from which the procedures and measures for protection of personal data in accordance with the law governing personal data protection are evident;
- (l) the general terms and conditions and other bylaws, where they exist, based on which services of consumer lending in the form of financial leasing of immovable property are provided;
- (m) documentation for the assessment of the conditions with regard to a transparent and stable ownership structure on the part of the creditor or applicant:
- an organigram or schematic illustration that makes evident the links between the creditor and the other parties related thereto via ownership of at least 20% of the capital or via the holding of at least 20% of the voting rights, or via another type of link that provides for significant influence over the governance of the creditor;
 - an extract from the share register or other relevant evidence of its ownership structure and information about the existence of any shareholders' agreements or other links between the owners that could have an adverse influence on the governance of the creditor;
- (n) a draft of the financial leasing agreement for immovable property that is in accordance with the ZPotK-2;
- (o) evidence of the designation of one of more providers of alternative dispute resolution designated by the creditor or applicant for resolving consumer disputes in accordance with Article 93 of the ZPotK-2 (e.g. an agreement concluded with the provider);
- (p) an extract from the criminal records or other evidence from which it is evident that the creditor or applicant, and the members of the senior management and the procurator of the creditor 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;

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- (r) evidence that personal bankruptcy proceedings have not been initiated against the assets of the creditor or applicant, or the members of the senior management and the procurator of the creditor or applicant or against the assets of the responsible person;
 - (s) evidence that the creditor or applicant, the members of the senior management and the procurator of the creditor or applicant, and the responsible person have not been sanctioned in accordance with Article 94 of the ZPotK-2;
 - (t) a statement by the creditor or applicant that the provision of services of consumer lending in the form of financial leasing of immovable property does not contravene other regulations, in particular the law governing consumer protection and the law governing consumer protection from unfair business practices;
 - (u) the consent of the creditor or applicant that for the purposes of this procedure and supervision in accordance with the ZPotK-2 it permits the official records to be viewed, and data to be obtained, with regard to the fulfilment of the conditions for the provision of services of consumer lending in the form of financial leasing of immovable property.
- (2) In the event of a misdemeanour committed pursuant to Articles 95 or 96 of the ZPotK-2, the creditor 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 the authorisation in accordance with the third paragraph of Article 67 of the ZPotK-2.

4. PROOF OF AUTHORISATION WITH LABEL

Article 9 (issue, form and content of label)

- (1) Together with the decision to issue the authorisation, the Bank of Slovenia shall issue the creditor a green label in quadrangular form with rounded corners, measuring 165 mm by 117 mm, with a Bank of Slovenia inscription and a white field containing the following inscription: “DOVOLJENJE ZA POTROŠNIŠKO KREDITIRANJE V OBLIKI FINANČNEGA ZAKUPA NEPREMIČNIN” (AUTHORISATION FOR CONSUMER LENDING IN THE FORM OF FINANCIAL LEASING OF IMMOVABLE PROPERTY).
- (2) The Bank of Slovenia shall deliver labels with bilingual inscriptions (in Slovene and Italian or Slovene and Hungarian) to a creditor that makes an explicit request for such. The content in Italian shall read “CONCESSIONE DEL FINANZIAMENTO RETAIL LEASING FINANZIARIO DI IMMOBILI”, while the content in Hungarian shall read “ENGEDÉLY FOGYASZTÓI HITEL PÉNZÜGYI INGATLANLÍZING FORMÁJÁBAN TÖRTÉNŐ NYÚJTÁSÁRA”. The content in Slovene, and the form and technical attributes of the label are the same as those in the first paragraph of this article.
- (3) The Bank of Slovenia shall issue as many labels as there are business units cited in the application that meet the conditions set out in the second paragraph of Article 67 of the ZPotK-2 and the conditions set out in this regulation, where the services of consumer lending in the form of financial leasing of immovable property will be provided.
- (4) A creditor who, after obtaining an authorisation, intends to open a new business unit in which it aims to provide services of consumer lending in the form of financial leasing of immovable property shall inform the Bank of Slovenia accordingly in advance, and shall submit the documentation referred

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to in Article 8 of this regulation relating to the fulfilment of the conditions set out in the second paragraph of Article 67 of the ZPotK-2 and the conditions set out in this regulation. The Bank of Slovenia shall issue an additional label to the creditor for the aforementioned business unit, provided that it meets all of the prescribed conditions.

**Article 10
(treatment of label)**

- (1) A creditor shall treat the label with due care, and shall affix it in a visible location.
- (2) Should the label be destroyed, the creditor shall appoint a commission, which shall compile an official record thereon. The creditor shall forward the official record to the Bank of Slovenia, or shall return the destroyed label.

**Article 11
(disposal and return of label)**

- (1) A creditor shall remove a label to which it is no longer entitled, and shall return it to the Bank of Slovenia.
- (2) When it ceases to provide services of consumer lending in the form of financial leasing of immovable property, a creditor shall remove the label on the day on which it ceases to provide the aforementioned services and shall return the label to the Bank of Slovenia within ten business days.
- (3) In the event of the revocation of the authorisation, the creditor shall remove the label within five business days of the decision to revoke the authorisation becoming *res judicata*, and shall return it to the Bank of Slovenia.
- (4) Should the label be destroyed in the cases set out in the first to third paragraphs of this article, the creditor shall appoint a commission, which shall compile an official record thereon. The creditor shall forward the official record to the Bank of Slovenia, or shall return the destroyed label.

5. OBLIGATION TO ADMINISTER RECORDS AND REPORTING TO BANK OF SLOVENIA

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

- (1) A creditor shall administer the following records of:
 - (a) all financial leasing agreements for immovable property concluded with consumers and the agreed effective interest rates;
 - (b) all intermediation agreements concluded with its credit intermediaries for consumer credits in the form of financial leasing of immovable property, amendments thereto, or the expiry thereof, and
 - (c) financial leasing agreements for immovable property concluded with consumers via its credit intermediaries, the amount of credit granted under such agreements, and the agreed effective interest rates, separately for each credit intermediary with whom it cooperates.

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(2) On its website the creditor shall publish and regularly update a list of its credit intermediaries for consumer credits in the form of financial leasing of 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 credit intermediary, or a statement that it does not operate via credit intermediaries for consumer credits in the form of financial leasing of immovable property.

(3) The creditor shall archive the records referred to in the first paragraph of this article for at least four years after the end of the financial year to which they relate.

**Article 13
(reporting to Bank of Slovenia)**

(1) A creditor shall report to the Bank of Slovenia on the following by 31 March each year for the previous financial year:

- (a) financial leasing agreements for immovable property concluded with consumers by the creditor or via its credit intermediaries, the agreed effective interest rates, or an indication that no such agreement has been concluded, and
- (b) its operation with credit intermediaries.

(2) To perform the obligations set out in point (a) of the first paragraph of this article, the creditor shall submit the report on concluded credit agreements to the Bank of Slovenia on the LIZ-SKP form, which is an integral part of this regulation (Appendix 1), in electronic form, in the manner set out by the technical guidelines published on the Bank of Slovenia website (under Reporting).

(3) To perform the obligations set out in point (b) of the first paragraph of this article, the creditor shall submit the list of credit intermediaries to the Bank of Slovenia on the LIZ-Seznam KP form, which is an integral part of this regulation (Appendix 2), in electronic form, in the manner set out by the technical guidelines published on the Bank of Slovenia website (under Reporting).

(4) The creditor shall notify the Bank of Slovenia of any changes in the information referred to in the third paragraph of Article 69 of the ZPotK-2, and any other changes that could affect the fulfilment of the requirements set out in the second paragraph of Article 67 of the ZPotK-2. The requisite documentation and evidence referred to in the first paragraph of Article 8 of this regulation shall be enclosed in the notification referred to in the first sentence of this paragraph. The creditor 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 69 of the ZPotK-2, which shall be submitted by the deadline set out in the fifth paragraph of Article 69 of the ZPotK-2.

(5) The creditor shall also report to the Bank of Slovenia if it has not provided services of consumer lending in the form of financial leasing of immovable property in the last six months. The creditor shall notify the Bank of Slovenia accordingly within 15 days of six months having elapsed since the last provision of the aforementioned services.

6. FINAL AND TRANSITIONAL PROVISIONS

Article 14 (transitional provisions)

- (1) The first paragraph of Article 13 of this regulation notwithstanding, a creditor shall submit the reports referred to in the second and third paragraphs of Article 13 to the Bank of Slovenia for the first time by 31 March 2018 for the 2017 financial year.
- (2) The creditor shall put in place a website, in which it shall publish the information set out in the second paragraph of Article 12 of this regulation, by the end of 2017.
- (3) The creditor or applicant shall enclose the following in the application referred to in the first paragraph of Article 8 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 15 (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