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**AUTORITÉ
DES MARCHÉS
FINANCIERS**

FAIR CONSUMER CREDIT PRACTICES GUIDELINE

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Preamble

The *Autorité des marchés financiers* (“AMF”) has established this guideline setting out its expectations with respect to financial institutions’ legal requirement to follow sound commercial practices and sound and prudent management practices. The guideline therefore covers the interpretation, execution and application of this requirement.

The AMF favours a principles-based approach rather than a specific rules-based approach. As such, guidelines provide financial institutions with the necessary latitude to determine the requisite strategies, policies and procedures for the implementation of principles and to apply them based on their nature, size, complexity and risk profiles. In this regard, the guideline illustrates how to comply with the principles described.

AMF Note

The AMF considers governance, integrated risk management and compliance (GRC) as the foundation stones for the sound and prudent management practices and sound commercial practices of financial institutions and, consequently, as the basis for the prudential framework provided by the AMF.

This guideline is part of this approach and sets out the AMF’s expectations regarding fair consumer credit practices.

Scope

This *Fair Consumer Credit Practices Guideline* is intended for insurers of persons (life and health), damage (P&C) insurers, portfolio management companies controlled by an insurer, financial services cooperatives as well as trust and savings companies, which are governed by the following Acts:

- *Act respecting insurance*, CQLR, c. A-32
- *Act respecting financial services cooperatives*, CQLR, c. C-67.3
- *Act respecting trust companies and savings companies*, CQLR, c. S-29.01

This guideline applies to financial institutions operating independently as well as to financial institutions operating as members of a financial group.¹ As regards financial services cooperatives and mutual insurance associations² that are members of a federation, the standards or policies adopted by the federation should be consistent with—and even converge on—the expected results regarding the fair treatment of consumers detailed in this guideline.

“Consumer credit” refers to forms of credit extended to individuals for the purchase of goods and services, with the exception of residential hypothecary loans.³ This includes credit cards, overdraft limits, personal lines of credit and term loans.

The generic terms “financial institution” and “institution” refer to all financial entities covered by the scope of this guideline. The generic term “consumer” used in this guideline refers to consumers of financial products and services.

¹ For purposes of this guideline, “financial group” refers to any group of legal persons composed of a parent company (financial institution or holding company) and legal persons affiliated therewith.

² Mutual insurance associations are damage insurers covered by this guideline.

³ A “residential hypothecary loan” includes any loan to an individual that is secured by a hypothec on residential property (i.e., one- to four-unit dwellings). This term also covers home equity lines of credit, term loans and other similar products secured by residential property. Autorité des marchés financiers. *Residential Hypothecary Lending Guideline*, updated on March 15, 2018.

Coming into effect and updating

The AMF expects institutions that extend consumer credit to comply with the legal requirement to follow sound commercial practices and sound and prudent management practices. To do so, they must develop strategies, policies and procedures commensurate with their nature, size, complexity and risk profiles, and implement them upon publication of this guideline.

Where an institution has already implemented such a framework, the AMF may verify whether it enables the institution to satisfy the requirements prescribed by law.

This guideline will be updated primarily based on developments in commercial practices, the AMF's findings in the course of its supervision of financial institutions, and complaint data collected.

Introduction

The AMF closely monitors household debt given that it is materially related to the credit risk of financial institutions. For example, an increase in interest rates, an economic slowdown, a drop in income, a life event or unexpected financial needs could pose a major challenge to many consumers, especially those who are, or are becoming, overindebted.

In light of the above and given the changes made to the *Consumer Protection Act*⁴ in 2017 and the expectations voiced by various international organizations such as the Financial Stability Board, the AMF has set out its expectations regarding fair consumer credit practices in this guideline.

Although the AMF is aware that the financial institutions under its supervision have implemented practices to assess credit risk, the purpose of this guideline is to ensure that those practices also serve to identify, through the use of various ratios for instance, consumers who are, or are becoming, overindebted and, consequently, to treat them appropriately.

⁴ CQLR, c. P-40.1.

1. Governance and supervision

The AMF expects financial institutions to adopt credit strategies that foster the fair treatment of consumers.

The AMF's general expectations are set out in the *Sound Commercial Practices Guideline*.⁵ Below are its expectations pertaining specifically to consumer credit.

The AMF expects the board of directors to:

- obtain assurance that the interests of consumers are taken into consideration in consumer credit policies and procedures and that these policies and procedures are reviewed as need be to reflect, for example, the financial and economic environment;
- ensure that mechanisms are effective in identifying issues regarding fair consumer credit practices and communicating them to staff concerned;
- receive management information that will enable it to assess and react, in a timely manner, to problem situations regarding consumer credit, particularly in connection with overindebted consumers.

⁵ Autorité des marchés financiers. *Sound Commercial Practices Guideline*, June 2013.

2. Design and marketing of products

The AMF expects the design and marketing of consumer credit products and service be offered by financial institutions taking into account the interests and needs of target consumers.

The AMF's general expectations are set out in the *Sound Commercial Practices Guideline*. Below are its expectations pertaining specifically to consumer credit.

The AMF expects:

- policies, procedures and information systems used to manage consumer credit risk to help identify consumers who are, or are becoming, overindebted;⁶
- policies, procedures and information systems to help provide offerings and options that are tailored to the needs of consumers, regardless of distribution methods used;
- consumer credit product documentation and service offerings to help inform consumers and raise their awareness of the risk of overindebtedness;⁵
- where applicable, persons who process the credit applications of consumers, especially those who are, or are becoming, overindebted, to have the experience and qualifications required to ensure the appropriate treatment of consumers;
- services to be monitored regularly or randomly to ensure that policies and procedures, particularly measures targeting consumers who are, or are becoming, overindebted, are implemented and serve consumers' interests.

⁶ In particular, through the use of debt service ratios, including total debt service ratio.

⁵ For example, credit card documentation could advise clients to pay their credit card balance on time in order to avoid the risk of overindebtedness or high fees.

3. Repayment capacity

The AMF expects financial institutions ensure that consumers have the capacity to repay their debts on a timely basis or in accordance with the contract in the case of open-end or revolving credit.

The AMF expects institutions to follow the usual steps in the lending process, i.e., collecting and validating information about consumers and assessing their repayment capacity.

An institution should inquire into a borrower's credit history by checking his credit record. It should thoroughly verify the borrower's income. Income stability should also be taken into consideration in assessing a borrower's payment capacity.

For an adequate assessment of the borrower's financial capacity to repay the credit claimed and all other indebtedness, the institution should apply the most commonly used ratios, including the total debt service ratio. The calculation of this ratio should include housing and debt payments (e.g., long-term credit or leasing contracts and minimum periodic payments).

However, the AMF is aware that financial institutions may already have a certain amount of information about their clients. Depending on the circumstances, the information may allow them to extend credit without the need for an in-depth assessment of the client's repayment capacity, especially when no changes have occurred in the client's financial condition since the previous assessment.

Nevertheless, where the institution determines or anticipates that a consumer is, or is becoming, overindebted, the AMF expects the institution to act with greater diligence, in particular by:

- analyzing the consumer's financial condition by taking into account his capacity to repay current and reasonably foreseeable future financial commitments;
- providing the consumer, where appropriate, with tools to assess his financial condition or with the contact information of a competent resource that can offer advice or support in developing a detailed budget.

4. Information for consumers

The AMF expects financial institutions to ensure that consumers be provided the information that allows them to make informed credit decisions.

The AMF's general expectations are set out in the *Sound Commercial Practices Guideline*. Below are its expectations pertaining specifically to consumer credit.

The AMF expects the information given to consumers to identify:

- the steps of the credit application review process;
- where applicable, the individual who receives and processes the credit application as well as his relationship with the institution;
- the contact information that will enable the consumer to obtain more information or explanations, as needed.

The AMF expects consumers to be given the following information concerning the proposed credit contract:

- the income and financial commitments that were taken into account to assess repayment capacity or other relevant factors used to assess credit risk, such as assets and liabilities (net worth);
- the main features of the credit contract including total cost and the rights and obligations of both lender and borrower throughout the contract lifecycle;
- the contract terms available and how they work;
- the consequences for the consumer in the event of non-compliance with conditions, such as failing to pay an amount when it becomes due, defaulting on credit repayment at expiry of the term or failing to comply with any other component or feature of the contract that could result in penalties or additional interest or expenses;
- the cost, features and limitations of credit insurance where such insurance has been proposed or is a condition to granting the credit requested, as well as an indication that credit insurance may be purchased through another institution of his choice or an intermediary registered with the AMF, or he may meet such obligation with a self-owned insurance policy when all conditions requested by the institution are fulfilled.
- where the institution holds an immovable hypothec as security for any existing credit guaranteed by this hypothec, the institution shall notify the consumer, and, if the constituting act stipulates a consent from said consumer, that the institution obtains said consent, to secure the new credit contract with this immovable hypothec;
- any other relevant information to which the consumer may refer.

Supervision of sound and prudent management practices and sound commercial practices

To foster the establishment of sound and prudent management practices and sound commercial practices by financial institutions, the AMF, acting within the scope of its supervisory activities, intends to assess the extent to which financial institutions are achieving the expectations set out in this guideline in light of the specific attributes of each institution.

Moreover, it will examine the effectiveness and relevance of the strategies, policies and procedures adopted by financial institutions as well as the quality of oversight and control exercised by their respective boards of directors and senior management as regards fair consumer credit practices. The AMF intends to be proactive in identifying risks related to inadequate practices liable to interfere with the fair treatment of consumers.