AUTORITÉ DES MARCHÉS FINANCIERS

FAIR CONSUMER CREDIT PRACTICES GUIDELINE

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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[1] 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[2] 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[3] and, consequently, to treat them appropriately.

1 CQLR, c. P-40.1.

2 Fair treatment of consumers ("FTC") includes concepts such as ethical behaviour, good faith and the prohibition of abusive practices. For further information on FTC, refer to the *Sound Commercial Practices Guideline* which sets out the AMF's expected results regarding financial institutions' FTC.

3 For the purposes of this guideline, overindebtedness occurs when a consumer's debt level is such that he has difficulty repaying his debts in a timely manner.

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*.[4] Below are its expectations pertaining specifically to consumer credit.

In particular, the AMF expects the board of directors to:

- question senior management in order to obtain assurance that the needs and interests of consumers are taken into consideration in consumer credit policies and procedures and that these policies and procedures are reviewed as necessary to reflect, for example, the financial and economic environment;
- be aware of the mechanisms used to identify and communicate to staff concerned issues regarding fair consumer credit practices, and be satisfied with their effectiveness;
- receive management information that will enable it to assess and react, in a timely manner, to problem consumer credit situations, particularly as concerns overindebted consumers.

4 Autorité des marchés financiers. *Sound Commercial Practices Guideline*.

2. Design and marketing of products

The AMF expects consumer credit products and services offered by financial institutions to be designed and marketed by 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, in particular:

- policies, procedures, controls and information systems used to manage consumer credit risk to help identify consumers who are, or are becoming, overindebted;[5]
- policies, procedures and information systems to help provide offerings 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;[6]
- 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.

[5] In particular, through the use of debt service ratios, including total debt service ratio.

[6] 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 to 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, for example, by paying special attention to unstable income.

For an adequate assessment of the borrower's financial capacity to repay the requested credit 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).

Financial institutions may 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, insofar that 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 while 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 have 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.

In particular, the AMF expects the information communicated to the consumer to identify the steps of the credit application review process and the contact information that will enable the consumer to obtain further details or explanations, as needed. The AMF also expects the consumer to be given the following information:

- the income and financial commitments that were considered 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 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 charges;
- the cost, features and limitations of credit insurance where such insurance is a condition to granting the credit requested, as well as an indication that credit insurance may be purchased through an intermediary of his choice that is registered with the AMF, or that he may meet this obligation with a self-owned insurance policy where all conditions of coverage requested by the institution are fulfilled;
- where applicable, notification that the institution holds an immovable hypothec as security for any other credit than that which the consumer agreed to secure using this hypothec,[7] and, if stipulated in the act constituting the hypothec, that the consumer may choose to consent, or not, to secure the new credit with this immovable hypothec;
- any other relevant information to which the consumer may refer.

[7] Commonly known as an umbrella mortgage, it allows the lender to maintain a right in the property not only for the credit amount of the purchase, but also for other current or future debts contracted with the same lender, such as a line of credit, a credit card or a car loan.