ÖSTERREICHISCHE
FMA · FINANZMARKTAUFSICHT

FMA Minimum Standards for the Risk Management and Granting of Foreign Currency Loans and Loans with Repayment Vehicles (FMA-FXTT-MS)

of

01.06.2017

These Minimum Standards constitute a recast of the FMA Minimum Standards for the Risk Management and Granting of Foreign Currency Loans and Loans with Repayment Vehicles (FMA-FXTT-MS) of 02.01.2013 and shall replace them with effect from 01.06.2017.

These Minimum Standards do not constitute an FMA regulation, but present the Austrian Financial Market Authority's (FMA) legal view on foreign currency loans and loans with repayment vehicles on the basis of Article 39 paras. 1 and 2 of the Austrian Banking Act (BWG; Bankwesengesetz). No rights and obligations beyond those stipulated in the legal provisions can be derived from these Minimum Standards. Referring to Article 39 paras. 1 and 2 BWG, the FMA expects credit institutions to comply with these Minimum Standards in relation to the granting of and managing of foreign currency loans and loans with repayment vehicles.

These FMA Minimum Standards shall not prevent higher standards from being set by credit institutions. Where specific contents contained in these Minimum Standards go beyond the due diligence obligations contained in Article 39 BWG, these are to be considered as recommendations.

Preamble

Since 2008, the specific risks associated with foreign currency loans and loans with repayment vehicles for credit institutions (in particular in relation to credit and refinancing risk as well as concentration risk) and for borrowers (currency and interest rate risk as well as the performance risk in relation to the repayment vehicle) have become increasingly apparent. Furthermore, the limiting of such risks by contractual means (i.e. conversions, liquidity premiums) has also proven to be difficult in practice in the case of loans granted to consumers and so doing also exposes credit institutions to high level of reputational risk.

With regard to the performance of loans with repayment vehicles, the FMA and the Oesterreichische Nationalbank (OeNB) have observed the following developments:

- In recent years approximately three-quarters of the outstanding volume of repayment vehicles have been exposed to direct market risks – most notably in the form of fund-linked life insurance plans, but also in the form of investment funds.
- At the aggregate level, the capital accumulated in the repayment vehicles stood at a lower value than it ought to have attained according to the repayment schedule (funding gap).

The volume of foreign currency loans and loans with repayment vehicles that were issued to private households in Austria is exceptionally high compared to other countries, and therefore presents risks for the domestic financial market. This prevailing circumstance has also frequently attracted heavy criticism by international financial institutions (in particular the IMF, World Bank and EBRD), that may also compromise the reputation of Austria's financial market.

On 21 September 2011, the European Systemic Risk Board (ESRB) published recommendations pursuant to Regulation (EU) No 1092/2010 concerning the granting of foreign currency loans (ESRB/2011/1), in which the systemic risks implied by an excessive granting of foreign currency loans are stressed (see also http://www.esrb.europa.eu).

Owing to the inherent risks to credit institutions and the relevance of the issue of foreign currency loans and loans with repayment vehicles for the Austrian financial market, and expanding further the previously issued FMA Minimum Standards and taking into consideration the ESRB recommendations for fulfilling the banking supervision objectives set out in Article 69 para. 1 BWG adequate risk-specific behaviour on the level of individual credit institutions and a sustained reduction in banking risks as defined in Article 39 paras. 1 and 2 BWG are considered necessary in relation to the total outstanding volume of foreign currency loans and loans with repayment vehicles to non-banks. The FMA expects that credit institutions shall comply with these Minimum Standards with effect from 01.06.2017 in relation to the granting of foreign currency loans and loans with repayment vehicles. The OeNB shall also review compliance with these FMA Minimum Standards within the course of on-site inspections that it conducts on behalf of the FMA.

The high exposure of private households furthermore necessitates special measures for this market segment. Foreign currency loans and loans with repayment vehicles are generally not suitable as products for the masses due to the risks listed above, but instead constitute a special product for which it is necessary to take the individual case and the specific situation of the potential customer into greater consideration. Foreign currency loans and loans with repayment vehicles are therefore generally unsuitable for consumers in light of the terms of Article 39 BWG, particularly as a standard product for the purpose of purchasing residential property. Credit institutions shall be required to pay greater attention to ensuring that the necessary information is made available about the specific characteristics and risks associated with this product.

The FMA acts on the assumption that any credit institution, when granting foreign currency loans to borrowers who are not domiciled in Austria, also complies with the measures that are applicable in the respective country. In this regard, it is irrelevant whether a loan is granted by a cross-border service, by a branch or by a subsidiary credit institution. This means that the measures taken shall, where applicable, be applied on an individual, sub-consolidated and consolidated level. In so doing it must be ensured that the auditing of the measures in the respective country is conducted to an appropriate and reasonable extent. The results shall be documented accordingly.

The measures taken in the relevant host Member States and/or third countries regarding foreign currency loans shall be published in German or English on the website of the FMA or the ESRB once a notification has been received from the supervisory authorities in the host Member State and/or third countries.

I. Scope of application and definitions

1. These Minimum Standards shall apply to all credit institutions authorised to conduct lending business (Article 1 para. 1 no. 3 BWG) and to all credit institutions from Member States, which conduct business in Austria under the freedom of establishment or the freedom to provide services (Article 9 BWG). Section II, Section III Chapter 5, Section IV and Section V shall apply where applicable on an individual basis, on a sub-consolidated and consolidated level. Chapter 6 refers exclusively to business activities in Austria.

2. Section II (risk management), Section III Chapter 5 (information to borrowers) and Section IV (market transparency) refer to loans granted to non-banks as defined in Article 2 no. 22 BWG[1]. Entities or international organisations that possess adequate experience, know-how and resources (e.g. their own treasury division) and which therefore have the relevant information at their disposal for decision-making purposes in relation to foreign currency loans and loans with repayment vehicles, are exempted from the application of Chapter 5.

3. Section III Chapter 6 (special provisions for consumers) refers exclusively to loans to consumers as defined in Article 1 para. 1 no. 2 of the Austrian Consumer Protection Act (KSchG; Konsumentenschutzgesetz). Self-employed persons and freelancers[2] are included to the extent that they can be considered as consumers when taking out a loan.

4. Foreign currency loans are understood as loans, which

    a. are denominated in another currency to the currency in which the consumer receives their income or holds their assets in, from which the loan is intended to be repaid from, or

    b. are at least partially receivable in other currencies than the legal tender currency of the country in which the borrower is domiciled.

5. Loans with a repayment vehicle for the purpose of accumulating capital ("loans with repayment vehicles") are defined as loans for which the repayment of principal in the form of annuities or instalments is replaced by the accumulation of capital through a repayment

[1] The term "borrower" as used in these Minimum Standards refers to all those who are included in the definition of a "non-bank" according to Article 2 no. 22 BWG. In particular, this includes consumers within the meaning of Article 1 para. 1 no. 2 KSchG.

[2] See reporting guidelines for the unconsolidated statement of assets (Part A1a) pursuant to Article 74 para. 1 BWG. The self-employed and freelancers consist of those active on a freelance basis (e.g. doctors, lawyers and pharmacists) as well as other self-employed persons such as (registered and unregistered) sole proprietors and farmers. Associations of self-employed persons formed for the purpose of operating a working group in either the form of a civil-law association (GesBR; Gesellschaft Bürgerlichen Rechts) or a general partnership (OG; offene Gesellschaft) also belong to this category (e.g. a joint doctors' practice or a shared legal practice for solicitors).

vehicle used to cover a part of or the entire principal amount upon maturity of the term of the loan. For the duration of the term of the loan, the entire loan amount remains outstanding, upon which amount the continually accrued interest is paid.

6. Capital accumulating repayment vehicles are defined as one or several financial or insurance products, which serve to allow the borrower to accumulate capital, which is intended to be used at a later juncture to at least partially repay a loan.

7. A loan shall not be considered as a loan with a repayment vehicle within these FMA Minimum Standards in the event that the principal of a bullet loan is repaid using assets that already exist at the outset rather than only being accumulated during the term. In this context, the following examples shall serve as references:

   - The borrower makes a one-time self-financed placement with an insurance product, maturing at latest at the same time as the loan falls due and which ensures that the loan is covered.
   - The borrower has assets available in the form of real estate assets, which are intended to be sold to ensure that the loan is covered.
   - The borrower has a claim to a distribution of assets in the future, from which the coverage of the loan in ensured.

8. Loans, for which the exchange rate risks have been fully addressed until the maturity of the loan by means of hedging instruments, or where the creditworthiness of the borrower can be attributed to their income and/or assets at the point of time at which the loan was granted, are excluded from applying Section I MNs 9 to 12 where proof exists of the calculation having been conducted pursuant to MN 14, as well as in the case of granting of a new loan from applying MN 33 and para. 7 of the preamble (reciprocal application of provisions from Member States and third countries).

II. Risk management

Chapter 1: Foreign currency loans

9. The credit institution must have internal guidelines in writing on the granting and managing of foreign currency loans. Such internal guidelines shall have to address the credit institution's risk-bearing capacity in particular including appropriate conditions for the granting of foreign currency loans, the limitation of associated risks, adequate administration, calculation and control mechanisms as well as risk management. They shall also include requirements for the suitable pricing of risk and internal capital allocation.

The credit institution shall ensure that compliance with the internal guidelines is subject to a review by its internal auditing unit at least once a year. Any risk-based observations shall be reported on a regular basis to the management. The management shall in turn report to the supervisory body under company law about the risk situation that can derived from the foreign currency loan portfolio.

10. The credit institution shall determine quantitative (in relative terms, as well as in absolute terms as applicable) limits on the volumes of individual foreign currency loans as well as for the entire foreign currency loan portfolio.

11. When granting the loan, when reviewing the creditworthiness of the borrower, it shall be necessary to ascertain whether the borrower has sufficient reserves in relation to their income and/or assets to be able to service and repay the loan by means of an increased loan repayment amount in the applicable domestic currency in the event of changes in the exchange rate. The requirements for the collateral to be provided shall need to be adapted to cover this increased amount.

    a. The credit institution shall already ensure that the customer's creditworthiness is adequate at the time at which foreign currency loans are granted to be able to service and repay the loan, while taking into consideration the repayment structure of the loan, even in the event of changes in the exchange rate and the interest rate attached to the respective foreign currency potentially leading to an increased repayment amount or increased repayment instalments.

    b. An adequate and expedient procedure shall be used to calculate the increased higher repayment amount. Methodologies and assumptions used for such calculations shall be applied in a uniform and consistent manner.

12. The credit institution shall determine adequate thresholds in relation to the creditworthiness of the borrower in relation to the ongoing monitoring of the loan with regard to exchange rate risk. The credit institution shall be required to have a procedure in place that indicates as early as possible that thresholds have been exceeded. The credit institution shall determine a set of expedient measures to be taken in the event of thresholds being exceeded.

    a. The amount of outstanding liabilities in terms of the respective income currency shall form the basis of the threshold, the exceeding of which in any case will make it necessary for the credit institution to take appropriate action.

    b. For the purpose of an early warning mechanism, the threshold must be lower than the maximum outstanding liabilities that can still be serviced on the basis of the borrower's creditworthiness in the respective income currency.

c. In contrast to the limit in accordance with MN 11, which relates exclusively to the point of time at which the loan was granted, in so doing constituting the initial value in the respective foreign currency, the threshold is an individual limit, dependent on the creditworthiness of the borrower.

d. In order to be able to determine that these limits are being exceeded on a case-by-case basis, the credit institution shall be required to establish internal procedures.

e. The observation of the loan with regard to this threshold does not replace the necessity of continual monitoring of the loan in relation to other factors. Other procedures or systems, where in particular the creditworthiness of the borrowers and the valuation of the collateral are constantly checked, are not affected by the procedure.

f. If a threshold is exceeded then the credit institution must take appropriate measures. Such actions should be set in general way, and should aim to limit the exchange rate risk of the customer, with the actions for consumers contained in margin notes 40, 43 and 44 serving as a guide. Care shall be taken that the “expedient measures” correspond to the loan agreements, under consideration of the legislative framework and current court decisions. The credit institution shall contact the borrower in the event of the threshold value being exceeded.

13. The credit institution must have a procedure in place to allow it to continually record all market developments, in particular with regard to exchange rates, interest rates and collateral, and to identify their effects on individual foreign currency loans as well as the total foreign currency loan portfolio as early as possible. For this purpose, the credit institution shall examine the current rating of a foreign currency borrower, regardless of whether they relate to existing loans or new business at least once a year, taking into consideration any alterations in the credit conditions due to the aforementioned market developments. Special attention shall also be paid to the compilation of aggregated foreign exchange losses suffered by customers categorised as either in default or close to defaulting.

14. An IT-based system is generally to be understood in relation to a "procedure" (MN 12 point d and MN 13). Where such a procedure seems impracticable, a sufficiently standardised procedure may be determined instead that fulfils the stipulated objectives. In any case, it must be ensured that borrowers with a currency-congruent income and/or other expected earnings in the respective foreign currency (customers with a “natural

hedge") and borrowers, whose currency risks are hedged by means financial instruments, are systematically recorded.

15. The credit institution shall be required at least once a year to calculate the effects of exchange rate fluctuations on the foreign currency loan portfolio by conducting a meaningful stress test.
    a. Specifically, such calculations shall be performed to quantify the effects on the borrower's financial solvency and, consequently, on the credit institution's risk-bearing capacity.
    b. If a stress test of such a comprehensive nature seems impracticable, the credit institution shall estimate the quantitative effects of exchange rate fluctuations with sufficient accuracy on an annual basis (e.g. by scenario analyses).
    c. The outcomes of the stress test shall in particular be adequately reflected in the business policy.
16. The credit institution shall compute the contribution of the foreign currency loan portfolio to the credit institution's total revenue on at least an annual basis; the contribution must be estimated with sufficient accuracy. Commission income from repayment vehicles shall not be considered.
17. The credit institution shall comply with the provisions of the Regulation on Credit Institution Risk Management (KI-RMV; Kreditinstitute-Risikomanagementverordnung) in relation to foreign currency loans. In particular, before granting foreign currency loans, the credit institution shall have prepared guidelines on the limitation of the refinancing risk. The credit institution shall ensure the refinancing of foreign currency loans even in the event of adverse market conditions prevailing (e.g. by ensuring the access, either directly or via a central or parent institution, to open-market transactions of the central bank responsible the respective foreign currency). Credit institutions shall ensure that a sufficient diversification of their funding structure.

Chapter 2: Loans with repayment vehicles

18. The credit institution shall prepare written guidelines on the granting and management of loans with repayment vehicles.
    a. Given the specific risk factors associated with repayment vehicles (e.g. risk of change in value, insufficient servicing of the repayment vehicle), these guidelines shall in particular provide for adequate requirements for repayment vehicles, for a prudent yield forecast, for a continuous flow of information concerning the value

and proper servicing of the repayment vehicle, for adequate administration, calculation and control mechanisms as well as for risk management. They shall also include provisions for suitable risk pricing and internal capital allocation.

b. The credit institution shall ensure that adherence to the guidelines is reviewed by its internal auditing unit once a year.

c. Any observations related to risks shall be regularly reported to the members of the management board. The management board shall report about the risk situation concerning loans with repayment vehicles to the relevant supervisory body under company law at least once a year.

d. Taking into consideration its risk-bearing capacity, the credit institution shall determine quantitative (relative and, where appropriate, also absolute) limits on the volumes of individual loans with repayment vehicles as well as the entire portfolio of loans with repayment vehicles.

19. The credit institution shall stipulate more detailed requirements for the parameters of repayment vehicles (risk and profitability parameters). With respect to their commercial usability for the credit institution, repayment vehicles shall meet the customary criteria concerning banking collateral. The estimation of the assumed earnings capacity of repayment vehicles shall be conducted realistically with the necessary degree of caution.

20. It must be possible for the credit institution to verify the value and proper servicing of the repayment vehicles. The credit institution shall gather sufficient information on the value and proper servicing of the repayment vehicle on a continuous basis. The granting of loans with repayment vehicles, for which such a continuous flow of information is not guaranteed, shall be inadmissible.

    a. The collection of “information on a continuous basis” is defined as the demonstrable effort on behalf of the credit institution to obtain such information at least once a year. However, in order to verify the proper servicing of repayment vehicles, the frequency of the inspections will normally have to be higher.

    b. In the case of repayment vehicles which are connected to loans already contained in the credit institution’s portfolio, the credit institution concerned shall be requested to ensure by way of agreements that information is periodically submitted by the companies that manage the repayment vehicles.

    c. If the credit institution cannot maintain the necessary flow of information for existing repayment vehicles through no fault of its own, published statements of

the companies regarding the development of the value of their products or other sources of information customary in banking shall be used to the extent they exist.

d. Financial products issued by companies that do not ensure the necessary flow of information shall, however, not be used as repayment vehicles when new loans are granted.

21. The credit institution shall have a procedure in place which enables it to continually record all market developments relevant to the value of the repayment vehicles and to identify the effects of these developments on individual loans as well as on the total loan portfolio as early as possible. An IT-based system is generally to be understood in relation to a "procedure". Wherever this seems impracticable, a sufficiently standardised procedure can be determined instead.

22. The credit institution shall determine expedient measures in the event that, under realistic assumptions concerning the future profitability of the repayment vehicle, the amount to be repaid will not be matched by the value of the repayment vehicle when the loan reaches maturity.

    a. These "expedient measures" should be set out in a general way in the guidelines, with the actions for consumers contained in margin notes 40, 43 and 44 serving as a guide. Care shall be taken that “expedient measures” correspond to the loan agreements taking into account the legislative framework and current court- decisions.

    b. Should the development of the repayment vehicles indicate that the amount to be repaid will presumably not be reached when the respective loan reaches maturity, the credit institution shall contact the borrower.

Chapter 3: Pricing of risk premiums and internal capital allocation

23. When determining the risk of foreign currency and repayment vehicle loans, the credit institution shall adequately take into consideration in the internal risk management system the additional risks that result in comparison with loans granted without a foreign currency and/or repayment vehicle component. Unless these risks are explicitly fully covered, the credit institution shall take them into suitable consideration when determining its internal capital allocation within the framework of the ICAAP (Article 39a BWG) and when undertaking price calculations.

24. The credit institution must cover the expected loss from foreign currency loans and loans with repayment vehicles via its standard risk costs. In doing so, it shall implement procedures for the assessment of the credit rating of the borrower which factor in the potentially negative effect of future fluctuations in exchange rates and/or asset prices on the probability of default already at the time of the granting of foreign currency loans and loans with repayment vehicle. It must also be noted that, owing to changes in the exchange rate and unfavourable capital market and yield developments, the expected liability in the home currency at the time of a default can be higher than at the time of the granting of the respective loan and/or that the amount accumulated by the repayment vehicle may be lower than forecasted at the time of the granting of the respective loan.

25. The credit institution must have suitable methods for determining the amount of the unexpected loss from foreign currency loans and loans with repayment vehicles. The unexpected loss shall be taken into adequate consideration for the capital allocation within the framework of the ICAAP. In doing so, just as regarding the ascertainment of the standard risk costs, negative impacts of future exchange rate fluctuations and/or asset price developments of the repayment vehicle on the default probability, and the potential increases in the liability owing to unexpected exchange rate fluctuations and/or funding gaps due to unexpected asset price developments must be accounted for in due manner.

26. The credit institution must have suitable procedures in place for the validation of the aforementioned methods.

Chapter 4: Loan-loss provisions

27. For the purpose of this chapter, the term "loan-loss provisions" means the conducting of write-downs for impairments, write-offs as well as the establishing of provisions. An adequate provisioning of risk for credit risk arising from foreign currency loans and loans with repayment vehicles shall be ensured, taking into consideration the respective applicable accounting standards. In addition to individual value adjustments and portfolio value adjustments, where applicable, undervaluation pursuant to Article 57 para. 1, first sentence BWG shall be considered as a possibility for ensuring adequate risk provisioning.

28. The assessment of a "default" for accounting purposes shall be aligned with the definition of default under supervisory law pursuant to Article 178 of Regulation (EU) 575/2013. In making the assessment, consideration shall also be given whether justified concerns arise based on the available information regarding the future ability of the borrower to generate stable and adequate cash flows. This observation shall also cover, in addition to the obligor's personal ability to satisfy the contractual obligation arising from the loan

relationship, an assessment of the capital accumulating repayment vehicle that is available for repayment purposes.

29. The credit institution shall define clear, objective and forward-looking parameters for calculating risk provisioning. The amount of any funding gap shall also be taken into consideration in doing so. The credit institution decides whether a portfolio-based or case-by-case approach is appropriate, and shall document the reasons for their decision.

30. If a detailed analysis of individual exposures or portfolios reveals that losses are to be expected at maturity for one or several loan transactions, then credit institutions shall establish adequate risk provisions for these individual positions or portfolios. When identifying the provisioning requirement, collateral items that may be disposed of by sale, or income or asset items, which are available at the respective loan's maturity may be considered, applying any applicable and appropriate collateral write-downs. When calculating the risk provision for foreign currency loans and loans with repayment vehicles consideration should also be given to the observable and expected performance of the repayment vehicle as well as to the foreign currency components.

III. The relationship between the bank and borrowers

Chapter 5: Information for borrowers

31. The credit institution shall provide the potential borrower with demonstratively adequate explanations in written form about the main features of the foreign currency loans and loans with repayment vehicles that are offered as well as the specific effects of these products for customers, including the consequences occurring from delayed payment by the customer or the occurrence of the events listed in MNs 12 and 22. The information provided to the potential borrower shall be presented transparently, intelligibly and comprehensibly and be characterized by high quality standards. This should allow the borrower to be able to assess whether the loan contract meets his requirements and his financial situation. In particular, the consequences of a considerable appreciation of the foreign currency and an increase in the interest rate of the respective foreign currency must be taken into account.

32. Prior to the conclusion of the contract in the case of loans with repayment vehicles, the credit institution shall explicitly advise the borrower that the payments becoming due from on the basis of the loan agreement shall be payable, even in the event that the repayment vehicle does not cover the amounts to be paid contrary to the expectations of the borrower.

33. The credit institution shall also always offer a loan in the local currency or where applicable offer suitable instruments for the hedging of exchange rate risks prior to granting a foreign currency loan pursuant to MN 4b.

Chapter 6: Special provisions for consumers

Granting of new foreign currency loans pursuant to MN 4 point b

34. The credit institution shall generally not grant foreign currency loans pursuant to MN 4 point b to customers. The granting of new foreign currency loans pursuant to MN 4 point b may exclusively be offered to the following specifically defined groups of persons:
    a. Persons with sufficient income in the same currency. The currency in which principal and interest are paid should be the same as the currency of the income from which the loan is being serviced.
    b. Consumers who expect other revenues in the currency in which the loan is being serviced and intend to repay the loan using those revenues; for example by using foreign currency bonds with a known time of redemption (where the bond must be already subscribed with an amount at least equal to the nominal amount of the loan at the time when it is taken out), by selling real estate in the foreign currency (where the actual intention to sell the real estate is present at the time when the loan is taken out and the proceeds from the sale, based on a realistic estimate of market value or a contractually agreed sale price, are at least equal to the nominal amount of the loan), or by selling company shares that are financed in advance in the same currency.
    c. High net worth individuals with the best possible credit rating: The consumer belongs to the group of those customers of the credit institution whom the internal rating system of the credit institution accords the highest rating that can be attained by customers on the internal rating scale of the credit institution.

35. Foreign currency loans pursuant to MNs 4 points a and b to the groups of persons listing in MN 34 points a to c shall not however be combined with a capital accumulating repayment vehicle.

36. The granting of a new foreign currency loan as addressed in MN 34 shall be understood as the concluding of a loan agreement with a consumer, where the loan is either partially or fully granted to the consumer in another currency than the legal tender currency of the country in which the borrower in domiciled.

37. Modifications to existing loan agreements, that subsequently provide the consumer with the right to change the currency of the loan from the local currency of the country in which

the borrower is domiciled into a foreign currency, or which broaden the options available in relation to a change of currency shall be consider as granting of a new loan within the meaning of MN 34. If, however, a foreign currency loan contract contains a multi-currency clause (i.e. a conversion possibility, which allows the consumer to claim the loan proceeds in two or more currencies, was provided for the consumer already when the loan was taken out), a change between the currencies specified in the agreement will not be considered as the granting of a new loan. The local currency of the country in which the borrower is domiciled may constitute one of the currencies agreed upon in this agreement. Where however such a change is linked to the requirement of approval to be given by the credit institution, the granting of a new loan as defined in MN 34 shall be deemed to exist.

38. The credit institution shall exercise particular care when proceeding to the prolongation of existing foreign currency bullet loans. Subject to the following conditions, this shall not be considered to be the granting of a new loan as defined in MN 34:

    a. The credit institution decides on every concrete prolongation within the framework of its general due diligence obligations,

    b. the prolongation represents an adequate means to reduce the banking risks within the meaning of Article 39 BWG,

    c. the prolongation practice of the credit institution is not a systematic strategy to avoid losses and/or to refrain from forming provisions for risks and credit write-downs in an adequate manner,

    d. the prolongation practice of the credit institution has no significantly negative effects on the quality of the credit portfolio, and

    e. the prolongation practice in general does not lead to an inappropriate influence on the results of internal risk measurement procedures.

    MN 38 point c may in certain cases also be fulfilled even in the case of several positive applications having been made for prolongations by a credit institution, if the credit institution has taken the decision to prolong the term of the loan on the basis of an individual credit assessment that can be proven on a case-by-case basis - taking into account the legal frameworks and current legal decisions and carries out the actions set out in MNs 40, 43 and 44.

Strategies for the sustained reduction of the overall volume of foreign currency loans and loans with repayment vehicles

39. The credit institution must have a written and documented strategy for the sustained reduction of the overall outstanding volume of foreign currency loans and loans with repayment vehicles given out to consumers.

40. Depending on the concrete risk situation that is different for every consumer and, if applicable, the preferences stated and the information given by the consumer, the credit institution shall inform the consumer comprehensively and objectively about the possibilities of altering the loan agreement as well as about the opportunities and risks this entails. The goal is to enable consumers to appropriately decide on possible changes by themselves. The information made available to the consumer shall be provided in a transparent, comprehensible and justifiable manner, and shall also display a high level of information quality.

41. The credit institution shall ensure that where the residual maturity is 7 years or less, that at regular intervals, however at least on an annual basis - calculated on the basis of the maturity date - that an information letter is sent to the consumers. This communication shall at least contain the following contents pursuant to MN 40:

    - The current amount of the outstanding volume of the loan and of the repayment vehicle
    - A statement regarding the predicted funding gap at the date of maturity based on at least two scenarios on the basis of realistic assumptions, which depending on the category of the loan (foreign currency loan with/without repayment vehicle, loan in the currency of the country in which the borrower is domiciled or the currency of the borrower's income) contains performance scenarios and/or scenarios in relation to the performance of the foreign currency (upward revaluation). It is recommended that the scenarios should also be depicted in graphical form.
    - Suggestions where applicable about how risks for consumers can be reduced, as for example listed in MN 44.
    - An invitation to a personal meeting.

42. The credit institutions shall ensure that personal meetings with consumers - where such meetings are conducted following an invitation as mentioned in MN 41 - shall take place using a standardised process and based on fixed operating procedures. The conducting of such personal meetings shall be documented using a summary of the meeting to be signed by the consumer at the end of the meeting. The meeting shall be held with

employees who are experienced in matters relating to foreign currency loans and loans with repayment vehicles.

43. Consumers, who by their own initiative actively pursue modifications being made to their loan agreement in order to reduce their risk arising from foreign currency or repayment vehicle loans, shall be actively assisted by the credit institution, provided that the given legal and economic conditions to be taken into account permit this.

44. To simplify the decision-making process the credit institution shall offer consumers alternative products, in particular ones that are in the local currency of the country in which the consumer is domiciled, or in the currency in which the consumer's income is in, to reduce risks (e.g. partial end maturity, so that the capital already accumulated for the repayment vehicle is not required to be realised immediately; or by converting the bullet loan into a loan with a regular repayment). In particular, the alternative products also include instruments for covering the exchange rate risk. When offering alternative products, special attention shall be given to additional costs that may potentially have to be borne by the customer, to the specificities of existing products (e.g. write-downs related to redemptions) as well as the current situation of the capital market.

Loans with a capital accumulating repayment vehicle

45. The credit institution shall exercise particular care when granting new loans with a capital accumulating repayment vehicle, taking into consideration MN 35, and shall keep a list of products which can be accepted as repayment vehicles. The underlying purpose of a repayment vehicle (coverage of the outstanding loan amount when the loan reaches maturity) shall be given special attention.

Bullet loans

46. Bullet loans i.e. non-revolving loans (with the exception of foreign currency loans with repayment vehicle components - see MNs 34 to 35), should only be granted in defined cases that correspond to the reality of banking in Europe and for which the repayment of the loan can be guaranteed by means of generally predetermined and available funds.

The following cases can be named as examples:

- Financing in relation to property held for investment purposes
- Lifetime loans / generation credits with real estate property serving as collateral that are consciously not repaid
- Life value loans: “reverse mortgage” products with a real estate property as collateral, for which redemption is not required during the consumer’s life time
- Lombard loans
- Pre-financing of insurance payouts (single payments)
- Loans against the pledging of other assets such as gold, jewellery, pieces of art
- Financing for equity participation models
- Advance financing for an inheritance
- Other loans to high net worth individuals (e.g. sale of high-priced real estate which can only be realised over an extended period of time).

47. For bullet loans with a time to maturity of more than five years (with the particular exception of usual current account advances), a written concept for the repayment of the loan at the end of the maturity period must be composed at the time of the granting of the loan and shall be available to the consumer. Once the loan has been granted, the respective concept must be periodically reviewed by the back office at least once a year. The review must include an examination and a written transcription documenting whether compliance with the concept for the repayment of the loan is still plausible.

IV. Market transparency

48. Pursuant to Article 431 et seq. of Regulation (EU) No. 575/2013 (CRR) for creating market transparency, credit institutions shall disclose all significant information that is necessary to "convey their risk profile comprehensively". For this purpose institutions must establish an internal procedure for identifying which information is necessary to comprehensively convey the institution's risk profile.
49. Within this context, credit institutions are obliged to also include risks arising from foreign currency loans and loans with repayment vehicles in this fact-finding process, and where applicable to disclose information about these risks, where it would otherwise not be possible without such disclosures to gain a comprehensive impression of the institution's risk profile.

50. The following indicators shall be taken into consideration whether information is necessary to convey a comprehensive impression of the risk profile of an institution with regard to foreign currency loans and loans with repayment vehicles:

    a. the volume of foreign currency loans to unhedged borrowers as defined in MN 14 constitutes at least 10 % of the total loan portfolio of an institution (The " total loan portfolio" shall be understood as meaning the total amount of loans granted to non-banks pursuant to Article 2 no. 22 BWG excluding the country sector), or
    b. considerable legal or operational risks are to be expected based on foreign currency loans and loans with repayment vehicles, or
    c. the expected funding gap for loans with repayment vehicles granted by the institution on an aggregated level is at least 20 %.

51. If, based on the indicators listed in MN 50 it becomes apparent during an inspection of the institution that a disclosure is necessary to provide a comprehensive picture of the institution's risk profile, then credit institutions shall disclose the following information about foreign currency loans and loans with repayment vehicles:
    - Outstanding volume of foreign currency loans and/or loans with repayment vehicles
    - Proportion of foreign currency loans/loans with repayment vehicles to the total loan portfolio
    - Significant currencies and their proportion of the total of foreign currency loans
    - The potential aggregated funding gap of the portfolio of loans with repayment vehicles subdivided by currencies on the basis of adequately justified and disclosed assumptions of the institution.

    The disclosure of the following information shall additionally also be considered in the interests of market transparency:
    - Breakdown of the portfolio of foreign currency loans and loans with repayment vehicles by residual maturities or by bullet loans / amortising loans
    - The level of the foreign currency loans and loans with repayment vehicles classified as non-performing and the total of the resulting write-downs
    - Depiction of the funding structure with regard to foreign currency loans

52. It shall be the responsibility of the institution to define the specific contents of disclosure, and shall depend on the nature, scope and complexity of the business activities in relation to foreign currency loans and loans with repayment vehicles as well as the significant risks that are inherent to such transactions.

V. Review by internal audit

53. The credit institution shall ensure that compliance with the guidelines and strategies as required by these Minimum Standards will be reviewed during general internal auditing assessments, and that a diligent verification of these specific requirements is undertaken by internal auditing at least once per calendar year.

VI. Transposition

54. Section II for foreign currency loans pursuant to MN 4a, as well as Chapter 4, MNs 41 and 42 of these Minimum Standards shall apply from 1 January 2018. Disclosure in accordance with Section IV shall first be conducted for the 2017 financial year on the respective reporting date in 2018. All other provisions shall be valid from 1 June 2017.