



NATIONAL BANK OF ROMANIA

REGULATION

No.17/2012

regarding certain conditions on granting loans

Having regard to the provisions of art.4 Para. (1), art.45 Para. (1), art.61, art.173⁴, let. b) and art.235 of the Emergency Ordinance no.99/2006 on credit institutions and capital adequacy, approved with amendments and supplements by Law no.227/2007, with subsequent amendments and supplements, of art.1 Para. (1) and art.43 and 44 of the Law no.93/2009 on non-bank financial institutions, with subsequent amendments and supplements, of art.62 Para. (1) of Emergency Ordinance no.113/2009 on payment services, approved with amendments by Law no.197/2010, with subsequent amendments and supplements and of art.61 Para. (1) of Law no.127/2011 on the activity of electronic money issuance, with subsequent amendments, as well as the Recommendation of the European Systemic Risk Board (ESRB) on lending in foreign currencies (ESRB/2011/1)

On the basis of the provisions of art.420 Para.(1) of the Emergency Ordinance no. 99/2006, approved with amendments and supplements by Law no.227/2007, with subsequent amendments and supplements, of the Law no.93/2009, with subsequent amendments and supplements, of art.186 Para.(1) of the Emergency Ordinance no.113/2009, approved with amendments by Law no.197/2010, with subsequent amendments and supplements, of the Law no.127/2011, with subsequent amendments, and of art.48 of the Law no. 312/2004 on the Statute of the National Bank of Romania,

The National Bank of Romania issues the present Regulation.

CHAPTER I

Scope of application

Art. 1. – (1) This regulation shall apply to:

a) credit institutions, Romanian legal persons and the branches of the foreign credit institutions,

b) non-bank financial institutions Romanian legal persons and branches of the foreign non-bank financial institutions registered in the Special Register,

c) payment institutions Romanian legal persons with a significant level of lending business as defined by NBR Regulation no.21/2009 regarding payment institutions, with subsequent amendments and supplements,

d) electronic money institutions Romanian legal persons with a significant level of lending business as defined by NBR Regulation no.8/2011 regarding electronic money institutions,

hereinafter referred to as lenders, and establishes, for the purpose of maintaining the financial stability certain conditions regarding granting loans and performance of lending activity in Romania, to individuals and non-financial entities.

(2) Provisions of Articles 7-9, those relevant in Article 24 and in Article 26 Para.(1) of this regulation shall also apply to the following categories of creditors:

a) non-bank financial institutions Romanian legal persons and branches of the foreign non-bank financial institutions registered only in the General Register,

b) payment institutions Romanian legal persons and electronic money institutions Romanian legal persons, other than those referred to in Para. (1).

(3) Provisions of Article 2 and those relevant in Article 24 of this regulation shall also apply to credit institutions Romanian legal persons and financial institutions Romanian legal persons referred to in art.89 of Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy, with subsequent amendments and supplements, for the lending activity performed in other Member States.

Art.2 – (1) The institutions referred to in Para.(3) of Art.1, performing in other Member States foreign currency lending related to unhedged borrowers with residence in those Member States, shall observe, for those activities, the requirements in the field imposed by the competent authorities from the respective Member States.

(2) For the purpose of implementing the provisions of Para.(1), National Bank of Romania shall publish on its website the requirements communicated by the competent authorities from the respective Member States.

Art.3 - For the purpose of this regulation, the terms and expressions listed bellow shall mean:

- a)** credit for real estate investments – any credit granted to an individual that fulfils all of the following conditions: (i) it is secured by a real estate mortgage and (ii) it was granted for the only purpose to finance the acquisition or the retention of the property rights on land and/or existing or projected buildings, or for the renovation, modernization, consolidation or enlargement of buildings, or for the integration of land or for the reimbursement of a credit for real estate investment. For the purpose of the present regulation the real estate financial leasing granted to an individual is considered credit for real estate investments;
- b)** consumer credit – any credit granted to an individual other than those specified by letter a);
- c)** credit – amount recorded on/off balance sheet, granted/committed to be granted by the creditor to an individual or to a non-financial entity, in exchange of the borrower obligation to reimburse that amount as well as to pay interest or any other expenses linked to the amount concerned; the financial leasing is considered credit
- d)** unhedged borrower – an individual that does not obtain eligible income for reimbursing the credit or, if the case may be, a non-financial entity that does not hold resources for reimbursing the credit, in the currency in which the credit is requested/granted;
- e)** non-financial entities – legal persons or individuals acting in relation to their commercial or professional activity and any other entity the main activity of which is not related to financial services or insurance, according to the Classification of activities in the national economy.

Art. 4 – (1) The following loans may be exempted from the application of the provisions set out in Chapter III, and, where the case may be, in Chapter IV of this regulation:

- a) loans granted to individuals for financing studies, medical care or funeral services;
- b) loans that are guaranteed for the entire credit life with cash collateral deposited at the lending institution, for the amounts that are effectively covered by such a guarantee;
- c) operations triggered by financial difficulties encountered by the individual debtor, performed exclusively for restructuring at the same lender of the credit/credits outstanding for the purpose of adjusting the reimbursement conditions to the individual new payment possibilities;
- d) loans to be reimbursed from the subvention that the debtor is entitled to, according to applicable legislation. in the limits of those subventions.

(2) The lenders shall establish in their internal norms the conditions for granting and guaranteeing the loans referred to in Para.(1).

Art. 5. – The provisions of articles 16, 17 and 18 are not applicable for the credits granted with the sole purpose of reimbursing loans granted in accordance with the internal lending norms of the lenders, applicable at the date of entry into force of National Bank of Romania Regulation no.24/2011 on granting loans to individuals.

CHAPTER II

General Requirements

Art. 6. – (1) The lenders shall perform the lending activity in relation to individuals and non-financial entities based on their internal lending norms approved by the statutory competent bodies.

(2) In order to prove compliance with the applicable requirements imposed by this regulation, the lenders shall submit to the National Bank of Romania - Supervision Department their internal lending norms, in Romanian language, both electronically and on paper, together with the lenders statutory competent bodies' decision approving the norms and an explanatory note.

Art. 7. – (1) The lenders and the entities referred to in Para. (2) of Article 1 shall inform the unhedged borrowers applying for a loan in foreign currency or indexed to a foreign

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currency about the impact on their installments of a possible severe depreciation of the national currency.

(2) Where the interest rate of the loan to be granted is not fixed, in addition to the information referred to in Para.(1), the lenders and the entities referred to in Para. (2) of Article 1 shall distinctly present to the borrowers also the impact on their installments of a possible severe depreciation of the national currency associated with a severe increase of the interest rate.

Art. 8. – The lenders and the entities referred to in Para. (2) of Article 1 shall provide the information mentioned in Para. (1) and, where the case, in Para. (2) of Article 7, customized for each credit application that allows a comparison between the installments calculated taking into consideration the exchange rate and the foreign interest rate valid at the date when these information are provided, and the installments resulted after the application of the stress shocks, using the values provided in paragraph (2) of art.12 for the exchange rate depreciation and, where relevant, the interest rate increase using the values indicated in this regulation.

Art. 9. – (1) The lenders and the entities referred to in Para. (2) of Article 1 shall provide the information mentioned in Article 7 on paper or on another durable medium at least 15 calendar days before concluding the credit contract.

(2) The 15 calendar days period from Para. (1) may be reduced based on a written request from the credit applicant.

(3) Durable medium, referred to in Para.(1), means any instrument enabling the applicant to store information addressed personally to him in a way accessible for future reference on a period of time adequate for the purpose of the information and which allows the unchanged reproduction of the information stored.

Art. 10. – The lenders shall organize the lending activity so as to ensure a clear and effective segregation of the advertising and selling function from the credit risk assessment and exposures monitoring function.

Art. 11. – (1) The lenders shall ensure that third parties involved in the prior assessment of the client creditworthiness, such as credit intermediaries, use the same procedures as the lenders.

(2) The lenders shall check the quality of the credit portfolio in relation to the clients introduced by each of the third parties stipulated in Para.(1), in comparison with the quality of the portfolio composed by their direct clients.

(3) The assessment undertaken under Para. (2) shall be considered in the lenders decision to continue the business relation with each of the third parties as stipulated in Para. (1).

CHAPTER III

Provisions on granting loans to individuals

Art. 12 – (1) For the purpose of this regulation, the lenders shall provide within their internal norms, in conformity with their risk profile and strategy, at least the following:

a) the organization of the lending activity in relation to individuals and, as the case may be, the guaranteeing requirements for each type of credit, the maximum threshold permitted for the financing amount in relation to the value of the mortgage (LTV);

b) the categories of clients eligible for financing;

c) the procedure of splitting the target-clientele on default risk classes, based on the general risk profile of the lender;

d) the types of income considered eligible by the lender, differentiated by the categories of clients, as well as the adjustment coefficients for each type of income so as to reflect the level of certainty and permanence;

e) the categories of expenses to be deducted from the eligible incomes for the purpose of calculating the level of indebtedness, including at least the living expenses and the financial obligations other than loans;

f) the maximum indebtedness levels allowed, with the different levels detailed reasoning, differentiated by the clients categories, by the credit destination (i.e. consumer credit, credit for real estate investment), by the type of the credit (differentiated by the currency in which the credit is granted or reimbursed, by the type of interest rate, respectively fixed or floating, by the credit maturity, and by the presumed client behavior in relation with the repayment based on the quality of the collateral) and, for the consumer credits, with the

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adjustments from the currency risk, interest risk, as well as the risk of the decrease of the eligible income credit during the period of the credit life;

g) the methodology of periodically reviewing of the incomes adjustment coefficients and of the maximum indebtedness levels allowed, with a view of ensuring their accurateness on a permanent basis.

(2) When establishing the maximum indebtedness levels for the consumers credits the lenders have to use the following values:

a) for the exchange rate shock - 35,5% EUR, 52,6% CHF, 40,9% USD. In the case of other currency than those mentioned the lenders have to use the value corresponding to CHF. If the applicant's income and credit requested are expressed in two different foreign currencies, for the exchange rate shock shall be used the maximum of the shocks for that two currencies against the national currency;

b) for the interest rate shock - 0,6% for all currencies;

c) for the income shock for the wages - 6%; for the other income categories the lenders shall use the adjustment coefficients mentioned in letter d) and g) of paragraph (1).

(3) The provisions of this article on currency risk apply only to the part of the loan for which the debtor does not prove to have income denominated or indexed to the foreign currency in which the credit is denominated or indexed. Provisions on interest rate risk do not apply to fixed-rate loans.

Art. 13 – The total level of indebtedness shall be calculated as a proportion of the total payment obligations from credits and other kind of reimbursable financing in the sum of eligible incomes from which the expenses mentioned under art.12 Para.(1), letter e) have been deducted.

Art. 14. – When granting a credit, the lenders shall pursue that the documents and information received prove that during the complete duration of the credit the total level of the applicant indebtedness is not exceeding the maximum applicable level.

Art. 15. – (1) The lenders shall assess the creditworthiness of their clients on the basis of a level of the eligible income that can not exceed by more than 20% the level of the previous year.

(2) The lenders shall determine the income of the previous year on the basis of income tax documents.

(3) If there is no legal obligation to declare the income to tax authorities, lenders shall determine the income for the previous year based on other justificatory documents.

(4) By way of derogation from the provisions of Para. (1), lenders are permitted to take into account income that exceed the established level, only after they obtain from the client the supporting documents which demonstrate the continuity of such incomes. The supporting documents have to illustrate the changes in the client's incomes, as derived from situations such as the change of the job position, of the employer or significant changes on the turnover of the clients that obtain their incomes from independent activities.

Art. 16. – (1) For consumer credits denominated or indexed in a foreign currency the debtor have to provide real and/or personal guarantees at a minimum level of 133% of the value of the credit.

(2) For the purposes of this regulation, insurance policies cover the risk of default will be treated as personal guarantees.

(3) There may be exempted from the guarantee requirement the overdraft and credit card facilities the value of which does not exceed three times the monthly net income of the debtor, without exceeding a certain ceiling set out by the internal regulations of the lender.

Art. 17. – (1) The maximum maturity of a consumer credit shall not exceed 5 years.

(2) The provisions of Para. (1) does not apply to consumer credit granted with real estate investments purpose within the meaning of article 2, letter a) ii), in RON and for which the debtor proves an downpayment of at least 40%.

(3) Notwithstanding the provisions of par. (1), the lenders are allowed to extend over 5 years the maximum maturity of revolving credit facilities granted by cards, only if they reassess the debtor's reimbursement capacity at least every 5 years. The lenders shall apply their own methodology customized to these loan products for the reassessment of the debtor's reimbursement capacity.

Art. 18. – (1) The value of a credit for real estate investments may not exceed 85% of the mortgage where the credit is to be RON denominated.

(2) In case of credits denominated in foreign currency or indexed to foreign currencies, the value of a credit for real estate investments may not exceed 80% of the mortgage if the debtor has all the eligible income denominated or indexed to the foreign currency in which the credit is denominated or indexed.

(3) The value of a credit for real estate investments granted to an unhedged borrower, may not exceed 75% of the mortgage where the credit is to be EURO denominated or indexed and 60% of the mortgage where the credit is to be denominated or indexed to another foreign currency.

(4) When applying Para. (1)-(3) to real estate financial leasing, the limits will take into consideration the value of the financed property.

(5) The provisions mentioned in Para. (1)-(3) are not applicable where credits are totally or partially covered by a state guarantee.

Art. 19. - The lenders are allowed to grant credit to individuals using the levels of indebtedness established and justified in their internal lending norms only if they conform to the provisions of Art.12 Para.(1) let.f) and g) and Para (2).

Art. 20 – For the lenders which do not apply the provisions of Art.12 Para.(1) let.f) and g) and Para (2), the maximum level of total indebtedness for aggregated credits granted to a borrower is limited to 35% and the maximum level of indebtedness for consumer credits denominated in or indexed to a foreign currency granted to unhedged borrowers shall not exceed 10%.

CHAPTER IV

Provisions regarding foreign currency lending related to non-financial entities

Art. 21. – (1) The lenders shall establish in their internal lending norms, according to their risk profile and strategy, the way that foreign currency lending and guaranteeing activity is organized in relation to non-financial entities, in any case by imposing much stricter rules than those impose for similar credits granted in national currency.

(2) The lenders internal norm on foreign currency lending related to non-financial entities, which are referred to in this chapter, shall be provided as a single piece of regulation.

Art. 22. – (1) The lenders may grant credits in foreign currency or indexed to a foreign currency to non-financial entities only when, according to criteria established in the lenders internal norms, these entities prove to possess reimbursement capacity of the foreign currency loan even in the event of a severe depreciation of the currency in which the reimbursement resources are denominated or indexed or when, as the case may be, the interest rate would increase.

(2) For determining the reimbursement capacity, the lenders, when applying the provisions from Para.(1), will use the values indicated at Article 12 Para.(2) for the exchange rate shock and the interest rate shock.

Art. 23. – (1) The provisions set up in this chapter are applicable only for that part of the financing for which the debtor does not have natural or financial hedging against foreign exchange risk.

(2) In the meaning of paragraph (1), financial hedging against foreign currency risk represents the protection received by the borrower by means of an agreement concluded with a financial institution for the purpose of foreign exchange risk from the buyer of the protection.

(3) The provisions related to the interest rate risk are not applicable for the credits with fixed interest rate.

CHAPTER V

Sanctions, transitory and final dispositions

Art. 24. – Failure to comply with the provisions of the present Regulation shall imply the application of the sanctions and/or measures referred to in Art.225, 226 and 229 of the Emergency Ordinance no. 99/2006 approved with amendments and supplements by Law no.227/2007, with subsequent amendments and supplements, or, as the case may be, in Art.58 and 59 of the Law no.93/2009, with subsequent amendments and supplements, or in

Art.66 and 68 of the Emergency Ordinance no. 113/2009 on payment services, as approved with amends by Law no.197/2010, with subsequent amendments and supplements, or in Art.69 and 71 of the Law no.127/2011 on the activity of electronic money issuance, with subsequent amendments.

Art. 25. – The central body supervises the compliance with the requirements within the Regulation by the affiliated credit cooperatives.

Art. 26. – **(1)** No later than 90 days from the entry into force of the current regulation, the lenders and the institutions mentioned in Para (2) of Art.1 shall comply with their obligations as provided in Chapter II. In the same period of time the lenders shall submit to the National Bank of Romania - Supervision Department the amendments to their internal lending norms, modified to comply with the provisions of Chapter II.

(2) No later than 90 days from the entry into force of the current regulation, the lenders shall comply with their obligations as provided in Chapter III and shall submit to the National Bank of Romania - Supervision Department the amendments to their internal lending norms, modified for this purpose.

(3) No later than 90 days from the entry into force of the current regulation, the lenders shall comply with their obligations as provided in Chapter IV and shall submit to the National Bank of Romania - Supervision Department the amendments to their internal lending norms, modified for this purpose.

(4) Until the conditions provided in the preceding paragraphs are fulfilled the lenders shall use their own regulations applicable at the entry into force of this Regulation.

(5) The lenders that use internal norms validated by NBR in order to perform lending activity of individuals are considered to fulfill the requirement set up in Article 19.

Art. 27. – The present regulation shall be published in the Romanian Official Journal, Part I.

Art. 28. - At the entry into force of the current regulation, *NBR Regulation no.24/2011 on granting loans to individuals*, published in the Romanian Official Journal, Part I, no.767 from 31/10/2011, with subsequent amendments and supplements, is repealed.