Factsheet / 15 October 2020 / Mortgage and Real Estate Credit Act

Mortgage and Real Estate Credit Act (HIKG)

1 Background

The European Mortgage Credit Directive of 4 February 2014 (MCD, Directive 2014/17/EU) is being transposed into Liechtenstein national law with the Mortgage and Real Estate Credit Act (HIKG), which will enter into force on 1 April 2021.

The HIKG sets out rules governing credit agreements for consumers relating to residential immovable property, the purpose of which is:

- to acquire or retain property rights in land or in an existing or projected building; or
- to acquire a consumer good (e.g. a car) secured by a mortgage or comparable security.

The goal of the HIKG is to create greater consumer protection when granting mortgage loans. The new law enters into force on 1 April 2021. There is no provision for retroactive effect on credit agreements concluded before that date.

2 Who is covered by the new legal rules?

The new legal provisions of the HIKG apply only to real estate loans concluded with consumers. Consumers are natural persons who enter into legal transactions that cannot be attributed to either a self-employed or commercial activity.

Creditors (banks and financial institutions) and credit intermediaries are responsible for correct implementation of the HIKG provisions. In order to protect the consumer, they must observe numerous extended obligations when granting real estate loans.

These include requirements governing pre-contractual information and the assessment and documentation of the consumer's creditworthiness.

3 What are the most significant changes arising from the HIKG?

Provision of general information on credit agreements
Creditors must provide consumers with general information on mortgage and real estate loans before the consumer enters into a loan. This information must include the intended purpose of the loan, the term(s) of the loan, interest rates, costs associated with the loan, repayment conditions, and a representative example of financing.

Creditworthiness assessment
Even before the introduction of the HIKG, banks were obliged to assess the creditworthiness of borrowers. The HIKG contains additional obligations according to which a loan may be granted only if a comprehensive creditworthiness assessment indicates that the applicant's demonstrated income will likely be sufficient to meet ongoing obligations resulting from the credit agreement. If the creditworthiness assessment gives rise to any doubts in this respect, the law stipulates that credit may no longer be granted.
In connection with the creditworthiness assessment, the HIKG also requires an early appraisal of the exact financial needs of potential borrowers (applicants). Creditors are required to obtain information and evidence from the applicant regarding the applicant's income and freely disposable assets in order to carry out a comprehensive assessment of the applicant's economic and personal situation. As part of these requirements, the real property may in principle no longer be used as the sole collateral for the loan. These requirements aim to protect the consumer by ensuring that the mortgage or real estate loan does not become overly burdensome.

Pre-contractual information (ESIS)

Following the creditworthiness assessment and a positive credit decision, the creditor must send the European Standardised Information Sheet (ESIS) to the applicant together with a binding credit offer or directly with the credit agreement. The credit offer is binding for at least seven days (reflection period for the borrower). The ESIS contains essential aspects such as the costs associated with the credit agreement, the effective interest calculation, and early repayment options. It is intended to make it easier for borrowers to compare financing offers. With these measures, the HIKG aims to ensure that consumers precisely understand the obligations into which they are entering.

4 Useful external links

1. Directive 2014/17/EU
2. Financial Market Authority Liechtenstein