

Ordinance No 19

of the BNB

of 20 October 2016

on Credit Intermediaries

(Published in the Darjaven Vestnik,
issue 87 of 4 November 2016)

General Provisions

Article 1. This Ordinance shall lay down the following:

1. the procedure for entering into or deleting from the Register of Credit Intermediaries (the Register) under the Law on Consumer Real Estate Loans (LCREL);
2. the documents and information required for the entry, and the procedure for their submission by the persons who intend to operate as credit intermediaries;
3. the procedure and terms and conditions under which credit intermediaries registered in the Republic of Bulgaria shall notify the Bulgarian National Bank (BNB) of their intention to carry out credit intermediation activities and provide advisory services in another Member State.

Documents Required for Registration

Article 2. (1) To be entered in the Register, a person who intends to operate as a credit intermediary shall submit to the BNB a written application and a registration form using the standardised BNB templates. The documents for registration shall be submitted on paper, and the registration form and documents under paragraph 4 and paragraph 5, item 5 on an electronic device signed by a qualified electronic signature.

(2) The application under paragraph 1 shall contain the following information:

1. the full name, identity number/personal number and permanent address in the Republic of Bulgaria for natural persons, and name, unified identification code (UIC), registered and head office address for legal entities;
2. the full name, identity number/personal number, permanent address and position held for the persons who manage and represent the credit intermediary that is a legal person;
3. whether the applicant has concluded agreements with creditors for operating as a tied credit intermediary;
4. if the applicant has concluded an agreement(s) within the meaning of item 3, the name and UIC of each of the creditors to which the applicant is tied, and if the creditors are from other Member States, the Member State and the Commercial Register in which each of them has been included, the registration number or equivalent identification in this Register and the means for verifying such registration;

5. credit intermediation activities to be carried out by him, and whether advisory services will be provided.

(3) If the applicant intends to carry out activities in other Member States, he shall specify separately each Member State, the form in which he will carry out the activity (directly or through a branch), whether he will provide advisory services in the relevant Member State, and where the applicant is tied to creditors, the services of which of the creditors he is tied to will be provided by him in the relevant Member State.

(4) The following documents shall be enclosed to the application:

1. documents proving that the applicant has concluded and paid the full amount of the annual professional indemnity insurance under the Commission Delegated Regulation (EU) No 1125/2014 of 19 September 2014 supplementing Directive 2014/17/EU of the European Parliament and of the Council with regard to regulatory technical standards on the minimum monetary amount of the professional indemnity insurance or comparable guarantee to be held by credit intermediaries (OJ, L 305/1 of 24 October 2014) valid in the Republic of Bulgaria, and on the territory of the Member States in which he intends to operate, respectively;

2. copies of the agreements concluded with the creditors to which the applicant is tied, where applicable;

3. a document evidencing that the fee under Article 8, item 1 is paid;

4. a notification form for exercising freedom of establishment, or freedom to provide services, respectively, in the cases where the applicant intends to operate in another Member State.

(5) The applying natural persons and the persons who will manage and represent the applying legal entity shall enclose:

1. a certified copy of the natural person's identity document;

2. a certified copy of the diploma of completed higher education;

3. a conviction status certificate or a similar document in case of a foreign person;

4. a declaration that these persons are not adjudicated in bankruptcy in their capacity as sole proprietors or general partners in a commercial company, unless their rights have been recovered;

5. a completed questionnaire – a declaration using a sample form for acquired knowledge and competence in the fields under Article 48, paragraphs 2 and 3 of the Law on Real Estate Loans for Consumers and for reputation.

(6) The persons under Article 51, paragraph 7 of the Law on Real Estate Loans for Consumers shall send a written notification and a registration form according to a sample form of the BNB.

Registration and Refusal of Registration

Article 3. (1) The Bulgarian National Bank shall review the documents submitted under Article 52 of the Law on Real Estate Loans for Consumers and shall enter the applicant in the Register provided all registration conditions are met.

(2) Where the term under Article 52, paragraph 4 is suspended, the BNB shall inform the applicant.

(3) The persons who have filed notifications under Article 2, paragraph 6 shall also be entered in the Register within the term set in Article 52, paragraph 1 of the Law on Real Estate Loans for Consumers.

(4) The Bulgarian National Bank shall refuse registration if the grounds provided for in Article 54, paragraph 1 of the Law on Real Estate Loans for Consumers exist.

(5) The BNB Deputy Governor heading the Banking Supervision Department or an official authorised by him shall approve or refuse registration by an order.

Deletion from the Register

Article 4. (1) To delete a credit intermediary that is a natural person from the Register at his request, the person shall file an application to the BNB.

(2) To delete a credit intermediary that is a natural person from the Register in case of death, at least one of his heirs shall file an application enclosing an inheritance certificate and a certified copy of a death certificate.

(3) To delete a credit intermediary that is a natural person from the Register in the event of incapacity mandates, the application shall be filed by the guardian or trustee enclosing documents of effective decision by the competent Court and a copy of the act for appointment of the guardian or trustee correspondingly.

(4) To delete a credit intermediary that is a sole proprietor from the Register at his request, the sole proprietor shall file an application to the BNB specifying whether he/she terminates the credit intermediation activity or the business as a sole proprietor.

(5) To delete a credit intermediary that is a legal entity from the Register at its request, the application shall be filed by the person or persons who manage and represent the legal entity according to the Commercial Register data or by an explicitly authorised person with a notary verified power of attorney specifying the ground for deletion under Article 55, paragraph 2 of the Law on Real Estate Loans for Consumers. Where the legal entity is terminated, the decision of the general meeting of shareholders or partners, or the sole owner of the capital shall be enclosed to the application, and where credit intermediation activity is terminated a decision of the competent body according to the Articles of Association (Memorandum of Association) shall be enclosed to the application.

(6) In the cases under paragraphs 1, 4 and 5 a declaration of no outstanding obligations to creditors and/or users by the credit intermediary shall be enclosed to the application.

(7) The Bulgarian National Bank shall delete from the Register a credit intermediary if the grounds provided for in Article 55, paragraphs 3 to 5 and paragraph 8 of the Law on Real Estate Loans for Consumers exist.

(8) A credit intermediary shall be deleted from the Register by an order of the Deputy Governor heading the BNB Banking Supervision Department or an official authorised by him.

Notification of Changes That Have Occurred after the Entry in the Register

Article 5. (1) Any person entered in the Register shall, within a period of 15 days, inform the BNB about any change in the information provided with relation to its entry in the Register, enclosing a document evidencing the payment of the fee under Article 8, paragraph 2 and, where applicable, documents certifying the change. In this case, the BNB shall have the powers set out in Article 52, paragraph 2 of the Law on Real Estate Loans for Consumers.

(2) The registration form and questionnaires – declarations of credit intermediaries that are natural persons and credit intermediaries that are managing and representing legal persons containing the new circumstances shall be submitted electronically.

(3) The notification shall be deemed completed upon the verification of the data and documents under paragraphs 1 and 2 herein and upon approval by the BNB of the up-to-date information filled by the credit intermediary in the electronic forms.

(4) Registered credit intermediaries shall submit copies of the documents for a valid professional indemnity insurance pursuant to Article 2, paragraph 4, item 1 prior to the expiry date of the previous insurance.

Notification of Intention to Carry out Business in Another Member State

Article 6. (1) Any registered credit intermediary intending to carry out business in another Member State shall send a written notification to the BNB with the content referred to in Article 2, paragraph 3 and shall enclose a document evidencing the payment of a fee under Article 8, paragraph 2.

(2) Where the application for registration under Article 2, paragraph 1 contains a notification of the credit intermediary's intention to carry out business in another Member State, the term referred to in Article 57, paragraph 4 of the Law on Real Estate Loans for Consumers shall start to run from the date on which the intermediary is entered in the Register.

Data Storage

Article 7. The Bulgarian National Bank shall store all documents submitted by credit intermediaries on paper and electronically related to their entry in the Register and the changes stated for a period of five years from the date of deletion of the concerned credit intermediary from the Register or from the date of registration refusal.

Fees

Article 8. The Bulgarian National Bank shall charge a fee for the administrative costs related to the consideration of:

1. an application for entry in the Register - BGN 3000;

2. a notification on changes in the circumstances subject to the entry in the Register under Article 53, paragraph 1, items 3 to 5 of the Law on Real Estate Loans for Consumers – BGN 500.

Additional Provision

§ 1. (1) All documents in a foreign language as submitted under the terms and procedures of this Ordinance shall be accompanied by a translation into Bulgarian made by the Ministry of Foreign Affairs, a diplomatic agent or a consular officer in the country of origin of the document or by a person that has concluded a translation services agreement with the Ministry of Foreign Affairs to translate into the respective language, and the official documents submitted shall, where applicable, also be legalized. The BNB Deputy Governor heading the Banking Supervision Department may request copies of some private documents of essential significance for the assessment of the compliance with the requirements of this Ordinance to be provided with notarial verification of the signatures of the persons who had issued them.

(2) The forms for initial registration and change in information shall be completed in Bulgarian, and when completed in electronic format, those shall be signed by a qualified electronic signature as provided for in the Law on Electronic Document and Electronic Signature.

Final Provision

§ 2. (1) This Ordinance is issued on the grounds of Article 51, paragraph 3 and § 11 of the Law on Consumer Real Estate Loans and is adopted by Resolution No 115 of the Governing Council of the BNB of 20 October 2016.

(2) The Deputy Governor of the Bulgarian National Bank heading the Banking Supervision Department shall issue instructions on the enactment of this Ordinance.

