

January 2016

# Consumer Credit

Information issued by the Swiss Bankers Association

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This brochure is intended for bank clients who would like to obtain an overview on consumer credit.

It provides a brief explanation of the most important elements of the consumer credit legislation.

## 1. Aims of the consumer credit legislation

The Consumer Credit Act (CCA) was revised in 2015 and, together with the corresponding Implementation Ordinance (CCO), came into force on January 1, 2016. The legislation is designed to offer borrowers improved protection against overindebtedness resulting from consumer credit.

The main elements of the legislation are:

- A mandatory check of the borrower's credit capacity to be carried out by the lender
- an obligation on the part of the lender to report the consumer credit granted
- an obligation to comply with the maximum interest rate set by the Federal Council
- a right of revocation on the part of the borrower
- a ban on aggressive advertising for consumer credit.

## 2. Scope of the legislation

The Consumer Credit Act only applies to consumer credit, i.e., credit granted to individuals for purposes other than business or commercial activities.

### **Types of credit**

The Consumer Credit Act governs the following types of credit, in particular:

- cash loans
- current account overdraft facilities
- accounts overdrawn with the tacit acceptance of the bank
- credit cards and customer cards with credit options
- non-cash loans (in particular consumer finance and hire purchase), payment extensions and similar financing facilities
- certain leasing agreements.

## Exceptions

Consumer credit is not covered by the Consumer Credit Act if, in particular,

- it is mortgage-backed
- it is secured by the type of collateral usually accepted by banks
- it is secured by a sufficient amount of assets held by the borrower with the lender
- it amounts to less than CHF 500 or more than CHF 80,000 or
- it must be repaid within three months.

## 3. Maximum rate of interest

The Federal Council determines the maximum effective annual interest rate permissible for consumer credit. This is currently set at 10 percent for cash loans and 12 percent for credit cards<sup>1</sup>. Lenders set their interest rates individually within these parameters.

## 4. Creditworthiness check

Before a consumer credit agreement is concluded, the lender must first carry out a creditworthiness check. The Swiss Consumer Credit Information Office (IKO) was created to enable existing amounts owed by the borrower (current loans) to be taken into account when carrying out the creditworthiness check. Within Switzerland it administers all data on borrowers.

The IKO is subject to the supervision of the Swiss federal government and Switzerland's data protection legislation. Only lending institutions that are subject to the Consumer Credit Act have access to the data collected, insofar as they require the data to fulfil their obligations. A list of the authorised lending institutions is publicly available from the IKO secretariat (see point 8: "Further information")

While a detailed creditworthiness check is carried out for personal and other loans as well as leasing agreements, only a summary check is required for credit cards, customer cards with credit options and current account overdraft facilities.

The detailed creditworthiness check is based on repayment of the consumer credit within 36 months, even if the contract concerned specifies a longer period.

The "summary" check is based on information provided by the borrower regarding their income and assets as well as information obtained by the lender from the IKO on the lines of credit registered in its database. It is left to the lender's discretion as to which

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<sup>1</sup> Method of calculation: Reference rate plus flat-rate premium of 10 and 12 percentage points respectively (from July 1, 2016)

specific information is required and how this influences the decision whether to grant or refuse the credit.

## 5. Reporting requirement

Lending institutions must inform the IKO of the consumer credits they grant and of leasing agreements subject to the Consumer Credit Act (see point 2: “Scope of the legislation”).

For credit card accounts and customer card accounts with credit options, overdraft facilities and accounts overdrawn with the tacit acceptance of the bank, lenders must report the client relationship if

- the account has shown a debit balance for a period of 90 days without interruption and, at the end of this period, the debit balance amounts to CHF 3,000 or more, or
- the account has shown a debit balance on three consecutive account statement dates and the debit balance on each of these dates has amounted to at least CHF 3,000.

The first time a consumer credit is reported to the IKO, the following information is given:

- the borrower’s last name and first name
- the borrower’s date of birth
- the borrower’s full address (with house number)
- the type of credit involved
- the start date of the agreement (for leasing agreements)
- the total amount owed under the leasing agreement
- the amount owed monthly under the leasing agreement
- the reference date of the credit
- the debit balance on the reference date (at the time of the first report) and the current debit balance.

Where a cash loan, hire purchase or leasing agreement is subject to the reporting requirement, a default report must additionally be filed if instalment payments amounting to at least 10% of the net amount of the credit or three lease instalments are outstanding.

When the grounds which initially caused an overdraft facility, credit card account or customer card account with credit option to be reported cease to apply, the entry is deleted from the IKO database at the end of the next month thereafter.

## 6. Borrower's right of revocation

Borrowers may revoke a consumer credit agreement in writing within 14 days<sup>2</sup> of receiving their copy of the agreement. Borrowers do not have the right to revoke account overdrafts that have been tacitly accepted.

## 7. Advertising

Aggressive advertising for consumer credit is prohibited. The term "aggressive advertising" is defined by the lending industry itself (<http://vskf.org>) in a covenant.

## 8. Further information

This brochure only covers selected areas of the consumer credit legislation.

Further information can be obtained from your bank or the internet, at:

[www.admin.ch](http://www.admin.ch)

[www.iko-info.ch](http://www.iko-info.ch), Sekretariat IKO, Postfach 1108, 8048 Zürich, tel. +41 43 311 77 31

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<sup>2</sup> From January 1, 2016

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