

Ordinance based on the Federal Law on consumer credit* (OFLCC)

of 6 November 2002

The Federal Council,

Having regard to articles 14, 23, paragraph 3, and 40, paragraph 3 of the Federal Law of 23 March 2001 on consumer credit (FLCC, law),
lays down the following rules:

Section 1 Maximum interest rate

Article 1

The interest rate of article 9, paragraph 2, letter b, of the law cannot exceed 15 %.

Section 2 Information Center on consumer credit

Article 2 Organisation

¹ The Information Center on consumer credit according to article 23, paragraph 1 of the Law (Information Center) can have third parties collaborate in executing its duties if their help remains technical in nature, in order inter alia to set up the necessary infrastructure.

² It is responsible for the behaviour of the third parties it has hired.

Article 3 Information system on consumer credit

¹ The Information Center administers an information system on consumer credit. The annex lists the personal data contained in the information system and the categories of persons who are entitled to access it. It also regulates the extent of that access and the right to process the data.

² The Information Center can also allow the creditors to access the personal data it administers in online proceedings.

³ In the information system, the creditors can only access the personal data they need to evaluate the capacity to enter a credit agreement according to articles 28 to 30 of the law. The personal data may only be processed to that aim.

⁴ The Information Center is responsible for the information system. It keeps a list of the creditors who have the authorisation to access the online proceedings and updates it regularly. Anyone can access that list.

* Unofficial translation made by Nathalie Wharton, Federal Office of Justice, Berne, June 2003

Section 3

Authorisation conditions for granting credit or for acting as a credit broker

Article 4

¹ The claimant must have a good reputation and give all the guaranties of an irreproachable business activity.

² No criminal sentence having a link with the business activity under authorisation must have been passed against him during the five years preceding the authorisation request.

³ There must be no certificate of insolvency against him.

Article 5 Conditions of an economical nature

¹ The claimant who wishes to give credit must have personal capital amounting to 8 % of the credit that has not been paid back but of 250.000 francs at least.

² When the claimant is a natural person, his or her net fortune replaces the personal capital.

Article 6 Conditions of a professional nature

The claimant has the professional knowledge and technique set out in article 40, paragraph 1, letter b, of the law if he has passed:

- a. a professional examination or a superior professional examination recognised by the Confederation or any other equivalent training in financial services, or
- b. an examination organised by the cantonal authority in charge of granting the authorisation and that covers the giving of credit and the consumer credit brokerage.

Article 7 Professional civil liability insurance

¹ The professional civil liability insurance according to article 40, paragraph 1, letter c of the law is adequate when its cover:

- a. is of 500 000 francs at least per event;
- b. also includes purely financial losses.

² When special circumstances justify it, the authority in charge of granting the authorisation can waive the duty to give proof that there is a professional civil liability insurance.

³ The authority can inter alia exempt a credit broker from having to produce such a proof when a creditor has promised to be liable for the losses caused by the broker.

Article 8 Duration and withdrawal of the authorisation

¹ The authorisation is granted for a period of five years.

² The authorisation is withdrawn if :

- a. it was granted on the basis of false indications;
- b. the issuing conditions are not met anymore.

Section 4 End provisions

Article 9 Transitory provisions

All the authorisations to deal professionally in the granting of credit or brokerage in credit that were given before this ordinance came into force expire at the latest on December 31 2005.

Article 10 Abrogation of legal provisions heretofore in force

The ordinance of April 23 1972 concerning the minimum down payment and the maximum duration of the contract is repealed.

Article 11 Entry into force

¹ This ordinance comes into force on January 1 2003 with the exception of the articles mentioned in paragraph 2.

² Articles 4 to 9 come into force on January 1 2004.

Information system on consumer credit agreements : content, extent and access authorisation

Abbreviations and captions

Basic data relating to the consumer:

Surname, name,

Date of birth (day, month, year),

Address (street and number, postal code, place of residence)

Extent of the access

a: to consult the data base

b: to process (to consult, to enter, to correct, to erase)

IKO Information Center on consumer credit

G1 Creditor who grants or who has granted a credit

G2 Creditor who asks for information on existing credit agreements made by a consumer in order to assess his or her capacity to enter a credit agreement.

Persons authorised to access personal data	IKO	G1	G2
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I. Cash credit, partial payments agreements and similar payment facilities

1. after entering the agreement:

– Basic data relating to the consumer	b	b	a
– Credit type: cash credit, partial payments agreement, similar payment facilities	b	b	a
– Beginning of the agreement	b	b	a
– Number of payments	b	b	a
– Total amount of the credit including the interest and the agreed costs in the contract	b	b	a
– End of the contract (if this has been agreed to in the contract)	b	b	a
– Amount of each payment (if this has been agreed to in the contract)	b	b	a

2. in case of default:

– Basic data relating to the consumer	b	b	a
– Beginning of the agreement	b	b	a
– Amount of the credit	b	b	a
– Notice of default	b	b	a
– Date of the default notice	b	b	a

II. Leasing contracts

1. after entering the agreement:

– Basic data relating to the consumer	b	b	a
– Credit type: leasing	b	b	a
– Beginning of the agreement	b	b	a
– Number of payments	b	b	a
– Amount due on the basis of the leasing (calculated according to the duration of the contract, without the residual value)	b	b	a
– End of the contract	b	b	a
– Amount of the monthly rent (without the amounts possibly paid when the contract was made)	b	b	a

2. in case of default:

– Basic data relating to the consumer	b	b	a
– Beginning of the agreement	b	b	a
– Amount of the credit	b	b	a
– Notice of default	b	b	a
– Date of the default notice	b	b	a

Persons authorised to access personal data	IKO	G1	G2
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III. Accounts with credit cards and customer cards linked to a credit option

1. Initial declaration:

– Basic data relating to the consumer	b	b	a
– Credit type: linked to a card	b	b	a
– Beginning of the agreement	b	b	a
– Communication date for unpaid installments (deadline for balance)	b	b	a
– Outstanding amount (balance)	b	b	a

2. Further information:

– Outstanding amount (balance)	b	b	a
– Date (deadline) of the further information	b	b	a

IV. Running account overdraft credit

1. Initial declaration:

– Basic data relating to the consumer	b	b	a
– Credit type: overdraft credit	b	b	a
– Reference date of the credit	b	b	a
– Communication date for unpaid installments (deadline for balance)	b	b	a
– Outstanding amount (balance)	b	b	a

2. Further information:

– Outstanding amount (balance)	b	b	a
– Date (deadline) of the further information	b	b	a