

Mortgage Consultants

Introduction

1. The mortgage consulting sector has grown markedly in recent years, and is connected to the rise in mortgage loan volume alongside the increase in the number of options and the complexity of loan tracks offered to customers by banking corporations. For customers who opt for it, mortgage consultants assist customers when making a significant decision. The consultants also contribute to enhanced competition among banks by virtue of the comparison they conduct for customers of the loan terms at several banks and by assisting them in taking out the loan that is appropriate for their needs.
2. Mortgage consultants are not required to have a license and their activity is not supervised, and thus nearly anyone can be a mortgage consultant (in contrast to investment advisors). However, a banking corporation needs to take into account that the consultant represents the customers and therefore has a fiduciary obligation to the customer which is based in law and the consultant must act in accordance with its provisions.
3. The goal of the principles established in this Directive is to ensure that customers who request to be represented vis-à-vis the banks by a mortgage consultant are able to do so and in the most effective manner, while at the same time reducing as much as possible the risks in general, and of fraud in particular, to which the customers and banks are liable to be exposed due to representation by a mortgage consultant.
4. It is emphasized that the provisions of this Directive do not derogate from the banking corporation's obligations under any legislation, including Proper Conduct of Banking Business Directives, and in particular Proper Conduct of Banking Business Directive no. 451 on "Procedures for Extending Housing Loans".

Application

5. This Directive shall be imposed on banking corporations, excluding joint service companies.

Definitions

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| "Representative" | A delegate of a customer with regard to taking out a housing loan |
| "Loan" or "Housing loan" | As defined in Directive no. 329—"Limitations on issuing housing loans" |

Corporate governance

7. The board of directors shall discuss, decide, and establish the banking corporation's policy regarding its activity vis-à-vis representatives of the customer and shall verify that management anchors them in procedures and enforces them.

8. The policy, which is to be submitted to the Banking Supervision Department, shall include, at least, reference to the following issues:
- a. Criteria according to which work will not be permitted with specific representatives. It is clarified that the criteria that refer to the decision not to work with a specific representative shall be as detailed in Section 9(a) below.
 - b. The banking corporation's work processes in extending a housing loan via a representative, within the framework of which it shall act as follows:
 - 1) The banking corporation shall verify that a third party is the customer's representative based on explicit authorization from the customer. All the details required for the authorization are to be published by the banking corporation. Sending the authorization shall be permitted via any communication channel in which the banking corporation operates, subject to meeting the identification and authentication requirements, and the banking corporation shall not require that the customer arrive at the branch to sign the authorization. Likewise, the banking corporation shall clarify what activities the customer authorized the representative to carry out on the customer's behalf;
 - 2) The banking corporation shall verify that it complies with the directives of the Supervisor of Banks and that it meets all the obligations imposed on it by law, even when the customer chooses to act via a representative, and in particular, the requirements of full disclosure to the customer;
 - 3) The banking corporation shall manage the risks in extending a housing loan, even when the customer chooses to act via a representative, including legal risks, such as the banking corporation's obligation to maintain the customer's privacy and to act with transparency and fairness toward the customer;
 - 4) The banking corporation shall establish situations in which the customer's presence is required during the process of taking out the housing loan, with the condition that it will enable the representative to receive preliminary offers for mortgages on behalf of the customer without the presence of the customer, and provided that the customer meets with representatives of the banking corporation at least once before completing the process of taking out the loan and signing the documentation. The banking corporation shall avoid setting additional meetings with customers who use a representative, unless the meeting is critical to the continued process of extending the loan, and excluding instances in which the customer initiated the meeting;
 - 5) The banking corporation shall establish procedures for sending documents for the customer via the representative, to the extent that the customer authorized it, otherwise it shall take care to send the documents directly to the customer in a manner to be set by the corporation.

Relationship with the mortgage consultants

9. The banking corporation shall deal with the representative as the messenger of the customer/ As such, it shall act as follows:
- a. It shall not refuse to act via the customer's representative, in any stage of the process of taking out a housing loan and through any communication channel through which the banking corporation acts, subject to meeting identification and authentication requirements, unless the banking corporation has information that raises reasonable concern of a negative impact on the customer or the bank, including carrying out fraud or the impropriety of activities carried out by the representative. To remove all doubt, considerations related to the profitability of the representative's actions vis-à-vis the banking corporation, the types of activities the representative carries out, the extent of the representative's cooperation with the banking corporation, and other business the representative brings to the bank, are not be taken into account.
 - b. It will enable the representative to interact with it despite the customer not being present, subject to the provisions of Section (a) above and the policy and procedures as established by the banking corporation as noted in Section 8 above.
 - c. The banking corporation shall not pay the representative nor provide the representative with benefits directly or indirectly for the mortgage consulting and also will not limit the representative's activity in any way whatsoever.
 - d. The banking corporation shall clarify to the customer, prior to extending the loan, that the representative does not work on behalf of the banking corporation.
 - e. Notwithstanding the above, if the banking corporation chooses not to work with a specific consultant, the banking corporation shall document the considerations that led to such a decision, to the extent possible, in writing, and as close as possible to when the decision is made.

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Updates

| Circular number | Version | Details | Date |
|-----------------|---------|-------------------|--------------------|
| 2538 | 1 | Original circular | September 13, 2017 |