

Code of Conduct for Mortgage Loans

1. Definitions

In this Code of Conduct, the following terms have the following meaning:

Code of conduct

The Code of Conduct for Mortgage Loans.

Mortgage loan

A loan provided to a consumer for the purpose of acquiring, renovating or refinancing a dwelling intended for the owner's own permanent residence for which a mortgage is or will be established on that dwelling as security for repayment.

Borrowing capacity

The maximum amount of mortgage finance that a mortgage lender may provide to a consumer on the basis of the provisions of the Code of Conduct and the Temporary Mortgage Credit Scheme (Tijdelijke regeling mortgage krediet, hereinafter: "TRHK").

Legal term

The period for which a contract under which a mortgage loan is provided is concluded.

Economic term

The period within which a mortgage loan should be fully repaid according to the agreed repayment schedule at the time of provision, regardless of the legal term.

Mortgage lender

A lender whose business involves the provision of mortgage loans.

Consumer

A natural person acting other than in the exercise of a profession or business.

intermediary

A natural person, not employed by a mortgage lender, or a legal person acting as an intermediary in the arrangement of mortgage loans.

Dwelling

A building or separate part thereof intended for permanent residence, as well as the land belonging to that building, a houseboat with a permanent mooring or a caravan as referred to in the Housing Allowance Act (Wet op de huurtoeslag).

2. Scope

The Code of Conduct applies to every mortgage loan offered and/or provided by a mortgage lender to consumers as a standard product.

3. Mortgage payments calculation

The mortgage lender or the intermediary shall provide a mortgage payments calculation to the consumer in connection with the consumer's application for a mortgage loan. If a intermediary does not provide a mortgage payments calculation, the mortgage lender shall provide this on the consumer's request.

The mortgage payments calculation shall, to the extent applicable, include at least the following:

- the interest due;
- the repayment due;
- the premium for the life insurance to be pledged*.
- the notional rental value**;

the ground rent**;

the mandatory payments for the investments to be pledged.

- * If the mortgage lender is requested to provide the mortgage payments calculation, the premium(s) for the life insurance(s) to be pledged are or will be included in the calculation only if the consumer provides the relevant information. This information has to be provided for the calculation of the final loan agreement.
- ** This information will be included in the calculation only if the consumer provides the relevant information. This information has to be provided for the calculation of the final loan agreement.

4. Borrowing capacity

Income

In accordance with the TRHK, the mortgage lender shall establish the maximum amount of the gross costs associated with a mortgage loan on the basis of current debt-to-income limits laid down by law.

1. In the calculation of the borrowing capacity, account may be taken of future income available to the consumer from freely disposable assets if this is reasonably foreseeable. Disposable income available to the consumer from freely disposable assets means income that the consumer may spend without impairing the asset generating this income.

Other than in the cases covered by Section 4(1) or (7) TRHK, the mortgage lender shall calculate the consumer's disposable income from freely disposable assets at not more than three per cent of the value of the assets. If the interest rate for a mortgage loan is less than the stated percentage, for the determination of the consumer's disposable income the mortgage lender shall base its calculation on not more than the interest rate for the mortgage finance.

Security

2. The mortgage lender may agree with the consumer at the time of the provision of the mortgage loan that no schedule for the repayment of the mortgage loan or capital accumulation for the purpose of repayment of the mortgage loan will be agreed for up to 50% of the market value of the dwelling.

With respect to the part of the mortgage loan for which the above-stated percentage is exceeded, a mortgage lender shall agree with the consumer either a repayment schedule for the mortgage loan such that this part of the mortgage loan will be gradually repaid in full over a term of not more than 30 years, or an obligation to accumulate capital as security for compliance with the obligations under the mortgage finance.

In the event that an existing mortgage loan is increased, or there is a second mortgage loan (whether from the same mortgage lender or not), account shall be taken of the previous loan in the calculation of the amount of the obligatory repayment or capital accrual with respect to the new loan.

3. Mortgage lenders may deviate from the provisions of paragraph 2 under Borrowing Capacity in the following cases:
 - a. The refinancing of a mortgage loan on condition that the consumer continues to reside in the dwelling and the new mortgage loan does not exceed the mortgage loan to be repaid, plus notarial and valuation fees, any handling fees or fees paid by the consumer to an intermediary for the purpose of the mortgage loan and any payment due as a result of early repayment.
 - b. No repayment schedule or obligation to accumulate capital has to be agreed with the consumer for the amount of capital pledged to the mortgage lender as security for the mortgage loan.
 - c. If the costs of the mortgage loan are substantially lower than the maximum debt-to-income ratio.

4. If a mortgage loan is higher than the market value of the dwelling attached or to be attached the mortgage, the mortgage lender shall inform the consumer of the associated risk of a residual debt and the consequences of a residual debt in a timely manner.
5. If a consumer credit has been provided to the consumer, the mortgage lender shall take account of the associated financial costs in this respect, that it shall count not less than 2% of the credit limit on a monthly basis in the case of a revolving credit or not less than the contractual interest rate and repayment of the original credit principal until the end date in the case of a non-revolving credit as financial expenses. The provision in the preceding sentence shall not apply if the consumer repays the consumer credit from their own resources not later than the date of provision of the mortgage loan and the agreement for the consumer credit is terminated.

5. Extra or early full repayment

1. The mortgage lender shall permit consumers to effect extra or early full repayment of a mortgage loan. The mortgage lender shall be entitled to require that these repayments may only be made on certain dates and/or with observance of a certain term or terms and/or with observance of certain minimum amounts and/or against payment of a penalty fee.
2. In the case of extra repayments and early full repayment of a mortgage loan, the mortgage lender shall take account of the amount that the consumer is contractually permitted to repay without penalty in the year of the repayment in its calculation of a penalty fee.

6. Fee for extra repayment

1. The mortgage lender shall permit the consumer to effect extra repayments each calendar year amounting non-cumulatively to not less than 10 per cent of the original principal of the mortgage loan without this leading to payment of any penalty fee. This percentage is a lower limit; mortgage lenders are permitted to use a higher percentage in their terms and conditions. In the case of a change to the type of interest and/or the type of repayment during the economic term of the mortgage loan, the mortgage lender shall be entitled to require that the penalty-free repayment referred to in the preceding sentence amounts to no less than 10 per cent of the (remaining) debt of the mortgage loan at the time the conditions are changed.
2. If a fee is due from the consumer due to extra repayments on a mortgage loan that is calculated on the present value of the difference between the interest payable by the consumer and the current interest rate and the current interest rate is higher than the interest rate payable by the consumer, the mortgage lender shall not charge any fee. If in the case of extra repayments the mortgage lender uses a different method to calculate a fee than which is stated in this paragraph, such a fee arrangement shall remain in full effect.

7. Fee for early full repayment

In the event of early and full repayment of a mortgage loan, the mortgage lender:

1. shall in any case not charge a fee in the event of the death of the consumer if the deceased is the owner or co-owner or partner of the homeowner and the repayment is effected from a payment made in connection with this death;
2. shall, in the event of a voluntary private sale of the mortgaged dwelling in use by the consumer as their own residence, followed by legal transfer and relocation of the consumer, only charge a fee:
 - a. if it offers the consumer a new mortgage loan in the amount of the mortgage loan to be repaid under the same interest-rate terms as the mortgage loan to be repaid (transferable mortgage arrangement) and the consumer does not make use of this offer;
 - b. if the mortgage lender cannot be reasonably required to offer a new mortgage loan as referred to under (a) because provision would not fall within the standards it applies.

The fee shall not exceed either four months' interest on the amount of the early repayment or three per cent of the amount of the early repayment, with the lower of these two resulting amounts being applied. This fee may also not exceed the financial disadvantage incurred by the mortgage lender;

3. shall only charge a fee in the event of a forced sale or similar private sale of the mortgaged dwelling if the sale is the result of an action or failure to act for which the consumer can reasonably be held responsible. This fee shall not exceed either four months' interest on the amount of the early repayment or three per cent of the amount of the early repayment;
4. shall not charge a fee in the event that the current interest rate is higher than the interest rate payable by the consumer and a fee is payable by the consumer that is calculated on the basis of the present value of the difference between the interest rate payable by the consumer and the current interest rate. If in the case of early full repayment the mortgage lender uses a different method to calculate a fee than which is stated in this paragraph, such fee arrangement shall remain in full effect.

8. Change of conditions during the term of the mortgage loan

1. The mortgage lender shall only make use of possibilities to change to conditions of a mortgage loan if:
 - a. the mortgage lender may not reasonably be expected to continue the mortgage loan without change, or
 - b. the mortgage loan is a particular type of product and in this context it has been expressly agreed at the time of provision that the terms and conditions other than the interest rate may be adjusted.
2. If the legal term of a mortgage loan is shorter than the economic term of this mortgage loan, the mortgage lender shall continue to observe the conduct described in the preceding paragraphs during the economic term of the mortgage loan.

9. Interest on a home construction account

For mortgage loans under which the loan or a part thereof will not yet be paid to the consumer but will - under whatever name - be held for disposal, the mortgage lender shall express the fee payable for this as either net interest due on the sum held for disposal or a percentage of the principal of the mortgage loan.

10. Intermediaries

1. A mortgage lender shall conclude a written agreement with an intermediary acting for it with respect to mortgage loans that the intermediary must comply with the Code of Conduct.
2. A mortgage lender shall issue a written request to an intermediary that does not comply with the Code of Conduct to comply with the Code of Conduct.
3. A mortgage lender will exclude an intermediary from acting in this capacity with respect to mortgage loans if the intermediary in question repeatedly and seriously fails to comply with the Code of Conduct despite repeated warnings.

11. Complaints

The following legal and natural persons are entitled to submit a complaint in the event of non-compliance by a mortgage lender with one or more provisions of this Code of Conduct:

- A consumer, whose interests are directly concerned;
- A legal person with full legal competence that protects the interests of consumers in accordance with its articles of association and that is considered to be adequately representative;
- A mortgage lender.



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Submission, processing and settlement of complaints shall occur initially with the provider itself and subsequently through the Financial Services Complaints Tribunal (Klachteninstituut Financiële Dienstverlening, or Kifid).

12. Date of effectiveness

The Code of Conduct comes into effect on 1 August 2020.