
Supervision policy for creditors and credit intermediaries

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On 18 February 2015 the Riigikogu passed the [Creditors and Credit Intermediaries Act](#), which requires creditors and credit intermediaries to apply for a licence from Finantsinspektsioon and bring their activities into line with the act. Supervision generally covers all creditors and credit intermediaries with the full or partial exception of a few individual companies under § 2 of the Creditors and Credit Intermediaries Act.

Assessment of the credit landscape

The professional market participant operating in the regulated financial market must be careful to respect and fully comply with the rules. We ask companies issuing or intermediating credit to assess whether the credit services they offer fall under the Creditors and Credit Intermediaries Act and whether or not they need an operating licence. Companies issuing or intermediating credit must also carry out continuous assessment of whether their organisation and their activities comply with at least the standards in public law and whether they are acting in line with those standards.

Finantsinspektsioon can issue clarifications when necessary, but it does not provide a legal advice service or give advance assessment and opinion on the legal and business solutions of a particular company ahead of the issuing process for the operating licence. Binding opinions are given as part of the official licence application process as laid out in law.

Financial supervision

The bases, scope, rights, and procedures of financial supervision are set out legally for creditors and credit intermediaries primarily in [the Financial Supervision Authority Act](#) and the Creditors and Credit Intermediaries Act.

Financial supervision is carried out in the public interest. It is the task of supervision to make sure that the public law standards that apply to creditors and credit intermediaries are met and maintained.

Financial supervision over creditors and credit intermediaries focuses on their organisational solutions. Finantsinspeksioon assesses

- assignment of responsibilities
- reporting and its transparency
- the suitability and skills of major shareholders and managers
- the relevance and sufficiency of internal rules
- the existence and functioning of internal control systems

Organisational solutions should support and help creditors and credit intermediaries in meeting the legal requirements.

Financial supervisors have the right to direct creditors and credit intermediaries to fulfil the public law standards. If the legal requirements are not met, the operating licence can be withdrawn in the worst case. It is a criminal offence under the Credit Institutions Act to issue or intermediate credit without an operating licence, except under certain specific circumstances permitted by the law.

Finantsinspeksioon has the right to take other measures as part of its supervisory operations, including issuing injunctions and misdemeanour decisions.

Finantsinspeksioon is not able to resolve civil law disputes as an alternative to the courts. It is not Finantsinspeksioon's job to resolve contractual disputes under private law between individual consumers and creditors or credit intermediaries. Consumer complaints are resolved by the court, or in certain cases by the [Consumer Protection Board](#).

Finantsinspeksioon uses consumer complaints and other information received to assess the organisation and activities of creditors and credit intermediaries and where necessary can apply additional legal requirements to that creditor or credit intermediary so that they bring their organisation and activities into line with the applicable standards.

In supervising creditors and credit intermediaries, Finantsinspeksioon starts from risk-based supervision, analysing risks looking forward with the primary aim of applying preventative additional measures against any breaches of the regulations. Finantsinspeksioon carries out regular and planned on-site inspections and remote inspections, and works on an ad hoc basis when necessary. Finantsinspeksioon gets the inputs needed for on-site and remote inspections by collecting supervisory reports from creditors and credit intermediaries.

Procedural deadlines for operating licences

Creditors and credit intermediaries that were founded and operating before the Creditors and Credit Intermediaries Act came into force had to apply to Finantsinspeksioon for an operating licence and bring their activities and documentation into line with the act by 21 March 2016.

The decision on whether or not to issue an operating licence to a creditor or credit intermediary is taken by Finantsinspeksioon at the latest within six months of all the necessary data and documentation being submitted and the requirements met.

Suitability of managers and major shareholders of credit institutions

The Creditors and Credit Intermediaries Act sets out several requirements for managers of creditors

and credit intermediaries. People can only be chosen or appointed as managers if they have the appropriate knowledge, skills, experience, training and professional suitability needed for managing a creditor or credit intermediary, and a spotless business reputation. The manager must show sufficient competence, honesty, precision and care in their activities to ensure the interests and rights of consumers are protected.

Managers of creditors and credit intermediaries must make sure that the organisational structure of the institution is transparent and areas of responsibility are clearly determined, and that internal regulations are in place (Chapter 5 of the Creditors and Credit Intermediaries Act).

Finantsinspektsioon assesses the suitability of managers during the application process for the operating licence and during continuing supervision. We recommend that creditors and credit intermediaries read the guidelines of the European Banking Authority on assessing the suitability of members of management bodies and other key individuals before they appoint their managers.

The requirement for a spotless business reputation also applies for the major shareholders and owners of credit issues.

Skills of employees

The manager of the creditor or credit intermediary must ensure that the members of staff or representatives of the institution involved in issuing or intermediating credit or giving advice have at all times the knowledge, skills and experience required to do that job (Creditors and Credit Intermediaries Act § 40).

Managers and staff of creditors or credit intermediaries must act with the foresight and care that is expected of them and within the professional requirements of their job by holding the economic interests of the creditor or credit intermediary above their own personal economic interests. Finantsinspektsioon monitors whether training solutions are in place during its supervision.

Internal rules

The managers of the institution are responsible for the introduction and application of internal rules as required by law, primarily the Creditors and Credit Intermediaries Act § 44. There is no set format for internal rules. Internal rules are individual to each institution, and they should consider the nature, scale and complexity of the activities of the applicant and should ensure compliance with the law. The sufficiency of the internal rules and the skill and care of the management in setting them are assessed during the application process for the operating licence and during subsequent supervision.

Given the particular nature of the provision of credit services and the regulatory scope of the Creditors and Credit Intermediaries Act, special care is required of managers of creditors and credit intermediaries in agreeing and applying appropriate procedures for internal working processes, reporting chains, and customer service activities (the full list is in the Creditors and Credit Intermediaries Act § 44) where these concern compliance with pre-contractual requirements for submitting information and warnings, assessing creditworthiness including the collection and analysis of sufficient data, setting the cost of credit or accepting other related costs, providing a customer advice service, keeping credit files and similar. The functioning of internal procedures at the company is an important requirement for the issuing of an operating licence.

The internal rules should be up-to-date and relevant as application of the internal rules assumes that the rules of the creditor or credit intermediary are appropriate for the actual circumstances they are operating in at all times.

Fixing an upper limit for the cost of credit

To ensure the provision of trustworthy financial services to consumers, Finantsinspektsioon monitors during its on-site and remote inspections whether creditors and credit intermediaries abide by the upper limits on the cost of credit that are set for them and whether they have an appropriate internal procedure for doing so. Finantsinspektsioon also constantly monitors the regularly submitted reports.

A serious or repeated breach of the limits set by law is an important consideration in assessment of compliance with the terms of the operating licence.

Outsourcing of activities

Finantsinspektsioon monitors the transfer of the economic activities of creditors and credit intermediaries. With outsourcing it is important to ensure that the credit institution does not transfer its activities in a way that would let it avoid its legal responsibilities and obligations to consumers, interfere with supervision, endanger its compliance with the law or similar. Finantsinspektsioon has issued a guideline with clarification of the requirements concerning outsourcing.

Finantsinspektsioon advisory guidelines

Finantsinspektsioon issues advisory guidelines to subjects of financial supervision (Financial Supervision Authority Act § 57). The advisory guidelines of Finantsinspektsioon explain the terms of the laws regulating finance and direct subjects of financial supervision to act within the requirements of the law. Advisory guidelines include those on requirements for responsible lending.

Unlicensed activity

Under § 372 (1-2) and (4) of the penal code, operating in credit and financial services without an operating licence where one is required can be punished with a fine or up to three years in prison.

Failure to apply for a licence at the appropriate time and operating without a licence where one is required, and the consequent breach of the law, may have a substantial bearing on the assessment of the suitability of the management and major shareholders or owners if an application is later submitted for an operating licence for the creditor or credit intermediary.

Further information

The [Business Conduct Supervision Division](#) may be contacted with questions concerning supervision.

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