



Employee Categories and Verification Regulation

(Mitarbeiterkategorien- und Nachweis-Verordnung – MiKaNa-V)

Full title

Regulation of the Financial Market Authority (FMA) on the categories of employees in credit institutions concerned with the offering and conclusion of mortgage and property loan agreements, as well as the nature, scope and periodicity of verification of their knowledge and skills (Mitarbeiterkategorien- und Nachweis-Verordnung – MiKaNa-V)

Original Version: Federal Law Gazette II No. 151/2016

Preamble/Promulgation clause

On the basis of Article 33 para. 2 of the Banking Act (BWG - Bankwesengesetz) as published in Federal Law Gazette No. 532/1993, last amended by federal act in Federal Law Gazette I No. 43/2016, the following shall be determined by regulation:

Text

Differentiation between the categories of employees with regard to the minimum requirements in terms of knowledge and skills pursuant to Article 33 para. 1 BWG

Article 1. (1) Employees of a credit institution, who provide advisory services pursuant to Article 14 para. 1 of the Mortgage and Immovable Property Credit Act (HfKRG - Hypothekar- und Immobilienkreditgesetz), as published in Federal Law Gazette I No. 135/2015, in conjunction with mortgage and property loan agreements, which fall within the scope of application of Sections 2 or 3 HfKRG (hereinafter: mortgage and property loan agreements), shall be required to have the necessary knowledge and skills pursuant to Article 33 para. 1 nos. 1 to 9 BWG in relation to the loan-based products that form the basis of their advice as defined in Article 33 para. 1 no. 1 BWG (hereinafter: loan-based products), which are necessary in accordance with the nature, scope and complexity of these loan-based products.

(2) Employees of a credit institution, who are concerned with the conclusion of mortgage and property loan agreements, shall be required to have the necessary knowledge and skills pursuant to Article 33 para. 1 nos. 1, 2, 4 and 7 to 9 BWG about the loan-based products that are offered by the credit institution, that are required based on the nature, scope and complexity of these loan-based products.

(3) Employees of a credit institution, who are concerned with the assessment or ongoing monitoring of collateral or both tasks in connection with mortgage and property loan agreements, shall be required to have the necessary knowledge and skills pursuant to Article 33 para. 1 nos. 3 to 6 BWG, which are necessary in accordance with the nature, scope and complexity of the collateral and the assessment process.

Nature, scope and periodicity of proof of such knowledge and skills pursuant to Article 33 para. 1 BWG

Article 2. Credit institutions shall be required to hold obvious proof, and to keep it up-to-date, from which it is possible to determine all necessary proof pursuant to Article 1 with regard to the knowledge and skills of every individual employee in this category, separated by categories of employees, in



order to enable adequate monitoring regarding compliance with the requirements pursuant to Article 33 para. 1 BWG. The necessary proof must at least consist of

1. the naming of institution-internal guidelines by category, which as a minimum contain the respectively required vocational qualifications and experience as well as the criteria when such proven knowledge and skills are required to be updated,
2. the number of employees per category, and
3. the specific demonstrability of the vocational experience or qualifications, or both as applicable, with it being possible to make references to items considered as proof that are contained in the respective personnel documents of the individual employees.

Entry into force

Article 3. This Regulation shall enter into force on 1 October 2016.