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Important Changes in the Regulatory Landscape of the Consumer (Personal) Loans Market in Poland

This article comments on the important changes in the regulatory landscape of consumer (personal) loans in Poland granted by non-bank lenders, which are entering into force on 11 March 2016.

Regulatory Landscape for Non-Bank Lenders

The most important regulatory reference for non-bank lenders (including payday lenders and on-line lenders) which are, or plan to be, active in the consumer (personal) loans business in Poland is the Polish Act on Consumer Credit (*ustawa o kredycie konsumenckim*) (hereafter, the ACC). Generally, the ACC is the implementation of EU Directive 2008/48/EC on credit agreements for consumers, therefore Polish regulations and requirements regarding the lending process and the content of loan documentation are generally in line with EU standards in this respect. Other important pieces of legislation regarding the consumer loans market from the point of view of the lending process are the Personal Data Protection Act, the Consumer Rights Act and the Electronic Services Act.

Under the ACC, a consumer loan is understood to be a loan of no more than PLN 255,550 (approximately €60,000), or the equivalent of this amount in a currency other than the Polish zloty, which the lender grants (or promises to grant) to the consumer. Payday and online loans granted to consumers by a Polish non-bank lender are generally considered to be consumer loans under this definition.

The provision of loans (*pożyczka*), including payday and online loans, to consumers by non-bank lenders under a civil-law contract does not require a banking (or other) license in Poland (as opposed to credit (*kredyt*) provided by banks under Polish Banking Act, which requires a banking license).

Non-bank lenders can only operate as a limited liability company or a joint-stock company with a minimum share capital of PLN 200,000 (approximately €46,000), in which the capital can only be paid up in cash and the members of the corporate bodies can only be people who have not been convicted of certain offences or crimes.

Given that financial services provided by non-bank lenders are provided in most cases to consumers, the main regulatory body that supervises the market and performs controls is the Polish Office of Competition and Consumer Protection (*Urząd Ochrony Konkurencji i Konsumentów, UOKiK*).

The Amendment

The Act on the Amendment to the Act on Financial Supervision, the Banking Act, and other Acts of 5 August 2015 (hereafter, the Amendment) introduces important changes to the regulatory landscape of the consumer loans business in Poland, which will have a significant impact on the payday and online loans sector.

The Amendment covers, among other things, the following aspects of the non-bank lending business in Poland, which enter into force as of 11 March 2016:

- It introduces the definition of "non-interest costs of credit" (*pozaodsetkowe koszty kredytu*) to the ACC – which are defined as "the total cost of credit excluding interest".
- It sets a cap on the above non-interest costs of credit, which cannot be higher than 25% of the total credit (loan) amount plus 30% of the total credit (loan) amount per annum, but in any case no more than the total credit (loan) amount over the total term of the credit (loan), and provides that certain loans (and their costs) which are deferred and/or rolled-over within a term of 120 days should be combined for the purposes of this calculation.
- It sets out the maximum level of all payments related to late payment (e.g. "soft collection" costs) and interest for late payment, at the level of the maximum interest rate for the level of late payment.

The Impact

I believe the Amendment will have a significant impact on the non-bank lending business in Poland. The main trend to be expected is the extension of the product offering of payday lenders (which have offered mainly short-term and relatively small loans to date) with longer term loans of a higher value, repaid in instalments. In my opinion, the reason for such a shift is that the limits of non-interest costs of credit and payments related to late payment that are being introduced undermine the main source of income to date of payday lenders, whereas these limits do not have such an adverse effect on longer term, higher value installment loans. In fact, such changes can already be observed as the market players have already adjusted their product offering to the new regulatory framework.

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