



NEWSLETTER 7/2016

New Consumer Credit Act

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- **New Act No. 257/2016 Coll., on consumer credit, becomes effective as of 1st December 2016.**
- **The new legislation** represents the transposition of Directive 2014/17/EU¹ and contains primarily the regulation of increased requirements necessary for the start of a business in the field of granting or intermediating consumer loans, and furthermore sets the rules for performance of these activities, which are made much stricter than up to now.
- The existing Consumer Credit **Act No. 145/2010 Coll. is cancelled.**
- **The main changes** relate to regulation of conditions under which a non-banking provider of consumer loans will be allowed to conduct its business and also increase the level of consumer rights and their protection.

¹ Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010.

I. NON-BANKING PROVIDERS OF CONSUMER CREDIT

- Under the existing regulation the majority of the **non-banking providers of consumer credit** performed their activities **on the basis of a trade license** and had been under the supervision of the Czech Trade Inspection Authority (*Česká obchodní inspekce*). Pursuant to the new law, non-banking providers of consumer credit shall be entitled to conduct their business **only on the basis of a special license granted by the Czech National Bank** (*Česká národní banka*), which will also become the regulator.
- There will be a **transitional period** for non-banking providers to acquire the license (maximum 18 months as of the effective date of the new law). The application for the license itself has to be submitted in the 3-month period as of the effective day of the new Act, i.e. by 28.2.2017.
- **Fundamental conditions for the license:**
 - (i) the applier is a joint-stock company, a European company, or a company with limited liability;
 - (ii) is trustworthy and has appropriate qualification;
 - (iii) has a supervisory board with certain powers;
 - (iv) has registered capital of minimal amount of CZK 20,000,000;
 - (v) has drawn up documents containing a variety of suitable processes and rules (e.g. for inspection of the creditworthiness of the consumers, for handling complaints, for dealing with consumers that are in delay with their payments);
 - (vi) has a business plan based on a realistic economic calculation;

(vii) has a transparent origin of financial sources.

II. HIGHER LEVEL OF CONSUMER PROTECTION

- **New obligations** imposed upon both banking or non-banking providers, such as:
 - (i) higher degree of mandatory checking of the creditworthiness of the loan applicant;
 - (ii) extended list of mandatory information that is to be provided to consumers (e.g., explanation of pre-contractual information, information about changes of the interest rate, etc.);
 - (iii) restrictions of certain contractual terms and conditions (e.g. prohibition to use a phone number with higher than standard price, financial security of the credit only in proportion to the value of the secured debt, etc.);
 - (iv) new regulation concerning the termination of the contract, premature repayment and payment default of the consumer.

- **Premature repayment:** The consumer is newly entitled to repay his loan partly or as a whole **at any time** during the loan term. However, the creditor is entitled to apply for a **compensation of reasonably incurred costs** in connection with the premature repayment of the loan.

- **The compensation** in the case of consumer credit, except for mortgage loans, **must not exceed the amount of 1%** of the prematurely paid part of the total loan amount if the period between the premature payment and the agreed term of the loan exceeds 1 year, and **must not exceed the amount of 0.5%** if

this period is shorter. In the case of consumer credit relating to residential immovable property, the creditor's compensation must not exceed **the amount of 1%** of the prematurely paid part of the credit, up to a **maximum amount of CZK 50,000**. The amount of the compensation is further restricted.

- In case the consumer is in default with payment **only the following sanctions** can be applied:
 - (i) provider's right to compensate reasonable incurred costs in connection with the consumer's default;
 - (ii) default interest, which must not be higher than statutory interest; or
 - (iii) a contractual fine.

The contractual fine must not exceed the amount of 0,1% per day of the default sum. The total amount of all applied contractual sanctions must not exceed the multiple of 0.5 and the total amount of the consumer credit, up to a **maximum amount of CZK 200,000**.

We hope the above summary will ease your orientation in the new legislation. We are available for any additional requests or information.

Editor: JUDr. Magda Stárková, advocate, e-mail: starkova@akvk.cz

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