

## DEVELOPMENTS IN CONSUMER CREDIT REGULATION IN THE CZECH REPUBLIC

On 27 July 2016, the President of the Czech Republic signed a new Consumer Credit Act (the "**CCA**") that brings substantial changes to the provision of consumer (and mortgage) credit (the "**credit**"). The new legislation will affect, among others, also traders, acting as credit intermediaries, who provide consumers with credit for purchasing their goods or services. Please find below a brief summary of selected essential changes introduced by the new CCA. The novelties primarily concern credit providers, credit parameters and the protection of consumers.

The CCA distinguishes between credit providers and credit intermediaries. The two entities are subject to different regulations and have to comply with different legal requirements. Credit intermediaries are further subdivided according to the means of service provision.

In contrast to the current situation where credit providers operate under a trade license, the new legislation requires non-bank credit providers to obtain a license from the Czech National Bank (the "**CNB**"). The CNB will also maintain a publicly accessible register of non-bank credit providers. Credit providers must be a legal entity with its registered seat in the Czech Republic. The license shall be valid for a period of five years. Credit providers will also be required to have an initial capital of at least CZK 20 million (approx. EUR 740,000). This regulation is applicable only to non-bank providers. The new regulation is expected to substantially decrease the amount of credit providers which is currently around 50,000.

The regulation of credit intermediaries is not as strict. However, credit intermediaries will also be subject to registration by the CNB and, in certain cases, also to further authorization by the CNB. Credit intermediaries will also have a limited possibility to act through an agent.

Moreover, the CCA significantly strengthens the protection of consumers. It imposes extensive requirements regulating the information to be included in credit agreements (§106), it prohibits the use of promissory notes to secure a credit (§112) and permits only a pledge for securing mortgages (§113). Securing a credit by any other means makes the agreement null and void. The credit provider will also be required to assess the creditworthiness of the consumer. If the provider fails to do so, the credit agreement may be declared null and void, and the consumer will only be obliged to repay the principal (§87).

The CCA also significantly limits the possibility to arrange for or to assert a contractual penalty. A contractual penalty shall not exceed 0.1% per day (the current acceptable

penalty is max. 0.5% per day), and its maximum amount shall be limited to half of the total credit amount, up to a max. amount of CZK 200,000 (approx. EUR 7,400) (§122).

Further, the pledge may only be enforced after a six month period following the notification to the consumer about possible enforcement of the pledge (§123).

An early repayment of the mortgage credit will also become easier as the CCA allows the payment of up to 25% of the credit at each contract anniversary date (§117). Further, the ceiling for the early repayment compensation shall be fixed as a flat-rate amount.

The CCA brings also other changes concerning the regulation of consumer credit that we consider less crucial. The CCA is expected to become effective on 1 December 2016.

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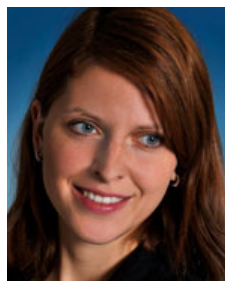


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