

# Track Changes

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## NEW AMENDMENT TO POLISH CIVIL CODE HAS AN IMPACT ON THE ACTIVITY OF CREDIT INSTITUTIONS

The Polish Parliament recently adopted the Act of 6 December 2018 on amendment to the Civil Code (the "**Act**"), which may be of significance to many financial institutions and borrowers. The Act provides that long-term loans granted by financial institutions will no longer be exempt from the prohibition on charging compound interest (*zakaz anatocyzmu*). Polish law currently prohibits charging interest on overdue interest, with the following exceptions:

- (a) upon initiation of a court proceeding;
- (b) by agreement (which can also be made in the course of restructuring proceedings) but only as to interest that is already overdue, and
- (c) long-term loans granted by financial institutions.

The Act removes exception (c). Rationales for the change include offsetting the perceived stronger bargaining position of credit institutions, generally protecting debtors and recognizing that the privilege of credit institutions charging compound interest has no basis in either the provisions of the Polish Constitution or in EU law.

Some experts believe that the Act may have a negative impact on the financial results of credit institutions, while others stress that income from collecting interest on overdue interest has been a secondary source of income for credit institutions and, accordingly, there is little risk of significant negative impact. No matter what, the Act will require credit institutions to modify contractual templates, general terms and conditions, as well as the IT systems currently being used for settlements.

The Act has been passed to the President to be signed and, unless the President refuses to sign it, the Act will enter into force 30 days after publication and will only apply to interest that accrues after that date. This means that interest accrued before the implementation of the Act will be treated in accordance existing law and may be compounded accordingly. The prohibition of compounding interest introduced by the Act will also apply to previously existing loan agreements.

The Act can be interpreted as another step in the general trend of removing perceived bank privileges from the Polish legal system. Banks will have to find other ways to compensate any decreases of their revenues.

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