

Amendment to Slovak Consumer Loans Act

On 3 February 2015 the Slovak Parliament adopted an amendment (the "**Amendment**") to Act No. 129/2010 Coll. on Consumer Loans and Other Loans and Credits for Consumers as amended (the "**Consumer Loans Act**") that introduces several major changes to the consumer loan market. The main goals of the amendment are to increase transparency, improve the oversight of consumer loans, and provide consumer loan providers with the tools necessary to assess the creditworthiness (repayment ability) of potential consumers. Major changes to the Consumer Loans Act include the introduction of the Register of Consumer Loan Information (the "**Register**"), an obligation to obtain licence from the National Bank of Slovakia (the "**NBS**") in order to provide consumer loans, and the transfer of the oversight of the industry from the Slovak Trade Inspection to the NBS.

Key issues

- **New Register of Consumer Loan Information**
- **Licence required in order to provide consumer loans**
- **Oversight by the National Bank of Slovakia**
- **Transitional provisions until 31 August 2015**

The Register

The Register is a record of information about consumer loans provided which will be established by consumer loan providers, local banks, foreign banks, as well as branches of the foreign banks (the "**Responsible Entities**"), pursuant to the Amendment. At least one register must be established by the Responsible Entities, and this Register must be operated by an entity different to the Responsible Entities. Information that must be recorded in the Register includes the identity of the consumer loan provider, the identity of the consumer, the

date and amount of the provided consumer loan, the amount of loan instalments, as well as information on payments and any default by the consumer. The Responsible Entities are obliged to provide the required information to the Register on a monthly basis. Before providing a consumer loan, the Responsible Entities are obliged to examine the information in the Register in order to assess the creditworthiness (repayment ability) of the particular consumer. If more registers are established, the Responsible Entities must examine information from those Registers that contain information from at least two thirds of the Responsible Entities that have been

registered in the Slovak Republic by the NBS.

Licence

Another major change introduced by the Amendment is the shift from a registration principle to a licensing principle. Under the current wording of the Consumer Loans Act, the consumer loan providers are required to register with the NBS. After the Amendment becomes effective, the consumer loan providers will be obliged to obtain licence in order to provide consumer loans. The licence will be issued by the NBS and may contain special conditions beyond the scope of the statutory requirements.

All conditions and statutory requirements must be met for the entire duration of the consumer loan provider's activity. A consumer loan contract concluded between a consumer and an entity that lacks the NBS licence will be void. The Amendment differentiates between two types of licence: unlimited licence and limited licence.

The statutory requirements for unlimited licence are stricter than those needed for limited licence. Unlimited licence may only be granted to a joint-stock company or a limited liability company with an established supervisory board, a minimum registered capital of EUR 500,000, verified sources of registered capital, an adopted system for assessing consumers' creditworthiness (repayment ability), an adopted complaints procedure scheme etc. The entity applying for unlimited licence is also required to establish an internal inspection department which will be responsible for examining and evaluating the system of assessing consumers' creditworthiness (repayment ability), the provision of the consumer loans, as well as compliance with any statutory and legal requirements and obligations.

Limited licence may be granted both to legal persons and natural persons. In the case of a legal person, the applicant must meet less strict requirements than those required for unlimited licence (e.g. there is no

special minimum for the registered capital requirement and no required internal inspection department). In the case of a natural person, the statutory requirements include: the full capacity for legal acts, no criminal record for economic crimes or crimes against property, the adoption of a system for assessing consumers' creditworthiness (repayment ability), the adoption of a complaints procedure scheme, an accumulated financial resource for provision of consumer loans of a minimum amount of EUR 5,000 etc. The consumer loan provider which has been granted limited licence may only provide consumer loans in a total amount of EUR 10,000 over a period of 12 consecutive calendar months. If this limit is exceeded the consumer loan provider must either apply for unlimited licence and meet the stricter requirements, or cease to provide consumer loans. If the consumer loan provider does not apply for unlimited licence after exceeding this limit and continues to provide consumer loans in excess of the limit imposed by the limited licence, the limited licence will terminate by operation of law.

Oversight authority

The Amendment brings about a change of the oversight authority in the consumer loan market. The Slovak Trade Inspection will be replaced by the NBS and the competence of the oversight authority will be expanded. The NBS will be

responsible for the issuance of licences which shall take no longer than three months from filing the complete applications with the NBS. The consumer loan provider will be obliged to inform the NBS of any changes to facts relevant to the licence. The NBS may impose sanctions up to EUR 140,000 (and in the case of natural persons, up to EUR 7,000) in the event of a breach of statutory provisions or conditions of the licence. The NBS may also revoke the licence.

Transitional provisions

The Amendment becomes effective on 1 April 2015 and the provisions on the Register will come into force on 30 September 2015. Consumer loan providers that have been providing consumer loans under the Consumer Loans Act effective until 31 March 2015 (the "**Current Consumer Loan Providers**") are entitled to continue their activities until 31 August 2015. If the Current Consumer Loan Providers wish to continue their activities after 31 August 2015, they have to apply for licence until 31 May 2015. If a Current Consumer Loan Provider does not apply for licence in time it must cease its activities on 1 September 2015. Any consumer loan contracts concluded before the Amendment becomes effective will be considered valid after the Amendment's effective date.

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