

1. **Changes introduced by the Anti-crisis Shield concerning the repayment of credit facility instalments in connection with counteracting COVID-19**

In accordance with the Anti-crisis Shield, banks may change the conditions or deadlines for the repayment of a credit facility granted to a micro-, small or medium enterprise, as defined in the Law on Enterprises, as long as the following conditions are jointly met:

- 1) the credit facility was granted **by 8 March 2020**, and
- 2) a change is justified given the bank's assessment of the borrower's financial and economic situation dating back **no earlier than 30 September 2019**.

This regulation does not concern large enterprises, as defined in the Law on Enterprises, affected by COVID-19.

The regulation does not oblige banks to make these changes, but it seems that the arbitrariness of the banks' decisions has been limited, as banks were previously not obliged to grant a grace period.

On the basis of the new regulations, the parties to a credit facility agreement will have to reach an agreement and determine the conditions for the change between themselves. However, the change cannot cause a deterioration in the financial and economic situation of the borrower. The latter requirement remains undefined by the legislator and may raise serious questions of interpretation, which may cause risks for both parties to the credit facility agreement.

These changes also apply to loans granted by banks to these enterprises.

2. **Actions declared by the banks belonging to Polish Bank Association in connection with counteracting COVID-19**

The banks associated in the Polish Bank Association have declared that they will take the following measures against COVID-19 (these were not imposed by the provisions of the Anti-crisis Shield, but were left to their discretion):

- (a) facilitating, as far as possible, the deferral (suspension) of the repayment of credit facility instalments for a period of up to three months, and automatically extending the total repayment period for the credit facility by the same amount of time, subject to the extension of the collateral for the repayment of credit facility;
- (b) providing assistance to enterprises that were creditworthy at the end of 2019, who are affected by COVID-19 and who are due to renew existing financing in the coming months, by renewing financing for up to six months at the client's request;
- (c) banks that have a leasing company in their capital group will defer the repayment of leasing instalments due from lessees on the same principles as those applied by the bank in reference to the repayment of credit facilities;
- (d) banks that have a factoring company in their capital group will defer repayment due from their clients in connection with factoring, on the same principles as those applied by the bank in

reference to the repayment of credit facilities;

- (e) not charging fees or commissions for accepting and processing applications to suspend credit facility instalments, and allowing such applications to be submitted informally, i.e. without the need to submit additional documents and certificates confirming the current financial and economic situation of the borrower, and by electronic communication;
- (f) facilitating corporate clients' access to short-term credit facilities aimed at stabilising their financial standing, if affected by the COVID-19 pandemic;
- (g) increasing the limit for NFC payments to PLN 100;
- (h) taking actions in cooperation with the "Polska Bezgotówkowa" Foundation to install several thousand additional POS devices for payment transactions.

There are also plans to facilitate mechanisms related to mortgages, consumer loans for individual customers, as well as credit facilities for enterprises. These will consist in, among other things, the rapid processing of applications from clients justifying the need to suspend the repayment of a loan due to COVID-19.

3. Proposals accepted by banks concerning the deferral of credit facility instalments

Since there are no obligations imposed on banks in a strict sense, each bank is developing its own solutions and rules for giving corporate clients credit holidays, including:

- (a) suspending the repayment of the principal and interest, with or without the extension of the loan period,
- (b) suspending the repayment of the principal part of an instalment only and continuing to collect interest, with or without an extension of the loan period,
- (c) suspending the repayment of interest, with or without an extension of the loan period.

It should be remembered that instalments are not cancelled in any case, and their payment is only deferred.

4. Payments related to the deferral of credit facility instalments

According to the announcement made by the Polish Bank Association, banks should not charge any fees or commissions for accepting and processing applications to suspend the repayment of credit facility instalments. In reality, however, borrowers may bear costs related to the suspension of credit facility instalments - depending on whether the credit facility period will be extended or whether unpaid instalments will be added, in total or in part, to subsequent payments in the same loan period.

5. The position of the Polish Financial Supervision Authority concerning the assistance package offered by banks

The Polish Financial Supervision Authority believes that the current legal provisions are sufficient and that *"actions should be carried out in order to permanently eliminate from the market those entities that have been established as making the most blatant violations of the law."* The Polish

Financial Supervision Authority has urged banks' customers to read and analyse the proposals of credit institutions carefully before submitting a request to suspend the repayment of credit facility instalments. The Polish Financial Supervision Authority expects that any bank offering credit holidays should announce the consequences of the suspension of credit to its customers fairly and honestly. In the Polish Financial Supervision Authority's view, borrowers should be fully informed in this respect, especially as regards the final costs of the credit holiday.

6. Sureties and guarantees granted by Bank Gospodarstwa Krajowego to micro-, small and medium-sized enterprises

According to the information provided by Bank Gospodarstwa Krajowego to the public, the changes in the *de minimis* programme include:

- (a) increasing the scope of guarantees to 80% of the amount of a credit facility;
- (b) not charging a commission fee for the first year of a guarantee;
- (c) extending the guarantee period for a working capital loan to 39 months;
- (d) allocating a credit facility to finance obligations arising from the business activity;
- (e) waiving commissions on guarantees already existing and due for the period until 31 December 2020;
- (f) enabling the use of the guarantee by corporate clients who were not in arrears with payments to the Social Insurance Institution and with tax payments on 1 February 2020;
- (g) granting guarantees on the amended terms until the end of 2020.

7. Sureties and guarantees granted by Bank Gospodarstwa Krajowego to medium-sized and large enterprises – Liquidity Guarantee Fund

According to the Anti-Crisis Shield, in connection with the effects of COVID-19, Bank Gospodarstwa Krajowego may provide sureties and guarantees for the repayment of loans taken out by medium-sized and large enterprises within the meaning of the Law on Enterprises.

BGK will establish a Liquidity Guarantee Fund from which these sureties and guarantees for medium and large enterprises will be granted. These solutions will be available to companies from all industries that were not in arrears with payments to the Social Insurance Institution, tax payments or credit repayment in the banks financing a given company on 1 February 2020. Support will be granted under the following rules:

- (a) security up to a maximum of 80% of the loan amount (guarantee amount from PLN 3.5 million to PLN 200 million);
- (b) guarantee period up to a maximum of 27 months;
- (c) the maximum loan amount covered by the guarantee will be PLN 250 million;
- (d) a loan is to ensure the financial liquidity of the enterprise;

- (e) guarantees from the Liquidity Guarantee Fund will be available for loans for which credit facility agreements have been concluded since 1 March 2020.
- (f) guarantees will only be granted until the end of 2020.

8. One-off loan not exceeding PLN 5,000

In accordance with the Anti-crisis Shield, a loan of up to PLN 5,000 is available only to micro-entrepreneurs, as defined in Law on Enterprises. The loan will bear interest at 0.05 % on the rediscount rate, which is currently 0.0525%. per year.

The loan repayment period cannot be longer than 12 months, with a grace period of three months from the date of granting the loan.

The Council of Ministers may issue an ordinance extending the repayment period of the loan, taking into account the duration of the epidemic and its effects.

The form of security for the repayment of the loan granted will be a blank promissory note or another form of security established by the parties to the agreement.

The application for the loan will be submitted by the micro-enterprise to the district labour office. In the loan application, the micro- enterprise declares the state of employment as at 29 February 2020 in terms of full-time equivalents.

The loan, together with interest at the request of the micro- enterprise, is subject to redemption, provided that the micro- enterprise does not, for the first three months after it is granted, reduce the state of employment in terms of full-time equivalent compared to the state of employment as at 29 February 2020.

9. Changes to export insurance

Korporacja Ubezpieczeń Kredytów Eksportowych S.A. received instruments enabling, among other things, export insurance coverage of the following financing instruments:

- (a) bank credit facility,
- (b) loans,
- (c) the credit limit for issuing guarantees or letters of credit,
- (d) acquiring or guaranteeing an issue of debt securities, in particular bonds,
- (e) the acquisition of debt,
- (f) leasing;
- (g) export contracts;
- (h) direct investments abroad.

The legislator introduced the general objective of export insurance, which is to "enable Polish companies to participate in international trade and increase their activity on the international arena"

and indicated the objectives of export insurance in relation to specific cases of insurance, taking into account the new definition of export insurance, pointing in particular to the protection of domestic companies against losses incurred in connection with the implementation of direct investment abroad;

The legislator has also extended the personal scope of losses covered by the insurance of sales contracts concluded by subsidiaries, which now cover, not only losses incurred by the policyholder, but also those incurred by the insured.

10. Changes to the “Rodzina na swoim” [the “Family in its own home”] programme

The proposed changes include extending the period of benefits by the period for which the preferential credit facility repayment is deferred and, at the same time, keeping the maximum, eight-year period of applying benefits under to the present scheme.

11. Changes to social housing

In accordance with the Anti-crisis Shield, the grace period for repayments of a credit facility granted in connection with counteracting COVID-19 is not included in the repayable financing period and the credit facility period. The proposed solution excludes the application of the condition limiting the repayment period of the credit facility granted by Bank Gospodarstwa Krajowego as part of social housing support to the maximum of 30 years in the case of a temporary suspension of the repayment on the credit facility granted by Bank Gospodarstwa Krajowego in connection with COVID-19.

12. Changes in consumer loans

Another element of the Anti-Crisis Shield is the introduction of a statutory algorithm calculating non-interest bearing consumer loan costs and their maximum limit. The legislator decided to significantly reduce these costs compared to the solutions provided for in Article 36a of the Consumer Loan Act, where: (i) the costs depend on the amount of the loan and are **25%** (**15%** for loans of at least 30 days, and **5%** for loans of less than 30 days after the Anti-Crisis Shield enters into force), and (ii) the costs depend on the duration of the financing and are **30%** per year (currently **5%**).

Moreover, non-interest-bearing costs of consumer loans **cannot be higher than 45%** of the total amount of the loan, compared to the limit of 100% of the total amount of the loan under the existing regulations.

Therefore, non-interest-bearing costs of consumer loans resulting from the consumer loan agreement are not due in excess of:

- 1) the maximum non-interest-bearing costs of the loan calculated in the manner specified above, or
- 2) 45% of the total loan amount.

An infringement of the provisions on non-interest-bearing costs of consumer loans may constitute a practice infringing the collective interests of consumers referred to in Article 24(2) of the Act on Competition and Consumer Protection of 16 February 2007.

The solution will be valid for 365 days from the date when the Anti-crisis Shield enters into force, where the costs determined in accordance with the current Consumer Loan Act may be charged only for the remaining term of the loan.

13. Changes in the National Guarantee Fund

Pursuant to the Anti-crisis Shield, Bank Gospodarstwa Krajowego can take loans or credit facilities, and may issue bonds at home and abroad for the benefit of the National Guarantee Fund (the NGF) kept at this Bank.

If the NGF has insufficient funds for BGK to service the loan, credit or bonds, the minister responsible for public finance will provide the NGF with appropriate funding to cover the obligations (including funds from the state budget – the prohibition in this regard was lifted). The State Treasury may issue sureties and guarantees for the obligations of Bank Gospodarstwa Krajowego without the need for the BGK issuing its own guarantees in this regard. Sureties and guarantees may be granted up to 100% of the outstanding loan amount covered by a surety or guarantee, or 100% of the cash benefits that remain to be paid under the issued bonds covered by the surety or guarantee, with 100% of interest due on these amounts and other costs directly related with the loan, or bonds.



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