COVID-19 - A brief overview of measures related to repayment of loans

Dentons Prague Newsletter

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The Czech Republic adopted the Act no. 177/2020 Coll., containing certain protective measures for borrowers regarding the repayment of loans. The proposed measures aim to provide relief for companies as well as individuals in financial difficulty caused by the spread of the COVID-19 virus, by deferring payments of loan instalments and limiting interest on loans for private individuals. The Act became enforceable on 17 April 2020.

Proposed measures

The law provides borrowers, both private individuals and corporations, with an option to ask for a protective period of either three or six months during which the borrowers are relieved from repayment of their loan installments. If the borrower opts for the protection, the term of the loan is extended accordingly. This measure applies to almost all loans concluded prior to March 26, 2020 between a lender (providing the relevant loan as its business) and a borrower (a consumer or a business) in the Czech Republic, provided that the borrower applies for it (*opt-in mechanism*).

Eligible loans and opt-in mechanism

In order to receive the protection provided by the law, the borrower must apply for it (*proposal for deferral as described below*).

The measure will apply only to the following “**eligible loans**”:

(i) Any loan concluded and utilized before March 26, 2020; and

(ii) Any loan concluded before March 26, 2020, but not utilized, if, among others (a) such loan is secured by a mortgage; or (b) such loan is provided for the acquisition of real estate, construction of a real estate property or its part, construction/building changes of a real estate property and other purposes described in the law and related to real estate.

Exceptions to the eligible loans

There are certain exceptions, where the borrowers will not be able to benefit from deferral of loan payments. Such exceptions include:

(i) Loans under which the borrower was already in default longer than 30 days as of March 26, 2020;

(ii) Loans designated for a trade in investment instruments; and

(iii) Loans that can be drawn repeatedly (including revolving loans and overdrafts).

The law originally contained an exception regarding loans, for which the interest is secured by hedging on financial markets. However, such exception was removed in the legislative process. Thus, the scale of eligible loans is significantly broadened, because majority of investment term loans or structured financing arrangements are hedged against volatility in floating interest rates or volatility in currency exchange rates.

Choice of protective period

The borrowers may select either a three- or six-month protective period, which in any event would end on July 31, 2020 (three-month protective period) or October 31, 2020 (six-month protective period).

The protective period will not be applied automatically and generally, so borrowers who want to take benefit of the proposed measures must notify the lender thereof. Borrowers must submit the notification (*proposal for deferral*) in writing or by any other means of remote communication (e.g. email) that the lender specifies, provided it is easily accessible. If the proposal for deferral is submitted, it effectively prolongs the repayment period of the loan by three or six months depending on the chosen protective period.

The proposal for deferral shall contain the identification of the borrower, a statement that it wishes to use the protective period due to the negative economic implications of COVID-19 virus, and the identification of the loan.

The lender may not charge any fee in relation to the proposal for deferral.

Impact on interest

If the borrower is a consumer, the interest on loans is capped at a rate of 9%[1], or a lower interest rate as agreed with the lender. Moreover, the interest accrued during the protective period is payable at the end of the repayment period and after all other monetary debts related to the respective loan are paid in full. In other cases, the interest rate on the respective loan remains unchanged.

The lender is not allowed to require other payments (except interest in case of businesses) under the respective loan during the protective period.

No payments or fees connected to the default of the borrower (such as contractual penalties) can arise until October 31, 2020, except where the borrower is a legal entity (such as a corporation).

If you have any additional inquiries, please do not hesitate to contact us.

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[1] (repo interest rate of 1 % declared by the Czech National Bank plus 8 percentage points).