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Legal Update

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News in legislation

Draft Amendment to the Consumer Credit Act

The government has approved a draft amendment to the Consumer Credit Act, which was submitted to it by the Minister of Finance. The amendment transposes the requirements of Directive (EU) 2023/2225 of the European Parliament and of the Council of October 18, 2023, on consumer credit agreements and repealing Directive 2008/48/EC (hereinafter “CCD2”). The draft is expected to take effect at the end of 2026.

A key change is the scope of the Act. The regulation will now apply, at least in part, to loans that were previously outside this legal framework, such as interest-free loans, certain forms of deferred payments (e.g., the “buy now pay later” model), or the sale of goods on installment. Providers and intermediaries of these services will be required to obtain authorization to operate under this Act.

A significant new feature is the explicit setting of a cap on loan costs (interest rates). A distinction will be made between standard loans, where the annual percentage rate of charge (APR) will be capped, and smaller or short-term loans, where a cap on the total cost of the loan is set. In this regard, according to its proposer, the proposal was inspired by case law on the issue of compliance with good morals (specifically, the explanatory memorandum refers to Supreme Court judgments case no. 21 Cdo 1484/2004 and case no. 33 Odo 236/2005). The resulting cap for smaller loans thus corresponds to three times the standard lending rate, which is approximately 50 % per annum.

Another significant area of change concerns the pre-contractual information obligations of credit providers. The amendment expands the scope of information that must be provided to consumers prior to the conclusion of a contract; specifically, it includes the obligation to inform consumers about the option of resolving disputes through a financial arbitrator, the repayment schedule, and the use of automated decision-making in determining credit terms.

The amendment also strengthens consumer protection during the actual negotiation of a loan. It introduces a requirement for the consumer’s active consent to the conclusion of a contract or the provision of an ancillary service, thereby eliminating the practice of pre-checked boxes and automatic loan arrangements. **This approach shifts the legal framework toward the “opt-in” principle** and addresses practices where consumers unknowingly entered into credit relationships, for example, during online purchases.

The proposal also includes amendments to the rules governing the assessment of a consumer’s creditworthiness. The fundamental objective of the legislation remains to ensure that loans are not granted to individuals who are not realistically able to repay them. However, rather than the previous focus on the formal correctness of the provider’s procedure**, the amendment places greater emphasis on the substantive aspect of the matter – that is, the consumer’s actual economic situation.**

The decisive factor is the situation at the time the loan is granted. If, given the circumstances, it demonstrably should not have been granted, the loan agreement will be invalid, and the consumer will not be obligated to pay interest or other costs but will only repay the principal, to the extent possible.

However, conversely, this also means in practice that even if the lender did not assess the consumer’s creditworthiness at all, this would have no effect on the validity of the contract, provided that the borrower’s financial circumstances at the time the contract was concluded allowed for the loan to be repaid.

According to the proposer, this change is based on the latest case law in this area (specifically the Supreme Court judgments, case no. 33 Cdo 1819/2023, Case No. 33 Cdo 2105/2024, and Case No. 33 Cdo 1056/2025 from January 2026.)

The proposal does not alter the fundamental concept of regulation; its sole aim is to establish clearer and more predictable rules for the provision of loans and to find a compromise that protects consumers while maintaining the availability of legal loans.

Draft Amendment to the Capital Markets Act

The draft **implements the EU legislative package**, which consists of Regulation (EU) 2024/2809 of the European Parliament and of the Council of October 23, 2024, Directive (EU) 2024/2810 of the European Parliament and of the Council (EU) 2024/2810 of October 23, 2024, and Directive (EU) 2024/2811 of the European Parliament and of the Council of October 23, 2024 ("**Listing Act Package**"). The draft law also includes the **transposition** of Directive (EU) 2024/2994 of the European Parliament and of the Council of November 27, 2024 ("**EMIR 3**") and the **partial transposition** of Directive (EU) 2019/878 of the European Parliament and of the Council (EU) 2019/878 of May 20, 2019 ("**CRD V**") and Directive (EU) 2024/1619 of the European Parliament and of the Council of May 31, 2024 ("**CRD VI**").

The aim of the draft is also to align the Czech legal system with Regulation (EU) (EU) 2024/3005 of November 27, 2024 (the "ESG Rating Regulation") and to address certain objections regarding the previous transposition of certain directives raised by the European Commission against the Czech Republic within the framework of the so-called "Conformity Pilot." **The amendment is expected to take effect gradually in the summer and by the end of 2026.**

The draft fundamentally changes the rules governing the issuance of prospectuses and introduces a new offering document, thereby reducing the administrative burden on issuers. The obligation to prepare a prospectus is now conditional on the total aggregate value of the securities being at least EUR 5 million, while a new, simpler "**offering document**" is established for issuances between EUR 1 million and EUR 5 million.

The proposal also **relaxes the rules governing companies' entry into the capital market**, particularly by lowering the requirements for the so-called "**free float**." A lower percentage of shares held by the public (approximately 10 %) is now sufficient, and alternative conditions are introduced that the market operator may assess flexibly.

Another significant change is the revision of investment research conditions. The very concept of research is defined, rules for investment research are introduced, and, for the first time, rules for **issuer-sponsored research** are established, including rules for its labeling, financing, and conflicts of interest. This change is important for small and medium-sized enterprises, as this regulation is intended to help them more easily attract investor attention. Additionally, the market for small and medium-sized enterprises ("SME growth market") may now be operated solely as part of a multilateral trading facility ("MTF"), rather than as a standalone entity, thereby expanding market organization options.

Another new feature concerns **shares with different voting weights ("dual-class shares").** The proposal explicitly prohibits the refusal of their admission to trading and introduces extensive disclosure requirements regarding their structure, thereby enhancing their transparency compared to the previous regulation.

The draft also repeals certain administrative obligations, in particular the obligation to register additional business activities. There are also changes in the area of risk management for securities dealers, with a new explicit obligation to monitor and manage concentration risk with respect to central counterparties, including the obligation to establish plans and targets in this area.

Another change is the expansion of the conditions for authorizing activities, whereby it is now assessed whether an entity's other business activities pose a risk to financial stability or supervision. In the area of supervision and market rules, the proposal also strengthens the powers of the Czech National Bank, allowing it, for example, to adjust the thresholds for reporting transactions by persons with managerial authority.

At the same time, there are a number of minor deregulations and technical changes, the removal of certain requirements (e.g., full legal capacity in certain provisions), the simplification of reporting obligations, and the adjustment of references in line with EU law.

The proposal represents a **modernization amendment that, compared to the original legislation, reduces the regulatory burden** (prospectus, administrative obligations), expands the rules for investment research, facilitates companies' entry into the capital market, and at the same time strengthens transparency and risk management in key areas.

Case law updates

„Precautionary" VAT Registration and its Subsequent Contesting

(Judgment of the Supreme Administrative Court dated February 12, 2026, Case No. 3 Afs 85/2025)

The plaintiff (a self-employed individual) filed an application for VAT registration in 2023 "as a precaution," claiming that he believed he may have exceeded the statutory turnover threshold as early as 2020. The tax administrator requested that he provide evidence of economic activity, whereupon the plaintiff stated that in the fourth quarter of 2019, he had provided a customer with commercially usable contacts. Remuneration for this service was subsequently paid to him in installments, which he substantiated with 182 unique invoices issued between 2020 and 2023. **Based on this documentation, the tax administrator decided to register the claimant for VAT.**

The claimant subsequently contested this decision, arguing that it was a one-time transaction, and that the invoices provided merely reflected installments for this one-time transaction. Given the above, he argued that this could not be considered an economic activity carried out on a systematic basis for the purpose of generating regular income. He therefore filed an appeal against the registration decision.

In the appeal proceedings, the Regional Tax Office (the defendant) relied primarily on the formal characteristics of the submitted invoices and the regularity of the income. It concluded that the plaintiff had engaged in economic activity, as he had collected regular monthly payments over a period of several years and issued invoices with varying dates and details, which, in its view, indicated the ongoing provision of services. It also refused to accept the customer's affidavit proposed by the plaintiff as superfluous, stating that it lacked sufficient probative value, and dismissed the appeal.

The plaintiff subsequently filed a lawsuit with the Municipal Court in Prague ("MSHP"), which upheld the defendant's decision. Above all, it emphasized the fact that the plaintiff filed an application for VAT registration on his own initiative, properly indicated the relevant date, and, upon request, submitted invoices with unique details. If he subsequently concluded that this was a one-time supply, the plaintiff should have better demonstrated this in the appeal proceedings.

Furthermore, the MSHP stated that, in its view, the main characteristic of economic activity is the generation of regular income, with consistency also being a significant criterion for this assessment. Based on the long-term flow of income and the number of invoices issued, it concluded that the plaintiff was engaged in a systematic activity. It rejected the argument regarding a one-time transaction, noting that it was supported only by an affidavit, which could not stand up against the other evidence. Although the court acknowledged that the defendant should have informed the plaintiff in advance of its assessment of the evidence pursuant to Section 115 (2) of the Tax Code, it considered this defect to be minor and without impact on the legality of the decision.

The plaintiff filed a cassation appeal against this decision, in which he primarily objected to incorrect findings of fact, misinterpretation of the evidence presented, and a violation of his procedural rights.

The key basis for the Supreme Administrative Court's legal assessment was that a one-time provision of a service, even if the payment is spread out in installments, does not constitute an economic activity within the meaning of the VAT Act. Therefore, it was essential to determine whether this was indeed a one-time transaction or a continuous provision of services.

The Supreme Administrative Court criticized both the administrative authorities and the municipal court for failing to sufficiently clarify this issue. Their conclusion regarding continuous activity was based primarily on the formal characteristics of the invoices and the regularity of the income, without properly examining the actual nature of the service. It **further emphasized that the regularity of income does not automatically imply the continuity of the activity; rather, its actual nature must be examined.**

The Supreme Administrative Court also identified a fundamental error in the fact that the tax administrator registered the plaintiff without proper justification and without clarifying the contradictions in his statements. In the appeal proceedings, the defendant then presented evidence and formulated new evaluative conclusions without first informing the complainant of them and allowing him to comment on them. In doing so, it violated Section 115(2) of the Tax Code and deprived him of the opportunity for an effective procedural defense. Given this, the decision came as a surprise to the complainant. Another flaw was the failure to admit the proposed evidence in the form of an affidavit from the customer or, alternatively, to question the customer. The Supreme Administrative Court held that the administrative authorities could not have rejected this evidence as superfluous if they had not yet sufficiently established the facts of the case, and that this evidence in particular could have helped clarify the true nature of the transaction.

In the conclusion of the judgment, the Supreme Administrative Court also commented on the **contradictory nature of the complainant's conduct, who voluntarily filed an application which he subsequently began to dispute**, while also addressing his subsequent inability to sufficiently clarify his claim regarding a one-time supply. First, it emphasized that, **given the aforementioned errors, the complainant did not in fact know throughout the proceedings why exactly he had been registered for VAT** and based on what specific considerations the tax administrator had concluded that economic activity existed. Subsequently, however, he also pointed out a systemic shortcoming: that within the application for registration, there is no option to proactively inquire whether the entity meets the conditions for VAT liability.

According to the Supreme Administrative Court, the only practical way to avoid penalties is therefore to register "as a precautionary measure" and subsequently challenge this procedure.

The Supreme Administrative Court then concluded that the facts of the case were not supported by the evidence presented and that the proceedings were marred by serious procedural defects, and that the Municipal Administrative Court erred in failing to consider these errors as grounds for overturning the administrative decision. **Therefore, it overturned both the MSPH's judgment and the defendant's decision and remanded the case for further proceedings, in which the nature of the performance must be properly clarified and the plaintiff's procedural rights must be respected.**

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