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LEGAL AND PRACTICAL ISSUES OF THE CONSUMER CREDIT: LITHUANIAN EXPERIENCE


CONTENT

- ✘ Overview of the Regulation of Consumer Credit in Lithuania
- ✘ Overview of some statistical facts
- ✘ The future or Quo Vadis, consumer credit?

OVERVIEW OF THE REGULATION OF CONSUMER CREDIT IN LITHUANIA (I)

- ✘ Consumer Credit Directive was implemented in the CC (Art 6.886-6.891) – specific regulation in the Chapter Loan Agreement
- ✘ Method of the implementation of the new CCD 2008/48/EB (CCD 2008) into Lithuanian law was changed:
 - + Separate Law on consumer credit regulating civil and public law matters was adopted (23-12-2010, came into force on 01-04-2011 – 10 months later as transposition deadline provided in the CCD)
 - + Provisions of the CC regulating consumer credit were revoked

OVERVIEW OF THE REGULATION OF CONSUMER CREDIT IN LITHUANIA (II)

- ✘ The Law on consumer credit was changed – new wording adopted on 17-11-2011 (came into force on 01-01-2012)
 - + mainly due to institutional changes
 - ✘ Functions related to the public administration of the consumer credit market were assigned to the central Bank of the Republic of Lithuania (Lithuanian Bank) (instead of the State Consumer Protection Board)
 - ★ Supervisory function
 - ★ Function related to imposition of sanctions
 - ★ ADR function
 - + Some changes of the penalization procedure taking into account institutional changes
 - + The maximum of the annual percentage rate of charge was changed (the presumption of the fair annual percentage rate of charge)
 - ✘ 250 percent  200 percent

OVERVIEW OF THE REGULATION OF CONSUMER CREDIT IN LITHUANIA (III)

- ✘ Lithuanian Bank adopted following acts:
 - + The Rules on the calculation of the annual percentage rate of charge
 - + The Principles of the responsible lending and evaluation of the consumer creditworthiness (new wording was adopted in 2013)
 - + The Rules on the inclusion of the lenders in the list of the credit lenders
 - + The Guideline of the advertisement of the financial services

COMPARISON WITH THE CCD 2008 (I)

- ✘ Generally, the wording of the law on consumer credit corresponds to the wording of the CCD
- ✘ However, some aspects of the regulation should be noted:
 - + Ratione personae - Personal scope - the parties of the contract
 - ✘ Consumer definition was not expanded (law is applied only to natural persons)
 - ✘ Consumer credit lender is only legal person (the natural person is not able to provide consumer credit services)
 - ✘ Regulation of the activity of the consumer credit lenders and credit intermediaries
 - ★ Persons are able to provide consumer credit services only after inclusion in the list
 - ★ Persons can be deleted from the list

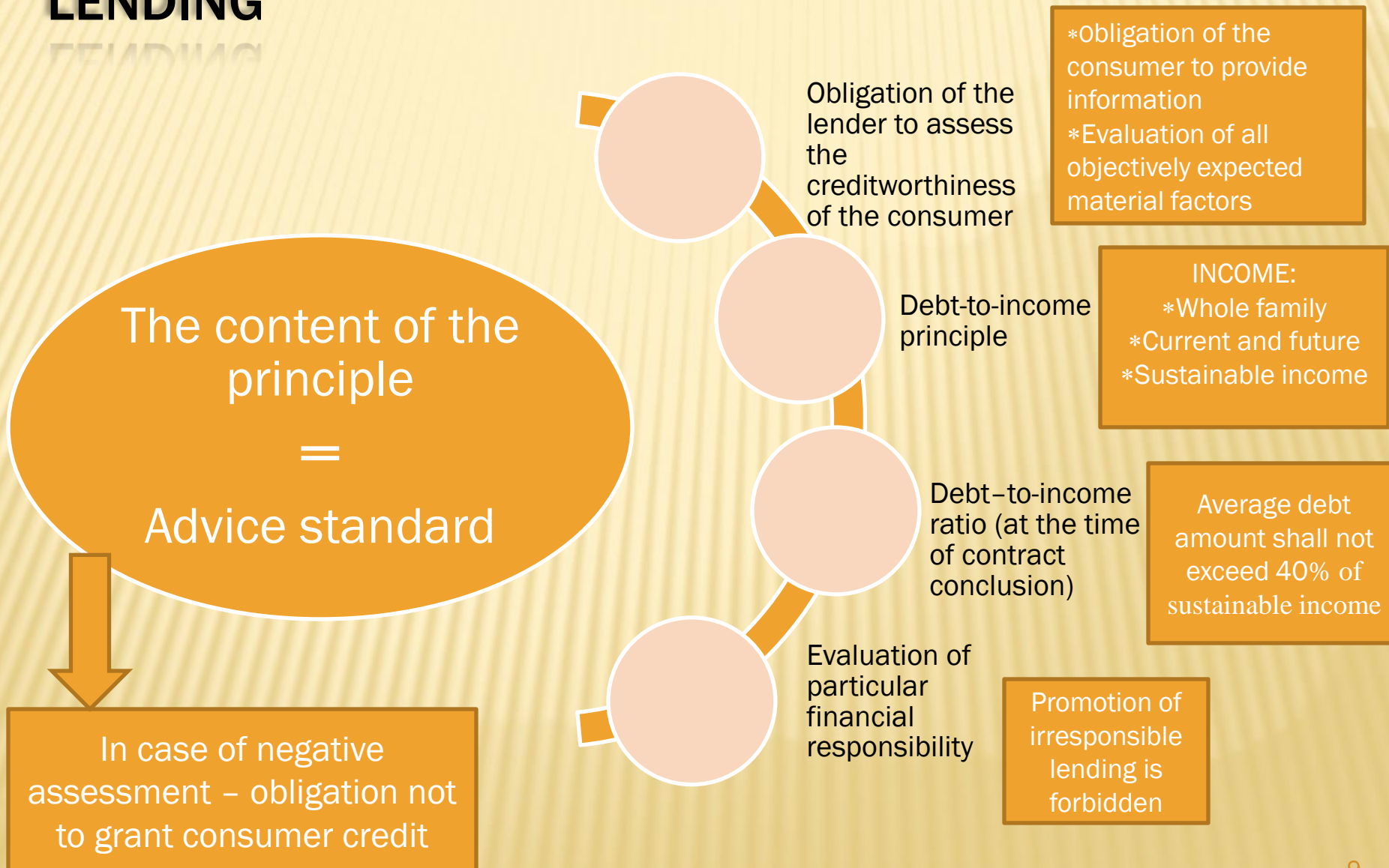
COMPARISON WITH THE CCD 2008 (II)

- + Ratione materiae - The scope of the regulation – extension of the scope
 - × The point f) of Part 2 of the Art 2 of the CCD was not excluded (credit agreements where the credit is granted free of interest and without any charges and credit agreements under the terms of which the credit has to be repaid within 3 months and only insignificant charges are payable) in order to involve quick credit
 - × No exceptions for the small amount credits (no 200 EUR limit)

COMPARISON WITH THE CCD 2008 (III)

- ✘ The obligation provide an information
 - ✘ *Onus probandi* re provision of the information lies upon the credit lender
- ✘ The obligation of the consumer credit lender to evaluate the creditworthiness of the consumer
 - ✘ The principle of responsible lending is indicated, however, the content of this principle is not provided in the law
 - ✘ The principles of the responsible lending and evaluation of the consumer creditworthiness is adopted by Supervisory institution and the rules of the evaluation of the consumer creditworthiness shall be adopted by the credit lender
 - ✘ The consequences in case the credit lender does not properly evaluate the creditworthiness of the consumer – the interest rate in case of late payments and any charges payable for default do not apply if the circumstances which were not properly evaluated cause the late payment

CONTENT OF THE PRINCIPLE OF RESPONSIBLE LENDING



COMPARISON WITH THE CCD 2008 (IV)

✘ The consumer credit contract

- ✘ Consequences if the obligation to provide information to the consumer was breached
 - ★ the consumer right of withdrawal with the prior 30 days notice
 - ★ the consumer right to repay the credit according to the contract without paying interests and other fees
- ✘ The maximum rate of default interests are regulated by law (not higher than 0,05 % for each default day (any other default interests or fees shall not be paid))
- ✘ The exhaustive list of conditions when the lender is able to terminate the contract (cumulative conditions)
 - ★ the consumer is informed about the default payment
 - ★ the payment is delayed longer than one month and its amount is not less than 10% of the total amount of the credit or the payment is delayed longer than three consecutively months
 - ★ the payment has not been made within two weeks from additional notification to the debtor
- ✘ Prohibition to accept bills of exchange, checks and debt instruments
 - ★ Prohibition to accept payments from the debtor in bills of exchange, checks and debt instruments
 - ★ In case of breach of the mentioned prohibition the lender shall indemnify the debtor all the damages related to further use of such means

COMPARISON WITH THE CCD 2008 (V)

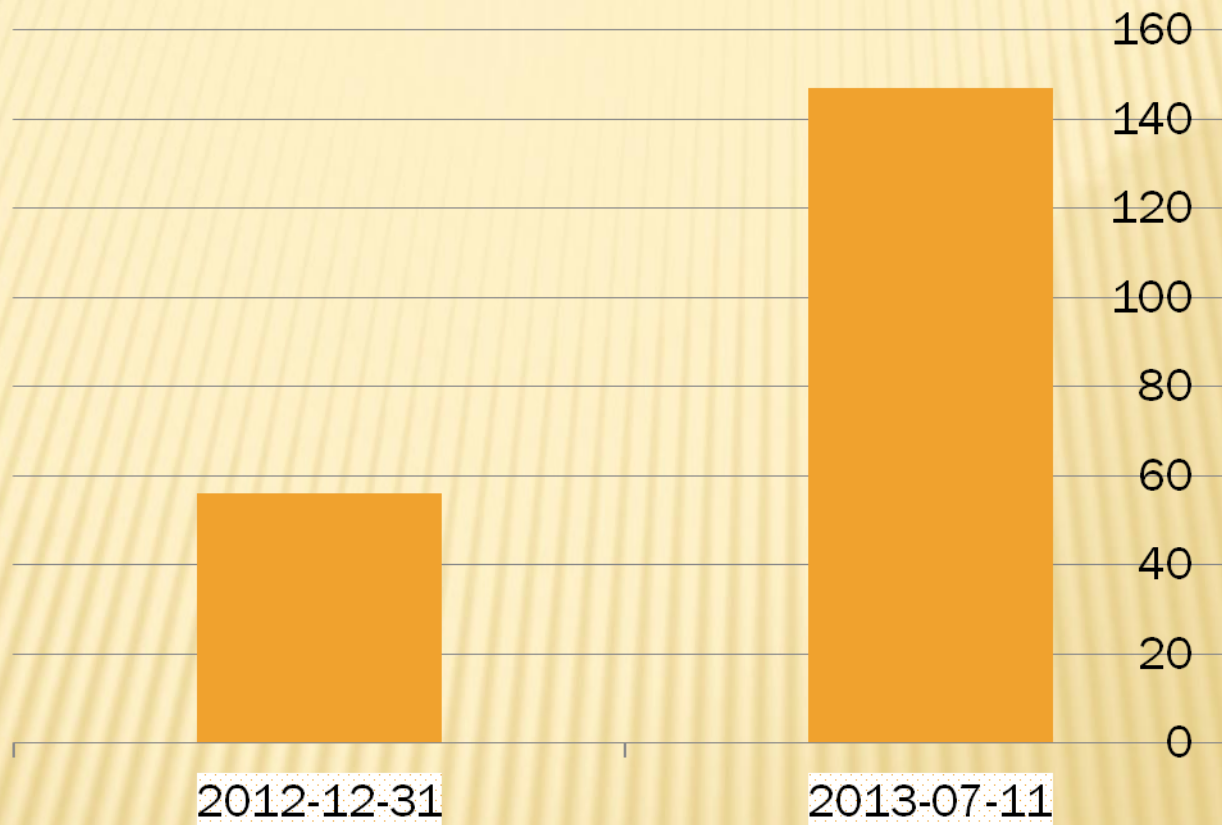
- ✘ Regulation of penalization procedure
 - + The sanctions
 - ✘ Warning for the minor infringements
 - ✘ Penalty from 1000 Lt (~ 290 EUR) up to 30 000 Lt (~ 8'700 EUR)
 - ✘ Penalty for the repeated infringement within the period of one year – up to 120 000 Lt (~34'800 EUR)
 - + Unclear relation with the law implementing UCPD
- ✘ The ADR procedure

OVERVIEW OF SOME STATISTICAL FACTS (I)

- ✘ Supervisory institution in July announced The Overview of the Consumer Credit Market, 2012 and presentation on this topic
- ✘ Some Consumer Credit Market Statistics is available in English (please see http://www.lb.it/n20287/consumer_credit_market_statistics_q1_2013.pdf)

OVERVIEW OF SOME STATISTICAL FACTS (I)

THE PUBLIC LIST OF CONSUMER CREDIT LENDERS



OVERVIEW OF SOME STATISTICAL FACTS (II)

SOME IMPORTANT FACTS - THE SITUATION AT THE END OF 2012*

- × **70 %** more signed consumer credit agreements (comparing with 2011) (from 366 thousand to 621 thousand agreements)
- × **32 %** bigger total amount of granted consumer credits (comparing with 2011) (from 653,97 to 862,31 million Litass)
- × **20 %** consumer credits when payment was overdue for more than 60 consecutive days at the end of 2012 (29% of which are small consumer credits)
- × **40,7 %** of outstanding amount of consumer credits were small consumer credits when the credit repayment period was extended after the borrower paid an extension fee (situation at the end of 2012)
- × **35 %** of the clients of small consumer credits were clients aged below 25
- × **2,5 times** increased the portfolio of small consumer credits (from 83,18 million to 206,91 million Litass)
- × **177 %** - the average annual Percentage Rate of Charge of small consumer credits
- × **Only 44 consumer** complaints were provided to the supervisory institution re consumer credits

*The Overview of the Consumer Credit Market, 2012 and presentation on this topic

THE INSIGHTS OF THE LITHUANIAN BANK*

- ✘ Reasons for growth of indebtedness
 - ✘ Insufficient evaluation of the consumer creditworthiness
 - ✘ Aggressive and misleading advertisement
 - ✘ Non – responsible lending (the lack of consumer education)
- ✘ Proposal for improvement
 - + Regulation measures – amendments of the law on Consumer credit
 - ✘ Obligation of the credit lenders to check creditworthiness of the consumer in the data basis (e.g. Social security data basis (SODRA)) (from soft regulation to mandatory evaluation)
 - ✘ Increase of the penalties for the infringements of the Consumer Credit Regulation (5-10% of the income from the consumer credit services and deletion from the list of service providers)
 - ✘ Requirements for advertisement
 - + Organizational measures
 - ✘ Further Development of the Consumer education system

* The Overview of the Consumer Credit Market, 2012 and presentation on this topic

THE FUTURE OR QUO VADIS, CONSUMER CREDIT?

- ✘ The role of the state – passive observer/active regulator/educator?
 - + Regulation or measures enhancing consumers financial readiness?
 - + Where are the boundaries of the consumer credit market regulation?
 - + More active implementation of existing measures?
- ✘ How the compromise between the different interests of business and consumer should be achieved?
 - + The standard of the average consumer – reasonable or naïve/non responsible consumer?
 - + Should the law protect the consumer or should be the burden of care about the interests of the consumer be imposed on business if the consumer does not care about himself/herself?

THANK YOU FOR YOUR ATTENTION!