ANTI-CRISIS SHIELD – CREDIT HOLIDAYS AND PROTECTION AGAINST HOSTILE TAKEOVERS

* **A three-month credit holidays and protection of Polish companies against hostile takeovers – these are the new proposals for the so-called Anti-Crisis Shield that the government has adopted today, and which were created with the participation of the UOKiK.**
* **A person who has lost his or her job or other main source of income will be able to suspend the repayment of consumer credits and mortgage at his or her bank for three months at no charge.**
* **You can benefit from statutory credit holidays even if you have already used a credit suspension offered by banks or are in the process of such a suspension.**
* **The draft act will now be submitted to the Sejm.**

**[Warsaw, 22 May 2020]** The Council of Ministers adopted a draft act on interest rate subsidies for bank credits granted to provide financial liquidity to entrepreneurs affected by COVID-19 and amendments to some other acts (the so-called Anti-Crisis Shield). – *We are pleased that the Sejm is receiving proposals for regulations prepared with the participation of UOKiK to increase the protection of borrowers and Polish companies against hostile takeovers. The Council of Ministers has adopted solutions which will make it possible to suspend the execution of credit agreements without additional costs for consumers. This aid is particularly important for consumers and their households in the event of the loss of a job or their main source of income* – says Tomasz Chróstny, President of the Office of Competition and Consumer Protection.

1. **Credit Holidays**

* Dear Consumer – if you have a consumer credit or a mortgage and are in financial difficulties because you have lost your job or other main sources of income after 13 March 2020, under the draft legislation you will be able to **suspend repayment of instalments for three months**. This will happen automatically when the application is delivered to the creditor. You decide whether you want to suspend the repayment for one, two or three months.
* If you have already made use of the credit repayment suspension offered by banks and financial institutions – **nothing is lost**. Upon delivery to the creditor of an application for the suspension of the execution of a credit agreement under this act, that suspension of payments shall be shortened by law and the suspension specified in this act shall commence.
* **Suspension of installments is free of charge** – however, if you had an insurance contract related to the credit, the bank will inform you of the amount of the premium you will pay. The point is that you have continuity of insurance coverage.
* The creditor must confirm that they have received the application and inform you of the fees for insurance contracts within 14 days of its receipt.
* The repayment period of the entire credit will be extended to include the “holiday” period, however, no interest or other charges other than insurance will be charged for this time.
* According to the draft, you will be able to take advantage of the credit holidays if you have concluded a credit agreement prior to 13 March 2020 and if the credit period ends 6 months after that date.
* When you have several credits of the same type (e.g. two credits indexed to CHF) with a given creditor, you will only be able to suspend the repayment of instalments for one of them – you can suspend the repayment of one mortgage and one consumer credit in a given bank.

**Explore the benefits of this solution illustrated with the following example:**

The average value of a mortgage loan granted in 2019 was PLN 278,000. Assuming a margin of 2 p.p. and a WIBOR rate of 0.7%, the consumer would gain about PLN 1,900 for the whole credit holidays.

1. **Investment control**

The draft act also gives the President of the UOKiK additional powers to protect Polish enterprises whose business is of importance to public order, public security or public health.

As of the entry into force of this act, any investment covered by the provisions of this act which results in the:

- acquisition,

- achieving substantial participation or

- acquiring dominance

by entities with a registered office or nationality (for natural persons) outside a Member State of the European Union shall be placed under the supervision of the President of the Office.

*“The coronavirus pandemic and the observed economic effects may pose a threat of hostile takeovers of Polish companies of strategic importance. The solutions that have been incorporated into the latest Anti-Crisis Shield draft will prevent this situation. The President of the UOKiK will be able to object to such transactions – the decision will be made independently by the authority. Acquisition despite this objection or without informing the Office may result in serious financial penalties. However, we will act efficiently and strive to ensure that the time to issue a decision is shorter than 30 days in order not to hold up foreign investments that are important for Poland,”* says President of the UOKiK, Tomasz Chróstny.

**Protected entities**

According to the draft, the protected entities include entrepreneurs with their registered offices in Poland whose revenue from sales and services exceeded the equivalent of EUR 10 million on the territory of Poland and who meet one of the following conditions:

1) they are a public company within the meaning of the Act on Public Offering and Conditions Governing the Introduction of Financial Instruments to Organised Trading and Public Companies,

2) they possess property that has been disclosed in the list of facilities, installations, equipment and services included in the critical infrastructure, or they develop or modify software in areas indicated by the act,

3) they conduct business activity in one of the areas specified in the act.

**Verification and inspection procedures**

According to the draft, each investment covered by the provisions of the act should be reported in advance to the President of the UOKiK who, upon receipt of the notification, **shall conduct** a verification procedure. Provided that the transaction does not raise any doubts with regard to public safety, public order and public health, a decision on the absence of objections will be issued.

In special cases where the notification or investment will require a more detailed inspection, the President of the UOKiK shall initiate the inspection procedure.

Acquisition of a protected company without submitting a notification or despite the objection of the President of the UOKiK shall be null and void.