

18 October 2016

Ms. Chiara Zilioli  
Chairperson, LEGCO  
EUROPEAN CENTRAL BANK  
Sonnemannstrasse 20  
60314 Frankfurt am Main  
Germany

**Re: Questionnaire on assigning powers to the NCB to assess competition and issue directions to lenders with regard to interest rates (2016/101/LEGCO) – First WP**

Dear Chiara, Dear Colleagues,

Please find below our answers to your questionnaire regarding above mentioned subject.

- 1. Has your central bank been assigned with tasks relating to the protection of competition? Has it been assigned similar powers to regularly assess the state of competition? Please describe briefly the scope of those tasks, also referring to the legal basis.*

No. The National Bank of Poland has not been assigned with such tasks.

- 2. Has your central bank been assigned with powers to regulate the interest rates charged by banks in respect of loans and/or the savings remuneration offered by banks in respect of deposits; and/or the application of usury laws in your respective jurisdictions? Please describe briefly the scope of those powers, also referring to the legal basis.*

No. The National Bank of Poland has not been assigned with such tasks.

Please be informed, that the usury is forbidden under Polish law.

If the amount of interest is not otherwise specified, the statutory interest is due in the amount equal to the sum of the reference rate of the National

Bank of Poland and 3.5 percentage points. The maximum amount of interest resulting from act of law cannot exceed, on an annual basis, twice the statutory interest (maximum interest). If the amount of interest resulting from act in law exceeds the maximum interest, the amount of maximum interest shall apply. Contractual provisions cannot exclude or limit the provisions on the maximum interest. (art. 359 of the Civil Code). The usury is a crime described in the art. 304 of the Penal Code, punishable by up to 3 years imprisonment.

Moreover, to protect consumers, the Law of 12 May 2011 on Consumer Credit (consolidated text – Dziennik Ustaw (Dz.U.) - official journal of 2016, item 1528) provides a definition (art.6a) and a calculation system (art.36a) of the maximum amount of non-interest costs of a credit. These provisions have been introduced to the Law on Consumer Credit by virtue of anti-usury legislation (the Act of 5 August 2015 amending the Law on Financial Market Supervision and some other acts (Dz.U. of 2015, item 1357).

3. *Has another public authority, such as the national competition or consumer protection authority, been conferred with such tasks to assess competition, or to regulate interest rates on loans or deposit rates offered by financial institutions? How do these authorities interact with the central bank and/or the prudential supervisor in carrying out such tasks? Please describe briefly the scope of those powers, also referring to the legal basis.*

To our knowledge no authority have been assigned with powers to directly regulate interest rates on loans or deposits offered by financial institutions. Without prejudice to the mandatory provisions of the law (like art.359 of the Civil Code), amount of interest rate is a matter of principles of free market and freedom of contracts.

According to the Law of 16 February 2007 on Protection of Competition and Consumer (consolidated text – Dz.U. of 2015, item 184 with amendments), The President of the Office of Competition and Consumer Protection is a central state authority competent in matters of competition and consumer protection (art.29.1). The President of the Office is responsible for shaping the

antitrust and consumer protection policy. Under art.24 practices infringing collective consumer interests are forbidden. The Law defines *practice infringing collective consumer interests* as contrary to law or good custom entrepreneurs' behavior.

According to the art.31 (1), (2), (3), (4) of the above mentioned Law, the President of the Office shall be responsible, amongst others, for:

- exercising control that provisions of the Law are observed by entrepreneurs;
- issuing decisions with respect to practices restricting competition, in matters of entrepreneurs' concentration, in matters referring to the recognition of provisions of standard contracts as illegal and in cases of practices infringing collective consumer interests ect.
- conducting studies on the concentration of the economy and the market behavior of undertakings;
- preparation of draft government programs for the development of competition and projects of government consumer policy;

The principles of the proceedings in cases of practices infringing collective consumer interests have been set forth in the Chapter 4 of the Law (art.100 -105).

Furthermore, according to the art.107, the President of the Office may impose on entrepreneurs a fine in the amount equivalent to 10 000 euros for each day of delay in implementing a decision based on the provisions of the Law on Protection of Competition and Consumer.

Financial Ombudsman acting on the basis of the Law of 5 September 2015 concerning the complaints handling procedure by financial service providers and Financial Ombudsman (consolidated text – Dz.U. of 2015, item 1348) represents the interest of financial market clients.

According to the above mentioned regulation a complaint is a request addressed by the client to the financial service provider in which a client presents his dissatisfaction from its service. Consequently, the complaint can be launched to the Financial Ombudsman after the financial service provider refuses to do

anything reasonable to solve the problem. First a client should follow the internal complaint procedure of a given company. (art.17 of the Law)

Moreover the Financial Ombudsman may conduct a research on the situation on the financial market, in particular referring to the protection of clients' interests (clients of financial market institutions) (art.25.1.(3)). The Financial Ombudsman may bring an action on behalf of clients of financial market entities in matters of unfair market practices concerning the activities of these entities, as well as, under the consent of the plaintiff, to participate in the ongoing proceedings. (art.26).

Under the Law of July 21st 2006 on Financial Market Supervision (consolidated text – Dz.U. of 2016, item 174 with amendments) the Polish Financial Supervision Authority (PFSA) exercises supervision of the financial market, including banking supervision (art.3). The aim of the supervision of the financial market is to ensure the proper functioning of this market, its stability, security and transparency, confidence in the financial market, and to ensure that the interests of the market's participants are protected.(art.2)

Moreover, the tasks of the PFSA shall include, amongst others, undertaking measures aimed at development of financial market and its competitiveness (art.4.1(3)).

In civil cases arising from relations connected with participation in trading on the financial market or relating to the entities performing an activity on this market, Chairman of the PFSA shall have the powers of prosecutor. (art.6.1) In cases of crimes concerning acts against the interests of market participants, in connection with the activities of the entities performing an activity on this market Chairman of the PFSA, at its request, shall have the rights of the victim in criminal proceedings (art.6.2).

Chairman of the PFSA and members of the PFSA (including the NBP Governor) may exchange information, to the extent necessary for the proper functioning of the financial market supervision. In order to determine the principles of cooperation and exchange of information, the Chairman of the PFSA may enter into agreements on cooperation and exchange of information (art. 16 and art. 17).

Few years ago the National Bank of Poland and the Polish Financial Supervision Authority have concluded cooperation agreement regarding information sharing.

With kind regards,

*[signed]*



Head of Division