



Народна банка Србије

Law on the Protection of Financial Services Consumers

Mira Erić-Jović, Vice Governor

**National Bank of Serbia
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The aim of the Law and the reasons for adopting it

- effective date: 4 June 2011

- implementation date: 5 December 2011

Aim of consumer protection:

To promote good business practices and fair dealing with financial services consumers and to create a regulatory framework that ensures consumer protection, implying:

- equal position of the contracting parties
- right to protection against discrimination

Reasons for adopting the Law :

- The need to improve consumer information both prior to conclusion of and during the contractual relationship
- Lack of precision in defining financial contractual obligations and variable interest rates, especially in case of long-term credits
- The need to determine the special rights of financial services consumers in the system
- The need to establish efficient mechanisms of consumer protection under complaints filed by natural persons
- The need to further harmonise domestic legislation with EU legislation (transposition of EU Directive 2008/48/E3 + mortgage credits, deposits, payment cards)

What does the Law bring?

Guarantees to the citizens

- right to enjoy equal position as the financial service provider
- right to be informed
- right to defined or definable contractual obligation
- right to protection against discrimination
- right to protection of rights and interests

Regulates special rights of citizens

- right of withdrawal
- right to early repayment
- right to application of the same type of exchange rate (middle exchange rate of the NBS)
- right to the same method of interest calculation
- rights concerning an account
- rights concerning a payment card
- assignment of claims

Consumer information 1/2

Advertising

- Financial service providers must provide clear, understandable, accurate and unambiguous information
- If the advertising message indicates an interest rate or any figures relating to the price or income, information on currency, all costs payable by the consumer, EIR (the most prominent elements) must also be specified by means of a representative sample for a particular financial service
- If the conclusion of the agreement implies the obligation to conclude a contract on ancillary services, that obligation must be stated in a clear, concise and prominent way
- If the advertisement is for a service with the nominal interest rate of 0%, all terms of that service must be indicated
- A financial service may not be labelled “free” if its granting is contingent on the conclusion of another contract or on anything that represents cost for the consumer or creates another obligation

Pre-contractual information

- Financial service providers must provide information on all terms of a financial service so that the potential consumer may compare offers of the same service by different providers

Consumer information 2/2

Information during the contractual relationship

- If the financial institution intends to change any of the compulsory elements of the agreement, it must obtain prior written consent of the consumer. If the consumer denies its consent, the financial institution may not change the terms of the agreement unilaterally, nor may it unilaterally terminate or cancel the agreement.
- Along with the copy of agreement, the consumer must receive the relevant repayment schedule and a summary of compulsory elements.
- The consumer must be notified on change in interest rate level before its becomes applicable (for credits with variable nominal interest rate) and must be given the amended repayment schedule free of charge.
- In the case of automatic extension of the deposit term, the bank must inform the consumer, at least 15 days before the expiry of the term of deposit, of the new extended term of deposit and of the new interest rate, and the consumer is entitled to terminate the contract within 30 days from receipt of that information, without charges and with interest agreed for the expired term.
- If the bank increases fees and other costs above the level set by the agreement, it must inform the consumer at least 15 days before it starts implementing these changed fees and/or other costs.

Special rights 1/2

Current accounts	Payment cards
<p>Free of charge, the consumer:</p> <ul style="list-style-type: none">– may withdraw cash from his dinar or FX account at a bank where the account is opened– may withdraw cash <u>as soon as</u> inflow is recorded - the amount exceeding RSD 600,000 must be paid out by the bank at latest within two business days– must receive a monthly statement of account showing all transactions in the account (in case of authorised overdraft facility)– may close an account	<p>The consumer:</p> <ul style="list-style-type: none">– bears the loss ensuing from unauthorised use only up to the amount of 15,000 dinars if such unauthorised use was reported to the bank within 45 days from the date the card was charged– does not bear the consequences of unauthorised use of payment card if the bank did not enable him to report the loss at any time– may extinguish a payment card free of charge

as of 1 Jan. 2012
(Article 38, paragraph 5)



Special rights 2/2

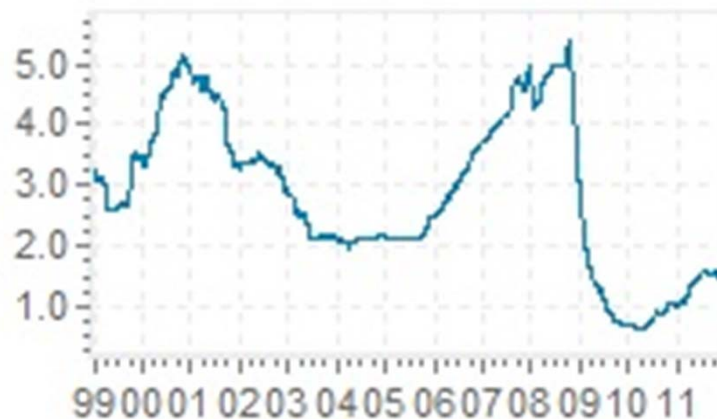
Withdrawal from the agreement	Early repayment
<ul style="list-style-type: none">– within 14 days without giving any reason for withdrawal– notification on withdrawal must be made in writing– immediately, and no later than 30 days from the notification, the consumer must repay the principal and interest accrued (lease object + compensation for loss)– in case of mortgage credits – provided the funds were not used	<ul style="list-style-type: none">– the consumer is entitled to discharge fully or partially his obligations under a credit agreement at any time– the amount of interest and the costs for the remaining duration of the contract are not payable– compensation for early credit repayment is not payable if a variable interest rate is agreed, except in case of mortgage credits (variable or fixed interest rate)– compensation may be collected only when the amount of early repayment exceeds RSD 1,000,000 within any 12-month period– the amount of compensation may not exceed:<ul style="list-style-type: none">• the amount of loss sustained,• 1% of the amount of early repayment if the period of time between the early repayment and the agreed term for fulfilment of the obligation under the credit agreement exceeds one year,• 0.5% of the amount of early repayment if the above period is shorter than one year– the compensation may in no case exceed the amount of interest the consumer would have paid during the period between the early repayment and the agreed date for fulfilment of the obligation under the credit agreement



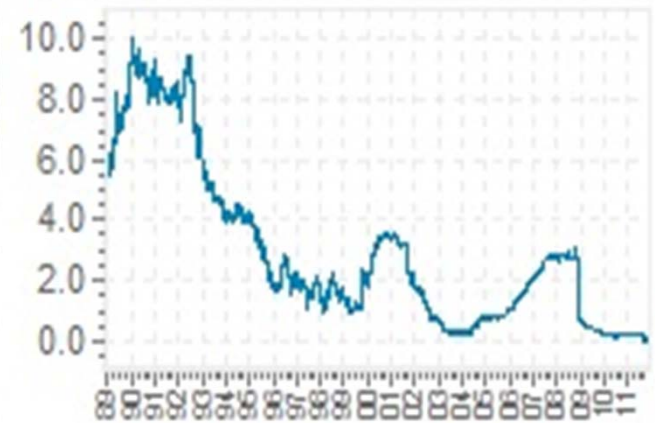
Defined or definable contractual obligation

- The pecuniary contractual obligation (interest, etc.) is deemed definable as regards its amount if it depends on agreed variable or variable and fixed elements, where variable elements are those that are officially published (reference interest rate, index, etc.)
- The value of elements cannot be affected by unilateral will of any of the parties
- The agreements may not contain reference to business policy with respect to elements of the agreement that are deemed compulsory
- The bank/lessor must display on their business premises information about the changes in the value of agreed variable elements

Movements in 3M EURIBOR



Movements in 3M LIBOR



Neither the bank nor the consumer has impact on the above movements

Harmonisation with the Law 1/3

- From the date the Law comes into force until the date of its implementation, financial service providers shall not increase variable interest rates using agreed indefinable elements.
- Financial service providers shall not charge consumers any fee for harmonisation of the agreement nor request any additional documentation for this purpose.
- **Coverage:** all liabilities under agreements concluded before 5 December 2011, which fall due after the implementation date of the Law.
- **Application:** all credit agreements concluded by the implementation date of the Law, regardless of the type of credit being subject of the agreement, in the segment relating to the variable nominal interest rate agreed contrary to provisions.
- **Method:** financial service providers shall harmonise the agreements concluded before the implementation date of the Law in such a way that the amount of the agreed variable indefinable interest rate and/or the variable indefinable element of that rate cannot exceed their initial value (value at the moment of agreement conclusion).
- If the initial value of the interest rate is higher than the rate agreed in the meantime by a subsequent annex, the value from the annex should be maintained as the harmonisation with the initial value would imply higher liability for the consumer.



Harmonisation with the Law 2/3

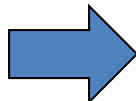
- An **annex to the agreement** is concluded with the consumer; otherwise, **immediate application** is enforced.
- In case of immediate application, until the start of implementation of the Law the bank shall submit to the consumer the notice:
 - that it has modified the provisions of the agreement regulating the interest rate and/or that it has set the interest rate in line with the Law,
 - of the manner in which it set the interest rate and/or of the interest rate elements, and
 - periods when the interest rate thus set will be modified.
- Along with the annex to the agreement or the information on interest rate changes, the bank shall also submit to the credit user the new credit repayment schedule.

Harmonisation with the Law 3/3

AGREED

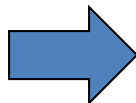
Total interest rate is variable pursuant to bank's business policy

Total interest rate 5%



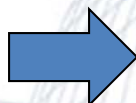
Total interest rate is variable in line with changes in the reference rate (interest rate structure is not given)

Total interest rate 5%



Total interest rate with given structure: reference rate + spread

Total interest rate 5% = reference rate + 2%



ADJUSTMENT

The interest rate is set as a fixed rate, at the level not exceeding its initial value (at the moment of contract conclusion)

Adjusted interest rate up to 5%

The interest rate is set as a variable rate – as the sum of the reference rate and the spread. The spread is the difference between the initially agreed total interest rate and the value of the reference rate valid at the moment of contract conclusion.

Spread = Total interest rate 5% - reference rate on the day of contract conclusion

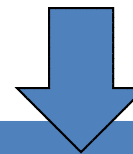
Adjusted interest rate = reference rate on the day of annex conclusion + spread

The interest rate is set as variable, as the sum of the reference rate on the adjustment date and the spread not exceeding the initially agreed spread

Adjusted interest rate = key policy rate on the day of annex conclusion + 2 %



Exercise of rights to protection



Complaint

- To the service provider
- Afterwards to the NBS

Mediation

- Voluntariness
- Out-of-court settlement of disputes
- NBS employees as mediators

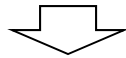
Mechanisms for NBS actions

- Obvious irregularity: order for its elimination + ruling on fine
- Other irregularities: filing charges for infringement (court jurisdiction) + Law on Banks

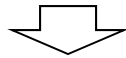


Complaints and mediation

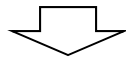
- A written complaint to the financial institution (deadline for response: 30 days)
- Notification of the NBS
- NBS's request to the financial institution to respond to the consumer's statement from the complaint (deadline for response: 8 days)
- Final response with the proposal for NBS mediation (mediation is free of charge)
- In case of obvious irregularity from Article 50 of the Law:



adopts a ruling ordering the elimination of irregularities and submission of evidence within the timeframe specified in the ruling + fine



double fine



acting pursuant to the Law on Banks

- The NBS informs the consumer of its measures and publicises information on service providers who acted in contravention of the Law



Fines

The NBS imposes fines from RSD 500.000 to 800.000 to banks and lessors for violations of the Law as follows:

- If agreements contain provision with reference to business policy as regards agreement elements compulsory under the Law
- If agreements on credit, authorised overdraft, leasing, payment card issuing and use, deposit, and account opening and maintenance do not contain compulsory elements under the Law
- If it negotiates the variable nominal interest rate contrary to the Law (**indefinable**)
- If it fails to obtain written consent for changes in agreement compulsory elements, or unilaterally changes the terms of the agreement or unilaterally terminates or withdraws from the agreement
- If it fails to apply the official middle exchange rate on credit approval and repayment
- If it fails to apply the same method of interest calculation on special purpose deposit as the method applied to interest calculation on the amount of approved credit
- If it collects the fee for early repayment contrary to the Law
- If it fails to make available to the consumer to withdraw funds from his account in cash or foreign currency, free of charge, in the amount up to RSD 600,000, or exceeding that amount within two business days at the latest
- If it charges the consumer for account closing/payment card extinguishing
- If it assigns the claim in contravention to the Law
- If it fails to harmonise the existing agreements with provisions of the Law on **definability** of the interest rate, etc.



Advice to citizens

- As harmonisation with the Law is in the consumers' interest, do not avoid signing the agreement annex
- Read carefully the main agreement and compare it with the offer from the agreement annex, with a special emphasis on the nominal interest rate
- If you believe the agreement annex is made contrary to the Law you can file a written complaint to the financial institution and notification to the NBS
- If you do not sign the agreement annex, service providers are required to immediately apply the Law

In case of immediate application, until the start of implementation of the Law, the bank submits to the consumer the following notification:

- It has modified provisions of the agreement regulating the interest rate, or it has set the interest rate in line with the Law,
- How it set the interest rate and what are the interest rate elements, and
- In what periods the interest rate thus set will be changed.