

Common real estate knowledge base for banks

As part of the draft of the new Recommendation J, the Polish Financial Supervision Authority (KNF) would like banks to actively join the system of interbank information exchange on the real estate market, creating a common database for all banks for this purpose.

As we reported in the previous issue of our alert, the Office of KNF (UKNF) is conducting consultations on the draft of the new Recommendation J on the rules for collection and processing of real estate market data by banks. In this issue, we would like to provide further details.

Preparing the Recommendation J, KNF has assessed that it is important for banks to actively join the system of interbank information exchange on the real estate market, creating a common database for all banks for this purpose.

As the KNF stresses, for effective management of risks associated with accepting mortgage collateral established on real estate, banks need reliable and complete information on the real estate market, current and historical data showing changes occur-

ring in the market in the long and short term, and especially on any cyclical changes. This data should take into account the local nature of the real estate market and the long-term nature of the changes occurring within it. The databases should be used primarily to verify the value of the real estate collateral accepted and to update it throughout the term of the loan agreement. Information contained in the databases will make it possible to analyze specific local real estate markets and, in particular, to identify changes taking place within them and the risks associated with individual real properties that serve as collateral for credit exposures.

Information contained in the databases will make it possible to assess the risk of changes in the value of real estate collateral (to estimate



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the parameters of predictive models of the value of real estate collateral, to determine the trends of changes in the value of such collateral). Monitoring of real estate market phenomena makes it possible to effectively manage portfolio risk, to monitor the level of collateral value in the portfolio, and to take appropriate preventive measures.

According to KNF, the best way to meet the above assumption is to maintain, independently of individual banks' own (internal)

databases, a common database for the entire banking sector, systematically fed both from bank sources by all banks involved in mortgage-backed credit exposures and from non-bank sources. Such a database, owing to its wide range of information, may become the best source of authoritative and, above all, standardized information on the real estate market, while using external databases, the banks will have to take care to properly match the data to their specific business profiles, environments

(scaling the database to the bank's business profile) and IT infrastructures.

As a reminder, Recommendation J relates to good practices in the collection and processing by banks of real estate market data contained in internal (own) and external (interbank) databases, supporting the process of risk management of mortgage-backed credit exposures. The recommendation applies to all loans secured by mortgages on real estate and awarded from the start date of its application.



The Warsaw Deposit Market Index – WIRD® will become the successor of WIBOR

The Steering Committee of the National Working Group (NGR SC), established in connection with the planned reform of reference indices, at its meetings on 25 August 2022, and 1 September 2022, discussed and decided on the choice of the WIRD index® as an alternative interest rate reference index, with input in the form of information representing ON (overnight) transactions.

The choice of the index and of parameters for the method of its development was preceded by public consultations with financial and non-financial market players. The NGR SC made its choice from among three proposals: WIRD®, WIRF® and WRR®, basing on assessment of the quantitative and qualitative features of each index.

Selecting the WIRD® index (currently published in a test version), NGR SC members noted that it also takes into account data from the sector of large enterprises, which means that the volume of deposit transactions, and therefore the information resource, is broader in the case of this index and not limited to financial sector institutions.

The Warsaw Deposit Market Index – WIRD® is a trading index developed on the basis of deposit transactions concluded by data submitters with financial

institutions and large companies.

The index is determined as a volume-weighted average rate (published to 3 decimal places) calculated on the basis of the set of transactions from a given day subjected to a two-sided adjustment, where at both ends of the daily distribution of

transaction rates a certain percentage is cut off of the aggregate volume of all transactions from that day.

In the case of the Warsaw Deposit Market Index, the cutoff value for each side of the distribution is 25%. The set of transactions remaining after the adjustment process is used to calculate the volume-weighted average interest rate.

Within parameterization of the method, the minimum volume threshold (i.e. the minimum acceptable volume level of a single transaction) and the maximum volume threshold (the maximum acceptable volume level of a single transaction) were defined for transactions eligible for the method.

The minimum volume is set



at a fixed level of PLN 1 million, while the maximum volume is PLN 2 billion in 2022 and is subject to annual updating according to a strict procedure to maintain adequacy with respect to market trends. The index method defines the conditions that the qualified volume of transactions from a given day must meet in order to become the basis for the index calculation. The first condition is the minimum threshold of PLN 1 billion for the total volume of transactions qualified for the index calculation, while the second condition is the minimum number of data submitters whose transactions belong to the qualified transaction resource on a given day, set at 3.

If the above conditions are not met by the qualified transaction resource on a given day, the index method provides for the so-called fallback procedure, i.e. non-standard index calculation rules. The procedure involves determining the index value as the sum of the value of the NBP reference rate on a given day and the average spread between the NBP reference rate and the WIRD index® from the previous 5 business days.

The index is calculated daily at 12:15 pm on the basis of the previous business day's transaction data. The index is published on the website at 13:00. The administrator of WIRD® within the meaning of the BMR Regulation is WSE Benchmark,

registered with the European Securities and Markets Authority (ESMA).

The next step for the NGR SC will be the adoption of a Roadmap setting out a timetable for action to replace the WIBOR® benchmark with WIRD®. The NGR SC also intends to soon recommend standards for applying the new risk-free-rate (RFR) to banking, leasing and factoring products and financial instruments.

Ultimately, WIRD® is expected to become a key interest rate benchmark under the BMR, which is used in financial contracts (e.g. loan agreements), financial instruments (e.g. debt securities or derivatives) and by investment funds (e.g. in the setting of management fees).



Entrepreneurs face changes in late payment regulations

At its meeting on 13 September 2022, the Council of Ministers adopted a draft act amending the Act on prevention of excessive delays in commercial transactions and the Act on public finance, submitted by the Minister of Development and Technology.

The current Act on prevention of excessive delay in commercial transactions sets forth specific rights of the creditor and obligations of the debtor regarding, among other things, the timing of payments in commercial transactions. The provisions also include a ban on excessive delays in the making of cash payments by companies. Proceedings in such cases are conducted by the

President of the Office of Competition and Consumer Protection (UOKiK).

Among other things, the draft assumes that the reporting obligation for payment practices will be simplified and clarified. Reports will no longer have to include e.g. payments from commercial transactions for insurance and reinsurance activities, past due payments or payments between companies within a single group. Besides, the deadline for filing the report will be extended (moved from 31 January 31 to 30 April), and the rules for filing adjustments to the report will be regulated among other things, as well as the exchange rate at which cash payments in foreign currencies must be converted for reporting purposes.

Separately, the amendment stipulates that the rules of punishment for excessive delays in cash payments, imposed by the President of UOKiK, will be made more flexible.

The new model for calculating the maximum fine assumes that the company will know the maximum severity of the fine it faces, and at the same time, through its actions – citing and demonstrating mitigating circumstances of the case – it will be able to obtain a reduction in the amount of the fine. Delays within capital groups will be excluded from proceedings before UOKiK.

The amendment will introduce the institution of so-called soft summons. This way, the President of UOKiK – without the need to institute formalized proceedings – will be able to request explanations from the entrepreneur in cases of excessive delays in meeting payment obligations.

Most of the new provisions are to enter into force 14 days after their promulgation in the Journal of Laws. The draft act has already been sent to the Sejm.



The Polish Financial Supervision Authority (KNF) will issue recommendations for insurers on investment products

The Polish Financial Supervision Authority (KNF) is working on a draft of Recommendations for insurance companies on assessing the suitability of life insurance with an investment component, which will replace the current Recommendations for insurance companies on product adequacy testing (KNF Official Gazette of 2016, item 10). Consultations on the matter were to be held until 16 September.

The Recommendations deal with life insurance contracts with an investment component, which are a specific variety of insurance contract, combining the protective function, characteristic of traditional insurance, with

a savings and investment function. The common feature of such contracts is their investment nature and the transfer of investment risk to the client. It should be further emphasized that such contracts are character-

ized by a significant degree of complexity and the resulting difficulty for policyholders or the insured to understand the structure of such insurance and, above all, the risks associated with it. Therefore, the Recommendations are aimed at strengthening the protection of client interests.

The Recommendations are to be addressed at domestic insurance companies, and should be applied by major branches of foreign insurance companies as well. KNF expects that the Recommendations will be applied by insurance companies starting no later than 1 January 2023.

As stressed by KNF, the Recommendations constitute a set of good practices with regard to performing suitability assessments for life insurance with an investment component. Their purpose is to ensure uniform and consistent application by insurance companies of regulations relating to suitability assessments for life insurance with an investment component, by drawing attention to important issues involved in such assessment.

The Recommendations are to apply to life insurance contracts linked to an insurance capital fund, and to life insurance contracts in which the insurance company's obligations are determined on the basis of certain indexes or other underlying



values. The Recommendations will not apply to employee pension plans operating in the form of a group life insurance contract, as referred to in the Act on employee pension plans, and to employee capital plans, as referred to in the Act on employee capital plans. According to the draft Recommendations, their key concept of suitability assessment will be defined as actions taken by the insurance company and persons acting on its behalf, which are without prejudice to the obligation to determine (based on information received from the

customer) the requirements and needs of the client in question before concluding any insurance contract and to propose a contract meeting that client's requirements and needs, related to obtaining the necessary information about the client and enabling the insurance company to approach the client with offers of life insurance with an investment component that are suitable for that client, or with a recommendation that is suitable for that client with regard to the insured's use of insurance coverage under a life insurance contract with an investment

component concluded by the policyholder, meeting all of the following criteria:

- taking into account the client's investment objectives, including that person's risk tolerance;
- taking into account the client's financial situation, including that person's ability to incur losses;
- basing on the determination that the client has the necessary knowledge and experience in the investment field relevant to the type of life insurance with an investment component.



In short

The Financial Ombudsman has brought an action to the Supreme Court over car repairs

The Financial Ombudsman wants a Supreme Court resolution on car repairs in insurers' partner networks. The Ombudsman filed the application on 30 August 2022. The application submitted to the Supreme Court is aimed at increasing the protection of the rights and interests of clients of financial market entities in their relations with insurers, and at changing the practice of insurance companies to reduce the amount of damages under third-party liability insurance of motor vehicle owners by discounts and rebates applied at selected workshops of insurance companies.

ESMA prepares to develop guidelines on pre-hedging

On 9 July 2022, the European Securities and Markets Authority (ESMA), the EU securities markets regulator, published a Call for evidence on pre-hedging practice. The document aims to get feedback on pre-hedging practice that could help ESMA develop appropriate guidelines. Interested parties – investment firms, credit institutions, market makers, asset management companies, institutional and retail investors and other market participants, as well as

academics – may submit their comments until the end of September.

EIOPA has published guidelines for evaluating investment products

The European Insurance and Occupational Pensions Authority (EIOPA) has published guidance on integrating the customer's sustainability preferences in the suitability assessment of an investment product made under the provisions of the 2016/97 IDD (guidance on integrating the customer's sustainability preferences in the suitability assessment under the IDD). The guidance has to do with the Commission Delegated Regulation (EU) 2021/1257 of 21 April 2021, amending Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359, coming into force on 2 August 2022.

KNF and BIK will cooperate on financial market cyber security

The Director General of the Office of the Polish Financial Supervision Authority (UKNF) and the President of Biuro Informacji Kredytowej SA (BIK) concluded an agreement on cooperation between their institutions. The agreement relates to cooperation between BIK and UKNF in the area of increasing



the security of the financial sector in Poland and raising its resistance to cyber threats. The planned cooperation involves joint educational activities and exchange of information between the two institutions. The parties declared their willingness to cooperate in the implementation of educational projects, both at the school, academic and general level, in order to reach the widest possible audience with knowledge about cyber threats.

A report on the cost of investing through funds has been prepared

The Ministry of Finance and the Office of the Financial Supervision Authority have presented a report containing a detailed analysis of the level of costs incurred by end investors in the capital market in Poland. The publication covers both the costs incurred by investment fund clients and investors who invest their savings on the Warsaw Stock Exchange (WSE), through investment companies operating in the domestic market. Publication of the report "Analysis of the level of market costs in the Polish capital market" implements the objectives of the Capital Market Development Strategy.

UOKiK asserts claims against banks hindering access to payment holidays

Preventing consumers from applying for payment holidays for all periods with a single application may lead to financial penalties for banks. President of the Office of Competition and Consumer Protection (UOKiK) has brought charges of violating the collective interests of consumers against BNP Paribas, Getin Noble Bank and Bank Pocztowy. As a result of the Office's actions, all banks have also backed off from threatening consumers with the negative consequences of a BIK entry, and allow consumers to apply for payment holidays on the installment due date.

The number of new loans is lower than the number of loans repaid for the first time

For the first time in the AMRON Center's market monitoring period, the number of new loans

turned out to be lower than the number of loans repaid in the same period. In Q2 2022, 38,398 home loans were extended, 43.70 percent less than last year. The value of newly extended mortgage home loans amounted to PLN 13.536 billion, which is a decrease by PLN 3,396 million or 20.06% compared to the first quarter of this year and 38.85% compared to the same period in 2021. The average value of a home loan remains at around PLN 350 thousand.

The interest rate on the model mortgage has risen to 9.03%

The series of increases in interest rates by the National Bank of Poland, as well as the KNF's recommendation on application an increased safety buffer of up to 5% in the creditworthiness analysis process, including for fixed-rate loans, have led banks to tighten their lending policies for home loans. The average interest rate on a model mortgage at the end of the second quarter of 2022 was 9.03%, up by 2.25% from the end of the previous quarter. Compared to the same period of last year, the average interest rate was 6.55% higher.

ZBP and legal advisors have agreed on bank power of attorney templates

The practice of carrying out banking activities by attorneys with powers of attorney for such activities, and the development of power of attorney templates, were the subjects of cooperation between the National Council of Legal Advisers (KRRP), the Supreme Bar Council and the Association of Polish Banks (ZBP). These activities culminated in a meeting attended by President of KRRP and Vice President of ZBP. During the meeting, a letter was signed addressed to the Chairman of the Financial Supervision Authority with information about the implemented activities and with power of attorney templates attached.

BDO is an international network of independent audit and advisory firms. Service provision within the BDO network is coordinated from the Brussels global office. BDO's beginnings go back to 1963. We have been present in Poland since 1991. We have 5 offices in: Warsaw, Kraków, Poznań, Wrocław and Katowice. BDO has for years been recognized in prestigious rankings of the activities performed

by its Audit and Tax Advisory Departments, including most recently.

The last distinctions for the company are related to the Rankings: Companies and Tax Advisors of Dziennik Gazeta Prawna for 2021:

- ▶ 1st place The Best Tax Advisor in the category of medium-sized companies

The 2021 rankings prepared by the Rzeczpospolita and Parkiet dailies:

- ▶ 3rd Most Active Firm on the Stock Exchange

- ▶ 4th Best Audit Firm

- ▶ 5th Best Auditor of Listed Companies