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POLAND: MISSING A PAYMENT DUE DATE WILL BECOME MORE EXPENSIVE

On January 1, 2020, a Statute amending certain legislation for the purpose of limiting payment backlogs, including amendments to the Statute on payment terms in commercial transactions, will take effect in Poland.

SHORTER PAYMENT DEADLINES PUT IN PLACE

One of the key changes is a shortening of the admissible time for payments that take place as a part of commercial transactions.

A payment term in a transaction in which a debtor is a public entity - except for a public health care entity - cannot exceed 30 days from the invoice issuance date. When a debtor is a large company and a creditor is a micro, small or medium-sized company, the deadline for payment cannot exceed 60 days from the day of the delivery of the invoice or receipt confirming the delivery of goods or performance of services. Any provisions of a contract specifying longer payment periods will be invalid.

HIGHER INTEREST RATE AND COMPENSATION FOR DEBT RECOVERY COST

The amendments also provide for a higher interest rate for late payments and higher compensation for creditors related to the costs of recovering receivables.

A creditor will be entitled to statutory interest for late payment equal to the reference rate of the National Bank of Poland, plus 10 p.p. As of January 1, 2020, the statutory interest rate will be equal to 11.5 percent, unless the reference rate changes or the parties agree to a higher interest rate. The main reason for such an increase of the interest rate is to discourage companies from financing their business activities at the expense of their business partners and, at the same time, to encourage them to apply for loans on the financial market.

A creditor will be also entitled to compensation for costs incurred during the recovery of debt. Currently, the creditor is entitled to EUR 40 for each unpaid debt, regardless of its amount. From January 2020, the creditor will be entitled to compensation ranging from EUR 40 to EUR 100 depending on the value of the claim.

NEW REPORTING OBLIGATIONS INTRODUCED

Importantly, the amendments introduce reporting obligations for members of a management board (and general partners and liquidators in such cases) of large companies where income exceeded the equivalent of EUR 50 million in a tax year. By January 31st of each year, the board members will be obliged to electronically submit a report to the Minister of Entrepreneurship and Technology, among others, specifying the values of received receivables and paid debts in a previous year within 30-day, 31-60 day, 61-120 day and beyond 120 day periods - from the day of issuing an invoice or a receipt confirming the delivery of goods or performance of services.

The reports will be publicly available. Companies will be required to submit their first reports for the year of 2020 by January 31, 2021.

WHAT HAPPENS NOW?

It is hard at this point to clearly define the impact of the Statute on late payment practice in Poland, but it is certainly advisable for companies to review their contracts with counterparties and/or applicable general terms and conditions in order to comply with the new regulation.

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