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Financial Law Department
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Draft Bill on Credit Agreements with Consumers

This is a cross-cutting and innovative regulation which strengthens consumer protection and legal certainty within the market.

The Draft Bill on Credit Agreements with Consumers approved by the Spanish Cabinet on January 7, 2026, as well as the Royal Decree draft implementing it, are currently being processed, after having been submitted to a public hearing (“*Audiencia Pública*”) for interested parties to submit their comments until January 30. The purpose of this regulation is to transpose two of the European Directives on consumer loans and distance financial services contracts (Directive (EU) 2023/2225 of October 18 and Directive (EU) 2023/2673 of November 22, 2023). This is an innovative regulation within the financial sector seeking to respond, among other things, to the proliferation of new providers and consumer credit products with a profound technological component while increasing consumer protection.

The Draft Bill on Credit Agreements with Consumers establishes the legal regime applicable to these agreements and strengthens consumer protection through transparency rules, authorization and performance requirements for lenders, especially high-cost lenders (“*prestamistas de alto coste*”), and the regulation of consultancy services. The regulation introduces limits on credit costs and professionalizes high-cost lenders, seeking greater legal certainty and uniform rules for all operators. Although the regulation is still pending approval, we outline below some of the main measures it envisages:

Limitation of costs and distance consumer credit agreements

Similar to other European jurisdictions, the proposal introduces certain cost limitation measures with the main objective of preventing over-indebtedness and providing legal certainty to operators, as well as greater rigor and sustainability in the granting of credit.

- The Draft Bill and the corresponding Royal Decree propose, among other things, introducing a general limit to be set on the basis of the average interest rate (APR) on consumer credit, to which a margin (in tranches) is added so that the APR does not exceed a maximum cap interest rate.

- During the transitional period, the Draft Bill sets a provisional maximum cap of 22 p.p., which will apply to new transactions entered into after its entry into force. This cap will also apply to the settlement of outstanding balances on existing indefinite or extendable transactions (such as revolving credit cards).

- On the other hand, the directive on distance financial services is also transposed, requiring that, in distance contracts concluded via an online interface, consumers may be able to withdraw using a labeled function (e.g., "*withdraw from the contract here*"), which must be permanently available throughout the term and prominently displayed and accessible. It also prohibits the design/management of interfaces that manipulate or mislead consumers in their decision-making, known as dark patterns, thereby reinforcing transparency and consumer protection.

Registration and supervision by the Bank of Spain; EFCAL and authorized high-cost lenders

Among the proposed measures, the activity reserve stands out; only authorized and registered entities will be able to grant consumer credit on a professional basis, and under the supervision of the Bank of Spain.

- For the purpose of promoting competition and incorporating previously unregulated operators, two new categories are created: Limited Scope Credit Institutions ("*Establecimientos Financieros de Crédito de Ámbito Limitado*") (EFCAL) and authorized high-cost lenders.

- EFCALs will be able to grant both mortgage-backed loans and unsecured consumer loans. If the regulation is approved, they will operate under a simplified regime, without prudential high-demanding requirements or capital requirements, in order to promote innovation. Nonetheless, they will have to be authorized by the Bank of Spain and have a minimum share capital, while high-cost lenders will limit their activity exclusively to this type of credit, professionalizing a segment that has been largely neglected, until now.

- Authorized high-cost lenders are natural or legal persons who are professionally engaged in granting high-cost loans. The regulation considers a high-cost loan to be one whose interest rate exceeds by at least 10 percentage points the average interest rate for consumer loans applicable at the time the loan is granted, in accordance with the provisions of Article 71 of the Draft Bill.

- It has been proposed to establish a second regime limiting interest rates for high-cost loans; a minimum repayment period for these loans (minimum 3 monthly payments) and a decrease in the total cost borne by the consumer, establishing a monthly interest rate cap at 4% and a maximum commission of 5% with a limit of €30 in the transitional regime. Likewise, the maximum cost must not exceed the cost of a 12 months-loan of the same amount applying the rate corresponding to the ordinary regime. Additionally, in the case of high-cost loans, the binding offer must be provided at least 24 hours in advance, thus allowing for a fully informed decision by the consumer.

- Likewise, in order to strengthen the assessment of creditworthiness and prevent over-indebtedness, it is mandatory to consult the customer's credit history in the case of high-cost loans. A measure applicable in the general regime whenever necessary and proportionate, but not obligatory.

- For their part, companies that sell other goods or services and wish to offer financing (dealerships or large furniture or appliance stores) may only do so through deferred payment without interest and no other costs (with only limited late payment charges), and must register in the corresponding registry if they are not SMEs (“*PYMES*”). Additionally, the Draft Bill establishes as an essential principle that credit agreements granted by operators who do not have the corresponding authorization will be null and void.