

Poland: ECJ ruling not the worst outcome for banks and the zloty

The ECJ supports the forced conversion of Swiss franc mortgages. **But the existence of Polish zloty credit capital and Swiss franc interest rates is still under discussion.** The latter issue, which remains unclear, reduces the chances of a flurry of new suits against banks. That means fewer losses for banks, with pressure for a weaker PLN diluted in time



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CHF mortgages to be converted to PLN, but available options are less favourable for clients

The European Court of Justice ruled that after removing abusive clauses in mortgage contracts, new clauses may not be put in their place. This effectively means a forced conversion of credits disputed in courts to Polish zloty, and the FX loss on the credit capital will burden banks.

The latter part of the ruling is important though – the ECJ vaguely suggested that a credit with PLN capital (after the forced conversion from CHF to PLN) may not exist based on LIBOR interest rates and as such, these credits should be either invalidated or permitted to exist with the abusive

clauses intact. Previously, debtors assumed that a third option would be possible i.e. such credits (PLN capital, CHF rates) would continue to exist after a conversion. The option with the termination of such credits means that both sides must settle accounts and debtors pay back all the remaining capital! If debtors don't have the required funds or bridge financing, they may abandon plans to sue banks. This could limit the number of clients suing courts.

Polish courts to make final decisions

There is now great debate among lawyers whether PLN capital, CHF rates may exist. The Polish Supreme Court has said this is correct while the ECJ has vaguely signalled this is not the case and local courts should decide.

If the PLN capital - CHF rates option is not permitted, clients may be less eager to sue banks. All will be spread across time. Hence, the rise of banks' losses and the credits under forced conversion should be reduced. And so the negative pressure for PLN (caused by CHF loans conversion to PLN) should also be distributed over time.

Author

Rafal Benecki

Chief Economist, Poland

rafal.benecki@ing.pl

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