

12. English summary

Bank loans to entrepreneurial (corporate) customers

There is no commonly accepted definition of loan in the Czech law and theory. The Czech civil law distinguishes between “loan” (as defined in the commercial code) and “borrowings” (as defined in the civil law code). The definition used by the financial law is more comprehensive and more reflecting the economic sense to the form of the provided money. According to the bank code, loan is temporarily granted cash, no matter in what form. Some definitions in the theory are even more comprehensive including also guarantees and similar products. According to my definition, loan is an instrument, under which cash (or its equivalent in other goods) is temporarily granted to a debtor and cash (or its equivalent in other goods) is returned to the creditor. Cash is always at least either provided in the beginning or returned in the end.

“Entrepreneur” is defined in the commercial code. However this definition has to be adjusted to the special law or internal rules of the bank. Entrepreneurial (or in English “corporate”) customers include usually entrepreneurs as defined by the commercial law, but excluding some special types of clients as banks and other financial institutions, public subjects and some small entrepreneurs with retail character.

The loans to the corporate customers can be divided by many criteria including maturity (short-, mid- and long-term, one-off/bullet and amortized, revolving, non-revolving and overdraft) and repayment schedule (regular – annuities and capital installments, irregular), collateral (secured and unsecured), number of banks involved (bilateral, club and syndicated), currency (Czech crown, Foreign currency and multicurrency), commitment (committed and uncommitted), interest type (with fixed interests, with variable interests) and purpose (working capital loans, investment loans, export loans, acquisition loans, refinancing and recapitalization loans, real estate loans, project financing and VAT lines).

Collateral can be considered in a more narrow way (including promissory notes, various types of guarantees, pledge right, assignment of rights, etc.) and in broader way including also so called credit support (as representations and warranties, information covenants, financial covenants, negative obligations, other obligations and events of default). Czech law does not know a floating charge as used by the English law.

The bank loans to corporate customers relate to many legal regulations both in the civil and public law.

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The regulation in the financial law includes tax issues, state subsidizing and other support of bank loans and rules for granting of loans (including their supervision). These rules relate to basic organization demands on banks, required capital and its measurement, loan limits for exposures against customers and economic groups, liquidity rules and rules for evaluation and adjustments of bank receivables. To enable better risk control by the bank, the bank code enables some exceptions from the bank secret. Based on these provisions some bank databases of borrowers are operated, including “Centrální registr úvěrů” which is run by the Czech National Bank and to which the banks are obliged to contribute with their data.