Status of discussions connected with CHF mortgage loans

Information of the Management Board on mBank's position

mBank

OGM, 24.03.2021

Overview

Key observations and deep-dive into selected topics

Summary of individual court proceedings and related provisions at mBank slide 3

Proposal of Chairman of the KNF slide 4
Estimated impact on mBank at PLN 5.5 - 6.6 billion

The Supreme Court slide 5
The full Civil Chamber session regarding CHF issues to be held on **13 April 2021**
The session addressing Financial Ombudsman questions is scheduled for **15 April 2021**

National Bank of Poland slide 6
Comments from the National Bank of Poland regarding the proposal

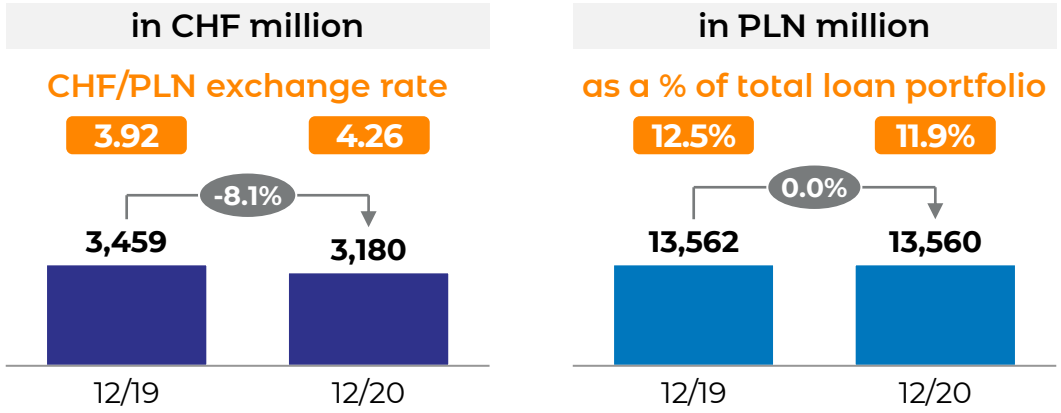
A working group has been established by the Chairman of the KNF
- ✓ The working group is attended by nine banks, KNF, Ministry of Finance and BFG and is organized into four streams: Quant, Legal, IT&Ops and Communication. The streams work on details of the proposal. Participation assists in forming an educated view of the proposal and does not imply acceptance of the proposal.

Other important information slide 7
- ✓ Questions pertaining to two court cases in which mBank is the lender have been submitted to the Court of Justice of the European Union
- ✓ Verdict of the Supreme Court in Austria dated 25 August 2020

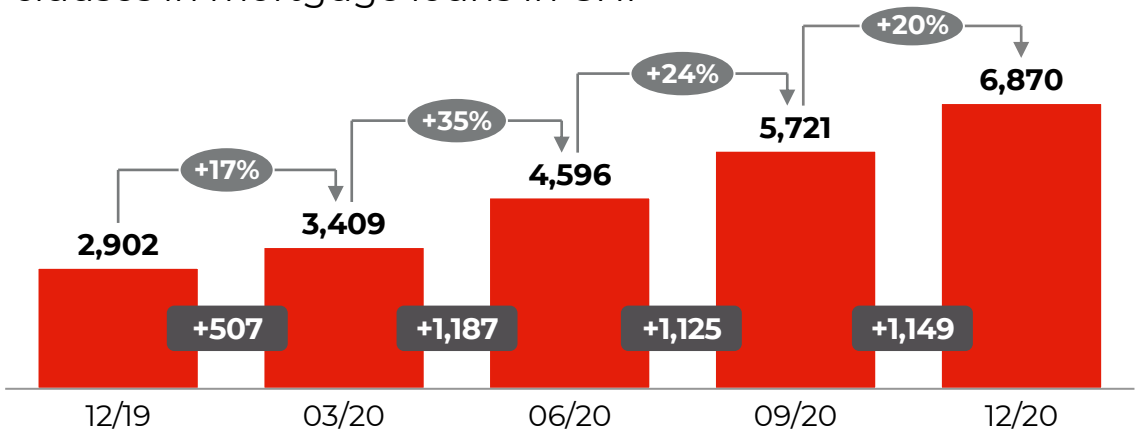
Summary of individual court proceedings and related provisions at mBank

Provisions for legal risk cover more than 10% of the CHF portfolio and full value of claims

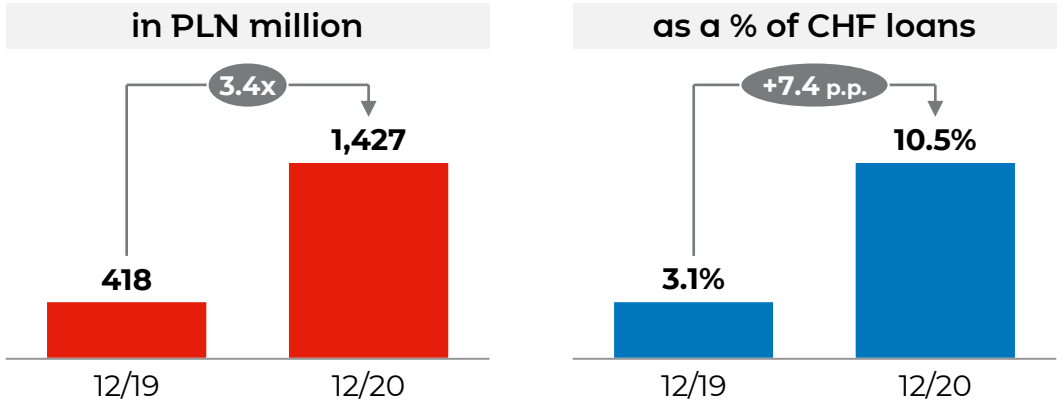
Carrying amount of mortgage loans granted to individual customers in CHF



Number of individual court cases concerning indexation clauses in mortgage loans in CHF



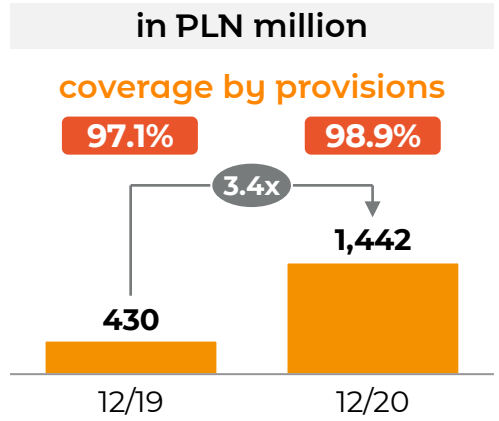
Total value of provisions created for individual court cases concerning indexation clauses in mortgage loans in CHF



Key parameters for the calculation of portfolio provisions include:

- population of borrowers who will file a lawsuit against the bank projected for a period of 5 years
- probability of loss, defined as a share of negative verdicts in all final judgments in 5-year period
- expected level of loss in case of losing the lawsuit by the bank (taking into account a distribution of 3 possible outcomes)
- CHF/PLN exchange rate

Total value of claims in the individual proceedings



Source: mBank Group's IFRS Consolidated Financial Statements 2020.

Proposal of the KNF Chairman

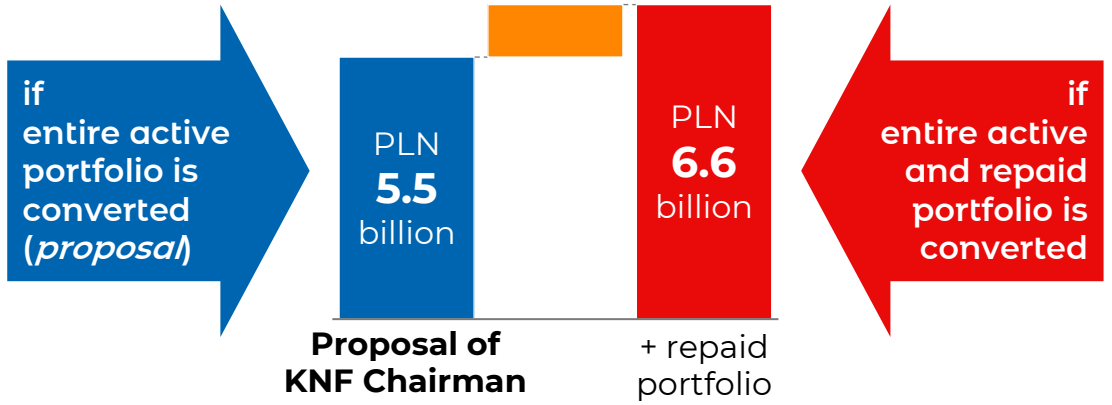
In December 2020, the KNF Chairman announced his proposal on FX mortgage loans

GENERAL CONCEPT:
The proposal of the KNF Chairman assumes that loans in foreign currencies would be converted and they would be treated as if they were PLN loans from the beginning of the contract. The interest rate would be based on WIBOR plus margin which was prevalent at the time.
Implementation of the proposal is voluntary.

Costs for the proposal are calculated as follows:

- the sum of differences between the current balances of loans indexed to / denominated in a foreign currency (CHF, EUR, USD) and the corresponding hypothetical loan balances in PLN based on the WIBOR 3M rate plus loan margin in PLN granted at the same time and for the same period as the FX loan;
- in addition, hypothetical PLN loan balances include in their schedule differences from the actual repayments of FX loans by adjusting the value of the outstanding principal according to the scheme provided by the KNF;

The estimated impact of potential implementation of the conversion plan on mBank (unaudited data)



according to the calculation based on the KNF's questionnaire dated 27 January 2021, and using data as of 31 December 2020

The proposal of the KNF Chairman assumes that only active portfolio would be converted. It also assumes a stable exchange rate. Absence of a stable FX rate, for example as a result of non-participation of the NBP, could lead to further losses.

Even if the Bank makes client offers based on the proposal, customers may elect not to accept and seek compensation in court. **Therefore, implementation of the proposal does not eliminate litigation risk for the Bank. Implementation of the voluntary client offer does not immunize the Bank from the consequences of the Supreme Court decision(s).**

As of 31.12.2020, mBank Group maintained capital adequacy ratios above the required levels. **The amounts of excess capital**, both related to Tier I ratio and total capital ratio, **were higher than the potential impact of implementation of the KNF Chairman proposal** on the Group, according to the calculation based on the KNF's questionnaire.

Source: mBank Group's IFRS Consolidated Financial Statements 2020.

Supreme Court resolution on loans in CHF

Motion by the First President of the Supreme Court from 29 January 2021

The motion for adopting a resolution by the entire Civil Chamber of the Supreme Court aims at ensuring uniform jurisprudence of the Supreme Court and common courts in the view of disclosed discrepancies in the interpretation of legal provisions. It includes the following questions, addressing majority of the legal issues related to CHF loans:

1 If it is found that the provision of an indexed or denominated loan agreement relating to the **method of determining the foreign currency** exchange rate **constitutes an illegal contractual provision** and does not bind the consumer, **is it possible to assume that this provision is replaced by another method** of determining the foreign currency exchange rate, **resulting from the provisions of law or customs**?

If the answer to the 1 is negative:

2 If it is **impossible to establish a binding** foreign currency **exchange rate** in a loan agreement **indexed** to such currency, **can the agreement be binding** for the parties in the remaining scope?

3 If it is **impossible to establish a binding** foreign currency **exchange rate** in a loan agreement **denominated** in a foreign currency, **can this agreement be binding** for the parties in the remaining scope?

Regardless of the content of the answers to questions 1-3:

4 In the event of the invalidity or ineffectiveness of a loan agreement, in the performance of which the bank paid out to the borrower all or part of the loan amount and the borrower made payments on the loan, **do separate claims arise for undue performance for each of the parties**, or **is there only one claim, equal to the difference in the benefits provided** to the party whose total benefit was higher?

5 In the event of the invalidity or ineffectiveness of a loan agreement due to the illegal nature of some of its provisions, **does the limitation period for the bank's claim for reimbursement** of the amounts paid under the loan **start from the moment of their payment**?

6 If in the event of the invalidity or ineffectiveness of a credit agreement, **either party has a claim for reimbursement** of the performance provided in such a contract, **may that party also claim remuneration for the use of its funds by the other party**?

The Supreme Court is expected to hold a meeting on 13 April 2021, which will be closed to the public. Public announcement of the resolution, along with the oral justification is expected the same day.

A separate session to address the Financial Ombudsman questions is scheduled for 15 April 2021 in a panel of 7 judges.

Source: Motion by the First President of the Supreme Court dated 29 January 2021, signature BSA I-4110-4/20. Emphasis in bold performed by mBank.

Statements from the National Bank of Poland

Comments of the NBP Governor at press conference on 5 February 2021

1. **On PLN loans based on LIBOR:** In the market practice there are no cases of using interest rates relevant to the currency of another country to set the price of money in a given country. The interest rates for a given currency are impacted by the issuing central bank. **Using the interest rate dependent on the situation of another country for PLN loan would make these economic, financial rules absurd.**
2. **On FX tables published by banks:** For every economist the FX tables published by banks are something obvious and an immanent element of the market. The market is functioning this way. **They are commonly used for everyday settlements of various FX transactions, not only loans. Their use is ruled by the banking law**. From the economical point of view, the use of the FX tables is a common practice. In my opinion, every case should by considered individually and I definitely **would not opt for questioning the use of the FX tables en bloc.**
3. **On using NBP average FX rate:** As regards the use of the average NBP rate: from the economical point of view, as a central banker, I think **it would be a very good solution.**

In its communique as of 9 February 2021 the NBP declared its readiness to consider the involvement in initiatives aimed at reducing the risk of FX loans if the following conditions are fulfilled:

1. a sufficiently **large group of banks joins the initiative** (the majority of the FX portfolio covered by the settlements)
2. banks present a reliable information about the **interest of a significant part of their borrowers in signing the settlements**
3. legal doubts as to the effectiveness of this initiative are eliminated in regards to **corporate consents** as well as to further legal claims related to settlements
4. legal doubts as to the effectiveness of this initiative are eliminated in regards to **no further legal claims related to settlements**
5. banks present binding **capital reconstruction plans**, including measures aimed at restoring the capital ratios and leverage ratio to the levels no lower than from before the conversion.

During press conference on 10 March 2021 the NBP Governor reiterated the conditions for NBP participation.

1. Any solution should have a **system-wide character** and Poland's **foreign exchange reserves cannot be used to help implement the business decisions of several entities.**

Source: Recording of the conferences of the National Bank of Poland, available at the official streaming channel of NBP on the YouTube platform .

Other important information

Questions pertaining to two court cases in which mBank is the lender have been submitted to the Court of Justice of the European Union. CJEU's answers might be expected at the turn of 2021 and 2022.

1. The question referred in the first case aims at determining the starting point for the limitation period, in case of consumer claims that the contract contains abusive clauses.
2. The question referred in the second case aims at determining whether, in the event of declaring the exchange rate clause as abusive, it is possible to apply in its place the provision of the Civil Code referring to the average NBP exchange rate.

The jurisprudence in the EU is not homogeneous. A good example is the verdict of the Supreme Court in Austria dated 25 August 2020. The main conclusion from the judgement is the following:

In principle**, a bank would be free to set the price (exchange rate) at which it were willing to convert the amount loaned to a customer in foreign currency into local currency (Euro)**. The customer would be free to reject the conversion at the rate offered. If the customer decided to have the foreign currency amount credited to be disbursed in local currency (Euro), **it would not constitute an unlawful business practice if the defendant (bank) used its own currency fixing to determine the conversion rate.**

Source: mBank, press information published in „Puls Biznesu" daily on 17 March 2021. „Frankowicz po austriacku".