

# **Principles of Ethics of Debt Collection of Members of the Polish Debt Collection Association**

## **Introduction**

*Members of the Polish Debt Collection Association in their professional activities comply with applicable on the territory of the Republic of Poland laws, rules and standards of conduct in this document, which also designate ethical standards of behaviour and debt collection behaviour.*

## **Part I**

### **The Canon of Good Practices of the Financial Market**

#### **§ 1**

The financial market constitutes a common good of all its participants, which are the financial entities, natural persons, legal persons or other organisational units offering products or financial services, as well as their customers and customers of other institutions and organisations operating on it. The basis for sustainable development and security of the market is the ethical dimension of financial entities' operations. The Canon of Good Practices of the Financial Market articulates the fundamental ethical values and ideals for financial entities, and all the rules of the Canon form an integral, mutually complementary whole. Simultaneously, the Canon leaves the financial entities and their self-government organizations a freedom of shaping and evaluating the application of ethical standards in accordance with the specificity of various market sectors and different organisational solutions, and with their achievements in developing and improving the principles of good practices.

#### **1. Honesty**

A financial entity shall act honestly and cautiously, respecting the equitable interest of customers and the good of the financial market and it shall not abuse its dominant position resulting from its advantage of resources, including the qualifications or competence of persons acting in its behalf.

#### **2. Diligence and Competence**

A financial entity shall conduct its business fairly and with due diligence, ensuring that persons acting on its behalf have appropriate professional competence and accept the ethical attitude.

#### **3. Dignity and Trust**

A financial entity shall act in a manner that ensures trust and respect for the dignity of customers and contractors, caring about the transparency of its activities.

#### **4. Resources and Procedures**

A financial entity shall have the resources and procedures necessary for efficient performance and monitoring of the business conducted, and shall use them in good faith.

#### **5. Internal Relations**

A financial entity shall care for shaping the proper relationship with its employees and collaborators in a spirit of mutual respect and responsibility, providing suitable conditions for the performance of activities by employees and persons acting on its behalf.

#### **6. Conflicts of Interest Prevention**

A financial entity shall seek to avoid conflicts of interest, which could cause a breach of the equitable interest of customers, and if in spite of exercising due diligence the conflict has occurred, it shall seek to resolve it in a way which ensures fair and reliable treatment of customers.

#### **7. Information from Customers**

A financial entity shall aim to achieve the best possible knowledge of the needs of its customers, to an extent to which it may be useful to adjust its offer, the scope or level of services rendered to the customers' situation.

## **8. Customer Information Protection**

A financial entity shall protect information about customers and it shall ensure that this information is used in accordance with the law.

## **9. Information for Customers**

A financial entity shall provide a customer with a clear and reliable information about products and services offered and the related costs, risk and potential profits, making it easier for the customer to make the right choice.

## **10. Division of services**

A financial entity shall apply to customers uniform, essentially justified criteria which can diversify its offer , the scope or level of rendered services depending on the situation of the customer or the profile of a group of customers, which does not exclude the possibility of individual negotiation of terms and conditions of agreements.

## **11. Reliable Advertising**

A financial entity, while performing its advertising activity, shall be guided by the principles of fair competition and it shall ensure that the information provided be reliable and not misleading, in particular, in terms of the risk associated with the potential profits.

## **12. Complaints from Customers**

A financial entity shall consider complaints from customers carefully, fairly and on time, using, where necessary, mediatory and amicable forms of dispute resolution.

## **13. Mutual Relations and Fair Competition**

Financial entities in their mutual relations, shall be guided by good merchant practices with respect for the principles of fair competition.

## **14. Settlement of Mutual Disputes**

Financial entities shall aim to resolve mutual disputes, using, as far as possible, mediatory and amicable forms of dispute settlement.

## **15. Actions for Market Development**

Financial entities, without prejudice to their own interests and maintaining professional secret and trade secret, shall cooperate in promoting good market practices and corporate governance and, as far as possible, in eliminating from business practice phenomena which impede the development of the financial market, in particular activities which are dishonest, unreliable or inconsistent with the principles laid down in the Canon.

## **16. Application of the Canon**

A financial entity, which has adopted the Canon to be used, shall ensure that all its employees and other persons acting on its behalf are familiar with Canon and comply with its principles, and it shall also provide access to the full content of the Canon to its customers and contractors.

## ***Part II***

### ***Definitions***

#### **§ 2**

Whenever the Principles of Ethics of Debt Collection of Members of the Polish Debt Collection Association mention of:

**1. Debt collection company** - it shall be understood as: an entrepreneur who professionally deals with collecting receivables and debt trading, and renders other related services on his own or on behalf of and for his customers

**2. Debts collection activities** - it shall be understood as: any permitted acts-in-law and factual acts aimed at satisfying demandable receivables by debtors

**3. Receivables** - it shall be understood as: the power of one party of a legal relationship to demand from the other party of a legal relationship to provide the performance

**4. Debt** - it shall be understood as: the debtor's obligation to provide the performance

**5. Debtor** – it shall be understood as: a natural or legal person obliged to provide the performance for the other entitled legal or natural person,

**6. Debt collector**- it shall be understood as: an employee or a different natural person entitled by a debt collection company to perform debt collection activities for and on behalf of this company,

**7. Contractor** - it shall be understood as: an entity selling receivables or assigning receivable service to a debt collection company.

**8. Association** - it shall be understood as: the Polish Debt Collection Association, with its registered office in Warsaw, registered under number KRS 0000158860 in the register of entrepreneurs, as well as in the register of associations and other social organizations and professional organizations, foundations and public health care establishments by the District Court for the capital city of Warsaw, 13<sup>th</sup> Commercial Division of the National Court Register.

### **Part III**

#### ***The Rules Governing Debt Collection Activities***

##### **§3**

The debt collection company shall perform debt collection activities or any action in accordance with the binding law and with respect for the rights granted to the debtor.

##### **§4**

Generally accepted activities taken against the debtor by the debt collection company shall include in particular:

1. sending and keeping up a correspondence
2. a telephone contact
3. visits of field collectors

##### **§5**

All correspondence addressed to the debtor should be sent in a sealed envelope directly at his/her residence address or the company's address.

In the absence of the address of residence of the debtor, the correspondence can be sent at the address determined by the debt collection company, at the address of the debtor's place of employment or any other address given by the debtor. The content appearing on the envelope shall not affect the good name of the debtor and shall not contain information suggesting the existence of the debtor's obligation in relation to the creditor.

##### **§6**

1. In the case of the first call to the debtor to repay his/her debts, the debt collection company should include in it all data and information enabling the debtor to identify receivables, indicating:
  - the source of debt
  - the creditor's name
  - the name of the issuer of invoices
  - the principal amount
  - due date
  - accrued interest and additional charges
  - the invoice number
  - the date of the invoice.
2. The call should clearly indicate the name and basic data of the debt collection company.
3. Each subsequent call or a letter addressed to the debtor should contain information allowing to identify the case and the stage at which it is currently conducted, and the updated amount of the debt. If this call

contains the information on bringing the case before the court, the minimum amount of costs of legal proceedings should be given.

4. In the case of settling the claims by the debtor in the amount indicated in the call and within the specified date, it is not possible to claim uncalculated accrued interest and additional charges.

#### **§7**

1. Debt collectors may hold telephone conversations with debtors on weekdays i.e. from Monday to Friday between 6 am to 10 pm, and in the absence of the contact with the debtor or at the specific request of the debtor, on remaining days of the week and on holidays between 8 am and 8 pm. The frequency of contacts with the debtor shall not be burdensome for the debtor and cannot bear the signs of harassment.
2. In the case where it is not possible to contact the debtor in the above-mentioned hours or the contact with the debtor is particularly difficult, the debt collector may attempt to contact the debtor at different hours.

#### **§8**

1. The debt collector holding each telephone conversation is required to:
  - a) introduce himself/ herself
  - b) take measures to identify the debtor
  - c) indicate the company which he represents
2. The debt collector's responsibility shall also be ensuring the secrecy from third parties regarding information about the debtor's liabilities.
3. The debt collection company may reserve the right to record telephone conversations in order to guarantee safety of both a caller and an employee of the debt collection company. Each time, before the start of recording conversations concerning debts, the debt collector shall be obliged to inform the debtor about it. The recorded telephone calls may be used by the debt collection company for training purposes and its employees shall maintain confidentiality of any information obtained during conversations with the debtor.

#### **§9**

Telephone calls shall be made with maintaining respect for the good name of the debtor, in a polite, cultural and courteous way. The debt collector's responsibility is to provide the source of obligation and other data on the basis of which the claim is asserted.

Each provided information shall not mislead the debtor, and it shall only serve to clarify the case and to settle amicably the obligation.

#### **§10**

The purpose of the debt collector while holding a telephone conversation with the debtor is to obtain information necessary to take further appropriate debt collection activities, in particular information on the financial situation and personal situation of the debtor, and to strive for an amicable settlement respecting the rights of the debtor and creditor at the same time.

#### **§11**

1. The field collector may perform debt collection activities outside the headquarters of the debt collection company, i.e. in the debtor's place of residence on weekdays from Monday to Friday from 7 am to 9 pm, and on the remaining days of the week and on holidays from 8 am to 8 pm.
2. If it is not possible to meet the debtor at his/her place of residence or at another location at hours mentioned above, as well as in the case of the debtor's reasonable request, the field collector may perform debt collection activities at hours other than those mentioned above.

#### **§12**

The field collector is obliged to:

1. comply with the provisions of section 8, subsection 1 of these principles used appropriately
2. present an identity card or other documents which confirm his/her entitlement to represent the debt collection company and to identify the debtor.

### **§13**

During the performed activities the field debt collector is obliged to protect the debtor's privacy, and their conversation should be held in a polite and cultural way.

### **§14**

The field collector shall not give any information about liabilities to third persons without the explicit consent of the debtor. The consent should be expressed in writing or orally in the presence of the field collector and the indicated third person.

### **§15**

The garments of the field collector shall be neat and shall not create negative associations.

### **§16**

1. The aim of the field collector during a meeting with the debtor is to obtain information necessary to perform further appropriate debt collection activities, in particular information concerning financial situation and personal situation of the debtor.
2. The field collector is obliged to provide all necessary information and attempt to amicably resolve any contentious questions, bearing in mind at the same time, that the information given to the debtor cannot be misleading, and it can only serve to clarify the matter and to amicably settle the obligation.

### **§17**

1. Each time accepting any payment in cash, the field debt collector shall issue to the debtor a receipt for the received amount. The receipt must include the acceptance date of payment, the accurately indicated deposited amount of money, a signature of the debt collector, a stamp of the debt collection company and a number of a case for which financial means will be accounted
2. The debt collector shall give the original receipt to the debtor but the copy shall be given to the debt collection company.
3. The day of payment of the amount transferred by the debtor to the debt collector shall be the day of the receipt issue.
4. The debt collector shall transfer the means collected from the debtor immediately after receiving them but no later than within two working days.

## **Part IV**

### **Complaints from the Debtor**

### **§18**

The debt collection company shall provide reliable information to the debtor about his rights and it shall ensure their protection in accordance with the letter of the law. The debt collection company shall deal with any complaint lodged by the debtor, unless it may be stated in an objective way that the debtor has aimed to slow down the ongoing debt collection proceedings

### **§19**

Complaints lodged by the debtor shall be considered no later than within 21 days from the date of their receipt, in particularly justified cases, the deadline for consideration of the complaint shall be 60 days from the date of the complaint's service . The complaint, which the debt collection company cannot consider within 60 , shall be dealt with within the shortest possible time and the debtor shall be informed by the debt collection company about the existing circumstances.

### **§20**

The considered complaint, apart from the position of the debt collection company, must include a full justification and the legal basis for the settlement. The settlement of the complaint for the benefit of the debtor shall result in the removal of irregularities and the suspension or restriction of debt collection activities according to the results of the complaint proceedings.

## **Part V**

### **Personal Data Protection**

#### **§21**

The debt collection company shall ensure the protection of the debtor's personal data both in legal and technical aspects through the establishment of appropriate procedures and adequate technical infrastructure. Personal data available to the debt collection company shall be used solely for the purposes for which they have been transmitted.

#### **§22**

During conducting negotiations, concluding contracts and in other situations where it is necessary to process the debtor's personal data, the debt collection company shall ensure the indispensable protection of the debtor's personal data.

#### **§23**

In order to ensure the protection of personal data the debt collection company shall observe and apply legally binding regulations, in particular the requirements specified in the Act of 29<sup>th</sup> August 1997 on the Protection of Personal Data (Journal of Laws No. 133 Item. 883) and the Regulation of Ministry of Interior and Administration on Basic, Technical and Organizational Conditions Which Should Be Fulfilled by Devices and Information Systems Used for the Personal Data Processing of 3<sup>rd</sup> June 1998 (Journal of Laws No. 80 Item. 521).

## **Part VI**

### **The Catalogue of Prohibited Collection Practices**

#### **§24**

1. The debt collection company shall use only legally allowed practices consistent with ethical standards.
2. The following practices shall be considered prohibited:
  - a) Asserting claims whose existence and demandability have been called into question by the debtor, who in support of his/her claims has enclosed the necessary documentary evidence on the lack of grounds for the claim
  - b) Using punishable threats, force and any other acts violating human dignity and exerting pressure disproportionate to the required situation
  - c) Using information in a way which causes damage or is detrimental to the good name of the contractor or the debtor.
  - d) Giving dishonest or misleading information in any kind of public announcements or documents identifying the debt collection company
  - e) Collecting from the debtor additionally charged fees and costs without having legitimacy to claim them, excluding additional fees included in the contractor's assignment
  - f) Providing the debtor with misleading information as to the amount and components of debt as well as the consequences of not fulfilling the performance
  - g) Pretending to be public servants and suggesting that the documents have been sent by the court
  - h) Accepting money or any objects by debt collectors from debtors without issuing receipts
  - i) Any other activities against the applicable law and principles of ethics of debt collection business

## **Part VII**

### **The Obligations of the Members with Regard to Compliance with the Professional Ethics of Debt Collection**

#### **§25**

The Members of the Association in their professional activities are obliged to comply with the provisions of law mandatory on the territory of the Republic of Poland and the principles and standards contained in the proceedings of this regulation and in particular:

1. to present the positive image of debt collection companies and their organization, in particular, of the Association, whose objectives and tasks they spread and promote,
2. do not engage in corrupt activities or activities leading to corruption and conflict of interest,
3. do not resort to unfair competition practices such as:
  - a) winning employees of other debt collection companies, which are members of the Association, through direct submission of the work proposals; nonetheless, employment of an employee of any other associated debt collection company by way of a public recruitment process shall not be considered as an act of unfair competition with the proviso that the employees themselves submit applications for work,
  - b) keeping practices aimed at infringing the good reputation of other members of the Association,
  - c) disseminating false information about any other member of the Association, and in particular, information on his/her financial and personal situation.

## **Part VIII**

### **Rules of Conduct in the Event of a Breach of Ethics by a Member of the Association**

#### **§ 26**

The body competent to deal with matters related to a breach of ethics by a member of the Association is the Board of the Association.

#### **§ 27**

The investigation is carried out in accordance with the principle of confidentiality.

#### **§ 28**

The Initiation of the proceedings is carried out:

1. at the request of the party concerned, made in writing to the Association's address of correspondence or in an electronic form sent at the Association's e-mail address
2. at the request of an authority or an organization empowered to represent the interests of consumers, submitted in writing at the Association's address of correspondence or in an electronic form sent at the Association's e-mail address,
3. on the initiative of the Board of the Association which, on the basis of an analysis of the evidence and the way of conduct of the Members in terms of their compliance with the professional ethics, ascertains any violation of the ethics, as well as in any other case, when the Board of the Association obtains credible information about the violation of ethics in the course of actions undertaken by a member of the Association.

#### **§ 29**

Request for the proceedings' initiation shall include:

1. identification of the requesting party
2. a brief description of the circumstances of the ethics violation along with an indication of the grounds of the infringement, upon which the requesting party bases its charges
3. photocopies of documents concerning the matter

#### **§ 30**

In case of any defects of form identified in the request, the Association shall call the requesting party to remove them within 14 days. In the event of no remedy within the indicated period, the request constitutes a subject to rejection, unless the Board of the Association decides to examine the matter on their own.

#### **§31**

1. If the request for the proceedings' initiation meets the requirements or the defects of form have been removed within the specified period, the Association shall initiate the proceedings.
2. The Association shall immediately send copies of the request to the member involved, while asking to make a clarification in writing together with documentation regarding the matter and to present his/her position on the matter within 14 days.

3. If the member involved does not provide any written response or give an appropriate explanation, the Board of the Association shall consider the matter on the basis of the information and documents available.

### **§32**

1. The chairman of the Board of the Association decides on the possible arrangement of the meeting to consider the matter. The date of the meeting shall be determined no later than within 30 working days since lapse of the time limit specified in Section 31(2) herein. In justified cases, the designation of the date of the meeting may be extended by the decision of the President of the Board, of which the parties shall be notified immediately.
2. The case may also be considered by the Association by means of direct distance communication.

### **§33**

Parties involved and other persons whose presence is essential to full clarification of the matter may be invited to attend the meeting arranged by the Association. The Board of the Association may also summon employees of a member of the Association directly related to the case in order to fully clarify the circumstances subject to investigation.

### **§34**

In the course of the proceedings the parties are present in person or represented by proxy. An employee of the member of the Association or a person authorized as an agent for litigation may become a proxy for the parties.

### **§35**

1. In the course of the proceedings the Association shall take into account all circumstances relevant to the resolution of the case, examining the whole of the evidence accumulated,
2. After the end of the proceedings the Association shall make a decision on the case in the form of a resolution voted by simple majority together with the grounds for the settlement.

### **§36**

1. Upon the recognition of the case, the Board of the Association issues a decision in which:
  - a) states that there is no violation of ethics
  - b) states that there was a violation of ethics by a member of the Association.
2. In case of finding of a breach of ethics the Association shall call the member of the Association to remove the breach and to cease using the practice and shall decide on the possible application of the sanction and its kind,
3. The possible sanctions include:
  - a) a warning
  - b) a reprimand
  - c) suspension of the rights of the member of the Association,
  - d) in cases of a serious breach of ethical standards by a member of the Association, the Board may decide to expel a member from the Association,
4. The Board delivers to the parties the settlement in writing within 14 days from the date of the resolution.
5. Within 30 days of the receipt of the settlement, the parties may approach the Association for reconsideration of the matter. The Association shall consider such a request within 30 days of its receipt. The decision of the Association regarding reconsideration of the matter shall be final, except for the decision to expel or remove a member of the Association against which a party may appeal to the Council of the Association pursuant to Section 18 (2) of the Charter of the Association.

### **§37**

The provisions of Section 30- 35 are applied respectively when the case is initiated and carried out on the initiative of Board of the Association.

### **§38**

The Members of the Association by placing of the logo of the Association on their documents confirm the application of rules of ethics herein.

### **§39**

1. A member of the Association who submits the annual update questionnaire as well as a new member of the Association shall receive Recommendation of the Association valid for the calendar year. A model for the update questionnaire and a model for the information questionnaire shall be determined by the Association in the form of a resolution.
2. The enacted recommendation is a confirmation that a given member of the Association holding such a recommendation pledged to comply with the Professional Ethics herein.

### **§40**

1. The Board of the Association shall withhold the Recommendation of the Association for a member:
  - a) who has not fulfilled the obligation to update the data annually and thus has not made a statement on the application of the rules of ethics; until such a questionnaire and statement is received
  - b) against whom the proceedings to determine a violation of the Ethics have been initiated; until a final legally valid termination of the proceedings; the recommendation shall be issued if a legally valid decision on the investigation does not reveal a breach of the Ethics herein or the breach is not serious,
  - c) against whom proceedings have been initiated by the authority or organization dedicated to protect the interests of consumers; until a final legally valid termination of the proceedings; the recommendation shall be issued if a legally valid decision on the investigation does not reveal a breach of the Ethics herein.
2. In case of applying the sanctions as referred to in Section 36 (3) of the Ethics herein, the Board of the Association may suspend the Recommendation of the Association for a member for the period indicated in the resolution of the Board.
- 3.

## **Part IX**

### **Final Provisions**

### **§41**

1. The Principles of Ethics are passed by the General Assembly of Members of the Association.
2. Any changes in the Principles of Ethics shall require a resolution of the General Assembly of Members of the Association.
3. The Principles of Ethics come into force on the date specified in the resolution of the General Assembly of Members of the Association.