

Overview of “Cabinet Office Ordinance Concerning Partial Revision of Regulation for Enforcement of the Money Lending Business Act”

1. Purpose

Regulations under the Money Lending Business Act (the “Act”) are intended to prevent the emergence of heavy debtors and to protect those who need funds. Regulation for Enforcement of the Act (the “Regulation”) is hereby revised in part to eliminate cases wherein an individual is unable to borrow funds from money lenders, because the individual is unable to follow the required legal and regulatory procedures, such as the preparation of specified documents, due to coronavirus infection, etc., even if the requested loan does not exceed the individual’s repayment capacity.

2. Overview

(1) Giving more flexibility to procedures for borrowing “expenses that are found to be urgently necessary in light of socially accepted conventions” which are exempt from the statutory total lending limit requirements

(Article 10-23(1)(ii)-2, Article 10-23 (2) (ii)-2b, Article 10-28 (1)(i)-1 of the Regulation and Clause 6 of Supplementary Provisions to the Regulation)

The following special provisions are set for cases wherein a customer (coronavirus infected patient, etc.) in breach of the statutory total lending limit requirements obtains a special loan to fund “expenses that are found to be urgently necessary in light of socially accepted conventions” (Article 10-23 (1)(ii)-2 of the Regulation).

- Exemption from the required submission of receipts to moneylenders, so that the customer can temporarily use the special loan proceeds also for costs of living.
- Revision of the repayment period “not exceeding three months” to “not exceeding six months” considering circumstances facing the coronavirus patient, etc.

(2) Giving more flexibility to procedures for borrowing by individual business owners who are exempt from the statutory total lending limit requirements

(Article 10-23 (1)(iv), Article 10-28 (1)(iii)b of the Regulation and Clause 6 of Supplementary Provisions to the Regulation)

Borrowing by individual business owners (Article 10-23 (1)(iv) of the Regulation) is excluded from the statutory total lending limit requirements. The following exceptions are set for customers who are patients infected with coronavirus, etc.

- For loans exceeding one million yen, money lenders are required to determine an individual business owner’s repayment capacity in light of the individual’s “business plan, income and expenditure plan, and financial plan (the “Plans”). This has been revised in such a way that money lenders can determine such customer’s repayment capacity based on less comprehensive information (e.g., the individual business owner’s current status), in view of customers who are infected with coronavirus and having difficulty in developing and presenting the Plans (treat equally as loans less than one million yen).

(3) Giving more flexibility to borrowing procedures for revolving credit loans (cashing) which are subject to the statutory total lending limit requirements

(Article 10-26 (1) and Supplementary Provision 6)

Customers who utilize revolving credit loans (cashing) up to a certain specified amount are required to submit to their money lenders a document evidencing annual income, such as the statement of withholding tax. However, the following exceptions are set for customers who are infected with coronavirus, etc.

- Unless a customer submits their statement of withholding tax “within two months,” cashing service will be suspended, even if there is availability. This is revised to “within six months” for customers who are patients infected with coronavirus, etc., and having difficulty obtaining such statement.

Note: While submission of the document is required within one month under Article 10-26 (1) of the Regulation, Article 9-2 of the Supplementary Provisions of Cabinet Office Ordinance No. 79 of 2007 stipulates within two months for the time being.

(4) Giving more flexibility to borrowing procedures in cases where a borrower’s annual income is combined with that of the borrower’s spouse who is exempted from the statutory total lending limit requirements

(Article 10-23 (1)(iii) of the Regulation and Clause 7 of Supplementary Provision to the Regulation)

An exception is set for cases wherein a customer (homemaker, etc.), who would be in breach of the statutory total lending limit requirements based on the customer’s income only, borrows funds based on combined income with the customer’s spouse (up to 1/3 of the total combined annual income) (Article 10-23(1)(iii) of the Regulation).

- Such customer is required to submit in advance a certificate of residence or family registration (individual record) evidencing the customer’s relationship with the spouse. However, submission within six months after the drawdown date shall be deemed sufficient.

3. Effective date

All of the revisions described in Section 2 above are temporary measures for customers who are coronavirus infected patients, etc. (effective date on March 16, 2020, and expiry on the day specified under the National Action Plan for Pandemic Influenza and New Infectious Diseases [Act No. 31 of 2012]). (Note that item (3), Section 2 above shall be effective as of December 1, 2019.)