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Chairman
Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach
Leinster House
Dublin 2
D02 XR20

Re: Pre Legislative Scrutiny of the General Scheme of the Consumer Credit (Amendment) Bill 2021

Your ref: JFPERT-I-0366

Dear Deputy McGuinness,

I am writing to you in relation to the pre-legislative scrutiny of the General Scheme of the Consumer Credit (Amendment) Bill 2021 (the General Scheme), published by the Minister for Finance. The General Scheme, among other items, seeks to establish statutory caps on interest rates for moneylender loans, remove collection charges, extend the licensing term, digitalise repayment book and requires the Central Bank of Ireland (the Central Bank) to issue a report to the Minister within two years.

Background

Licensed moneylenders are currently subject to a robust annual licensing process and must comply with a range of legislative and regulatory consumer protection requirements. There are currently important protections for moneylending consumers provided for in the Consumer Credit Act 1995 whereby licensed moneylenders are:

- prohibited from applying additional charges (other than a collection charge) to moneylending agreements; and

- prohibited from applying any additional charges in the event of a default in payments due under the agreement i.e. the total amount repayable by a consumer is limited to the amount specified in the moneylending agreement.

The Central Bank published its Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylenders) Regulations 2020 (Moneylending Regulations) to strengthen protections for consumers of licensed moneylending services and to enhance professional standards in the sector. One of the aims of the Moneylending Regulations was to highlight the high cost of moneylending loans to prompt consumers to consider alternatives, including other licenced lenders and State supports that may be available. This entailed requiring licensed moneylenders to provide an information notice to a consumer before they enter into a moneylending loan. The Moneylending Regulations also impose requirements in relation to vulnerable consumers, and require licensed moneylenders to include a prominent warning in all advertisements. Moneylenders are also not be permitted to make an unsolicited offer to apply for credit to consumers who have recently made, or are nearing, full repayment of a moneylending loan.

Proposals to amend the Consumer Credit Act, 1995

The General Scheme sets out amendments to Consumer Credit Act 1995 in relation to moneylenders, primarily to impose statutory interest rate caps. The Central Bank of Ireland has provided technical advice to the Department of Finance to assist in its work on the proposal to set caps on the interest rates that licenced moneylenders may offer.

Overall, the Central Bank supports the policy rationale outlined in the General Scheme, in particular given the potentially vulnerable cohort of consumers involved. We will continue to provide technical assistance the Department of Finance in its further considerations of these matters.

One of the challenges in considering caps on rates charged by moneylenders is finding a balance between the availability of credit for consumers who do not have access to regulated credit elsewhere or who do not use other regulated credit providers, and the provision of short-term unsecured loans at what can be a high cost. The Central Bank is supportive of initiatives to reduce costs for consumers, particularly those that are most financially vulnerable, and recognises a well-devised cap on interest rates for moneylending loans can be effective in that regard. The Central Bank has previously communicated to both the Department of Finance and the Joint Committee that careful consideration on the imposition of caps is required in order to avoid the potential for unintended consequences. In particular, consideration should be given to the broader public policy issue of the potential detriment that may arise if some consumers become excluded from access to regulated credit, should some moneylenders go out of business or withdraw from offering credit to 'high-risk' borrowers as result of the introduction of a statutory interest rate cap. For small amounts of credit and for those consumers with an impaired credit history, there may be limited alternative credit options available to them from regulated credit providers.

If certain consumers become excluded from the market, policy responses could include ensuring that alternative sources of emergency funding or supports are available, the development of alternative sources of regulated credit, programmes improving financial literacy, and ensuring broad availability of debtcounselling services, such as those offered by the Money Advice and Budgeting Service. The Central Bank is mindful that some moneylenders could increase their rate(s) to the maximum allowable level, whereas the current rates some providers offer consumers are currently below the proposed caps. In this regard, we had also noted that most current moneylending products' interest rates are above the interest rate cap currently proposed in the General Scheme (1% per week), but the majority of cost of credit rates are below the additional proposed cost of credit cap (48% per annum). As such, any proposals imposing such a cap should therefore be careful to achieve an overall reduction in the cost of credit, in the context of current interest rates.

Other proposals

The Central Bank considers that the renaming of licensed moneylenders as "High Cost Credit Providers" is appropriate and this renaming is in line with the Central Bank requirements that all moneylenders which offer loans over 23% must include warnings on their advertisements which state *"Warning: This is high-cost credit. Consider alternative options before applying for this credit, including alternatives from other lenders regulated by the Central Bank of Ireland."*

The General Scheme also proposes to limit the term of cash loans to 12 months (with the exception of running accounts). This may impact a small number of approved products[1]. While the Central Bank sees merit in this proposal long term, high-cost credit contracts would not appear to be in consumers' best interests, the Central Bank expects to engage further directly with the Department of Finance on the technical aspects of this proposal to ensure the detailed drafting avoids unintended consequences (for example impacts on any existing loans).

The General Scheme sets out a number of proposals which the Central Bank considers will modernise the current regulatory framework. These include:

- increasing the annual licensing term for a licenced money lender from one year to five years, and introducing the power for the Central Bank to increase the licensing period of five years provided that it is satisfied that there will be no consumer detriment and after consultation with the Minister;
- removing the limited jurisdiction of district courts; and
- amending the requirement to maintain a repayment book to include the option of maintaining an online version of a repayment book.

The Central Bank considers these modernisations to the licencing regime for moneylenders to be positive, and such changes should allow further streamlining of the authorisation and supervision regimes.

[1] Currently, there are 20 licensed moneylending products with a term of greater than 52 weeks or 12 months out of a total of 121 products, excluding the running catalogue accounts. This represents 16.5% of products

Central Bank reports

The General Scheme also proposes that the Central Bank will be required to issue a report within two years of enactment of the proposed legislative changes and at other times when consulted by the Minister (Head 4). The factors the Minister must consider and the Central Bank will be required to report to the Minister on, when assessing the statutory caps are:

1. the impact on sustainability of the high cost credit sector;
2. the potential impact a change in the rate of interest would have on the supply of credit;
3. the evolution of weighted average interest rates by categories of high cost credit providers; and
4. the impact a reduction in the supply of credit would have on financial inclusion.

The Central Bank has set out to the Department of Finance earlier this year its view that price setting for moneylending loans requires a wide-ranging policy approach to address potential unintended consequences, including consideration of alternative sources of regulated credit, levels of financial literacy, and other state supports. Consideration should be given to the broader public policy issue of the potential detriment that may arise if some consumers become excluded from access to regulated credit, should some moneylenders go out of business or withdraw from offering credit to 'high -risk' borrowers as result of a statutory cap. The Central Bank considers that the Oireachtas is best placed to consider these wide set of concerns, so as to ensure fair outcomes for all, particularly the most vulnerable.

The Central Bank can gather additional statistics in relation to the moneylending sector, which will go some way towards assessments of sectoral sustainability and financial inclusion impacts arising from potential interest rate changes. However, detailed analysis of these impacts is not within the range of functions deployed by the Central Bank and are a wider public policy concern. Therefore, the Central Bank is of the view that the legislation could allow for a report by the Bank on sustainability and other observations based on statistical trends, in the moneylending sector. However, insights and intelligence around financial inclusion and the impact of caps when introduced should also entail input from a broad range of stakeholders including relevant government departments, state agencies and non-governmental bodies. Finally, on this point, we would propose that the report is issued within three years rather than two years of enactment. To prepare such a report data and analysis will be required well in advance of the two year anniversary of enactment, allowing only a short period of assessment of any impacts.

Separate to the reports referred to above, the General Scheme provides that the Minister may request the Central Bank to obtain and publish aggregate information in relation to this sector. The Central Bank has provided aggregate information to the Department of Finance in assisting it in developing its proposals to date and is will continue to provide any such aggregate information as is available to it as appropriate.

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In summary, the Central Bank sees merit in the introduction of a statutory cap by the Oireachtas on high-cost interest rates for moneylending loans, in particular given the potentially vulnerable cohort of consumers involved. The future setting of such caps, given the broad range of issues in play, should remain a public policy matter.

The Central Bank supports the proposals to modernise and update the regulatory regime for licenced moneylenders, and will continue to assist the Department of Finance in developing the General Scheme to its fullest extent. In particular, the Central Bank will engage bilaterally with the Department of Finance officials in relation some detailed technical aspects of the General Scheme.

If you or your colleagues have any further queries in relation to this matter that you wish to discuss please do not hesitate to contact my colleague Kevin O'Brien at kevin.obrien@centralbank.ie.

Yours sincerely

Gerry Cross

Director Financial Regulation, Policy & Risk