Declaration Form for Availing of Transitional Arrangements as a Retail Credit Firm or Credit Servicing Firm

Under the Central Bank Act 1997 (as amended)

**May 2022**

**Table of Contents**

[**PART 1 - Notes on Completion** 3](#_Toc103159436)

[**PART 2 - Applicant Information** 5](#_Toc103159437)

[**PART 3 - Applicant Transitional Activities** 6](#_Toc103159438)

[3.1 Transitional Activities 6](#_Toc103159439)

[**PART 4 - Documentary Evidence** 7](#_Toc103159440)

[4.1 Activities 7](#_Toc103159441)

[4.2 Board Minutes 7](#_Toc103159442)

[**PART 5 - Confirmations** 8](#_Toc103159443)

[5.1 Compliance with Legislative and Regulatory Requirements 8](#_Toc103159444)

[**PART 6 - Declaration** 9](#_Toc103159445)

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| **PART 1 - Notes on Completion** |

**In May 2022 Part V of the Central Bank Act 1997 (as amended) (the Act) was amended by the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Act 2022 (the 2022 Act) to expand the scope of the activities falling within the definition of a Retail Credit Firm and Credit Servicing Firm within the meaning of the Act. Effective from 16 May 2022 the activities of providing credit indirectly to or entering into a hire-purchase agreement (including a Personal Contract Plan) or a consumer-hire agreement with a relevant person requires authorisation as a Retail Credit Firm.**

**Section 34EA.(1) and Section 34FB.(1) of the Act provide transitional arrangements for persons that were providing these newly regulated activities immediately prior to the commencement of the 2022 Act on 16 May 2022. Persons seeking to avail of these transitional arrangements must complete this “Declaration Form for Availing of Transitional Arrangements as a Retail Credit Firm or Credit Servicing Firm” (the Declaration Form) and the “Application Form for Authorisation as a Retail Credit Firm”/“Application Form for Authorisation as a Credit Servicing Firm”) (the Application Form). Both the Declaration Form and the Application Form should be submitted to the Central Bank of Ireland (Central Bank) in a single submission.**

**Persons seeking to avail of the transitional arrangements provided for under the 2022 Act (in so far as that business relates to the newly regulated activities now falling within the scope of the Act) immediately prior to the commencement of the 2022 Act, will only be taken to be authorised to carry on the business of a Retail Credit Firm or Credit Servicing Firm until the Central Bank has granted or refused authorisation to the person, if a fully completed Declaration Form and Application Form is submitted to the Central Bank no later than 3 months after the commencement of of the 2022 Act (i.e. by 16 August 2022).**

1. The Declaration Form must be submitted in **typed searchable[[1]](#footnote-1) format** (with the exception of the signatures required in the Declaration being made in Part 6 of the Declaration Form).
2. All questions in each section of the Declaration Form that are relevant to the applicant **must be answered**.
3. Any questions that have a ‘**YES/NO’** or ‘**YES/NO/N/A’** box should be completed by the applicant with a ‘YES’, ‘NO’ or ‘N/A’ answer, as appropriate. **Do not leave any blank spaces in sections of the Declaration Form that are relevant to the applicant.** If the applicant cannot answer a question(s) asked or provide the information or documentation requested, it should include a cover letter with its application submission[[2]](#footnote-2) explaining the rationale for being unable to answer the relevant question(s) or provide the information or documentation requested. Applicants should include an index of the documentation included in the application submission.
4. Any questions that require a ‘**Document Reference’** should be completed by inputting a reference to the document where a response to that question has been provided. If the question is in an applicable section but is not applicable “N/A” should be inputted. Applicants must ensure that document referencing is fully completed throughout this Declaration Form in the boxes provided. Document references should match the relevant Declaration Form question number e.g. the document provided in response to question 4.1.1 should be referenced as Document 4.1.1.
5. Any questions that require a **‘Type Answer’** should be completed by typing a response directly into the Declaration Form. Space is provided to **type responses to these questions directly into the Declaration Form and Declaration section of the Declaration Form**. Additional rows may be added by the applicant, if required to complete its response to a question, but the structure and content of the **Declaration Form and Declaration section of the Declaration Form must not be deleted or amended** in any other manner. If the question is in an applicable section but is not applicable “N/A” should be inputted. If there is not enough space for the proposed response or if the answer is requested on a separate sheet, the applicant should provide that information on a separate sheet and refer to it in the space provided for the answer. The applicant should ensure that any sheets are clearly marked with the name of the applicant and include a reference to the relevant question.
6. The applicant should note that **any information or documentation provided with this Declaration Form that has not been requested as part of the application process will not be reviewed**.
7. The applicant should ensure that it has read and understands the Declaration being made in Part 6 of the Declaration Form. This Declaration should be **fully completed, signed and dated**.
8. An electronic copy of the completed Declaration Form and all required supporting documentation should be submitted to RCF@centralbank.ie or creditservicingfirms@centralbank.ie, as appropriate. Physical copies of the completed Declaration Form and all required supporting documentation **are not** required to be submitted.
9. The applicant is obliged to inform the Central Bank of any material changes to the information provided in the Declaration Form, in a timely manner, during or after the application process.
10. The Central Bank may seek **further information or clarification** in respect of the information provided by the applicant in the Declaration Form for the purpose of assessing and reaching a determination in respect of its application seeking to avail of the transitional arrangements.
11. The applicant should ensure that all information provided in the Declaration Form is accurate and complete. All information which might reasonably be considered relevant for the purpose of the Declaration Form must be disclosed. If not, the granting of transitional arrangements may be delayed.
12. **An incomplete Declaration Form may be returned to the applicant and the applicant will be advised that the Declaration Form does not contain sufficient material to be progressed.**
13. **The Central Bank may process personal data provided by the applicant in order to fulfil its statutory functions or to facilitate its business operations. Any personal data will be processed in accordance with the requirements of data protection legislation. Any queries concerning the processing of personal data by the Central Bank may be directed to** **dataprotection@centralbank.ie****. A copy of the Central Bank’s Data Protection Notice is available at** [**www.centralbank.ie/fns/privacy-statement**](http://www.centralbank.ie/fns/privacy-statement)**.**

**Any queries in relation to this Declaration Form should be sent to** **RCF@centralbank.ie** **or** **creditservicingfirms@centralbank.ie****, as appropriate.**

1. **IMPORTANT NOTICE – FALSE OR MISLEADING INFORMATION**

**The Central Bank may refuse to grant an authorisation to a person on being satisfied on reasonable grounds that the transitional arrangements were obtained by means of false or misleading representation.**

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| **PART 2 - Applicant Information****All applicants must complete all questions set out below** |

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| --- | --- |
| 2.1 | Full legal name of the applicant |
| [Type Answer]  |
| 2.2 |  | **Head Office of the Applicant[[3]](#footnote-3)** | **Registered Office of the Applicant3** | **Principal Place of Business of the Applicant3** |
|  | **Postal Address** | [Type Answer] | [Type Answer] | [Type Answer] |
|  |  |
| 2.3 | Provide the contact details of the Individual[[4]](#footnote-4) who will accept service of any documents in respect of the Declaration Form: |
|  |  | **Within the Applicant** | **Third Party** |
|  | **Name** | [Type Answer] | [Type Answer] |
|  | **Position in the Applicant /** **Relationship to the Applicant** | [Type Answer] | [Type Answer] |
|  | **Postal Address** | [Type Answer] | [Type Answer][Type Answer] |
|  | **Telephone Number** | [Type Answer] | [Type Answer] |
|  | **Email Address** | [Type Answer] | [Type Answer] |
|  |  |
| 2.4 | Confirm that the Central Bank has the applicant’s permission to liaise with the third party[[5]](#footnote-5) named in response to question 2.3 above to seek further information or clarification in respect of the information or documentation included in the Declaration Form | [Yes/No/N/A] |
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|  **PART 3 - Applicant Transitional Activities****All applicants must complete Section 3.1 below**  |

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| 3.1 Transitional Activities |
| 3.1.1 | Outline whether the applicant is seeking authorisation as a Retail Credit Firm (RCF) or Credit Servicing Firm (CSF) | RCF/CSF |
|  |  |
| 3.1.2 | Provide details of the relevant transitional activities the applicant was providing **immediately** **prior to the commencement of the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms ) Act 2022 on 16 May 2022** |
|  | 1. The provision of credit indirectly to relevant persons (including Buy Now Pay Later)
 | [Yes/No] |
|  | 1. Consumer-hire agreements
 | [Yes/No] |
|  | 1. Hire-purchase agreements (including Personal Contract Plans)
 | [Yes/No] |
|  |  |
| 3.1.3 | Provide details of the number of clients to whom the applicant currently provides services to in relation to each of the relevant transitional activities: |
|  | **Activities** | **Client Numbers** |
|  | 1. The provision of credit indirectly to relevant persons (including Buy Now Pay Later)
 | [Answer] |
|  | 1. Consumer-hire agreements
 | [Answer] |
|  | 1. Hire-purchase agreements (including Personal Contract Plans)
 | [Answer] |
|  |  |
| 3.1.4 | Provide details of the value of credit granted to clients referred to in 3.1.3 in relation to each of the relevant transitional activities: |
|  | **Activities** | **Value**  |
|  | 1. The provision of credit indirectly to relevant persons (including Buy Now Pay Later)
 | [Answer] |
|  | 1. Consumer-hire agreements
 | [Answer] |
|  | 1. Hire-purchase agreements (including Personal Contract Plans)
 | [Answer] |
| 3.1.5 | Provide details of the number of clients referred to in 3.1.3 where arrears for those clients have arisen and remain outstanding in relation to each of the relevant transitional activities: |
|  | **Activities** | **Client Numbers** |
|  | *Number of days past due* |
|  | **up to 90 days** | **91-180 days** | **181-365 days** | **365-730 (1-2 years)** | **> 730 (over 2 years)** |
|  | 1. The provision of credit indirectly to relevant persons (including Buy Now Pay Later)
 | [Answer] | [Answer] | [Answer] | [Answer] | [Answer] |
|  | 1. Consumer-hire agreements
 | [Answer] | [Answer] | [Answer] | [Answer] | [Answer] |
|  | 1. Hire-purchase agreements (including Personal Contract Plans)
 | [Answer] | [Answer] | [Answer] | [Answer] | [Answer] |
| 3.1.6 | Confirm that a fully completed Application Form is attached to the submission of this Declaration Form | [Yes/No] |
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| **PART 4 - Documentary Evidence****All applicants must complete both Sections below** |

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| 4.1 Activities  |
| 4.1.1 | Provide certified[[6]](#footnote-6) documentary evidence to substantiate that the applicant was carrying on the business of a Retail Credit Firm or Credit Servicing Firm (in so far as that business relates to the newly regulated activities now falling within the scope of the Act following the commencement of the 2022 Act) immediately prior to the commencement of the 2022 Act (i.e. that the applicant is eligible to seek to avail of the transitional arrangements provided for under Section 34EA. (1) or 34FB. (1) of the 2022 Act).  | [Document Reference] |
| 4.2 Board Minutes |  |
| 4.2.1 | Provide a certified copy of the minutes of the meeting of the applicant’s Board of Directors confirming that:* 1. it is satisfied that the applicant has carried out and documented an assessment of the legislative and regulatory requirements referred to in section 5 below;
	2. it is satisfied that the applicant is in a position to comply with each applicable requirement of the legislative and regulatory requirements referred to in section 5 below; and
	3. it is satisfied that it has a business structure that is capable of being effectively supervised by the Central Bank and that it has adequate and appropriate governance and staff resourcing arrangements in place to ensure that adequate and effective control of the applicant rests in the State.
 | [Document Reference] |

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| **PART 5 - Confirmations****All applicants must complete Section 5.1 below** |

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| 5.1 Compliance with Legislative and Regulatory Requirements  |
| 5.1.1 | **Confirm that while availing of transitional arrangements of the 2022 Act, and where an authorisation is granted, the applicant will comply with the relevant requirements of financial services legislation and regulatory requirements, including without limitation the below:** |
|  | a. | Part V of the Central Bank Act 1997 (as amended) | [Yes/No] |
|  |  | Consumer Protection Code 2012 | [Yes/No] |
|  |  | Minimum Competency Code 2017  | [Yes/No] |
|  |  | Minimum Competency Regulations 2017 | [Yes/No] |
|  |  | Fitness and Probity Regulations and Standards, issued under Part III of the Central Bank Reform Act 2010 | [Yes/No] |
|  |  | Consumer Credit Act 1995 | [Yes/No] |
|  |  | European Communities (Consumer Credit Agreements) Regulations 2010 | [Yes/No] |
|  |  | Code of Conduct for Business Lending to Small and Medium Enterprises 2012 | [Yes/No] |
|  |  | Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 | [Yes/No] |
|  |  | Authorisation Requirements and Standards for Retail Credit Firms/Credit Servicing Firms | [Yes/No] |
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| **PART 6 - Declaration****All applicants must complete the Declaration set out below** |

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| Select ‘Yes’/’No’, as appropriate, in the table below to confirm the legislation under which the applicant is seeking to avail of transitional arrangements to continue to carry on the business of a Retail Credit Firm/Credit Servicing Firm (i.e. to be taken to be authorised) until the Central Bank has granted or refused authorisation to the applicant. Where brackets ([ ]) are included below, amend the text therein, as appropriate.  |
| **The Declaration below must be signed by the sole trader in the case of a sole trader applicant, by two directors in the case of a company applicant (or by the sole director in the case of a single director company applicant), and by two partners in the case of a partnership applicant.**  |
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| **Legislation under which the applicant is seeking to avail of transitional arrangements to continue to carry on the business of a Retail Credit Firm/Credit Servicing Firm** |
| Central Bank Act 1997 (as amended)  | [Yes/No] |
|  |
| [***Insert Applicant’s legal name***] applies for transitional arrangements under the above legislation on the basis of the information provided with this Declaration Form, and any additional information provided to the Central Bank in the course of the application process. |
| [***I/We***] acknowledge that the Central Bank may disclose information in the performance of its statutory functions or otherwise as may be specifically authorised by law. |
| [***I/We***] warrant that [***I/We***] have truthfully and fully answered the relevant questions in this Declaration Form and disclosed any other information which might reasonably be considered relevant for the purpose of this Declaration Form. |
| [***I/We***] warrant that the structure/content of this Declaration Form has not been altered or amended in any manner (other than to complete responses and/or add additional rows to complete responses to the questions set out in this Form). |
| [***I am/We are***] aware that it may be an offence and/or grounds for refusal of my application and/or grounds for revocation of an authorisation granted on foot of this Declaration Form and/or grounds for the Central Bank to commence an Administrative Sanctions Procedure against both [***myself/ourselves***] and/or the proposing entity for me/us to knowingly or recklessly: |
| 1. Provide false or misleading information and/or to make a false or misleading statement (which it is acknowledged may include the withholding of relevant information) in this Declaration Form;
 |
| 1. Fail to inform and/or withhold from the Central Bank details of any material change in circumstances/new information which is relevant and/or material to this Declaration Form.
 |
| [***I/We***] warrant that [***I/We***] will promptly notify the Central Bank of any changes in the information [***I/We***] have provided and supply any other relevant information which may come to light in the period during which the associated application submission is being considered and, this application submission is approved, thereafter. |
| [***I/We***] warrant that [***I/We***] are authorised to submit this Declaration seeking to avail of transitional arrangements under the above legislation. |

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| Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Entity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**PRINT NAM**E: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Entity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**PRINT NAM**E: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| For and on behalf of **[*Insert* A*pplicant’s legal name*]** |
| Dated: [DD/MM/YYYY] |

**NOTE THAT:**Section 31(2) of the Central Bank Act 1997 (as amended) provides that *“The Bank may refuse an application for an authorisation that complies with section 30 only if it is of the opinion that… information given to the Bank by or on behalf of the applicant in connection with the application is materially false or misleading.”* |

1. A searchable format is any format where the text of the document can be searched. [↑](#footnote-ref-1)
2. For persons seeking to avail of the transitional arrangements provided for of the 2022 Act, this means a Declaration Form and an Application Form including all required supporting documentation. [↑](#footnote-ref-2)
3. The Head Office, Registered Office and Principal Place of Business of the applicant must be located in the State. [↑](#footnote-ref-3)
4. Where the applicant proposes a third party to accept service of correspondence in respect of the Declaration Form, the contact details of a senior member of the applicant (i.e., principal/director/partner/senior manager) **must also be provided** as all correspondence in respect of the Declaration Form will also be issued directly to the applicant by the Central Bank. [↑](#footnote-ref-4)
5. The Central Bank will not liaise solely with a third party in relation to a Declaration Form. All correspondence in respect of a Declaration Form will also be sent by the Central Bank directly to the senior member of the applicant named in response to question 2.3 above. [↑](#footnote-ref-5)
6. A certified copy of a document is one which has been signed, stamped and dated by an independent party and which contains a certification stamp that is clearly identifiable on the relevant document. An independent party is a professional party independent of the applicant i.e. a Solicitor, Accountant, Peace Commissioner, Notary or Commissioner for Oaths. [↑](#footnote-ref-6)