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Feedback Statement
Consultation Paper 118
Moneylending

Review of the Consumer Protection Code for Licensed Moneylenders

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Contents

Foreword

In March 2018, the Central Bank of Ireland published Consultation Paper CP118 Moneylending – Review of the Consumer Protection Code for Licensed Moneylenders (Moneylending Consultation)

This Feedback Statement sets out the Central Bank's consideration of the responses received to the proposed enhanced consumer protection measures for licensed moneylending consumers.

The objective of the Moneylending Consultation was to strengthen the consumer protection rules in the moneylending sector. The Moneylending Consultation addressed specific issues that have arisen during the Central Bank's ongoing regulatory oversight of this sector, including the annual licensing process and other supervisory activities.

The enhanced requirements and the existing Consumer Protection Code for Licensed Moneylenders (Moneylending Code) will be converted to Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylenders) Regulations 2020 (Moneylending Regulations). The purpose of the new requirements in the Moneylending Regulations is to raise standards in the moneylending sector so that firms act in consumers' best interests when marketing and offering credit.

The Central Bank received sixteen responses to the Moneylending Consultation. These included responses from consumer bodies such as Money Advice and Budgeting Service and the Citizens Information Board jointly (MABS/CIB) and the Society of St Vincent de Paul (SVP). Responses were also received from the Credit Union Development Association (CUDA), Consumer Credit Association, Republic of Ireland (CCARI), the moneylenders' representative body, Irish League of Credit Unions (ILCU) and from individual moneylending firms.

In considering the responses to the Moneylending Consultation, the Central Bank was mindful of the potentially vulnerable consumer base who typically engage with moneylenders and the high-cost nature of moneylending loans.

In addition to the Feedback Statement, the Central Bank is also publishing a Moneylending Questions and Answers document (Moneylending Q&As). The Moneylending Q&As answers some technical queries raised as part of the responses to the Moneylending Consultation. The Moneylending Q&As may be updated in the future, as required.

After consideration of the submissions received to the Moneylending Consultation, the following new requirements will be imposed:

- Moneylenders will be subject to a number of new requirements and restrictions in relation to the promotion of loans. The main aim of these additional requirements is to create a regulatory environment that inhibits moneylenders' initiation of loan sales, particularly at certain pressure points and locations, to give greater control to consumers to decide when to be contacted by a moneylender and to prompt them to consider alternatives. These requirements include:
  - Moneylenders must ensure that their marketing strategy is fair and reasonable, taking into account the particular circumstances of consumers. For example, low income consumers or named individual customers being targeted in a way which is not in their best interests will be deemed unacceptable;
  - Moneylenders will not be permitted to offer unsolicited credit to consumers who have recently made full repayment of a moneylending agreement or are nearing full repayment;
  - Moneylenders will be prevented from undertaking unsolicited contact with existing consumers, for the purposes of sales and marketing. Moneylenders will also be prohibited from making unsolicited contact with a prospective consumer based on a referral from an existing consumer; and
  - Catalogue moneylenders will be prevented from providing discounts predicated on availing of credit.
- Currently, moneylenders who offer loans in excess of 23% APR are required to prominently display a warning of the high cost nature of the credit in pre-contractual information. Moneylenders will now be required to include enhanced, prominent, high cost warnings in all advertisements and to prompt consumers to consider alternatives.
- Moneylenders will be required to provide prescribed information that prompts consumers to consider if a moneylending loan is their best option and, where the loan is required for basic needs, provide information to prompt them to consider potential State supports.
- To enable consumers to proceed on a more informed basis, moneylenders will be required to provide aggregated repayment information to consumers with more than one moneylending agreement with that moneylender.
- The Moneylending Regulations will apply provisions of the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010) to loan amounts below €200. This will align the requirements applicable to loans under €200 to those that apply to loans above €200.

- To improve the professionalism of the sector and to align with existing rules in the Central Bank's Consumer Protection Code 2012 (Consumer Protection Code), moneylenders will be subject to new requirements on training, policies and procedures, engagement with third parties, requirements in relation to vulnerable consumers and earlier signposting to MABS for consumers in arrears.

In addition, the Moneylending Consultation proposed a Debt Servicing Ratio Restriction (DSRR), which would limit the amount a moneylender could lend to a consumer, based on a maximum percentage of the consumer's income. Having considered the responses received from a range of stakeholders, including consumer advocates, and given the findings of our consumer-based research on this matter, the DSRR proposal will not proceed at this time. The DSRR was intended to be a useful tool for licensed moneylenders, to protect consumers from over-indebtedness. While a DSRR could be a useful regulatory tool in the right circumstances, this outcome may not always be achieved, in the context of the moneylending sector, by a prescriptive, one-size fits all approach to dealing with potential over-indebtedness, for a number of reasons:

- A DSRR would not look at the full picture of affordability of a loan for some moneylending consumers, as it would not take into account the consumer's expenditure or that income streams of moneylending consumers are not always consistent;
- The introduction of a DSRR could have the unintended consequence of excluding certain consumers from access to credit from licensed moneylenders. Some respondents and consumer advocates challenged that the DSRR would be a 'blunt' instrument in the context of the moneylending sector, particularly given the fact that concerns have been raised about the absence of a viable regulated alternative to moneylending loans; and
- The measure may not be considered proportionate, in the context of the moneylending business models, particularly when consumers may need to borrow small amounts for immediate requirements.

Notwithstanding the decision not to progress with the DSRR at this time, concerns regarding the affordability of loans granted to financially vulnerable consumers persist. The Central Bank has set out its expectations in the Moneylending Q&As, published alongside this Feedback Statement, in relation to the new requirement that moneylenders must have written lending policies and procedures in place and, particularly, the criteria which moneylenders should apply when considering an application for credit.

Moneylenders provide credit to approximately 300,000[1] consumers in Ireland. These consumers often have either no, or limited, access to alternative forms of credit. The Central Bank of Ireland's 2013 Report on the Licensed Moneylending Industry[2] (Moneylending Report) highlighted that consumers of moneylenders are more likely to be in the lower socio-economic group who cannot obtain credit elsewhere. The Moneylending Report also highlighted that there is a willingness by these consumers to pay a premium for what they perceive to be convenience and access to credit. Of those consumers who potentially could obtain credit elsewhere, only a small number shop around or consider alternatives to moneylenders despite the high cost nature of credit from a moneylender loan.[3]

Given the potential vulnerability of consumers dealing with licensed moneylenders and the comparatively high cost associated with this form of credit, the Central Bank is prescribing requirements in relation to licensed moneylenders to provide appropriate, increased consumer protection.

[1] Based on moneylenders'2019 annual reports.
[2] Report on the Licensed Moneylending Industry, Central Bank of Ireland, November 2013
[3] Firms charge up to 188.45% interest plus collection fees

Introduction

Licensed moneylenders

The business models operated by licensed moneylenders generally fall within the following categories, with some firms operating in more than one category:

- Home collection firms, where loans are issued and repayments are collected at the consumer's home (the majority of moneylenders fall into this category);
- Firms operating a catalogue business model, where goods are sold by the moneylender on credit, which are operated on the basis of a consumer having a running account;
- Other firms comprising:
  - premium finance firms where credit is provided to consumers to fund insurance premiums or gym membership, which are operated on the basis of a consumer having a running account;
  - remote firms where repayments are made directly to the firm, for example, by direct debit;
  - retail firms involved in the provision of goods on credit with repayments being made by a variety of methods, for example, cash, direct debit; and
  - firms authorised to collect on moneylending agreements previously entered into, but not to grant further credit.

The proposals in the Moneylending Consultation sought to enhance the consumer protection framework in relation to the moneylending sector. They are split into five sections, as summarised below.

Responsible lending and acting in the best interest of consumers

The Moneylending Consultation proposed to restrict the promotion of moneylending by targeted advertising or unsolicited contact and to prevent catalogue firms providing discounts on goods predicated on availing of credit.

Consumers availing of credit from a moneylender on a more informed and considered basis

It was proposed to enhance the information provided to consumers by:

- enhancing existing information and advertising requirements for moneylenders to include a prominent warning for consumers about the high cost nature of the credit and for consumers to consider alternative options that may be available to them;

- requiring moneylenders to prompt consumers at relevant pre-contractual points that they should consider alternatives before taking out a moneylending loan;
- providing heightened protection for consumers using moneylending loans to pay for immediate basic needs such as accommodation, food, electricity, heating; and
- requiring moneylenders to provide aggregate information to consumers who seek a second or subsequent moneylending loan to run concurrently with an existing loan in order to assist the consumer in keeping track of their total repayment obligations.

Reducing the possibility of consumers over-extending themselves in respect of their borrowing from licensed moneylenders

It was proposed that a specific limit would be put in place on how much of a consumer's income can be devoted to servicing repayments on high-cost moneylending agreements.

Enhancing the professionalism of the sector

The following enhancements to the sector were also proposed:

- Requirement to train staff and agents;
- Requirement for moneylenders to have in place, and adhere to, written lending policies and procedures;
- A greater obligation on moneylenders to engage with third parties who are advising a borrower, such as MABS; and
- Tighter rules on repayment books and record keeping.

Additional enhancements to the Moneylending Code

It was proposed to make additional enhancements to the Moneylending Code to:

- apply relevant requirements under the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010) to loan amounts below €200, thereby applying requirements to all moneylending loans;
- introduce specific requirements regarding vulnerable consumers, as defined in the Consumer Protection Code; and
- strengthen the requirements regarding the manner in which moneylenders communicate with consumers, bringing it into line with requirements in other sectors regulated by the Central Bank.

The Moneylending Consultation proposed to introduce a suite of protections for consumers, based on the Central Bank's supervisory experience and research detailed in the Moneylending Report. The research identified that some of the reasons for using moneylenders include:

- consumers not having access to mainstream credit;
- habitual behaviour by consumers; and
- consumers becoming stuck in a debt cycle, entrenched legacy and familial influence and necessity.

This paper sets out a summary of the feedback received to the Moneylending Consultation and the decisions made on the proposals, following the analysis of the submissions received. The Central Bank believes this approach meets the objective of achieving greater transparency and protection for moneylending consumers.

The Central Bank's position on each of the proposed measures as consulted on in the Moneylending Consultation is set out in sections 1-5 below. Each of these sections includes:

- the proposal as consulted on in the Moneylending Consultation;
- a brief summary of the responses received as part of the public consultation process; and
- the Central Bank's final position in relation to each measure.

Please note that this document is for information purposes only. This document does not constitute legal advice and should not be used as a substitute for such advice. The Central Bank does not represent to any person that this document provides legal advice. It is the responsibility of all regulated entities to ensure their compliance with the Moneylending Regulations. Nothing in this document should be taken to imply any assurance that the Central Bank will defer the use of its enforcement powers where a suspected breach of the Moneylending Regulations comes to its attention.

Feedback on proposals in the Moneylending Consultation

Section 1: Responsible lending and acting in the best interest of consumers

1.1. Measure consulted on in the Moneylending Consultation

The Moneylending Consultation proposed to:

- prohibit moneylenders from engaging in targeted advertising;
- define targeted advertising;
- prohibit unsolicited contact with a new customer, based on a referral from an existing consumer;
- prohibit unsolicited contact with existing consumers for the purposes of sales and marketing;
- remove the existing exception from the unsolicited contact rules for moneylenders providing non-cash credit; and
- prohibit catalogue firms providing discounts predicated on availing of credit.

1.2 Targeted advertising

Submissions

There was support for the proposal to prohibit moneylenders from engaging in targeted advertising. However, there was strong challenge from some respondents, particularly on the definition of targeted advertising.

Those who were in favour of the proposal indicated that:

- targeted advertising promotes the continued sale of loan products to consumers who are in a vulnerable situation, often encouraging repeat loans which can lead to a debt spiral;
- moneylenders are in possession of unique information, knowing both the end date of an existing loan, personal knowledge gathered at the doorstep on money or debt-related issues and personal upcoming events. As result, they can facilitate a focused promotional campaign on further lending; and
- there needs to be strict requirements around advertising, and in particular targeted advertising, to help improve ethical behaviour.

Those who were not in favour of the proposal stated that:

- the definition of targeted advertising is vague and further clarification is required as to what the terms 'nearing repayment', 'best interests' and 'low income' means;
- consumers may have a borrowing need, but may not enquire about credit with a moneylender for fear of being rejected;
- the proposal would favour catalogue firms as they can advertise catalogue goods and therefore indirectly advertise their credit facility;
- any ban on advertising is anti-competitive and would distort the market;
- advertising leads consumers to regulated lenders; and
- protection from targeted advertising is already in place for the consumer under the General Data Protection Regulation (EU) 2016/679 (GDPR).

Response

Taking into account the support for these proposals from consumer advocates, and the practical implications raised by some other respondents, targeted advertising will be re-framed within the Moneylending Regulations to ensure that the outcomes for consumers proposed in the Moneylending Consultation will be achieved.

A moneylender will be required to ensure that its marketing strategy is fair and reasonable, taking into account the particular circumstances of consumers. This new rule expands on the rules already in place relating to the content of moneylending advertisements (for example, that all advertisements must be fair and not misleading), so as to address marketing strategies (for example, where, when and how marketing is undertaken). This rule is designed to achieve the same outcome as the proposed targeted advertising requirement in the Moneylending Consultation. Marketing activity, where consumers are targeted in a way which is not in their best interests, will be deemed unacceptable. The executive board/management of a moneylender must review and approve its marketing strategy.

Specific examples of marketing activity that will not be permitted under this new requirement will be provided in the Moneylending Q&As. For example, the distribution of marketing material outside MABS offices will be deemed unacceptable.

There will also be a specific prohibition on moneylenders making an unsolicited offer of credit to consumers who have recently made full repayment or are nearing full repayment of their moneylending agreement (i.e. within a time period of one month before final repayment and one month after final repayment).

1.3 Unsolicited contact

A. Prohibit unsolicited contact with a new customer based on a referral from an existing consumer

Submissions

Several respondents agreed that unsolicited contact with a new customer, based on a referral from an existing consumer, should be prohibited. However, several respondents challenged this proposal on the basis that the existing rule on new consumer referrals (which relies on moneylenders obtaining consent after contact is made) is effective.

Those who were in favour of the proposal indicated that:

- there is no reason why unsolicited contact with a new consumer should be permitted; and
- a significant amount of business is generated for licensed moneylenders through referrals from family and friends. This potentially enables consumers to build a portfolio of moneylenders and could lead them to multiple loans and increased indebtedness.

Those who were not in favour of the proposal indicated that:

- there is no evidence of abuse or consumer dissatisfaction to suggest contact should be prohibited;
- moneylending is built on trust between an agent and a consumer. As a result, customers will often inform their friends and family about the service they have received; and
- if a new consumer is contacted by a moneylender through a referral by an existing consumer and does not want to proceed with a moneylending loan when they are contacted by the moneylender, then the moneylender can cease contact.

Response

The Central Bank does not consider that moneylenders should be able to contact their consumers based on details provided by another consumer to the moneylender, without consent. The prohibition of unsolicited new customer referrals will proceed as consulted on. This will not create a ban on consumers recommending a moneylender to their friends and family.

B. Prohibit unsolicited contact with existing consumers for the purposes of sales and marketing

Submissions

Some respondents agreed with the proposal to prohibit unsolicited contact. However, some of those who supported the proposal raised concerns about how this requirement would be monitored and enforced in practice. The majority of respondents challenged the provision to prohibit unsolicited contact on the basis that it conflicts with existing data protection legislation as existing protection for consumers are in place to allow them to opt-in for contact in relation to sales and marketing.

Respondents saw the following practical difficulties with this proposal:

- it is unclear how this proposal will be monitored and enforced, particularly regarding verbal conversations during home collection visits; and
- it runs entirely contrary to the requirements and needs of this group of consumers. They are fully accustomed to dealing with home credit firms and, in fact, place high value on their convenience. Ease of availability and consent to contact should be made as seamless as possible for a consumer.

Response

The Moneylending Consultation proposed prohibiting unsolicited contact for the purposes of sales and marketing only and was not intended as a blanket ban on contact with consumers. This will proceed as consulted on. The provision in the Moneylending Regulations has been amended to provide further clarity on this point.

Separately, the duration of a consumer's consent (other than an existing consumer) to unsolicited contact will be extended from six months to twelve months, in line with the Consumer Protection Code.

C. Removal of exemption of unsolicited contact rules for non-cash credit moneylenders

Submissions

There was support that the exemption should be removed. However, some respondents challenged that traditional moneylenders and catalogue moneylenders should be treated differently, in that catalogue firms should be subject to different exemptions and rules, where applicable, and therefore the existing exemption should be retained.

Those who were in favour of the proposal indicated that:

- regardless of whether it is a cash loan or not, the same consumer protection issues arise and the borrower is faced with the same loan repayment arrangements.

Those who were not in favour of the proposal indicated that:

- there is no reason why the existing rule should not be retained; and

- there should remain a differentiation between traditional cash moneylenders and catalogue firms.

Response

The removal of the exemption regarding unsolicited contact requirements for non-cash moneylenders will proceed as consulted on. The Central Bank considers that customers of non-cash moneylenders should receive the same level of protection as those of cash moneylenders.

D. Prohibition of discounts predicated on availing of credit

Submissions

Several respondents agreed with the proposal to prohibit discounts that are predicated on availing of credit. Other respondents said that moneylenders should not be prohibited from offering such discounts.

Those who were in favour of the proposal indicated that:

- consumers would be forced into credit facilities to avail of a discount;
- the use of high cost credit should not be incentivised by a discount at the 'point of sale';
- discounts, when offered, should be offered universally on cash or credit purchases; and
- consumers may not understand the overall cost implications of availing of such 'discounts' if they do not repay the credit in full before interest is applied to the cost of credit. As a result, consumers could potentially pay more for their purchases than if they had not availed of credit.

Those who were not in favour of the proposal indicated that:

- consumers would miss out on discounts;
- moneylenders should not be prohibited from offering discounts when the practice is commonplace across the financial services market; and
- the removal of discounts could result in consumers turning to illegal moneylenders.

Response

The Central Bank considers that there are no substantive reasons why discounts predicated on availing of credit should not be prohibited. It is difficult to see the purpose of such a practice in the context of the moneylending sector business model, other than to incentivise consumers to purchase goods or services on credit that they were otherwise not contemplating. The prohibition of discounts predicated on availing of credit will proceed as consulted on in the Moneylending Consultation.

1.4 Additional/alternative suggestions

Some respondents provided additional proposals. These included:

- a ban on financial inducements to be included in marketing material;
- the training of agents and staff to assist in establishing professional boundaries;
- a prominent list of consumer rights, moneylender obligations and a complaints procedure in repayment books;
- a specific requirement, in the Moneylending Regulations, to prohibit additional loans to a consumer in arrears with an existing loan;
- examining the commission structure available to agents of licensed moneylenders, to discourage the practice of selling repeat loans at the doorstep; and
- providing financial education to consumers to assist them understand their choices.

These additional comments will be helpful in the context of any future work in relation to moneylenders.

Section 2: Consumers availing of credit from a moneylender on a more informed and considered basis

2. 1 Measures consulted on in the Moneylending Consultation

The Moneylending Consultation proposed to:

- enhance the existing warning statement and include the enhanced warning statement on all moneylending advertisements;
- provide consumers with an information notice at pre-contract points;
- heighten protections for consumers availing of moneylending loans to pay for immediate basic needs; and
- require moneylenders to provide aggregated loan information before providing an additional loan.

2.2 Enhanced warning statement

Submissions

Several respondents were in agreement with the proposed enhancements to the warning statement and agreed it should be included in all moneylending advertisements that have an APR in excess of 23%. Several respondents did not explicitly oppose the use of a warning statement in advertisements. However, they strongly challenged the use of the word 'cheaper'.

Those who were in favour of the proposal indicated that:

- the enhancement would encourage potentially vulnerable consumers to pause and consider their situation and alternative loan options before seeking high-cost credit; and
- borrowers are often focused on obtaining the loan and do not always understand or pay due attention to the interest rate which is applied to the cost of the credit.

Those who were not in favour of the proposal indicated that:

- the existing warning statement and advertising requirements are sufficient;
- the high cost nature of the loan is already prominent where the APR is in excess of 23%;
- what the consumer may perceive as a 'cheaper' form of credit, may actually have higher charges or additional costs should the consumer fall behind on repayments. Moneylenders are prohibited from adding additional charges on a moneylending agreement;
- increasing the content of a "warning notice" does not necessarily make it more impactful;
- the warning may create an information overload and lead consumers to ignoring warnings; and
- it is unreasonable to direct moneylending consumers to alternative forms of lending when this approach is not applied to the rest of the financial services market.

Response

The intention of this proposal is to prompt consumers to consider their options and all factors, including the cost of credit. The removal of the word 'cheaper' should not detract from this outcome. On this basis, the enhanced warning for advertisements that have an APR in excess of 23% will proceed as consulted on, without including the word 'cheaper'.

2.3 Information notice

Submissions

Several respondents were in agreement with the proposal to provide consumers with an information notice. Of those in agreement, a few respondents advocated that the information notice should be provided at the same time as the warning statement, as they considered that the 'pre-contract' stage was too late for a consumer to understand and absorb this important information.

There were two main challenges to this proposal. Firstly, the catalogue companies were unsure how this would be integrated into their business model as their primary business was to offer goods for sale and their credit facility was an ancillary part of their business which may confuse their non-credit consumers.

Those who were in favour of the proposal indicated that:

- an information notice would be beneficial for consumers; and
- consumers should be informed that alternative options may be available.

Those who were not in favour of the proposal indicated that:

- the information notice may not be suitable for all business models, such as catalogue firms and premium/subscription financing;
- it is unfair to promote other financial institutions and it is not appropriate to direct potential customers to MABS or to provide social welfare advice;
- the information notice may be misleading as alternative options may not be cheaper;
- this will be a significant cost to firms; and
- the mandatory requirement to detail the exact APR information may have a detrimental commercial impact.

Response

The information notice does not require the promotion of any named financial institution but instead encourages the consumer to shop around. Additionally, moneylenders have existing requirements to refer consumers to MABS.

The information notice will be implemented as consulted on, save for additional information to be included as proposed by one respondent. This includes a statement to re-affirm the collection options available to the consumer. This information will prompt a consumer to consider the collection options available to them and their cost.

2.4 Basic needs

Submissions

Whilst some respondents agreed with the proposal to ask consumers if they require the moneylending loan in order to meet basic needs, there was also considerable challenge to the proposal particularly relating to the practical difficulties and potential embarrassment this might cause for consumers.

Those who were in favour of the proposal indicated that:

- it is valid to include the basic needs information proposed and this will be seen as forming part of ethical lending; and
- there should be heighted protections for consumers using loans to pay for basic needs.

Those who were not in favour of the proposal indicated that:

- it is not appropriate to consider the purpose of a loan during an affordability assessment;
- it is unreasonable to facilitate contact with MABS and a consumer, before a consumer becomes a customer of a firm;
- this proposal could unintentionally increase the risk of firms straying into giving advice, where it was not qualified or authorised to give such advice;
- consumers may learn to give the 'right answer';
- this will create an information overload for consumers;
- the answer may deter a firm from offering credit if the purpose is for basic needs; and
- this should not apply to businesses who do not offer cash loans.

Response

The intention of the proposal was to inform consumers, who require credit for basic needs, that they may have alternative options. Framing this as a question was intended to prompt the consumer to consider this matter fully before entering into a moneylending agreement. The intention was not to prevent a consumer, who may be in a difficult situation or require a loan for basic needs, from obtaining a moneylending loan, but to prompt a consumer to consider possible alternatives. Therefore, the basic needs question will now be framed as a statement, with mandatory information, for all consumers, should they require a moneylending loan for basic needs.

Taking into account that MABS does not accept referrals from licensed moneylenders and feedback from respondents, the requirement for moneylenders to facilitate contact with MABS and other relevant charities has been removed from the basic needs information. Information relating to MABS is provided within the basic needs statement.

2.5 Aggregated loan information

Submissions

Several respondents supported the proposal to prevent moneylenders from providing a second loan to a consumer unless the consumer is provided with aggregate loan information. However, several other respondents had objections to the proposal.

Those who were in favour of the proposal indicated that:

- it will enable consumers to make the correct lending decision for them;
- it will highlight the proportion of a consumer's income being allocated to loans and enable them to keep track of their repayment obligations; and
- repeat borrowing is a prevalent feature of moneylending. It can be a useful means of managing cyclical income shortfall. However, there is no scope for a consumer of a moneylender to ever graduate to access mainstream financial services or to benefit from building up a credit history.

Those who were not in favour of the proposal indicated that:

- this proposal is not appropriate for all business models;
- the repayment book already contains all of the required information for a consumer to aggregate the total amount repayable themselves; and
- aggregating the information is technically complex and moneylenders will incur additional costs to implement this proposal.

Response

The Central Bank does not consider that the arguments raised against the proposed requirement to provide aggregated loan information, have sufficient weight to merit removing this proposal. However, to ensure clarity, we have incorporated some of the points raised in the responses in a redraft of this requirement.

Section 3: Reducing the possibility of consumers over-extending themselves when borrowing from licensed moneylenders

3.1 Measures consulted on in the Moneylending Consultation

The Moneylending Consultation proposed to put in place a specific limit on how much of a consumer's income can be devoted to servicing repayments on high-cost moneylending agreements.

Submissions

There was little support for the proposal to introduce a Debt Servicing Ratio Restriction (DSRR). However one of the respondents stated that it supports the DSRR proposal 'in principle', on the basis that loans would only be authorised on proven information. They also commented that the introduction of a DSRR would impact on the supply of credit. Another respondent stated that a number of considerations should be taken into account, including that potentially significant numbers of consumers will be affected, and the availability of alternatives needs to be made very clear.

A significant number of respondents were not in favour of the introduction of a DSRR and cited many and varied reasons for their view, as summarised below:

- A DSRR should not be introduced and, if introduced, it should be in conjunction with an interest rate cap on moneylending loans;
- The proposal seems 'blunt' and a strengthened consumer-focused culture in this sector would prevent over extension;
- Instead of a DSRR, all moneylending consumers should be subject to 'Knowing the Consumer' and 'Suitability' rules instead of allowing for 'execution only' type sales with moneylending loans. This would lead to a "*more consumer-centric*" outcome and would *"strengthen responsible lending practices, while still ensuring consumers have access to credit, as and when they need it*";
- In the absence of a viable alternative to moneylending loans, a DSRR could prevent a significant number of vulnerable consumers from being able to avail of licensed credit and ultimately, either lead to a greater level of deprivation or cause them to turn in greater numbers to unlicensed moneylenders;
- It is in moneylenders' interests to lend responsibly, due to the business model of repayments and non-forbearance charges;
- This is a complex requirement to implement due to the variability of a consumer's income;
- The proposed DSRR does not assess affordability;
- The proposal is disproportionate, anti-competitive, fails to distinguish between different moneylending models and stigmatises the sector;

- Consumers might bypass the DSRR by accessing credit from different streams (for example multiple moneylenders or non-moneylenders, such as credit unions);
- The duration of moneylending agreements might be increased, therefore extending the term of indebtedness; and
- The moneylending product could be stigmatised and the demand for a moneylender's services could dramatically reduce.

Response

The majority of respondents, including consumer bodies such as MABS/CIB, have highlighted that the DSRR may not achieve the intended consumer protection outcome of ensuring that consumers do not take out credit that could result in them over-extending themselves and get into financial difficulty.

The aim of the DSRR was to protect consumers from over-indebtedness. The Central Bank is of the view that this outcome may not be achieved by a one-size fits all, prescriptive approach (for example, due to fluctuations in income). A DSRR would not look at the full picture of affordability of a loan for some moneylending consumers, as it would not take into account the consumer's expenditure or that income streams of moneylending consumers are not always consistent.

A DSRR could also have the unintended consequence of excluding certain consumers from access to credit. In practical terms, it may be difficult to create exceptions from the DSRR to take account of the ad hoc, sometimes urgent, need for credit by financially vulnerable consumers.

The Central Bank also conducted internal consumer research, subsequent to the publication of the Moneylending Consultation on this proposal. The main purpose of this research was to examine the practical impact of the introduction of a DSRR on consumers of licensed moneylenders and to test the behavioural responses of these consumers to the concept of a DSRR.

Research overview

The research consisted of qualitative focus groups (8 groups, consisting of 7-8 participants in each) undertaken between April and May 2018. Respondents comprised a representative sample of licensed moneylending consumers and featured a mix of social class backgrounds, age groups, regions, and loan types (for example, door-to-door and catalogue).

Key findings

- Consumers maintain a complex social relationship with their moneylender. Although perceived as a friend and dependable, consumers were concurrently aware that it remains a business transaction for the moneylender;

- Some moneylenders provided consumers with the bare minimum of paperwork for completion, and, in some cases, only required the consumer's signature, completing the remainder of the application on their behalf;
- Negative experiences with a moneylender were a rare occurrence. It was noted that when this occurs, the consumer can contact head office and the moneylending agent will be replaced;
- Research participants reported to have a difficult relationship with banks and credit unions. Many had been rejected in the past due to poor credit history, while others perceived that institutions would have little interest in lending to them;
- Door-to-door moneylending holds a number of advantages and disadvantages for consumers. Advantages include convenience, certainty and simplicity. Disadvantages included the high costs associated with moneylending loans and the feeling of being 'trapped' in a debt cycle;
- Catalogue purchases occur throughout the year, but are typically most frequent at particular times, such as Christmas and back-to-school. Overall, clothes and household goods are the products most frequently bought by consumers;
- There was consensus that a suggested 20% DSRR, used as part of the illustrative example, was too high. As a result, moneylending loans would be unaffordable for some consumers. However, it was also acknowledged that the restriction could negatively impact on the borrowing behaviours of many consumers, some of which already exceeded this rate;
- With these two polarising considerations in mind, a rate between 10% to 15% was deemed as more affordable DSRR by door-to-door consumers;
- While the 10% limit used in the catalogue examples was seen as fair and affordable, it may potentially impact on consumers' ability to purchase larger items. Most consumers suggested that the restriction should be increased for larger items (for example over €500);
- Consumers expressed anxiety that a restriction may impinge on their freedom of choice, significantly restrict the financing of their day-to-day lives, and may push vulnerable consumers into the hands of unlicensed moneylenders;
- There existed a common fear that any additional information required as part of the application process may be breached, shared, or held against them.

Consumers expressed a desire that the restriction would be flexible in accounting for individual circumstances. For example, a key issue raised was the importance of the restriction being cognisant of fluctuating incomes, household outgoings and changing circumstances. If the Central Bank is to proceed with the introduction of the DSRR, moneylending consumers stressed the need to introduce options and initiatives alongside it, in order to support consumers and help them to change their financial behaviours.

Taking account of the feedback received and that the intended outcome of reducing indebtedness would not be achieved from a 'one size fits all approach' and the reservations about the proposal even from those who supported the DSRR, the DSRR will not proceed at this time.

The Moneylending Q&As set out the Central Bank's expectations on the creditworthiness assessment, which include that a firms' lending policies and practices must be responsible and ensure that borrowers can repay a loan without suffering hardship.

Section 4: Enhancing the professionalism of the sector

4.1 Measures consulted on in the Moneylending Consultation

The Moneylending Consultation proposed several measures to enhance the professionalism of the moneylending sector which included:

- training of staff and agents;
- written lending policies and procedures;
- engagement with third parties; and
- additional rules around repayment books and collections.

The proposals outlined in the Moneylending Consultation on professionalism of the sector are intended to foster more consistent and professional standards across all moneylenders.

Submissions and response

4.2 Training of staff and agents

The proposal in the Moneylending Consultation was to introduce an explicit requirement that moneylenders provide on-going training to staff and agents in respect of the firm's lending policies and procedures. The majority of respondents were in agreement with this proposal and some already had such measures in place. The requirement to train staff and agents will proceed as consulted on.

4.3 Written lending policies and procedures

The majority of the respondents were in agreement with this proposal with a number of firms already having such procedures in place. In light of this, we will proceed as consulted on.

4.4 Engagement with third parties

The majority of respondents agreed with the proposal to introduce explicit obligations on moneylenders to engage with third parties who are acting on behalf of borrowers. The Central Bank would expect firms to engage with third parties when a consumer defaults on their moneylending agreements and when they are in arrears and the Moneylending Regulations have been redrafted to reflect this. We will proceed as consulted on with slight redrafting. Further guidance on this can be found in the Moneylending Q&As.

4.5 Repayment books and general record keeping

The majority of respondents agreed with the proposal to improve general record keeping; however, there was some challenge around their interpretation of the requirement. Some said it is impractical to try to capture proof of expenditure as many expenditure items would not come with receipts and it would be difficult to obtain proof where 'income' is derived from a shared household budget. The requirement should be applicable where expenditure is considered during the creditworthiness assessment. We will proceed as consulted on.

Section 5: Additional enhancements to align to the Consumer Protection Code

5.1 Measure consulted on in the Moneylending Consultation

The Moneylending Consultation also proposed further technical amendments to the Moneylending Regulations to reduce complexity within the existing regulatory framework and to bring the Moneylending Regulations in line with other regulatory codes. These include:

- applying relevant requirements from the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010) to loan amounts below €200;

- introducing a specific protection for vulnerable consumers;
- introducing strengthened requirements for communicating with consumers;
- requiring that consumers in arrears are signposted to MABS earlier; and
- aligning the wording of requirements with the wording of similar provisions in the Consumer Protection Code, where appropriate.

Submissions and response

5.2 Loans under €200

The majority of the respondents supported this measure. We will proceed as consulted on.

5.3 Vulnerable consumers

The Moneylending Consultation proposed to replicate the specific requirement relating to vulnerable consumers, as well as the definition of "vulnerable consumer", in the Consumer Protection Code. The majority of respondents were in agreement with the proposal to introduce a definition and requirements for vulnerable consumers and some moneylenders were already undertaking the steps outlined in the proposed Moneylending Regulations. Only one firm disagreed with the proposal, stating that unless there is compelling evidence that new protections are needed, moneylenders should be left to operate fairly, professionally, with integrity and in the consumer's best interests, without specific protections and lists. Some respondents called for the definition to be widened to include those living in poverty or with low income.

The Central Bank is of the view that the Consumer Protection Code definition of "vulnerable consumer" and the associated rules are appropriate and will proceed as consulted on. Further guidance can be found in the Moneylending Q&As.

5.4 Strengthening communication with consumers

None of the respondents explicitly opposed this proposal. Therefore, the requirement for a moneylender to ensure that the level of contact and communications with a consumer, or any third party acting on its behalf, is proportionate and not excessive, and will proceed as consulted on.

5.5 Earlier signposting to MABS

The Moneylending Consultation proposed to reduce the existing requirement to signpost borrowers to MABS after six missed payments to three missed payments. The biggest challenge from industry respondents was that missed payments did not necessarily amount to financial difficulties and that MABS was already sufficiently signposted in their arrears letters and other documentation. As the requirement to signpost to MABS is an existing requirement, and the Central Bank has not seen evidence that signposting to MABS is unhelpful for consumers potentially in financial difficulty, we do not consider sufficient justification was raised to warrant removal of this proposal. Firms will be required to signpost borrowers to MABS after three missed payments as consulted on.

5.6 Aligning with the Consumer Protection Code

Half of the respondents agreed with the proposal to align the wording of relevant requirements with the wording of similar provisions in the Consumer Protection Code. There was challenge on the proposed requirement on a moneylender to provide statements to consumers who do not pay by direct debit, as this would be costly. Moneylenders are already required to issue statements where payment is collected by means of direct debit at least monthly to consumers who pay weekly and at least quarterly to consumers who pay monthly. The proposal only extends this requirement to consumers who may repay by other means. In relation to complaints handling, the Moneylending Regulations are aligned to the Consumer Protection Code requirements, which are also imposed on other entities regulated by the Central Bank. We will proceed as consulted on.

Section 6: Lead-in time

The Moneylending Regulations will come into effect on 1 January 2021. However, the requirement to include prominent, high cost warnings in all advertisements for moneylending loans with an APR of above 23 per cent and prompting consumers to consider alternatives will come into effect earlier on 1 September 2020.

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