SUBMISSION FROM

THE CREDIT UNION DEVELOPMENT ASSOCIATION

IN RESPONSE TO

The Central Bank of Ireland's Consultation on Moneylending
Review of the Consumer Protection Code for Licensed Moneylenders
CP118

26th June 2018

CUDA (Credit Union Development Association) welcomes the opportunity to provide commentary in response to the Central Bank of Ireland's Consultation on Moneylending and would like to commend the Central Bank on a very detailed and informative Paper. This organisation and its Owner Member Credit Unions acknowledge the comprehensive research and time that was assigned to the development of this Consultation Paper.

What is CUDA?

CUDA is a progressive representative and development association working on behalf of member-owned, member-directed and professionally managed Credit Unions in Ireland.

CUDA acts as a catalyst for the growth, development and expansion of its owner member Credit Unions. In summary, CUDA supports its owners achieve their strategic objectives.

Our Purpose

The main purpose of CUDA is to support Credit Unions, who are members of CUDA, in delivering their promise to their members; that promise is to be the most reliable, trustworthy financial partner who will deliver value to their members.

Our Principles

1. CUDA is an incorporated entity. Working with its members and acting in their best interests. CUDA has clearly defined democratic governance, a bottom up approach that reflects *we're all in this together*.

2. CUDA is financially strong achieved through providing value for money to its members. We are conscious of the need to be commercial, with two levels of membership based on rules reflecting the segmented audience, however, we will not allow commercial considerations to undermine our purpose.

3. CUDA is ethical and acts with integrity and honesty. We encourage our owner member Credit Unions to be a model of ethical compliance.

4. CUDA supports the further growth and development of the co-operative Credit Union model and forward-looking Credit Unions. We lead by example with clear direction, and take direction from Credit Unions' strategic objectives, delivering best practice standards, continually seeking to innovate, stretch and develop ourselves and member Credit Unions.

5. CUDA is accessible and responsive. Striving for constant strong two way communication with its members and other stakeholders.

Our Success

CUDA's growth is ongoing, with 14 owner member Credit Unions and a wider membership of over 49 strong Credit Unions who collectively manage assets of almost €6 billion. Each owner member Credit Union is represented on CUDA's National Council, who meet every month to determine and make policy decisions. CUDA's Management Committee is comprised of directors and CEO's. The Management Committee is responsible for strategic development within CUDA.

CUDA's success and growth is driven by the vision of forward–looking Credit Unions who see their Credit Union as recognised by the community as the main source of personal financial services. This business model will lead to Credit Unions broadening and deepening their commercial relationship and touch points with their members and communities. The broadening means that Credit Unions will attract new members by providing high performance, attractively priced and comprehensive range of financial offerings/products and services.

In effect the ultimate objective is to have locally owned and managed Credit Unions who will be able to provide almost the full range of banking and bancassurance services to their local community.

In preparation for this Submission CUDA has consulted with many Credit Unions and other stakeholders, including many of the Credit Unions' outsource partners.

Our Reponses to the questions posed in CP118 as set out below.

Introduction

Following the publication of CP118, CUDA conducted a survey with our owner member credit unions to determine the demand for small value loans and the willingness to lend to members requiring small value loans (microloans). Many responses noted the demand exists in the sector, however there is an underlying "perception that it is easier to get a loan from a moneylender". Education on debt consolidation is very important and many of the Credit Unions in our survey inform us that they have consolidated many debts from moneylenders. Moneylenders provide a service; however, the debt cycle is difficult to escape from and this needs to be addressed though awareness of alternatives, the benefits of switching providers and of debt consolidation, and a drive to promote other financial service products such as regular saving schemes.

Credit Unions are well positioned to be an affordable and ethical alternative to moneylenders but consumers are not aware of the benefits of shopping around for financial products. Whilst the regulatory and administrative requirements in the Credit Union sector are acknowledged and understood by Credit Unions, the reality is that it is increasingly difficult to compete with the convenience offered by moneylenders who do not have to comply with the same stringent standards. That said we have not given up on this segment of the community and are working on the short term aim to provide small loan amounts very quickly with an easy frictionless process – this is being achieved through the initiatives of CUDA[1].

Responses to Questions in CP118

Question 1: **Do you agree with our proposal to prohibit moneylenders from engaging in targeted advertising?**

Yes, we agree with the proposal to prohibit moneylenders from engaging in targeted advertising.

Credit Unions have a statutory obligation to:

1. promote thrift among its members; only create sources of credit at fair and reasonable rates of interest; use and lend funds which are for the mutual benefit of all its members; train and educate members in the wise use of money and to consider the well-being of members within the community as a whole.[2]

[1] CUDA trading as the Solution Centre is delivering a digital transformation programme that is modernising core processes and delivering new digital access channels for consumers

[2] Section 6 Credit Union Act 1997, as amended.

2. have standards of conduct and ethical behaviour policies for all of its officers and staff.

As a result, the Credit Union places the member first. Strict requirements around advertising, and in particular targeted advertising, is required to help improve the ethical behaviour.

We would also suggest the requirement to have a Code of Conduct for its employees, together with curtailments on commission based remuneration. Undue pressure placed on employees to meet goals, including loan targets act to the detriment of loan applicants. In many areas of lending, Credit Unions, are required to adopt measures to avoid conflicts of interest, in particular by providing that remuneration is not contingent on the number or proportion of credit applications accepted[3].

Question 2:
Do you have any views on our proposed definition for "targeted advertising" as set out in the draft Regulations?

We are not certain of the value of having the following provision:

(c) is tailored or delivered in such a manner as to target consumers with low incomes;

We also could not find a definition of low income, however irrespective of this we would propose that targeted advertising is prohibited by moneylenders to all existing or proposed customers, irrespective of the income of the customer.

Question 3:
Do you see any reason why unsolicited contact with a new customer, on foot of a referral from an existing consumer, should not be prohibited?

We are in agreement with your comments on this issue. Our views above on standards of conduct and ethical behaviour apply. At a time when the Central Bank of Ireland is focused on cultural development within the financial service sector[4] it would seem ethical and responsible to curtail practices such as these. Seeking guidance from the Principles of which Credit Unions adhere to in Section 6 of the 1997 Credit Union Act as aforementioned places an onus on the lender

[3] Section 8(4) Mortgage Credit Regulations 2016

[4] See, for example, speech of Derval Rowland Director General Financial Conduct, to the UCD Behavioural Science Research Group, University College Dublin, 7th February 2018

to consider the well-being of the community as a whole – existing members/consumers and non-members. On a side matter, it is questionable how the activity operates in light of privacy requirements and the legitimate basis of such contact being set out in policy.

We are not aware if Moneylenders fall under the remit of the CCPC (Competition and Consumer Protection Commission) and whilst it is unlikely that consumers would make a complaint to the CCPC due to the need or desire not to tarnish the relationship with the moneylender, the ability of the CCPC or the Central Bank to monitor and review the moneylending sector is preferable.

Question 4:
Do you foresee any practical difficulties with our proposal to prohibit unsolicited contact with existing consumers for the purposes of sales and marketing?

We have no difficulty with your proposals and find your comments in this matter very reasonable. However, whilst we appreciate Credit Unions have more varied services than moneylenders and therefore the requirement to sell, promote and inform members of such products, is done under strict adherence and compliance with GDPR/Data Protection Regulations 2018 i.e. appropriate consent to receive such material is obtained and maintained up to date with a clear mechanism to opt out of such marketing material. The argument in the Paper is valid that moneylenders have a limited product range and existing customers will already be familiar with this product, however the practicalities of this may be better regulated through data protection obligations on the lender.

Question 5:
Do you have any views on the proposal to remove the existing exception from the unsolicited contact rules for moneylenders providing non-cash credit?

We have no difficulty with your proposals here and find your comments in this matter very reasonable. The same consumer protection issues arise for persons accessing this service.

Question 6:
Do you agree with the proposal outlined above in relation to the additional rules specifically targeted at discounts which are predicated on availing of credit?

We have no difficulty with your proposals here and find your comments in this matter very reasonable and logical. This is not a practice we would be overly familiar with, it is probably one that consumers would benefit from financial education – again we are drawing on the requirement of Credit Unions to ensure the “training and education of its members in the wise use of money[5] i.e. the value of the discount versus the cost of credit. Education of ones customers in financial products is a matter that will be addressed further on in relation to Information Notices and staff training.

Question 7:
Do you have any views on what, if any, unintended consequences may arise in implementing this proposal?

Are no discounts better than discounts on certain products? Again, education seems paramount to this matter.

Question 8:
Do you see any reason why the existing warning statement should not be enhanced in the manner set out above?

Question 9:
Do you agree that the enhanced warning statement should be included in all moneylending advertisements?

We are in agreement with your comments in relation to this matter. Your findings are consistent with our own survey that convenience and ease of availability are key drivers for using moneylenders. Considerable regulation exists for Credit Unions on the required processes and credit assessments prior to the provision of the loan[6]. The administrative requirements placed, although onerous, act in the best interests of the members. Awareness and education that a loan can be obtained at a much lower cost from a Credit Union whilst being in a position to avail of other services – promotion of benefits of saving should outweigh the potential of additional administrative work.

Our survey demonstrated that Credit Unions are willing to provide low value loans to consumers who may need them. Many have provided credit officers with loan authorisation to help expedite the process for the member. It was with interest that we noted in the Paper that 23% of moneylender customers had been refused a credit union or bank loan. There is no clear analysis as to why this is – for example, was there common bond issues, meaning the customer was merely applying to the wrong Credit Union?

Campaigns targeted at the particular audience as to the choice of lending would be beneficial.

[5] Section 6(2)(d) Credit Union Act 1997
[6] Part 4 Credit unions and Co-Operation with Overseas Regulators Act 20012

Question 10:
Do you have any views on the proposal to require moneylenders to provide consumers with an Information Notice at pre-contract points?

Question 11:
Do you have any suggestions in relation to the format and content of the enhanced warning statement (referred to at Section 5.1 above) or the Information Notice to enhance the quality, relevance or impact of the information provided?

We are in agreement with your comments in relation to this matter. Many Credit Unions are participants in the Personal Micro Credit Scheme which is in operation since 2016 to provide low value loans to members who need them. The initiative forms part of the 2016 Programme for Government. We would propose that this initiative is specifically highlighted as part of the Information Notice.

The approach proposed may also need to be supplemented with a national campaign to targeted audience to shop around. Unless consumers see the real savings that can be made from lenders with lower interest rates (and bearing in mind Credit Unions are curtailed by legislation to ensuring interest rates remain on or below 12% per annum) the real value of the Information Notice may be missed. Further research is required as to whether proposed wordings would encourage consumers to look elsewhere.

Question 12:
A. Do you agree with these proposals?

B. Do you foresee any practical difficulties arising from the implementation of these proposals?

We are in agreement with your comments in relation to this matter. Credit Unions have a regulatory obligation to ensure all loan applications are made in writing by the member and state the purpose for which the loan is required[7]. However, it can be difficulty for a Credit Union to police this. Many work towards this by paying funds directly to the product provider e.g. in the case of a car loan the funding is paid directly to the car garage. It is valid to include the information you suggest in the Paper and will be seen as forming part of more ethical lending. The positive impact it has will be harder to determine.

Question 14:
A. Do you see any reason why the Central Bank should not prevent moneylenders from providing a second or further loan to a consumer

[7] Section 35(4) Credit Union Act 1997

unless the consumer is provided with the aggregate loan information set out above?

B. Is there any other information that a moneylender should provide to the consumer at the same time?

We are in agreement with your proposals and comments in relation to this matter. Obviously, as is the case, the ability to repay is the key factor and this should form part of the lenders policies and procedures. Empowering the consumer to make decisions about alternatives options and the applicable interest rates is also paramount. Representative examples are an easy to understand approach to understanding the cost of credit.

Question 15:
Are you in favour of the introduction of a debt servicing ratio restriction as outlined above?

Question 16:
Do you have any views on what percentage of income the restriction should be set at and whether it should be based on gross or net income (gross income meaning the income, before tax or other deductions, of the consumer and net income meaning the income, after tax or other deductions, of the consumer)? Please provide any data or analysis you have to support your response.

Yes, we would be of the view that a debt service ratio is reasonable. Following your own research based on legislation in Australia lenders of small value loans were obliged to cap loans at 20% gross income.

The approach adopted by the PMC caps lending at 25% flat weekly social welfare payment, taking into account rent, other loan repayments, utility bills etc.

One of the approaches adopted by Credit Unions[8] is to apply the lower of DSR of 45% of total net income and NDI requirements are set out in the Irish Insolvency Service (ISI) guidance on reasonable standard of living. For low income households the latter will in the most cases apply.

Question 20:
How would such a restriction operate in the case of "running account" credit provided by moneylenders? For example, should it operate on the basis of the consumer's credit limit on that account?

[8] Supported by CUDA through the Solution Centre

We would question the operation of running accounts as the debt cycle is difficult to escape from. Education is required to ensure the customer is aware of the cost of credit. On each drawdown refreshed statements should be furnished to the customer setting out the cost of credit. On the specific issue of DSR we can see no working alternative but to apply it to the credit limit. The only alternative is to access the customer on each drawdown and this would be inconsistent with a running account.

Question 21:
Do you agree with the proposal 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?

Yes, and this should be extended to include mandatory training

1. Credit Control
2. Conduct and Ethics

Question 22:

A. Do you agree with the proposal to require moneylenders to have written lending policies and procedures in place?

B. **If you agree with the proposal, should moneylenders be required to address any other matters within their lending policies and procedures?**

We would be of the view that all regulated entities have appropriate policies and procedures in place. All lenders should have at a minimum lending policies and procedures. Aside from the issues identified in the Paper, such policies should have requirements for regular reviews, updates in line with compliance requirements, requirements around customer awareness and a mechanism for updating staff as to amendments.

Question 23:
Do you have any comments on the proposal to require moneylenders to retain records of income and expenditure relied upon to assess a consumer's creditworthiness?

This requirement is paramount from a monitoring perspective. Credit Unions must be able to demonstrate compliance with requirements relating to the assessment of a member's creditworthiness. Documented proof of the assessment will permit a more enhance supervisory process by the regulator.

Question 29:
Do you have any other views on the overall function and risks of the licensed moneylending sector in Ireland

The Consultation Paper refers to a strong supervisory framework and "targeted supervisory intervention". We would respectfully suggest that we don't see evidence of this by way of regular thematic reviews which are publicly available. Such reviews would help us understand the risks in real time, as is certainly the approach taken by the Central Bank of Ireland in the Credit Union sector. Credit Unions work in a heightened regulatory environment including interest rate caps (12.68% APR representative), limitations on the lending volumes and geographical curtailments; the proposals relating to moneylending will help ensure more prudent lending and help reduce the risk of overexposure to moneylenders for the consumer. A final area of concern in the long-term moneylender borrower of which will hopefully be addressed through increased awareness of other available lending options.

Many thanks to the Central Bank for allowing us the opportunity to comment on the proposed amendments to the Consumer Protection Code. As always, CUDA is happy to meet with the Central Bank to discuss any of the points raised in this Response.

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