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IRELAND**
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Chambers Ireland Submission to the Central Bank of Ireland

**Consultation Paper CP91: Review of the Code of Conduct
for Business Lending to Small and Medium Enterprises**

13 April 2015

Introduction

Chambers Ireland is the largest business network in the State. With members in every geographic region and economic sector in Ireland, we are well positioned to understand the concerns of SMEs and represent their views.

We welcome the Central Bank's efforts to ensure sufficient protection for SMEs when accessing credit and the opportunity to inform this consultation on Code of Conduct for Business Lending to Small and Medium Enterprises ('the Code').

Chambers Ireland's Views

As a general observation Chambers Ireland supports the ongoing efforts of regulatory bodies to ensure that SMEs are afforded sufficient protections as they seek to access credit. Better protection for SMEs and improved regulatory oversight will support the effective operation of an expanding credit marketplace.

Market conditions and access to finance is improving, and economic activity and investment is predicted to grow significantly over the coming years. It is important to consider how any new regulation may impact on the lending market and examine how best to avoid any potential disruptions.

A high volume of new legislation and regulation for the credit industry has emerged over the past number of years, often necessitating increased administrative efforts and costs on the part of both potential borrowers and potential lenders.

Any additional regulatory requirements implemented as part of the revised Code must not add to the costs of doing business and delay new lending.

Lending to the SME market must continue to operate smoothly and so sufficient timelines for implementation should be permitted to ease the transition to new regulatory requirements for SMEs and credit institutions.

Question 1: Do you have comments on the attached draft revisions? In your response, please quote the number of specific provision(s) which give rise to your concerns and if possible, suggest alternative drafting or solutions.

In general, we note how the Code appears to be drafted around more traditional methods of lending to SMEs. The majority of Irish retail banks currently offer lending through a variety of methods aside from person to person meetings in branches. SMEs can access finance using methods such as online banking, web chat, via telephone or Skype.

Part 4 and the requirements for provision of information may not sufficiently take into account new trends of doing business and accessing credit. The Code does not sufficiently match the needs of modern businesses, including by allowing the provision of information in various formats and at a time when it suits the borrower. For businesses operating in Ireland it is hugely beneficial that correspondence and cross-checking with lenders can be done online and outside of normal business banking hours and do not require a representative of the business to be present in person at a

specific branch at a certain time. We would advocate that the Code keeps the process of providing information necessary for accessing credit as flexible as possible.

More generally on the information requirements, there are concerns that the amount of pre-information required may delay lending processes. Businesses often require temporary credit facilities or immediate overdrafts at very short notice, for example when a new order for stock is placed. Under the current Code such needs can often be met instantly by lenders. However, under the revised version it appears that a lender will require a high level of detailed information to allow a request for credit. Further to delaying the lending process, we also fear that this requirement may appear off-putting to businesses seeking to access credit. For this reason, we recommend that a balance is struck between sensible lending practices with over-burdensome pre-information requirements.

Question 3: Do you have any suggestions for further reform, e.g., are there any gaps or areas omitted from the protections proposed? If so, please set out your proposals.

It may be constructive to include within Part 6 (d) of the Code the specific requirement that the lender provide information on Microfinance Ireland's product offering and contact details. This would only apply to applications that would fall within the thresholds that apply to Microfinance Ireland lending.

Question 4: Do you agree that SMEs dealing with credit unions should have the same level of protection as when dealing with other lenders? If you do not agree, please outline the reasons why?

Given that Credit Unions are seeking to enhance their SME lending facilities, they may play an increasingly large role in the provision of businesses finance. For this reason, we consider it appropriate that Credit Unions should be included within the Code to ensure that SME borrows enjoy the same level of protection when obtaining loans from Credit Unions as they would do from other credit providers.

Question 5: Do you agree that the 'Smaller Enterprises' provisions in the current SME Code should be extended to all SMEs? If not, please set out the reasons why.

Chambers Ireland agrees with this proposal.

Question 6: Do you agree that business credit cards should be included in the scope of regulations that are proposed to replace the SME Code for all SMEs? Please explain why you think this approach is appropriate. If you do not agree, please set out the reasons why.

Chambers Ireland considers it unnecessary to include all business credit cards in the scope of a proposed new Code. Most business credit cards do not offer an ongoing credit facility. Business credit cards are typically linked to the business current account with a credit limit applying to the card. When using the card, the borrower is often required clear the balance in full by the end of the month. If a business misses their monthly repayment the business current account is overdrawn to repay the lender.

For arrangements of this type, we would not consider the business credit card a line of credit but rather a payment card. In consequence, Chambers Ireland considers businesses credit cards out of place in the code and we would argue that any attempts to include credit cards into the scope of regulation should seek to distinguish between cards with and without ongoing credit facilities.

Question 7: Do you agree that multi-lender credit, including syndicated, club or other multi-lender transactions, and special purpose vehicles should continue to be excluded from the scope of the regulations? If so, please provide the reasons for your view. If you do not agree, please set out the types of multi-lender credit or special purpose vehicles you think should be included and explain why the protections proposed would be appropriate or necessary for these borrowers.

Chambers Ireland supports the view that multi-lender credit and special purchase vehicles should continue to be excluded from the scope of these regulations. Borrowers of this nature tend to be sophisticated in their understanding of credit markets, are aware of their rights and obligations under contracts, and are more secure. Consequently, they would not benefit from the additional levels of protection afforded more traditional borrowers. As the Code should be tailored to the needs of borrowers we would advocate that the Code is not extended to include them.

Question 8: Do you agree that the introduction of a concept of 'not co-operating' is useful in an SME context? If so, do you have any comments on the proposed provisions?

Chambers Ireland supports the definition of 'not co-operating'. A lack of clarity, however, exists with regards to whether the provisions relating to Financial Difficulties in the 2012 Code of Conduct for Business Lending to SMEs continues to apply under the new framework.

Since the 2012 code only applies to regulated entities and not credit unions, Chambers Ireland would advise the Central Bank to incorporate the 2012 provisions relating to Financial Difficulties into the new Code. By doing so, all lenders will operate on a level playing field which will promote transparency and fairness in the treatment of SMEs experiencing financial difficulties.