



Submission to the Central Bank on the Review of the Code of Conduct for Business Lending to Small and Medium Enterprises (Consultation Paper CP91)

The Department of Jobs, Enterprise and Innovation (DJEI) welcomes the opportunity to input in writing on this Consultation Paper.

Question 1:

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

Question 2

Are there specific areas that you feel should be expanded on? If so, please provide details and, if possible, drafting suggestions or proposed solutions.

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.

Set out below are comments and suggestions in relation to the first 3 questions:

- Under Part 1 or 2 of the draft Regulations it might be useful to set out the Code's core objectives.
- Under Part 6 13 (1) (a) a lender might be precluded from providing an reason for refusal along the lines of "not in line with the lender's policies".
- Under Part 6 13 (1) (d) DJEI recommends that "shall" is used rather than "may" in relation to the provision of information on Government supports.
- Under Part 8 17 (1) (a) would it be useful to be more descriptive in relation to what amounts to "proportionate and not excessive"?
- Part 9 21 (5) there is a typo on line 2 – should read "make" and not "made".
- In relation to Part 10 and the retention of records should it be made clear who these records must be provided to on request? Does the Central Bank have a function or is it for the purposes of internal lender procedures, Credit Review Office and or the Financial Services Ombudsman?

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.

Yes.

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.

Yes.

Question 6:

Do you agree that business credit cards should be included in the scope of the 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.

Yes – this is an appropriate approach given the use by SMEs of credit card facilities to finance aspects of their business.

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.

Yes – it would seem likely that including such multi-lenders or spvs could stifle the availability and or development of these types of entities within the market which would only result in less finance being available to SMEs.

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?

Yes this is a useful concept.

13 April 2015