

MABS National Development Limited

Central Credit Register

Submission to the Central Bank in response to Consultation Paper CP93 –
Central Credit Register

Introduction

The Money Advice and Budgeting Service (MABS) was established in 1992 to help people on a low income to cope with debts and take control of their own finances. It is a free, confidential and independent service. It currently comprises 51 MABS Services, located in over 60 offices nationwide. MABS is funded and supported by the Citizens Information Board.

MABS National Development Limited (MABSndl) was established in 2004 to further develop the MABS Service in Ireland. It provides training and technical support to MABS staff nationally. MABSndl also assists the MABS service in providing educational and informational supports as well as assisting in highlighting policy issues that arise in the course of the money advice work on behalf of clients. MABSndl has responsibility for the provision of a national Approved Intermediary Service, the ongoing development of the MABS website www.mabs.ie and for providing the MABS National Helpline service.

MABS Submission

This submission is prompted and informed by the 22 years' experience which MABS has built up in dealing with and supporting those in indebted, multi-indebted and over-indebted circumstances, especially vulnerable individuals and groups, to enable them to better manage their debt profiles and ideally to facilitate their ultimate exit from indebtedness where possible. MABS therefore has a valuable contribution to make as regards the scope and uses of a Central Credit Register (CCR) as envisaged by the Credit Register Act, 2013 and the Central Bank's Consultation Paper on a Central Credit Register, CP93 (Consultation Paper).

While this submission will take the form of answers to the questions posed in CP93 where indicated, there is an onus on MABS to highlight areas of particular importance to our clients and the wider consumer cohort, namely:

1. The CCR, if populated with sufficient data, should be capable of being used constructively by consumers to reflect a payment history in respect of a wide range of debt types and, therefore, to enable those consumers who have heretofore been excluded from mainstream credit to build a positive credit rating.
2. MABS, as an approved intermediary for the purpose of processing statutory Debt Relief Notice applications, has been greatly disadvantaged in comparison with our counterparts in other jurisdictions in not having access to a CCR which encompassed the totality of a consumer's debt, thereby necessitating a reliance on lenders responding to repeated requests from both the borrower and the approved intermediary for verification of individual debts. A CCR, maintained by CIPs and regulated by the Central Bank to ensure that it is up to date and reflective of the borrower's full debt picture, would greatly enhance the process, thereby encouraging more borrower's to take control of unmanageable debt and put in place a sustainable solution.
3. In MABS' work generally, the process of engaging with creditors to establish and verify a borrower's debts is onerous and time consuming, with the current credit register being unreliable due to the discretion of members in updating it. Access to an up to date CCR would allow debtors to closely monitor the accuracy of information placed on their credit record, permit MABS to engage more effectively with borrowers and lenders to secure affordable, sustainable repayment arrangements and facilitate lenders to make fully

informed lending decisions in line with the requirements of the Consumer Protection Code, 2012.

Responses to matters on which views are sought:

5.1 – Reporting of CISs to the CCR

1. With respect to the reporting of different categories of CISs to the CCR, do you favour a phased approach to the implementation?

The approach proposed in the Consultation Paper (p.9/10), whereby lending to individual consumers and unincorporated entities would take precedence over lending to bodies corporate, is a prudential approach focusing on those who would most benefit from a CCR and who present most risk from a lending perspective. Lending to bodies corporate is already subject to stringent regulation, both at legislative level and through the memorandum and articles of association of said bodies and, therefore, the requirements for greater transparency in the lending framework are not as urgent as those at individual consumer level.

However, the proposal contained in the *Report of the Inter-Agency Working Group on Credit Histories* (p.33/34) to phase implementation on the basis of credit provider or product type would reduce the efficacy of the CCR across all borrower types by providing an incomplete picture over a protracted period of time.

2. Are there any specific areas that based on your current practice or experience you would suggest should be excluded or deferred from either phase? If so, please set out your rationale.

No. In order for the CCR to fulfil its remit, there is a requirement that a full credit history be provided for each borrower type. MABS works with borrowers with a wide variety of debt types, both in making voluntary arrangements and through the statutory Debt Relief Notice application process, and understands that non-traditional credit streams have, in some cases, had a significant impact on a borrower's insolvency position. Accordingly, there is no scope for the exclusion of credit areas in the preparation of a CCR.

3. If the CCR were to cover all CISs immediately, what impact would this have on your organisation and would you be in a position to supply this information i.e. have you the capacity to deliver both on the scope of Phase 1 & Phase 2 as suggested at the same time? Do you see any advantage to the CCR, to CIPs or other parties of being able to cater for those who might wish to implement all the requirements as a single project?

While MABS would be an end-user of the CCR, and not a supplier of information to it, we can clearly see advantages to having all requirements delivered in a single workstream, facilitating the single-user view across individual and business debt types. However, we understand the technical and temporal limitations on CIPs to provide such data and are satisfied that the phased approach proposed, concentrating on consumers and SMEs, is a more practical approach.

4. In terms of lending to groups of individuals without specific legal personality e.g. partnerships, clubs and associations, there may be challenges to capturing personal details of liable partners, trustees or members and adding these obligations to individual records.

The Central Bank is aware that this will be especially challenging where the liability of any one individual is limited in some way.

- a. Could you currently provide all the personal information of individuals who are liable in these circumstances? How do you manage these types of liabilities within your organisation as a total group or as individual liabilities?**
- b. Would you expect to see or like to see these loans on the reports of individuals from the CCR if you were considering a credit application from such an individual?**
- c. Is the incremental value to you of seeing this information (and having a comprehensive view of the total liability) worth any incremental effort you might have in providing this detail?**
- d. Would you be satisfied to report groups of individuals at a 'group' level for a period of time and supplement this with the individual detail at a later point i.e. defer the obligation to report the individual detail and therefore not see these liabilities on an individual CCR record? Do you have a different view with respect to different types of groups of individuals e.g. partnerships as compared to clubs or associations?**
- e. If you have suggestions in relation to addressing this challenge, please provide them along with supporting rationale.**

While the overall question does not relate to the immediate business of MABS, we are of the view that, in as far as practicable, the CCR should provide a single borrower view without the necessity to enquire whether the borrower is subject to any partnerships whose borrowings must be verified in a separate section of the CCR.

5. Please outline any further comments or suggestions you have in relation to any phasing of CISs along with supporting rationale.

It will understandably be easier for Central Bank regulated entities to provide returns in respect of a CCR, and many are currently providing returns with similar content in accordance with obligations under various EU Regulations, however MABS would be concerned that "second-tier" lenders, such as utility companies, small service providers and local creditors, would need more intensive guidance on reporting under the Credit Reporting Act, 2013 in order to fully populate the CCR. As the Central Bank is tasked with oversight and regulation of the CCR, there is an onus on them to ensure that supports are provided where necessary and reports are received within specified timelines.

5.2 – Reporting by CIPs to the CCR

1. With respect to any phasing of different CIPs, do you favour a phased approach to the implementation?

No. The phasing of CIPs in the manner envisaged by the Consultation Paper will result in an incomplete credit history being made available for consumers who did not or could not avail of mainstream credit during the "boom" years. It is these consumers who are most in need of a CCR to enable them to demonstrate a payment history in respect of non-traditional and high cost credit so that they may in future access more affordable mainstream credit channels.

The Consultation Paper refers to the small proportion of market value held by these consumers however it fails to acknowledge the high volume of individuals concerned. The *Report on the Licensed Moneylending Industry* undertaken by the Central Bank in 2013 indicated that

approximately 360,000 customers of licenced moneylenders, an increase of 20% on 2005 figures. While the €200 million loan value represents a small proportion of Central Bank regulated non-mortgage debt (reported in *Money and Banking Statistics Report, April 2015* as €16.5 billion), the recently published *Household Finance and Consumption Survey, 2013* indicated (p.10/11) that 28.1% of all households surveyed had applied for credit in the previous three years, of which 21.3% were refused or received a reduced amount. Single-parent households, the unemployed and self-employed persons were most likely to be refused credit – a cohort of borrowers most at risk of high-cost credit. The purpose of these loans is unknown, but where they referred to an emergency or essential expenditure, it is likely that these consumers applied elsewhere to meet their need and, as stated, it is these households most in need of a positive CCR demonstrating payments made to non-traditional lenders.

The lack of access to affordable credit was highlighted in a recent report *Creating Credit, Not Debt* published by the UCD Geary Institute for Public Policy in May of this year which highlighted the need for microcredit alternatives for individuals unable to access mainstreaming lending¹. While the suggestion is that MABS would support those individuals seeking loans in excess of €1,000, this support would be greatly assisted by access by MABS to a CCR, with the borrower's permission.

2. Can you please outline any further comments you have in relation to the phased approach outlined above? If you have any suggestions please provide them along with supporting rationale.

We further refer to the *Report of the Inter-Agency Working Group on Credit Histories* (p.52-54) which identified the specific needs of those accessing high-cost credit with regard to a CCR, with reference to the UK Office of Fair Trading Final Report on the Review of High Cost Credit , and, while acknowledging the difficulties some small moneylenders may have in reporting to a CCR, recommended that policy still be directed towards the “*longer term aim of total credit capture and improved access to mainstream credit*”. We would welcome the Central Bank's further consideration of this approach in line with the stated policy aim.

3. It is suggested that licensed moneylenders and Local Authorities are omitted from Phase 1. Please outline any comments you have in relation to this approach? Are there any other categories or classes of CIP that you consider should be deferred or excluded? If so please provide your rationale.

As previously stated, the total debt value should not determine a borrower's inclusion in and access to a CCR. The number of individual borrowers availing of these forms of credit must also be a factor.

MABS is an authorised approved intermediary for the purpose of processing Debt Relief Notices pursuant to the Personal Insolvency Act, 2012. Of the debts subject to Debt Relief Notices issued from January 2014 to date, 38% are owing to lenders other than mainstream creditors. These creditors include moneylenders, local authority rent arrears, utilities, catalogue debts and local creditors. One of the main barriers to accessing the Debt Relief Notice application for debtors is their inability to obtain verifying documentation from creditors and, in some cases, to establish the legal owner of the debt. A CCR would greatly assist approved intermediaries in their work, mirroring the DRO process in the UK and Northern Ireland (which can take one week

¹ The Citizens Information Board and MABS also raised the issue of the need for an affordable personal micro credit scheme for those on low incomes in a Policy Paper submitted to the Minister for Social Protection in September 2013.

to process, rather than months in the Irish case), increase the efficacy of this Chapter of the Personal Insolvency Act, 2012 and enable more eligible insolvent debtors to access a Debt Relief Notice. Omitting these CIP categories, and the suggestion that others may also be omitted, from the CCR renders it ineffective in a statutory insolvency process.

Furthermore, as the insolvency options set out in the Personal Insolvency Act, 2012 facilitate the return of the borrower to solvency within a prescribed period of time, the CCR must allow for the recording of court orders made in respect of these insolvency options, both at the time they take effect and on the date such arrangement comes to an end (or, in the case of a Debt Relief Notice, the end of the supervision period), with relevant codes indicating the various ways in which arrangements may terminate (e.g. early termination for breach, early termination for payment, termination on the set date etc.).

5.3 – Collection of Credit Application Data

1. Can you please provide your opinions on the extent of application data that should be collected? Please outline any rationale you have for your proposal.

While application data is of benefit in assessing borrower engagement, the making of an application alone does not of itself provide any indication of new lending activity, particularly in the SME sector where an estimated 14% of bank credit applications are declined (*SME Market Report 2014 H4*).

In considering the type of data that would be of benefit at this point in the process, the provision by CIPs of personal and some credit information would as outlined in p.13 of the Consultation Paper prove the most useful, as personal data only will not provide sufficient information to CIPs in considering applications where a borrower has made multiple applications across a number of lenders, and monthly “batch” data would be of little support in making credit decisions.

2. If additional credit data was collected at this point, would there be significant benefits from a CIP perspective in seeing and understanding credit applications on a real time basis?

Real time application data would be of benefit to CIPs in ensuring that multiple applications for credit were not being made contemporaneously by the same borrower. However, how this data is used would need to be fully considered as it raises the possibility that a borrower shopping around for the best interest rate on a loan would be seen as attempting to gain multiple loans and be denied approval from all participating lenders. Furthermore, for real time data gathering to be effective, all CIPs must adhere to specific timelines for reporting of application data.

5.4 – First Point of Reporting of Credit Agreements to the CCR

1. Please outline any comments you may have in relation to the timing of the first point of reporting of data to the CCR? Please outline any rationale you have for your suggested proposal.

We believe that the most advantageous first point of reporting from both a CIPs and CIS’ perspective would commence on drawdown of the facility by the borrower, with provision for CIPs to report the full amount made available to the borrower in respect of phased lending such as credit cards, overdrafts and building loans provided through staged payments.

2. As a CIP, would you support reporting to the CCR at some point before drawdown and could your organisation currently meet any such requirement?

As stated above, MABS would support the reporting of the full amount available to the borrower in respect of certain types of borrowing in order to allow CIPs to fully assess affordability in line with their obligations under the Consumer Protection Code 2012.

3. Please provide any comments or suggestions you may have in relation to the reporting of undrawn committed credit facilities to the CCR? You may wish to cross refer to your response to questions on section 5.3.

As above, we submit that undrawn committed credit facilities should be reported in line with other reporting obligations placed on CIPs to ensure that affordability is accurately assessed.

4. As stated above, the Central Bank believes there may be some concern to recording credit card approvals on a CIS record when they have not yet utilised the facility. Please provide any comments you may have.

Once a credit card has been used by the borrower, the full terms and conditions attaching thereto become fully operational. Accordingly, we submit it is at this point that such facilities are reported to the CCR and at regular intervals thereafter to ensure indebtedness and repayment capacity is fully reflected.

5.5 – Extent of Historic Data to be collected

1. Do you have any comments on the suggested approach? Do you believe the extent of data suggested is sufficient? If not, what additional information can you provide?

MABS submits that the extent of historic data should be sufficient to fully reflect a borrower's overall indebtedness and payment history. While 18 months should be sufficient for this purpose, this must include accounts which remain outstanding even where nil or nominal repayments are being made, restructured accounts and accounts which have been sold to third party agents by the originating lender (ref. section 5.7). We are further concerned by the proposal that mandatory checking of the CCR would not be anticipated until six months after the CCR was operationalised and see no reason for a delay of this nature.

2. Do you envisage any difficulties in collecting the data for periods suggested? Please outline any concerns you may have?

In gathering evidence to verify debt details provided by borrowers, MABS has encountered delays of up to several months for lenders to respond to queries seeking information, with copies of original credit agreements and terms and conditions often being unavailable. MABS is anxious that the CCR become fully operational in the shortest timeframe possible, however we do foresee difficulties with CIPs collating the relevant historical data.

3. If required, what difficulties if any are associated with collecting data, including monthly performance data, retrospectively, for example, for 3 years?

Our experience indicates that inadequate systems and filing conventions has led to the loss of original agreements, particularly where lenders have outsourced data storage to third party facilities.

5.6 – Single Borrower View – Accurately identifying CISs

1. Do you have any comments or views on the value or scope of personal information to be collected?

In line with the requirements of the Data Protection Acts, 1988 and 2003 (as amended), the personal information held on the CCR must be sufficient for the purpose of providing a

comprehensive credit history in respect of individual borrowers, but not so in-depth as to be excessive, creating a risk for the borrower, the lender and the Central Bank in its capacity as ultimate data controller of the CCR. As stated in the Consultation Paper, many lenders gather a large amount of personal data on their customers under the requirements of Anti-Money Laundering legislation and would be in a position to collate and report same quite easily. However, other non-mainstream lenders (e.g. utility providers, local creditors, catalogues etc.) do not fall within the remit of the provisions of the Anti-Money Laundering legislation and would not only be incapable of reporting the same type of data, but would not be in a position to search the records of a borrower if, for example, a PPSN was a specified search criterion.

2. Please advise the extent to which you currently store or process the personal fields identified in the legislation (reproduced in Appendix 1)? If you do not currently store what operational challenges you would face in collecting these from CISs?

See above re non-mainstream lenders.

3. Do you have any specific comments in respect of operational challenges you may face regarding the collection and reporting of PPSN?

Due to the capacity for misuse and the risks associated therewith, the PPSN is subject to additional protections contained in the Social Welfare (Consolidation) Act, 2005 and only available for use by those entities specifically referenced in Schedule 5 thereto. Along with the Revenue Commissioners and specified Government Departments, the Insolvency Service of Ireland is one such entity and gathers PPSN as part of its application process to track borrowers' applications and ensure that the legislative requirement of one arrangement type per borrower's lifetime is adhered to. Without a specific legislative remit for the use of PPSN and the sharing of same with lenders not specified in Schedule 5 of the Social Welfare (Consolidation) Act, 2005, we submit that the risks inherent with its use and disclosure are too great to include it as a reporting or search criterion.

4. Do you have any comments on using, to the extent possible, existing Anti-Money Laundering procedures as the basis for CIS verification regulations?

While many mainstream lenders will be familiar with the data requirements of existing Anti-Money Laundering legislation and procedures, there are other lenders who will not and will not have ready access to such information for reporting purposes. In order to meet one of the stated aims of the Credit Reporting Act, 2013, i.e. "...to make provision for access to the information held on the register for the assessment of creditworthiness and other purposes...", we submit that a base-line of commonly held personal data be identified across lender types on which to develop reporting requirements.

5.7 – Collection of Foreign Credit Data

1. Do you believe there is any benefit for capturing foreign credit data and that these outweigh the practical challenges embedded in the current requirements? Please outline any comments you may have in relation to the possible exclusion of this information?

With the departure of many foreign lenders from the jurisdiction in recent years and the even more recent entering into the market of foreign investment funds, it is imperative that credit data is captured from these lenders to provide a full picture of a borrower's credit history. MABS has seen an increase in debt-selling in recent months and, with no obligation on either the lender or the third party to advise the debtor of the sale of the loan, we are concerned that debtors can no longer be sure of who owns their debt and where their repayments should be made. Over recent months we are seeing an increase in cases whereby debtors were honouring

agreed repayment arrangements, only to receive correspondence some months later from a third party demanding outstanding repayments. The incidence is relatively low, but is indicative of system weaknesses that need to be remedied in order to protect Irish consumers.

This issue is also presenting in applications for Debt Relief Notices whereby, on request by MABS to verify debt details for the purpose of the application, some lenders are selling the loans to a third party in order to frustrate the court process. We therefore strongly submit that there is an onus placed on lenders to not only advise their customers that they have sold their debt, and provide debt repayment details, but also to notify the CCR of the sale and have the third party agent report in their place.

5.8 – Collection of Guarantor Data

1. Do you believe there is significant benefit to capturing guarantor data? Please outline any comments you may have in relation to the possible scope or timing of inclusion of this information?

As a guaranteed debt is a contingent debt of the individual concerned, we believe it should form part of the Single Borrower View in order to provide CIPs with sufficient information to assess affordability. We appreciate that aligning the relevant data with that currently held in respect of primary borrowers may require additional time and submit that same be done as soon as possible to achieve the aims of a CCR.

5.9 – Levies and Fees

1. With respect to different classes of credit information providers and users, please outline any comments you may have in relation to the possible introduction of any levies or fees? If you have suggestions, please provide them along with supporting rationale.

We would agree with the *Report of the Inter-Agency Working Group on Credit Histories* (p.54) to offer more favourable terms to small scale lenders than those offered to larger mainstream credit providers. A flat rate may act as a deterrent to small lenders to reporting to or making use of the CCR, thereby possibly resulting in questionable lending decisions.

2. Do you have views as to whether all CCR costs should be recouped entirely through either a levy or a fee, but not both? For example, should all costs be recouped only through access fees (i.e. user pays principle) with no levies imposed?

MABS believes that borrowers should be able to access their credit records free of charge to empower them to make informed borrowing and repayment decisions. It is essential that borrowers can access their own credit histories as part of responsible debt management.

As the start-up costs associated with a CCR would be expected to be high, a user pays approach with no levies imposed on lenders who, in most cases, will have the “deepest pockets” and ability to discharge them, would likely result in a higher cost-per-use, making access impossible for those on low income who would benefit most from access to it.

3. Is there another more equitable basis for recouping the costs of the CCR such as based on size of CIP, product specific charges or any other basis?

A scale of fees and levies, based on size of user, should be introduced to ensure that those who are most able to bear the cost do so.

5.10 – Any other comments

As stated in the introduction to this submission, it would be remiss of MABS not to highlight the importance of a CCR in empowering borrowers to participate in financial decisions. Areas of particular importance to our clients and the wider consumer cohort, include:

1. The CCR, if populated with sufficient data, should be capable of being used constructively by consumers to reflect a payment history in respect of a wide range of debt types and, therefore, to enable those consumers who have heretofore been excluded from mainstream credit to build a positive credit rating.
2. MABS, as an approved intermediary for the purpose of processing statutory Debt Relief Notice applications, has been greatly disadvantaged in comparison with our counterparts in other jurisdictions in not having access to a CCR which encompassed the totality of a consumer's debt, thereby necessitating a reliance on lenders responding to repeated requests from both the borrower and the approved intermediary for verification of individual debts. A CCR, maintained by CIPs and regulated by the Central Bank to ensure that it is up to date and reflective of the borrower's full debt picture, would greatly enhance the process, thereby encouraging more borrower's to take control of unmanageable debt and put in place a sustainable solution.
3. In MABS' work generally, the process of engaging with creditors to establish and verify a borrower's debts is onerous and time consuming, with the current credit register being unreliable due to the discretion of members in updating it. Access to an up to date CCR would allow debtors to closely monitor the accuracy of information placed on their credit record, permit MABS to engage more effectively with borrowers and lenders to secure affordable, sustainable repayment arrangements and facilitate lenders to make fully informed lending decisions in line with the requirements of the Consumer Protection Code, 2012.