



Deputy Ged Nash T.D.
Dail Éireann
Leinster House
Kildare Street
Dublin 2

3 December 2020

Re: Regulation of Licensed Moneylenders

Dear Deputy Nash

Thank you for your letter of 10 November 2020 to Governor Makhoul in relation to licensed moneylenders, to which he has asked me to reply.

At the outset, I want to assure you that the Central Bank's focus in fulfilling its statutory role in regulating licensed moneylenders is on the protection of consumers' interests. While we believe we are achieving this through the regulatory framework we have put in place and our on-going monitoring of the sector, we continue to be vigilant to the sector's trends and we adjust our supervisory focus accordingly.

In replying below, I have set out some detail on the statutory regime for the regulation of licensed moneylenders under which the Central Bank discharges its regulatory functions, our Code requirements, the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylender) Regulations 2018 and some information on the market generally.

The Legislative and Regulatory Regime for Licensed Moneylenders

As you will be aware, licensed moneylenders are specifically legislated for in statute under the Consumer Credit Act, 1995 (the "1995 Act") which sets out a specific regulatory regime for moneylending, reflecting the particular features of this sector and, in particular, the high cost nature of this form of credit. An amendment to the 1995 Act in 2003 transferred responsibility



for the licensing and supervision of moneylenders from the Office of the Director of Consumer Affairs to the Central Bank, and we fulfil that role within the parameters of the legislative regime.

Accordingly, anyone wishing to engage in the business of moneylending¹ requires a licence from the Central Bank in accordance with the 1995 Act and this licence must be renewed annually. There are currently 36 moneylenders licensed under Section 93 of the 1995 Act² (down from 52 in 2003 when the Central Bank assumed responsibility for the sector). A licensed moneylender carries on the business of moneylending under the specific terms of the licence granted by the Central Bank.

The 1995 Act provides that the Central Bank can refuse to grant (or renew) a licence to a moneylender if it is of the opinion that the cost of credit is excessive. Where the proposed costs of credit are deemed excessive, the Central Bank has successfully challenged firms to amend their business models or the terms and conditions of certain products. Since assuming responsibility for the regulation of the sector in 2003, the Central Bank has not permitted the maximum annual percentage rate (APR) charged within the sector to increase, nor has it allowed practices such as pay-day lending³ to enter the Irish licensed moneylender market. Neither the 1995 Act nor the European Communities (Consumer Credit Agreements) Regulations 2010 (the “CCR”) provide for an interest rate cap, nor does the 1995 Act define “excessive” in the context of interest rates. The Central Bank has no statutory power to impose a market wide cap on rates. The introduction of an interest rate cap would require a legislative amendment. Any legislative proposals seeking to achieve an overall reduction in the cost of credit to customers of moneylenders should be calibrated to ensure that unintended consequences in terms of financial exclusion do not arise.

There is a strong framework of protection in place for consumers who choose to avail of the services of licensed moneylenders. Consumers of licensed moneylenders are protected by a

¹ Moneylending, as defined in the legislation, is the practice of providing credit to customers on foot of a moneylending agreement which is, in essence, where the total cost of credit is in excess of an annual percentage rate (APR) of 23% or the agreement is concluded away from the business premises of the moneylender. The credit will usually take the form of a cash loan but may also involve the provision of goods on credit from a retailer, the purchase of goods from a catalogue company or the purchase of vouchers.

² Further information in respect of these firms is available on the public register of licensed moneylenders maintained on the Central Bank website.

³ ‘Pay-day’ lenders typically offer very short-term loans to tide borrowers over until their next payday. The advertised representative APRs associated with these loans in the UK can be as high as 1,500% APR.



range of provisions that moneylenders must adhere to, including but not limited to, the Central Bank's Consumer Protection Code for Licensed Moneylenders (the "ML Code")⁴, the CCR and the 1995 Act.

In addition to the protections provided under the ML Code, there are also important protections provided for in the legislation whereby licensed moneylenders are prohibited from applying additional charges (other than a collection charge) to a moneylending agreement. They are also prohibited from applying any additional charges in the event of a default in the payments due under the agreement [i.e. the total amount repayable by a consumer is limited to the amount specified in the moneylending agreement (the only exception being the awarding of legal costs by a Court of law)]. Therefore, a consumer can never be asked to pay more than the "total amount payable" as stated on the moneylending agreement. Moneylenders are also required to undertake a creditworthiness assessment before entering into a moneylending agreement with a consumer. The Central Bank has made clear its expectation to all credit providers, including licensed moneylenders, that they lend responsibly and act in the best interests of consumers.

The Licensed Moneylending Sector

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

1. Home collection firms where loans are issued and repayments are collected at the consumer's home [the majority of moneylenders fall into this category – 27 firms, 96,657 consumers⁵];
2. 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 account⁶ (2 firms, 160,847 consumers⁵); and
3. Other firms (7 firms, 42,357 consumers⁵) comprising:
 - premium finance firms where credit is provided to consumers to fund insurance premiums, gym membership etc. which are operated on the basis of a consumer

⁴ The ML Code issued by the Central Bank introduced important protections for consumers over and above those provided for in statute.

⁵ Figures based on the 2019 annual licensing process.

⁶ As defined in the 1995 Act, "running account" means "a facility under a credit agreement whereby the consumer is enabled to receive, from time to time, from the creditor or a third party, cash, goods or services to an amount or value such that, taking into account payments made by or to the credit of the consumer, the credit limit (if any) is not at any time exceeded".



- having a running account;
- remote firms where repayments are made directly to the firm, e.g., by direct debit;
- retail firms involved in the provision of goods on credit with repayments being made by a variety of methods, e.g., cash, direct debit; and
- firms authorised to collect on moneylending agreements previously entered into, but not to grant further credit.

The APRs on products associated with the provision of credit in these categories are varied, reflecting the different business models of the providers and how these services are delivered. In considering any increases to APRs as part of the renewal process, the Central Bank assesses each case on its merits taking into account the operating costs of the firm, the product type and related margin as part of its assessment.

The Central Bank's Supervisory Approach

Given the high cost nature of some loans provided by licensed moneylenders, we assertively supervise the sector with a view to taking supervisory and enforcement action, where required, to protect consumers' interests. Compliance with supervisory and regulatory requirements is supervised through the initial and annual licensing processes, applying the fitness and probity regime, themed and firm-specific inspections or engagements, market intelligence monitoring, conducting consumer based research and monitoring industry trends including complaints made to the Financial Services and Pensions Ombudsman. Failures to adhere to the requirements referred to above are dealt with appropriately and this may include initiating proceedings under our Administrative Sanctions Regime⁷. Taking enforcement action where deemed appropriate is an effective way of promoting a stronger compliance culture within the

⁷ The Central Bank has taken actions under the ASP regime in relation to breaches of the relevant legislative and regulatory requirements which resulted in fines and/or reprimands being imposed on the regulated entities. Details in relation to these cases can be found [ASP1](#), [ASP2](#) and [ASP3](#). In 2019, the Central Bank issued a prohibition notice against an executive director of a licensed moneylender prohibiting that individual from performing any controlled function in all regulated financial services providers for a period of two years – see attached [press-release/prohibition notice](#).



sector and serves as a deterrent to other firms in the sector. Other measures used by supervisors include restrictions being imposed on or the revocation of a firm's licence, where deemed appropriate.

Moneylender loans are generally short-term in nature. Their cost and APR can be very high when compared to other forms of credit, in particular when this form of lending is used on an on-going basis. The APR is the rate that represents the annual yearly cost of a loan over the full term of that loan. It may include fees and additional costs that are not captured in a simple interest rate. While APR has benefits in the wider lending market as a comparison tool between loans offered by lenders for the same term, it has significant limitations when used in the short term credit market. APRs may appear to be extremely high on shorter term loans when in fact the actual cost of credit increases the longer the loan term. Consequently, lowering the APR rate may be ineffective and counterproductive and not achieve the objective of lowering the total cost of credit if, for instance, a moneylender chooses instead to extend the duration of the loan resulting in the consumer paying more over the duration of the loan.

Our focus has been on improving the transparency of these costs and increasing consumer awareness, by way of requirements such as the need to warn customers about the high cost nature of loans and to disclose all the fees, costs and interest in a clear manner prior to entering into the moneylending agreement. The Central Bank's public register of licensed moneylenders also sets out product details such as the maximum APR, maximum cost of credit and collection charges (if any).

Strengthening protections for consumers of moneylenders - the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylender) Regulations 2020

After an extensive public consultation process, the Central Bank published new Regulations on 8 June 2020 to strengthen protections for consumers of licensed moneylending services and to enhance professional standards in the sector. In addition to existing requirements, moneylenders will be required to:

- Include prominent, high cost warnings in all advertisements for moneylending loans with an Annual Percentage Rate (APR) over 23 per cent. The warning must also prompt consumers to consider alternatives.



- The new rules will limit the moneylenders' contact with consumers and limit the offer and promotion of loans to consumers, giving greater control to consumers to decide when to be contacted by a moneylender.
- Moneylenders will also not be permitted to make an unsolicited offer to apply for credit to consumers who have recently made, or are nearing, full repayment of a moneylending loan.
- Moneylenders will also be required to ensure that their marketing strategy is fair and reasonable.
- There will be a number of new requirements for the staff and agents working in the sector, designed to enhance their professional standards.
- Where a loan is required for basic needs, such as accommodation or electricity, moneylenders will be required to inform the consumer that a moneylending loan may not be in their best interest and to provide contact information for the Money Advice and Budgeting Service (MABS).

The Regulations will come into effect on 1 January 2021. However, recognising the financial effects of Covid-19 on people, the 'high-cost warning' requirement in respect of advertisements for moneylending loans with an APR in excess of 23% came into effect on 1 September 2020.

Recent Legislative Developments

As I referred to earlier, the Central Bank has no statutory power to impose a market wide cap on interest rates and any such measure would require a legislative amendment, which is a matter for the Oireachtas. In this regard, you will be aware that in May 2019 the Department of Finance issued a public consultation entitled "Capping the cost of licensed moneylenders and other public matters". This consultation sought to gather views on whether the Government should introduce a statutory interest rate cap on licensed moneylenders in Ireland and whether the introduction of such a cap would have a negative effect on the regulated supply of credit and might lead to an increase in illegal moneylending or to financial exclusion for consumers of these regulated firms. The Department of Finance are currently considering the responses received in respect of this consultation and the Central Bank continues to engage with and provide technical advice to the Department as they develop their policy proposals.



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

T +353 (0)1 224 6000

Bosca PO 559
Baile Átha Cliath 1

PO Box 559
Dublin 1

www.centralbank.ie

I trust this letter provides you with the information sought, as well as outlining the Central Bank's statutory role and supervisory approach to this sector. We would be happy to provide you with any further information or clarification you may need.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gráinne McEvoy'.

Gráinne McEvoy
Director of Consumer Protection