



## Welcome to Moneylender News



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*Welcome to the third edition of Moneylender News. In this edition, we update you on important milestones in the launch of the Central Credit Register, flag some compliance points we have identified in our work and point out some best practices for you to incorporate into your business. We also update you on our research into consumer perceptions of complaints handling in regulated firms and highlight other research the Central Bank has been involved in which you might find interesting.*

*As regulator, the Central Bank has a statutory objective of ensuring that the best interests of consumers are protected. We hope this newsletter helps inform you of our work and how you can develop your business in a manner that gets it right for consumers.*

*This edition contains topical updates and compliance information on:*

- Central Credit Register
- Advertising on Social Media
- Unsolicited Contact
- Companies Act 2014
- Consumer Perceptions of Complaints Handling

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## Central Credit Register

The Credit Reporting Act 2013 (the Act) provides for the establishment of a Central Credit Register (Credit Register) by the Central Bank. The credit reporting obligations will apply to over 500 lenders, such as banks, credit unions, local authorities, NAMA, asset finance houses and licensed moneylenders.

On 20 September 2016, the Central Bank made regulations governing the operation of the new Credit Register. These regulations set out the legal obligations on lenders to supply information to the Credit Register and to use the Credit Register when considering loan applications. Further information on the Credit Register and the regulations is available at [www.centralcreditregister.ie](http://www.centralcreditregister.ie).

Credit is defined broadly and includes a loan, deferred payment or other form of financial accommodation for €500 or more, extended to a borrower resident in the State at the time of making the credit application, or where the credit agreement is governed by Irish law. Credit includes term loans, mortgages, credit cards, and overdrafts, etc.

The Central Bank has recently written to licensed moneylenders notifying them of their obligations under the regulations and provided access to technical and guidance manuals to support implementation. In 2017, the Central Bank's Central Credit Register team will engage with licensed moneylenders (or representative groups) who have qualifying credit agreements to discuss the technical and operational changes to be implemented.

Licensed moneylenders must provide data relating to credit agreements in force on or after 31 March 2018 to the Credit Register. Licensed moneylenders must provide this data no later than 30 September 2018 and it must be backdated to 31 March 2018.

Once operational it will be mandatory for lenders to:

- Submit information on credit agreements and payment histories to the Credit Register for loan agreements of €500 or more; and
- Check credit information on the Credit Register when considering loan applications for €2,000 or more.

The website [www.centralcreditregister.ie](http://www.centralcreditregister.ie) will be updated at regular intervals as the project progresses.

### Are you on Social Media? – Advertising Requirements

The Central Bank has found a number of instances where regulated entities, across various sectors, appeared to be using their social media pages (e.g. LinkedIn, Facebook, Twitter etc.) to advertise/promote their business, but did not include a regulatory disclosure statement or warning notices. Advertisements on social media forums fall within the meaning of an advertisement as defined in the Consumer Protection Code for Licensed Moneylenders (ML Code). As such, advertisements via social media must comply with all relevant regulatory obligations, such as the disclosure and advertising requirements of the ML Code.



## Unsolicited Contact (Coldcalling)

Common Rules 17-22 of the Consumer Protection Code for Licensed Moneylenders (ML Code) set out the Central Bank's requirements in relation to when contact may be made with a consumer (other than an existing consumer). These requirements include that, where a licensed moneylender is providing credit in the form of a 'cash' loan, they must ensure that they have obtained a signed statement, within the previous 6 months, giving permission to the moneylender to make unsolicited contact, or the consumer must be the subject of a referral from the type of person specified in the ML Code. This requirement does not apply to unsolicited contact made in relation to the provision of 'non-cash' credit. However, it is important to ensure that cash loans are not provided or arranged (i.e. applied for) during a contact about non-cash credit.

### Examples of "Best Practice"

- Have a clear written policy on whether your firm will make unsolicited contact with a consumer at all, and if you will, under what circumstances you will do so. The policy should also set out your practices, systems and controls to demonstrate compliance with the provisions of the ML Code.
- Regularly check that the policy is being followed.
- Be clear in your policy and records to distinguish between 'cash' and 'non-cash' loans – the rules are different (as above).
- Maintain clear records of the details of any request by a consumer to call back at another time and distinguish in these records between engagements on cash and non-cash credit.
- The record of any subsequent visit should clearly demonstrate that this visit was not at the same time as the initial visit. (You may want to consider a policy where such subsequent visits do not take place on the same day as the initial visit, especially where one visit is about non-cash credit and another is about cash credit.)

In addition to the above, all licensed moneylenders are also reminded of the requirements set out in the ML Code regarding the retention of consumer records (Common Rule 30). These records should be complete, legible and, where relevant, the record should be signed/initialled and dated, thus enabling the Central Bank or consumer to be satisfied as to its date of issue/creation.

### Do you know your Filing Obligations?

Regulated entities, including licensed moneylenders, with a reporting/filing obligation to the Company Registrations Office (CRO) should be aware that they are not eligible to avail of the 'size/abridgement exemption' from filing full financial statements and that they are not eligible to avail of the 'small company/dormant company' audit exemption.

The Fifth Schedule to the Companies Act 2014 sets out a specific list of company types not eligible for the above exemptions. This list includes "*Any other company the carrying on of business by which is required, by virtue of any enactment or instrument thereunder, to be authorised by the Central Bank*". This wording captures licensed moneylenders.



## Complaints Handling: Are you getting it right for your consumers?

In the 2015 Consumer Protection Outlook Report, the Central Bank highlighted how complaints handling, when dealt with in an open, fair and transparent way, can represent an opportunity for firms to restore confidence in their relationships with consumers. This includes, being able to identify the root causes of problems to ensure that they are being resolved in a timely manner, as well as having a robust procedure that can deal with individual consumer complaints. Viewed in this way, the handling of complaints is a vital part of the on-going relationship between firms and consumers. They also offer firms the ability to learn from and adapt their processes and procedures as necessary as well as identifying potential opportunities to improve their products and services, if they are giving rise to consumer complaints.

In May 2016, the Central Bank published the findings of commissioned research undertaken to understand consumers' perception of the complaints handling process in regulated firms. The research covered regulated financial services generally rather than licensed moneylenders specifically, but its findings are nevertheless of interest.

The main findings from the research were:

- The majority of complainants had a poor opinion of several aspects of the complaints process with only 41% of respondents who made a complaint saying that they were fairly treated during the process and only 39% of respondents saying that they were satisfied with how the complaint was handled.
- 52% of respondents who were given a named contact during the process were satisfied with how their complaint was handled compared to 29% of those not given a named contact.
- The knowledge, experience and authority of the point of contact were considered to be among the most important aspects of the complaints process with 55% of respondents who had made a complaint saying that the person handling the complaint having the appropriate knowledge and experience was among the three most important aspects of the complaint process.
- 50% of respondents who had made a complaint said that timely resolution of the complaint was among the three most important aspects of the complaint process.

The Central Bank has put in place a strong regulatory framework for complaints handling in its codes of conduct (including through the Consumer Protection Code for Licensed Moneylenders 2009) with which regulated firms must comply. In undertaking this research, the Central Bank sought to better understand consumers' experiences and perceptions of how firms are applying this framework.



### The Central Bank is Moving

As you may be aware, the Central Bank is moving from its current premises on Dame Street and surrounding locations in Dublin 2 to a new premises situated in the North Wall Quay area of Dublin 1. It is anticipated that the move will commence in December 2016, with phased staff moves over the course of 2017. You will continue to be able to contact us on our existing telephone numbers and e-mail addresses and you will be notified of our new address in due course.

### Other Related Items of Interest

The following items may be of interest to you:

- FinCoNet – All recent reports are available on its website [www.finconet.org](http://www.finconet.org), including a [Report on Sales Incentives and Responsible Lending](#). In addition, all recent FinCoNet newsletters can also be viewed on its website including the most recent edition from [July 2016](#) which includes an article on payday lending in Australia and the use of automated systems and a recent public consultation on proposed Guidance to Supervisors on the Setting of Standards in the field of Sales Incentives and Responsible Lending.
- Technology and Cybersecurity Risks – The Central Bank has recently published [Cross Industry Guidance on Technology and Cybersecurity Risks](#). Firms should consider the issues outlined in this paper when reviewing their existing IT related governance and risk management arrangements and use this guidance to inform the future development of their IT risk management frameworks.
- Personal Loan Choices – The Central Bank recently co-funded research into “An Experimental Investigation of Personal Loan Choices”, which was undertaken as part of PRICE Lab. This focussed on how consumers make decisions when faced with multi-attribute products, with the aim of providing evidence for consumer policy. The result of this research is available on the Central Bank website and can be accessed [here](#).

### We want your views!

We would welcome your feedback (both positive and negative) in relation to this newsletter, as well as any suggested topics that could be covered in future editions.