



Banc Ceannais na hÉireann  
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# Moneylender News

## Introduction

*Welcome to the fourth edition of Moneylender News. In this edition, we update you on our on-going review of the Consumer Protection Code for Licensed Moneylenders and the continued roll out of the Central Credit Register. We also provide feedback in respect of the findings of recent inspections of licensed moneylenders undertaken by the Central Bank's Anti-Money Laundering Division to assist you in reviewing the systems and controls in place in your business to ensure compliance with your Anti-Moneylaundering/Countering the Financing of Terrorism (AML/CTF) obligations.*

*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.*



Colm Kincaid

Head of Consumer Protection: Policy & Authorisations

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

- Review of the Consumer Protection Code for Licensed Moneylenders
- Central Credit Register
- Feedback from AML/CTF Inspections
- Illegal Moneylenders
- Fitness & Probity Regime
- Information Technology and Cybersecurity
- Other Related Items of Interest
- Licence Renewal Applications

## Review of the Consumer Protection Code for Licensed Moneylenders

We are continuing our review of the Consumer Protection Code for Licensed Moneylenders (the ML Code) as announced in our [Consumer Protection Outlook Report](#) published in February 2017. The purpose of this review is to determine if the existing protections provided for in the ML Code need to be enhanced. This review is being informed by our on-going supervisory and annual licensing engagements with licensed moneylenders, our Report on the Licensed Moneylending Industry of 2013 and an analysis of approaches adopted by legislative and regulatory bodies in other jurisdictions.

We intend to publish a Consultation Paper in this regard in the coming months and a notice will be issued to all licensed moneylenders at this time. We would encourage all licensed moneylenders, either directly or through their representative body, to make submissions in response to this consultation exercise.

### Central Credit Register

Licensed moneylenders, who are Credit Information Providers (CIPs) under the Credit Reporting Act 2013, are required to submit data on credit agreements for €500 or greater to the Central Credit Register (the Register) from 31 March 2018 and for each month thereafter. In 2016, the Central Bank issued a letter to all licenced moneylenders making them aware of their obligations under the Regulations governing the operation of the Register and provided access to technical and guidance manuals on [www.centralcreditregister.ie](http://www.centralcreditregister.ie) to support implementation.

Licensed moneylenders should ensure that they are ready to meet their obligations. If you have not already done so, you should register on [www.centralcreditregister.ie](http://www.centralcreditregister.ie) and complete the on-boarding process. This may require engagement with IT technical providers or internal IT teams to be ready to start submitting data from 31 March 2018. Licensed moneylenders who are submitting data may at this time also request credit reports from the Register.

By 30 September 2018, moneylenders must have completed the submission of consumer loan information to the Register. Information must be backdated to 31 March 2018.

Submitting data to the Register is one of a suite of obligations CIPs must meet under the Credit Reporting Act 2013 and associated Regulations. Licensed moneylenders are advised to review the Guidance on the Register in order to review and understand all obligations. This document is updated on a regular basis and is available in the Lender Area of the website at: <https://www.centralcreditregister.ie/lender-area/>.

Licensed moneylenders who have not yet registered for access to this Lender Area should click on Lender Registration on the website and follow the steps set out. The website will be updated at regular intervals as the project progresses. If you have any queries in relation to the Register please contact: [cipoperations@centralcreditregister](mailto:cipoperations@centralcreditregister).

## Obligations under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010 (CJA 2010) - Feedback from recent inspections

At an industry event organised by the Consumer Credit Association of the Republic of Ireland (CCARI) on 17 July 2017, the Central Bank presented findings from a number of inspections of licensed moneylenders conducted to evaluate compliance with the requirements of the CJA 2010, including:

Thematic Areas Inspected	Issue Identified
Corporate Governance	<ul style="list-style-type: none"> <li>• Money Laundering Reporting Officer (MLRO) could not demonstrate a sufficient understanding of the firm's obligations under the CJA 2010.</li> <li>• The risks of ML/TF facing the firm not adequately assessed and documented.</li> <li>• Policies and procedures not tailored to the specific needs and business of the firm.</li> </ul>
Customer Due Diligence	<ul style="list-style-type: none"> <li>• Instances of CDD documentation not on file.</li> <li>• Instances where the firm is not adhering to its own procedures in relation to CDD.</li> </ul>
Ongoing and Transaction Monitoring	<ul style="list-style-type: none"> <li>• A lack of evidence that ongoing and transaction monitoring was being conducted.</li> <li>• Inadequate transaction and ongoing monitoring procedures in place.</li> </ul>
Suspicious Transaction Reporting	<ul style="list-style-type: none"> <li>• A lack of clear and consistent procedures for the internal and external reporting of STRs.</li> <li>• The offence of tipping off not adequately explained in the procedures.</li> </ul>
Training	<ul style="list-style-type: none"> <li>• All relevant persons in the firm, including the Board, not receiving instruction on the law relating to ML/TF.</li> <li>• Evidence that training had only been introduced recently.</li> <li>• Lack of training specific to the risks of the firm and its own AML/CFT policies and operational procedures.</li> </ul>
Record Keeping	<ul style="list-style-type: none"> <li>• The requirements of Section 55 are not fully considered in the procedures.</li> </ul>

The Central Bank also set out details of its expectations of the sector noting that, based on its findings, more work is required by licensed moneylenders to effectively manage ML/TF risk including the implementation of:

- **Risk-based** and **proportionate** ML/TF risk management measures.
- Comprehensive, detailed and **tailored** ML/TF risk assessments.
- Comprehensive and **tailored** policies, procedures, systems and controls implemented to address any ML/TF risks to which the moneylender may be exposed.
- Detailed and relevant training for staff to enable them to discharge their obligations effectively.
- Additional role specific training for MLROs, where necessary.

Moneylending firms are reminded of their obligations as 'designated persons' under the CJA 2010. All firms in the sector are advised to undertake a comprehensive assessment of their obligations and ensure that they are in a position to outline how their AML/CFT Control Framework operates to fulfil those obligations and to minimise ML/TF risk. While the Central Bank has engaged with those firms inspected to require remedial action where relevant, other firms should review their current AML/CTF Framework against our findings and make improvements where necessary.

When considering and documenting its ML/TF risk assessment, a moneylender may use, among other things, its own knowledge and professional expertise, information published by the Central Bank (e.g. AML/CFT sectoral reports and bulletins), and information from industry representative bodies such as the European Supervisory Authorities' Final Guidelines on Risk Factors (published on 26 June 2017) (see link [here](#)).

Further information on Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT) can be found on the Central Bank's website:

<https://www.centralbank.ie/regulation/anti-money-laundering-and-countering-the-financing-of-terrorism>

## What should you do if you become aware of an Illegal Moneylender?

If you suspect that a firm or individual may be acting as an illegal moneylender, you should report that suspicion to An Garda Síochána at your local Garda Station (who have the responsibility for prosecuting unlicensed moneylending). You are also welcome to submit any evidence of illegal moneylending to the Central Bank should you wish to do so via the attached [link](#).

## Fitness & Probity Regime

As part of a firm's continuing obligations in relation to the Fitness and Probity Regime, licensed moneylenders are reminded of their responsibilities in relation to compliance with Section 21 and Section 23 of the Central Bank Reform Act 2010 (2010 Act). Section 21 of the 2010 Act imposes a duty on a regulated financial service provider (RFSP) to reasonably satisfy itself that all persons who carry out controlled functions comply with the Fitness and Probity Standards which are a statutory code issued under Section 50 of the 2010 Act. This means that a RFSP must ensure that its Controlled Functions (CFs) are:

- (i) competent and capable;
- (ii) honest, ethical and act with integrity; and
- (iii) financially sound.

Section 23 prohibits a regulated financial services provider from appointing a person to perform a pre-approval controlled function without the Central Bank's prior written approval.

The Central Bank's [Guidance on the Fitness and Probity Standards](#) sets out the steps that the Central Bank expects firms to undertake in order to comply with the requirements of Section 21 and Section 23. Failure to comply with Section 21 and Section 23 of the 2010 Act is a prescribed contravention for purposes of Part IIIC of the Central Bank Act 1942.

For further information, please refer to the "Fitness and Probity" section of the Central Bank's [website](#).

## Information Technology and Cybersecurity

The incidence of cyber-attack and business interruption is on the increase and, in light of the recent global cyber-attacks, firms should assume they will be targeted. The security and resilience of IT systems, their governance and management must improve to reflect this reality. All firms who rely on IT to undertake their day-to-day business must be vigilant. Firms need to make sure that they understand the relevant risks posed, and that these risks are managed effectively.

Firms must robustly address key issues such as alignment of IT and business strategy, outsourcing risk, change management, cybersecurity, incident response, disaster recovery and business continuity. Firms need to make sure that they understand these risks and that they are managed effectively, including having regard to the Central Bank's Cross Industry Guidance in respect of Information Technology and Cybersecurity Risks (the Guidance), available [here](#). Firms should consider the issues set out in this Guidance 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.

## Other Related Items of Interest

**Digitalisation of Short Term High Cost Credit** – a Report by FinCoNet, the international organisation for financial consumer protection regulators, on the Digitalisation of Short Term High Cost Credit was recently approved at its Annual General Meeting. This Report is the output of a survey of supervisory authorities in 25 jurisdictions and forms part of FinCoNet’s continuing work on responsible lending and on digitalisation. It finds that digitalisation has the capacity to transform the availability and provision of credit for the better, but that in the context of short-term, high-cost consumer credit it may also aggravate the risks normally associated with these loans, and introduce new ones. Accordingly, the Report identifies a number of topics that are particularly relevant for supervisors designing responsible lending regimes: the avoidance of gaps emerging in the consumer protection framework, approaches to authorisation and oversight, the role of disclosure, consumer access to recourse mechanisms, the mitigation of the risk of over-indebtedness and the mitigation of security risks. The Report also highlights the benefit of international collaboration amongst supervisory authorities in relation to this topic. This Report is published on the FinCoNet website, a link to which can be found [here](#).

**Discussion Paper on the Consumer Protection Code and the Digitalisation of Financial Services** - the digitalisation of financial services introduces new benefits and risks for consumers and in that context it was appropriate that the Central Bank consider how consumers are protected in this environment and if the risks emerging from digitalisation are adequately addressed in the Consumer Protection Code 2012 (the Code). As you may be aware, the Central Bank published a ‘Discussion Paper on the Consumer Protection Code and the Digitalisation of Financial Services’ [here](#) on 29 June 2017 and an infographic explaining the Discussion Paper and a ‘Fintech Explainer’ were also published on the ‘Consumer Hub’ section of the Central Bank website [here](#).

The feedback to this Discussion Paper will inform the Central Bank’s consideration on whether the Code protections for consumers should be enhanced or amended in the face of innovative trends and products. If specific policy proposals are advanced on foot of feedback to this Discussion Paper, the Central Bank will bring forward a consultation paper in 2018. This project will also be considered in any future review of other parts of the Central Bank’s suite of consumer protection rules.

**Household Credit Market Report** - every six months the Central Bank publishes a Household Credit Market Report, which collates information from a wide range of internal and external sources to give an up-to-date picture of developments in the household credit market in Ireland. The most recent report published in October 2017 can be found [here](#).

## The Central Bank has moved

As you will be aware, the Central Bank has moved to its new premises located at New Wapping Street, North Wall Quay, Dublin 1. Our new postal address is: Central Bank of Ireland, PO Box 559, Dublin 1. You will continue to be able to contact us on our existing telephone numbers and email addresses as they remain the same.

## Licence Renewal Applications - Common Errors/Omissions

In considering recent licence renewal applications, we observed a number of common errors/omissions made by firms in completing their applications.

- Please ensure to sign and date the Declaration contained in Section 9 of the application form. Where the applicant is an incorporated entity (e.g., LTD or DAC) with two or more directors, the Declaration must be signed by a minimum of two Directors and the applicant's name must be included in the designated space.
- If a question does not apply, please write "N/A" (not applicable) or "none", as appropriate.
- When submitting a copy of the newspaper advertisement in relation to the intention to apply for a moneylenders licence (as required under Section 93(2) of the Consumer Credit Act, 1995), please ensure that the identity of the newspaper in which the advertisement was published and the date of publication is clearly legible.

## We want your views!

We 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.

## Contact Us

As part of our commitment to on-going communication with you, we have set out the main contact points for queries below. You can access the Moneylending section of our website via this [link](#).

Online Reporting System/Online Individual Questionnaire 01-2244545  
[onlinereturns@centralbank.ie](mailto:onlinereturns@centralbank.ie)

General Queries/Feedback 01-224 4510 / 4142  
[moneylenders@centralbank.ie](mailto:moneylenders@centralbank.ie)

Fitness and Probity 01-2245333  
[fitnessandprobity@centralbank.ie](mailto:fitnessandprobity@centralbank.ie)

