



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

T +353 1 224 6000 F +353 1 671 6561

Bosca OP 559, Sráid an Dáma, Baile Átha Cliath 2, Éire.
PO Box No. 559 Dame Street, Dublin 2, Ireland.

www.centralbank.ie

1 March 2013

Our Ref: Themed inspection of Moneylenders APRs and Costs of Credit

Dear ABC,

As you may be aware, the Central Bank of Ireland (“the Central Bank”) has carried out a series of inspections of nine selected moneylenders, focusing in particular on whether consumers were being charged in accordance with moneylenders’ authorised APRs (Annual Percentage Rates) and costs of credit as set out in the moneylender’s licence. This was a key focus for the Central Bank, given that moneylenders’ loans can be more expensive than other forms of credit. These inspections were carried out in order to determine compliance with certain provisions of the Consumer Protection Code for Licensed Moneylenders (“the ML Code”) and the Consumer Credit Act, 1995 (as amended) (“the Act”). Firms’ compliance with some aspects of the European Communities (Consumer Credit Agreements) Regulations 2010 (“the Regulations”) was also considered throughout the inspections.

The purpose of this letter is to provide the moneylending industry with feedback in relation to the issues identified on those visits. We hope that it will be of assistance to you in developing and ensuring your own firm’s on-going compliance. Accordingly, we expect that you will consider the issues set out below and their relevance to your firm.

Overall, the inspections found that firms were broadly in compliance with the maximum APRs and costs of credit restrictions of their licences. The Central Bank is currently considering possible enforcement actions in respect of a small number of firms based on concerns it has with the level of compliance with the requirements of the relevant legislation arising out of these inspections. The firms concerned will be dealt with individually.



1. Section 99 of the Act – Loan or other credit to be advanced in full

“Section 99: Where credit is made available to a borrower by means of a moneylending agreement that credit shall not be reduced by the moneylender or a person acting on his behalf by any amount in respect of:

(a) repayment of the credit or any charges related thereto, or

(b) repayment of a previous credit or any charge related thereto,

and no payment in respect of the credit shall be required of the borrower by the moneylender or a person acting on his behalf before the due date of the first repayment instalment.”

Section 99 of the Act requires that a loan is advanced in full and should not be reduced by repayment of a previous credit. The Central Bank has concerns that all firms may not be fully compliant with this provision of the Act. As it is a key concern of the Central Bank, that the protection offered by Section 99 of the Act be maintained for consumers, firms are reminded that they must give the full amount of a loan to a consumer and that Section 99 must be complied with, when advancing any new loan to a consumer.

2. Regulation 11 of the Regulations – Obligation to assess creditworthiness of consumers

“Before concluding a credit agreement with a consumer, a creditor shall assess the consumer’s creditworthiness on the basis of sufficient information, where appropriate obtained from the consumer and, where necessary, on the basis of a consultation of the relevant database.”

The Central Bank is concerned with how firms are assessing the creditworthiness of consumers and that firms may be using information gathered from consumers, without verifying the information, in order to assess creditworthiness. Firms are reminded that the responsibility rests with the firm to ensure compliance and to maintain evidence in order to demonstrate how they have complied with the Regulations. While the Central Bank acknowledges that the home collection industry may lend itself to building ongoing relationships with consumers, such an ongoing relationship should not be solely relied upon when assessing a consumer’s creditworthiness. Furthermore, this and all other conclusions made during the assessment of creditworthiness should be documented by the firm, for each loan issued.

A firm must consider all existing loans and any arrears a consumer may have when assessing creditworthiness, and document same. Where a consumer is in arrears, the firm must give additional consideration to creditworthiness and should have strong evidence of the consumer’s ability to repay, before advancing any new loans.



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

3. Regulation 19 of the Regulations – Early Repayment

“A consumer may at any time discharge fully or partially his or her obligations under a credit agreement. In such cases, he or she is entitled to a reduction in the total cost of the credit to the extent of the interest and the costs for the remaining duration of the agreement.”

In line with Regulation 19 a consumer is entitled to a reduction in the total cost of credit, if he/she repays a loan early. The Central Bank considers compliance with Regulation 19 to be very important, given the high cost nature of moneylending loans and firms are reminded of their obligations to comply with Regulation 19 when a consumer repays a loan early. In all instances where a loan is repaid early, the consumer must receive a rebate of the interest and costs for the remaining duration of the agreement.

4. Administrative Errors

During the course of the themed inspection, the Central Bank identified a number of firms who displayed difficulty with administrative tasks, such as maintaining accurate repayment schedules. In some instances, there was summing errors on repayment schedules and certain data was missing from loan documentation. Firms are reminded that they must have adequate procedures, systems and controls in place and employ the necessary resources to ensure compliance with the relevant legislation. The onus is on the firm, as the regulated entity, to be aware of all relevant legislation (and changes to it) and to ensure it is fit and proper and competent to meet all such obligations.

The Central Bank has outlined its particular areas of concern for the moneylending industry above. The Central Bank may focus on these areas during inspections and during its on-going supervision of firms. If you have any queries in relation to the contents of this letter please contact Linda Murphy at 01 2244577.

Yours sincerely,

Mick Stewart
Deputy Head
Consumer Protection: Banking & Policy