



March 2019

## Guidance issued by the Central Bank of Ireland in January 2019 provides helpful elucidation of elements of the Credit Reporting Act 2013 (the “Act”)

As discussed in our legal briefings in [February 2018](#) and [May 2018](#), the Central Credit Register (the “**CCR**”) was established to develop a “single borrower view” of a borrower’s total credit exposure. This briefing summarises certain provisions of the guidance on the CCR issued in January 2019 (the “**Guidance**”).

### A. **Hire Purchase and Personal Contract Plans (“PCPs”) are in-scope**

On 29 October 2018, the Act was amended by the Markets in Financial Instruments Act 2018 (the “**2018 Act**”) to revise the definition of “credit” by the amendment of the definition of trade credit. Due to a lacuna with the definition of credit, as originally drafted, hire purchase, leasing and PCPs were inadvertently excluded from the scope of the Act.

The amendment, introduced by the 2018 Act, brings hire purchase, PCPs, asset finance and other credit agreements where the credit was advanced to facilitate the provision of the goods or services by the same entity within the scope of the Act. The Act (as amended) also clarifies the scope of the trade credit exception from the definition of credit. The reporting obligations in respect of such arrangements commence on 30 June 2019. The Guidance clarifies that there is no retrospective reporting requirements.

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## B. **Guidance on the Central Credit Register issued in January 2019**

While the scope of the Act is wide, its practical application has been narrowed by the Central Bank's approach.

The Guidance supersedes the previous guidance issued by the Central Bank in March 2018.

### 1. *Purchasers of loans are in-scope.*

Section 2.3 of the Guidance provides that a person that acquires the rights of credit information provider (a "CIP") under a credit agreement will, following the acquisition of such rights be the CIP in respect of such agreement. This will affect purchasers of loans. Loan purchasers, following the acquisition of a loan provided under a credit agreement to which the Act applies, must comply with the reporting requirements of the Act.

### 2. *Deposits, loan notes, securities and other financial instruments are out-of-scope for this stage of implementation.*

Section 3.1 of the Guidance provides that "*credit provided in the form of deposits, loan notes, securities and other financial instruments (e.g. assets that can be traded) are not in scope of the current implementation phase of the CCR*". Section 4.3 of the Guidelines further provides that the scope of credit applications and credit agreements (consumer and non-consumer) is confined to lending products only, i.e. data on credit advanced through alternative means such as deposits, derivatives, loan notes etc. is not currently being collected.

While "financial instruments" referred to in Section 3.1 of the Guidance is not specifically defined in the Guidance, the European Communities (Markets in Financial Instruments) Regulations 2017 list the types of instruments comprising, "financial instruments". These include transferable securities (also defined in the 2017 Regulations), money market instruments, units or shares in UCITS, units in a unit trust, shares in an investment company, capital contributions, units in a common contractual fund, options, futures, swaps and other derivatives relating to specific categories.

This exception is expressed to apply to the current phase of implementation by the Central Bank of Ireland. We will keep you informed of any further developments in this regard.

## C. **Some Guidelines on Reporting to the CCR**

Chapter 4 of the Guidance sets out a number of guidelines on reporting to the CCR.

### 1. *List of Products currently in scope of the CCR*

Section 4.3 of the Guidance provides a non-exhaustive list of the type of products which are in-scope of the CCR. However it states that CIPs should ensure that the CCR product type they select best reflects the characteristic of the credit product provided and that certain types of credit products may or may not be in-scope depending on the terms and conditions of the credit agreement.

*Table 4.3: CCR generic product list*

<b>Consumer</b>	<b>Non Consumer</b>
Personal Loan	Business Loan
Credit Card, Charge Card	Business Credit Card
Overdraft, Revolving Facility	Business Overdraft, Business Revolving Facility
Mortgage Home Loan, Lifetime Mortgage Plan, Property Reversion Plan, Mortgage Buy to Let	Mortgage Buy to Let, Mortgage – Commercial
Hire Purchase, Personal Contract Plan, Leasing	Business Hire Purchase, Business Leasing, Stocking Finance
	Supply Chain Finance, Invoice Discounting
	Syndicated Loan – Business, Commercial, Revolving, Other
	Letter of Credit

## 2. Credit Profile Information and Credit Performance Information

The data that is reportable to the CCR is split between:

- (i) credit profile information (which includes product type, repayment frequency, start date and maturity date) which describes the nature of the credit agreement and remains unchanged through the life of the credit agreement; and
- (ii) credit performance information such as outstanding balance, credit limit, number of payments past due, credit status, restructure event etc., which provides information on the performance of the borrower in meeting the payment terms of the credit agreement.

## 3. Multi-Option Facility, Multiple CISs, and Syndicated Loans

- (a) *Multi-Option Facility*: The Guidance states that where funds are made available under multiple products or provided in separate drawings under the same product type but with variations as to their core commercial terms, including interest rates, the CIP must report the drawings as individual contracts and CIPs must reflect these facilities as linked through a multi-option facility link code.

- (b) *Multiple Borrowers*: Where there are multiple borrowers, all borrowers must be reported individually and be recorded on each contract as co-borrowers. The CIP must report each new contract as it is drawn down.
- (c) *Syndicated loans*: In syndicated loans, each CIP is responsible for reporting its pro rata share of the loan and must reflect the fact that the contract is part of a syndicate.

#### 4. *Some Further Guidelines on Reporting*

- (a) *When*: CIPs must commence reporting the credit agreement to the CCR following the drawdown of a loan or following funds being available under a non-instalment product or credit card, and must continue to do so on a monthly basis until the contract has been closed. The reporting reference date for every CIP is the last calendar date in a month. Data must then be provided to the CCR within 5 working days of this date.
- (b) *Restructure*: A restructure event is a modification made to a credit agreement which arises out of financial distress only. Where the borrower and the lender agree to modify the term of the credit agreement for reasons other than financial distress, this does not need to be reported as a restructure event. CIPs are required to report both permanent and temporary (e.g. a short term treatment such as a facility being interest only for 12 months). The tables at Section 4.6 of the Guidance provides some useful examples of what constitute permanent and temporary restructure events.
- (c) *Arrears, Closure of Contract*

Where there are arrears the information to be provided includes a number of payments past due, amount past due and days past due. The Guidance sets out an explanation as to how to determine the number of days past due and exactly what information must be provided in each month. An event of bankruptcy, judgment or insolvency arrangements are not reportable to the CCR. However all other data relating to the relevant loans is.

#### D. **Conclusion**

The Guidance provides some clarity to reporting requirements under the Act which is helpful to all users of the CCR.

If you have any queries please contact Keith Robinson or your usual contact at Dillon Eustace.

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