

May 2018

Central Credit Register: Update

In our February [briefing](#), we considered the Credit Report Act 2013 (the “**Act**”) and in particular the commencement of Phase Two credit reporting by lenders.

[Markets in Financial Instruments Bill 2018](#) was presented to the Dáil on 11 April 2018 (the “**Bill**”). The Bill proposes to amend the definition of “credit” in the Act.

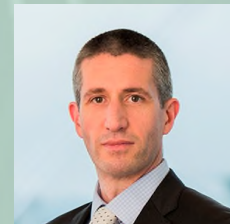
As noted in our February briefing, the following were **not** considered “credit” for the purpose of the Act:

- ❑ intra-group credit;
- ❑ inter-bank lending;
- ❑ credit provided by an employer only to its employees;
- ❑ in connection with the provision of utilities;
- ❑ credit for facilitating the purchase of goods or services from the person by whom the credit is provided; and
- ❑ credit that is interest-free / charge-free.

As a result of the above, hire purchase agreements, personal contract plans and leasing agreements were deemed to be excluded from the definition of “credit”.

The Bill seeks to revise and narrow the definition of “credit” in the Act by replacing paragraph (f) of the definition of credit which provides: “*for facilitating the purchase of goods or services from the person by whom the credit is provided*” with the concept of “*trade credit*”. Credit will be considered “trade credit” if the following conditions are satisfied:

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- *both the person by whom (the "first-mentioned person") and the person to whom the relevant credit is provided is each acting in the course of his or her business, trade or profession;*
- *the first mentioned person is not a regulated financial services provider;*
- *the terms of the relevant credit provide for repayment, whether in instalments or as a single amount, of the whole of the credit by a date no later than six months after the date of its provision; and*
- *the purpose of the relevant credit is to facilitate the purchase of goods or service from the person providing the relevant credit.*

The proposed amendment appears to address the lacuna in the Act and extend the definition of credit to hire purchase agreements, personal contract plans and leasing agreements where the lender remains the owner of the goods financed.

The Bill is currently at the first stage of the legislative process and changes may be made to the text of the Bill as it passes through the various legislative stages.

Separately, [the Credit Reporting Act 2013 \(Section 26\) \(Fees\) Regulations 2018 S.I. 91 of 2018](#) have been introduced setting out the fees payable by a credit information provider and credit information subject for access to information from the Central Credit Register, and exemptions from and refunds of fees payable along with arrangements with regard to the payment collection and recovery of fees.

We will continue to review developments in this area as well as any legislative changes of relevance and we will provide further updates in this regard.

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