

Appendix

Draft Moneylending Regulations

STATUTORY INSTRUMENTS

S.I. No. of 201X

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION 48)
(LICENSED MONEYLENDERS) REGULATIONS 201X³⁷

³⁷ These Regulations are in draft form for the purposes of this consultation process. The Central Bank of Ireland reserves the right to make amendments to these Regulations, as it deems appropriate.

S.I. No. of 201X

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013
(SECTION 48) (LICENSED MONEYLENDERS) REGULATIONS 201X

In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 48 of the Central Bank (Supervision and Enforcement) Act 2013 (the “Act”), the Bank, having consulted, in accordance with section 49 of the Act, with the Minister for Finance and other persons that the Bank considers appropriate to consult in the circumstances, hereby makes the following regulations:

Part 1

Preliminary and General

Citation and Commencement

1. (1) These Regulations may be cited as the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylenders) Regulations 201X.
- (2) These Regulations come into operation on X.

Interpretation

2. (1) In these Regulations:

“advertisement” means any commercial communication paid for by a moneylender, which is addressed to the consumer public or a section of it, the purpose being to advertise a product, service or moneylender the subject of these Regulations, excluding name plaques, sponsorship material and a prospectus drawn up in accordance with the Prospectus Directive (2003/71/EC), as amended or replaced;

“advertised product or service” means the product or service that is the subject of an advertisement;

“arrears” in relation to a moneylending agreement means where a consumer has not made a repayment, or only makes a partial repayment, as set out in the original moneylending agreement, by the scheduled due date;

“associate” in relation to a person means:

- (a) an undertaking in the same group as that person;
- (b) any other person whose business, private or familial relationship (other than as arises solely because that person is a client of the firm) with the first person or its associate might reasonably be expected to give rise to a common interest between them which may involve a conflict of interest in dealings with third parties;
- (c) any other person whose business, private or familial relationship (other than as arises solely because that person is a client of the firm) with the first person is such that he has influence over that person’s judgment as to how to invest his property or exercise any rights attaching to his investments;

“Bank” means the Central Bank of Ireland;

“business day” means any day except Saturday, Sunday, bank holidays and public holidays;

“certified person” has the meaning given to it at section 55 of the Investment Intermediaries Act, 1995;

“charge” means any cost or fee which a consumer must pay in connection with a product or service provided by a moneylender;

“complaint” refers to an expression of grievance or dissatisfaction by a consumer, either orally or in writing, in connection with:

- (a) the provision or the offer of the provision of a product or service to a consumer by a moneylender;
- (b) the failure or refusal of a moneylender to provide a product or service to a consumer;

“connected party” includes a partner, officer, controller, related undertaking, subsidiary, employee or person authorised to engage in the business of moneylending on behalf of a moneylender, including any associate of the person concerned;

“Consumer Protection Code for Licensed Moneylenders” means the Consumer Protection Code for Licensed Moneylenders 2009 issued by the Bank under section 117 of the Central Bank Act, 1989 and section 8(H)(1)(f) of the 1995 Act;

“durable medium” means any instrument which enables the consumer to store information addressed to that consumer in a way accessible for future reference and for a period of time adequate for the purpose of the information, and allows the unchanged reproduction of the information stored;

“employee” means a person employed under a contract of service or a person otherwise employed by a moneylender;

“existing consumer” means a consumer who has outstanding credit with the moneylender;

“Financial Services and Pensions Ombudsman” has the meaning given to it at section 2(1) of the Central Bank Act, 1942;

“group” includes a company, any subsidiary and any related undertaking;

“income” means the income of a consumer before the deduction of tax or other deductions;

“Money Advice and Budgeting Service” means the money advice and budgeting service established by the State to provide money advice services;

“officer” means, in relation to a moneylender, a director, chief executive, manager or company secretary, by whatever name called;

“outsourced activity” means an activity where a moneylender employs another person, other than a natural person who is an employee of the moneylender under a contract of service, to carry out an activity on its behalf;

“person” means a natural person or a legal person;

“record” means any document, file or information, whether stored electronically or otherwise, and which is capable of being reproduced in a legible form;

“related undertaking” means a related company within the meaning of Part 1 of the Companies Act 2014;

“subsidiary” means a subsidiary within the meaning of Part 1 of the Companies Act 2014;

“targeted advertising” means any advertisement that:

- (a) contains a consumer’s name or personal details;

(b) is tailored or delivered in such a manner as to target consumers who have recently made full repayment of a moneylending agreement or who have a moneylending agreement nearing full repayment;

(c) is tailored or delivered in such a manner as to target consumers with low incomes;

(d) is tailored or delivered in such a manner as to target consumers for whom, due to their circumstances, availing of credit from a moneylender may not be in their best interests;

“the 1995 Act” means the Consumer Credit Act 1995;

“total amount of credit” in relation to a moneylending agreement means the limit of the credit, or the total sum, made available under the moneylending agreement;

“undertaking” means an undertaking within the meaning of Part 6 of the Companies Act 2014;

“unsolicited contact” means contact with a consumer without prior written agreement by way of personal visit or telephone call, but not including written contact with the consumer;

“vulnerable consumer” means a natural person who:

(a) has the capacity to make his own decisions but who, because of individual circumstances, may require assistance to do so;

(b) has limited capacity to make his own decisions and who requires assistance to do so.

(2) In these Regulations, “APR”, “consumer”, “credit”, “financial accommodation”, “moneylender”, “moneylending”, “moneylending agreement” and “running account” have the meaning given to them at section 2(1) of the 1995 Act.

(3) In these Regulations, a moneylender, as defined at section 2(1) of the 1995 Act, shall include a representative of a moneylender.

Scope and application

3. These Regulations apply to a moneylender licensed under the 1995 Act when engaged in the activity of moneylending.

Consumer Protection Code for Licensed Moneylenders

4. The revocation of the Consumer Protection Code for Licensed Moneylenders, or part of the Consumer Protection Code for Licensed Moneylenders does not:
- (a) affect any direction given by the Bank, investigation undertaken, or disciplinary, sanctioning or enforcement action undertaken by the Bank or any other person, in respect of any matter in existence at, or before, the time of the revocation;
 - (b) preclude the taking of any legal proceedings, or the undertaking of any investigation, or disciplinary, sanctioning or enforcement action by the Bank or any other person, in respect of any contravention of an enactment or requirement imposed under an enactment, or any misconduct which may have been committed before the time of the revocation.

Application of the European Communities (Consumer Credit Agreements) Regulations 2010 to credit below €200 provided under a moneylending agreement

5. With the exception of Regulations 7(3), 8(4), 11(3), 13(7), 13(9) and 20(1) of the European Communities (Consumer Credit Agreements) Regulations 2010, Regulations 7, 8, 11, 13 and 20 of the European Communities (Consumer Credit Agreements) Regulations 2010 shall apply in respect of a moneylending agreement within the scope of these Regulations and involving a total amount of credit of less than €200.

Part 2

General Requirements

General Principles

6. A moneylender shall ensure that in all its dealings with consumers and within the context of its licence, it:
- (a) acts honestly, fairly and professionally in the best interests of its consumers and the integrity of the market;
 - (b) acts with due skill, care and diligence in the best interests of its consumers;

- (c) does not recklessly, negligently or deliberately mislead a consumer as to the real or perceived advantages or disadvantages of any product or service;
- (d) has and employs effectively the resources, policies and procedures, systems and control checks, including compliance checks, and staff training that are necessary for compliance with relevant financial services legislation;
- (e) seeks to avoid conflicts of interest;
- (f) corrects errors and handles complaints speedily, efficiently and fairly;
- (g) does not exert undue pressure or undue influence on a consumer;
- (h) ensures that any outsourced activity complies with the requirements of these Regulations;
- (i) without prejudice to the pursuit of its legitimate commercial aims, does not, through its policies, procedures, or working practices, prevent access to basic financial services.

Expertise for engaging in moneylending

7. A moneylender shall provide appropriate training on an on-going basis to employees and agents concerned with moneylending activities and this shall include, at a minimum, training with respect to the policies and procedures the moneylender has in place to comply with Regulation 27.

Part 3

Information requirements

Advertising

8. (1) A moneylender shall ensure that all its advertisements are fair and not misleading to consumers.

(2) A moneylender shall ensure that an advertisement shall not influence a consumer's attitude to the advertised product or service of the moneylender either by inaccuracy, ambiguity, exaggeration or omission.

(3) A moneylender shall ensure that in all its advertisements:

- (a) the name of the moneylender shall be clearly shown;
- (b) the nature or type of the advertised product or service shall be clear and not disguised in any way;
- (c) the advertisement shall be designed and presented so that any reasonable consumer knows immediately that it is an advertisement;
- (d) the design and presentation of the advertisement shall allow it to be clearly understood;
- (e) where small print or footnotes are used, such print or footnotes should be of sufficient size and prominence to be clearly legible;
- (f) small print or footnotes shall, where appropriate, be linked to the relevant part of the main text of the advertisement;
- (g) warnings and product specific information shall be clear and shall not be obscured or disguised in any way by the content, design or format of the advertisement;
- (h) any statement shall be true and not misleading at the time it is made and any assumptions on which it is based shall be reasonable and stated clearly;
- (i) any recommendations or commendations quoted shall be complete, fair, accurate and not misleading at the time of issue, and relevant to the advertised product or service;
- (j) a recommendation or commendation may not be used without the consent of the author and, if the author is an employee of the moneylender or a connected party of the moneylender, or has received any payment from the moneylender or a connected party of the moneylender for the recommendation or commendation, the advertisement shall state that fact;
- (k) comparisons or contrasts shall be based either on facts verified by the moneylender or on reasonable assumptions stated within the advertisement and shall be presented in a fair and balanced way and not omit anything material to the comparison or contrast;

- (1) any material differences identified between products shall be set out clearly.
- (4) A moneylender shall not engage in any form of targeted advertising of credit to consumers, including existing consumers.
- (5) A moneylender shall ensure that all advertisements contain the following warning statement:

“Warning: This is high-cost credit. Consider alternative options before applying for this credit, including cheaper alternatives from other lenders regulated by the Central Bank of Ireland.”

Pre-contract information

9. A moneylender shall, prior to entering into a moneylending agreement with a consumer, prominently indicate the high-cost nature of the credit on all documentation relating to the moneylending agreement where the APR is 23 per cent or higher, in the following form:

“Warning: This is high-cost credit. Consider alternative options before applying for this credit, including cheaper alternatives from other lenders regulated by the Central Bank of Ireland.”

Provision of Information to certain consumers

10. A moneylender shall:
- (a) include the following question, in bold type, on the front page or at, or near, the beginning of any application form or process relating to a moneylending agreement, regardless of whether the means of application or process is paper based or otherwise:
- “Do you require this credit to pay for accommodation, food, electricity, heating or other similar costs?”
- (b) immediately following the question referred to in paragraph (a), provide the consumer with the information set out in Annex I of these Regulations in the form prescribed in that Annex I;
- (c) ensure that the information set out in Annex I is
- (i) presented in a prominent manner,

- (ii) in a box,
 - (iii) in bold type, and
 - (iv) of a font size that is at least equal to the predominant font size used throughout the document;
- (d) following a request from a consumer, facilitate contact between the consumer and MABS and any charity which has notified the moneylender that it may be in a position to assist consumers in paying for accommodation, food, electricity, heating and other similar costs;
- (e) maintain a record, signed and dated by the consumer, of
- (i) the information provided to the consumer in accordance with paragraphs (a) to (b) and Annex I, and
 - (ii) the date on which the information set out in paragraphs (a) to (b) and Annex I is provided to the consumer.

Warning Statements for guarantors

11. If credit is being offered to a consumer by a moneylender subject to a guarantee, the guarantee documentation shall clearly outline the obligations of the guarantor and shall contain the following warning statement:

“Warning: As a guarantor of this credit, you will have to pay off the credit, the interest and all associated charges up to the level of your guarantee if the borrower does not. Before you sign this guarantee, you should get independent legal advice.”

Warning Statements

12. A moneylender shall ensure that a warning statement required under Regulations 8(5), 9 and 11 of these Regulations is

- (a) presented in a prominent manner,
- (b) in a box,
- (c) in bold type, and

(d) of a font size that is at least equal to the predominant font size used throughout the document or advertisement.

Disclosure requirements

13. (1) A moneylender shall only use a regulatory disclosure statement as set out in Regulation 13(4), in connection with moneylending activities or other activities for which the moneylender is regulated by the Bank, and in the following documentation, communications and sections of the moneylender's website:

(a) on the moneylender's business stationery, including moneylending agreements, repayment books and authorisation cards;

(b) on the section of the moneylender's website that relates to moneylending or other activities for which the moneylender is regulated by the Bank;

(c) in the moneylender's advertisements, catalogues and brochures;

(d) in the moneylender's electronic communications with consumers, excluding text messages, where such communications are in connection with moneylending activities or other activities for which the moneylender is regulated by the Bank.

(2) A moneylender shall only use the regulatory disclosure statement in communications with a consumer where such communications relate solely to moneylending activities or other activities in respect of which the moneylender is regulated by the Bank.

(3) A moneylender shall have separate sections on any website it operates for moneylending activities and other activities for which the moneylender is regulated by the Bank, and any other activities which it carries out.

(4) A moneylender shall use a regulatory disclosure statement in the following format;

“[Full legal name of moneylender (insert all trading name(s) used by the moneylender)] is regulated by the Central Bank of Ireland”

(5) A moneylender shall not insert additional text into the wording of the regulatory disclosure statement as set out in paragraph (4).

(6) A moneylender shall ensure that its regulatory disclosure statement is not presented in such a way as to appear to be an endorsement by the Bank of the moneylender or its products or services.

Information notice on website and application form

14. (1) If the APR of a moneylending agreement is 23 per cent or higher, a moneylender shall display the information set out in Annex II of these Regulations in the form prescribed in that Annex:

- (a) where it operates a website, on the home page of the website;
- (b) on the front page or at, or near, the beginning of any application form or process relating to a moneylending agreement, regardless of whether the means of application or process is paper based or otherwise.

(2) For the purpose of paragraph (1) it shall not be sufficient for the moneylender to provide the information through a link to that information.

Information notice at premises

15. (1) A moneylender shall display the information set out in Annex II of these Regulations in any of the moneylender's premises from which it engages with consumers in respect of moneylending activities and such information shall be -

- (a) as set out in Annex II of these Regulations,
- (b) in poster form,
- (c) A4 in size,
- (d) in typeface that is 18 points in size, and
- (e) in bold font.

(2) The information provided by a moneylender in accordance with paragraph (1) shall be displayed -

- (a) in an area inside the premises from which the moneylender engages in moneylending activities, and

(b) where it is clearly visible from the location at which consumers would ordinarily deal with the moneylender or an employee or agent of the moneylender.

(3) For the purpose of paragraph (2), where the premises from which the moneylender engages in moneylending activities -

(a) are not enclosed, or

(b) are of a kind where a consumer can approach the moneylender, or an employee or agent of the moneylender, without going through a door,

the information shall be displayed so that it is clearly visible on a counter, desk, table or other item of furniture at which the moneylender, or an employee or agent of the moneylender would deal with the consumer.

Post-contract information

16. Except in the case of a moneylending agreement under which repayments are collected from the consumer at an agreed location in accordance with the 1995 Act and Regulation 35, a moneylender shall issue statements:

(a) at least monthly to consumers who pay weekly;

(b) at least quarterly to consumers who pay monthly.

Provision of information to guarantors

17. If a moneylender has advanced credit to a consumer subject to a guarantee, the moneylender shall notify the guarantor, on paper or on another durable medium, if:

(a) the terms of the moneylending agreement change; or

(b) the amount guaranteed by the guarantor is to be increased.

Subsequent moneylending agreements

18. (1) A moneylender shall not enter into a second or subsequent moneylending agreement with a consumer unless the moneylender has provided the consumer with the following information, in a durable medium, aggregated to include the second or subsequent moneylending agreement in question -

- (a) the total number of moneylending agreements between the moneylender and the consumer,
 - (b) the total balance of credit outstanding between the consumer and the moneylender,
 - (c) the timeframe for final repayment by the consumer on the moneylending agreement with the longest remaining term, and
 - (d) the total repayment amount, for the consumer, per week or month for all moneylending agreements, as most appropriate to the frequency of scheduled repayments for those moneylending agreements.
- (2) A moneylender shall make it clear that the information provided in accordance with paragraph (1) relates solely to moneylending agreements, including the second or subsequent moneylending agreement in question, between that moneylender and the consumer and that it does not relate to any agreements for the provision of credit from other moneylenders or other providers of credit.
- (3) A moneylender shall provide the information outlined in paragraph (1) to a consumer, or a third party acting on his or her behalf, with his consent, on request and free of charge.
- (4) Paragraph (3) does not apply to a request made by a consumer less than 4 weeks after a previous request by that consumer which was complied with by the moneylender.

Conduct of business requirements

Unsolicited credit facilities

19. (1) A moneylender shall not offer credit to a consumer or approve the provision of credit to a consumer in advance of an application by a consumer for the credit.
- (2) A moneylender may only increase the limit on a consumer's running account following an application from a consumer for an increase to the limit on the consumer's running account.

Unsolicited contact

20. (1) When contacting a consumer, other than an existing consumer, a moneylender may make an unsolicited contact, only if:

- (a) the consumer has signed a statement, within the previous 6 months, giving the moneylender permission to make unsolicited contact;
 - (b) the consumer is the subject of a referral received by the moneylender from one of the following:
 - (i) a person authorised by the Bank to provide financial services in the State;
 - (ii) a person within the same group as the moneylender;
 - (iii) a solicitor;
 - (iv) a certified person.
- (2) When a moneylender contacts a consumer following a referral as referred to at paragraph (1)(b), the moneylender shall inform the consumer that such a referral has been made and ask the consumer for consent to proceed with an unsolicited contact.
- (3) A moneylender shall ensure that, when it makes an unsolicited contact on foot of a referral as referred to at paragraph (1)(b), it retains a record of the referral.
- (4) A moneylender shall not make an unsolicited contact to an existing consumer for the purposes of sales or marketing.
- (5) An unsolicited contact by a moneylender to a consumer, other than an existing consumer, may only be made between 9.00 a.m. and 9.00 p.m., from Monday to Saturday, excluding bank holidays and public holidays, unless otherwise requested by the consumer of the moneylender.
- (6) When making an unsolicited contact in accordance with these Regulations, a moneylender shall immediately and in the following order:
- (a) identify himself by name and identify the name of the moneylender on whose behalf the person is contacting the consumer and the commercial purpose of the contact;
 - (b) inform the consumer that the telephone contact is being recorded, if that is the case;

(c) where relevant, disclose to the consumer, the source of the business lead or referral supporting the personal visit or telephone contact;

(d) confirm that the consumer wishes the personal visit or telephone contact to proceed and if not, end the telephone contact or personal visit immediately.

(7) A moneylender shall adhere to a request from a consumer not to make an unsolicited contact to him and this request shall be recorded by the moneylender.

(8) A moneylender shall not reach a binding agreement with a consumer on the basis of unsolicited contact alone.

Communications

21. (1) A moneylender shall ensure that the level of contact and communications from the moneylender to a consumer is proportionate and not excessive.

(2) A moneylender shall ensure that, where it intends to record a telephone conversation with a consumer, the moneylender informs the consumer, at the outset of the conversation, that the telephone conversation is being recorded.

(3) A moneylender shall ensure that, where it communicates with a consumer using electronic media, that the moneylender has in place appropriate arrangements to ensure the security of information received from the consumer and the secure transmission of information to the consumer.

(4) A moneylender shall ensure that all printed information it provides to consumers is of a print size that is clearly legible.

Prohibition on incentivising credit purchases

22. A moneylender providing goods or services to a consumer, in connection with a moneylending agreement, shall not offer any discount to a consumer to purchase goods or services on credit, where the discount is only available if the goods or services are purchased by the consumer on credit.

Knowing the consumer

23. Without prejudice to a moneylender's other legal and regulatory obligations, a moneylender shall ensure that, where a consumer refuses to provide information sought by the moneylender in compliance with these Regulations, the refusal by the consumer is noted on that consumer's records.

Vulnerable Consumers

24. (1) A moneylender shall take reasonable steps to identify consumers that are vulnerable consumers.

(2) If a moneylender has identified that a consumer is a vulnerable consumer, the moneylender shall ensure that the vulnerable consumer is provided with such reasonable arrangements and assistance that may be necessary to facilitate the vulnerable consumer in dealing with the moneylender.

(3) A moneylender shall maintain a list of its vulnerable consumers who are the subject of these Regulations.

Preservation of a consumer's rights

25. A moneylender shall not, in any communication or agreement with a consumer, exclude or restrict, or seek to exclude or restrict any of the following:

(a) any legal liability or duty of care of the moneylender to a consumer under applicable law;

(b) any other duty to act with skill, care and diligence which is owed by the moneylender to a consumer in connection with the provision to that consumer of financial services;

(c) any liability owed by a moneylender to a consumer for failure to exercise the degree of skill, care and diligence that may reasonably be expected of the moneylender in the provision of a financial service.

Debt Servicing Ratio Restriction

26. (1) A moneylender shall not enter into any moneylending agreement with a consumer where the total repayments due by the consumer pursuant to all moneylending agreements to which the consumer is party would amount to more than X per cent of the consumer's income when calculated on a weekly basis.

(2) For the purpose of paragraph (1), where a consumer is in receipt of income at irregular intervals, the moneylender shall calculate the consumer's income based on the consumer's average weekly income, which shall be calculated based on at least a 4 week period which is within 6 weeks of the date on which the consumer applied to the moneylender for credit.

Lending policy and procedures

27. (1) A moneylender shall establish, maintain and adhere to written lending policies and procedures, which shall comply with these Regulations, and these lending policies and procedures shall be approved by the board of directors of the moneylender or the entity or persons which control the moneylender.

(2) The approval of a moneylender's lending policies and procedures by the board of directors of the moneylender, or the entity or persons which control the moneylender, shall constitute an affirmation on the part of the board of directors of the moneylender, or the entity or persons which control the moneylender, that the moneylender's policies and procedures comply with these Regulations and any other legal and regulatory requirements with which the moneylender must comply.

(3) A moneylender shall at all times adhere to the lending policies and procedures referred to in paragraph (1).

(4) A moneylender shall carry out an annual review to ensure that it is acting in compliance with the moneylender's lending policies and procedures and the moneylender shall report the results of the annual review to the board of directors of the moneylender or the entity or persons which control the moneylender.

(5) A moneylender's lending policies and procedures referred to in paragraph (1) shall have the core objectives of ensuring:

- (a) consistency of approach by the moneylender in its dealings with consumers;
- (b) that all regulatory requirements as regards suitability of the moneylender's activities for its consumers and the creditworthiness of the moneylender's consumers, including the requirements to act in the best interests of consumers, are complied with by the moneylender.

(6) A moneylender's lending policies and procedures referred to in paragraph (1) shall, at a minimum, provide for the following matters -

- (a) the lending policies and procedures that the moneylender will apply when dealing with applications for credit from consumers, including vulnerable consumers,
- (b) the information to be sought from consumers applying for credit,
- (c) the criteria which the moneylender will apply when considering an application for credit,

(d) the inclusion of the following statement in a moneylender's lending policies and procedures:

“The core objectives of this policy is to ensure that we approach all applications for new and additional credit consistently and to ensure that we meet all of our regulatory requirements as regards suitability of the product and the creditworthiness of consumers and to act in the best interests of consumers.”,

(e) the supports available to employees and agents of the moneylender involved in the consideration of applications for credit,

(f) the safeguards which the moneylender has in place to ensure that Section 99 of the 1995 Act is complied with,

(g) the manner in which the moneylender will maintain a record of the steps taken to assess an application for credit,

(h) the manner in which the moneylender will maintain a record of all lending decisions, and

(i) the safeguards which the moneylender has in place to ensure that consumers are not offered or approved unsolicited credit facilities, by the moneylender or by an employee or agent of the moneylender, in advance of an application for credit by a consumer.

Errors

28. A moneylender shall:

(a) speedily, efficiently and fairly, correct an error in any charge or price levied on, or quoted to, a consumer in respect of any product or service the subject of these Regulations;

(b) where it considers that there may have been a material charging or pricing error, without delay, inform the Bank of its proposals for correcting any such error as may have occurred in accordance with paragraph (a) above. If any such information is provided verbally to the Bank in the first instance, it shall be provided to the Bank in writing on the next business day;

(c) notify all affected consumers, both current and former, in a timely manner and in such form as may be agreed with the Bank, of any material charging or pricing error that impacted negatively on the cost of the service or the value of the product provided by the moneylender to the consumer.

Handling Complaints

29. (1) A moneylender shall make all reasonable efforts to resolve any complaints made by a consumer.

(2) A moneylender shall establish, maintain and adhere to a written procedure for the proper handling of complaints.

(3) The procedure referred to in paragraph (2) does not apply where:

(a) the complaint has been resolved to the complainant's satisfaction within 5 business days of the making of the complaint to the moneylender;

(b) a record of the outcome referred to in paragraph (3) (a) is maintained by the moneylender.

(4) When a moneylender receives an oral complaint, or a complaint by any other communication channel, it shall offer the consumer the opportunity to have the complaint handled in accordance with the moneylender's complaints handling procedure.

(5) The procedure referred to in paragraph (2) shall, at a minimum, provide that:

(a) the moneylender shall, within 5 business days of the complaint being received –

(i) acknowledge, in a durable medium, the complaint, and

(ii) provide the complainant with the name of an individual or individuals appointed by the moneylender to be the complainant's point of contact in relation to the complaint until the complaint is resolved or cannot be processed any further;

(b) the moneylender shall provide the complainant with a regular update, in a durable medium, on the progress of the investigation of the complaint at intervals

of not greater than 20 business days, starting from the date on which the complaint was made;

(c) the moneylender shall attempt to investigate and resolve a complaint within 40 business days of having received the complaint;

(d) where 40 business days have elapsed and the complaint has not been resolved, the moneylender shall inform the complainant -

(i) of the anticipated timeframe within which the moneylender expects to resolve the complaint,

(ii) of the consumer's right to refer the matter to the Financial Services and Pensions Ombudsman, and

(iii) of the contact details of the Financial Services and Pensions Ombudsman;

(e) within 5 business days of the completion of the investigation, the moneylender shall, in a durable medium, inform the consumer –

(i) of the outcome of the investigation,

(ii) where applicable, of the terms of any offer or settlement being made to the consumer,

(iii) of the consumer's right to refer the matter to the Financial Services and Pensions Ombudsman, and

(iv) of the contact details of the Financial Services and Pensions Ombudsman.

(6) A moneylender shall establish and maintain an up-to-date register of all complaints received from consumers, subject to the procedure required under paragraph (2) and this register shall contain -

(a) the details of each complaint,

(b) the date the complaint was received,

- (c) a summary of the moneylender's response, including the date of the response,
- (d) details of any other relevant correspondence or records,
- (e) the action taken to resolve each complaint,
- (f) the date the complaint was resolved, and
- (g) where relevant, the current status of a complaint which has been referred to the Financial Services and Pensions Ombudsman.

(7) A moneylender shall undertake an analysis of the complaints' register required to be maintained by the moneylender under paragraph (6) on a regular basis, and at least each quarter of a year, including investigating whether complaints indicate an isolated issue or a more widespread issue for consumers.

(8) The analysis referred to in paragraph (7) shall be reported to and considered by the moneylender's staff responsible for the risk or audit function and the officers of the moneylender.

Consumer Records

30. (1) A moneylender shall maintain up-to-date records containing at least the following:

- (a) a copy of all documents required for consumer identification and profile;
- (b) the consumer's contact details;
- (c) all information and documents prepared in compliance with these Regulations;
- (d) details of products and services provided to the consumer;
- (e) all documents evidencing a consumer's income and expenditure which is relied upon by the moneylender for the purpose of assessing the consumer's creditworthiness;
- (f) all correspondence with the consumer and details of any other information provided to the consumer in relation to the relevant product or service;

- (g) details of each complaint received from a consumer by the moneylender;
 - (h) all documents or applications completed or signed by the consumer;
 - (i) copies of all documents submitted by the consumer in support of an application for the provision of a service or product;
 - (j) all other relevant information concerning the consumer.
- (2) A moneylender shall retain details of individual transactions for 6 years after the date on which the particular transaction is discontinued or completed.
- (3) A moneylender shall retain all other records for 6 years from the date on which the moneylender ceased to provide any product or service to the consumer concerned.
- (4) A moneylender shall maintain complete and readily accessible records.

Outsourced Activity

31. A moneylender shall remain fully responsible for discharging its obligations under these Regulations when it outsources any functions relating to moneylending.

Liaising with third parties

32. (1) At the consumer's request and with the consumer's written consent, a moneylender shall liaise with a third party nominated by the consumer to act on his behalf.

(2) Paragraph (1) shall not prevent the moneylender from contacting the consumer directly in relation to other permitted matters.

Provision of records to third parties

33. (1) Upon receipt of a written request for copies of consumer records, from a third party acting on behalf of a consumer, a moneylender shall furnish the third party with all consumer records referred to in the request within 10 business days, where the consumer has provided written consent.

(2) If any consumer record requested pursuant to paragraph (1) is not available, or has not been retained, the moneylender shall advise the third party that such record is not available, as part of its written response.

Arrears

34. (1) A moneylender shall establish, maintain and adhere to written procedures for the handling of arrears cases.

(2) A moneylender shall not enter into any forbearance terms with a consumer in respect of arrears where the repayment amounts under any such forbearance terms amount to more than X per cent of the consumer's income when calculated on a weekly basis, unless it is clearly in the consumer's best interests based on the consumer's individual circumstances.

(3) For the purpose of paragraph (2), where a consumer is in receipt of income at irregular intervals, the moneylender shall calculate income based on the consumer's average weekly income, which shall be calculated based on at least a 4 week period which is within 6 weeks of the date of offer of the forbearance terms.

(4) A moneylender shall advise consumers upon the third default or missed payment under a moneylending agreement, whether consecutive or otherwise, during the currency of a moneylending agreement, of relevant debt counselling services, and the contact details for such services including the name and address of a local Money Advice and Budgeting Service office.

(5) This Regulation shall not apply to circumstances where –

(a) a consumer is unable to make one or more repayments in accordance with a moneylending agreement under which repayments are paid by the consumer to the moneylender or his representative at any place other than the business premises of the moneylender or the business premises of the supplier of goods or services under the agreement, due to the consumer being unavailable to make the repayment at the usual time and location, and

(b) the moneylender has agreed to this variation of the repayment schedule with the consumer in advance of the repayment falling due.

(6) A moneylender shall maintain a record of such agreement to vary a repayment schedule as referred to in paragraph (5).

Home Collections

35. (1) A moneylender shall ensure that:

(a) any removal of a repayment book from a consumer is properly recorded and that a receipt in a durable medium is issued to the consumer;

(b) a consumer's personal details contained in repayment books are regularly confirmed and updated.

(2) If a moneylender provides a collection service, in respect of repayments due under a moneylending agreement, the moneylender shall, before making any collection of repayments, agree with the consumer the location for such collection, which shall be appropriate and secure.

Debt Collection

36. If a moneylender engages the services of a third party to collect debts on its behalf, the moneylender shall have in place a written contractual arrangement with that third party which ensures that its consumers are treated in accordance with the provisions of these Regulations and the relevant provisions of the 1995 Act.

Compliance with these Regulations

37. A moneylender shall ensure that in all its dealings with consumers it maintains and employs effectively the resources, systems and control checks that are necessary for compliance with these Regulations.

Annex I

- ✓ If you have answered yes to the above question, availing of credit from a moneylender may not be in your best interests [Insert information about the debt counselling services of the Money Advice and Budgeting Service, the contact details for the Money Advice and Budgeting Service and information on any relevant charities which have notified the moneylender that they may be able to assist consumers through the provision of emergency funds or items to meet their immediate basic needs].
- ✓ If you wish, please ask us to put you in touch with the Money Advice and Budgeting Service and [insert names of the relevant charities referred to above which have notified the moneylender that they may be able to assist such consumers].
- ✓ If you would like to take time to consider your options prior to completing a credit application further, please do so. However, you can proceed with your credit application if you wish. If you choose not to proceed with your credit application today, you can contact us again should you wish to discuss future credit.

Annex II

Information Notice about credit from a licensed moneylender

Warning: This is high-cost credit.

[Name of moneylender] is the provider of high-cost credit.

Consider alternative options before applying for this credit, including cheaper alternatives from other lenders regulated by the Central Bank of Ireland.

For example:

- ✓ Shop around as you may be able to obtain credit at significantly cheaper interest rates.
- ✓ If you are struggling to manage your finances, talk to your creditors to agree a payment plan and ask the Money Advice and Budgeting Service for help.
- ✓ If you are in receipt of social welfare payments, check that you are receiving your full social welfare entitlements by contacting your local Citizens Information Office.

Our moneylending agreements have an APR of [insert interest rate as APR] with a cost of credit of [insert cost of credit in euro] per €100 borrowed.

or

Our moneylending agreements range from having an APR of [insert lowest interest rate product provided as APR] with a cost of credit of [insert lowest cost of credit in

euro] per €100 borrowed, to an APR of [insert highest interest rate product provided as APR] with a cost of credit of [insert highest cost of credit in euro] per €100 borrowed.

Licensed moneylenders must assess your creditworthiness in accordance with regulatory requirements. Before providing credit, we will seek such information from you.

Signed for and on behalf of the CENTRAL BANK OF IRELAND
on [•]

PHILIP LANE,
Governor of the Central Bank of Ireland