

Fitness and Probity Notice: Bringing New Retail Credit Providers in Scope

On 29 March 2022, the Central Bank of Ireland ("Central Bank") issued a Notice of Intention¹ ("Notice") outlining proposed changes to the retail credit firm ("RCF") and credit servicing firm ("CSF") authorisation regimes to address changes which will be introduced when the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill² ("Bill") is enacted. For further background on the Bill, please see our previous update *New Regime for Consumer Hire Purchase, PCP Finance and Point of Sale Lending*³.

The Notice outlines proposals to expand the scope of the Consumer Protection Code 2012 ("CPC"), Minimum Competency Code 2017 ("MCC") and Minimum Competency Regulations 2017 ("MCR") to bring firms which will be subject to the RCF and CSF regimes within scope (once the Bill is enacted) and make any consequential amendments.

CPC Updates

A new additional addendum will be issued to amend the CPC to delete exclusions for:

- Credit total amount of €200 or less; and
- Hire-purchase and consumer-hire purchase agreements.

Specific provisions will be included for buy-now pay-later ("BNPL") agreements and definitions of BNPL agreements, consumer hire agreements and hire purchase agreements will be added. The Central Bank may consider whether additional consumer protection rules are required for hire purchase and BNPL services at a later date.

MCC and MCR Updates

An addendum to the MCC will include the new RCF and CSF activities within its scope and allow persons / firms providing these newly regulated activities a maximum period of four years to become compliant with the MCC, while expecting them to meet the necessary minimum standards at the earliest possible opportunity from the enactment of the Bill.

Next Steps

The Bill completed its passage through the Seanad on 31 March 2022 and will go to the President for signing in the coming days. It will come into operation on such day or days as the Minister for Finance may appoint by commencement order(s).

The addenda to the CPC and MCC and changes to the MCR will be published by the Central Bank at, or as soon as possible after, the enactment of the Bill which is anticipated to be in 2022.

Firms that are engaged in these activities or that intend to apply for RCF or CSF authorisation are requested to email a designated Central Bank address signalling their intention to do so.

¹ <https://www.centralbank.ie/docs/default-source/regulation/consumer-protection/legislation/upcoming-changes-following-enactment-of-the-consumer-protection.pdf?sfvrsn=5>

² <https://www.oireachtas.ie/en/bills/bill/2021/91/>

³ <https://maples.com/en/knowledge-centre/2021/7/new-regime-for-consumer-hire-purchase-pcp-finance-and-point-of-sale-lending>

Similar to the introduction of the original credit servicing regime, firms carrying on a relevant activity (whether originating or credit servicing) will be deemed authorised if they apply to the Central Bank for the relevant licence or licence extension (in the case of authorised credit servicing firms) within three months of the Bill's enactment.

How Maples Can Help

Businesses operating in this sphere, including any currently unregulated providers of consumer hire purchase, consumer hire (e.g. PCP car finance) and consumer indirect credit provision, such as the emerging point of sale lending sector, should review their activities in light of the Bill's progression, and this Notice, to assess whether their business requires authorisation under the revised regimes and to notify the Central Bank of their intention to apply for authorisation.

Our dedicated Financial Services Regulatory team has worked with a number of firms operating as RCFs and CSFs and is very familiar with the authorisation processes and how best to design and implement an operating model which will satisfy the regulatory, legislative and Central Bank requirements for a successful application.

Further Information

Further information on our Irish Financial Services Regulatory Group, and the services we provide is available on our website page⁴ and in our brochure⁵.

For further details, please liaise with your usual Maples Group contact or:

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⁴ <https://maples.com/en/services/specialty-services/irish-financial-services-regulatory>

⁵ <https://maples.com/-/media/files/pdfs/articles-and-chapters/financial-services-regulatory-group---core-services.pdf>