



Review of the Consumer Protection Code for Licensed Moneylenders

Citizen Information Board Submission - June 2018

Consultation Paper CP 118

Introduction

The Citizens Information Board (CIB) welcomes the opportunity to contribute to the Review of the Consumer Protection Code for Licensed Moneylenders. CIB supports the nationwide network of Money Advice and Budgeting Services (MABS), the Citizens Information Services (CISs), the Citizens Information Phone Service, the National Advocacy Service (NAS) for people with disabilities and the Sign Language Interpreting Service (SLIS). CIB has worked with MABS National Development (MABS nd) in the preparation of this submission. The submission reflects the combined views of CIB and MABS. MABS nd consulted with money advisers and also drew on the experiences of the MABS Casework Technical Support Team. CIB and MABS wish to acknowledge the importance of the Central Bank's openness to feedback from MABS on issues related to this sector. This is particularly important owing to the discrete, diffuse, local and personalised nature of licensed moneylending. Where a difficulty emerges it can remain 'hidden' and it is therefore important that channels of communication between MABS, other advisory supports, the licensed money lending industry and its regulators are open and responsive. It should be noted that the sector itself comprises a number of firms some of a significant national scale and others much smaller and more localised. Observations on MABS' experiences of the sector contained in this paper are of a general nature and it is recognised that some firms regularly engage with MABS to resolve issues that emerge with respect to MABS clients.

The review of the Code must be considered in the context of the alternatives available to low-income borrowers. If viable alternatives are not available, low-income borrowers will continue their reliance on the sector and will have no choice but to accept what that market offers, regardless of the nature of the business model or the financial cost. Many of these borrowers lack an understanding of the comparative cost of this credit in relation to other credit options. In MABS' experience, high-cost credit becomes a 'deadweight' on the household's finances and borrowers accustomed to the use of high-cost credit can find it very difficult to navigate across to mainstream credit markets. The response to the questions asked in the consultation document is therefore prefaced with some wider observations on access to affordable credit.

General Observations - Access to alternative sources of credit

Access to credit is vital to MABS clients; it is the key enabler that allows people who live on a low income to manage their consumption patterns and to cope with unplanned items of expenditure. Its absence consequently can severely constrain prospects for progression for low income households and serve to amplify the negative impact of unanticipated events.

When considering the credit options available to them, many MABS clients have few choices. Access to mainstream financial services can be limited due to a poor credit history, little or no savings and the lack of a bank account. MABS staff report that clients are further dissuaded from accessing mainstream services due to the 'banking culture' and the perception that 'banks aren't for them'. The introduction of the 'Basic Payment Account' in September 2016 appears to have made little impact with MABS clients and although the account would help to establish a banking record, it would appear, based on MABS experience, that few have used it to bridge that gap to access mainstream credit.

As a result, credit unions and licensed moneylenders remain the main source of credit to low income and social welfare recipients.

Credit union lending

Last year, MABS made a submission to the Joint Oireachtas Committee on Finance, Public Expenditure and Reform, as part of that Committee's review of the CUAC Report and noted that: *'The prevalence of door-step lending in Ireland is both archaic and arcane and is symptomatic of a failure to provide attractive, affordable and life-enhancing products and services to low income borrowers. That opportunity exists and is desperately needed and we see significant innovation in the UK in this regard'*.

MABS therefore welcomed the Committee's recommendations in its final report¹ relating to the Credit Union sector's role in financial inclusion and its recognition of the potential of the '*It Makes Sense*' Loan².

Personal Micro Credit – the '*It Makes Sense* Loan'³

Through the Personal Micro Credit Implementation Group, both CIB and MABS ND have been heavily involved (together with other stakeholders: ILCU, CUDA, the Central Bank of Ireland, the Department of Employment Affairs and Social Protection, the Social Finance Foundation, An Post and the Society of Saint Vincent De Paul) in the roll-out of the '*It Makes Sense*' Loan across the credit union sector, with loan amounts ranging from €100 to €2,000. Whilst considerable progress has been made, the '*It Makes Sense*' Loan is still not universally available across the sector, and where it is available, limitations apply in certain institutions regarding its use.

Further work is needed to resolve the issues preventing maximum roll-out of this product including achieving a commitment from the credit union sector to providing social lending.

MABS' Experience of licensed moneylenders

Moneylending loans are embedded in the money management plans of many low income households and are consistently used to finance:

1. Essential expenses like household bills, food shopping and basic necessities
2. Emergency costs in the case of something unexpected happening, like an electrical appliance failing or a car breakdown
3. For extra discretionary spending at certain times of the year including Christmas, Communion or Confirmation and the start of the school year.

The 'home collection' business model is the most prominent form of moneylending credit encountered by money advisers, followed by catalogue credit. Loans amounts are typically between

¹

https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_finance_public_expenditure_and_reform_and_taoiseach/reports/2017/2017-11-06_report-on-the-review-of-the-credit-union-sector_en.pdf

² <http://itmakessenseloan.ie/>

³ The need for a low cost loan scheme was highlighted by CIB in late 2013 when a proposal was submitted to the Minister for Social Protection. The proposal followed a period of discussions initiated by CIB and MABS with interested stakeholders including Credit Union organisations, non-governmental organisations and the Social Finance Foundation.

€200 to €500 for terms of either 26 or 52 weeks, and convenience and ease of availability are cited as the main reasons for availing of this form of credit.

For the most part, MABS advisors reflect that, if used judiciously, moneylending loans can be of some benefit to clients. In the absence of affordable credit, **any** credit is welcomed where it enables a household to smooth consumption patterns over the course of a year. As a result, many are willing to pay a premium interest rate and sustain long term loan arrangements with their moneylender.

However, it often later emerges through casework that the borrower does not fully comprehend the overall cost of credit, what its repayment represents as a component of their total disposable income, or the cost differential between this type of credit and other mainstream credit types. In MABS' experience, low-income borrowers accept what the market offers because of lack of choice.

In this regard, we note that the Consultation Document (2.2. p7) highlights risks attached to the lowering of interest rates, however, given the size of the Irish market and the potential for efficiencies within the business model, we are not convinced that the risks proposed will materialise and consequently do not believe the principle should be abandoned. High-cost credit creates and sustains a 'poverty trap' for low income households. Our view therefore, is that every effort must be made to alter the market such that credit is offered to low-income households at the lowest possible cost.

Repayment and arrears experience

Where clients present to MABS for support with moneylending loans, they have generally fallen into arrears with their repayments on one or more loans. A review by money advisers and the Casework Technical Support Team has raised issues of questionable lending, record-keeping and poor information provision practices in these instances. Evidence of repeat borrowing from moneylenders is commonplace and money advisers frequently have cause to question the thoroughness of the moneylender's assessment of the credit application, particularly where the capacity of the client to sustain the loan repayment is evidently poor.

Money advisers report that clients who fall into arrears have sometimes been subjected to intimidating practices such as threats to call an employer. Additionally, MABS casework in this area has shown that record keeping and the provision of information has sometimes been non-compliant with the Regulations and the Code. In this regard, the withholding of repayment books is a relatively frequent complaint.

Information provision around alternative payment methods is also regarded as poor. While many moneylenders only operate a 'home collection model', some do offer alternative methods of payment, but this information is frequently not clear to the consumer who might avail of it and save on collection costs as a result. In addition, money advisers often experience difficulties in communicating with moneylending firms, either because appropriate contact numbers or persons are not readily available or because their response time to information requests is lengthy.

In our view, many of these issues relate to poor observance of the appropriate Regulations and Code of Conduct for Licensed Moneylenders. The current consultation paper is welcomed as it affords the opportunity to comment on this and to input to a stronger framework of protections in order to ensure that the best interests of consumers of moneylending loans are maintained.

Responses to consultation questions

In the following sections we provide observations on each of the relevant questions asked in the Discussion Paper.

4. Responsible lending and acting in the best interests of consumers

4.1 Prohibiting targeted advertising

Q1. Do you agree with our proposal to prohibit moneylenders from engaging in targeted advertising?

Yes, we are in agreement with this proposal. Targeted advertising, as defined, promotes the continued sale of loan products to consumers who are in a vulnerable situation, often encouraging repeat loans and a spiralling of their individual debt circumstances. In our opinion, the moneylending firm is in possession of unique information; knowing both the end date of an existing loan coupled with personal knowledge gathered at the doorstep on money or debt-related issues, upcoming events and so on. This information could facilitate a focused promotions campaign and should be prohibited in both hard and soft media formats.

Q2. Do you have any views on our proposed definition for 'targeted advertising' as set out in the draft Regulations?

The definition of 'targeted advertising' as set out in the draft regulations, while comprehensive, should also include an explicit prohibition on the use of 'AdWord' or other digital strategies to promote moneylending loans to consumers who search for this topic online. In our opinion, the use of an individual's IP address should also therefore be included in the definition, as follows:

“(a) contains a consumer’s name, personal details, email address or IP address”

4.2 Prohibiting unsolicited contact on foot of referrals from consumers

Q3. Do you see any reason why unsolicited contact with a new customer, on foot of a referral from an existing consumer, should not be prohibited?

No, we see no reason why unsolicited contact with a new customer on foot of a referral from an existing customer should not be prohibited. A significant amount of business is generated for licensed moneylenders through referrals from family and friends. This is evidenced in both research conducted by the Central Bank⁴ and through casework support in MABS and is the most common means of introducing an individual or family to moneylending at perhaps a vulnerable stage in their lives. It also provides other consumers with the opportunity to build a portfolio of moneylenders, potentially leading to multiple loans and increased indebtedness.

This prohibition of unsolicited contact should apply to all forms of moneylending credit, cash and non-cash and should be extended to all forms of communication, written, oral, and digital.

4.3 Prohibiting unsolicited contact for the purposes of sales and marketing

Q4. Do you foresee any practical difficulties with our proposal to prohibit unsolicited contact with existing consumers for the purposes of sales and marketing?

It is considered that this prohibition will be difficult to monitor and regulate, particularly oral conversations at the doorstep, where this form of unsolicited contact is most likely to occur. To counter this difficulty, we suggest that:

- The training of agents and staff (as outlined in Q 21 below) may assist in establishing professional boundaries.
- Repayment books should include a prominent list of consumer rights, moneylender obligations and a complaints procedure where consumers can refer a complaint for improper practices.
- A specific requirement not to extend additional loans to a consumer in arrears with an existing loan should be included in the revised Regulations and Code (see Question 17 below). Notice of this requirement should be included in all sales and marketing

⁴ <https://www.centralbank.ie/docs/default-source/publications/consumer-protection-research/gns4-2-1-1-rep-on-licensed-moneyldg-ind-112013.pdf?sfvrsn=8.pdf?sfvrsn=4>

material and in the Information Notice (see Questions 11 below).

- The commission structure available to agents of licensed moneylenders should be examined further to discourage the practice of selling repeat loans at the doorstep.

4.4 Removing the exception to the unsolicited contact rules for non-cash credit

Q5. Do you have any views on the proposal to remove the existing exception from the unsolicited contact rule for moneylenders providing non-cash credit?

We agree that on the basis that all types of credit from moneylenders should be subject to the same unsolicited contact rules, that the current limitation in provision 17 of the Moneylending code should be removed.

4.5 Preventing catalogue firms providing discounts predicated on availing of credit

Q6. Do you agree with the proposal outlined above in relation to the additional rules specifically targeted at discounts which are predicated on availing of credit?

Yes, the use of high cost credit should not be incentivised by a discount at the 'point of sale' and we are in agreement with the proposal to prohibit moneylenders from running promotions in the form of a discount only available on goods or services purchased on credit. Discounts, when offered, should be universally offered on cash or credit purchases. It is important to monitor alternative approaches.

Q7. Do you have any views on what, if any, unintended consequences may arise in implementing this proposal?

It is considered unlikely that moneylenders will stop offering discounts altogether, as it remains an effective promotional strategy to increase sales volume, clear excess stock, and generally attract additional customers in at peak buying times.

However, an unintended consequence may be the development of other pricing strategies aimed at increasing overall profit, for instance an increase in prices in general, discounts on larger bulk purchases to encourage consumers to buy '2 or more items', or variation in pricing in a product mix, all of which would encourage a consumer to buy more than possibly needed at a high cost.

4. Consumers availing of credit from a moneylender on a more informed and considered basis

5.1 Enhancing the existing high-cost credit warning statement

Q8. Do you see any reason why the existing warning statement should not be enhanced in the manner set out above?

No, we do not see any reason why the existing warning statement should not be enhanced in the manner described in order to further encourage potentially vulnerable consumers to pause and consider alternative loan options. It should be further strengthened to level the playing field for vulnerable borrowers.

Q9. Do you agree that the enhanced warning statement should be included in all moneylending advertisements?

We agree that the enhanced warning statement should be included in all moneylending advertisements, to include print, written and digital versions.

5.2 Requiring Moneylenders to prompt consumers to consider alternatives

Q10. Do you have any views on the proposal to require moneylenders to provide consumers with an Information Notice at pre-contract points?

We agree that an Information Notice should be provided to consumers at pre-contract points and that, as indicated in the revised Regulation, this notice should be prominently displayed on websites, apps, application forms and at the licensed moneylender's premises.

A copy of a generic Information Notice from each licensed moneylender should be provided to MABS – this can be sent to each MABS company or to MABS nd for circulation to the network.

Q 11. Do you have any suggestions in relation to the format and content of the enhanced warning statement (referred to in Section 5.1) or the Information Notice to enhance the quality, relevance or impact of the information provided?

In order to meet the stated objectives of the enhanced warning statement and the Information Notice, we recommend the following changes to the Information Notice:

- Include a statement indicating the firm is a licensed moneylender regulated by the Central Bank of Ireland as this further affirms the status of the licensed moneylender (in contrast to the unlicensed).
- Include a statement advising consumers that they may be able to avail of the 'It Makes Sense' personal micro credit loan from participating credit unions.
- When in financial difficulty, MABS staff advise borrowers to determine affordability objectively before entering an alternative repayment arrangement. This is to ensure

that the alternative arrangement is sustainable and takes account of essentials such as accommodation, food, heat etc. We therefore suggest that the MABS National Helpline phone number (0761 07 2000) and the MABS website mabs.ie are provided as points of contact for additional support. MABS should be written out in full (Money Advice and Budgeting Service (MABS)), so it is clear what service is provided.

- Include a statement to confirm the payment options available to the consumer. Although the preferred collection method (by both moneylenders and consumers alike) may be the home collection service, licensed moneylenders must give the option of paying at their business premises (some also accept payment by direct debit or debit card), thus avoiding the additional collection charge.
- Include a statement to confirm that payments collected at the consumer's door include a home collection charge (if applicable) and their cost
- Include a statement to advise consumers that payments at the licensed moneylenders' business premises or by direct debit or debit card do not include a collection charge
- The Notice should be prepared in 'plain' language.

The following amended Information Notice is recommended as an alternative.

Sample alternative Information Notice

Warning: This is high-cost credit.

[Name of moneylender] is the provider of high-cost credit and is a licensed moneylender regulated by the Central Bank of Ireland.

You may wish to 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 much cheaper interest rates. Credit cards charge a maximum of 23% interest. Loans from credit unions and banks charge less interest.
- You may be eligible for a Personal Micro Credit loan with a maximum APR of 12.68%. Check with your local credit union or itmakessenseloan.ie
- If you are in financial difficulty, you can ask the Money Advice and Budgeting Service (MABS) for help. Contact the MABS Helpline on 0761 07 2000, Monday to Friday, 9am to 8pm or get further information at mabs.ie
- If you are in receipt of a low income, you can check that you are receiving the proper social welfare, taxation, and other welfare entitlements. Contact the Citizens Information Phone Service on 0761 07 4000, Monday to Friday, 9am to 8pm; call in to your local Citizens Information Centre; or get further information on citizensinformation.ie

Our moneylending agreements have an Annual Percentage Rate (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 Annual Percentage Rate (APR) of [insert lowest rate product provided as APR] with a cost of credit of [insert lowest cost of credit in euro] per €100 borrowed, to an Annual Percentage Rate (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.⁵

Loans may be repaid by the following means;

- Home Collection Service
- At our business premises located at [insert business address of licensed moneylender]
- By telephone using a debit card or by direct debit in your bank

If you choose to repay your loan using the Home Collection Service, a collection charge of [insert x cents in the euro] will apply. No collection charge applies to loans repaid at our business premises or over the phone using a debit card or by direct debit in your bank.

Licensed moneylenders must assess your creditworthiness in accordance with regulatory requirements. Before providing a loan, we will seek information from you to help with our assessment.

No other product may be offered by the Moneylender if an existing agreement is in arrears.

Additionally, we propose that the 'high-cost credit warning' be included on websites and as a 'watermark' on all documentation related to the product.

Finally, with regard to all documentation, we believe there is a requirement for agents to also explain the relevant information verbally and such verbal information may need to be included in Interactive Voice Responses on phone lines or on audio files on websites.

5.3 Heightened protection for consumers using moneylending loans to pay for immediate basic needs

Q12. A. Do you agree with these proposals? (Heightened protection for consumers using moneylending loans to pay for immediate basic needs)

We agree in principle with the proposal to require moneylenders to include a specific question and information in the credit application form/process to assess the purpose of the loan. However, it is considered that only state-funded bodies, such as MABS, with a remit to provide debt and general information and advice should be included as a contact point. If referred to MABS in the first

⁵ Include sample comparison costs.

instance, MABS is positioned to both provide direct support and intervention (depending on the need) and make a referral onwards for appropriate third party or charitable support.

In addition, MABS does not accept referrals from licensed moneylenders and recommends that the following amendments are made to the statement included in Annex 1 of the proposed Regulations and that the statement is proofed for plain English.

Proposed amendment to wording of Annex 1

Q. Do you require this credit to pay for accommodation, food, electricity, heating or other similar costs?

If you have answered yes to the above question, availing of credit from a moneylender may not be in your best interest.

If you are experiencing difficulties with money management or feel your debts are in danger of becoming a problem, then the Money Advice and Budgeting Service (MABS) can help you. Contact the MABS National Helpline on 0761 07 2000, Monday to Friday, 9am to 8pm or visit their website at mabs.ie for more information.

If you would like to take time to consider your options further prior to completing a credit application, 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.

Consumers availing of moneylending loans for immediate basic needs are likely to be in a significant cycle of debt, potentially vulnerable or at risk and as such could benefit greatly from the services of MABS. The inclusion of a 'business card' providing a contact number for MABS would offer a targeted and discrete service to consumers who may benefit from this support. The card (to be provided by MABS) would support a heightened level of protection for consumers. The inclusion of this card with the moneylending application form should form part of the requirements of the new Regulations.

B. Do you foresee any practical difficulties arising from the implementation of these proposals?

We are conscious that there could be an adverse impact on 'supply' to the most vulnerable of consumers. Moneylenders may question the creditworthiness of the consumer and feel that if they require a loan for immediate basic needs, they may also be unable to meet repayments on it. If this becomes the case and is apparent to consumers, then human nature and the need for urgent cash may lead some consumers to not answer this question honestly. In these instances, it is hoped that increased signposting to MABS as part of the application process may encourage consumers to avail of the money advice and debt mitigation services available to them. It is also important that there are practical and not just advisory supports available to such consumers and in this regard access to the State's 'Urgent Needs Payment' through the Department of Employment Affairs and Social Protection's Supplementary Welfare Allowance Scheme is critical.

Q13. What do you suggest be included within the concept of 'immediate basic needs' to which these proposals would apply?

We agree that borrowing to meet the costs of accommodation, food, electricity and heat related to the borrower and any dependent children are sufficient to include in the definition of 'immediate basic needs'. (While recognising that there are other immediate basic needs such as school costs, those listed are regarded by MABS as 'priority payments' in its overall approach to budgeting and debt management).

5.4 *Aggregate information to consumers with more than one moneylending agreement*

Q14. A. Do you see any reason why the Central Bank should not prevent moneylenders from providing a second or further loan to a consumer unless the consumer is provided with the aggregate loan information set out above?

No, we see no reason why the Central Bank should not prevent moneylenders from providing subsequent loans unless the aggregate loan information is provided. Consumers would benefit greatly from receiving a statement of the aggregate balance payable. It will serve to highlight the proportion of a consumer's income being allocated to loans and enable them to keep track of their repayment obligations.

B. Is there any other information that a moneylender should provide to the consumer at the same time?

This form should re-state the support services available from MABS and Citizens Information Services and the payment options available to the consumer (as recommended in Q11 above); the collection charges applicable in each instance; and a statement to confirm the consumer's right to alter repayment methods if wished, as follows:

Proposed wording

If you are in financial difficulty, you can ask the Money Advice and Budgeting Service (MABS) for help. Contact the MABS Helpline on 0761 07 2000, Monday to Friday, 9am to 8pm or get further information at mabs.ie

If you are in receipt of a low income, you can check that you are receiving the proper social welfare, taxation, and other welfare entitlements. Contact the Citizens Information Phone Service on 0761 07 4000, Monday to Friday, 9am to 8pm, call in to your local Citizens Information Centre or get further information on citizensinformation.ie

Repayment methods and costs

Loans may be repaid by the following means:

- Home Collection Service
- At our business premises located at [insert business address of licensed moneylender]
- By telephone using a debit card or by direct debit in your bank

If you choose to repay your loan using the Home Collection Service, a collection charge of [insert x cents in the euro] will apply.

No collection charge applies to loans repaid at our business premises or over the phone using a debit card or by direct debit in your bank.

You have the right to change your repayment method at any time. Contact our office at [insert moneylender's number] to change your repayment arrangements.

The above statement should be read to the consumer as well as being provided in writing, to support clients with literacy difficulties.

6. Reducing the possibility of consumers over-extending themselves in respect of their borrowing from licensed moneylenders

Q15. Are you in favour of the introduction of a debt servicing ratio restriction as outlined above?

After much deliberation on this point, we are of the opinion that a debt servicing ratio as outlined should not be introduced. If it is introduced, it should be in conjunction with an interest rate cap.

The reasons are as follows:

- As stated in the preface, we would prefer to see an interest rate cap applied to reduce the cost of credit to low-income borrowers.
- The measure as proposed seems too blunt. It is the *'debt to disposable income ratio'* that is most relevant and this can vary considerably between different groups of consumers with similar income levels. With reference to the MABS approach to budgeting and debt repayment, it is evident that debt repayments must come after other immediate basic needs are met, if payments are to be made on a sustainable basis.
- In the absence of a viable alternative to moneylending loans, it is thought that a debt servicing ratio could prevent a significant number of vulnerable consumers from being able to avail of licensed credit and ultimately either lead to a greater level of deprivation or cause them to turn in greater numbers to unlicensed moneylenders.
- Additionally, our view is that a strengthened consumer-focused culture within moneylending firms, combined with the enhancements proposed in respect of borrower communication when selling second or more loans to a client, will help to prevent the over-extension of high cost credit.
- While 'knowing the consumer' and 'suitability' requirements are included in the current moneylending code, both sections allow for an opt-out "*where the consumer has specified both the product and the moneylender ...*" MABS recommends that this opt-out option should be deleted from the Code and that these obligations should be enforced for each and every loan, irrespective of whether or not the consumer specified the product and the moneylender. Both of these sections should be further enhanced by reflecting the stronger requirements of Chapter 5 of the Consumer Protection Code 2012, and strengthened provisions should be included for gathering information on the consumer's needs and objectives, personal circumstances and financial situation amongst other things.

- A strengthened 'Know your customer' and 'Suitability' section would ultimately be more reflective of the consumer's situation and, in conjunction with an assessment of creditworthiness, lead to a 'case-by-case' consideration of lending. This, we feel would be more consumer-centric and strengthen responsible lending practices, while still ensuring consumers have access to credit, as and when they need it.

Q16. Do you have any views on what percentage of income the restriction should be set at and whether it should be based on gross or net income? Please provide any data or analysis you have to support your response.

We have set out our view above that a debt servicing ratio as outlined should not be introduced. However if it is being introduced, the percentage used should be a reflection of the cost of credit which is currently allowed to be at too high a level.

Q17. Should such a restriction also apply to forbearance arrangements for moneylending consumers in arrears? Do you have any views on how it should apply in an arrears case (e.g. do you consider that different factors also need to be taken into account in such a case)?

We are of the opinion that a restriction should apply to forbearance arrangements for moneylending consumers in arrears as it will result in reducing debt spirals. However, rather than a debt servicing ratio, MABS recommend that consumers in arrears should not be extended further loans until they are properly able to service current ones. Again enhanced 'Know your customer', 'Suitability' and creditworthiness assessments should apply here and dictate, in a consumer-focused culture, that applications are rejected. Alternatively, we recommend that a specific requirement not to extend additional loans to consumers in arrears is included in the revised Regulations and Code. The existence of arrears should preclude issuing a subsequent loan and a statement to this effect should be included in sales and marketing material and in the Information Notice offered at pre-contract stage.

Specific measures should be undertaken to ensure consumers in arrears are aware of the services of MABS.

Q18. Do you have views on the potential impact the introduction of a debt servicing ratio restriction might have on consumers and the licensed moneylending sector?

In MABS' opinion the introduction of a debt servicing ratio could either exclude a proportion of consumers from licensed moneylending or alternatively force consumers into longer term loans

(from 26 to 52 weeks). In both cases this would obviously be to their detriment as credit from unlicensed moneylenders may be sought or credit may be extended for longer terms, again increasing the overall cost.

However, a debt servicing ratio if introduced, could raise awareness of the need to keep some minimum household income for basic needs.

Q19. Are there any circumstances which you consider should be exempted from such a debt servicing ratio restriction?

If introduced, foreseen peaks (such as back to school) in costs could involve a pre-arranged exemption from the cap for a short period.

Q20. How would such a restriction operate in the case of 'running account' credit provided by moneylenders? For example, should it operate on the basis of the consumer's credit limit on that account?

If introduced, the credit limit needs to be stable for a significant period, at least one year.

7. Enhancing the professionalism of the sector

7.1 Training of staff and agents

Q21. Do you agree with the proposal to introduce an explicit requirement that money lenders provide ongoing training to staff and agents in respect of the firm's lending policies and procedures?

We agree with this proposal that moneylenders provide ongoing training to staff and agents. In addition to training on the firm's lending policies and procedures, we recommend that, moneylenders include training on the Code and Regulations which underpin the firm's policies and also include training on debt awareness, and how over-indebtedness impacts on the consumer. We recommend that this training should be provided to the industry by external providers. MABS considers it important that an element of this training should focus on working with vulnerable/or at risk customers. MABS would be pleased to input to this training.

7.2 Lending policies and procedures

Q22. A. Do you agree with the proposal to require moneylenders to have written lending policies and procedures in place?

Yes, we agree with this proposal.

B. If you agree with the proposal, should moneylenders be required to address any other matters within their lending policies and procedures?

We recommend that a debt awareness policy be included as part of the moneylender's policies and procedures. This policy would examine how staff and agents engage with consumers at all stages of the moneylending process and how they handle a referral to MABS in arrears/debt situations.

Additionally and given agent proximity (in the home-collections business) to potentially very vulnerable consumers we believe that there should be a specific policy and training on 'safeguarding vulnerable consumers'.

Q23. Do you have any comments on the proposal to require moneylenders to retain records of income and expenditure relied upon to assess a consumer's creditworthiness?

The information held should comply with the GDPR (in relation to collection, retention and deletion of personal information) and due consideration should also be given as to how the moneylender captures information and ultimately stores and deletes it in accordance with requirements. For instance, many agents will take a photo of income and expenditure records and either transfer records in this manner or upload to an App. A specific requirement to delete pictures of records held on a phone, once transferred to a central file, should be included in the revised Regulation.

7.3 Engagement with third parties who are acting on behalf of borrowers

Q24. Do you have any comments on the proposal to introduce explicit obligations on moneylenders to engage with third parties who are acting on behalf of borrowers?

We are in agreement with this proposal.

7.4 Repayment books and collections

Q25. Do you agree with the proposals outlined above in relation to the additional rules specifically targeted at tightening the rules in place around repayment books and collections?

We are in agreement with this proposal and the additional rules to be put in place around repayment books and collections.

8.0 Additional enhancements to the Moneylenders Code of Conduct

8.1 Applying relevant requirements under the 2010 Regulations to loan amounts below €200

8.2 Specific protection for vulnerable consumers:

8.3 Strengthened requirements for communicating with consumers – early signposting of MABS – alignment with wording of provisions in CPC2012

Q26. Do you have any comments on the changes proposed above, that is:

A. Applying relevant requirements under the 2010 Regulations to loan amounts below €200;

CIB and MABS agree in principle but caution that the application of the 2010 Regulations to loan amounts below €200 could lead moneylenders to consider these smaller loans to be overly burdensome and not service them as a result. This, in turn, could be detrimental to consumers in a vulnerable situation who have no other viable options.

B. Introducing a specific protection for vulnerable consumers;

MABS are in agreement with the introduction of specific protections for consumers in a vulnerable situation as per the Consumer Protection Code 2012. However, MABS would wish to see this definition extended to include a reference to people who are living on a low income/in poverty. This is because people who live on low incomes are, in MABS' experience:

- 1) Often excluded from mainstream financial services.
- 2) Often forced, for this reason, to make sub-optimal choices when accessing financial services and;
- 3) Sometimes, do not have the time or resources necessary to weigh-up financial decisions due to the financial pressures they face in meeting day-to-day living expenditures.

The door-step nature of moneylending loans has the potential to exacerbate all of these issues and when faced with an Agent at the door can cause additional stress on vulnerable clients.

The 'National Safeguarding Committee', of which MABS is a member, cites within its strategy a definition of 'vulnerability' as follows:

'the diminished capacity of an individual or group to anticipate, cope with, resist and recover from the impact of a natural or man-made hazard. The concept is relative and dynamic. Vulnerability is most often associated with poverty but it can also arise when people are isolated, insecure and defenceless in the face of risk, shock or stress. People differ in their exposure to risk as a result of their social group, gender, ethnic or other identity, age and other factors'.

We request that the Central Bank of Ireland consider taking account of this broader definition of vulnerability within the Code, encompassing wording on 'poverty'⁶ to take account of the very specific risks facing consumers of high-cost credit.

In this context, we wish to also highlight, as we did in our 2011 submission to the Central Bank of Ireland's Consultation on the Review of the Consumer Protection Code (CP47) (p3) that:

... 'it is very important to strike a balance between protecting vulnerable consumers while also affording vulnerable consumers an opportunity to avail of products which are suitable to their needs. We would not wish that such protections would serve to financially exclude vulnerable consumers on a prima facie basis.

Consideration should also be given to the need to vet moneylenders as they are calling to the homes of vulnerable consumers.

C. Introducing strengthened requirements for communicating with consumers;

We are in agreement with strengthened requirements for communicating with consumers as proposed.

D. Requiring that consumers in arrears are signposted to MABS earlier;

We are in agreement with the requirement to signpost to MABS earlier and recommend that the National Helpline telephone number, 0761 07 2000 and opening hours, Monday to Friday, 9am to 8pm be included in such correspondence.

E. Aligning the wording of requirements with the wording of similar provisions in the CPC 2012, where appropriate.

⁶ MABS applies the definition of poverty below to its ongoing work with banks and other financial institutions and this definition of poverty has been incorporated, to positive effect, in existing operational protocols between MABS and major creditors since 2009.

'People are living in poverty if their income and resources (material, cultural and social) are so inadequate as to preclude them from having a standard of living which is regarded as acceptable by Irish society generally. As a result of inadequate income and resources people may be excluded and marginalised from participating in activities which are considered the norm for other people in society.'

We are in agreement with the alignment of provisions to the CPC 2012, where appropriate.

Q27. Do you have comments on the attached draft Regulations?

The draft Regulations should provide the legislative framework for the Code to exist, incorporating any changes implemented as a result of this consultation.

Q28. Do you have any suggestion for further reform in the moneylending sector, e.g. are there any gaps or areas omitted from the protections proposed in this Consultation Paper?

As already referenced, we believe that the potential for interest rate restrictions should be considered to align Ireland with other European countries.

Where there are alternative repayment methods available to the client, a requirement should be included in the Code to oblige the moneylender to highlight these options on the firm's website, pre-contract information notice and repayment books. The cost of credit including and excluding collection charges should also be highlighted on all media. The revised Code should take account of technological developments in the moneylending sector, particularly in the digitalisation of moneylending applications. MABS is aware that at least one moneylending firm is developing a new 'App' which will give immediate decisions in most instances. If combined with online transfer of money, then the potential for consumers to engage in increased cycles of perhaps unsustainable borrowing is significant. The UK's Economic and Social Research Council funded recently published research⁷ on how access to digital forms of credit is changing consumers' use of credit and their understanding and experiences of indebtedness. Their findings indicate that digital credit interfaces are increasingly designed to minimise consumer deliberation and also, as the consumer has digital access to credit at any time in any place, that borrowing decisions can be trivialised leading to the promotion of impulsive spending.

The risks to the consumer are significant and the implications of such a development in the Irish market should be considered in the revised Moneylending Code. The UK research in this area has recommended that interventions be implemented to 'slow down' the consumer decision-making process and the approval process and that a night-time curfew on access to online credit is

⁷ <http://www.debtinterfaces.org.uk/wp-content/uploads/2018/04/REPORT-Digital-Interfaces-and-Debt-HCSTC-online-Newcastle-University-ESRC-March-2018.pdf>

implemented. This also ties in with our previous observation on ‘targeted advertising’ (section 4.1) and, in our view, specific consideration should be given to the regulation of digital moneylending interfaces in the revised Code.

Q29. Do you have any other views on the overall function and risks of the licenced moneylending sector in Ireland?

As previously stated, our view is that use of high-cost credit which arises in the absence of affordable alternatives leads to poverty traps for low-income households. However, in the absence of a viable national alternative it is recognised that this sector serves a need for low-income consumers and while this remains the case, interest rate restrictions need to be considered. In addition, MABS would like to see a stronger commitment to the ‘It Makes Sense’ personal micro credit loan within the credit union sector nationally, as its form and function is specifically designed to suit the needs of low-income borrowers.

Within the remit of the Central Bank, it is the view of CIB and MABS that an enhanced Consumer Protection Code rigorously applied, with appropriate sanctions for non-compliance, will serve the consumer better, but this must be viewed within a broader commitment to the financial inclusion of low-income households.