

Credit Reporting

What You Need To Do

Key Contact



Josh Hogan

Partner, Head of Financial Services Regulatory Group

DDI +353-1-607 1720

EMAIL josh.hogan@mccannfitzgerald.com

A major compliance challenge is fast approaching for businesses who provide credit in Ireland. The Central Credit Register (the “**Register**”) established pursuant to the Credit Reporting Act 2013 (the “**Act**”) will become operational from 30 June 2017. This will require any person who provides loans, deferred payments or any other form of financial accommodation to submit information to the Register and to comply with a range of new legal requirements. Regulated entities who provide credit are within scope, including banks (domestic and EEA passporting), retail credit firms, credit unions, payment institutions, investment firms and certain investment funds. So too are unregulated providers of credit, such as corporate lenders, special purpose vehicles and purchasers of loan portfolios.

If you are within scope, you will need to register as a ‘credit information provider’, categorise customers (consumers vs. non-consumers) and guarantors, submit detailed data about existing and new credit agreements in a prescribed format to the Register, amend your credit documentation and develop new processes and procedures.

Here is a brief guide to what you need to know about the Register and how McCann FitzGerald can help with your compliance project.



What is the Central Credit Register?

The Register is a national mandatory database of credit information established by the Central Bank of Ireland (“CBI”) which facilitates credit reporting and credit checking under the Act.

Why is it being introduced?

Under the EU-IMF Programme of Financial Support for Ireland, the Irish Government committed to introduce a legal framework to support an effective national credit reporting system. The goal is to support lenders in making responsible credit decisions by providing a ‘Single Borrower View’ in respect of all liabilities of the borrower.

What are the Obligations?

The Act, currently supplemented by five sets of Regulations and guidance manuals produced by the CBI (which currently run to over 500 pages) set out detailed requirements for a ‘credit information provider’ (“CIP”) in respect of the Register. The two key obligations are to (i) report information to the Register about applicants, borrowers and guarantors (these are described as ‘credit information subjects’ in the Act, “CIS”), and (ii) access information on the Register before granting credit.

There are a number of important ancillary obligations too and CIPs will need to adapt their documentation and procedures to comply with them. A CIP must provide certain information to a CIS prior to granting credit, verify the identity of the CIS, verify the accuracy and completeness of information provided by the CIS, keep records and comply with data protection legislation. Notably, certain elements of the data protection legislation (which normally only applies to individuals) have been extended to apply to corporates with a turnover of €3m or less in respect of their credit data under the Act.

The CBI has the power to impose levies on CIPs to meet the expenses of the CBI under the Act. In addition, the CBI may require CIPs to pay fees for access to information on the Register. These powers of the CBI have not yet been exercised.

What is in scope?

Almost all providers of “credit” are within scope as CIPs. These include regulated lenders (eg domestic and EEA passporting banks, retail credit firms, credit card companies, credit unions), unregulated lenders (eg corporate lenders, NAMA, local authorities) and purchasers of loan portfolios.

“Credit” is broadly defined under the Act. Subject to certain exclusions, any loan, deferred payment or other form of financial accommodation will be within scope provided it is for an amount of €500 or more. The Act applies regardless of whether the credit is provided to consumers or non-consumers.

The Act applies where either: (i) the applicant/ borrower is resident in Ireland at the time when the credit application/ credit agreement is made; or (ii) Irish law is the governing law for the credit agreement.

When will the Reporting and Checking Obligations commence?

The Register will start operating on 30 June 2017. CIPs will be required to report the specified personal and credit information:

- (i) for consumers, before 31 December 2017;
- (ii) for non-consumers, before 30 September 2018; and
- (iii) for guarantors, before 30 September 2019.

Note, the immediate requirement for a CIP is that information about consumer credit agreements in force on or after 30 June 2017 must be uploaded to the Register by 31 December 2017.

CIPs will be obliged to search the Register to check a credit applicant’s record before advancing credit of €2000 or more. This obligation commences on 30 September 2018 in respect of consumer applicants and 31 March 2019 for non-consumer applicants.

Consequences of Breach

The consequences for breach of the Act are serious. A CIP who provides false or misleading information to the Register

or uses information accessed from the Register for a non-permitted purpose can be prosecuted; so too can any director, manager or officer who consented or connived in the offence. Fines and imprisonment of up to 5 years can be imposed. In addition, for regulated entities, the CBI’s administrative sanctions regime can apply to the breach of any requirement under the Act.

How Can McCann FitzGerald Help?

We have immense experience in providing practical and commercially focused regulatory projects and on-going compliance support, delivered with the excellence and integrity for which McCann FitzGerald is well-known. Our team of practice and professional support lawyers, compliance professionals, data investigation specialists and project assistants are available to provide a range of services in connection with the Register.

Where large scale document reviews are necessary to obtain data for upload to the Register or to correctly categorise customers (note - a ‘consumer flag’ is required for every loan), our Data Investigations Group can be used. The Data Investigations Group employs state of the art technology, flexible resourcing and streamlined project management to achieve excellent time and cost-efficiencies for clients.

Our services in relation to the Act include:

Legal Advice

- Perimeter guidance on the scope of the Act, legal interpretation of requirements, etc
- Advising on customer classification - whether consumer or non-consumer
- Legal risk identification and mitigation

- Advising on amendments to legal documentation (eg lending documents, data protection notices etc)
- Review of loan administration/servicing agreements, where applicable, to take account of the Act
- Drafting/ revising procedures, process and policy documents in light of the Act (eg in relation to data protection, records retention, customer verification, credit decision-making etc)

Registration

- Assisting with your registration as a CIP on the Register and, where necessary, applying to the CBI for a CIP code and the 8 digit registration number required for registration

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Compliance Project Support

- Assisting with the interrogation and extraction of relevant data from your IT system in a format which can be processed to meet the technical requirements for submissions to the Register
- Document reviews to collect required data not available as structured data on your IT system
- Formatting of data in preparation for initial upload to the Register
- Upload of data to the Register

- Training of management and staff in relation to the Act and on-going compliance
- Assisting with the development of procedures and process documents in relation to compliance with the Act

Ongoing Compliance Support

- Acting as appointed reporting agent for mandatory periodic reporting to the Register
- Undertaking searches of the Register in connection with corporate lending and other large credit transactions.

For further information about McCann FitzGerald Financial Services Compliance Support, please see our website [here](#).

Principal Office Riverside One, Sir John Rogerson's Quay, Dublin 2, D02 X576
Tel: +353-1-829 0000

London Tower 42, Level 38C, 25 Old Broad Street, London EC2N 1HQ
Tel: +44-20-7621 1000

New York Tower 45, 120 West 45th Street, 19th Floor, New York, NY 10036
Tel: +1-646-952 6001

Brussels 40 Square de Meeûs, 1000 Brussels
Tel: +32-2-740 0370

Email inquiries@mccannfitzgerald.com **www.mccannfitzgerald.com**