



## Capturing information The Central Credit Register and non-consumer loans

### What is the Central Credit Register?

The Credit Reporting Act 2013 (“**CRA**”) introduced a new central credit register (“**CCR**”) which is designed to capture details of all lending (above €500) in Ireland. The requirements under the CRA are being introduced on a phased basis. The CRA reporting and consultation requirements apply to consumer loans from 30 June 2017 and will apply to non-consumer loans from 31 March 2018.

### What agreements are covered by the requirements of the CRA?

The CRA applies to credit agreements relating to borrowings of €500 or more where:

- (a) the applicant for credit or a person for whom credit is provided is resident in Ireland at the time when the credit application or agreement is made; or
- (b) the law governing the credit agreement is, or will be (in the case of an application for credit), the law of Ireland.

In addition to applying to credit agreements meeting these criteria (“qualifying credit agreements”), it should be noted that the CRA also applies to applications for credit of €500 or more meeting these criteria (“qualifying credit applications”).

### Does the CRA apply to all credit providers?

The CRA contains a very wide definition of credit providers and consequently, it applies to all regulated and non-regulated financial service providers. The only credit providers who are excluded are the Central Bank of Ireland or the central bank of any other country and pawnbrokers.

### Are all types of credit covered by the CRA?

The broad definition of “credit” in the CRA means that there is a degree of uncertainty as to what types of credit are covered by the CRA. The current view is that credit advanced by way of a bond, derivative or deposit does not fall within the scope of the CRA however, parties who may provide such products should keep this under review.

### Are all credit agreements covered by the CRA?

All credit agreements for more than €500, if they meet the criteria referred to above, are covered save for certain very limited exceptions including:

- intragroup credit;
- interbank lending; and
- by a person who does not provide credit except to that person’s employees.

### Is there any obligation to disclose guarantees under the CRA?

From 30 September 2019, there will be an obligation to provide prescribed credit information in relation to guarantors to the CCR.

### Why do I need to be aware of the CRA now?

To date the CRA has only applied to consumer credit agreements, however from 31 March 2018 it is to apply to non-consumer credit agreements. This is to become mandatory from 30 September 2018 with all information to be on the register by that date and to have been backdated to 31 March 2018.

## What are the lender's key obligations in relation to non-consumer loans?

### Reporting

Credit information providers ("CIPs") can report all qualifying credit applications and all qualifying credit agreements from 31 March 2018 and must report these agreements and applications by 30 September 2018 with all relevant information being backdated to 31 March 2018. There is an obligation to keep the CCR updated with any changes to the credit information furnished. The nature of the information to be provided is prescribed in a number of regulations. Interestingly the CRA also requires borrowers to disclose details of any foreign debt where it exceeds €5000 and the CIP must report the existence of this debt.

### Verification

CIPs have a responsibility to verify and ensure that the information provided by the borrower (called the credit information subject in the CRA) is accurate. The CIP must retain the documentation used for the purposes of verification for a period of 5 years.

### Notice

CIPs have a responsibility to ensure that all forms for qualifying credit applications coming within the ambit of the CRA contain a specified notice alerting borrowers to the fact that certain information shall be submitted to the Central Credit Register.

### Compulsory consultation of the register

From 31 March 2019, the CIP must make an application to access information held on the register when it is in receipt of a relevant credit application from a borrower. A relevant credit application is an application for credit of €2,000 or more.

## What do lenders need to do?

- If you think that your organisation might be affected by the CRA, it would be advisable to register with the CCR. All relevant details can be found at [www.centralcreditregister.ie](http://www.centralcreditregister.ie).
- A review should be carried out of credit agreements to assess whether they are consumer or non-consumer credit agreements and whether they come within the ambit of the CCA.
- All information in relation to the loan documentation and customers should be reviewed to ensure that it is complete and accurate.
- Procedures should be put in place to ensure accurate and timely submissions to the CCR.

### Commentary

This new regime is very wide reaching and could potentially capture credit agreements where neither party is Irish but where Irish law is chosen in a post-Brexit era. The CRA is likely to add to the administrative burden placed on lenders of commercial loans. This additional burden together with the uncertainty as to exactly what types of credit are covered by the CRA could cause Ireland to become a less attractive place in which to provide commercial loan facilities when compared with other jurisdictions.

## For further information, please contact:



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