



**Bille an Bhainc Ceannais (Maoirsiú agus Forfheidhmiú)
(Leasú), 2016
Central Bank (Supervision and Enforcement)
(Amendment) Bill 2016**

*Meabhrán Míitheach
Explanatory Memorandum*



**BILLE AN BHAINC CEANNAIS (MAOIRSIÚ AGUS
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CENTRAL BANK (SUPERVISION AND ENFORCEMENT)
(AMENDMENT) BILL 2016**

EXPLANATORY MEMORANDUM

Background

In January 2015, the Central Bank of Ireland ('Bank') announced that new regulations would be introduced in Ireland, applying limits on mortgage lending by financial service providers to consumers. These new rules introduced by the Bank were implemented into law through the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Housing Loan Requirements) Regulations 2015, Statutory Instrument No. 47/2015.

The purpose of these regulations, to protect the future of the Irish economy, was to ensure that sustainable lending was the norm going into the future, safeguarding against any future threats to the lending sector. Theoretically, the regulations were to *proportionately* limit 'loan to value and loan to income measurements for both primary dwelling houses and buy to let mortgages.' Whilst the regulations were not intended to prevent lending on a near-absolute basis, the practical effect of these regulations however has been *disproportionate* towards certain potential homeowners in society.

The breadth of these regulations and their restrictive requirements have excluded an overly large number of potential homeowners from the housing market, and locked a significant portion of society into long-term renting. Whilst the independence of the Central Bank is important, this does not necessitate that the Bank operate in a policy vacuum – unresponsive to the pressing needs of society. Instead, the Bank must engage more fruitfully with both the Minister for Finance, and the relevant Joint Committee of Houses of the Oireachtas on such issues. This Bill seeks to strike the correct balance between maintaining banking independence, whilst ensuring it has regular and important input from elected legislators in the Oireachtas, and the Government of the day.

Purpose of the Bill

The purpose of this Bill is to amend sections 49 and 51 of the Central Bank (Supervision and Enforcement) Act 2013 to ensure the powers exercised by the Central Bank of Ireland to make regulations, conferred by the Act of 2013 are fit for purpose, and to provide for related matters.

The regulations set by the Bank, will be amended at a particular juncture in the future. This will be proposed to ensure that both the Minister for Finance, and the relevant Joint Committee of the Houses of the Oireachtas, are more thoroughly involved in this process. Section 48 of the Central

Bank (Supervision and Enforcement) Act 2013 permits the Bank to make regulations, with subsection 1 stating they shall be, ‘for the proper and effective regulation of regulated financial service providers.’ Section 2, (a) to (y) categorises the broad scope in which instances such regulations may span. These regulations, however, brought in by the Governor of the Bank, were not brought in on a unilateral basis. Section 50 of the same Act of 2013 states the Bank must have particular regard when making such regulations. It needs to, ‘ensure that the requirements imposed by the regulations concerned are effective and proportionate having regard to the nature, scale and complexity of the activities of regulated financial service providers or the class or classes of regulated financial service provider to whom the regulations apply.’

Section 49, (a) to (c) of the same Act of 2013 stipulates that before these regulations are made, the Bank, ‘shall consult with the Minister and for that purpose shall provide to the Minister a draft of the proposed regulations’. Similarly the Minister for Jobs, Enterprise and Innovation shall be consulted on issues touching upon Section 48 (2)(b). In terms of optional consultation, Section 49 (1)(c) permits the Bank to, ‘consult with such other persons as the Bank considers appropriate to consult in the circumstances’.

Provisions of the Bill

Section 1 proposes amendments of Section 49 of the Central Bank (Supervision and Enforcement) Act 2013

The newly inserted subsection (i) in Section 49 (1)(a) states, ‘The Minister, following receipt of the draft proposed regulations, shall respond to the Governor in writing on his and his Departments views on the draft proposed regulations, to ensure they are fit for purpose, and are responsive to the current economic environment. The Minister may offer amendments to the draft proposed regulations.’ Complimenting this, subsection (ii) adds that, ‘The Governor shall not proceed with the draft proposed regulations before the written views and proposed amendments of the Minister are received, considered and responded to, in detail.’

Similarly, in Section 49 (1), a new subsection (d) will be added, stating, ‘shall consult with the relevant Joint Committee of the Houses of the Oireachtas, and for that purpose shall provide to the Joint Committee a draft of the proposed regulations.’

Given this provision, the three subsections states, ‘(i) The Joint Committee, following receipt of the draft proposed regulations, shall respond to the Governor in writing on the Committees views on the draft proposed regulations, to ensure they are fit for purpose, and are responsive to the current economic environment. The Joint Committee may offer amendments to the draft proposed regulations. (ii) The Governor shall not proceed with the draft proposed regulations before the written views and proposed amendments of the Joint Committee are received, considered and responded to, in detail. (iii) The Joint Committee may, at its own discretion, waive its right to provide its views and proposed amendments to the Governor via written communication.’

Section 2 proposes an amendment of Section 51 of the Central Bank (Supervision and Enforcement) Act 2013

A new subsection (a) for Section 51 (2) states, ‘All written communications between the Minister, Joint Committee, and the Houses of the Oireachtas, with regard to the draft proposed regulations shall be carried out in a reasonable timeframe, and shall be laid before each House of the Oireachtas shortly thereafter.’

Section 3 of the Bill sets out the short title of the Bill.

Deputy Noel Rock

Bealtaine, 2016.