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**An Bille um Chosaint Tomhaltóirí (Gnólachtaí  
Seirbhísithe Creidmheasa a Rialáil) (Leasú), 2018**  
**Consumer Protection (Regulation of Credit  
Servicing Firms) (Amendment) Bill 2018**

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*Meabhrán Mínitheach*  
*Explanatory Memorandum*

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**AN BILLE UM CHOSAINT TOMHALTÓIRÍ (GNÓLACHTAÍ  
SEIRBHÍSITHE CREIDMHEASA A RIALÁIL) (LEASÚ), 2018  
CONSUMER PROTECTION (REGULATION OF CREDIT  
SERVICING FIRMS) (AMENDMENT) BILL 2018**

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**EXPLANATORY MEMORANDUM**

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**Purposes of the Bill**

The purpose of the Bill is to regulate credit agreement owners of mortgage loans and SME loans. The Bill extends the provisions in the Consumer Protection (Regulation of Credit Servicing Firms) Act 2015 to credit agreement owners.

The Bill amends The Consumer Protection (Regulation of Credit Servicing Firms) Act 2015, the Central Bank (Supervision and Enforcement) Act 2013, the Central Bank Act 1997 and the Central Bank Act 1942.

**Provisions of the Bill**

*Section 1* provides a definition for a “credit agreement owner”. A “credit agreement owner” is defined as person (other than the National Asset Management Agency) who –

- (a) holds legal title or credit in respect of a credit agreement or a portfolio of credit agreements and or,
- (b) determines the overall strategy for the management and administration of a credit agreements and or,
- (c) determines the interest rate of the credit agreements and or,
- (d) makes the key decisions relating to the credit agreements and or,
- (e) enables the undertaking of credit servicing by another person or,
- (f) enforces credit agreements.

A credit agreement is defined under the 2015 Act as an agreement whereby a person grants, or promises to grant, credit to a relevant borrower. A relevant borrower under the 2015 Act is a relevant person or a micro, small or medium-sized enterprise within the meaning of Article 2 of the Annex to the Commission Recommendation 2003/361/EC of 6 May 2003.

*Section 2* paragraph (a) amends section 28 of the Central Bank Act 1997. In paragraph (c) of the definition of “money transmission service” a person authorised to carry on the business of a credit agreement owner is inserted along with an authorised credit servicing firm inserted by the 2015 Act. Paragraph (b) changes the definition of a regulated business by including a credit agreement owner alongside a debt management firm and a credit servicing firm.

*Section 3* amends section 1(f)(3) of the Consumer Protection (Regulation of Credit Servicing Firms) Act 2015. This amendment inserts credit agreement owner along with a credit servicing firm. It permits a firm already regulated by the Central Bank to continue to be regulated.

*Section 4* amends section 33A(5) of the Central Bank Act 1997 to include credit agreement owners along with credit servicing firms. Section 33A enables the Central Bank to make a firm's authorisation subject to conditions it sees fit, to impose conditions or requirements on the firm including codes of conduct.

*Section 5* amends section 34 of the Central Bank Act 1997. The 2015 Act inserted transitional provisions for credit servicing firms. This inserts section 34(G) which provides a similar transitional provision for a credit agreement owner.

This section also inserts a provision where a person who holds legal title to credit granted under a credit agreement also possesses a portfolio of credit agreements in the same commercial sector then that person shall not instruct a credit servicing firm to take action in such a manner as to jeopardise the interests of customers to benefit these competing interests. The Central Bank has the power to investigate this and issue direction to the credit servicing firm.

Section 34H inserted in this Bill replicates section 34G(1) which currently applies to credit servicing firms. Section 34H applies to credit agreement owners.

*Section 6* amends section 3 of the Central Bank (Supervision and Enforcement) Act 2013 which defines a customer in relation to a regulated financial service provider. This amendment provision adds a credit agreement owner to that of a credit servicing firm which was inserted under the 2015 Act.

*Section 7* amends section 57BA of the Central Bank Act 1942 which defines an "eligible customer". This amendment provision again incorporates credit agreement owners alongside a credit servicing firm which was inserted under the 2015 Act.

This ensures that customers of regulated financial institutions (including now credit agreement owners) have access to the Financial Services Ombudsman, whose role is to investigate, mediate and adjudicate complaints about the conduct of regulated financial service providers.

*Section 8* amends section 33A of the Central Bank Act 1997. This section stipulates certain reporting requirements that the credit agreement owner, credit servicing firm and or debt management firm shall report to the customer within 30 days of the credit agreement being sold.

The section also enables the Central Bank to impose the Code of Conduct on Mortgage Arrears 2013 and the Consumer Protection Code on credit agreement owners along with debt management firms and credit servicing firms.

*Section 9* amends section 34 of the Central Bank Act 1997 which is amended by adding that the purchaser of a credit agreement shall be subject to the provisions of this Bill.

*Section 10* amends section 43 of the Central Bank (Supervision and Enforcement) Act 2013. Subsection (a) adds to the definition of a relevant default. Subsection (b) outlines the respective roles of the Central Bank and the Financial Services Ombudsman.

*Section 11* stipulates that credit agreement owners are subject to the Financial Services Ombudsman complaints mechanism as outlined in the Central Bank and Financial Services Authority of Ireland Act 2013.

*Section 12* compels the Central Bank of Ireland to publish statistics on a quarterly basis on loans of Micro, Small and Medium Sized Enterprises.

*Section 13* of the Bill states that the Act may be cited as the Consumer Protection (Regulation of Credit Servicing Firms) Amendment Act 2018. It also inserts an enabling provision for the Minister for Finance.

*Deputy Michael McGrath,*  
*February, 2018.*