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Bill Digest

Credit Guarantee (Amendment) Bill 2020

No. 10 of 2020

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Abstract

The Credit Guarantee (Amendment) Bill 2020 will amend the *Credit Guarantee Act 2012* to achieve the following:

- To establish a new temporary €2 billion COVID-19 Credit Guarantee Scheme. This Scheme will be timebound and will be available (initially) until 31 December 2020. Loans / credit facilities will be provided by those participating banks and may be rolled over but cannot extend beyond 31 December 2026;
- To broaden the qualifying criteria for enterprises which can avail of the Credit Guarantee Scheme to include primary producers and Small Mid-Caps;

The Bill will also amend the *Credit Guarantee (Amendment) Act 2016* to:

- Increase the existing cap on the existing Credit Guarantee Scheme so that the State liability may not exceed €15.6 million;
- To ensure that the maximum State liability for the new COVID-19 Credit Guarantee Scheme shall not exceed €1.6 billion (80% of the total amount available). The other €400m (20%) rests with lenders / participating banks;

A Bill Briefing page is available here [internal access only].

Contents

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Second stage debate: 21 July 2020

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Summary

- The primary purpose of the Credit Guarantee (Amendment) Bill 2020 is to establish a temporary COVID-19 Credit Guarantee Scheme (the 'COVID-19 CGS') to assist:
  - Small and Medium Enterprises (SMEs),
  - Small Mid-Caps (businesses with up to 499 employees), and
  - Primary producers (businesses active in the agriculture, fisheries and aquaculture sectors)

  which have been adversely impacted by COVID-19 to access short-term lending in the form of loans or credit facilities. The intention is to avoid debt default and potential closure of certain eligible businesses arising from the very restrictive and difficult trading conditions caused by the COVID-19 pandemic. The COVID-19 CGS is one of many government 'debt funding' supports which are (or will be) available to eligible businesses impacted by the pandemic;
- The COVID-19 CGS is a development of the existing SME Credit Guarantee Scheme ('SME CGS'), established in 2012. The purpose of the COVID-19 CGS, like the existing SME CGS, is to encourage additional lending to eligible businesses by offering the protection of a Government guarantee to participating banks against losses on qualifying loans/credit facilities. However, uniquely, the COVID-19 CGS will also assist eligible Small Mid-Caps and primary producers;
- SMEs (alone) account for 99.8% (or c255,000) of active enterprises in Ireland, represent 70.1% of all employment and generate 41.5% of Gross Value Added (GVA) in the Irish economy. SMEs will have to declare to have been adversely impacted[1] by the pandemic to be eligible. Specific eligibility criteria are not, however, specified in the Bill itself;
- The COVID-19 CGS will be available for a wide range of products, including overdrafts, term loans and short-term working capital. All loans/ credit facilities will be made available for terms between 3 months and 6 years (maximum). The standard loan/facility size will be between €10,000 - €1m. A guarantee premium will apply to each loan in addition to interest rate costs;
- This COVID-19 CGS will be the largest such scheme in the history of the State[2] and will be operated (as with the existing CGS) by the Strategic Banking Corporation of Ireland (SBCI). All loans / credit facilities will be made available through participating banks, primarily AIB, Bank of Ireland and Ulster Bank;
- The COVID-19 CGS is being developed in accordance with the provisions of the European Commission's 'Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak', published in March 2020, which provides for the temporary relaxation of certain State Aid measures to enable EU Member States to support businesses through, among other means, aid in the form of guarantees and loans channelled through credit institutions / financial institutions and/or guarantees on loans. This temporary framework is due to expire on 31 December 2020;
- Risks associated with these loans will be shared between the Government and the participating banks. The Government will guarantee the banks against 80% of losses on each loan with the banks responsible for 20%. Originally, it was proposed that this guarantee be also subject to a 50% portfolio cap for loans/credit facilities provided by each bank, meaning that if a loan defaults and the bank requires to draw upon the CGS. However, this Bill removes the portfolio cap but maintains the risk shares with an 80% Government guarantee against losses and the remaining 20% to be shouldered by the three banks;
- The above means that the maximum possible State liability (if all guaranteed loans were to default) on the €2 billion COVID-19 CGS would be €1.6 billion (80% of total liability) with the participating banks responsible for the other €400m (20%). However, this assumes that all guaranteed loans/credit facilities default without recovery;
- Under EU State Aid rules, the CGS is timebound and will be available initially until 31 December 2020 although an extension by 1 year is possible if ordered by the Minister for Business, Enterprise and Innovation with the consent of the Minister for Finance and the Minister for Public Expenditure and Reform. No individual loan/facility will be facilitated with a repayment period longer than 6 years (31

[1] The borrower will have to declare an adverse impact of minimum 15% of actual or projected turnover or profit due to the impact of COVID-19.

[2] MerrionStreet.ie (2020) *'€2 billion COVID-19 Credit Guarantee Scheme will provide low cost loans to businesses impacted by COVID-19 – Tánaiste'*, 14 July 2020. Available at https://merrionstreet.ie/en/News-Room/News/%E2%82%AC2_billion_COVID-19_Credit_Guarantee_Scheme_will_provide_low_cost_loans_to_businesses_impacted_by_COVID-19_-_Tanaiste.html.

December 2026) as the duration of the guarantee is limited to this period under the EC's 'Temporary Framework'.

Table 1 below summarises the provisions in this Bill. The Bill contains 7 sections. This Digest does not examine the principal provisions separate to this section and instead explores the existing and proposed Credit Guarantee Schemes.

Table 1: Table of provisions

Section(s)	Title	Explanation
1	Definitions	This section provides that references to the "Act of 2012" refers to the *Credit Guarantee Act 2012.*
2	Amendment of section 1 of Act of 2012	This section amends section 1 of the *2012 Act* which deals with definitions. It provides for the inclusion of a new definition of 'COVID-19 Credit Guarantee Scheme' in the *2012 Act*. This definition is provided by a new section 4A(1) as "In the case of a credit guarantee scheme made to facilitate the **provision of financial products to participating enterprises in response to the economic difficulties caused by COVID-19**".
3	Amendment of section 3 of Act of 2012	This section amends section 3 of the *2012 Act* which defines a qualifying enterprise to allow for extension of the classes of qualifying enterprises to include small Mid-Caps (enterprises with up to 499 employees). **Note**: Primary producers (enterprises/businesses active in the agricultural, fishery and aquacultural sectors), which are to be included in the scheme, will be included through the statutory instrument (SI) establishing the scheme.[3]
4	Amendment of section 4 of Act of 2012	This section amends section 4 of the *2012 Act* which deals with the power of the Minister to give guarantees. It will now include a reference to the new COVID-19 CGS thus allowing the Minister (for Business, Enterprise and Innovation) the power to give guarantees. This section also disallows subsections 3 and 4 of section 4 of the *2012 Act*[4] for the specific purposes of the COVID-19 CGS to remove the provide for the removal of the portfolio cap and allow for a maximum credit amount of €2 billion.
5	Power of Minister to give guarantees in accordance with COVID-19 Credit Guarantee Scheme (CGS)	This section introduces a new section 4A into the 2012 Act to give the Minister powers to give guarantees in respect of the COVID-19 CGS. The CGS will be open for guarantees in respect of loans/facilities put in place by 31 December 2020 (initially) **or** a later date (but no later than 31 December 2021) if ordered by the Minister with the consent of the Minister for Finance and Minister for Public Expenditure and Reform. This section also ensures: • Guarantees will not extend beyond 6 years induration (individual loan/facility will be facilitated with a repayment period longer than 6 years and/or beyond ending 31 December 2026); • The maximum amount of credit to be covered by guarantees will not exceed €2 billion, with the Minister's liability not exceeding €1.6bn (80%).
6	Amendment of section 12 of the *Credit Guarantee (Amendment) Act 2016*	This section amends section 12 of the *Credit Guarantee (Amendment) Act 2016* to ensure that the maximum liability of the Minister in relation to: • The existing Credit Guarantee Scheme – shall remain, not exceeding €15.6m; • The COVID-19 Credit Guarantee Scheme – where a separate provision will allow for the maximum (State) liability of €1.6bn through the new section 4A(4);
7	Short title, commencement and collective citation	Contains the short title ('Credit Guarantee (Amendment) Act 2020') and commencement arrangements (different parts of the Act can come into force on different days by order of the Minister for Business, Enterprise and Innovation). The collective citation for all Credit Guarantee legislation i.e. the *2012 Act*, the *2016 Act* and this Bill is the '*Credit Guarantee Acts 2012 to 2020*').

Source: L&RS summary based on the Bill (as published) and the accompanying Explanatory Memorandum, available at https://billsadmin.oir.ie/view/5546

Pre-legislative scrutiny (PLS)

No pre-legislative scrutiny was undertaken on this Bill.

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[3] This clarification is included in the Explanatory Memorandum accompanying the Bill.
[4] As different provisions are being made for those aspects through the new section 4A of the Credit Guarantee Act 2012 which is being inserted by section 5 of this Bill.

Introduction

The Credit Guarantee (Amendment) Bill 2020 was published on 14 July 2020 by An Tánaiste and the Minister for Business, Enterprise and Innovation, Leo Varadkar T.D. The aim of the Bill, according to the Tánaiste / Minister is:

> "…[to] ensure that SMEs, primary producers and small Mid-Caps can access liquidity to keep their businesses operating, as our economy continues to reopen and more and more people get back to work. It will be available for a wide range of products including overdrafts, term loans and working capital."

In general, the COVID-19 CGS will provide supports to eligible businesses ranging from 3 months to a maximum of 6 years at "below market" interest rates. Eligible businesses will be mainly those in the market services sectors of the economy with labour-intensive sectors, such as retail trade, food and beverage activities and accommodation, and tourism and travel particularly affected.[5]

The key features of the COVID-19 CGS are summarised below:

Box 1: Key features of the COVID-19 Credit Guarantee Scheme (CGS)

- Operating as a State Guarantee, the COVID-19 CGS will cover eligible loans/facilities for SMEs, primary producers (active in agriculture, fisheries and aquaculture) and mid-caps (enterprises with up to 499 employees). SMEs are expected to be the main beneficiaries;
- In order to qualify for the Scheme, the borrower / company will have to declare an adverse impact of a minimum 15% of actual or projected turnover or profit due to the impact of COVID-19;
- The total amount available under the COVID-19 CGS is €2 billion (the State is liable for 80% of losses equivalent to €1.6bn while the participating banks will be liable for 20% equivalent to €400m);
- The current standard facility size of €10,000 to €1 million under the current Credit Guarantee Acts (2012 and 2016) will remain;
- The products covered under the scheme will include overdrafts, working capital and term-loan facilities;
- Three lenders/banks will participate in the scheme: AIB, Bank of Ireland and Ulster Bank;
- To qualify for the scheme, the qualifying borrower will have to declare an adverse impact of a minimum 15% of actual or projected turnover or profit due to the impact of COVID-19;
- The portfolio cap for individual lenders is removed;
- A guarantee premium on each loan is required to be paid in addition to interest rate costs;
- The scheme will be time-bound and will be available initially until 31 December 2020 (with a possible extension to 31 December 2021);
- The rollover of loans will be facilitated but no loan included can extend beyond 31 December 2026.

Source: L&RS based on MerrionStreet.ie (2020) '€2 billion COVID-19 Credit Guarantee Scheme will provide low cost loans to businesses impacted by COVID-19 – Tánaiste', 14 July 2020 and DBEI (2020) Briefing Note on Credit Guarantee (Amendment) Bill 2020 [provided to the L&RS/authors].

The COVID-19 CGS will operate alongside several other supports for businesses in Ireland as already announced by the Department of Business, Enterprise and Innovation, notably those recent measures announced on 2 May 2020[6]. The €2bn COVID-19 CGS was included in that list of new measures. A list of COVID-19 supports are available on the Department's dedicated website dbei.gov.ie/coronavirus.

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[5] DBEI (2020) Short RIA – Credit Guarantee (Amendment) Bill 2020 – supplied to L&RS/authors;
[6] DBEI (2020) *'Government outlines further measures to support businesses impacted by Covid-19'*, 2 May 2020. Available at https://dbei.gov.ie/en/News-And-Events/Department-News/2020/May/02052020.html

Legislative change was required to amend the existing *Credit Guarantee Act 2012* (as amended by the *Credit Guarantee (Amendment) Act 2016*) to put in place the specific, extra and timebound measures for the COVID-19 Credit Guarantee Scheme, namely the removal of the portfolio cap to increase the overall funding capacity of the scheme by increasing the maximum potential liability for the State to €1.6bn.

Small and medium-sized enterprises (SMEs), small Mid-Caps and primary producers

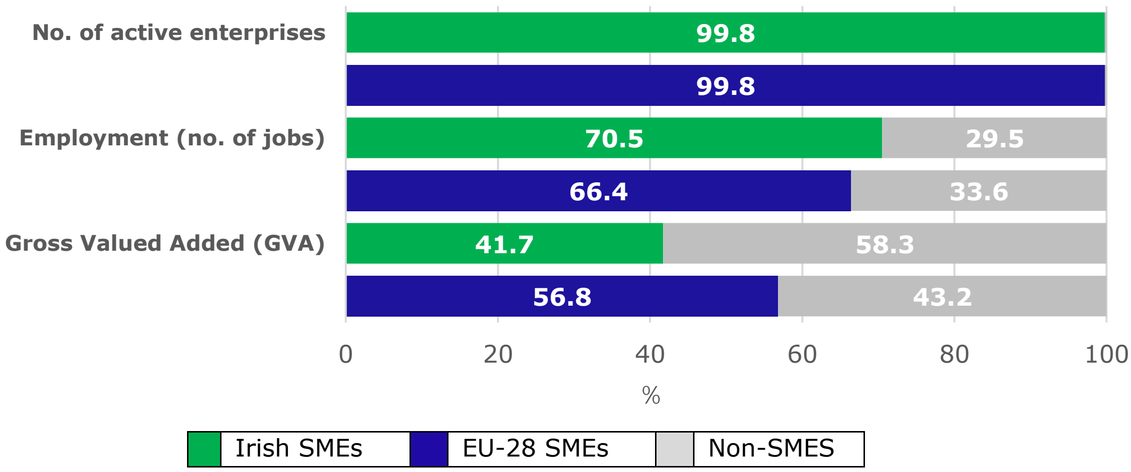
SMEs are defined by the Standard EU definition [Commission Regulation 2003/361/EC] as enterprises that[7]:

- have fewer than 250 employees;
- have a turnover of €50 million or less (or €43 million or less on their balance sheet);
- are independent and autonomous i.e. not part of a wider group of enterprises;
- have less than 25% of their capital held by public bodies; and
- are established and operating in the Republic of Ireland.

A Small Mid-Cap is an enterprise that is not a SME but has fewer than 500 employees.

SMEs account for 99.8% of active enterprises in Ireland (c255,000), represent 70.5% of employment, and generate 41% of Gross Value Added (GVA) in the economy. The comparison with the (then) EU-28 as a whole is visualised below:

Figure 1: Profile of the economic contribution of SMEs in Ireland compared to the EU as a whole (2019 figures)



The number of primary producers and Small Mid-Caps (enterprises / businesses with more than 250 employees but less than 500) was not available at the time of publication of this Digest.

[7] DBEI website. Available at https://dbei.gov.ie/en/What-We-Do/Supports-for-SMEs/COVID-19-supports/Credit-Guarantee-Scheme-COVID-19-FAQ.html (Please note: This page refers to the existing Credit Guarantee Scheme).

Existing SME Credit Guarantee Scheme ('SME CGS')

In this section, we provide an overview of the *Credit Guarantee Act 2012* and the *Credit Guarantee (Amendment) Act 2016*. The new COVID-19 Credit Guarantee is a further development of the existing Credit Guarantee Scheme already available.

Overview of the *Credit Guarantee Act 2012*

The *Credit Guarantee Act 2012* was enacted into law on 18 July 2012 and provided for the establishment of a Temporary Partial Credit Guarantee Scheme. The Scheme was targeted at micro, small and medium enterprises (SMEs) employing up to 250 staff and a key purpose of the Scheme was to support employment growth in the SME sector. It was intended to help commercially viable businesses secure additional bank lending by providing a level of guarantee to banks against losses on qualifying loans.

The Scheme targets SMEs facing two specific barriers in securing additional lending:

1. The business has insufficient collateral for the additional facility (Pillar 1), and/or
2. The business is a growing / expansionary SME which, due to its business sectors, markets or business model, are perceived as higher risk under their current credit risk evaluation practices (Pillar 2).

The purpose of the Scheme was to therefore facilitate new lending, investment, trade and employment, and enable SMEs access sufficient credit to maximise growth potential.[8]

Key features of the *Credit Guarantee Act 2012*

- The Scheme provides a Government **guarantee** to the lender of **75%** on individual loans to viable businesses which is paid to the lender on the unrecovered outstanding balance on a loan in the event of default;
- The Minister can underwrite a group of loans up to a maximum of **€150 million** per annum.
- The guarantee is provided for a period of **three years**;
- The annual **portfolio claim limit** is set at **10%** for each lender;
- **Loan amounts** vary between €10,000 to €1 million;
- The borrower pays a 2% annual **premium** which partially covers the cost of providing the guarantee;
- A **qualifying enterprise** should have less than 250 employees. Their annual turnover should not exceed €50 million and their balance sheet should not exceed €43 million;
- Certain types of business activity[9] and loans[10] are not covered by the scheme;
- A qualifying enterprise should have less than 250 employees. Their annual turnover should not exceed €50 million and their balance sheet should not exceed €43 million;
- Certain types of business activity and loans are not covered by the scheme.

[8] DBEI (2011) Regulatory Impact Analysis – Credit Guarantee Bill 2012, October 2011. Available at https://dbei.gov.ie/en/Legislation/Legislation-Files/Credit-Guarantee-Bill-2012-Regulatory-Impact-Analysis.pdf
[9] For example: primary production in agriculture, horticulture and fisheries are excluded.
[10] For example, refinancing existing debts are excluded. Overdrafts are excluded from the Scheme. Property-related activities are excluded.

Credit Guarantee Act 2012 Review

First Choice Financial Services Limited and AJS Financial Advice Limited were appointed by the then Department of Jobs, Enterprise and Innovation to review the Scheme. In their review, they provided several key findings and recommendations[11]. Examples of these key findings and recommendations include:

Table 2: Example of summary key findings and recommendations

No.	Key findings	Recommendations
1	The Scheme is seen as being overly complicated and consideration should be given to undertaking a fundamental redesign of the Scheme based on inclusion while remaining within EU restrictions.	▪ Amend the primary legislation to permit the reallocation of overall funding (risk) in response to market and/or stakeholder demands. ▪ Expand the covered Scheme products as per point 2 below.
2	The range of financial products to which the Scheme applies is seen as too restrictive	Extend the Scheme to cover a fuller range of financial products.
3	The Portfolio structure and Cap is a major issue for the banks as is the level of guarantee provided under the Scheme.	Remove the annual portfolio cap and assess the portfolio as a total, rather than an annual portfolio.
4	The 3-year term is seen as too short as most loans are a minimum of 5 – 7 years	Extend the term to 7 years
5	The current level of Scheme Guarantee at 7.5% (75% of 10%) is seen as too low and does not provide an equitable level of risk sharing. The risk / share ratio is imbalanced.	Amend the guarantee to 10.4% (80% of 13%) to facilitate a more equitable risk share while remaining compliance with De Minimus rules.

Source: First Choice Financial Services Ltd. (2013) Review of the Temporary Partial Credit Guarantee Scheme 2012, September 2013. Available at https://dbei.gov.ie/en/Publications/Publication-files/Review-of-the-SME-Credit-Guarantee-Scheme-.pdf

Overview of the *Credit Guarantee (Amendment) Act 2016*

The *Credit Guarantee (Amendment) Act 2016* was enacted into law on 8 February 2016 and was introduced to amend and extend the *Credit Guarantee Act 2012*. The amendment includes an increase in the amount the State can guarantee, and it also enables the Minister to provide counter-guarantees.

[11] Please refer to page 6 and the "Summary of Findings and Recommendations" Table. Available at https://dbei.gov.ie/en/Publications/Publication-files/Review-of-the-SME-Credit-Guarantee-Scheme-.pdf

Key features of the *Credit Guarantee (Amendment) Act 2016*

The following is a summary of the key features of the *Credit Guarantee (Amendment) Act 2016* adapted from the Department of Business, Enterprise and Innovation's Information Booklet.

1. It provides a **Government-backed guarantee** for up to 80% of the facility (loan) value to finance providers. This guarantee provides protection to finance providers in the event of default by the participating entity;
2. The State sets a **portfolio claim limit** of up to 13% of the aggregate value of Scheme Facilities accepted in each year for each finance provider thereby capping the State's exposure at up to a guaranteed 80% of the portfolio claim limit;
3. The participating entity pays a maximum of 2% annual **premium** which partially covers of the cost of providing the guarantee;
4. The **interest rate** charged, and any other fees and charges applied to the facility, are a commercial matter for the finance providers;
5. The Scheme guarantees may be provided for any **facility value** from €10,000 to €1 million.
6. The **maximum period** for which the Guarantee is available is **seven years** from the date the participating entity signs the letter of offer;
7. The Scheme is **available** for working capital or investment purposes or for refinancing. Demand loans, term loans, working capital facilities and performance bonds will be covered by the Scheme. Other types of debt instruments may be allowed but the ultimate approval comes from the Department;
8. Any eligible business[12] or businesses involved in an eligible activity[13] which is an SME can avail of a credit facility under the Credit Guarantee Scheme.

Overview of Credit Guarantee Scheme Sanctions

A report prepared by Indecon International Economic Consultants on the Evaluation of Concept of Community Banking in Ireland was submitted to the Department of Finance in December 2019. Part of this report provided an overview of existing state supports, including Credit Guarantee Scheme sanctions between 2012 and 2019. This section provides an overview of their findings.

Credit Guarantee Scheme Sanctions by Quarter (2012 – 2019)

As illustrated in Figure 2 overleaf, early quarters of the Credit Guarantee Scheme saw low levels of sanctions. A 2013 review found the Scheme to be over-complicated, offering a narrow range of lending products and was skewing the risk in favour of the State. It also found that the range of financial products under the Scheme was too restrictive, and that the three-year term was too short given most loans are for a minimum term of five to seven years.

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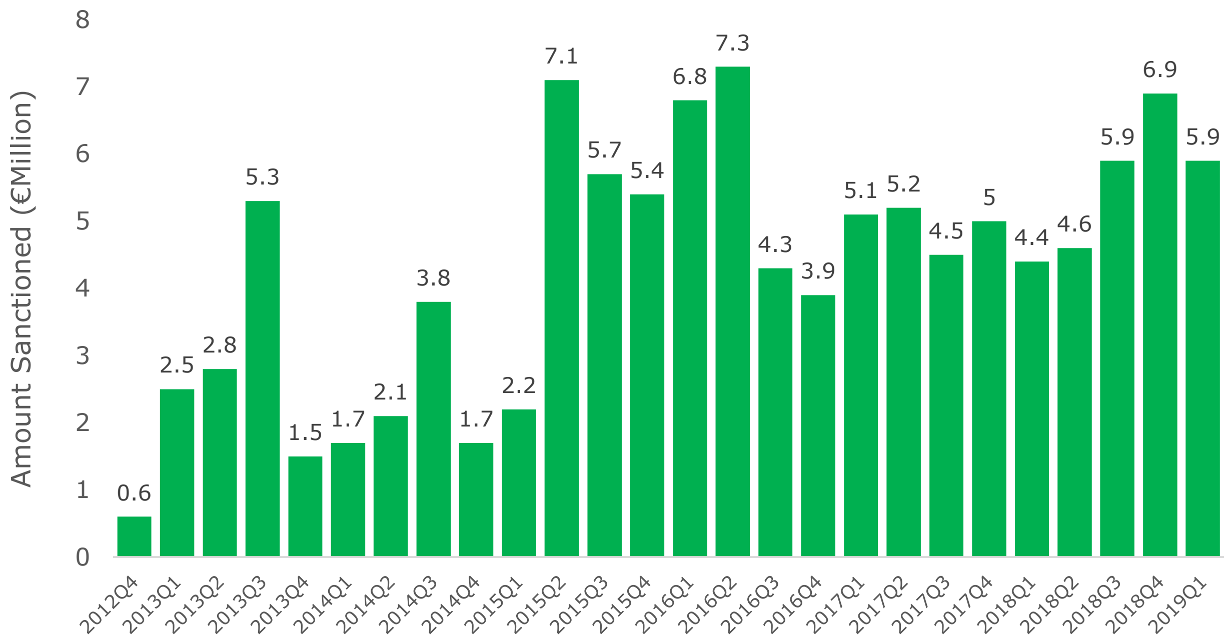
[12] To be eligible, your business must be involved in a commercial activity (i.e. with the intention of making a profit); Be a sole trader, partnership, franchise, co-operative or limited company either trading or preparing to trade in the near future; Have a viable business (in the finance provider's opinion); Be able to repay the facility

[13] Most activities are included but there are some restrictions. For example, there are exclusions relating to aquaculture, primary agriculture, banking, finance and associated services, coal, formal education, insurance and associated services, owning and dealing in property, publicly owned bodies and companies, road freight vehicles, as outlined in Appendix A of the DBEI Information Booklet. Available at https://dbei.gov.ie/en/Publications/Publication-files/SME-CGS-Information-Booklet.pdf .

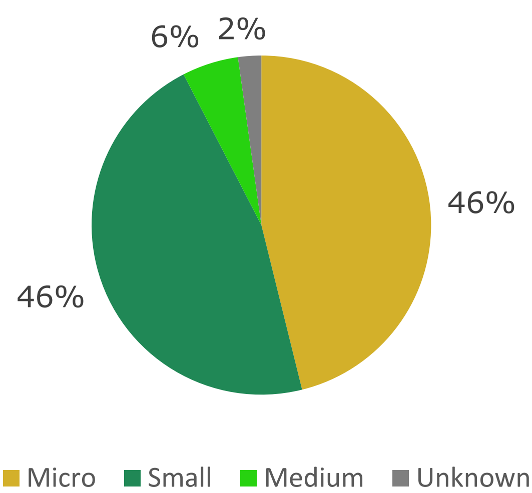
Figure 2: Credit Guarantee Scheme Sanctions by Quarter (2012 – 2019)

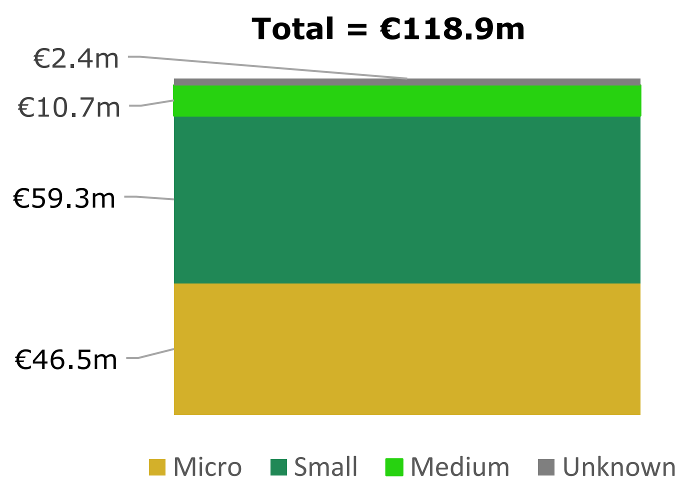


Source: Evaluation of Concept of Community Banking in Ireland, using data from DBEI

From 2015 onwards, there is a significant increase in the level of sanctions, coinciding with the introduction of the *Credit Guarantee (Amendment) Act 2016* which introduced several changes including an increase in the amount that the State was able to guarantee. From Q3 2018 onwards, there have been relatively high levels of sanctions, with levels in excess of those over the previous two years. As Figure 3 below shows, small enterprises accounted for the highest number of loan facilities sanctioned with 336 small companies having loans sanctioned to a total loan value of €59.3 million. This is closely followed by micro-enterprises which accounted for over €46.5m of lending sanctions.

Figure 3: Credit Guarantee Scheme: Facilities Granted by Company Size (LHS) and Lending Sanctioned (RHS) (2012 – 2019)

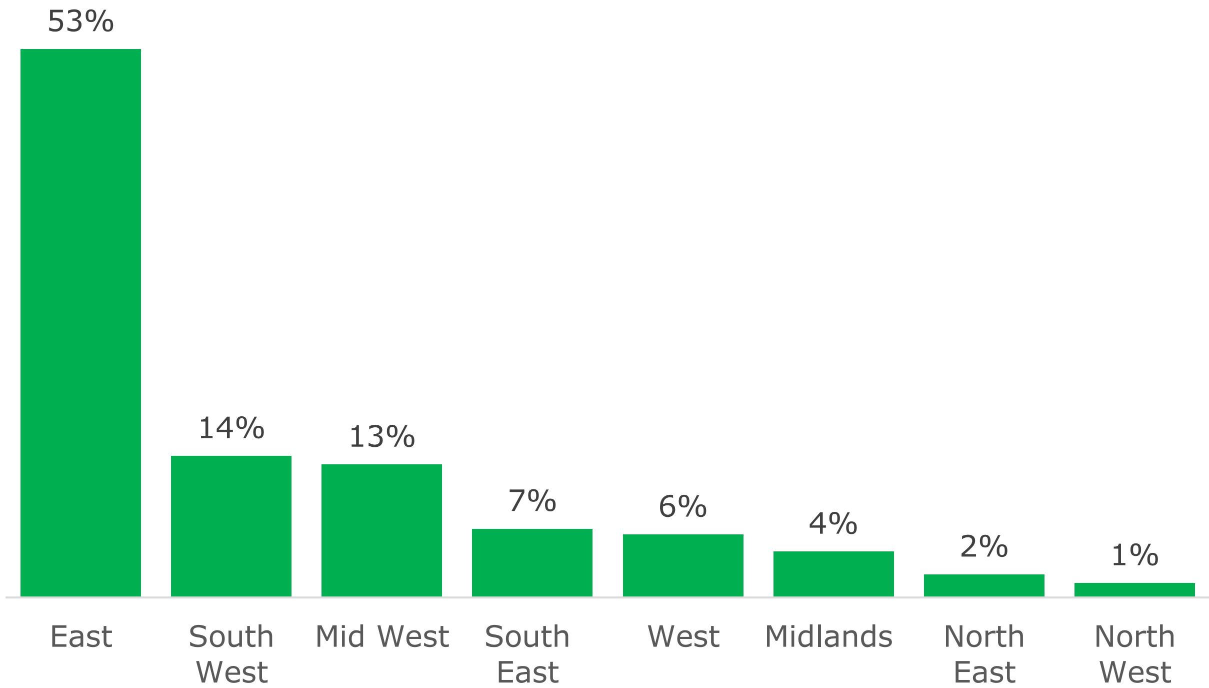




Source: Evaluation of Concept of Community Banking in Ireland, using data from DBEI.

Finally, Figure 4 below shows that most credit facilities granted by the SBCI were in the East of Ireland which accounted for 384 of the 726 facilities granted (or 53%) between 2012 and Q3 2019.

Figure 4: % of total Credit Guarantee Scheme grants (726) by region (2012 – 2019)



Source: Evaluation of Concept of Community Banking in Ireland, using data from DBEI.

Proposed new COVID-19 Credit Guarantee Scheme ('COVID-19 CGS')

On 2 May 2020, the Government approved the creation of a new COVID-19 Credit Guarantee Scheme to facilitate bank lending of up to €2 billion to SMEs, primary producers and small mid-caps (i.e. companies under 500 employees). This Scheme will be the largest credit guarantee scheme for businesses in the history of the State. This CGS requires amendments to be made to the existing *Credit Guarantee Act 2012* (as amended) in order to allow for the removal of the portfolio cap and to also increase the size of the Scheme.

The main features of the new COVID-19 Credit Guarantee Scheme are outlined in Table 3 below.

Table 3: Main Features of the new COVID-19 Credit Guarantee Scheme

Recipients	SMEs, primary producers (see below) and small Mid-Caps (businesses with under 500 employees). Primary agriculture, fisheries and aquaculture producers may be included*.
To qualify	Borrower must declare an adverse impact of a minimum 15% of actual or projected turnover or profit due to the impact of COVID-19.
Amount	€2 billion available.
Guarantee rate	80% for the State. 20% for Lenders (participating banks/credit providers)
Portfolio cap	The portfolio cap for individual lenders is removed. This is essential to ensure lenders provide an interest rate reduction to borrowers and to comply with the Capital Requirements Regulation.
Facility size	The standard facility size of €10,000 to €1 million under the current Acts will remain.
Products covered	Broad range of credit facilities (e.g. overdrafts, working capital, term loan facilities).
Existing credit facilities	Scheme will allow lenders to refinance and rollover credit facilities. Lenders are not allowed to end existing credit facilities early to artificially access the COVID-19 Credit Guarantee Scheme.
Moratoria on interest and capital	Permitted for specific periods of time (up to one year), subject to the T&Cs of individual participating financial institutions.
Timeframe	Scheme will be timebound and available initially until 31 December 2020*. Rollover of loans will be facilitated but no loan included in the Scheme can extend beyond 31 December 2026*
Payment	Under the Scheme, a guarantee premium on each loan is required to be paid in addition to interest rate costs*.

Source: Adapted from the Department of Business, Enterprise and Innovation Press Release, 14 July 2020. Available at https://www.gov.ie/en/press-release/22264-2-billion-covid-19-credit-guarantee-scheme-will-provide-low-cost-loans-to-businesses-impacted-by-covid-19-tanaiste/ *This is to ensure compliance with the terms of the European Commission's Temporary State Aid Framework.

The COVID-19 Credit Guarantee Scheme will be operated by the Strategic Banking Corporation of Ireland (SBCI) and will be available through three banks; AIB, Bank of Ireland and Ulster Bank. It is expected there will be an Open Call in the future though no definitive date has been announced publicly.

Eligibility criteria and interest rate(s)

The COVID-19 CGS is for SMEs, primary producers and small Mid-Caps (defined as businesses with up to 499 employees) with SMEs expected to be the main beneficiaries.[14] However, the CGS is available only to eligible, qualifying businesses which are those that declare an adverse impact of minimum 15% of actual or projected turnover or profit due to the impact of COVID-19.[15] The eligibility criteria are, however, not specified in the Bill itself. According to an analysis by Mason, Hayes and Curran[16]:

> "The lack of clarity regarding the criteria **raises certain queries and challenges for participating banks and businesses**. It is important for both SMEs and participating banks that further detail regarding this is provided. Businesses need this information to assess whether they are eligible for the CGS and likely to be granted a loan. The participating banks need this information to ensure they correctly assess applications and that they are aware of the level of risk they are taking on."

Another feature of the COVID-19 CGS is that the removal of the portfolio cap will ensure, among other things, that the participating banks provide an interest rate reduction to the borrower.[17] The Government has previously stated that the interest rate on qualifying loans would be below market rates. However, one feature of the COVID-19 CGS is that a premium will be charged to the borrower to partially offset the cost of the guarantee:

> "A guarantee premium on each loan under the scheme **is required to be paid in addition to interest rate costs** (for SMEs it is 0.25% in the first year, 0.50% in years two and three and 1% in years four, five and six)". [18]

The actual interest rate (or rates) is/are not known. However, as Table 3 summarises, interest moratoria are possible for specific periods (up to 1 year) but is at the discretion of the individual lender.

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[14] DBEI (2020) *Briefing note on Credit Guarantee (Amendment) Bill 2020* – supplied to L&RS/authors.
[15] *Ibid.*
[16] Mason, Hayes & Curran (2020) Irish COVID-19 Credit Guarantee Scheme – Clarity Still Required, 16 July 2020. Available at https://www.mhc.ie/latest/insights/irish-covid-19-credit-guarantee-scheme-clarity-still-required
[17] DBEI (2020) *Briefing note on Credit Guarantee (Amendment) Bill 2020* – supplied to L&RS/authors.
[18] Gov.ie (2020) '*€2 billion COVID-19 Credit Guarantee Scheme will provide low cost loans to businesses impacted by COVID-19'* – Tánaiste, 14 July 2020. Available at https://www.gov.ie/en/press-release/22264-2-billion-covid-19-credit-guarantee-scheme-will-provide-low-cost-loans-to-businesses-impacted-by-covid-19-tanaiste/

Policy implications

Due to the necessity to proceed with this legislation immediately, there was insufficient time to conduct a comprehensive regulatory impact analysis (RIA).[19] However, a short RIA was produced for this Bill and supplied to the authors by the Department of Business, Enterprise and Innovation.

They key points are included below in Table 4.

Table 4: Policy implications and regulatory impact of the Bill's provisions

	Costs	Benefits		
	Exchequer	**Competitiveness and employment**	**North-South, East-West Relations, Gender Equality**	**Poverty Proofing, Industry Costs, Quality Regulation.**
Introduce proposed amendments to legislation (introduce the COVID-19 Credit Guarantee Scheme)	Maximum potential risk to the exchequer is **€1.6 billion (80% of €2 billion).** This is a maximum liability amount and assumes all guaranteed credit facilities default entirely without recovery. Exposure is mitigated by the portfolio mix of products and their terms and would be spread over a maximum 6-year period.	The COVID CGS is designed to assist SMEs and primary producers in particular in accessing short term lending to boost their liquidity. This will be a strong aid to those businesses in avoiding debt default and potential closure, thereby assisting them to remain open and preserve employment for the business owners and their staff.	None.	None.

Source: L&RS summary based on the Bill, the Explanatory and Financial Memorandum accompanying the Bill and the short regulatory impact assessment (RIA) provided to the authors / L&RS by the Department of Business, Enterprise and Innovation.

[19] According to the Department of Business, Enterprise and Innovation as stipulated in the short RIA.

Commentary and criticism

There has been some commentary on, and related, to the Credit Guarantee (Amendment) Bill 2020 Bill and the new temporary €2 billion COVID-19 Credit Guarantee Scheme it seeks to establish, both pre and post publication of the Bill. This section of the Digest examines a selection of the published commentary.

The **Banking & Payments Federation Ireland (BPFI)**, which is the main representative body for banking and payments in Ireland (representing over 70 domestic and international member institutions) issued a statement on the need for "a State guarantee for businesses that require liquidity" on its website on 25 May[20], which also featured as an opinion article in the Irish Times on the same day[21]. This statement by Brian Hayes (the chief executive of the Banking & Payments Federation Ireland) noted the following:

> "In addition to unemployment-related support measures, the Government recently announced a loan guarantee scheme, among several new initiatives, with €2 billion budgeted for bank lending to SMEs. The commitment of all bank chief executives, who recently met the Taoiseach, is to work closely with businesses and the Government to make sure that we get the loan guarantee scheme right. Delivering funding quickly to those businesses when the scheme is enacted through legislation and ensuring that the structure underlying the guarantee allows new lending decisions to happen at pace are vital given the urgency of what we face.
>
> But as CBI [Central Bank of Ireland] researchers noted recently, a balance must be struck 'between limiting the cost of finance to SMEs and ensuring that banks and the government providing the guarantee do not make substantial losses.'
>
> We also need to look at what other European countries are doing and deliver instruments that maximise the time we have before the EU state-aid rules are reintroduced.
>
> […]
>
> What is needed now is a business guarantee that works quickly for those businesses that need liquidity."

The Irish Times also reported in July 2020[22] that **IBEC**, the country's largest business membership organisation, welcomed modification of the credit guarantee scheme but also called for further measures to be taken to enhance the enterprise support system, noting that Ireland currently lacks an export credit insurance scheme:

> "Improvements to the credit guarantee scheme this week are welcome but the establishment of an export credit insurance scheme is critically needed with Ireland a significant outlier in not having such a scheme."

The **IFA** meanwhile welcomed the inclusion of primary producers in the Bill:

> "IFA President Tim Cullinan has welcomed confirmation from Minister Michael Creed that farmers are included in the Government's €2bn Credit Guarantee Scheme.

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[20] BPFI webpage, *State guarantee needed for businesses that require liquidity – Brian Hayes*. 25 May 2020. Available at https://www.bpfi.ie/news/state-guarantee-needed-businesses-require-liquidity-brian-hayes/

[21] Irish Times (2020) 'State guarantee needed for businesses that require liquidity', 25 May 2020. Available at https://www.irishtimes.com/business/financial-services/state-guarantee-needed-for-businesses-that-require-liquidity-1.4259592.

[22] As detailed in an article published by the Irish Times in 2020. See: Irish Times (2019*) 'Coronavirus stimulus plan for businesses must be about more than money',* 17 July 2020. Available at https://www.irishtimes.com/opinion/coronavirus-stimulus-plan-for-businesses-must-be-about-more-than-money-1.4306307.

> 'Cashflow is key for farmers at the moment. It's important that the fund is open to farmers, but we need the detail and the small print to ensure its farmer friendly,' he said.
>
> 'Farmers need access to working capital to cover their operating expenses during this unparalleled crisis. Agri-merchants and co-operatives are not in a position to provide increased/extended credit to farmers as they are experiencing their own cashflow problems as cash dries up."[23]

Whilst not a direct commentary on this Bill itself as published, the Seanad Public Consultation Committee Report on Small and Medium Sized Businesses in Ireland (published in May 2019) included the following recommendation on an export credit guarantee (on pages 33 and 80 of the report):

> "Introduce trade support measures, including further export trade financing and export credit guarantees, to support the continued development of international export markets in response to Brexit."

Other commentary provided by **Mason, Hayes & Curran** is referred to in an earlier section of this Digest (eligibility criteria and interest rate(s)).

[23] IFA webpage, Credit guarantee scheme important for farmers' cashflow. Available at https://www.ifa.ie/credit-guarantee-scheme-important-for-farmers-cashflow/

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