

Joint Committee on Finance, Public
Expenditure and Reform & Taoiseach,
Leinster House
Dublin 2

30th May 2018

Re: Request for Written Submission on the Consumer Protection (Regulation of Credit Servicing Firms (Amendment) Bill 2018 – Private Members Bill

Dear Committee,


The Irish Mortgage Holders Organisation welcomes the opportunity to make written submissions on the above Bill. The Bill, introduced by Michael McGrath, is an important and vital piece of legislation which is needed to protect consumers, often in difficult and vulnerable situations, from Vulture Funds.

Vulture Funds are a particularly unwelcome development in our society and the current position where they are completely unregulated and under no supervision from any Irish regulatory authority or other arm of the state is not acceptable.

In purchasing loans from banks tied to vulnerable people's family homes there is an absolute requirement to, at a minimum, provide the same protection, governance and oversight to the operations of these loan owners as borrowers are afforded by the lending institution that originated the loan.

I want to thank the Committee for investing the time and resources in exploring this important bill and hope to see it on the Statute Books soon.

Yours sincerely,



David Hall
CEO, Irish Mortgage Holders Organisation

Consumer Protection

Regulation of Credit Servicing Firms (Amendment) Bill 2018

Written Submission
from
The Irish Mortgage Holders
Organisation CLG
(“IMHO”)

In formulating our observations and comments on the Bill we have sought, as requested to focus on the following areas:

- Views on the policy rationale for each Bill
- Possible implications / consequences arising from the Bill
- Technical, legal and drafting aspects of the Bill
- Possible areas where the Bill might be improved

Section 1: Section- 'Purpose of the Bill',

... "To regulate credit agreement owners of mortgage loans and SME loans" ...

Observation 1(i): We recommend expanding the definition required regarding SME loans to include different types of loans, both secured and unsecured.

Observation 1(ii): Residual debt – if SME Asset sold, because of mortgage and/or SME loan sale (forced, agreed and/or other) and the residual debt then transferred to debt servicing firm we recommend that the Codes of Conduct on Mortgage Arrears 2013 are still applicable.

Section 2: The Amendment of section 28 of the Central Bank Act 1997: We recommend that clarity is provided in the Bill that the provisions of the Bill apply to businesses based outside of the Irish Jurisdiction that operate regulated entities, and/or other, within the Irish jurisdiction?

Section 4: The Amendment of section 33A(5) of the Central Bank Act 1997: We recommend that consideration be given to imposed conditions that can be applied to the credit agreement owner and/or servicing firms, if they operate as entities and their parent organisation is outside of Irish jurisdiction.

Section 5: The Amendment of section 34 of the Central Bank Act 1997: We recommend that consideration be given to how will this affect legal title holders that are not named to debt (e.g. spouses, business partners etc) were assets are under-control of debt servicing firm.

Section 6: The Amendment of section 3 of the Central Bank (Supervision and Enforcement) Act 2013: We recommend that consideration be given to how will this be reflected, when the credit agreement owner sells the debt on and/or transfers from one servicing firm to the other (either within the Irish jurisdiction and/or outside Irish jurisdiction)?

Section 7: The Amendment of section 57BA of the Central Bank Act 1942: refers to “eligible customer”;

- We recommend that consideration be given to a definite amendment for the credit servicing firm owner relative to “eligible customer”; and
- We recommend that consideration be given to how will this affect “eligible customer” when the credit agreement owner sells the debt on and/or transfers from one servicing firm to the other (either within the Irish jurisdiction and/or outside Irish jurisdiction).
- We recommend that consideration be given to defining “vulnerable customers”.

Section 8: The Amendment of section 33A of the Central Bank Act 1997: We recommend that consideration be given to including a definition of what is to be included in the reporting requirements (i.e. content/context) to be sent to the customer by the, credit agreement owner, credit servicing firm and/or debt management firm.

Section 10: The Amendment of section 43 of the Central Bank (Supervision and Enforcement) Act 2013: The IMHO agrees with this amendment to both, *subsection (a)* regarding, further definition of a relevant default’; and *subsection (b)* regarding, further outlining the respective roles of the Central Bank and the Financial Services Ombudsman.

Section 11: The Amendment of the ‘complaints mechanism’ relative to the Central Bank and Financial Services Authority of Ireland Act 2013: the IMHO agrees that ‘credit agreement owners’ should be subject to the Financial Services Ombudsman complaints mechanism.

Section 12: Amendments: The IMHO agrees that the Central Bank of Ireland is compelled to publish statistics on a quarterly basis on loans of Micro, Small and Medium Sized Enterprises.

Section 13 of the Bill: The IMHO agrees that the Bill should be cited as the Consumer Protection (Regulation of Credit Servicing Firms) Amendment Act 2018; including the enabling provision for the Minister of Finance. However, for further definition the Bill in title

should include: 'Credit Agreement Owners' (and definition of such owners should be specified clearly).

Other observations:

We recommend that consideration be given to if and/or when, the credit agreement owner, credit servicing firm and/or debt management firm decides to change owner –

- what lines of communication will be open for the customer? and there should be provision made that the customer has access directly to new owners (regardless if Parent organisation is operating within Irish Jurisdiction or not) to answer both verbal and written concerns, requests and mortgage queries.
- All available provisions relative to the Mortgage Arrears Resolutions Process (MARP) should be made available to customers including split mortgages; once the customer is evaluated by IMHO Qualified Financial Advisers whom would make recommendation to the credit agreement owner, credit servicing firm and/or debt management firm and the customers financial circumstances meet the criteria for split mortgages.
- The Mortgage to Rent (MTR) scheme should be seamless (least painful for customers who meet the criteria) with the credit agreement owner, credit servicing firm and/or debt management firm. Should the customer meet the criteria and have sought MTR; this should be made available with hesitance and/or objection/refusal of the credit agreement owner, credit servicing firm and/or debt management firms
- Mortgage to Rent (MTR) criteria should be changed; to consider customers who have mortgage positive equity, but their financial circumstances have deteriorated, and they meet the MTR criteria in general.