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An Comhchoiste um Airgeadas, Caiteachas Poiblí agus Athchóiriú, agus an Taoiseach

Tuarascáil maidir le Grinnscrúdú Mionsonraithe ar an mBille um
Chreidmheas do Thomhaltóirí (Leasú), 2018 (BCP)

Samhain 2021

Joint Committee on Finance, Public Expenditure, Reform, and Taoiseach

Report on Detailed Scrutiny of the Consumer
Credit (Amendment) Bill 2018 (PMB)

November 2021

MEMBERSHIP – Membership of the Joint Committee

TDs



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Chairman's Foreword

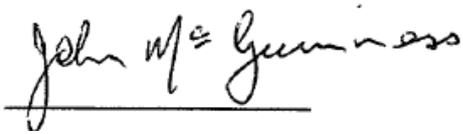
The negative impact on borrowers of the high interest rates charged by moneylenders has been a growing source of concern for the Committee, especially because many users of this type of finance belong to groups which may face a high risk of financial exclusion and income inadequacy. The need for credit among such groups was a recurring theme in the evidence heard by the Committee – without such credit facilities, families and individuals face with income inadequacy to cover basic needs.

The Committee also heard that consumers could become trapped in a cycle of debt, which could further deepen their financial difficulties. The purpose of the Bill is to allow for the imposition a maximum statutory cap of 36% APR on the interest rate that can be charged by licensed moneylenders and the Committee is of the opinion that the evidence it heard highlights the need to address the problems of financial and social exclusion on a broader level, including the impact of high interest rates charged by moneylenders. The Committee, therefore, agrees with the suggestion that a coherent overall strategy on social and financial exclusion should be developed.

The Committee also notes and welcomes the provisions for Interest Rate Restrictions (IRR) contained in the proposed EU Consumer Credit Directive, which reflect the intentions of this Bill.

Having considered the evidence that was presented to the Committee during the detailed scrutiny of the Bill, I am hopeful that these aspects will be examined in detail should it proceed to Committee Stage, following a recommendation by the Select Committee and consideration by the Dáil.

I thank all those who provided submissions on this topic and attended meeting of the Committee for their interest in this topic. I also thank the staff of the Library & Research Service and the Secretariat for their assistance in the production of this report.

A handwritten signature in black ink that reads "John McGuinness". The signature is written in a cursive style and is positioned above a solid horizontal line.

John McGuinness T.D.

Cathaoirleach

9 November 2021

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Introduction

1. This report outlines the detailed scrutiny undertaken by the Joint Committee on the Consumer Credit (Amendment) Bill 2018, a Private Member's Bill. The aim of the Bill is to establish a cap on the interest rate charged by moneylenders.
2. The Bill was first introduced on 6 December 2018 by its sponsor, Deputy Pearse Doherty, and completed Second Stage on 13 December 2018 [\[Link\]](#). Following the dissolution of the Dáil in January 2020, the Bill lapsed but was restored to the Order Paper in the 33rd Dáil at Order for Committee Stage.
3. Deputy Doherty wrote to the Committee in October 2020 to request that detailed scrutiny be undertaken at the nearest possible opportunity. While noting that it was a matter for the Select Committee to recommend whether Private Members' Bills should progress to Committee Stage following scrutiny, the Committee agreed on 4 November 2020 that consideration of Private Members' Bills would be undertaken by the Joint Committee and further agreed to Deputy's Doherty's request that it undertake scrutiny of the Consumer Credit (Amendment) Bill 2018 pursuant to Standing Order 178.
4. The Joint Committee began scrutiny of the Bill in late January 2020, but the process was overshadowed by the Covid-19 pandemic which hindered the arrangement of public hearings. The Committee, however, received 11 items of written evidence in addition to a briefing paper prepared by the Library & Research Service [\[Link\]](#), all of which informed its detailed consideration of the legislation.

Purpose of the Bill

5. The purpose of the Consumer Credit (Amendment) Bill 2018 is to amend the Consumer Credit Act 1995 to allow the imposition a maximum statutory cap of 36% APR on the interest rate that can be charged by licensed moneylenders

6. The Bill contains two sections as follows:

Amendment of Consumer Credit Act 1995

1. Section 9 of the Consumer Credit Act 1995 is amended by the insertion of the following subsection:

“(4) The amount of APR chargeable on loans issued by licenced moneylenders shall not exceed 36 per cent.”.

Citation

2. (1) This Act may be cited as the Consumer Credit (Amendment) Act 2018.

(2) The Consumer Credit Acts 1995 to 2010 and this Act may be cited together as the Consumer Credit Acts 1995 to 2018.

Procedural basis for scrutiny

7. Private Members Bills referred to Select Committees are subject to the provisions of Dáil Standing Order 178 and the Memorandum of Understanding, between the Houses of the Oireachtas and the Government, which was adopted on 15 January 2019.
8. Dáil Standing Order 178(1) provides that “..the Bill shall be subject to scrutiny by the relevant Committee” and paragraphs (2) and (3) respectively state that “Scrutiny, shall be conducted from a policy, legal and financial perspective...” and that “where the relevant Committee has completed scrutiny of a private member’s Bill, it shall... lay a report thereon before the Dáil, and... send a Message to the Dáil.... containing a recommendation on whether or not the Bill may proceed to Committee Stage”.
9. Paragraph (4) of Standing Order 178 permits scrutiny of the Bill in Joint Committee, viz.: “Nothing in these Standing Orders shall preclude a Joint Committee from undertaking scrutiny, and reporting thereon, save that only the relevant [Select] Committee may decide on the recommendation as to whether or not the Bill may proceed to Committee Stage”.

CHAPTER 2 – Detailed scrutiny

Rationale for the Bill

Policy rationale and implications

10. The purpose of the Consumer Credit (Amendment) Bill 2018 is to impose a statutory maximum cap of 36% APR on the interest rate that can be charged by licensed moneylenders.

11. During the Second Stage debate, the Bill's sponsor, Deputy Pearse Doherty, outlined why the figure of 36% had been chosen, viz.:

“That rate was chosen because it is three times the level that the credit union movement can charge and it keeps broadly in line with what existed in legislation passed by the House many years ago which deemed that 39% was excessive and which allowed the courts to find as such.”

12. Referring to the report [Interest Rate Restrictions on Credit for Low Income Borrowers](#) published by Social Finance Foundation (SFF)/University College Cork (UCC), Deputy Doherty added:

“The report by the UCC academics cut to the chase of why we must act, when it leaves no doubt as to the economic reality of moneylending. The report said that it facilitates a considerable transfer of resources and potential assets from poor communities to the directors and shareholders of loan companies. Ireland is one of the few countries that still does not have a cap on high-cost lending.”

Detailed scrutiny summary

13. The Joint Committee held three meetings as part of its consideration of the legislation and received 11 submissions – a list of those who made written submissions is set out in appendix 3. The Library & Research Service also prepared a briefing paper for the Committee to assist it in its consideration of the legislation.

Key points raised:

14. While most of the submissions support the idea of an APR Cap/Interest Rate Restriction (IRR), they indicate the need for a nuanced and thoughtful approach to implementing any changes. A theme featuring throughout the submissions is the need to avoid unintended negative consequences such as depriving those in need of a necessary source of credit. The need for alternative sources of credit is constantly re-emphasised throughout the submissions which stress that families and individuals faced with income inadequacy have an absolute need for credit as otherwise they would inevitably face situations where they could not obtain basic essentials. However, submissions also emphasised that obtaining high cost credit could place consumers in a 'vicious cycle' of debt, further enhancing their income inadequacy. On a broader level, many of the submissions assert the need to work strategically to tackle the causes of financial and social exclusion and income inadequacy, as the root causes of recourse to high cost borrowing; as well as the need to tackle the issue head on through the imposition of an APR cap.
15. The Committee heard about negative consequences that may occur should the Bill be enacted. These included concerns about the potential lack of essential credit for those facing income inadequacy¹.
16. The Committee also heard about the positive consequences that may occur should the Bill be enacted. These included reducing the high cost of credit for those who access credit from moneylenders (reference Social Finance Foundation and Saint Vincent de Paul).
17. Broader issues around financial and social inclusion were also brought to light, including the suggested need for a coherent overall strategy on social and financial inclusion.²
18. The Committee heard that individuals with low income streams have an absolute need for credit.³ However, it was also highlighted that using home credit services

¹ Department of Finance submission, p.10

² FLAC Submission

³ ICLU Submission

with their associated high cost credit could place consumers in a 'cycle' of debt, further enhancing their income inadequacy.⁴

19. The Committee notes the ability of some lenders to charge high interest rates with rates as high as 187% APR or 288% APR when collection charges were considered.⁵
20. Given the policy objective of the Bill currently under consideration, the Committee is of the opinion that it would be appropriate to recommend amendment of the Bill to address matters related and relevant to the introduction of an APR Cap/Interest Rate Restriction (IRR).

Implications for borrowers of the high interest rates charged by moneylenders

21. The Committee heard from Dr. Olive McCarthy of UCC that persistent indebtedness is one of the common consequences of using moneylenders, and their associated high interest charges.⁶
22. The Committee heard from Mr. Brendan Whelan of the Social Finance Foundation (SFF) that while the maximum APR currently being charged by licensed moneylenders was 187% APR (Annual Percentage Rate), the maximum rose to 287% once collection charges were included.⁷
23. In its submission to the Committee, the Money Advice & Budgeting Service (MABS)/Citizens Information Board (CIB) stated that high cost borrowing can erode financial resilience, and lead to a vicious cycle of repeated borrowing.⁸
24. In its submission, the Society of St. Vincent de Paul (SVP) pointed out that, although customer satisfaction with moneylenders was generally high, many users of home credit services believe that using this form of credit has trapped them in a cycle of debt and borrowing.⁹

⁴ SVP Submission

⁵ CIB/MABS Submission

⁶ JCFPERT Meeting 16 February 2021, Dr Olive McCarthy UCC, P.3

⁷ JCFPERT Meeting 16 February 2021, Mr Brendan Whelan SFF, P.4

⁸ MABS/CIB Submission

⁹ SVP Submission

Profile of Borrowers

MABS/CIB stated in their joint submission to the Committee that:¹⁰

25. Far more females use this form of borrowing than males, and females parenting alone feature strongly.

26. There is evidence of two different groups –

- one group with a high-cost loan but no other debts, which seems suggestive of high levels of financial exclusion/self-exclusion and an opportunity to support such borrowers to access mainstream credit at an earlier point in time: and
- a second group which has debts owed to both a licensed lender and a bank or a credit union.

27. These borrowers include several groups described by the ESRI as groups at high risk of financial exclusion such as lone parents, those reliant on social welfare as their main income and those resident in private rented dwellings or local authority tenants.¹¹

28. The Committee is of the opinion that those having recourse to licensed moneylenders are typically a vulnerable cohort and the difficulties the high interest rates charged present for them should be addressed as a matter of priority.

Drivers of Borrowing

29. MABS/CIB stated in their joint submission to the Committee that:

“Drivers of borrowing are complex and involve personal/emotional, familial and community issues, and these are knowingly leveraged by firms. The absence of judgment is important and, for that reason, sometimes the agent can come to be viewed as a ‘friend’.

30. The SVP stated in its submission that loans are usually taken out to purchase household goods and clothing, and to cover the cost of family events.

¹⁰ MABS/CIB Submission

¹¹ [Financial Exclusion and Over-indebtedness in Irish Households | ESRI](#)

31. Customers of moneylenders tend to find their services easy to access and use and like the fact that money is available up-front, on their doorstep, courtesy of the agents, and with very little paperwork required.
32. In its submission, the Irish League of Credit Unions (ILCU) asserted that access to credit is vital to individuals with low income streams, and that, to this end, credit unions continued to offer the Personal Microcredit (PMC) Scheme, also known as the 'It makes Sense Loan'.¹²The Committee heard from Ms Lorraine Corcoran of the SFF about her experience of running the 'It Makes Sense' loan product scheme with credit unions since 2015. She highlighted the success of the repayment method through the household budget scheme "which made the repayments very attractive, allowed for savings and allowed the credit unions to work with people who might have a default history or just were not used to dealing with the credit union". However, Ms Corcoran stated the measures designed to make credit unions more attractive to borrowers than moneylenders were insufficient, which is why the SFF was calling for the interest rate cap.
33. The Committee is of the opinion that easier recourse to credit union loans is not a sufficient response and that capping interest rates is the option most immediately available.

Dealing with Social and Financial Exclusion

34. In their submission to the Committee, Dr. Olive McCarthy and Dr. Noreen Byrne, UCC, said that broader policy measures that support financial inclusion for all should also be introduced.
35. In its submission to the Committee, SVP set out what was needed by the financially marginalised, viz.:¹³
- a. Access to an income buffer to cushion households against external shocks or unexpected events
 - b. Skills and knowledge to deal with their personal finances, and

¹² ILCU Submission

¹³ SVP Submission

- c. Access to appropriate financial services and protection from irresponsible lending.

36. Given the limited purpose of the Bill currently under consideration, the Committee is of the opinion that it would not be appropriate to recommend amendment of the Bill to address matters such as those referred to above.

37. The Committee does, however, recommend that such wider issues should be considered in the context of legislation the Government has indicated it proposes to bring forward.

Complexities of Annual Percentage Rate (APR)

38. In its submission to the Committee, the Credit Union Development Association (CUDA) stated that given the complexities, additional information was required to support a consumer's decision, such as details of the cost of credit and relevant nominal interest rate.¹⁴

The Existing Statutory Framework and its Effectiveness

Legislative framework

39. The Consumer Credit Act 1995 ("the 1995 Act") sets out a specific regulatory regime for licensed moneylending.¹⁵ Moneylending as defined by the 1995 Act means credit supplied by a moneylender to a consumer on foot of a moneylending agreement. The agreement must contain one or more of the following elements:¹⁶

- a. The agreement is concluded or negotiated away from the business premises of the moneylender or the premises of the supplier of goods or services related to the agreement.

¹⁴ CUDA Submission

¹⁵ L&RS PMB Briefing Paper Consumer Credit (Amendment) Bill 2018 No. 135 of 2018, p. 13

¹⁶ <http://www.irishstatutebook.ie/1995/en/act/pub/0024/print.html#sec2>

- b. Payments can be made away from the business premises of the moneylender or the premises of the supplier of goods or services related to the agreement.
- c. The total cost of credit is in excess of an annual percentage rate (APR) of 23%.

40. In 2003, an amendment to the 1995 Act transferred responsibility for the licensing and supervision of moneylenders from the Office of the Director of Consumer Affairs to the Central Bank.

41. Under the 1995 Act, a licence is required from the Central Bank to engage in the practice of commercial moneylending. This licence must be renewed annually. Currently there are 35 licensed moneylenders operating in the Irish market. A licensed moneylender may only carry on their business under the strict terms of their licences as granted by the Central Bank.

The Cost of Credit

42. The 1995 Act allows the Central Bank to refuse to grant (or renew) a licence to a moneylender if it believes that the cost of credit is excessive.¹⁷ In such circumstances, the Central Bank can challenge firms to amend their business practices to gain approval of their licence application.

43. The Committee heard that interest rates as high as 187% APR (288% APR once collection charges were included) were being charged by licensed moneylenders.¹⁸

44. Ms Gráinne McEvoy, the Central Bank's Director of Consumer Protection, advised the Committee that, under the supervision of the Central Bank, the maximum APR or costs charged within the sector had not been allowed to increase, and that the practice of pay-day loans (very short term high interest rate loans) had not been allowed into the Irish market.

45. She also stated that neither the 1995 Act nor relevant regulations provide for a cap on interest rates and the Central Bank therefore has no statutory power to

¹⁷ Section 93(10)(g) of the 1995 Act

¹⁸ Department of Finance Submission

impose a market-wide cap on interest rates – this would require a legislative amendment.¹⁹

46. The Committee is of the opinion that the setting of an interest rate cap is one way of determining unambiguously what would constitute an excessive interest rate.

Drawback/Limitations of the Current Framework that, in the opinion of the Committee, need to be addressed separately

Additional Charges

47. In its submission to the Committee, Free Legal Advice Council (FLAC) explained that a moneylending agreement must include the option for borrowers to pay at the premises of the moneylender. This means collection charges are not included in the stated APR, and they are an important additional cost to be considered.²⁰

48. When appearing before the Joint Committee at its meeting on 17 June 2021, Mr. Paul Joyce of FLAC expressed surprise that the law had not been updated to allow electronic payment. This would incur lower additional charges than home collection, which put significant extra cost on the borrower.²¹

Top-up Loans

49. In its submission to the Committee, FLAC pointed out that although the 1995 Act prohibits top-up loans (a loan which is given to clear up part of an existing loan) under a moneylending agreement, and makes the provision of such loans an offence, it does not make top-up loans unenforceable against the borrower. It also highlighted the fact that multiple loans to the same client are allowed under the legislation and suggested that this should be revisited.²²

Illegal Moneylenders

50. In his submission to the Committee, Dr. Stuart Stamp (Independent Social Researcher & Research Associate, Department of Applied Social Studies, Maynooth University) suggested a review of the legislative and enforcement

¹⁹ JCFPERT Meeting 12 May 2021, Ms Gráinne McEvoy, CBI, P.3

²⁰ FLAC submission

²¹ JCFPERT Meeting 17 May 2021, Mr Paul Joyce, FLAC, P.5

²² FLAC Submission

framework for dealing with illegal moneylenders in case there is an increase in their use due to the imposition of a cap.²³

Vulnerable Consumers

51. In their submission to the Committee, MABS/CIB highlight the need for an improved definition of ‘vulnerable consumer’ in relevant regulatory codes and suggest that licensed moneylenders should be mandated to have an additional duty of care to vulnerable consumers.²⁴

Government’s response to the Bill

52. During the Second Stage debate on 12 December 2018 the then Minister of State at the Department of Finance, Mr. Michael D’Arcy, moved an amendment to the motion for second reading proposing that second reading of the Bill be deferred for a year to “to allow for completion of the Department of Finance’s examination of University College Cork’s report, ‘Interest Rate Restrictions on Credit for Low-income Borrowers’, which was launched by the Social Finance Foundation (SFF), and engagement by the Department with stakeholders, including through the Personal Micro Credit Taskforce set up by the SFF.”

The issues raised by the then Minister of State included the following:

- a. Persuading all credit unions to take part in the PMC scheme
- b. How to cater for individuals on low incomes who are not social welfare customers (the PMC scheme was only available to social welfare recipients)
- c. Analysing the moneylending sector to ascertain the impact that setting interest rate restrictions might have on the various types of loan providers, and
- d. Examining the use of illegal moneylending in Ireland.

53. In the course of the debate, the then Minister of State expressed the opinion that:

²³ Dr Stuart Stamp Submission

²⁴ MABS/CIB Submission

“...it [was] clear that an APR of 36% for home credit customers would likely make the home credit business model unprofitable, resulting in the probable exit of many, if not all, moneylenders from this market. The interest rate restrictions report and Social Finance Foundation are explicit that this must only be considered when there is confidence that an alternative mechanism exists.”

54. In its submission to the Committee²⁵, the Department of Finance stated that the Government is not in favour of proceeding with the Consumer Credit (Amendment) Bill 2018 as the Minister for Finance would be bringing forward his own proposals.
55. The submission advocates a cautious approach so actions taken “to protect customers of moneylenders will not have unintended and very negative consequences for citizens who depend on a legitimate, functioning moneylending market in their day-to-day lives”.
56. As part of its detailed scrutiny of the Bill, the Committee met with the Minister for Finance, Deputy Paschal Donohoe, on Thursday, 6 May 2021.
57. The Minister reiterated the earlier-mentioned Government position of opposing the Bill, stating that he believed the legislation he intended to bring forward in the near future would be more effective in achieving the objectives of ending what had been described as immoral and unethical high interest rates.²⁶
58. The Minister said he could not divulge details of his proposed legislation such as the level of interest rate restriction or the exact form any restriction would take until these details had been settled following discussions within Government.²⁷ He explained his objective to the Committee as follows:

“What I am trying to do is... get the balance right between the affordability of interest rates being charged on this credit and a recognition that in many cases that cost is too high and, on the other hand, helping to contribute to the fact that after the passage of this Bill, we will still have credible and reputable

²⁵ Department of Finance Submission

²⁶ JCFPERT Meeting 6 May 2021, Minister for Finance, Deputy Paschal Donohoe, P.5

²⁷ JCFPERT Meeting 6 May 2021, Minister for Finance, Deputy Paschal Donohoe, P.4

moneylenders involved in the supply of credit within our country to those who need it. That is the balance I am looking to achieve in the work I am doing at the moment.”²⁸

59. The Minister was asked if he had considered the role the credit union movement could play in providing alternative sources of credit. He responded that he had, adding: “A number of different proposals have come forward on this issue, which has led to the proposal to increase the maximum monthly interest rate that is possible on credit union loans from 1% to 2%. That is the background to that proposal. This has been supported as recently as 2019 by credit union representative bodies.”²⁹

Potential Unintended Consequences

60. During the Committee’s engagement with stakeholders the following possible unintended consequences of the Bill’s implementation were discussed.

Restriction of Credit

61. One concern raised by various stakeholders was that the Bill could have the effect of restricting credit to those who need it, thus deepening their financial exclusion.

62. The Central Bank expressed concern about the APR cap as currently proposed, expressing the view that any cap would need to be carefully implemented to actually achieve a reduction in the overall cost of credit, and to ensure that unintended financial exclusion did not occur. An impact assessment should be undertaken to inform the approach.³⁰

63. The Central Bank also said that, for small amounts of credit and for those consumers with an impaired credit history, there may be limited alternative credit options available to them from regulated credit providers.³¹

²⁸ Ibid

²⁹ JCFPERT Meeting 6 May 2021, Minister for Finance, Deputy Pascal Donohoe, P.10

³⁰ Central Bank Submission

³¹ Central Bank Submission

64. In its submission, CUDA stated that an obvious concern with the introduction of an APR cap was the unavailability of credit.³² It also suggested further analysis to determine the negative impact on consumers when refused credit. This negative impact could be offset with an awareness campaign of alternative lenders and lending products.³³
65. In their submission to the Committee, Dr. McCarthy, and Dr. Byrne of UCC agreed with the need to impose an interest rate cap which, they said, should be introduced with changes to enable credit unions to act as affordable alternatives – the changes should include the ability to raise the interest rate cap on credit union loans to 2% per month.³⁴
66. The Committee is of the opinion that amending the Bill to include provision for a raising of the interest rate cap on credit union loans would be consistent with its essential purpose.
67. The Committee notes that there has been a trend towards the imposition of interest rate restrictions throughout the EU and Europe in general. Of 27 EU member states, Ireland is one of seven which does not have some form of interest rate restriction (IRR) in place. The three biggest economies in the EU (Germany, France, and Italy) have an interest rate restriction (IRR) measures, as does the UK.³⁵ Countries outside Europe, including Australia, Armenia, Canada, Chile, Japan, Singapore, and South Africa, have IRR measures in place.³⁶
68. FLAC suggested imposing an interest rate restriction may lead some licensed moneylenders to discontinue their business and the consequences of this for existing customers should be established.³⁷

³² CUDA Submission

³³ Ibid

³⁴ Dr McCarthy & Dr Byrne, UCC, Submission

³⁷ FLAC Submission

69. In its submission to the Committee, SFF stated there was very little available evidence to suggest that if an interest rate cap was introduced, it would lead to widespread or significant migration to unlicensed moneylenders.³⁸
70. The Committee heard from Mr. Ed Farrell of the Irish League of Credit Unions (ILCU) that his organisation had a twofold rationale for believing there would not be a strong uptake in the use of illegal moneylenders following the introduction of the proposed Bill. These were a report on the interest rate restrictions on credit for low income borrowers carried out by the Centre for Co-operative Studies in UCC, which had stated that there was no empirical and undisputed evidence that interest rate restrictions result in an increase in illegal moneylending, and evidence from Citizens Advice UK which had shown no increase in loan shark debts following the introduction of a cap on payday loans.³⁹
71. CUDA cited evidence from the UK's Financial Conduct Authority that there was no robust evidence that refused consumers turned to illegal moneylenders.⁴⁰
72. In its submission to the Committee, the Credit Union Development Association (CUDA) said that increased charges including collection charges could be an adverse consequence of an APR cap. Other fees such as home collection fees need to be capped to prevent costs being passed to the consumer, thus allowing lenders to circumvent the proposed cap.⁴¹
73. CUDA's submission to the Committee noted the need for a more level playing field via enhanced legislative and regulatory scrutiny of emerging areas such as store credit and PCP.⁴²
74. In their submission to the Committee, Dr. McCarthy and Dr. Byrne of UCC stated that any interest rate cap on moneylending should include a limit on other fees and charges, and a limit on the total cost of credit.⁴³

³⁸ SFF Submission

³⁹ JCFPERT Meeting 17 June 2021, Mr Ed Farrell, CEO, ILCU, P.6

⁴⁰ CUDA Submission

⁴¹ CUDA submission

⁴² CUDA submission

⁴³ Dr McCarthy & Dr Byrne, UCC, Submission

Phased Approach to Implementation of IRR

75. CUDA suggested a transitional approach to phasing in the APR reduction to minimise any unintended consequences.⁴⁴ Dr. McCarthy and Dr. Byrne said an interim cap could be designed to allow for a phasing out of high interest rates for credit over time in the interests of the consumer. They argued for consideration of a potential tiered approach, allowing for somewhat higher APRs on smaller loans over a shorter duration.⁴⁵ The Committee heard from Mr. Brendan Whelan of SFF that implementation of an interest rate cap should be staged over a number of years so as to manage the transition in order to effectively minimise any unintended consequences and also use the same period to address the issue of financial inclusion in Ireland (money lending and credit availability being an element of the problem).⁴⁶

76. The ILCU stated that consideration should be given to introducing the cap over a period of years to facilitate a smooth transition. It highlighted three main benefits to this approach in that it would allow:

- a. Borrowers to adjust to the new model
- b. Lenders to adjust to the new cap
- c. The Central Bank the opportunity to monitor the situation and act as appropriate.

77. On 7 June 2021, Deputy Doherty, the Bill's sponsor, wrote to the Committee to inform it that, should the Bill proceed to Committee Stage, he intended to move an amendment that would cover the phased introduction of a cap, the monitoring of restrictions through a regular Central Bank report, and giving the Minister for Finance the ability to amend the relevant regulations.⁴⁷

78. The Committee is of the opinion that amending the Bill to include provision for the introduction of a higher interest rate cap on loans by licensed moneylenders than

⁴⁴ CUDA Submission

⁴⁵ Dr McCarthy & Dr Byrne, UCC, Submission

⁴⁶ JCFPERT Meeting 16 February 2021, Mr Brendan Whelan, SFF, P3.

⁴⁷ See appendix 6 for text of letter.

that currently proposed, together with a mechanism for its reduction over time, would be consistent with the essential purpose of the Bill while allowing an opportunity to monitor the impact of the progressive reduction of the cap over time and respond to unintended consequences that might emerge.

CHAPTER 3 – Legal scrutiny

79. In its letter to the Committee on 18 November 2020, the ECB referred to its previous response from March 2019 where it expressed its wish not to adopt a formal opinion on the matter.⁴⁸ The ECB stated that its reason for not adopting a formal opinion was that the matter only marginally touched on its areas of competence as it did not significantly affect the Central Bank of Ireland (CBI), or substantially threaten market or financial stability.⁴⁹
80. During scrutiny of the Bill, no stakeholders raised any constitutional issues with it.
81. In its submission to the Committee, the Central Bank stated that the European Communities (Consumer Credit Agreements) Regulations 2010 (the CCR) did not provide for an interest rate cap (and neither did the 1995 Act), and a legislative amendment would be required to implement a cap.
82. The Department of Finance suggested there may be legal issues arising from the right of consumers to access services through the EU, for example, if an Irish-based consumer were to obtain moneylending services in another EU state.⁵⁰
83. The EU Commission's legislative proposal for a Directive on Consumer Credit, published on 30 June 2021, states (Article 31) that Member States shall impose a cap on interest rates charged to consumers taking the form of either⁵¹
- a. Interest rate
 - b. APR
 - c. Total cost of credit to the consumer.
84. If the Commission's proposal were to be adopted in its present form, this could mean that an interest rate restriction may have to be transposed into Irish law.
85. The Central Bank stated that an amendment to the 1995 Act would be necessary in order to impose an interest rate restriction because although that Act allowed

⁴⁸ ECB letter to the Joint Committee 18 November 2020

⁴⁹ ECB letter to the Joint Committee 6 March 2019

⁵⁰ Department of Finance Submission.

⁵¹ [COM\(2021\) 347 Proposal on Consumer Credit](#), Article 31, P.59

for interest rate restriction where rates were excessive, the term “excessive” was not defined.⁵²

86. It also gave the opinion that the increase of the maximum interest chargeable proposed by the Credit Union Advisory Committee (CUAC) to 2% would require a legislative amendment to section 38(1) of the Credit Union Act 1997 (the 1997 Act). It further stated that it had no objection to such a change.⁵³

87. Following the conclusion of its meetings with stakeholders in relation to the Bill and in line with the Memorandum of Understanding (MOU) between Government and Dáil Éireann on Private Members’ Bills adopted on 5 December 2018, the Committee sought legal opinion from the OPLA primarily taking account of the following questions:

- Is the Bill compatible with the Constitution?
- Is the Bill compatible with EU legislation and human rights legislation (ECHR)?
- Is there ambiguity in the drafting which could lead to the legislation not achieving its objectives and/or to case law down the line?
- Review for serious drafting deficiencies or technical drafting errors
- Review for potential unintended legal consequences which may stem from the PMB as drafted
- Are appropriate administrative and legal arrangements necessary for compliance and enforcement of the provisions of the Bill included?

88. Having received and considered the views of the OPLA in relation to the Bill, the Committee’s position on these questions is as set out in the paragraphs following.

89. The Committee is of the opinion that the Bill appears to be compatible with the Constitution. However, it also notes that if the Bill were to have retrospective effect that might interfere with existing rights or obligations held prior to its

⁵² Central Bank Submission

⁵³ Central Bank Ireland Submission

enactment, this might constitute an infringement of the Constitution's property rights guarantees.

90. Accordingly, the Committee recommends the amendment of the Bill to include a provision which clearly states the intended date or breadth of application of the Bill for the avoidance of any doubt.
91. The Committee notes that moneylending activities targeted by the Bill come within the remit of EU Consumer Credit Directive (when the credit extended falls within the €200 - €75,000 range as set by the Directive)⁵⁴. The Committee also notes the directive does not impose any requirement on Member States to set a cap on APR or interest rates, nor does it prohibit a cap. The Committee is therefore of the opinion that the Bill should be considered to be compliant with EU law.
92. The Committee notes that the European Commission has proposed a revision of the Consumer Credit Directive⁵⁵. The revision includes two elements that are of particular relevance to this Bill. First, the broadening of the scope of the Directive to remove the exemption for agreements below €200 and to increase the limit from €75,000 to €100,000, and second, the establishment of an obligation on Member States to set Interest Rate Restrictions (IRRs) as either a cap on interest rates, the APR or the total cost of credit⁵⁶. It also notes that this proposal is at an early stage of the EU legislative process and may be subject to change.
93. The Committee notes that the ECHR has found that a licence to run a business constitutes a possession, to which attach protections afforded to property. The Committee also notes that the ECHR has caselaw which supports the position that Contracting States are entitled to control the use of property in accordance with the general interest, and therefore, the Bill is compliant with the ECHR⁵⁷.

⁵⁴ [Directive 2008/48/EC](#) of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC

⁵⁵ [Proposal for a Directive](#) of the European Parliament and of the Council on consumer credits COM/2021/347 final

⁵⁶ Article 31 of the [Proposal](#)

⁵⁷ [Tre Traktörer Aktiebolag v. Sweden](#), 7 July 1989, Series A no. 159, § 55; [Rosenzweig and Bonded Warehouses Ltd. v. Poland](#), no. 51728/99, 28 July 2005, § 49; [Bimer S.A. v. Moldova](#), no. 15084/03, 10 July 2007, §§ 49 and 51; [Megadat.com SRL v. Moldova](#), no. 21151/04, ECHR 2008, §§ 65

94. The Committee notes that although the Bill requires amendment to remedy drafting deficiencies and errors (discussed in appendix 7), these drafting errors cannot be classed as being so fundamental that the objective of the Bill is unclear.

CHAPTER 4 – Committee’s conclusions

Financial Implications

Procedural considerations

95. Standing Order 212(2) of Dáil Éireann provides that Committee Stage of a Bill which involves the appropriation of revenue or other public moneys, including incidental expenses, cannot proceed unless the purpose of the appropriation has been recommended to the Dáil by a Message from the Government. Such messages are commonly referred to as money messages.
96. In evidence to the Committee, the Department of Finance expressed the view that a money message may be required in relation to the Bill.
97. The Committee notes that neither it nor the Department has a formal role in relation to the application of Standing Order 212(2). The Committee further notes that a final determination will be made after the Committee has reported.

Sectoral and wider economic impacts

98. The Department of Finance stated that the Bill could cause financial exclusion for those who use licensed moneylenders should the supply of credit be reduced following the enactment of the Bill.⁵⁸ The Central Bank echoed this point and suggested that an impact assessment on the effects on consumers should be undertaken.⁵⁹ In contrast, SFF and Mr. Ed Farrell of the Irish League of Credit Unions stated that there was little evidence to suggest that an interest rate cap would result in an increase in the use of illegal moneylenders (reference SFF and ILCU submissions).

⁵⁸ Department of Finance Submission.

⁵⁹ JCFPERT Meeting 12 May 2021, Ms Gráinne McEvoy, CBI, P.3

99. In its letter to the Committee, the ECB stated that as the proposed legislation only concerned licensed moneylenders, it was not likely to materially influence the stability of financial institutions or markets.⁶⁰

Costs arising from the enactment of the Bill

100. The Department of Finance commented that a charge may arise for the State and/or the Central Bank depending on policy decisions arising from implementation of the Bill.⁶¹ The Central Bank of Ireland in its engagement with the Committee did not reference such possible costs. The European Central Bank did not comment on any significant cost arising from the enactment of the Bill.⁶²

101. A detailed assessment in this regard, or in relation to the cost of implementation of the provisions of the Bill by financial institutions and the Central Bank, has not been carried out.

EU Commission's position:

102. On 30 June 2021, the EU Commission published legislative proposals to revise EU rules on consumer credit.⁶³ As part of the proposal the Commission stated:

“The fixing of caps on interest rates, on annual percentage rates of charge and or the total cost of the credit to the consumer is a common practice in a number of Member States. Such capping has proved beneficial for consumers. In that context, Member States should be able to maintain their current legal regime. However, in an effort to increase consumer protection without imposing unnecessary limits on Member States, caps on interest rates, on annual percentage rates of charge and or on the total cost of the credit to the consumer should be introduced throughout the Union.”⁶⁴

⁶⁰ ECB letter to the Joint Committee 6 March 2019

⁶¹ Department of Finance Submission

⁶² ECB letter to the Joint Committee 6 March 2019

⁶³ [COM\(2021\) 347 Proposal on Consumer Credit](#)

⁶⁴ Ibid, paragraph (65), P.27

103. Deputy Pearse Doherty wrote to the Committee to draw its attention to the significance of the proposals and to highlight Ireland's situation as an outlier regarding the lack of interest rate restrictions.⁶⁵
104. Based on its consideration of the Bill, the Committee is of the opinion that there is a need to cap the interest rates which are currently being experienced by often financially vulnerable users of moneylenders.
105. The need to improve consumer protection for those accessing this form of credit needs to be balanced with the reasonable need of those on low incomes and at risk of financial exclusion to have access to credit when necessary.
106. The provisions contained in the Bill are a possible approach to affording borrowers necessary protection in this regard.
107. However, the Committee notes the positions advanced by the Department of Finance and the Central Bank, among others, in relation to the potential for unintended consequences, including circumvention of an APR cap by the increasing other fees such as home collection fees. The Committee therefore recommends that the Bill, if proceeded with, be amended to include a provision that caps such fees and additional charges, thus preventing possible circumvention.
108. Through its scrutiny of the Bill, the Committee has become aware of the need to proceed cautiously and therefore recommends that the Bill, if proceeded with, should be amended to allow an interest rate cap to be implemented and reduced on a phased basis, to allow:
- Borrowers to adjust to the new model
 - Lenders to adjust to the new cap
 - The Central Bank the opportunity to monitor the situation and act as appropriate

⁶⁵ Deputy Pearse Doherty, Email to the JCFPERT, 6 July 2021

109. It is also noted by the Committee that the introduction of interest rate restrictions can only represent a step towards the larger goal of combating financial and social exclusion, which are commonly linked problems facing many today. Consequently, the Committee calls on the Minister for Finance to report back to the Committee, no later than 31 January 2022, with his views on devising and implementing an overall coherent strategy on social and financial inclusion.
110. The Committee also notes the potential impact that the Bill may have on property rights under the Constitution, although these appear to be slight if the Bill includes clarity as to the dates and breath of action intended by the Bill. Consequently, the Committee is of the opinion that the Bill, if proceeded with, would benefit from the inclusion of a provision which clearly states the intended date or breadth of application of the Bill for the avoidance of any doubt.
111. In accordance with Dáil Standing Order 178(4), the Bill will now proceed to the Select Committee on Finance, Public Expenditure and Reform, and Taoiseach for the decision to recommend whether or not the Bill may proceed to Committee Stage.

APPENDIX 1 - ORDERS OF REFERENCE

Standing Orders 94, 95 and 96 – scope of activity and powers of Select Committees and functions of Departmental Select Committees

Scope and context of activities of Select Committees.

94.(1) The Dáil may appoint a Select Committee to consider and, if so permitted, to take evidence upon any Bill, Estimate or matter, and to report its opinion for the information and assistance of the Dáil. Such motion shall specifically state the orders of reference of the Committee, define the powers devolved upon it, fix the number of members to serve on it, state the quorum, and may appoint a date upon which the Committee shall report back to the Dáil.

(2) It shall be an instruction to each Select Committee that—

(a) it may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(b) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil;

(c) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Order 125(1)6; and

(d) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

(i) a member of the Government or a Minister of State, or

(ii) the principal office-holder of a State body within the responsibility of a Government Department or

(iii) the principal office-holder of a non-State body which is partly funded by the State, Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

Functions of Departmental Select Committees.

95. (1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

(a) legislation, policy, governance, expenditure and administration of—

(i) a Government Department, and

(ii) State bodies within the responsibility of such Department, and

(b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

(a) stand referred to the Committee by virtue of these Standing Orders or statute law, or

(b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

(a) for the accountability of the relevant Minister or Minister of State, and

(b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

(a) consents to such consideration, or

(b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

(a) the Committee Stage of a Bill,

(b) Estimates for Public Services, or

(c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters, or

(d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings, the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

(i) members of the European Parliament elected from constituencies in Ireland,

(ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

(a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and

(b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas

Powers of Select Committees.

96. Unless the Dáil shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

- (a) minutes of such evidence as was heard in public, and
- (b) such evidence in writing as the Committee thinks fit;
- (2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil;
- (3) power to draft recommendations for legislative change and for new legislation;
- (4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

- (i) submit a memorandum to the Select Committee explaining the statutory

Instrument, or

- (ii) attend a meeting of the Select Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Select Committee, which may report thereon to the Dáil,

And

- (b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Select Committee to discuss—

(a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Select Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Select Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Select Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially

responsible for the implementation of an Act shall attend before a Select Committee in relation to the consideration of a report under Standing Order 197;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Select Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil;

and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under Standing Order 120(4)(a).'

APPENDIX 2 - Framework for scrutiny of PMBs

PART A: Policy and Legislative Analysis

The ‘policy Issue’ and the policy and legislative context

1. Define the problem / the policy issue which the Bill is designed to address; to what extent is it an issue requiring attention? What is the scale of the problem and who is affected? What is the evidence base for the Bill?
2. What is the current policy and legislative context, including are there any proposed Government Bills or general schemes designed to address the issue? Have there been previous attempts to address the issue via legislation?
3. Is there a wider EU/international context?

Implications and implementation of the Bill’s proposals

Policy implications / implementation

4. How is the approach taken in the Bill likely to best address the policy issue?
5. What alternative and/or additional policy, legislative and non-legislative approaches were considered, including those proposed by the Government and what, does the evidence suggest, are the differences between and the merits of each?
6. Are there Government-sponsored Bills (or General Schemes) which are related to and/or broadly aim to address the same issue? Are there merits in combining them?
7. What are the specific policy implications of each proposal contained within the Bill (environmental / economic / social / legal)? Has an impact assessment (environmental/ economic /social / legal) been published (by Government or a third party) in respect of each proposal contained within the Bill?
8. Could the Bill, as drafted, have unintended policy consequences, if enacted?
9. Has the Committee taken due consideration of the opinion of the European Central Bank (ECB) on the Bill, if applicable?
10. How would the Bill, if enacted, be implemented?
11. Are there appropriate performance indicators which the Department, or whoever is ultimately charged with implementing the Bill, can use to assess the extent to which it meets its objective? Does it include formal review mechanisms?

Cost evaluation

12. Will there be enforcement or compliance costs?
13. What are the likely financial costs of implementing the proposals in the Bill, and what is the likely overall fiscal impact on the exchequer?

14. Have cost-benefit analyses (CBA) been provided / published (by Government or a third party) in respect of each proposal contained within the Bill? Will benefits /costs impact on some groups / stakeholders more than others?

PART B - Legal Analysis

15. Is the draft PMB compatible with the Constitution (including the 'principles and policies' test)?

16. Is the draft PMB compatible with EU legislation and human rights legislation (ECHR)?

17. Is there ambiguity in the drafting which could lead to the legislation not achieving its objectives and/or to case law down the line?

18. Are there serious drafting deficiencies or technical drafting errors (e.g. incorrect referencing to Acts etc.)?

19. Are there potential unintended legal consequences which may stem from the PMB as drafted?

20. Are appropriate administrative and legal arrangements necessary for compliance and enforcement of the provisions of the Bill included? (e.g. if draft Bill contains a prohibition, whether the necessary criminal sanctions - including the class of fine - are included).

APPENDIX 3 – WRITTEN SUBMISSIONS

Written Submissions Received

1.	Department of Finance
2.	European Central Bank (ECB)
3.	Central Bank of Ireland (CBI)
4.	Social Science Foundation (SFF)
5.	Money Advice & Budgeting Service (MABS)/ Citizens Information Board Bureau (CIB)
6.	Irish League of Credit Unions (ILCU)
7.	Credit Union Development Association (CUDA)
8.	Dr. McCarthy and Dr. Byrne, UCC
9.	Dr. Stuart Stamp, Independent Social Researcher & Research Associate, Department of Applied Social Studies, Maynooth University.
10.	Society of St. Vincent de Paul (SVP)
11.	Free Legal Advice Centres (FLAC)

APPENDIX 4 - PUBLIC STAKEHOLDER ENGAGEMENT

Public Engagement with Stakeholders No.1

The Committee engaged with witnesses from the Social Finance Foundation (SFF) and University College Cork (UCC) on Tuesday, 16 February 2021

The Official Report of the meeting is available [here](#).

Witnesses present for the meeting were:

- Mr. Brendan Whelan, Social Finance Foundation
- Ms Lorraine Corcoran, Social Finance Foundation
- Dr. Noreen Byrne, University College Cork
- Dr. Olive McCarthy, University College Cork

Public Engagement with Stakeholders No.2

The Joint Committee continued detailed scrutiny of the Bill on Thursday, 6 May 2021 when it met with the Minister for Finance, Deputy Paschal Donohoe

The Official Report of the meeting is available [here](#).

Witnesses present for the meeting were:

Minister for Finance, Deputy Paschal Donohoe

Public Engagement with Stakeholders No.3

The Joint Committee continued detailed scrutiny of the Bill on Wednesday, 12 May 2021, when it met with representatives of the Central Bank of Ireland (CBI)

The Official Report of the meeting is available [here](#).

Witnesses present for the meeting were:

- Ms Gráinne McEvoy, Director of Consumer Protection, CBI
- Mr. Kevin O'Brien, CBI

APPENDIX 5-TABLE OF ACCRONYMS

Table 2

ACCRONYM	FULL NAME
APR	Annual Percentage Rate
CBI	Central Bank of Ireland
CCA	Consumer Credit Act 1995
CCR	European Communities Consumer Credit Agreements Regulations
CIB	Citizen Information Board
CUAC	Credit Union Advisory Committee
CUDA	Credit Union Development Association
DSO	Dáil Standing Order
ECB	European Central Bank
EU	European Union
FLAC	Free Legal Advice Council
ILCU	Irish League of Credit Unions
IRR	Interest Rate Restriction
MABS	Money Advice and Budgeting Service
MoU	Memorandum of Understanding

OPLA	Office of the Parliamentary Legal Advisor
PMC	Personal Micro Credit
SFF	Social Finance Foundation
SI	Statutory Instrument
SVP	Society of St. Vincent de Paul
UCC	University College Cork

APPENDIX 6 - DEPUTY DOHERTY'S PROPOSED AMENDMENT

P Doherty Written Submission

62. On 16 June 2021 Deputy Pearse Doherty made a written submission to the Committee which indicated that, should the Bill proceed to Committee Stage, he intended to introduce an amendment to the Bill to reflect the views and recommendations of stakeholders which the Committee had heard during its scrutiny of the Bill.⁶⁶ The proposed amendment would alter the original Bill by introducing a phased cap on the total cost of credit within a three year timeframe, with the cap on the rate of interest to be no greater than three times the rate allowed under a similar agreement between credit institutions and credit unions. The amendment would also place an obligation on the Central Bank to complete a report on the cost of credit made available to borrowers through moneylending agreements. This report should comment on the appropriateness of any restrictions laid out by the legislation and include recommendations or advice on adjusting the regulations. The Minister for Finance would be allowed to amend restrictions to the cost of credit to the consumer under a moneylending agreement as he or she saw fit (taking into account the Central Bank's report mentioned earlier) or to make further regulations as appropriate to ensure sufficient protection for borrowers.⁶⁷ The submission also contained a detailed rationale for the amendment.

63. In his submission Deputy Doherty concluded that:⁶⁸

“The Consumer Credit (Amendment) Bill 2018 was introduced to protect vulnerable and low-income borrowers from the ultra-high interest rates charged by moneylenders, recognising that the current regime was not fit for purpose, and implemented a key recommendation made by the authors of the 2018 UCC Report. The primary objective of the legislation is a moral one – to ensure that Irish borrowers are provided with no less protection than

⁶⁶ Deputy Pearse Doherty, Submission to the Committee, 16 June 2021

⁶⁷ Proposed Amendment

⁶⁸ Deputy Pearse Doherty, Submission to the Committee, 16 June 2021

borrowers in other jurisdictions. The high cost of credit charged by moneylenders has in the past been primarily driven by the high labour costs associated with home collection. The pandemic, and public health restrictions it necessitated, challenged this business model and has forced moneylenders to adapt and change what was an anachronistic and out-of-date model. It is finally time that we recognise that the regulations and legislation in place is also outdated, providing insufficient protection to low-income and vulnerable borrowers. We can no longer accept an environment in which APR on loans of up to 187 percent, and 288 percent when charges are included, is tolerated. An environment that traps borrowers into unsustainable cycles of debt is intolerable.”

APPENDIX 7 – Serious drafting deficiencies or technical drafting errors

Section 1

The objective of the amendment, to cap the APR in moneylending agreements, would be more appropriately positioned within Part VIII of the 1995 Act as it seeks to impose an obligation upon moneylending agreements and transactions involving moneylending.

The amendment refers to ‘loans’ which is not a term defined in the Consumer Credit Act 1995. The Bill should be changed to reflect the terms ‘moneylending agreement’ and ‘moneylending’ as defined in the 1995 Act. The term ‘loans’ is not defined in the Consumer Credit Act 1995 and is not fully representative of the practice of ‘moneylending’.

The term ‘licensed moneylender’ should be changed to ‘moneylenders’ to reflect the Consumer Credit Act 1995.

Section 2

Citation - To comply with drafting convention, this section should include 'Short title' in its title as subsection (1) sets out the short title of the Bill.

It is recommended that a Bill provides a date of commencement so that there is clarity as to when, and what agreements the Bill applies.

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