# Public Consultation on capping the cost of licensed moneylenders and other regulatory matters*Submission by the Citizens Information Board*

# General observations

The Citizens Information Board (CIB) welcomes the opportunity to contribute to the Department of Finance deliberations on capping the cost of licensed moneylenders. CIB is responsible for supporting the Money Advice and Budgeting Service (MABS), which was established initially to combat illegal money lending in Ireland. CIB and MABS have also been to the forefront in the development of the personal micro credit (PMC) loan scheme[[1]](#footnote-1) through the credit union movement. The responses[[2]](#footnote-2) to the questions asked in the consultation document are prefaced in this submission with some wider observations on poverty, financial exclusion and access to affordable credit and draws on MABS experience of casework with clients with moneylending debts. It should be noted that the Chief Executive of CIB chairs the PMC Task Force and CIB acknowledges that the work of that group has informed this submission.

**Addressing financial exclusion**

The question of whether or not to introduce Interest Rate Restrictions (IRR) in the legal moneylending sector needs to be considered in the broader context of financial exclusion. SILC 2017 data shows that 15.7% of the population live in relative poverty with 6.7% in persistent poverty. Hidden behind these percentages are people who struggle with an additional layer of disadvantage because they are financially excluded and have problems accessing mainstream affordable financial products such as current and savings accounts, credit, savings and insurance. Financially excluded households are sometimes forced to make sub-optimal choices when accessing financial services. These people do not have the time or resources necessary to weigh-up financial decisions due to the financial pressures they face in meeting day-to-day living expenditures.

A Basic Bank Account (available in Ireland since 2016 under a EU Directive) clearly can help to bridge the financial exclusion gap for people living on low incomes, social welfare supports or looking to return to work. However, while the basic account provides transaction banking, it does not provide for any access to credit facilities on the account.

**The role of credit for financially vulnerable people**

Access to credit is one of the main pillars of financial inclusion and is a key enabler that allows people to, manage their consumption patterns and to cope with unplanned items of expenditure. People living on low income are especially susceptible to fluctuations in income, or unexpected expenditure demands. When considering the credit options available to them, many MABS clients have few choices. Access to mainstream financial services can be limited due to a poor credit history, little or no savings and the lack of a bank account. MABS staff report that clients are further dissuaded from accessing mainstream services due to banking culture and perceptions that ‘banks aren’t for them’. Their situation may be further impeded by the lack of a credit score or a poor credit score arising from past interactions with mainstream financial services. This is becoming even more apparent for a different cohort of MABS clients who have availed of a debt forgiveness solution through the Personal Insolvency regime. On emerging from the insolvency process, many clients are unable to access mainstream services including credit on the basis of their past credit score and are turning in increasing numbers to alternative sources of credit providers. For these and other low-income clients, credit unions and licensed moneylenders remain their main source of credit.

The research on illegal moneylending (which by its very nature is ‘under the radar’), initiated by the Social Finance Foundation and currently in train, is significant and welcomed by CIB. Ireland can learn much from other jurisdictions, particularly the UK, in this regard. There is also a significant need for a more detailed examination of the current financial exclusion situation in Ireland in the context of people who do not avail of mainstream banking and ancillary financial services. Current Government considerations in relation to developing a public or community banking sector must also be considered.[[3]](#footnote-3)

Whilst considerable progress has been made in the development of personal micro credit, the ‘*It Makes Sense’* Loan scheme is not yet universally available across the sector, and where it is available, limitations may apply in certain institutions regarding its use. The ‘*It Makes* Sense’ Loan also only applies to a small population i.e. social welfare recipients with particular focus on those that receive their payments in cash. Credit unions being an alternative source of credit is essential if an interest rate restriction in the licensed moneylending sector is introduced.

Across the financial services market in general, there is a spectrum of credit products and pricing aimed at different consumer circumstances and needs. It is understood that the income from servicing small loans over smaller periods of time do not fully cover the costs of such loans. When taken with the potential risk of default within this sector, this presents Credit Unions with a challenge. To address this issue, Credit Unions should be enabled to develop an appropriate risk-based pricing strategy and we are in agreement with a recommendation in the UCC Report[[4]](#footnote-4) that the Department of Finance consider increasing the 1% monthly cap on interest rates for credit unions to reflect the higher costs involved in the provision of small and short term loans.

**MABS experience of licensed moneylenders**

Moneylending loans are embedded in the money management plans of many low-income households and are consistently used to finance:

1. Essential expenses like household bills, food shopping and basic necessities
2. Emergency costs in the case of something unexpected happening, like an electrical appliance failing or a car breakdown
3. For extra discretional spending at certain times of the year including Christmas, Communion or Confirmation and the start of the school year.

The ‘home collection’ business model is the most prominent form of moneylending credit encountered by money advisers, followed by catalogue credit. Loans amounts are typically between €200 to €500 for terms of either 26 or 52 weeks, and convenience and ease and certainty of availability are cited as the main reasons for availing of this form of credit.

For the most part, MABS advisers reflect that, if used judiciously, moneylending loans can be of benefit to clients. In the absence of affordable credit, any credit is welcomed where it enables a household to smooth consumption patterns over the course of a year. As a result, many are willing to pay a premium interest rate and sustain loan arrangements with their moneylender.

However, it often later emerges through casework that the borrower does not fully comprehend the overall cost of credit, what its repayment represents as a component of their total disposable income, or the cost differential between this type of credit and other mainstream credit types. In MABS experience, low-income borrowers accept what the market offers because of lack of choice, lack of understanding of percentage rates of interest or because certain features are promoted more heavily than others. Undoubtedly, high-cost credit creates and sustains a ‘poverty trap’ for some low-income households. Our view therefore, is that every effort must be made to alter the market and that such credit is offered to low-income households at the lowest possible cost and promoted in a manner that clearly displays the numerical cost of credit.

**Repayment and arrears experience**

Where clients present to MABS for support with moneylending loans, they have generally fallen into arrears with their repayments on one or more loans. Issues of questionable lending, record-keeping and poor information provision practices have been identified in these instances. Evidence of repeat borrowing from moneylenders is commonplace and money advisers frequently have cause to question the thoroughness of the moneylender’s assessment of the credit application, particularly where the capacity of the client to sustain the loan repayment is evidently poor.

Money advisers report that clients who fall into arrears have sometimes been subjected to intimidating practices such as threats to call an employer. Additionally, MABS casework in this area has shown that record keeping and the provision of information has sometimes been non-compliant with the Regulations and the Code. In this regard, the withholding of repayment books is a relatively frequent complaint.

Information provision around alternative payment methods is also regarded as poor. While many moneylenders only operate a ‘home collection model’, some do offer alternative methods of payment, but this information is frequently not clear to the consumer who might avail of it and save on collection costs as a result. In addition, money advisers often experience difficulties in communicating with moneylending firms, either because appropriate contact numbers or persons are not readily available or because their response time to information requests is lengthy.

Many of these issues relate to poor observance of the appropriate Regulations and Code of Conduct for Licensed Moneylenders. It may also be because the provisions of the Code are not always underpinned by legislation.

In parallel with deliberations on whether or not an interest cap should be introduced, there is a need for further research and analysis, with particular reference to:

* the nature and levels of financial exclusion in Ireland – data on financial exclusion in Ireland is out of date[[5]](#footnote-5)
* credit availability to those on low income outside the legal money lending sector and without access to mainstream banking and what would be required to extend the PMC to cater for a wider range of people
* further analysis of business models used by home collection loan companies in Ireland to establish their feasibility under a range of rate caps, e.g., what evidence is there to determine whether or not current providers can continue to trade and at what level of interest cap
* The likely effects of a lower moneylending interest rate ceiling on low income households who (for various reasons) may not wish to avail of other regulated lenders as an alternative form of finance
* Developing a more in-depth understanding[[6]](#footnote-6) of the cohort of the population using home collection moneylending services (legal and unlicensed), including those who might migrate to illegal moneylenders. The work being undertaken by the Personal Micro Credit Task Force on Illegal Moneylending and Profiles of Home Collection Moneylending Borrowers is crucial information needed to assist in the formulation of policy in respect of a cap.
* There is a need to make a clearer distinction between catalogue clients (some of whom, for example, clear their loans by credit cards) and ‘home collection’ clients – the latter typically face greater challenges in coping with moneylending debts
* Profiling the number and characteristics of people with multiple loans and repeat borrowings, based on, for example, data emerging from the Central Credit Register and MABS client datasets
* The potential of a local public banking initiative with a focus on community banking[[7]](#footnote-7)

# Consultation Questions

## Q1.1 Should a statutory interest rate cap be introduced in Ireland? Please provide the rationale for your answer.

As interest rates currently stand, the rates are disproportionate to the risk and loan value involved, the rate of return to moneylending firms can be excessive, and in general, they amount to predatory pricing strategies to a vulnerable consumer group.

CIB believes that, in principle, there should be an interest rate cap for the following main reasons:

1. to ease the burden on low income households
2. to align Ireland with other European countries (21 out of 28 EU countries have IRR)
3. to deal with a situation that has evolved over the years which is morally questionable
4. to provide better progression paths for people trapped in a high interest moneylending repetitive cycle
5. to enhance consumer protection measures in this sector

The UCC Centre of Co-operative Studies report (*Interest Rate Restrictions on Credit for Low-income Borrowers*)is very clear that interest rate restrictions should be conditional on the credit union movement being able to cater for the community currently serviced by the moneylending sector. The potential of credit unions to address the credit needs of people currently using moneylenders has also been highlighted in political debates.[[8]](#footnote-8) While Ireland has a well-established and functioning credit union sector and while there is a strong case for developing credit unions as a viable alternative to moneylenders, this matter requires further discussion with the sector.

The Credit Union Advisory Committee (CUAC) has recommended that credit unions be permitted to charge an interest rate on loans greater than the current ceiling of 1% per month and proposed that the cap be raised to 2% per month. This has been agreed by Cabinet and will now progress to the next stage.

Any policy decisions on interest caps in the money lending sector or increasing rent caps in the Credit Union sector should evidently be informed by the work of the Task Force[[9]](#footnote-9) established by the Social Finance Foundation (SFF), to discuss the issue of “Tackling High Cost Credit in Ireland”.

## Q1.2 If you feel a cap should be introduced, should it be introduced as soon as possible or should its introduction be linked to the availability of reliable alternative sources of credit, as recommended in the UCC Report?

A key concern is the impact of an interest rate cap on the operation of the market and a potential restriction on the supply of credit. There is evidence to confirm that interest rate restrictions, when applied in other countries, resulted in reduced access to credit for consumers, particularly amongst lower income, higher risk borrowers. To mitigate the impact of this occurrence, a reliable alternative source of credit should be available to this consumer group. The introduction of an interest rate cap should be “conditional on the credit union movement in Ireland committing to and being enabled to serve the community currently serviced by the moneylending firms, subject always to adherence to prudent credit guidelines” as recommended in the UCC Report. To facilitate this and to reflect the higher risk and costs associated with this form of credit, the Credit Union movement should be enabled to develop an appropriate risk-based pricing strategy and we are in agreement also with the recommendation in the UCC Report that the Department of Finance consider increasing the 1% monthly cap on interest rates for credit unions.

## Q1.3 If an interest rate cap is introduced, which model do you feel would be the most beneficial and transparent for consumers? Options include:

 **fixed or relative (to a reference rate) APR caps;**

 **fixed or relative (to a reference rate) nominal interest rate caps;**

 **nominal interest rate caps that vary by the term of the loan and/or the value of the loan; or**

 **staggered nominal interest rate caps (for loans in the same calendar year).**

**Alternatively, please suggest a model of your own choice.**
We propose a fixed nominal interest rate cap be introduced but preface the response to this question by stating that we are not experts in the field of monetary policy and what model will produce the desired result. In our opinion, the primary intention of an interest rate cap should be to protect the consumer who cannot afford the high interest rates and to reduce the total cost of credit, irrespective of the term of the loan. We also desire a model, which is the most beneficial to a consumer who largely appears unresponsive to either the APR or the cost of credit and often takes out loans with a particular provider when cheaper options may be known to be available.

In MABS experience, consumers will firstly determine what amount they can afford to repay each week, and then in consultation with the Agent, will agree the term of the loan. Whilst a nominal interest rate cap that varies by the term of the loan (reduced nominal interest rate for shorter term) is preferable there is a concern that the Agent may have undue influence in this part of the decision and may ‘push’ a 52 week term solely to increase the return to the loan provider. While the potential impact of a reduced nominal interest rate for a long-term loan has the benefit of smoothing out the cost of credit over the term, it may also lead to more entrenched borrowing behaviours amongst the consumer who will spend a year paying back a loan. We are therefore of the opinion that a fixed nominal interest rate cap will serve the aforementioned requirements best and be of most benefit to consumers and will be a more appropriate tool than APR for restricting interest rates over mixed loan terms.

## Q1.4 Having selected or outlined a model for the capping of interest rates, what level(s) of interest do you feel would be most appropriate, in terms of benefitting consumers and maintaining the regulated supply of credit? Please provide the rationale for your answer.

# The main question that arises here is what level of cap would be fair and realistic for consumers and reduce the preponderance of over-borrowing?

It is noted that the Private Members Consumer Credit (Amendment) Bill 2018 has proposed a 36% APR cap. It has been previously suggested that we need to look to countries such as Germany where there is a set differential between the interest rate a legal moneylender can charge compared to a bank or credit union. “Germany sets their interest rates at 12% greater than the average bank rate. The gap between both rates is recognition of the greater risk these borrowers present and also the often small sums involved".[[10]](#footnote-10)

Overall, we have insufficient expertise in this area to state what level of interest would be most appropriate other than to say it should be set at a level that will protect consumers from usury. We suggest that interest rates should be fixed in line with worldwide norms for this type of product and particular reference should be given to countries that have specifically limited the cost of short-term, high-cost consumer credit.

The UK introduced a cap on high-cost short-term (HCSTC) credit, including payday loans[[11]](#footnote-11) in January 2015. This imposes an initial cost cap, a cap on default fees and a total cost cap. This means that consumers have a clearer understanding of the maximum amount that they would have to re-pay.

Another example from the UK (excluding Northern Ireland), is the ability of credit unions to charge a rate of up to 42.6% APR on loans that are deemed high risk, including those that would traditionally be considered open to moneylending.

It is useful to consider the structure of the cap relating to HCSTC in the UK and the rate used by credit unions above. While the UK rates are considered too high in the Irish context[[12]](#footnote-12), in our opinion the structure of the cap is worthy of consideration. However, we do acknowledge that in Ireland’s case, payday lending is not allowed.

Transparent aggregate loan information is crucial irrespective of what interest cap exists.

**Q2.1 Should the prohibition on charges other than collection charges continue?**

YES (see Answer to Q 3.1 below)

**Q2.2 Should a statutory maximum home collection charge be introduced?**

YES (see Answer to 4.1 below)

**Q2.3 If one is stipulated in legislation, should it be on the basis of;**

 **the current model of X cent in the euro borrowed (i.e. a fixed cost) or**

 **the number of visits, with a flat rate fee per visit?**We are of the opinion that home collection charges should be based on the number of visits with a flat rate fee per visit with a cap on the number of visits permitted. This will be more transparent for the consumer and as the costs associated with home collection should be the same, irrespective of the amount borrowed, this is a more appropriate basis for charging.

**Q2.4 Having selected or outlined a model for the home collection charge, what level(s) of charge do you feel would be most appropriate, in terms of benefitting consumers and maintaining the regulated supply of credit? Please provide the rationale for your answer.**

Information on the contractual position of the home collection agent, the costs involved and the number of consumers visited may help to determine a flat rate per visit. The charge should not, we believe, include an element of profit and should in fact be heavily subsidised by the loan provider as home collection is recognised to be both a key strategy in ensuring low loan defaults and is also an important marketing/sales channel. An element of this cost should be absorbed in the lender’s profit margin.

However, the home collection concept needs further scrutiny and should not be taken as the model for alternatives. We welcome the PMC Taskforce’s intention to undertake research related to this model.

**Q2.5 Should specific repayment options be required to be included for consumers – such as Post Office repayment, standing order, direct debit, on-line transfer?

Please list all repayment options you consider appropriate.**Advances in the market and changes in consumer payment behaviours should be reflected in a broadening of the means by which a consumer can repay a moneylending loan. All of the repayment options listed are valid depending on the choice and needs of individual consumers. However, the needs of people who are digitally excluded must be catered for and, in this regard, An Post repayment facilities are particularly important for many low-income households. Credit Unions also have an important role to play in facilitating repayments.

Both Word Bank statistics[[13]](#footnote-13) and Indecon[[14]](#footnote-14) report that 95% of Ireland’s population is banked and therefore has access to standard banking financial services such as direct debits, standing orders and debit cards. Coinciding with national broadband coverage and a greater uptake in smart phone technology, consumers also have many other means of making payments online and providers should be encouraged to embed payment solutions in their website (similar to Everyday Finance) or be registered with An Post’s [www.paymybills.ie](http://www.paymybills.ie) ( as Everyday Finance and Practical Finance currently are). However, although the percentage of financially excluded persons is relatively low in Ireland, a greater proportion of unbanked individuals do derive from low-income households. As a result, the option to pay by cash will continue to be important, and again in a more developed market, consumers should have the option to repay loans in cash though a variety of means including by Bill Pay in the post office network or by using the Post Point services with participating retailers, alongside the currently available method of paying at the loan providers office.

Other payment solution providers such as PayZone and PayPoint are also largely available in the Irish market; however, in MABS experience some retailers charge a surcharge for the provision of these services and as such, would add to the total cost of credit incurred by the borrower, if used.

**Q2.6 How should the provisions in respect of collection charges be changed to reflect the alternative repayment options?**

The provisions in respect of collection charges should continue to state that they are only applicable to the home collection service by the loan provider.

The legislation should mandate that collection charges for any other payment mechanism is not permissible. All transaction or administrative costs related to the processing of payments by An Post or another payment services provider should be absorbed by the lender as part of their operating costs and not be passed onto the consumer.

**3. Maximum Repayment Amounts**

**If policy decisions are reached on an interest rate cap and a cap on home collection charges, there will be, in effect, a statutory cap on the maximum charge for the cost of credit. Depending on policy choices, the extension of a loan term could reduce the APR without reducing the actual cost of the credit.**

 **Q3.1 Do you have any comment on this?**

A significant proportion of the population may struggle to understand the complexities of loan structures and interest rate calculations. This is the case even more so for the financially vulnerable who may be poorly informed or presented with information which is weighted more heavily towards one product feature over another. In the above described scenario, there is a concern that loan providers may either withdraw from offering shorter term loans or alternatively promote longer terms ones on the basis that the lowest APR is ‘best’ without giving due recognition to the cost of credit over term periods. We would therefore recommend that all moneylenders be mandated to continue to provide a short-term loan product as part of their loan products with a term of between 20-26 weeks. In addition, we recommend that the total cost of credit be expressed in a narrative example for all loan offerings. In client casework, MABS advises consumers to check the total cost of credit in numerical terms as this, is more impactful on their borrowing decision. There is a need to separate out clearly the interest rate and the duration of repayment since the latter can have a major impact on the amount to be repaid. The APR is not easily understood and although improved financial literacy may improve transparency and understanding, a mandated requirement to include the numerical cost of credit in all examples will do more to encourage consumers to choose lower-cost options.

There is also a need to locate this question within the broader issue of multiple loans. In this regard, CIB notes concerns about the fact that, while the Consumer Credit Act 1995 forbids topping up of existing loans or issuing new loans to clear older ones, this practice was exposed in a ruling by the Financial Services Ombudsman in 2015. [[15]](#footnote-15) A Central Bank Inspection Report [[16]](#footnote-16) revealed that 23% of moneylenders’ clients had been offered additional credit before the balance on previous borrowings was fully repaid. While the majority of firms inspected by the Central Bank were broadly compliant, some serious issues were discovered in a small number of firms. For example, some cases were found where some consumers were provided with new loans before existing loans were repaid in full, which was not necessarily in the consumers' best interests. The need to avoid using short-term, high cost loans to meet longer-term financial needs was highlighted by the Bank’s Director of Consumer Protection who stated that consumers in such a situation should be encouraged to contact MABS for help and advice.[[17]](#footnote-17)

**4. Home Collection Practices**

**Q4.1 Given the changes that have taken place in lifestyles since 1995, do you think that these contact provisions require changing and if so, how should they be changed?**

This is a complex area, which requires careful consideration. Given the advancement in mobile technology and social media, moneylenders now have greater avenues of contacting borrowers than ever before. This brings significant additional pressures to consumers who may be subject to contact via a variety of media over the course of the day.

To mitigate against the greater number of avenues now available, we recommend that moneylenders and/or their collection agents be permitted to contact and/or visit their clients (with their consent) from 10am to 7pm (currently 9pm) on any weekday. This will also lessen the impact of visits by a collection agent on family life when schoolwork, bed-times and other family matters are being attended to.

With additional consent, we recommend that moneylenders and/or their collection agents may visit and/or contact a borrower between 8am to 10am and/or between 7pm to 9pm any weekday. In our opinion, contact of any form should be banned on a Sunday or a public holiday. Explicit consent to contact in these periods should be received from the borrower and the consent form should not be part of the original loan agreement or terms and conditions. In addition, the consent should cover all forms of durable media, which will include text and other messaging services and many forms of social media.

Any move away from home collection practices must have clearly inbuilt codes of practice building on and aligning with, for example, the Code of Practice on Mortgage Arrears and theConsumer Protection Code for Licensed Moneylenders (currently being revised). The provisions of the Non-Fatal Offences against the Person Act 1997 (Revised May 2017)[[18]](#footnote-18) should also be taken into account.

The fact remains, however, that any regulatory codes and legislation are only as effective as their enforcement monitoring. The ongoing practice of illegal moneylending is a clear case in point here.

**5.**

**Q5.1 In light of technology advances, should the option be made available to consumers to receive a digital record of their transactions instead of a hard copy?**

Digital records are obviously an option for some and consumer choice is an important consideration. This will reduce some of the errors commonly experienced by consumers as a result of unclear writing and miscalculation. It will also remedy situations where repayment books are lost or taken away by a collection agent.

However, people who are digitally excluded clearly need hard copy transactional information. In a submission to the Central Bank’s Discussion Paper 7*, Digitalisation and Consumer Protection Code* inOctober 2017, we noted that ‘cash’ will still matter for many Irish consumers and especially those who manage on a very low income. While the potential for digitalisation was seen to be transformative for low-income, vulnerable and otherwise marginalised groups, there was also the possibility for serious innovation-related detriment unless the needs of groups currently financially excluded were built in as an integral part of digitalisation from the outset and not just an ‘afterthought’.[[19]](#footnote-19)

An obvious question arises about the data protection implications of digital transaction information by moneylenders.

**6. Registration and Regulation
Q6.1 Do you think the district court method is still an appropriate method of licensing moneylenders?**

YES, we are in favour of this practice continuing primarily because we believe that local accountability by moneylenders is an important consideration. It places an obligation on the moneylender to publish in a national or local newspaper circulating in the district court area a notice of their intention to engage in the business of moneylending in that district. This is an important means of informing local community groups and organisations of the forthcoming presence of a moneylending firm in their area, so that they may be prepared to support clients, if necessary.

**Q6.2 Should the Central Bank, at its discretion, be given the power to issue licences to moneylenders for periods longer than one year?**

**If so, should there still be a maximum period for such a licence, e.g. 3 or 4 years or should such licences be without any time limit?**

We are of the view that the period of one year is the right one on the basis that the emphasis on short-term accountability is an inbuilt protection - moneylenders have to show evidence of vigilance in ensuring that there is no breach of codes and no practices, which could affect the renewal of their licence on an annual basis.

However if the Central Bank, is given the power to issue licences to moneylenders for periods longer than one year, the maximum time period for such a licence should be 2 years. This, we feel, would reduce the renewal cost to the moneylender but still maintain a sufficiently strict regime of oversight on this industry.

**7. Advertising
Q7.1 In your opinion, should there be further requirements or restrictions on advertising by moneylenders?**

Section 21 of the Consumer Credit Act should, be amended to reflect the following points:

* loan providers should be mandated to include the rate of interest and not be given an opt-out as is currently the case, i.e. “An advertisement in which a person offers to provide or arrange the provision of credit, shall ***if mentioning a rate of interest****[[20]](#footnote-20)*….” The inclusion of the APR should be obligatory in all advertisements, as should the total cost of credit.
* A representative example should be included as standard in all advertisements and not only “if no other means is practicable”. The representative example should include the principal, term of loan, weekly/monthly repayments (as appropriate), APR and the total cost of credit expressed in numerical terms.
* A standardised model of advertisement should be mandated across the industry as a whole, so that the message is clear, comparable and easily understood by borrowers as they potentially transition from one lending source to another.

More generally

* There should be a stronger emphasis on the requirement to ‘know your customer’.
* There should also be a requirement for people to be directed to other potential areas for solving their immediate financial need, e.g., access to exceptional needs payments (ENPs) under the Supplementary Welfare Allowance (SWA) system and help from NGOs.
* There should be a requirement for people to be advised of the option of seeking help from Citizens Information Services and MABS to help them to explore their options. Relevant contact details for these agencies should be included.
* Crucially, all advertising should be required to have information presented in Plain English in order to accommodate people with literacy or English language difficulties or learning difficulties.[[21]](#footnote-21)

**Q7.2 If you feel it is appropriate for moneylenders to advertise, please suggest a model of your own** **choice for use in the advertisement to illustrate the repayment which may be applicable.**

We suggest the following model for use in all advertisements to illustrate the repayment, which may be applicable.

Repayment Amount: €\_\_\_\_ (per week/month)

Total Repayment: €\_\_\_\_\_

Total Cost of Credit: €\_\_\_\_\_\_

Interest Rate: \_\_\_ % APR

i.e.

**For € 1,000 for 52 weeks**

Repayment Amount: € 30.00 per week

Total Repayment: € 1,560.00

Total Cost of Credit: € 560.00

Interest Rate: 157.3% APR

**8. Terminology
Q8.1 Should consideration be given to renaming licensed moneylenders on a legislative basis - for example, as “high cost credit providers” to more effectively differentiate them from illegal operators?**

Consideration should be given to renaming licensed moneylenders on a legislative basis. It is important to make a clear distinction between mainstream financial institutions, credit unions and moneylenders all of which provide credit.

**Q8.2 In your opinion, would such an approach be beneficial? If so, what name would you suggest using and why?**

It would be beneficial to create a distinction in the marketplace between licensed moneylenders and illegal operators. We agree that negative connotations may apply to the term ‘moneylender’ and where it does exist; it would be preferable to apply it to illegal or unlicensed moneylenders. The term ‘high-cost credit providers’ or ‘providers of high cost loans’ would be more appropriate and would help to distinguish between licensed moneylenders and other ‘low cost credit providers’ such as the Credit Unions, if that term came into use in their sector. ‘High-cost short-term credit’ is the term used in the UK.

**9. Additional Comments**Licensed moneylenders are now obligated to submit data to the Central Credit Register for loan agreements of €500 or more. However, they are not required to check credit information on the Register unless the loan application is for €2,000 or more. In a market that predominantly serves lower value loans, a licensed moneylender should be required to undertake a credit check on any loan application in excess of €500 as part of their assessment of an applicant’s credit worthiness. Stricter enforcement of affordability rules will hopefully prevent multiple loans being offered to some consumers, as it pushes them even further into indebtedness. It would also be beneficial for those borrowing less than €500 that the Central Credit Register is extended to gather this data. This allows a credit history to be developed even for those borrowing small amounts.

In recent years, the practice of ‘rent to own’ has emerged in the Irish market and a couple of significant operators[[22]](#footnote-22)are now providing credit to consumers to purchase household and electrical items at very high costs. It would appear that these companies are unregulated and benefit from loopholes in consumer credit legislation. Further investigation into the practices of these firms should be undertaken as a priority and an assessment made as to whether they should be regulated as licensed moneylenders and subject to an interest rate cap if introduced. The UK’s Financial Conduct Authority has recently moved to tackle this issue and introduced a total credit cap of 100% on the rent-to-own sector.

**Conclusion**

The overall discussions on an interest cap for legal moneylenders needs to take place within a broader framework within which there is a dovetailing of the various parts of the financial inclusion and credit systems. The CIB/MABS Submission to the 2018 Central Bank Review of the Consumer Protection Code for Licensed Moneylenders[[23]](#footnote-23) argued that any review of the Code must be considered in the broader context of the alternatives available to low-income borrowers.A multi-dimensional approach is required, including the following (some of which are already in train):

* More detailed analysis of the assumption that the credit union movement can fill the void left if there were to be a significant withdrawal of legal moneylenders as a result of a legally binding interest cap
* Dealing with the data deficits relating to financial exclusion and how this is linked to a thriving moneylending sector
* A better understanding of the culture within which illegal moneylending thrives and the cohort of people who might migrate to illegal moneylenders and why they might do so (e.g. linkages between drug debt and illegal moneylending)
* More analysis of how existing provisions which are particular to the moneylending sector are to be replicated if credit unions were to take on some of this loan market such as - home collection; ease of access; no additional charges in default situation and fast pre-contract, contract and drawdown of loans
* Continued development of PMC as a credible and affordable alternative to moneylending (legal and unlicensed)
* Consideration should be given to how other mainstream financial institutions can tailor their products and offer innovative solutions and affordable credit to financially vulnerable consumers.
* Other policy measures to promote financial inclusion should be considered, including financial education initiatives to complement the above measures and a national savings initiative to build financial resilience. A recent study by CCPC[[24]](#footnote-24) reported that one fifth of the population either cannot or does not save. Income levels, employment and education attainment all have an important influence on a consumers ability to save, and in addition to saving overall financial well-being could be improved by not borrowing for daily expenses. In a market where customers are most likely to borrow from moneylenders to purchase necessary goods[[25]](#footnote-25) such as clothing electrical items and homeware, an innovative savings scheme to build resilience within this market would be particularly beneficial.

Finally, there is a need to ensure that there is a fully integrated approach to policy on financial inclusion and credit availability in terms of setting overall policy direction. The ‘*It Makes* Sense’ loan (due to the household budget deduction) comes under the remit of the Department of Employment Affairs and Social Protection. The local public/community banking initiative is being progressed by the Minister for Finance and Public Expenditure and the capping the cost of licensed moneylenders is also being progressed by the Department of Finance – all are interrelated policy responses which have knock on impacts on clients of moneylenders.

1. The Government endorsed the scheme in the Programme for Government 2016., “*We*

*specifically support the rollout and extension of the Personal Microcredit (PMC) Scheme, which*

*is providing simple microloans to members and helping to combat the use of moneylenders*” [↑](#footnote-ref-1)
2. MABS response was prepared by MABS National Development and incorporates feedback from MABS money advisers. [↑](#footnote-ref-2)
3. Indecon International Economic Consultants have carried out a public consultation on behalf of the Minister for Finance and Public Expenditure and Reform on the local provision of banking and financial services. CIB made a submission on the matter, which called for a greater emphasis on a community banking approach. <http://www.citizensinformationboard.ie/downloads/social_policy/submissions2019/Community_Banking_Local_Banking_and_Financial_Services_CIB_Subm_April_2019.pdf> [↑](#footnote-ref-3)
4. *Interest Rate Restrictions on Credit for Low Income Borrowers*, UCC on behalf of Social Finance Foundation. [↑](#footnote-ref-4)
5. The Household Finance and Consumption Survey 2013 estimated that 18.7% of the population were ‘credit constrained’. <https://www.cso.ie/en/media/csoie/releasespublications/documents/socialconditions/2013/hfcs2013.pdf>
The most recent comprehensive research on the matter, carried out by the ESRI, was published in 2011 and was based on 2008 data <https://www.esri.ie/news/financial-exclusion-and-over-indebtedness-in-irish-households>. [↑](#footnote-ref-5)
6. the Template used in the 1998 Combat Poverty study, *Moneylending and Low Income Families*  could be used to update that data – <https://www.lenus.ie/handle/10147/624053>, [↑](#footnote-ref-6)
7. Unlike conventional banks or other lending institutions, the funds that community banks lend to borrowers are typically gathered by the local community itself and the community has more control over its operations and lending priorities. Community banks seek to cater for the financial needs of all members of the community. [↑](#footnote-ref-7)
8. See <https://www.oireachtas.ie/en/debates/debate/dail/2018-12-12/38/> [↑](#footnote-ref-8)
9. This Task Force is chaired by the CEO of the Citizens Information Board and includes representatives from the DEASP, the Department of Finance, the Central Bank as well as the credit union development and management associations. [↑](#footnote-ref-9)
10. Kieron Brennan ICLU Chief Executive as reported in the *Irish Examiner 4/12/2012.* [↑](#footnote-ref-10)
11. <https://www.fca.org.uk/firms/price-cap-high-cost-short-term-credit> [↑](#footnote-ref-11)
12. Applying the UK rates, a typical moneylending loan of €500 over 182 days (26 weeks) and repaid on time, means a consumer would be liable to pay an additional €728, or under the UK regulation be capped at a total cost of credit of €500 meaning they repay €1000 in total. In comparison, a €500 loan from Provident over 26 weeks would include a cost of credit of €150 and the total amount repaid would be €650. Additionally, a €500 credit union loan charges €20 interest i.e. 4% versus 30% rate with Provident. [↑](#footnote-ref-12)
13. Financial Inclusion Global Findex Indicator, OECD [↑](#footnote-ref-13)
14. <https://www.gov.ie/en/publication/f8bfbe-indecon-report-on-benchmarking-of-irelands-payments-industry/> [↑](#footnote-ref-14)
15. <https://www.flac.ie/news/2015/06/16/failure-to-deal-with-topup-loans-leaves-burden-on/> [↑](#footnote-ref-15)
16. <https://www.centralbank.ie/docs/default-source/publications/consumer-protection-research/gns4-2-1-1-rep-on-licensed-moneyldg-ind-112013.pdf?sfvrsn=8> [↑](#footnote-ref-16)
17. <https://www.centralbank.ie/docs/default-source/news-and-media/press-releases/press-release-archive/press-release-2013-jan-jun.pdf?sfvrsn=9> [↑](#footnote-ref-17)
18. Under [Section 11 of the Non-Fatal Offences Against the Person Act 1997](http://www.irishstatutebook.ie/1997/en/act/pub/0026/sec0011.html#zza26y1997s11), it is an offence to demand payment of a debt in a way designed to alarm, distress or humiliate. This includes blackmail and extortion. (Extortion means using intimidation or the threat of violence to obtain money, information or anything else of value from another person.)

<https://www.citizensinformation.ie/en/money_and_tax/personal_finance/loans_and_credit/moneylending_in_ireland.html> [↑](#footnote-ref-18)
19. <https://www.centralbank.ie/docs/default-source/publications/discussion-papers/discussion-paper-7/mabs-response-to-dp7.pdf?sfvrsn=2> [↑](#footnote-ref-19)
20. Emphasis added [↑](#footnote-ref-20)
21. In this regard, reference should be made to National Adult Learning Association (NALA), *Plain English guidelines*, <https://www.nala.ie/sites/default/files/publications/Plain%20English%20guidelines%20at%20a%20glance_1.pdf> . [↑](#footnote-ref-21)
22. Flexi Fi/Flexi Rent and Creation Consumer Finance [↑](#footnote-ref-22)
23. [http://www.citizensinformationboard.ie/downloads/social\_policy/submissions2018/Moneylending\_and\_Consumer\_Protection\_(CIB%20Submission%20to%20Central%20Bank).docx](http://www.citizensinformationboard.ie/downloads/social_policy/submissions2018/Moneylending_and_Consumer_Protection_%28CIB%20Submission%20to%20Central%20Bank%29.docx)

 [↑](#footnote-ref-23)
24. Financial Capability and Well-being in Ireland in 2018, CCPC [↑](#footnote-ref-24)
25. Report on the Licensed Moneylending Industry, Central Bank 2013 [↑](#footnote-ref-25)