



ADVISORY
Industry Information

Update - Consumer Protection (Regulation of Credit Servicing Firms) Act 2018 now in force

January 2019

Following the issuance by the Minister for Finance, Paschal Donohoe, of a commencement order, the [Consumer Protection \(Regulation of Credit Servicing Firms\) Act 2018](#) (the "Act") has entered into force from 21 January 2019.

Overview - New Regime now in Force

The introduction of the Act means that a number of previously unregulated entities (e.g. SPVs) that:

- a. hold legal title to relevant portfolios of Irish loans¹ ("Relevant Portfolios"); and / or
- b. control the overall strategy or key decisions relating to credit,

are now subject to regulation and a requirement to apply to the Central Bank of Ireland (the "Central Bank") for authorisation to carry on the business of a credit servicing firm (in the absence of any acceptable restructuring solution). Due to the broad potential scope of the Act, participation in certain types of syndicated loans by unregulated lenders may also come within scope.

The Act represents a major expansion of the scope of the previous credit servicing regime and means that both current owners and prospective future purchasers of Relevant Portfolios should carefully review their structures in order to ensure compliance.

Please see our previous client briefing (available [here](#)) for a detailed analysis of the amendments to the existing credit servicing regime that have been introduced by the Act and the resulting consequences.

Transition Period - Applications for Authorisation

Although the Act is now in force, the Act does provide for a three-month transition period for those entities caught by the expanded definition of "credit servicing firm" included in the Act, within which those entities will be deemed to be authorised, on the condition that the entity:

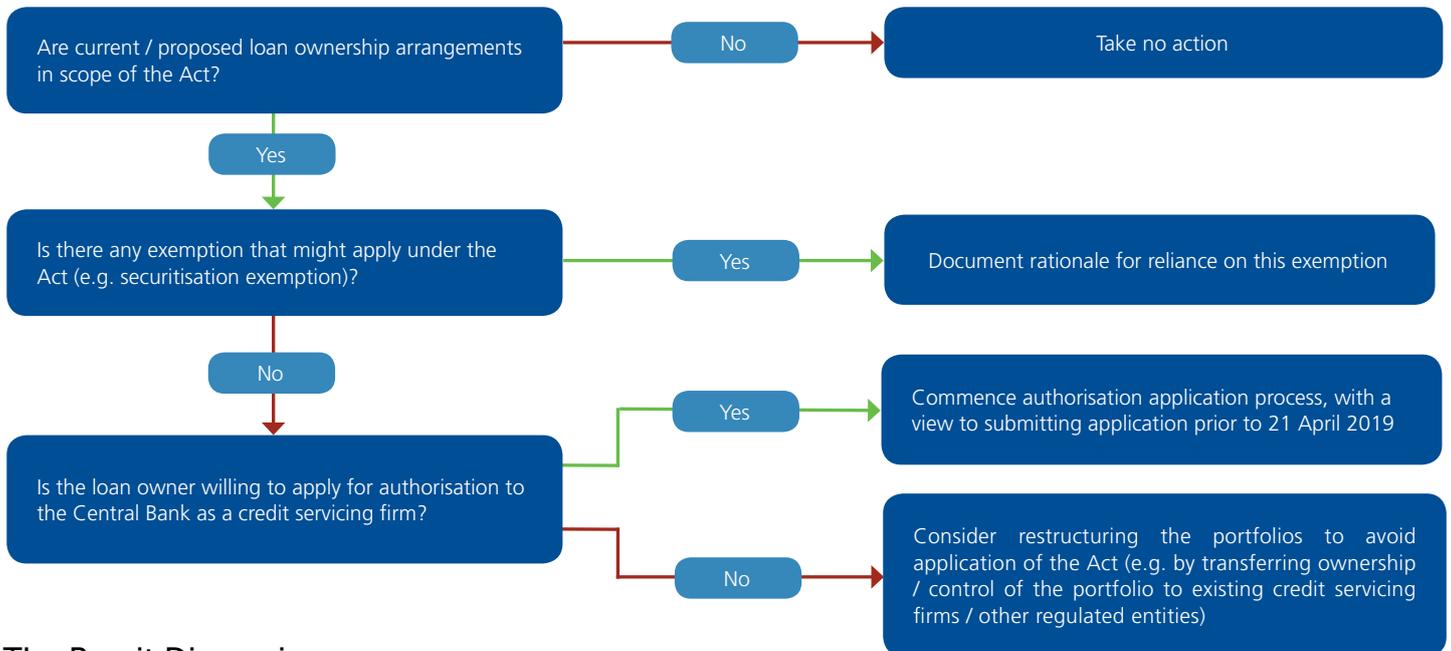
- a. applies to the Central Bank for authorisation within three months of the commencement of the Act (i.e. by 21 April 2019); and
- b. currently has a regulated credit servicing firm appointed in respect of the credit that it holds the legal title to.

¹ In summary, portfolios comprising loans to either:

- Irish natural persons; and / or
- small or medium-sized enterprises, but only where the loan has been originated by a regulated financial service provider.



Actions to Take Immediately



The Brexit Dimension

One potential unforeseen / unintended consequence of the Act is the impact that it may have on the status of UK-regulated lenders in Ireland post-Brexit. In the event of a ‘hard Brexit’, UK-regulated lenders would lose the right to cross-border passport under EU financial services legislation and would become “unregulated” for the purposes of Irish law.

There is a risk in this scenario that the Irish credit servicing regime, which effectively imposes an obligation that Irish borrowers that obtained loans from regulated lenders must always interface with a regulated firm for the life of that loan, may lead to UK-regulated lenders inadvertently finding themselves in breach of the Act.

Contacts

If you have any concerns or queries regarding the impact that the introduction of the Act may have on you and your business, please speak to your usual contact in Walkers or contact a member of the Regulatory department:



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