CIB/MABS written submission as part of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach's detailed scrutiny of the Consumer Credit (Amendment) Bill 2018.

Executive summary

Introduction

This is a joint submission from MABS and the Citizens Information Board, reflecting the work and insights of both over the last number of years in supporting borrowers on low incomes and supporting research and strategies to enable MABS clients and others to access affordable credit.

Gauging the rate

We are fully supportive of objective of the Bill, but unable to provide guidance on the rate. Our view is, that while credit is vital in our clients lives (and we have set out more detail on this in previous related submissions to the Central Bank of Ireland and to the Department of Finance) their use of high-cost credit has a negative impact on their overall financial position and can erode their financial resilience. Sometimes leaving them unable to pay for life's essentials (energy, food etc.) and creating a 'vicious cycle' of repeat borrowing. We believe therefore, that the aim should be to legislate to ensure that our clients can access the lowest rates possible while still having access when they may need it, and to ensure that if a rate change occurs it is coupled with related limits on fees and charges.

Complex personal/emotional, familial and community drivers

The reasons why our clients take loans from licenced money lending are complex; there are personal/emotional, familial and community drivers and these are, in our experience, knowingly leveraged by firms in the manner and timing of marketing within communities. The absence of judgment is important and, for that reason, sometimes the agent can come to be viewed as a 'friend'. It is important to recognise and better appreciate the difficulties of day to-day-money management under pressure, (both the strategies deployed and the stress points) in order to understand why/how this lending is used despite its high cost and the complementary approaches needed in support of legislation in this area. Our submission aims to relay a sense of the issues based on our experience. It should be noted that the predominant focus is on the 'doorstep' model because those loans are more prevalent in our casework.

Migration to illegal money lending - not the default

A key fear in legislating or regulating in this area is the risk of migration to illegal money lending. For reasons outlined later in this submission, MABS experience of that market is much more limited, but it is important to state that again, in our experience, borrowers of licenced money lenders are astute in their coping strategies when they are managing under pressure and are both aware and frightened of the risks associated with illegal lending. We therefore don't believe that this would be their natural default position.

Creating alternatives and a gradual approach

Across our client group, but perhaps most evident within this cohort, there is a genuine and deep-seated fear of losing a line of credit and there are rational reasons for this. As a consequence, our experience has been that there is a high level of loyalty to licenced money lenders and a reluctance to break agreements even when they are evidently unaffordable. Therefore, and again while supporting the objective of this Bill, we believe that a gradual approach to change is needed to enable all the main stakeholders to work together to ensure that alternative supports can be provided more seamlessly should the market contract. The structure of the Irish market, and the dominant position that appears to be held by a low number of lenders, suggests that this should be a focus in any event.

We believe that a range of complementary measures are necessary in support of a rate cap to ensure, in so far as possible, that before a borrower considers taking out a high-cost loan, they can have confidence that in reaching out for help, guidance or support, the right response will be there.

Main stakeholders coming together

We therefore believe that main stakeholders and others should come together to explore:

- what share of this business credit unions/banks and others might be willing to underwrite and under what conditions,
- what other solutions could emerge in the market (and what policy responses are needed to stimulate necessary innovation),
- what further changes are needed to the Personal Insolvency legislation[1] to ease the debt burden and enable more households to make ends meet,
- what impact reducing the 'poverty premium' (or an estimated amount of approx.. €536 p.a.) people in poverty are paying for goods and services) could have,
- what impact data on payments not recorded on the Central Credit Register might have in building a positive credit score – e.g. positive record of making rent payments and paying utilities or for other services,
- what role could be played by encouraging/incentivizing saving[2],

[1] A Personal Insolvency Bill is currently in preparation, see https://merrionstreet.ie/en/News-Room/Releases/Minister_McEntee_to_reform_personal_insolvency_legislation_to_help_borrowers_hit_by_Covid-19.html

[2] See for example: https://www.gov.uk/get-help-savings-low-income

- the potential impact (positive/negative) and uptake of, new forms of finance such as BNPL (Buy now pay later),
- what percentage of unmet need should, perhaps, be met by the Department of Social Protection/other Departments,
- what the impact might be on the charitable sector[3] and what an appropriate response from charities would look like.

Our hope is, that if legislation in this area is passed, there will be joint work across all stakeholders on these and related issues, with the overall aim of ensuring that viable and accessible alternatives are there. We also highlight the role played by the credit sector more broadly (including State creditors) in creating 'pain points' that can prompt a decision to take out a high-cost loan and see that area as worthy of further examination. We have highlighted the need for a national strategy to combat financial exclusion which, we had hoped, would emerge a number of years ago.

Better understanding borrowers

We present some of our data, indicating that there are differences between users of door-step credit and catalogues. Overall, across both groups, far more females use this form of borrowing than males, and females parenting alone feature strongly. Borrowers are, at the point of coming to MABS, predominantly reliant on social welfare as their primary source of income and, in the main, resident in private- rented or local authority housing. At the point of coming to MABS, borrowers are heavily over-indebted and have several other debts recorded on our system.

There is evidence of 2 different groups. One, where a high-cost loan is recorded but no other debts are owing to a bank or a credit union, 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. The second group has debts owed to ***both*** a licenced lender ***and*** a bank or a credit union and it seems important to try to 'unpack' this to understand more about why and when this occurs.

MABS role – need increased referrals - there is always something we can do to take away the urgency

We provide an overview of how MABS can help (budgeting advice, education/client empowerment, negotiating affordable repayment plans with creditors, access to insolvency, advocacy in taking complaints, support with access to affordable credit, accessing State /charitable supports). However, for a variety of

[3] It is important to flag the possible adverse impact of COVID-19 and/or Brexit on the charitable supports once available to our clients, both in terms of level of demand and potential erosion of their funding or for administrative reasons. In this regard we highlight that Turn2us which had been an important support to some of our clients advised, just last week, that post Brexit, for regulatory reasons, they will no longer be in a position to undertake grant assessments or award grants and will be closing its application process for partners (of which MABS is one) in Ireland.

reasons, which we also describe, too few borrowers with high-cost loans seek our help. Yet we know that if a borrower decides to call our service before taking out a high-cost loan, there is always some action we can take which will stave off the urgency and allow other, less costly, options to be explored. We hope that the regulatory changes recently announced by the Central Bank of Ireland[4] will improve the referral rate to MABS.

Impacts of Covid-19 on the CCR

Further points are raised about the Central Credit Register and the potential impact of COVID-19 on the payment records of these borrowers and the long-run impact this could have on their access to affordable credit.

Vulnerable Consumers and an additional duty of care

Finally, we highlight the need for an improved definition of the 'vulnerable consumer' in relevant regulatory Codes and we note that given the level of access and insight door-step lenders have into the lives and well-being of their clients, licenced moneylenders should be mandated to have an additional duty of care for vulnerable consumers.

[4] https://www.centralbank.ie/news/article/press-release-moneylenders-changes-8-jun-2020

Introduction

1. CIB/MABS welcome the opportunity to respond to the invitation by the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach to provide a written submission on the Consumer Credit (Amendment) Bill 2018 ('the Bill'). Members will know that MABS originated as a response to the problem of moneylending and, since 1992, our work has focused on the difficulties low-income households face with day-to-day money management and their use of consumer credit. While acknowledging that consumers on higher income levels may choose to avail of loans from licenced moneylenders, our goal in this submission is to reflect how this type of credit is used by the clients we support who are, in the main, dependent on social welfare as their primary source of income.
2. Measures in this market are long overdue, therefore MABS greatly welcomes the current focus on this issue at both regulatory and policy levels. However, we must qualify this response by saying that none of us can anticipate the fall-out of COVID-19/Brexit. MABS anticipates that there will be profound financial impacts for many of our clients. The experiences of financialisation[5], precarious employment and an enduring memory of austerity after the last financial crisis have had a 'chilling effect' on aspects of MABS casework, where many clients express fear, and sometimes resistance, about taking actions (e.g. putting in place voluntary arrangements, insolvency) that might reduce their access to an essential line of credit to pay for an unexpected expense[6]. When income is uncertain the sense of security that having access to credit confers, becomes a powerful non-price factor in determining behaviour. Any proposed legislation in this area, if passed, requires a range of complementary measures to protect and sustain those living on the lowest incomes. The purpose of this written submission is therefore to share MABS views, based on experience, of some of the main issues of concern.
3. As things stand, and even without any legislative/regulatory change, our understanding of the market suggests that if one or two main players exited, for whatever reason, there would likely be an

[5] In a previous submission (October 2018) to the Committee's roundtable discussion on *'the recent Government report on Local Public Banking in Ireland, financial inclusion and related matters'* we highlighted the severing of relationships between banks and their customers through loan sales, as well as the depletion of savings by our clients in their attempts to prioritise their mortgage following the last recession.
https://www.mabs.ie/downloads/reports_submissions/MABS%20opening%20statement%20Government%20report%20on%20Local%20Public%20Banking%2023%20Oct%20....pdf

[6] A 2019 NERI analysis of Survey on Income and Living Conditions (SILC) data shows that for all but one of the seven categories of employment used, Irish employees were, in 2017, less likely to be able to meet an unexpected expense (of approximately €1,000) than before the financial crisis and that the share of Irish households, (41.6 %) who would not have been able to meet an unexpected expense of €1,000 was well above the EU average of 33.8%.
https://www.nerinstitute.net/sites/default/files/research/2020/inBrief%20no%2071%20Nov%2019.pdf

appreciable impact on supply[7] and that market vulnerability could be addressed through encouraging greater competition from alternative low-cost credit providers.

Gauging the rate

4. Before expanding on MABS experience of supporting borrowers with these type of loans, it is important to highlight that while MABS is fully supportive of a statutory rate cap for loans provided by licenced moneylenders, it is beyond our expertise to state with precision what that rate should be[8]. We concur fully with the recommendation in UCC's 2017 report for the Social Finance Foundation ('Interest Rate Restrictions on Credit for Low-income Borrowers') that it must be *'coupled with a limit on other fees and charges and a limit on the total cost of credit, with the rules carefully designed to avoid circumvention through the introduction of other 'innovative' fees and charges'.* (p11).
5. We know that this is a very complex issue, but based on their need and debt servicing capacity our view is that households on the lowest incomes should have access to credit at the lowest rates possible across all markets. Credit is essential for our clients. Whatever about affordability (and the assessment of same when they first took out a loan), at the point of coming to MABS, many cannot afford to pay any interest on a loan[9] and yet we know that they have been struggling with APR's of up to 187% (up to 287% including home collection charges).
6. The great irony of the absence of a rate cap, is that people least able to afford this type of credit end up paying, not just more[10] but the most, when they borrow and pay a 'poverty premium' when they

[7] While different in their lending model, high-cost lenders: Quickquid, Wonga and the Moneyshop all exited the UK market in 2019 following reported high levels of complaints/compensation claims; a number of the UK's main high-cost lenders stopped lending at the outset of COVID-19 restrictions. (Sources: https://www.bbc.com/news/business-50174367; https://www.pymnts.com/news/international/2018/wonga-shutdown-payday-lender-loans-fca-uk-banks/#:~:text=The%20U.K.'s%20largest%20payday,isn't%20a%20complete%20surprise.
https://www.companyrescue.co.uk/guides-knowledge/news/money-shop-closes-suddenly-and-is-likely-to-go-into-liquidation-4343/
https://www.theguardian.com/money/2020/mar/30/uk-payday-lenders-start-suspending-new-loans-in-coronavirus-crisis)

8 For further information see '*Public Consultation on capping the cost of licensed moneylenders and other regulatory matters Submission by the Citizens Information Board'* (2019) and for related observations on the operation of the sector see https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp118/mabs-cib-response-to-cp118.pdf?sfvrsn=2

[9] See UK feasibility study on a No Interest Loan Service (NILS) https://londoneconomics.co.uk/wp-content/uploads/2020/03/NILS-feasibility-study-report.pdf There are cases where clients we support cannot afford to pay interest but may nonetheless require a loan for some purpose that cannot otherwise be met. They may not qualify for the 'It Makes Sense Loan' and have no alternative source of credit. Charitable support may be an option in such cases but we find that some clients can strongly resist availing of charitable support.

[10] https://www.mabs.ie/downloads/reports_submissions/Do_the_Poor_Pay_More__OPEN__May2005_1_.pdf

spend[11]. The lack of an interest rate cap perpetuates that inequity and, in some households, contributes to the persistence of an ongoing inability to pay for life's essentials. MABS Advisers describe the situation facing their clients as a '*vicious cycle*', with the licenced moneylender loan providing a necessary, but illusory, form of financial resilience for people and communities that can least afford to pay.

The risk of migration to illegal money lending

7. The threat that rate-capping or other regulatory change will lead to a shortage of supply and a consequent migration of the market to illegal moneylenders, is a key theme in the national[12] and international discourse, but has remained unchallenged in Ireland for too long. Framing the issue in this way has led to a tacit acceptance of usurious rates as the lesser of two evils. The research initiated by the Citizens Information Board[13] and the Social Finance Foundation[14] is providing welcome balance to that narrative.
8. Both the emergent literature[15] and the MABS experience, suggest that this risk is neither well-grounded nor well-understood. The issue is as much about the ethnography of money management/borrowing in low-income households as it is about the economics of lending to low-income households (with the former getting too little attention). In MABS experience, licenced moneylending is deliberately cultivated and habituated within communities, as a practice that extends across families, friendship groups and generations. There is sometimes an element of intra-relationship or intra-family 'soft coercion' involved, with a sibling/partner/parent or adult child feeling pressurised to take out a loan for the benefit of another member of the household[16]. Some Money

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[11] On average, in 2019, in the UK low-income households incurred £478 (€536) of extra costs through 'poverty premiums' – or the extra costs people in poverty pay for many goods and services, such as energy, loans, and insurance, as well as for buying essential items for their homes https://fairbydesign.com/wp-content/uploads/2020/11/The-poverty-premium-A-Customer-Perspective-Executive-Summary.pdf

[12] *There is a risk that the ratio set is at a level that would inhibit the reasonable and appropriate supply of credit into the market, which could result in consumers turning to illegal moneylenders.* https://www.centralbank.ie/docs/default-source/publications/consultation-papers/cp118/provident-personal-credit-ltd-response-to-cp118.pdf?sfvrsn=2

[13] Research is currently being carried out by the Personal Micro Credit Task Force on Illegal Moneylending and Profiles of Home Collection Moneylending Borrowers and is viewed as crucial information needed to assist in the formulation of policy in respect of a cap.

[14] *Interest Rate Restrictions on Credit for Low Income Borrowers*, UCC on behalf of Social Finance Foundation.

[15] https://www.fca.org.uk/publications/research/shining-light-illegal-money-lending-consumer-experiences-unauthorised-lending-uk

[16] Our experience in this regard is of once-off events but we highlight potential for coercive control which is an offence contrary to Section 39 of the Domestic Violence Act 2018. MABS staff have recently received training on domestic abuse and the role that coercive control can play in domestic abuse and it is an area that money advisers are aware of,

Advisers relay that as new housing is built in their communities, the first communication residents get through their letter-box is the moneylenders' card. We have also heard of leaflet drops in disadvantaged areas at the outset of the pandemic, just as households lost their incomes and before they knew what social welfare supports they might get. Its promotion is strongly aligned with important family and community events; Christmas, communions/confirmations and so on. Our experience and our data also suggest that its deployment is gendered and targeted towards women with children (often parenting alone), with a particular emphasis on important events and celebrations for themselves and their families.

9. Against this, one of the attractions of licenced moneylending is that it is judgement-free; the lender neither judges the borrower nor questions the rationale for the loan[17]. At least one aspect of the model's success, is the leveraging at both individual and community levels, of the stigma of 'going without' and the understandable sense of achievement/ fulfillment attached to being able to deliver for children at key events in their lives. As one MABS Adviser put it, '***many clients perceive the agent almost as a family friend'.***
10. In contrast, MABS knowledge (which is much more limited), of the worst types of illegal moneylending, is suggestive of a model that targets and grooms people who are vulnerable to financial exploitation and has deep links with drug-dealing/addiction, money laundering, gambling, prostitution etc. While MABS Advisers have witnessed some very limited leakage across the two forms of money lending (i.e. where a borrower owes money to both licenced and unlicenced), in general, MABS clients choose to use licenced moneylenders and are both aware and fearful of the dangers of this type of illegal moneylending. A more concrete example of the relationship between the two worlds, that we've heard through community education and casework over the years, is of a parent (usually a mother) using licenced moneylending to buy branded clothing or electrical goods for teenage children as a way of '*keeping them away'* (and thus protecting them) from predatory criminal gangs in the community.
11. There is a further, almost invisible, variant to the unlicenced model which again, over the years, has surfaced in community education work, which is the person/ family in certain tightly-knit communities providing cash or goods for that community at a premium - almost by way of tradition. The absence of a licence goes unquestioned and such borrowers rarely present to MABS.

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and watchful for in relation to all aspects of casework where domestic abuse features. The act only applies to intimate partner relationships.

[17] Regulation 10 of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylenders) Regulations 2020 which requires the provision of the following information *"If you require this credit to pay for accommodation, food, electricity, heating, medication or other similar costs, please read the below information carefully"* may prompt a more reflective approach and improved referral to MABS.

12. Ireland's very low rate of successful prosecutions for illegal money lending highlights the complexity of the issue and the well-founded fear of reprisal against anyone giving evidence. When the issue is mentioned in public discourse, MABS is sometimes cited as a source of help[18]. While having a valuable potential role, MABS is not the solution to a problem with deep roots in serious crime and involving, coercion, violence and intimidation. That is highly specialised and potentially dangerous work, requiring a dedicated focus, resources and expertise[19].
13. Few borrowers with illegal loans present to MABS and the primary response is to support the borrower to make a complaint to the Gardaí. Where possible, MABS has deployed effective casework strategies to support borrowers over the years, while also engaging in proactive interagency work related to the issue[20].
14. While we have no certainty that, faced with a lack of alternatives, there would not be some migration to illegal money lending, it does a disservice to borrowers to assume that might be their default positon. In practice, MABS clients adopt a vast array of creative, and often constructive, coping strategies to manage income inadequacy, income shocks and fluctuations in expenditure. Every MABS case reveals a complex pattern of adaptive behaviors to try and stave off hardship and allay pressure from creditors through, for example, going into periodic arrears on essential bills as a form of 'unsanctioned credit', use of charitable support and, in some cases, going without food or energy to pay other bills. Decision-making under duress means that choices can seem sub-optimal after the fact, but for people in need of emergency liquidity/cash, costs and consequences are secondary to securing money when there is an urgent need. The main flaw in that approach, and the primary trigger for accessing MABS support, is a lack of sustainability which, in turn, is often attributable to periodic or ongoing income inadequacy, relating to either the amount of income they receive or the way their income is structured.

See: http://www.justice.ie/en/JELR/Pages/SP13000206 [18]

[19] See for example: The England IMLT which investigates and prosecutes illegal money lenders while supporting those who have borrowed money from a loan shark. Illegal Money Lending Teams in Scotland and Wales ensure the entire UK is working to stop loan sharks. Each team is comprised of specialist investigators and Liaise Officers who have previously worked for the police, trading standards, and debt advice services.
https://www.stoploansharks.co.uk/who-we-are/

[20] e.g. Communities against Illegal Money Lending (CAILM) - a Sligo-based inter-agency group with MABS involvement. Kerry MABS, Kerry and West Limerick Credit Unions, Society of Saint Vincent de Paul and An Garda Síochána launched a campaign in December 2019 to highlight the risks of illegal money lending National Traveller MABS (NTMABS) and South Dublin County Council put in place an information dissemination initiative aimed at service providers working with Travellers in the South Dublin County Council (SDCC),

An alternative view

15. An alternative view is that, faced with a potential reduction in supply of high-cost credit, borrowers would turn to credit unions for the '*It Makes Sense Loan*', banks, FinTechs[21], MABS/CIS, the Department of Social Protection, the Society of Saint Vincent de Paul/other charities earlier, and in greater numbers, for alternative, tangible and long-lived sources of help and support. Of most concern are those who need the smallest sums and consequently may be most vulnerable to being 'rationed out' of a contracting market. Again, while supportive of the objective of the Bill, it is important to achieve more certainty about:
    - what share of this business credit unions/banks and others might be willing to underwrite and under what conditions,
    - what other solutions could emerge in the market (and what policy responses are needed to stimulate necessary innovation),
    - what further changes are needed to the Personal Insolvency legislation[22] to ease the debt burden and enable more households to make ends meet,
    - what impact reducing the 'poverty premium' (or an amount estimated at approx..€536 p.a. people in poverty are paying for goods and services) could have,
    - what impact data on payments not recorded on the Central Credit Register might have in building a positive 'credit' score – e.g. positive record of making rent payments and paying utilities or for other services[23],
    - what role could be played by encouraging/incentivising saving[24]

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[21] Backed by the UK government and UK charity Nesta, *The Affordable Credit Challenge,* aims to combat the prevalence of high-cost payday and guarantor loan firms through FinTech innovation and partnerships. In 2020 it awarded development grants to3 initiatives 1) an open banking-enabled credit check to make it easier for people with limited credit history to access affordable loans, 2) technology that makes it easier for people to join and engage with a credit union, and 3) a credit facility specifically for a frozen food shop in school holidays when family grocery bills spike. (We have not yet seen the emergence of relevant innovations in this space in the Irish market). See: https://www.nesta.org.uk/project/affordable-credit-challenge/

[22] A Personal Insolvency Bill is currently in preparation, see https://merrionstreet.ie/en/News-Room/Releases/Minister_McEntee_to_reform_personal_insolvency_legislation_to_help_borrowers_hit_by_Covid-19.html

[23] UK data from 'Experian Boost' which includes utilities showed 10% of people who previously didn't have enough information in their credit file to have a credit score became scoreable after using the tool. https://www.experian.com/blogs/ask-experian/does-paying-utility-bills-help-your-credit-score/

[24] See for example: https://www.gov.uk/get-help-savings-low-income

- the impact (positive/negative) and uptake of, new forms of finance such as BNPL (Buy now pay later)
- what percentage of unmet need could/should, perhaps, be met by the Department of Social Protection/other Departments
- what the impact might be on the charitable sector[25] and what an appropriate response from charities would look like.

16. In this context, it is important to consider the size of the gap between actual incomes and Minimum Essential Budget Standards[26] or the costs associated with a '*standard of living which no one should be expected to live below…the minimum needed to live and partake in Irish society today, meeting the physical, psychological and social needs of individuals and households'* and the role that high-cost credit may currently be playing in bridging that gap and the attendant consequences.
17. It is also important to consider the operation of the credit sector generally and the pressures all stakeholders (banks/financial institutions, credit unions, utility providers and State creditors) place on households to get their debts repaid and the severe stress this can place on a family with a 'negative budget' *('a negative budget is where a debt adviser assesses that a client cannot meet their living costs'*) [27] or a household that has recently experienced a sharp decrease in income and faces the challenge of rapidly re-engineering the fixed-costs associated with their former lifestyle[28].
18. All of these are areas of opportunity for the displacement of the high levels of loyalty borrowers have for high-cost moneylenders. One of the strategies MABS has used effectively is to try to support

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[25] It is important to flag the possible adverse impact of COVID-19 and/or Brexit on the charitable supports once available to our clients, both in terms of level of demand and potential erosion of their funding or for administrative reasons. In this regard we highlight that Turn2us, which had been an important support to some of our clients advised, just last week that post Brexit, for regulatory reasons, they will no longer be in a position to undertake grant assessments or award grants and will be closing its application process for partners (of which MABS is one) in Ireland.

[26] https://www.budgeting.ie

[27] https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/debt-and-money-policy-research/negative-budgets-a-new-perspective-on-poverty-and-household-finances/#:~:text=Negative%20Budgets%3A%20A%20new%20perspective%20on%20poverty%20and%20household%20finances,-12%20February%202020&text=A%20negative%20budget%20is%20where,Standard%20Financial%20Statement%20(SFS).

[28] In its most recent Pre-Budget Submission, CIB/MABS have highlighted a model scheme '*the Debt Respite Scheme or 'Breathing Space' which is currently before the UK Parliament and aims to provide a 'breathing space' by giving people in problem debt a 60- day period where interest and charges on their debts are frozen and enforcement action from creditors is paused in cases where the borrower is availing of regulated debt advice*.
https://www.citizensinformationboard.ie/downloads/social_policy/submissions2020/cib-prebudget-sub-092020.pdf (p34) See also Legislation.gov.UK: Explanatory memo on the Debt Respite Scheme
https://www.legislation.gov.uk/ukdsi/2020/9780348209976/pdfs/ukdsiem_9780348209976_en.pdf

clients to secure a lower cost loan that will address all of the debts owed on an affordable basis. That has often been possible *via* the credit union and is one of the objectives of the '*It Makes Sense loan'*, but Advisers reflect that in some locations such arrangements are increasingly difficult to broker. Yet, we have seen many successful cases where borrowers have gone on to break their dependence on moneylending and establish a strong savings pattern and view the facilitation of such an approach as being essential to the success of the proposed amendment.

19. In support of legislation in this area, we see a need for a gradual approach to change, that will allow both households and main stakeholders to modify their approach and to work in a more cohesive and co-operative way to remove the 'pain points' (utility arrears, unanticipated payments for children, breakdown of a car or an electrical appliance, key life events and the cumulative pressures the credit sector, including State creditors, place on low income households) that are often drivers for this type of credit and to offer more unified support to people who are seeking an alternative.

MABS experience

20. Within our client base there are two main groups:
    I. The first, sometimes described as the 'original target group', is heavily reliant on social welfare or precarious work as a source of income and;
    II. a newer group, (over the last 10 years), that was perhaps once waged or self-employed but that has suffered a loss of income and a consequent inability to service their debts.
21. Our statistics[29] show that the second group became much more evident in the client base after the last financial crisis and we anticipate that the number in both groups will grow again appreciably in the months ahead.
22. Both groups are supported through the MABS 'money advice process', where we support each client to examine their situation in a holistic way, provide support with income maximization, support the household to develop a realistic, sustainable budget and negotiate with creditors where necessary. MABS also provides support and advice on options under insolvency, is a conduit to the supports available under Abhaile and also supports clients to access a Debt Relief Notice (DRN)[30]. MABS also support clients to access affordable credit, where this is possible.

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[29] https://www.mabs.ie/en/about_us/mabs_statistics.html

[30] Debt Relief Notice (DRN) is an insolvency solution for people who have a low income, few assets and debts of less than €35,000. It is a formal agreement that allows for the write off of debts up to €35,000 where it is unlikely that a person will be in a position to repay them/that their financial situation will improve in the next 3 years. Debts such as personal loans, credit card loans, store cards, loans to licenced money lenders, credit union loans and overdrafts can be included in a DRN.

23. Over the last 15 years MABS has assisted just over 15,000 borrowers with doorstep money lender loans (many may have multiple loans). While this is a high number, borrowers with loans to licensed moneylenders (doorstep and catalogue) probably represent less than 7 % of the MABS client base over the period. Historically, the ratio of females to males has roughly been 2 /1.
24. Further analysis, of data relating to non-catalogue licenced lenders for 2020 only (n=260), suggests the ratio of males to females may be changing, with 56% females and 47% males having presented to the MABS with moneylending loans so far this year. Given the unusual nature of 2020, the change in gender composition could be attributable to either the impact of new entrants to the market in recent years, or to the impact of loss of income on a broad cross-section of society.
    - Just 2 percent are aged 19-25, 48 percent aged 26-40, 44 percent are aged 41-65 and 6 per cent are aged 65+,
    - Eighty-one percent live in either private rented accommodation or local authority or other social/supported housing i.e. housing that is not owned or mortgaged.
    - Thirty-six percent are waged or self-employed with the remainder relying on some form of social welfare as their primary source of income.
    - Thirty-three percent are parenting alone and 25% are females parenting alone.
    - The average amount owed to a doorstep money lender in 2020 is € 1500
    - Clients have an average of 4 other debts and the average opening balance for all debts, excluding debts on mortgages, is in the order €25,000 (excluding outliers), it should be noted also that some clients have multiple loans to a licenced money lender.
25. Relevant data for borrowers with catalogue debts (n=110) show this group is predominantly female (75%), 62 % are reliant on social welfare as the primary source of income, the average opening balance is €600 and the average opening balance for all debts (excluding mortgages) is higher at circa. €45k (excluding outliers) and these borrowers are more likely to have debts recorded to other financial institutions (banks and credit unions).
26. Based on debt profile and income source/debt-servicing capacity, following the MABS process[31], there is little, and sometimes nothing, to offer in a MABS-brokered proposal to a licenced moneylender when a loan is small in size. Importantly, firms and their agents are aware of this.
27. Two features of the data are pertinent to this Bill. The first, relates to a significant number (44%), who have a licenced moneylender loan and no debts recorded to either a bank or a credit union[32].

[31] Pro-rata distribution of available disposable income in accordance with the size of each debt.
[32] This does not mean these clients are unbanked/do not have a credit union, rather they have no outstanding debts to either.

This seems indicative of a high level of exclusion/self-exclusion[33] from access to credit via mainstream providers and a consequent reliance on moneylending. Notwithstanding their current difficulties; it's likely this group had some 'point in time' potential to access other sources of credit and thus there is a significant opportunity to support this demographic to access mainstream financial services through the credit union or a basic bank account[34].

28. The remainder, 56 percent, have other current debts owed to a credit union (26%), a bank (16%) or both (12%). It's not possible to tell from the data when this group first took a moneylending loan (i.e. whether or not it was at a point when other sources of credit were exhausted) but it's more likely that licenced moneylending is used alongside other forms of credit.
29. Money Advisers convey that when borrowers with debts to moneylenders first make contact it is very rarely as a result of a problematic licenced moneylending loan. It is often only through the money advice process, when a client first understands the totality of their financial situation and sees it laid out on paper, that they come to see the impact that interest paid on licenced moneylending loans has had on their finances.
30. Advisers also relay that their clients can be reluctant to 1) disclose a moneylending loan and 2) to break the terms. While there can be an element of shame or stigma involved, this is motivated primarily by a fear of the loss of an important line of credit and a fear of upsetting their relationship with the agent.

'They did not want MABS to contact the moneylender. The wife was very anxious not to upset the Agent and it took some time for the clients to fully engage in the MABS process'.

'Client was reluctant to engage with MABS process because he felt that the weekly repayments to the moneylender would be too low ..'

'I have had a lot of people come in with moneylender debt but generally when I mentioned pro rata for secondary's[35] the clients do not come back as want to prioritise the money lender, that's been my general experience with them'.

MABS role

31. While understanding how accessible the doorstep lender can be, and how difficult it can seem to reach-out for help, one of the 'best' calls MABS can get is from someone on the brink of taking out a

[33] Exclusion can occur in different ways i.e. *access (bank closures or high-risk factors), conditions (i.e., attached to a financial product), price (lack of affordability) and marketing (financial firms ignoring some groups).* Elaine Kempson and Claire Whyley, *Kept In or Opted Out? Understanding and Combating Financial Exclusion* (Bristol: Bristol University Press, 1999). https://www.bristol.ac.uk/geography/research/pfrc/themes/finexc/kept-out-opted-out.html

[34] https://www.citizensinformation.ie/en/money_and_tax/personal_finance/banking/standard_bank_account.html.

[35] MABS classify debts into 2 categories in accordance with the consequences of non-payment, accommodation, utilities etc. are 'priority' payments, unsecured debts, including loans to licenced money lenders are described as 'secondary debts'.

moneylending loan. While MABS provides no financial assistance, even when there is a high degree of urgency, there is normally a pathway to support and a way to avoid the crippling costs of high-cost credit. Together with other stakeholders, we have more work to do become as seamless in our approach as the licenced money lender but, in most cases, where MABS is involved, there is some measure that can take the urgency/heat[36] out of the situation and allow sufficient time for other options to be explored/accessed. Regrettably, we get far too few of those calls and, to the extent that we support borrowers with moneylending loans, it is predominantly after the fact.

32. The main thrust of MABS work has previously been outlined, but as with other areas of consumer debt MABS has had many successes in supporting borrowers to uphold their rights where there have been breaches in the application of relevant regulatory codes (in this instance the Consumer Credit Act 1995 (CCA), and the Consumer Protection Code for Licensed Money Lenders) resulting in write-offs and/or compensation. MABS has also supported clients to make successful complaints to the FSPO. Additionally, in acting for clients who have been subjected to harassment in their dealings with licenced money lenders (and a range of other creditors) MABS staff often rely on section 11 of the Non-Fatal Offences Against the Persons Act, 1997, highlighting that it is an offence to demand payment of a debt so as to cause alarm. However, we are doubtful that any of these important tools are used to any appreciable extent by unassisted borrowers experiencing a difficulty with a problematic moneylending loan.
33. A Debt Relief Notice (DRN) can be transformative for borrowers who avail of it and debts owed to licenced money lenders can be included in the statutory write-off achievable through this route. A number of successful DRN's have included debts owed to moneylenders but overall, the impact is immaterial. There are two reasons for this. First, as already mentioned, MABS see a relatively small number of borrowers with such debts and second, as already highlighted, there can be strong resistance to any action that could have the effect of limiting access to credit. (Under the terms of a DRN a borrower must inform the creditor that they have a DRN when borrowing an amount of in excess of €650). In this context, it seems particularly important that the effectiveness of the recently introduced regulatory requirement for firms to signpost borrowers to MABS after three missed payments is monitored by the Central Bank of Ireland and MABS. Additionally, if (in addition to legislative changes, such as the reduction in the supervision period) greater certainty could be assured about access to credit post insolvency, a far higher number of MABS clients would likely opt for this solution and could avail of the fresh-start afforded under legislation.

Most creditors for example are responsive to a call/communication from MABS and willing to place a stay on action where a client is working with the service.

34. The Social Welfare (Miscellaneous Provisions) Act 2008, provides a statutory basis for CIB/MABS role in education on money management and this role has been highlighted in research relevant to this Bill. In practice, education in this area is a two-way process, with MABS learning as much from participants about their challenges in managing money, as MABS imparts over the course of each session it facilitates. Our goal in education work is as much about empowerment as it is about increasing financial literacy and we have seen the positive impact of 'peer learning' around this issue. However, the work and projects MABS has carried out in this area are insufficient in the absence of a national strategy to combat financial exclusion. Such a strategy was envisaged as part of the restructuring of the Irish banks, at which time, the then Government committed to a review of the financial inclusion options available in Ireland with the objective of developing a strategy to identify actions to significantly reduce financial exclusion over a 3-5 year period. The Report[37] of the Steering Group established to carry out the review made various recommendations, but a comprehensive strategy in this area has never emerged and, we submit, is a necessary accompaniment to the proposed rate cap.

The Central Credit Register

35. For reasons described throughout this submission, MABS experience has historically been that despite their high-cost, moneylending loans get paid. MABS therefore welcomed their inclusion on the Central Credit Register (CCR) and stressed the importance of *'total credit capture'*[38] to improve lending and to provide an opportunity for a positive payment record to act as a bridge to mainstream credit. We are however, concerned about the potential for a long-run negative impact of COVID-19 on the CCR for this group given that the restrictions imposed a break in the home collection pattern[39]. Further, and given the profile of this cohort of our clients (i.e. they predominantly reside in private rented/or local authority housing), it seems inequitable that faced with a reduction in income those in mortgaged properties were permitted a 'COVID-Payment Break' with no adverse impact on the CCR whereas, it is possible that, in continuing to pay priority payments such as rent, this group may have fallen into arrears with high-cost loans with a consequent negative impact on the CCR. This point is relevant to this Bill, in the context that a COVID-related impact on the CCR could undermine one of MABS principal objectives which is to support our clients to access affordable credit.

[37] http://www.finance.gov.ie/documents/publications/reports/2011/Fininclusreport2011.pdf
[38] https://www.mabs.ie/downloads/reports_submissions/Central_Credit_Register_Submission___MABSndl_.pdf

[39] It is recognised that some lenders switched to phone-based payment.

Vulnerable Consumers

36. The revised Consumer Protection Code (CPC), introduced a definition of a 'vulnerable consumer[40]. However our understanding of 'situational vulnerability' or what it is to live in vulnerable circumstances /experience periodic vulnerability, has evolved significantly since, and there is a need for a more comprehensive and uniform definition across all relevant Codes which calls-out the specific difficulties that vulnerable consumers can experience in their interaction with financial services providers, and the risk of financial abuse[41]. The level of insight doorstep lenders have into the home-life and well-being of their clients is perhaps un-paralleled across the industry. Reflecting on the advocacy work (complaints etc.) we have carried out over the years on behalf of clients with problematic licenced moneylending loans, we note that the borrower was often vulnerable in some way (was young, elderly, had addiction issues, problematic home circumstances, a disability) and that, contrary to the poor service they received, the lender /agent in such cases should have been mandated to afford them an additional level of care for exactly those reasons.

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[40] viz. *a natural person who: has the capacity to make his or her own decisions but who, because of individual circumstances, may require assistance to do so (for example, hearing impaired or visually impaired persons); and/or has limited capacity to make his or her own decisions and who requires assistance do so (for example, persons with intellectual disabilities or mental health difficulties*

[41] https://www.safeguardingireland.org/lid-must-be-lifted-on-financial-abuse-of-vulnerable-adults/