



Dear CEO Letter to High Cost Credit Providers

30 June 2023

Re: Compliance by High Cost Credit Providers with their obligations under the Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010 (as amended) (the “CJA 2010”)

Dear CEO,

The Central Bank of Ireland (the “Central Bank”) is the competent authority in Ireland charged with effectively monitoring the compliance of credit and financial institutions with Part 4 of the CJA 2010, and with taking measures that are reasonably necessary to secure such compliance. The definition of “financial institution” in the CJA 2010 includes High Cost Credit Providers (“HCCPs”) as authorised by Part VIII of the Consumer Credit Act 1995 (as amended).

To monitor the compliance of HCCPs with Part 4 of the CJA 2010, the Central Bank conducts supervisory engagements on an ongoing basis. These supervisory engagements include issuing Risk Evaluation Questionnaires (“REQs”), holding AML/CFT & FS¹ review meetings, conducting inspections and holding ad hoc meetings with firms where required.

The purpose of this letter is twofold; firstly, to provide an overview of the Central Bank’s findings through its supervisory engagements with HCCPs, and secondly, to set out the Central Bank’s expectations in relation to HCCPs and their compliance with their AML/CFT & FS obligations. HCCPs are designated persons for the purposes of the CJA 2010, as the nature of the services they provide may be utilised by criminals to facilitate Money Laundering (“ML”) and Terrorist Financing (“TF”). These activities i.e. ML/TF facilitate criminals in the continuation of their criminal activity and have a negative impact on society in general. Therefore, it is vitally important that HCCPs play their part in Ireland’s fight against ML/TF by mitigating the risk of their services

¹ AML/CFT and FS refers to Anti Money Laundering / Countering the Financing of Terrorism and Financial Sanctions



being utilised for ML/TF activities through ensuring that they meet their legislative obligations under the CJA 2010.

The Central Bank's supervisory engagements highlighted a lack of compliance with legislative obligations in the following areas:

- It was clearly evident that some HCCPs have not adequately considered their obligations under the CJA 2010 and therefore have not ensured that their business operations and control frameworks are appropriate to ensure compliance with their legislative obligations;
- In some instances, HCCPs had not undertaken a business risk assessment. The business risk assessment is the foundation for an appropriate AML/CFT control framework. Consequently, the HCCPs in question were not in a position to identify their ML/TF risks and ensure that the appropriate control framework, to mitigate the identified risks, was put in place;
- In other cases, the business risk assessment and/or AML/CFT policies and procedures were not sufficiently tailored to the HCCP's business model which limited their ability to implement an appropriate AML/CFT control framework;
- Many HCCPs were unable to demonstrate compliance with a number of obligations contained under the CJA 2010, including inadequate customer due diligence ("CDD"), ongoing monitoring and suspicious transaction reporting. The absence of appropriate policies, procedures and practices in these areas not only means non-compliance by the HCCPs but also makes their operations more vulnerable to being utilised for ML/TF activities.

Many HCCPs did not have documented AML/CFT frameworks and/or AML/CFT policies and procedures in place. The Central Bank reminds all HCCPs that they must ensure they are fully compliant with all relevant obligations under the CJA 2010, and further notes that all obligations apply equally to all HCCPs regardless of size or structure (e.g. sole trader or a company with a management body). Furthermore, the Central Bank utilises its Risk Evaluation Questionnaire to request AML/CFT & FS information from firms it supervises, including HCCPs. This is an important tool for the Central Bank in its supervision and consequently the Central Bank is concerned by the level of deficiencies it has observed in relation to responses provided by HCCPs. These include:



- Failure to submit a completed REQ;
- Inaccurate responses to the questions in the REQ; and/or
- Failure to comply with the Central Bank's timelines for responding.

HCCPs are reminded of their obligation to provide accurate, complete and timely information when requested to do so by the Central Bank.

Appendix A of this letter sets out the key findings identified by the Central Bank in the course of its supervisory engagements with HCCPs and the Central Bank's expectations in relation to those findings. In making these findings, the Central Bank has considered whether HCCPs were in a position to demonstrate compliance and/or to demonstrate that all reasonable steps had been taken to ensure compliance with the obligations contained under the CJA 2010.

All HCCPs are required to review the findings and expectations detailed in this letter and, where gaps/weaknesses are identified by HCCPs, take sufficient steps to remediate the identified gaps/weaknesses in a timely manner. Documentary evidence of this review and determination of actions to be taken may be requested during future supervisory engagement with HCCPs.

As a breach of the CJA 2010 may result in significant criminal or civil penalties, it is essential that the implications of non-compliance are understood by directors and senior management of all HCCPs and that all reasonable steps are taken to ensure compliance. Where firms do not comply with the CJA 2010 the Central Bank is prepared to use the full range of its regulatory powers, which may include the use of enforcement powers up to and including revocation of a firm's licence.

Yours sincerely,

A handwritten signature in blue ink that reads "Tommy Hannafin".

Tommy Hannafin

Head of the Anti-Money Laundering Division



Appendix A – details of Central Bank findings from AML/CFT supervisory engagements with HCCPs

Money Laundering and Terrorist Financing (ML/TF) Business Risk Assessment – *Findings*

1. Contrary to the obligation contained under Irish AML/CFT legislation, some HCCPs had no business risk assessment in place, or in other cases where there was a business risk assessment in place, there was insufficient detail in relation to the controls in place to mitigate the identified ML/TF risks.
2. Some HCCPs could not demonstrate a sufficiently strong level of awareness and understanding of the contents of the business risk assessment (including its underlying methodology), the ML/TF risks relevant to the firm's business and the corresponding controls to mitigate the ML/TF risk. In a number of cases HCCPs merely expressed the view that there was no ML/TF risk facing the HCCP, this view was not shared by the Central Bank.
3. In many cases the business risk assessment did not include an overall assessment of the HCCP's residual risk i.e. the risk having regard to the inherent ML/TF risk associated with the firm's particular business and the application of AML/CFT controls.
4. A lack of alignment between the HCCP's business risk assessment and its AML/CFT policies and procedures.
5. In general, there appeared to be little consideration within the business risk assessment of Terrorist Financing risk.
6. The use of "off-the-shelf" generic templates which were not sufficiently tailored to the HCCP's business.

The Central Bank's expectations

1. Firms must have a documented business risk assessment in place, as required by section 30A. of the CJA 2010, and the business risk assessment must be implemented as part of a firm's risk and compliance framework. The business risk assessment must be reviewed at least annually and tailored to the business of the firm. The business risk assessment must document the inherent ML/TF risk associated with the firm's business, including risks pertaining to their particular products/services, customers, jurisdictions and distribution channels, and the corresponding AML/CFT controls put in place by the firm to mitigate such risk, to ensure that the inherent and residual ML/TF risk of the HCCP is clear to directors and staff of the HCCP (where applicable).



2. The business risk assessment, including the risk assessment methodology, must be understood and approved by senior management and/or the director(s) and such approval must be documented.
3. Business risk assessments and AML/CFT & FS policies, procedures and controls should be aligned.
4. It should note that firms are required to perform both a ML and TF risk assessment. The expectation is that TF will be considered separately and comprehensively, noting that while the features of ML and TF differ, there may be some overlap in controls.

AML/CFT Governance – *Findings*

1. Some HCCPs did not have a documented AML/CFT framework, including a business risk assessment and policies and procedures, in place. Where a documented AML/CFT framework was in place, this was in some instances generic in nature and not tailored to the HCCP's business model. In other cases observed, AML/CFT frameworks did not reflect the requirements of Irish AML/CFT legislation.
2. Many HCCPs did not have an appropriate governance framework in place to ensure ongoing oversight of compliance by the firm with the CJA 2010. There was inadequate time devoted to the consideration of AML/CFT issues, from both an operational and strategic perspective. Furthermore, the documenting of AML/CFT considerations by sole traders and the discussion and challenge of AML/CFT matters by corporate HCCPs was also inadequate.
3. The Board and/or senior management of some HCCPs did not demonstrate an awareness firstly of what constituted ML/TF and secondly of the potentially serious implications for the firm and for individual members of management and staff if the firm failed to comply with the CJA 2010.

The Central Bank's expectations

1. Firms are expected to develop and implement a documented AML/CFT framework, including a business risk assessment and AML/CFT policies and procedures, that is tailored to the risks associated with the customers and the business model of the firm and which complies with the CJA 2010 and the Central Bank of Ireland's Anti-Money Laundering and Countering the Financing of Terrorism Guidelines for the Financial Sector (revised June 2021) (the "Guidelines").



2. The Central Bank acknowledges that the HCCP sector includes a high volume of sole traders. Where there is a management body e.g. a Board of Directors, the Central Bank expects Board minutes to demonstrate regular discussion and challenge of AML/CFT matters. Where the HCCP is a sole trader, documentary evidence of consideration and management of AML/CFT obligations is required.
3. Firms are expected to be able to demonstrate a clear understanding of the ML/TF risks facing the HCCP and furthermore the potential implications of a failure to comply with the CJA 2010.

Customer Due Diligence (“CDD”) – Findings

1. Some HCCP’s policies and procedures lacked detail in relation to what would constitute lower or higher risk customers. Accordingly, the same HCCPs could not demonstrate how they risk assessed their customers or applied a risk based approach to CDD.
2. Non-compliance with HCCP’s own CDD procedures was also evident in some instances.
3. Some HCCPs were unable to demonstrate that they had obtained appropriate CDD on a customer with others having incomplete CDD documentation on file e.g. a document on file proving the identity of the customer but no proof of address for the customer.

The Central Bank’s expectations

1. Firms should ensure CDD policies and procedures comply with the CJA 2010 and the Guidelines. In order to determine the level of CDD to be applied to a customer, Section 30B. of the CJA 2010 requires a HCCP to perform a customer risk assessment. This is in addition to the obligation under Section 30A. of the CJA 2010 to perform a business risk assessment. The firm’s customer risk assessment and business risk assessment must be aligned.
2. Where firms have put in place CDD procedures they must ensure that they fully implement them.
3. Firms must have complete and up-to-date CDD documentation and information on file for all customers.

Suspicious Transaction Reporting (“STR”) – Findings

1. Many policies and procedures relating to STRs lacked clarity around the identification of suspicious activity and the subsequent steps to be taken in the event of a suspicion arising.



2. Some HCCPs failed to demonstrate an understanding of what would constitute a suspicious transaction in the context of their business.
3. There was not clear documentation of the required timelines to raise STRs both internally and externally to the authorities, in order to ensure that reports are made as soon as practicable as per the requirements of the CJA 2010.
4. The obligation to report to both FIU Ireland and the Revenue Commissioners via GoAML² and Revenue Online Service (ROS), respectively, was not always documented and/or understood.

The Central Bank's expectations

1. Firms should have sufficiently detailed policies and procedures relating to STR that fully comply with the CJA 2010.
2. STRs must be submitted to Financial Intelligence Unit Ireland ("FIU"), part of the Garda National Economic Crime Bureau, via the GoAML application. Firms are required to register on, and be familiar with, the GoAML system to ensure that STRs can be submitted as soon as practicable. Similarly, the Revenue Commissioners require firms to submit STRs using Revenue's Online Service (ROS) only.

Ongoing Monitoring- Findings

1. The vast majority of HCCPs have not formally considered, documented and embedded an adequate, robust and risk-based transaction monitoring process, including thresholds supported by documented rationale, to ensure compliance with their obligations under Section 35. of the CJA 2010.
2. Some HCCPs incorrectly believed that a credit risk analysis of the customer satisfied the ongoing monitoring obligations contained within the CJA 2010.

The Central Bank's expectations

1. HCCPs should have documented procedures to monitor customers' transactions and ensure that these procedures are implemented. While it is acknowledged that due to the face to face long term nature of the customer relationship, HCCPs are well placed to note any potential changes in customers' demographics or transactional activity, this does not remove the obligation on HCCPs to monitor their customers on an ongoing basis.

² The GoAML application is an electronic application which provides FIU Ireland with a central reception point for receiving, processing and analysing STRs



2. Transaction monitoring thresholds should be tailored to the business of the firm and aligned to the business and customer risks assessments, with documented rationale to support these thresholds.

Politically Exposed Persons ('PEPs') and Financial Sanctions ('FS') – Findings

1. Firms failed to demonstrate adequate knowledge of PEPs or awareness of their obligations in respect of PEP and FS screening.
2. Some firms failed to conduct PEP and FS screening, with others only doing so on an ad-hoc basis.

The Central Bank's expectations

1. HCCPs should be fully aware of and understand the requirements and obligations in respect of PEP and FS screening, including the reporting obligations should an individual or entity subject to FS be identified.
2. Policies and procedures should be in place to:
 - a. identify, escalate and document senior management approval of a PEP relationship; and
 - b. identify, escalate and report (where appropriate) FS alerts.
3. Where a PEP is identified, enhanced customer due diligence and enhanced ongoing monitoring must be applied.

Training – Findings

1. The Central Bank observed varying degrees of compliance with the requirement to perform AML/CFT training. This ranged from regular AML/CFT training and refresher training on an annual basis to limited AML/CFT training. The Central Bank also observed instances where the training materials were not tailored to the activities of the HCCP.
2. Material gaps were identified in the provision of AML/CFT training to staff in some HCCPs, with not all persons involved in the conduct of the firm's business receiving on-going training. Such persons, including board members and senior management, were therefore unable to demonstrate a sufficiently strong understanding of their obligations under the CJA 2010.

The Central Bank's expectations

1. Firms should ensure that all staff are adequately trained and provided sufficient instruction in relation to their obligations and responsibilities under the CJA 2010.



2. Training materials should be tailored to the activities of the firm and should not be generic in nature.
3. Training processes should be reviewed to ensure that the appropriate level of training is being received by all staff on a regular basis. Consideration is required as to the necessity for bespoke training for customer facing staff as well as directors and senior management of the firm given their important role in the management of AML/CFT & FS risk.

REQs - Findings

1. The Central Bank has observed a number of deficiencies in relation to REQs including failure to submit a REQ, late filings and/or inaccurate responses.

The Central Bank's expectations

1. The Central Bank requests HCCPs to submit a REQ on an annual basis, in order to seek information regarding individual firms' exposure to ML/TF risks and their AML/CFT compliance framework.
2. HCCPs are reminded of their obligation to provide accurate, complete and timely information when requested to do so by the Central Bank.

A failure on the part of a HCCP to provide information in this way, may result in the Central Bank utilising its powers under statute which may result in the imposition of financial penalties and/or administrative sanctions.