

Strengthening SME Protections: Navigating the Revised Consumer Protection Code

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In the dynamic world of financial services, small and medium-sized enterprises (SMEs) play a vital role in driving economic growth and innovation. As compliance professionals, we are tasked with ensuring that these businesses are adequately protected within the regulatory framework. The Institute's recent response to the Central Bank of Ireland's Consultation Paper on the Consumer Protection Code (CPC) highlights key considerations and recommendations in relation to the evolving SME protections.

Expanding the Definition of 'Consumer'

One of the significant proposals in the revised CPC is the change in the definition of 'consumer' to include incorporated bodies with an annual turnover of less than €5 million. While this expansion aims to extend protections to a broader range of SMEs, it raises several practical considerations. Our response emphasises the need for a holistic approach to scoping and effect across the consumer protection regime.

The proposed change could have a substantial impact on firms and their customers, particularly in the commercial insurance market. A sizable cohort of customers would fall under the revised definition, potentially leading to an operational burden on insurers and increased costs for SMEs. We advocate for a more comprehensive consultation process to fully understand the implications and ensure that the benefits of increased protections are not offset by financial burdens.

Aligning with Existing Frameworks

A critical aspect of extending protections to SMEs is ensuring alignment with existing regulatory frameworks. Our response highlights the need for consistency across various consumer protection rules, such as those governed by the Financial Services and Pension Ombudsman and macro-prudential mortgage measures. Discrepancies in turnover thresholds and definitions could lead to confusion and unintended consequences for SMEs.

For instance, the scope of differential pricing regulations would now apply to a wider range of customers, but it is unclear if this is intentional or an unintended consequence. We recommend a holistic review of relevant consumer protection rules for small businesses to ensure a seamless and coherent regulatory environment.

Addressing Transitional Provisions

The transition to the revised CPC presents challenges, particularly for existing customers who fall within the new definition of 'consumer.' Our response calls for clarity on how these changes will be applied retrospectively and prospectively. For example, if a customer had made a complaint before the implementation deadline, how would the new definition affect the handling of that complaint?

We also emphasise the importance of clear guidance on transitional provisions and expected practical approaches for existing customers. This clarity will help firms navigate the changes effectively and ensure a smooth transition for SMEs.



Incorporating SME Lending Regulations

While the extension of SME Lending Regulations to the CPC is postponed, our response underscores the importance of considering this integration carefully. The SME Lending Regulations already define relevant small business customers differently from the CPC, and any future incorporation should address these differences.

We advocate for a separate consultation process to fully understand the potential impact and effects on reporting, other legislation, and customer experiences. This approach will ensure that the integration of SME Lending Regulations is well-informed and beneficial for SMEs.

Conclusion: A Balanced Approach to SME Protections

Our response to the CPC consultation reflects our commitment to advancing SME protections within the regulatory framework. By addressing the challenges and opportunities in expanding the definition of ‘consumer,’ aligning with existing frameworks, and considering transitional provisions, we aim to create a more supportive environment for SMEs.