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AN ACT TO CREATE AND REGULATE A MORTGAGE-CREDIT LOANS AND BONDS SYSTEM, FOR THE PURPOSES OF THE ORDERLY OPERATION OF THE MARKET FOR MORTGAGES, SUCH THAT ECONOMIC ACTIVITY IS ENCOURAGED AND PROPERTY IS IMPROVED VIA A SYSTEM OF MORTGAGE-CREDIT LOANS AND MORTGAGE-CREDIT BONDS.

Preamble

WHEREAS the deregulation of the Irish banking sector resulted in an unprecedented expansion of credit in all areas of the economy;

AND WHEREAS the creation of the Eurozone resulted in the re-allocation of capital within the currency zone as a result of imbalances (i.e. excess savings in core Eurozone countries) such that a mass influx of capital took place resulting in an unprecedented expansion of credit and a general loosening of the conditions for borrowing;

AND WHEREAS the subsequent global financial crisis beginning in mid-2007, the ensuing banking bailout and sustained economic downturn has facilitated a classic balance-sheet crisis;

AND WHEREAS the Central Bank of Ireland, in light of the acknowledged failures of official bodies and private entities subject to regulation, as outlined in The Irish Banking Crisis: Regulatory and Financial Stability Policy 2003-2008 [“The Honohan Report”], Misjudging Risk: Causes of the Systemic Banking Crisis in Ireland [“The Nyberg Report”], the Preliminary Report into Ireland’s Banking Crisis [“The Regling & Watson Report”] and the Strengthening the Capacity of the Department of Finance: Report of the Independent Review Panel [“The Wright Report”], should consider it a priority to ensure that banking entities that fall under the protections of domestic law and have de jure and de facto access to the public purse as a function of various individual depositor and are of systemic importance to the point of being “too big to fail” or “too interconnected to fail” should be made subject to more onerous regulatory oversight.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:
PART 1
INTERPRETATION

1.—(1) This Act may be cited as the Mortgage Credit (Loans and Bonds) Bill 2012.

(2) In this Act—

“Minister” means the Minister for Finance;

“mortgage lender” means a credit institution or other person whose business includes the making of housing loans where “housing loan” means an agreement for credit on the security of a mortgage of a freehold or leasehold estate or interest in a house where—

(a) the loan is made for the purpose of enabling the borrower to provide or improve the house or to purchase the said estate or interest, or

(b) the loan is made for the purpose of refinancing a loan within the meaning of paragraph (a), or

(c) the house is to be used as the principal residence of the borrower or his dependents;

“prescribed” means prescribed by Regulations made by the Minister;

“the Central Bank of Ireland” is the institution as defined by the Central Bank Reform Act 2010.

Scope

2.—(1) This Act shall apply to mortgage-credit bonds, covered mortgage-credit bonds, covered bonds and other securities issued by mortgage-credit institutions and to mortgage-credit loans provided on the basis thereof. Furthermore, the Act shall apply to the issue of mortgage-credit bonds in Ireland by foreign credit institutions and to mortgage-credit loans provided on the basis thereof.

(2) For activities of foreign credit institutions operating under the regulatory framework of the Central Bank of Ireland this Act shall apply.

PART 2
MORTGAGE-CREDIT LOANS

3.—(1) Mortgage-credit loans shall be granted against registered mortgages in real property according to the rules in this section. Loans without mortgage in real property may be granted to public authorities or with a primary guarantee from a public authority.

(2) Mortgage-credit loans shall not be granted against collateral in the form of owner’s mortgages or letters of indemnity. However, where chattels are also mortgaged as collateral for mortgage-credit loans, letters of indemnity may be used for the chattel mortgage.
(3) Loans granted against a registered mortgage on real property, as referred to in subsection (4).

(4) Where the mortgage deed has been filed for registration, it shall be treated as mortgage credit loans if the necessary collateral has been provided for the final registration of the mortgage deed and the institution provides the final registered mortgage deed without undue delay. This shall only apply for loans which have been granted on the basis of covered mortgage-credit bonds.

Terms and repayment profiles

4.—(1) The maximum term of the loan shall be 30 years, as referred to in, subsection (2). When stipulating the term and repayment profile of the loan, the expected decrease in the value of the mortgage and the lending limits applying to the mortgage shall be taken into consideration, as referred to in section 5.

(2) The maximum term shall be 35 years for loans for non-profit rental housing, youth housing, and private housing co-operatives where loans are granted on the basis of a pledge of public subsidies.

5.—(1) Loans granted to year-round owner-occupied housing and recreational dwellings shall not be granted, notwithstanding the collateral provided, so that the loan is amortised slower than for a 30-year loan repaid in installments of a fixed percentage share of the principal over the term of the loan (annuity loan), as referred to in subsection (2).

(2) The requirement in subsection (1), may, within the term of the loan, be derogated from for a period of up to 10 years, subject to section 4(1).

Lending limits etc.

6.—(1) Within a lending limit of 80 per cent of the value of the property, loans may be granted for the following categories of property:

(a) owner-occupied all-year residences,

(b) private co-operative housing,

(c) private residential property for letting, including facilities for persons who require care,

(d) non-profit rental housing,

(e) youth housing,

(f) housing for the elderly etcetera, and

(g) properties for social, cultural, and educational purposes.

(2) Within a lending limit of 70 per cent of the value of the property, loans may be granted for agricultural holdings, forestry property, market gardens etcetera.
(3) Within a lending limit of 60 per cent of the value of the property, loans may be granted for the following categories of property:

(a) recreational dwellings,

(b) office properties and retailing properties,

(c) industrial properties and craftsman’s properties,

(d) collective energy-supply plants.

(4) Within a lending limit of 40 per cent of the value of the property, loans may be granted for other properties, including undeveloped land.

7.—(1) Notwithstanding section 6, loans exceeding the lending limit may be granted to repay mortgage-credit loans in own credit institutions as well as to repay prior debts. Loans pursuant to this section shall be authorised with cash proceeds corresponding to no more than the repayment amount plus costs in relation with the repayment and granting of the loans.

(2) Loans may only be granted in accordance with subsection (1), provided the mortgage collateral is not hereby substantially reduced.

(3) For loans granted to repay loans in certain social (non-profit) housing estates the Minister may outline exemptions and rules from time-to-time.

Disbursement against guarantee etc.

8.—(1) If the requirements for disbursement of the loan are otherwise met, loans may be granted even though the mortgage deed is encumbered with endorsements barring registration as requested, provided there is security that these endorsements will be withdrawn.

(2) If the requirements for disbursement of the loan are otherwise met, loans may be granted without a registered mortgage deed, provided there is security that a registered mortgage will be provided.

(3) If the requirements for disbursement of the loan are otherwise met, loans may be granted even though the mortgagor does not have registered title to the property, provided there is security that the mortgagor will ultimately receive title to the property.

(4) If the requirements for disbursement of the loan are otherwise met, loans may be granted without the documentation outlined in section 10, provided there is security that said document will be provided.

(5) Loans may be granted for home building and rebuilding and extension on the basis of the expected value of the property (pre-financing loans), provided there is security that the loan will be repaid in part or in full, if at the end of the time limit for completion of the building the loan could not have been granted at the amount agreed.

(6) To the extent that a loan is granted on the basis of covered mortgage-credit bonds and covered bonds, disbursement of the loan may be made before final registration, as referred to in subsections
(1) to (5) inclusive, if collateral is lodged in accordance with the requirements of the Central Bank of Ireland. If collateral is lodged in the form of a guarantee from a bank, the guarantee will be covered by the 15 per cent limit following from section 3(3) of this Act. However, the guarantee shall not be included in the 15 per cent limit if it is lodged pursuant to subsections (3) to (4) inclusive or (5).

(7) The Central Bank of Ireland may lay down regulations regarding the granting of loans etcetera in pursuance of subsections (1) to (6) inclusive.

(8) The Central Bank of Ireland may grant exemption from the requirement in subsection (6).

Valuation of properties and mortgage-credit loan authorisation

9.—(1) The mortgage-credit institution shall set an estimated value on the real property to be used for the loan authorisation.

(2) Said value shall fall within the amount that an experienced buyer with knowledge about price conditions and market conditions for the relevant type of real property would be deemed to be willing to pay for said property (market value). Conditions which occasion a particularly high price shall not be taken into consideration during valuation.

(3) The mortgage-credit institution shall in its valuation take into account any risk of changes in market conditions or structural conditions.

(4) Mortgage-credit institutions may in the following incidents derogate from subsections (2) and (3):

(a) The reacquisition price, net of the condition of the property, may serve as the basis for a valuation of properties for social, cultural, and educational purposes, provided it is considered reasonable when taking into account the property’s operating results, alternative uses, and market conditions in general. The reacquisition price shall not serve as a basis for the valuation of properties that are operated according to commercial principles.

(b) The reacquisition price, net of the condition of the property, may serve as the basis for a valuation of industrial properties and craftsman’s properties, and collective energy-supply plants, if considered reasonable when taking into account the mortgagor’s creditworthiness and the cash-generating ability of the operation. This presupposes that the owner of the property or a company connected with the owner are using more than half the property.

10.—(1) Loans may be granted against real property owned by the mortgagor. All title holders shall be registered as mortgagors on the mortgage deed, as referred to in subsections (2) and (3).

(2) The provision in subsection (1), may be derogated from, provided the loan is granted in accordance with special legislation within agriculture or at the discretion of the Minister.

(3) Loans may be granted on the basis of an undivided share in real property, provided registered documentation of a registered
exclusive right of use appurtenant to said undivided share exists. All title-holders of the undivided share shall be registered as debtors on the mortgage deed.

(4) In addition to land and buildings, fixtures and fittings, which fall within the scope of a registered mortgage deed on the property, may be included in the basis for valuation of the property.

11.—(1) The Central Bank of Ireland shall lay down more detailed regulations on the valuation of properties.

(2) The Central Bank of Ireland may stipulate limitations on the right to include fixtures and fittings as mentioned in section 10(4).

(3) The Central Bank of Ireland may stipulate rules concerning the right to derogate from section 9(2) and (3) in cases where properties owned by a public authority are mortgaged and where loans are granted against full public guarantee.

12.—(1) Loans shall be authorised in such a manner that the cash proceeds are within the lending limits specified for the relevant property category in sections 6 to 8 inclusive.

(2) The Central Bank of Ireland shall lay down rules on loan authorisation.

13.—(1) The Central Bank of Ireland shall lay down rules regarding which properties shall be classified within the individual property categories as well as rules regarding repayment of loans where a property is transferred to another property category.

(2) Where a property comprises more than one property category, valuation and loan authorisation shall be carried out separately for each property category, as referred to in subsection (3).

(3) However, where a property category comprises at least 80 percent of the total gross floor area of the property, the entire property may be mortgaged in accordance with the rules pertaining to the relevant property category.

Mortgage-credit loans outside Ireland

14.—(1) The Central Bank of Ireland may allow variations in the operation of the provisions of this Act with regard to lending.

(2) The Central Bank of Ireland may stipulate lower lending limits than are mentioned in section 5 in connection with a mortgage-credit institution’s lending activities outside Ireland.

(3) Mortgage-credit institutions may provide loans outside Ireland exceeding the lending limits where a public authority, a credit institution, or an insurance company assumes primary liability. If the guarantee has been assumed by a credit institution or an insurance company, the loan may, only be granted on the basis of the issue of securities other than mortgage-credit bonds.
PART 3

ISSUE OF MORTGAGE-CREDIT BONDS EXCLUSIVE RIGHTS

15.—(1) Mortgage-credit institutions authorised to conduct mort-
gage-credit business in Ireland shall hold exclusive rights to issue
mortgage-credit bonds in Ireland.

(2) Notwithstanding subsection (2), a foreign credit institution may issue mortgage-credit bonds in Ireland, if the institution is author-
ised by the Central Bank of Ireland to conduct credit-institution activities in Ireland and is in compliance with the following conditions:

(a) the majority of the activities carried out by the institution shall be lending against mortgages against real property on the basis of the issue of bonds or other securities. If the mortgage-credit institution is in the same group as an Irish mortgage-credit institution, the institution’s activities shall comply with the rules of the Central Bank of Ireland applying to Irish mortgage-credit institutions’ activities,

(b) lending and bond issue carried out by the institution shall be regulated by a balance principle. If the mortgage-credit institution is in the same group as an Irish mortgage-credit institution, the institution shall moreover comply with the provisions laid down in sections 16 and 17,

(c) mortgage-credit bonds issued by the institution in Ireland shall, under the legislation of the home country of said institution, confer upon the holder the same legal rights as those laid down for holders of mortgage-credit bonds under section 29.

Issuance of bonds and the balance principle

16.—Mortgage-credit bonds issued before 1 January 2012 shall be negotiable mass debt instruments admitted to trading on regulated markets in countries within the European Union or countries with which the Community has entered into an agreement for the finan-
cial area, or corresponding markets in other countries.

17.—(1) Funds raised by the issue of mortgage-credit bonds or covered mortgage-credit bonds or other securities may solely be used for lending against mortgages on real property or for lending to public authorities or against primary guarantee from a public auth-
ority, as referred to in, sub-sections (2) and (3). Supplementary collateral for covered mortgage-credit bonds may, be provided in accordance with section 35(1).

(2) The Central Bank of Ireland may lay down rules that funds may, to a limited extent, be used for purposes other than lending against mortgages on real property.

(3) The Central Bank of Ireland may in group circumstances per-
it the issue of mortgage-credit bonds and other securities in a mort-
gage-credit institution for the purpose of financing mortgage loans in another mortgage-credit institution.
18.—The Central Bank of Ireland shall lay down more detailed regulations on limitation of risks in connection with issuing mortgage-credit bonds, covered mortgage-credit bonds, covered bonds and other securities, including interest-rate risks, currency risks and options risks.

PART 4

LIABILITY, CHARGES, ETC.

19.—(1) Granting of mortgage-credit loans and the issue of mortgage-credit bonds and other securities for the purpose of financing may be carried out in series. Mortgage-credit bonds and other securities may not be issued as part of the same series.

(2) The conditions for a series may stipulate that the holders of mortgage-credit bonds or other securities may only submit their claims against the series which is jointly and severally liable with said series, as referred to in section 21(4).

20.—(1) Mortgagors shall be liable for the loan personally and with the mortgaged property towards the series or the mortgage-credit institution in general.

(2) Mortgagors shall not be liable for any other liabilities which the mortgage-credit institution in general may have incurred.

21.—(1) The conditions for a series may stipulate that mortgagors shall, in addition to the loan, be jointly and severally liable for an amount corresponding to a specific part of the principal of the mortgage deed less a proportionate share of the funds within the serial reserve fund. Mortgagors shall not incur personal liability for said amount.

(2) A series or groups of series with a serial reserve fund may obtain hybrid core capital and subordinate loan capital. The joint and several liability pursuant to subsection (1) shall not be applied against mortgagors to cover claims from contributors of hybrid core capital and subordinate loan capital.

(3) A series or groups of series with a serial reserve fund shall not be liable for any other liabilities which the mortgage-credit institution in general may have incurred.

(4) The conditions of a series may stipulate that said series shall be liable for the liabilities of other series. Such conditions shall only be stipulated if said other series include corresponding provisions. Series which are mutually liable under the first may only consist of mortgage-credit bonds, as referred to in section 19(1).

22.—(1) For series where mortgagors incur joint and several liability, or where a stipulation has been made pursuant to section 19(1), the mortgage-credit institution shall establish a serial reserve fund. For other series or groups of series the mortgage-credit institution may choose to establish a serial reserve fund.
(2) The articles of association or the conditions for lending may stipulate that the mortgagors shall, upon complete repayment of the loan, be entitled to receive disbursement of a share of the serial reserve fund.

(3) The sources of income of the series shall consist of interest, etcetera, on mortgage deeds, deposits, capital contributions, administrative charges, and similar sources of income as well as returns on the assets and off-balance-sheet items of the series. The costs of the series shall be interest on bonds and other securities, disbursements of serial-reserve fund shares, administration costs and similar, losses and provisions for costs in relation to raising and paying interest on hybrid core capital and subordinate loan capital, for likely losses on the assets of the series and items which have not been entered into the balance sheet, as well as its share of the taxes of the mortgage-credit institution.

23.—(1) The funds of the serial reserve fund shall remain separate from the other funds of the mortgage-credit institution.

(2) Funds shall be transferred to a series or groups of series with a serial reserve fund from the mortgage-credit institution in general, if this is necessary in order to meet the solvency requirement of the series or group of series, unless such a transferal means that the mortgage-credit institution will no longer be able to meet its own solvency requirement.

(3) The mortgage-credit institution may stipulate provisions in the articles of association or the terms of the loan that funds shall be transferred from a series or groups of series with a serial reserve fund to the mortgage-credit institution in general, if the serial reserve fund is or becomes larger than required.

(4) Financial instruments may only be included as assets or liabilities in a series or groups of series with a serial reserve fund, if they are used to hedge risks between assets on the one hand and the issued mortgage-credit bonds, covered mortgage-credit bonds and covered bonds on the other hand, if the agreement on the financial instrument stipulates that suspension of payments, bankruptcy or non-compliance with the obligation to provide supplementary collateral pursuant to section 34(1) by the mortgage-credit institution does not constitute grounds for breach.

(5) The Central Bank of Ireland shall lay down more detailed rules from time-to-time.

24.—(1) If a mortgage-credit institution is declared bankrupt, the funds of the series, less costs for the processing of the insolvent estate, including costs for the liquidator, staff, shall be used to satisfy claims from holders of mortgage-credit bonds, covered mortgage-credit bonds, covered bonds and other securities of the relevant series or groups of series with a serial reserve fund, as well as claims for interest accrued on said claims from the time of the declaration of bankruptcy. The claims specified in section 22(2) shall be satisfied subsequently. After this, debt raised by the mortgage-credit institution to provide supplementary collateral, as referred to in section 36, shall be covered. Any remaining funds shall be included in the assets available for distribution, as referred to in the Central Bank and Credit Institutions (Resolution) Act 2011.
(2) If a mortgage-credit institution is declared bankrupt, the funds of the institution, less costs for the processing of the insolvent estate etcetera, including costs for liquidator, staff, etcetera, shall be used to satisfy claims from holders of mortgage-credit bonds and other securities, which are not issued in series with a serial reserve fund as well as claims for interest accrued from the time of the declaration of bankruptcy. However, funds which are disbursed pursuant to this subsection shall constitute no more than mortgages corresponding to the mortgage-credit bonds and other securities, plus an amount corresponding to 8 per cent of the risk-weighted value of said mortgages. Any remaining funds shall be included in the assets available for distribution, as referred to in the Central Bank and Credit Institutions (Resolution) Act 2011.

(3) If a mortgage-credit institution is declared bankrupt, counterparties to the financial instruments concluded to hedge risks in a series or group of series of mortgage-credit bonds, covered mortgage-credit bonds or covered bonds, as referred to in section 22, shall be equated, in terms of bankruptcy, with holders of mortgage-credit bonds, covered mortgage-credit bonds or covered bonds in the relevant series or group of series, as referred to in subsection (1), and sections 29 and 30.

25.—(1) Holders of bonds which have lost the designation covered mortgage-credit bonds or covered bonds, as referred to in section 35(1), and counterparties to the financial instruments shall retain the bankruptcy law ranking afforded holders of covered mortgage-credit bonds, covered bonds and financial counterparties. This also applies to coverage of debt raised by the mortgage-credit institution to provide supplementary collateral, as referred to in section 36.

(2) The rules in sections 26 and 27 to 44 shall apply correspondingly to bonds which have lost the designation covered mortgage-credit bonds or covered bonds as well as financial instruments linked hereto.

26.—Proceeds from loans taken out by mortgage-credit institutions for use in respect of the requirement to provide supplementary collateral, as referred to in section 35(1), which are not included in a series or groups of series, shall, in the event of bankruptcy of the mortgage-credit institution, serve to cover the holders of the covered bonds or covered mortgage-credit bonds and counterparties to the financial instruments in the series or group of series for which the loan was taken in order to provide supplementary collateral. Any surplus funds shall be paid to the lender.

27.—(1) The issue of a bankruptcy order against a mortgage-credit institution may not be submitted as cause for premature repayment of payment liabilities by holders of mortgage-credit bonds, covered mortgage-credit bonds, covered bonds and other securities or by the lenders pursuant to section 36(1), and it shall not deprive the mortgage-credit institution’s mortgagors of the right to repay mortgage-credit loans or loans granted on the basis of issuing covered mortgage-credit bonds or covered bonds in part or in full in accordance with the terms of repayment pertaining to the relevant loans.

(2) If a mortgage-credit institution does not fulfil the obligation to provide supplementary collateral pursuant to section 35(1), this
may not be used by the holders of covered mortgage-credit bonds or covered bonds or by the lenders pursuant to section 36(1) as a reason for premature payment of payment liabilities.

28.—(1) The estate in bankruptcy may not disburse payments to satisfy claims submitted by holders of mortgage-credit bonds, covered mortgage-credit bonds, covered bonds and other securities at an earlier time than the time when the mortgage-credit institution was entitled to make payment.

(2) The estate in bankruptcy may not terminate loan agreements which are secured by registered mortgages in real property to a greater extent than the mortgage-credit institution was entitled to terminate such agreements.

(3) The estate in bankruptcy may only change contributions and similar, if the change is based on changes in market conditions and a need for further funds for management of the estate has also been ascertained. Changes shall be notified in writing no later than three months before they are to take effect.

29.—(1) In cases of suspension of payments the mortgage-credit institution shall, as far as possible, continue to fulfil its financial obligations in accordance with claims from holders of mortgage-credit bonds, covered mortgage-credit bonds, covered bonds and other securities on the due date for payment, unless the appointed supervisory authority decrees otherwise. With the consent of the appointed supervisory authority, mortgage-credit institutions may enter into agreements on financial instruments, raise loans to finance the payments mentioned, and provide collateral for such loans in assets except for mortgages belonging to the series or group of series with a serial reserve fund for which the payment takes place. To cover repayment of bonds which mature, the appointed supervisory authority may also issue refinancing bonds in the series concerned.

(2) In cases of bankruptcy, the liquidator shall continue or resume as far as possible the fulfilment of the mortgage-credit institution’s obligations in the form of payments of interest and instalments for holders of mortgage-credit bonds, covered mortgage-credit bonds, covered bonds and other securities. To the extent funds are inadequate, interest shall be paid before drawing is carried out. The liquidator may enter into agreements on financial instruments, raise loans to finance the payments provide collateral for such loans in assets except for mortgages belonging to the series or group of series with a serial reserve fund for which the payment takes place. To cover repayment of bonds which mature, the liquidator may also issue refinancing bonds to replace bonds in the series concerned which mature.

(3) Refinancing bonds shall have equivalent collateral as the mortgage-credit bonds, covered bonds, covered mortgage-credit bonds or any refinancing bonds which the refinancing bonds replace, as referred to in sections 24, 25 and 26.

(4) The appointed supervisory authority or the liquidator may not issue refinancing bonds if, after the issue, sufficient funds are not expected to finance claims from creditors mentioned in section 27(1), as well as claims from counterparties to financial instruments, as referred to in section 34(3), in the series or the groups with the serial reserve fund.
(5) If the appointed supervisory authority or the liquidator raises loans, except for refinancing bonds for use in meeting payment obligations with regard to claims from holders of mortgage-credit bonds, covered mortgage-credit bonds and covered bonds or refinancing bonds issued in a series or groups of series with a serial reserve fund, the appointed supervisory authority or liquidator may, as basis for raising the loans, notwithstanding subsections (1) and (2) of this section, provide collateral in the first-coming mortgage-payment from the mortgagors on the mortgages.

30.—Funds shall not be transferred between series with a serial reserve fund and the mortgage-credit institution in general subsequent to application for suspension of payments or declaration of bankruptcy.

31.—(1) The liquidator or mortgage-credit institution may, with the consent of the appointed supervisory authority, enter into an agreement on total transfer of a series or groups of series with a serial reserve fund to another mortgage-credit institution, which has been granted a license in a country within the European Union or a country with which the Community has entered into an agreement for the financial area and which is licensed to issue mortgage-credit bonds, covered bonds or covered mortgage-credit bonds.

(2) Transfer of a series or groups of series with a serial reserve fund shall be authorised by the Minister for Finance. An application for transfer shall be accompanied by the basis for agreement between the mortgage-credit institution which is in suspension of payments or under bankruptcy proceedings and the company wishing to acquire a series or the series with a serial reserve fund. In addition to the basis for agreement itself, the Minister for Finance shall make an assessment of the company which is to take over a series or groups of series with a serial reserve fund, including particularly, whether the company complies with financial regulations.

(3) Unless the Minister for Finance, on the existing basis, finds that a transfer should not be authorised, the Central Bank of Ireland shall make public in Iris Oifigiúil and in national daily newspapers a report regarding the planned transfer. The report shall include an appeal to the affected holders of bonds to notify the Central Bank of Ireland in writing if they have any objections to the transfer within a time limit stipulated by the Central Bank of Ireland which is no shorter than one month.

(4) After expiry of the time limit mentioned in subsection (3), the Minister for Finance shall, under consideration of the objections made, decide whether the series or groups of series with a serial reserve fund may be transferred in accordance with the proposal.

(5) The transfer may not be submitted as cause for premature payment of payment liabilities by holders of bonds which have been issued by the ceding mortgage-credit institution. The transfer shall not deprive the mortgagors transferred of the right to full or partial repayment of mortgage-credit loans in accordance with the special redemption terms applicable for the loan.
32.—(1) Mortgage-credit institutions may finance loans, as referred to in section 3(1) and (3) by issuing covered mortgage-credit bonds if the institution is authorised by the Central Bank of Ireland.

(2) Granting loans financed by covered mortgage-credit bonds shall take place in separate series with a serial reserve fund.

(3) The value of assets covering covered mortgage-credit bonds issued, shall, at all times, correspond to no less than the value of the covered mortgage-credit bonds issued, and the mortgage collateral for the individual loan shall, at all times, comply with the lending limit for this.

33.—(1) Mortgage-credit institutions may finance loans against the asset types mentioned as outlined by the Central Bank of Ireland by issuing covered bonds.

(2) Granting loans financed by covered bonds shall take place in separate series with a serial reserve fund.

(3) The value of assets covering covered bonds issued, shall, at all times, correspond to no less than the value of the covered bonds issued, and the mortgage collateral for the individual loan shall, at all times, comply with the lending limit for this.

34.—(1) For loans financed by covered mortgage-credit bonds or covered bonds, the terms, repayment profiles and lending limits which are laid down in sections 3 to 7, shall apply as referred to in this section.

(2) The lending limit for the properties mentioned in section 6(1)(g), shall not apply to loans secured by registered mortgage in real property on the basis of the issue of covered bonds or covered mortgage-credit bonds. The lending limit for these properties shall be 60 per cent of the value of the property. The lending limit of 60 per cent may be raised to 70 per cent, if supplementary collateral is provided of no less than 10 per cent for the part of the loan which exceeds 60 per cent of the value of the property.

(3) Sections 6 and 7 shall not apply to loans financed by covered mortgage-credit bonds or covered bonds against collateral in properties covered by section 6(1), if the lending limit does not exceed 75 per cent.

(4) For loans financed by covered mortgage-credit bonds or covered bonds for commercial properties covered by section 6(3)(b) to (d), the lending limit of 60 per cent may be raised to 70 per cent, if supplementary collateral is provided of no less than 10 per cent for the part of the loan which exceeds 60 per cent of the value of the property. For loans financed by covered mortgage-credit bonds or covered bonds for properties covered by section 6(2), the lending limit of 70 per cent may only be used if supplementary collateral is provided of no less than 10 per cent for the part of the loan which exceeds 60 per cent of the value of the property.
(5) Fixtures and fittings covered by this Act may be included in the valuation of the real property.

(6) Devices installed in a commercial property for use in the operation of the property may be included in the valuation. For agricultural properties, the livestock belonging to the property may also be included in the valuation to the extent that the livestock are part of the continuous production. For loans in agricultural properties, the value of the livestock which is part of the continuous production may be included at no more than 29 per cent of the value of the land and buildings.

(7) Loans against mortgages in real property granted on the basis of issuance of covered mortgage-credit bonds or covered bonds shall be secured on separate mortgage deeds and may not be granted with collateralisation in the form of owner’s mortgages and letters of indemnity, as referred to in, this subsection and subsection (9). The mortgage deed shall state that it may be used as collateral for a loan financed by the issuance of covered mortgage-credit bonds or covered bonds.

(8) Mortgages in real property, which were registered in the Property Registration Authority before 1 January 2013 may be used as collateral for loans financed by the issuance of covered mortgage-credit bonds or covered bonds. Notwithstanding the owner’s mortgages, letters of indemnity may not be used as collateral for loans financed by issuance of covered mortgage-credit bonds.

(9) For loans financed by issuance of covered bonds, the requirement in section 8(1), that the mortgagor shall own the real property, and the requirement in section 27(1), that the mortgagor shall be personally liable for the loan, may be derogated from.

(10) The Central Bank of Ireland may grant exemptions from subsection (6) for loans which are granted for real property located outside Ireland.

35.—(1) If the value of the assets mentioned in section 32(3) and section 33(3) no longer corresponds to no less than the value of the covered mortgage-credit bonds or covered bonds issued, or does not comply with the lending limits applicable on the date on which the loan was granted, the mortgage-credit institution shall immediately provide supplementary collateral to fulfil the requirement and notify the Central Bank of Ireland of this. Supplementary collateral shall be provided in the form of the asset types as determined by the Central Bank of Ireland. For loans issued in Ireland, the obligation to provide supplementary collateral, as well as the costs of this, may not be imposed on mortgagors whose falling property prices have prompted the requirement for supplementary collateralisation.

(2) If the mortgage-credit institution does not provide supplementary collateral pursuant to section 35(1), all bonds issued in the relevant series with the serial reserve fund shall lose the designation covered mortgage-credit bonds or covered bonds. Bonds with the designation covered mortgage-credit bonds or covered bonds may be considered mortgage-credit bonds if, at the time of the loan offer, they meet the statutory requirements for mortgage-credit bonds.

(3) The Central Bank of Ireland may grant exemptions, notwithstanding that the bonds do not comply with the statutory requirements for mortgage-credit bonds. Series with serial reserve funds which have been reclassified to the designation mortgage-credit bonds shall be regarded as mortgage-credit bonds.
bonds pursuant to this Act shall be kept separately from other funds in the mortgage-credit institution. Supplementary collateral already provided, as referred to in section 35(1), shall belong to the series with the serial reserve fund which has been reclassified under section 35(2).

(4) If the bonds subsequently again fulfil the requirements for covered mortgage-credit bonds or covered bonds, the Central Bank of Ireland may allow the bonds to again be designated covered mortgage-credit bonds or covered bonds.

(5) Collateral provided pursuant to section 35(1), may not be invalidated. Invalidation may, take place if the collateralisation did not specifically appear as ordinary.

36.—(1) Mortgage-credit institutions which have been granted a license to issue covered bonds or covered mortgage-credit bonds may raise loans to be used in order to fulfil the requirement to provide supplementary collateral.

(2) The loan agreement shall state to which series or group of series with the serial reserve fund the loan funds raised under section 36(1), are attributable.

37.—The Central Bank of Ireland shall lay down more detailed regulations on:

(a) valuation of the covered mortgage-credit bonds or covered bonds and the regular calculation of the value of the assets in relation to the covered mortgage-credit bonds or covered bonds,

(b) valuation of the assets used as collateral for issuing covered mortgage-credit bonds or covered bonds, and

(c) notification of supplementary collateral for covered mortgage-credit bonds or covered bonds.

PART 6

SUPERVISION

38.—(1) The Central Bank of Ireland shall supervise compliance with the provisions of this Act and with rules laid down pursuant to this Act.

(2) The Central Bank of Ireland may order that matters which are contrary to the provisions laid down in this Act and rules issued pursuant to this Act shall be rectified. If a mortgage-credit loan is provided contrary to the provisions of this Act or rules issued pursuant to this Act, the Central Bank of Ireland may make requirements on the mortgage-credit institution as well as the mortgagor to reduce the mortgage-credit loan, so that the provisions mentioned are complied with.

(3) The Central Bank of Ireland may in special cases utilise third-party assistance.
39.—The Central Bank of Ireland may obtain information on real property from other public authorities for the supervision of compliance with this Act.

40.—The Central Bank of Ireland may lay down rules regarding reporting by mortgage-credit institutions of:

(a) outstanding amounts, losses and write-downs on lending and properties taken over,

(b) large exposures measured against the institution’s balance-sheet and large write-downs measured against the sum of the institution’s capital base (reporting to 0.1 per cent), and

(c) mortgage loan offers.

41.—The Central Bank of Ireland shall lay down more detailed regulations on the use of digital communication, including electronic signatures, when exchanging information in accordance with this Act between citizens and undertakings on the one hand and the public administration on the other hand, as well as storage of information.

42.—(1) Only mortgage-credit institutions against which a decision has been made by the Central Bank of Ireland shall be considered a party in relation to the Central Bank of Ireland, as referred to in subsection (2).

(2) A member of the board of directors, an auditor, a managing director or other senior employees of a mortgage-credit institution shall be considered as parties if a decision by the Central Bank of Ireland pursuant to this Act and its rules is directed against the relevant party.

PART 7

APPEALS

43.—(1) Decisions made by the Central Bank of Ireland under this Act or rules issued pursuant to this Act may be brought to the District Court by the person against whom said decision is directed no later than four weeks after the person concerned has been notified about the decision.

(2) Orders issued by the Central Bank of Ireland on payment of loans granted contrary to the provisions of this Act or rules issued pursuant to this Act may be brought before the courts no later than four weeks after notification of such a decision was given to the person concerned.

44.—(1) If the board of directors or the board of management of a mortgage-credit institution fail to comply within the proper time with the duties and obligations imposed on them under this Act or under rules issued pursuant to this Act towards the Central Bank of Ireland, the Central Bank of Ireland may as a coercive measure impose fines on the persons concerned.
(2) The Central Bank of Ireland may impose a fine as a coercive measure on the board of management or board of directors of a mortgage-credit institution, if said boards fail to comply with requirements issued by the Central Bank of Ireland to reduce loans granted contrary to the provisions of this Act or rules laid down pursuant to this Act.