

CRD VI: What lenders need to know when lending into the European Union

Background

The European Union's (the "EU") Directive 2024/1619/EU ("CRD VI") introduces reforms which deal directly with lending into the EU by third country credit institutions. In particular, the CRD VI third-country provisions seek to harmonise both the access by and supervisory framework for non-EU credit institutions who provide core banking services in Europe, including lending ("Article 21c").

While some EU Member States already prohibit third-country lenders from lending to corporate borrowers without a local licence or branch (i.e. pre CRD VI), cross-border lending to Irish non-consumer borrowers has generally been considered an unregulated activity¹.

This note examines the key considerations for cross border lenders lending into Ireland post CRD VI.

Current Status

At the time of publication, Ireland (along with the majority of other EU Member States) has not yet transposed CRD VI into Irish law. The deadline for transposition was 10 January 2026 and the Article 21c reforms will take full effect from 11 January 2027. The EBA is scheduled to publish CRD VI guidelines later this year.

As publications from Ireland's Department of Finance have not yet discussed in any detail the approach that Ireland will take regarding the interpretation of Article 21c, we will have to wait until Ireland publishes its CRD VI transposing legislation and provides any related interpretative regulations or guidance. It is hoped that transposition will occur in H1 2026.

Lending post-CRD VI

CRD VI changes the way in which third-country undertakings ("TCU") are treated under EU law by prohibiting the provision of cross-border "Core Banking Services" into the EU by non-EU credit institutions² (the "CRD VI Prohibition").

"Core Banking Services" comprise the following:



Deposit taking



Lending (which is broadly defined and includes lending to non-consumers)



The provision of guarantees and commitments.

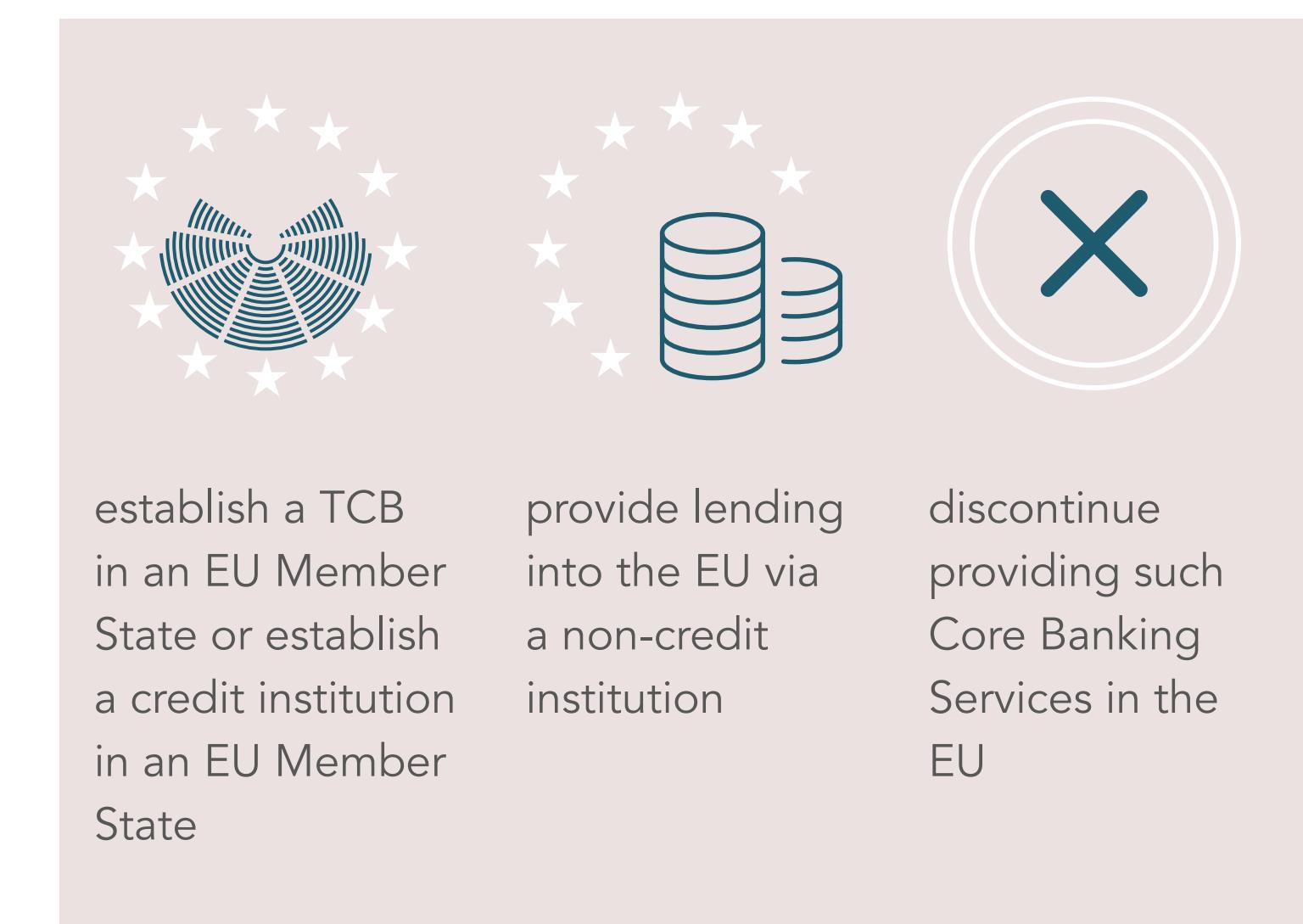
The net effect of the CRD VI Prohibition is that in the future (i.e. post 10 January 2027) TCUs will be required to establish (at least) a third-country branch ("TCB") in an EU Member State and to seek authorisation for that TCB in order to provide Core Banking Services.

Impact on TCUs who already lend through an EU TCB/EU Credit Institutions?

No further action is needed arising from the transposition of CRD VI to continue providing Core Banking Services into the EU through an EU TCB or EU credit institution.

Impact on Other TCU lenders?

Unless a TCU can rely on the explicit exemptions (see below), it must either:



¹ Unless (a) the lender is carrying out "banking business" such as taking customer deposits or other repayable funds; or (b) the borrower is a consumer or a small or medium-sized enterprise.

² Such as deposit taking banks and large investment firms.

Lender Activity CRD VI Analysis

Our table below illustrates, at a high-level, examples of different types of lender activity which are considered both in and out of scope of Article 21c.

| Example lender activity | Application of CRD VI |
|---|--|
| TCU provides a deposit or lending services to an Irish customer. | Prohibited – unless exemption is available. |
| TCU provides a finance lease to Irish customer. | Permitted – finance leasing is not considered as lending under CRD VI. |
| TCU provides a loan to Irish customer which is an accommodating ancillary service to a MiFID investment service being provided to the Irish customer. | Permitted under the MiFID Exemption (see below) |
| TCU provides loan to Irish company within its own group for the benefit of the group. | Permitted on the basis of the intra-group exemption. |
| TCU bank provides loan to an Irish bank. | Permitted on the basis of the inter-bank exemption. |
| TCU investment firm provides a margin account for Irish professional client to facilitate execution account. | Permitted on the basis of the MiFID accommodating ancillary services exemption. |
| TCU bank provides a revolving facility with an Irish borrower entered into on or before 11 July 2026. | Permitted to maintain on the basis of the grandfathering provisions based on the principle of acquired rights. Only limited amendments are permitted. Extensive amendments to facilitate new core banking services being papered under a pre-existing contract are not contemplated under the grandfathering provisions. |
| Third country or EU SPV provides a loan to Irish customer. | Permitted on the basis that the lender is a non-credit institution entity. ² |
| TCU, which is a finance company and part of syndicate, provides a loan to Irish customer. | Question not wholly settled but likely prohibited as participants in syndicates are considered to be providing lending services. |
| Private credit (investment) fund provides a loan to Irish customer. | Permitted/Not applicable – private credit funds are not within the scope of CRD VI as they are not defined as credit institutions. |

Exemptions

There are exceptions from the requirement for a TCU to establish a TCB under CRD VI for in-scope lending activity:



Grandfathering exemption: pre-existing contracts (including loan agreements) entered into on or before 11 July 2026 in order to preserve the customer's acquired rights however any amendments to pre-existing contracts should be carefully considered from a CRD VI perspective.



Reverse solicitation exemption: where an EU customer approaches the TCU on its own exclusive initiative – it is currently expected across Europe that this exemption will likely be narrowly interpreted, based on experience of the MiFID II definition of "Reverse Solicitation".



The inter-bank exemption: provision of Core Banking Services to credit institutions by TCUs.



The intra-group exemption: provision of Core Banking Services to an undertaking belonging to the same group as the TCU for the benefit of the group.



The MiFID exemption: activities that are accommodating ancillary services to investment services listed in Annex I, Section A of Directive 2014/65/EU – Markets in Financial Instruments Directive II

For further detail on the exemptions please see Matheson's Insight on the EBA's Report under Article 21c (6) CRD VI – link to Insight [here](#).



Lending by Unregulated Lending Entities

Non-EU credit institutions may also consider transferring their lending activities to non-credit institution entities, such as SPVs³ because these are not caught by Article 21c. It is important to be aware that the requirement to establish a TCB applies to firms who provide lending and/or guarantees and commitments and who would qualify as a credit institution if it were established in the EU.

Conclusion

In conclusion, CRD VI introduces significant change for cross-border lending into the EU by TCUs. It is important for non-EU lenders to ensure adequate preparations are made for any planned or potential in-scope lending activity into the EU.

If you require assistance with your CRD VI planning, please contact the authors of this note or your usual Matheson contact.

AIFMD II

One parallel development is the potential use of funds to carry out lending activities across the EU, following the introduction of a pan-European loan origination funds regime enabling alternative investment fund managers ("AIFMs") to manage alternative investment funds ("AIFs") that originate loans under the revised Alternative Investment Fund Managers Directive (enacted under Directive (EU) 2024/927 ("AIFMD II")).

The new EU regime will replace the existing Irish loan origination framework. The legislation must be transposed by EU member states into national law by 16 April 2026. An EU framework permitting lending by AIFs managed by AIFMs may be helpful in the context of the CRD IV Prohibition on the basis that such funds are not within the scope of CRD IV. For further detail on loan origination under AIFMD II click [here](#).

³ Provided such SPV would not be considered a "Credit Institution"



Contacts



Niamh Mulholland

Partner

t +353 86 102 8773

e niamh.mulholland@matheson.com



Joe Beashel

Partner

t +353 1 232 2101

e joe.beashel@matheson.com



Lisa Tait

Partner

t +353 1 232 2556

e lisa.tait@matheson.com



Alan Keating

Partner

t +1 332 910 7306

e alan.keating@matheson.com



Turlough Galvin

Partner

t +353 1 232 2232

e turlough.galvin@matheson.com



Shay Lydon

Partner

t +353 1 232 2735

e shay.lydon@matheson.com



Andrew Dixon

Partner

t +353 1 232 2035

e andrew.dixon@matheson.com