



## About Safeguarding Ireland

[Safeguarding Ireland](#) promotes the safeguarding of adults at risk from all forms of abuse by persons, organisations and institutions. It seeks to enhance inter-sectoral collaboration, develop public and professional awareness and education, and undertake research to inform policy, practice, and legislation around safeguarding in the Republic of Ireland. Safeguarding Ireland has a National Safeguarding Advisory Committee comprised of over 35 civil society and representative groups across the health, social and financial sectors.

## The State Payments Group

In addition, and in response to the challenges facing adults at risk in their use of payment/banking services and the related heightened risk of abuse and harm they can face, Safeguarding Ireland has a dedicated sub-group, 'The State-Payments Group', with the objective of:

*'Collectively identifying the safeguarding issues, particularly in relation to financial abuse, that arise in the current arrangements for payments to clients from state agencies, including arrangements of financial institutions in dealing with and dispensing said payments (statutory, administrative or informal arrangements) in order to identify and address, in so far as possible, any opportunities of financial abuse'.*

This Group includes representatives of the following organisations: BPFi, IBCB, AIB, MABS, Electric Ireland, Irish Rural Link, the HSE, the ILCU, An Post, the Department of Social Protection, the National Shared Services Office and Sage Advocacy. Several of these organisations/agencies (or those they represent) share responsibility for safely transacting payments of several billion Euro annually, for and on behalf of, adults, many of whom may be at risk of financial abuse. Advocacy groups, such as Sage Advocacy, MABS and Irish Rural Link, also play an important role in assisting adults who may be at risk to identify safe ways of making payments on a sustainable basis.

The State Payments Group is the only cross-sectoral group of its kind in the State with a dedicated focus on the overall payments infrastructure as it relates to adults who may be at risk of harm and financial abuse when they make or receive payments. The State Payments Group's 2022 Workplan originates in the significant policy, legislative and operational changes occurring in the Irish financial services market. It has six main areas of focus in 2022:

- Changes in the 'payments' landscape and adult safeguarding - opportunities and risks;
- Money Management and Payments;
- Incidence/Prevalence of financial abuse;
- Information /data sharing;
- Promotion of knowledge and understanding of the Assisted Decision-Making (Capacity) Act; and
- Awareness raising/education about financial abuse.

## Definitions

Safeguarding Ireland acknowledges the vast spectrum of vulnerabilities that people may experience. For the purposes of this submission, the definition used of 'vulnerable' is in accordance with the HSE ***Safeguarding Vulnerable Persons at Risk of Abuse – National Policy and Procedures*** (2014) p 3.

*“An adult may be restricted in capacity to guard himself/herself against harm or exploitation or to report such harm or exploitation. Restriction of capacity may arise as a result of physical or intellectual impairment. Vulnerability to abuse is influenced by both context and individual circumstances”.*

It is noted, however, that the Central Bank of Ireland's Consumer Protection Code (CPC), which is relevant within banks and regulated financial institutions, is different and makes no specific reference to the risk of harm or abuse that can result from such vulnerability.

Lack of definitional clarity across policy domains/sectors /institutions/regulators is a challenge; moreover, the term 'vulnerable' can be viewed as stigmatising<sup>1</sup>. Some banks are already using other terminology such as 'customers with additional support needs', to assist customers to self-identify as needing additional support in their use of banking services/products<sup>2</sup>. Safeguarding Ireland will use the term 'adult at risk' throughout this submission, unless it is more appropriate to use the term vulnerable consumer/customer.

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<sup>1</sup> Mazars, Phelan, A., O'Donnell, D. and Stokes, D. (2020) 'Evidence review to inform development of a national policy on adult safeguarding in the health and .social care sector. Department of Health (July 2020).

<sup>2</sup> Many banks are 'JAM card friendly', and users can use their card to let staff know they may need additional support.

## Adult Safeguarding -Retail banking /financial services -known risks and shared responsibilities

Safeguarding Ireland recently published a comprehensive report on the risks and challenges posed by adult abuse in Ireland and the broad landscape within which adult abuse occurs. The Discussion Paper '**Identifying Risks Sharing Responsibilities**' (May 2022) can be accessed [here](#). In the context of the Department's Review, we highlight in particular, Chapter Four 'Financial Abuse', which provides a definition of financial abuse and outlines, *inter alia*, the role of financial services providers in safeguarding the finances of an adult who may be vulnerable to financial abuse.

In Safeguarding Ireland's view, there is a clear obligation to ensure that the financial rights and freedoms of adults who may be at risk are promoted and protected. Many people face challenges to their financial independence due to one or more of multiple factors, including:

- a. Reduced decision-making capacity as a result of, for example, an intellectual disability, dementia, an acquired brain injury;
- b. Mental health difficulties;
- c. An inability to communicate effectively;
- d. Lack of family and community support;
- e. Inability to access financial services that meet their needs (including mobility challenges and digital exclusion);
- f. Frailty associated with the ageing process;
- g. Abusive practices, including cases where a third party has taken control of a person's finances.

Safeguarding Ireland has considered both the Terms of Reference and the questions set out in the consultation document/questionnaire and wishes to make the following contributions to the Review of Retail Banking.

### Question 1:

Banks and other stakeholders are expecting the retail banking sector to go through a period of significant and rapid change, including greater use of fintech, over the next 10 years.

a) Is the retail banking sector currently meeting the needs of consumers and SMEs? Yes/No

Please explain the reasons for your answer.

b) What changes do you expect to see in the retail banking sector in the coming 10 years?

c) Please compare the type of sector resulting from the changes you foresee in Question 1(b) to the type of sector you believe needs to exist so that it is fit-for-purpose, treats consumers and SMEs fairly, and that it serves the needs of society and the economy.

Answer 1 a): No

#### Explanation

With regard to the needs of adults at risk of abuse, Safeguarding Ireland views the retail banking sector as having made considerable progress over recent years through the establishment of dedicated units to support 'vulnerable consumers/customers'. The BPFi Safeguarding Guide, which forms the basis of banks' approach to customers and informs their training of frontline staff and the adoption of 'BPFi Principles on Financial Abuse' evidence the growing focus by retail banks on this issue over recent years. This experience indicates that the development of dedicated teams and expertise has greatly enhanced retail banks' capacity to deal with cases of financial abuse. However, supports for adults at risk of harm or abuse should be much more central to the overall offering from **all** financial institutions – banks, credit unions, neo-banks, non-banks and fin-techs. Additionally, as many customers may use multiple institutions and hold several accounts, collaboration, resulting in a unified and joined-up approach across the various institutions facilitating banking/payments (including the State's payments providers, main Direct Debit Operators (DDOs), etc., is required to safeguard adults from financial abuse.

An accessible physical infrastructure and the ability to meet a trained staff member face-to-face through the retail bank branch network have been important supports for adults who may be at risk, both in setting up and managing a payment account and, critically, in safely disclosing a concern about financial abuse. Additionally, face-to-face interaction enables trained bank staff to assess whether the behaviour of a customer is unusual, whether they are showing signs of stress/duress, etc., or whether a third party is coercing them. It is centrally important that as the retail banking sector and financial services/payments infrastructure generally evolves, that there is a continued focus on ensuring that **all** staff supporting clients with banking and payments (including staff of credit unions, in post offices and also those administering payments made by the State ( social

welfare, pensions etc) are trained to identify and respond to such safeguarding concerns relating to their customers.

There should be opportunities and confidential spaces, not just in bank branches, but also in credit unions and post offices where concerns can safely be discussed face-to-face. Where services are remote or 'digital-only', staff will require additional training to identify verbal and other cues that may signal that a customer is being abused/acting under duress. There are potential benefits arising from digitalisation, e.g., Artificial Intelligence (AI) and sentiment analysis/natural language processing/ text mining, etc., may come to play a role in providing additional support and possibly safeguarding adults at risk of harm or abuse. However, to the extent that these new technologies are currently being deployed, there is no evidence of their efficacy in preventing financial abuse in the Irish market as of yet.

All staff providing consumer-facing financial services must be aware of where and when to report safeguarding concerns and when to share data and information. (Data sharing and related challenges are extensively covered in Chapter Eight of the Safeguarding Ireland Discussion Paper already cited).

Product design and availability are also a concern. Safeguarding Ireland conducted research in 2020 on the bank/payment account types available from main financial institutions/payment account providers for use by adults who may be at risk of harm or abuse and it is evident that there is little specific tailoring of the offerings to the needs of 'vulnerable' customers. Safeguarding Ireland suggests that greater innovation and collaboration are needed, as well as a policy/regulatory impetus to encourage the emergence of accessible and affordable products and services within the retail banking sector and across Irish financial services generally, which better cater to the needs of adults at risk and empower them to safely manage their own money and financial affairs.

Answer b)

Explanation

It is not possible for Safeguarding Ireland to comprehensively outline anticipated changes in the retail banking sector over the next 10 years. However, there is likely to be continued change to the bank branch network, further reduction in the use of cash and increased digitalisation. It is also possible that within that time frame there may be a 'digital euro'<sup>3</sup>. Open banking and 'embedded

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<sup>3</sup> <https://www.centralbank.ie/financial-system/payments-and-securities-settlements/a-digital-euro>

finance<sup>4</sup> will further drive transformation in the ways in which consumers manage their money, and receive and make payments for essential goods and services. Safeguarding Ireland notes that this transformation will occur in parallel with the ageing of the population<sup>5</sup>. Additionally, the Assisted Decision-Making (Capacity) Act (2015), which will be fully operational by the end of 2022, requires significant changes in the manner in which financial services providers support the rights and interests of people who may need support with decision-making.

Answer c)

## Explanation

While many older people are skilled in their use of digitalised services, potentially higher levels of digital exclusion/literacy, combined with frailty, can give rise to the need for some older adults to relinquish aspects of the management of their financial affairs to a third party and, in such cases, the risk of financial abuse increases<sup>6</sup>. In other cases, an abusive third party may seize on the victim's perceived/actual vulnerability to take full control of the person's financial affairs, including their bank account<sup>7</sup>. Currently, Safeguarding Ireland sees little evidence of the emergence within retail banking or across Irish financial services generally of specific products and services designed to meet the diverse needs of adults who may be at risk, or in need of decision-making support, but who nonetheless have a right to retain agency over their financial affairs. By contrast, the UK's legislative basis for adult safeguarding<sup>8</sup>, combined with strong policy support for 'open banking' and a stronger regulatory emphasis on the vulnerable customer, has meant that there is consistent innovation and improvement in the banking/fintech offerings for adults who may be 'vulnerable' or at risk of financial harm or abuse. Accordingly, over the next ten years (and ideally much sooner) Safeguarding Ireland believes that the sector needs to become much more responsive to the needs of 'vulnerable consumers', to ensure that they can fully benefit from digitalisation and to ensure the sector is inclusive, fit for purpose, treats **all** consumers fairly, and serves the needs of society and the

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<sup>4</sup> i.e. the integration of financial services or tools – traditionally obtained via a bank – within the products or services of a non-financial organisation.

<sup>5</sup> <https://publichealth.ie/wp-content/uploads/2020/04/20200416-AGEING-PUBLIC-HEALTH-MAIN.pdf>  
<https://www.gov.ie/en/publication/6ba73-population-ageing-and-the-public-finances-in-ireland/>

Additionally, a 2020 TILDA study showed that levels of 'home internet access decreased with age' Source: *Internet access and use among adults aged 50 and over in Ireland: Results from Wave 5 (May 2020)*.

<sup>6</sup> see Safeguarding Ireland's Report on relevant research on financial abuse and older people  
<https://www.safeguardingireland.org/wp-content/uploads/2018/10/Financial-Abuse-Older-People--A-Review.pdf>

<sup>7</sup> <https://www.safeguardingireland.org/majority-who-needed-help-managing-money-during-covid-lockdown-have-not-taken-back-control/>

<sup>8</sup> The Care Act (2014).

economy. This will require both policy direction from Government and related regulatory guidance on best practices in supporting adults at risk of harm in their use of financial services.

**Question 2:**

Given the extent to which banks are implementing material changes to their business models and service delivery, in your opinion, have these changes been implemented with a satisfactory customer-focus? Yes/No.

Please explain the reasons for your answer.

If you have answered “no”, please outline the measures that could be taken by the firms in the retail banking sector, Government, regulators or other relevant stakeholders to address the issues you identified.

Answer 2: No

Explanation

Safeguarding Ireland’s view is that material changes in banks’ business models are relatively recent and it is, therefore, too early to fully assess the extent to which their implementation has had a satisfactory customer focus as it relates to adults at risk. However, Safeguarding Ireland’s primary concern is that changed business models realise their beneficial potential for adults who may be at risk of harm or abuse. This requires that their needs are considered as a core component of the change process. Digitalisation has significant potential to reduce risk and increase access, choice, and agency for many vulnerable consumers.

The main changes in the business model have been ‘sharp’ digitalisation driven, in part, by the Pandemic, global trends in digitalisation in the consumption of financial and other services, and, also, efficiency and profitability concerns, leading to related closure of bank branches/ withdrawal of cash /cheque services from certain residual branches<sup>9</sup>. The recently revoked decision by one bank to make 70 branches cashless<sup>10 11</sup> and the apparent lack of consideration for the specific needs of vulnerable consumers and related safeguarding issues, seemed at odds with the Central Bank of Ireland’s expectation that within, ‘The changing operational landscape’ regulated firms, ‘Actively

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<sup>9</sup> Such changes are not unique to Ireland, see [https://www.capgemini.com/wp-content/uploads/2022/03/Top-Trends-in-Retail-Banking\\_2022-1.pdf](https://www.capgemini.com/wp-content/uploads/2022/03/Top-Trends-in-Retail-Banking_2022-1.pdf)

<sup>10</sup> <https://aib.ie/content/dam/aib/group/Docs/Press%20Releases/2022/branches-press-release-190722.pdf>,

<sup>11</sup> <https://aib.ie/content/dam/aib/group/Docs/Press%20Releases/2022/aib-statement-on-branch-services.pdf>

*identify and address risks to consumers that may potentially emerge from changes in the landscape within which the firm and/or its consumers are operating*<sup>12</sup>.

The exits of KBC Bank Ireland and Ulster Bank are also having a material impact on customers and, as above, the transition poses particular difficulties for certain customers who may be challenged in moving accounts due to situational or personal characteristics.

The 'exit/transition project<sup>13</sup>' is testing the extent to which banks and other financial institutions are ready and able to meet the needs of customers in vulnerable circumstances/adults at risk and is bringing some challenging issues strongly to the fore: identity requirements/AML/KYC requirements, 'consent', digital capability, are some relevant examples, and the issues are diverse and complex. A major deficit/risk, highlighting the urgent need to fully operationalise the Decision Support Service, is the extent to which some customers are reliant on a third party to facilitate the transition to new banking arrangements. Finally, the exits are reducing choice. This is a particular concern for adults who may have particular needs and preferences in their use of financial services and are finding it more challenging to ensure those needs are met.

One of the positives of the exits and related landscape changes is that banks and other financial services providers, as well as the major Direct Debit Operators (DDOs), are required now to confront and overcome issues that had long been problematic in the design and delivery of the services used by adults at risk. In so doing, some good practices are emerging. In this regard, Safeguarding Ireland suggests that there is a need to capture emergent good practice and to standardise and mainstream it across the financial services sector/payments' landscape by way of much-improved training for **all** staff, organisational policies, enhanced procedures relating to data sharing, etc. as well as more accessible, innovative and inclusive digital offerings, etc. This should be a key goal for Government, regulators, and other stakeholders.

Q3 NA

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<sup>12</sup> <https://www.centralbank.ie/docs/default-source/regulation/consumer-protection/consumer-protection-outlook-report/consumer-protection-outlook-report-2022.pdf?sfvrsn=6> (p15).

<sup>13</sup> Members of the State Payments Group have attended a meeting of banks' vulnerable customer units and have had meetings with some of the banks on the transition project as it relates to adults who are at risk. o BPI / others as possible.

## **Branch services**

### **Question 4:**

The significant shift from physical banking to the use of technology has seen the closure of a material number of bank branches. In your opinion, have the actions taken by the banks to mitigate the impact of branch closures on delivery of services to consumers and SMEs been satisfactory? Yes/No.

Please provide reasons for your answer.

If your answer is "No", please outline the measures that could be taken by the firms in the retail banking sector, Government, regulators or other relevant stakeholders to address the issues you identified. Where appropriate, please distinguish between consumers and SMEs in your response.

### **Question 5:**

One of the principal factors impacting the level of interest rate that a bank charges on its loans, including mortgages, is the level of operational costs that a bank incurs to run its business. Two of the more significant operational costs that a bank has are costs relating to staffing and premises.

Do you consider that it would be an acceptable trade-off to see more cost reductions at banks if these cost reductions increased the capacity of banks to lower the interest rate they currently charge to consumers and SMEs? Yes / No.

Please explain the reasons for your answer.

Question 4: No

#### Explanation

As before, it is too early to assess the full impact of bank branch closures on adults who may be at risk of financial abuse and harm. Safeguarding Ireland's view is that actions by banks to mitigate the impact of branch closures have not yet had a positive impact on those adults at risk who may have relied on the branch for support. The partnerships between An Post, AIB and Bank of Ireland do not replace, on a like-for-like basis, what was previously available via the branch. The physical infrastructure in many post offices is currently lacking, long queues for services are increasingly commonplace and Safeguarding Ireland is not aware that, as of yet, staff has developed similar levels of expertise to bank staff in supporting adults at risk or dealing with cases of financial abuse.

Some adults at risk have been relying on risky workarounds or 'satisficing' at best, to offset the effects of branch closures and other changes. Coping strategies often include informal reliance on a family member or third party to operate an online account. This both heightens risk and significantly reduces personal agency.

Currently, the extent of financial abuse detected by banks or financial institutions is not published, and so it is not possible to assess whether patterns of disclosure and detection have changed as a result of the closure of branches. However, the capacity to meet a bank staff member in person and

for bank staff to be familiar with their customers through ongoing face-to-face interactions are important tools in combating harm and abuse<sup>14</sup>. Safeguarding Ireland is of the view that, as services become increasingly digitalised, a strong emphasis must be placed on developing competence in detecting abuse through all channels; online /through call centres, etc. There also needs to be greater promotion and awareness raising of the risks of harm and abuse while operating accounts online<sup>15</sup>.

Finally, and as already mentioned, the remaining banks must continue to develop expertise through their 'vulnerable customer units', and Safeguarding Ireland suggests that **all** relevant institutions, credit unions, post offices and neo banks develop such units and provide accessible and effective ways of reporting abuse/suspicious of abuse.

Question 5: No

Explanation

The trade-off in operational costs achieved through changes in staffing and premises should not be viewed solely in relation to potential reductions in interest rates on loans. Many customers who may be vulnerable /at risk are not users of credit and, as such, will not see any benefit from such changes and, in fact, risk a serious diminution of the services they need to manage their money and their finances safely. Accordingly, Safeguarding Ireland suggests that a proportion of 'savings/efficiency gains' achieved through operational change and related cost reductions should be ringfenced for reinvestment in providing better services to adults who may be vulnerable/ at risk.

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<sup>14</sup> Research which examined bank staff's experiences of financial abuse of vulnerable adults found that almost 70 per cent of survey respondents had had a suspicion of financial abuse of a vulnerable adult. Bank managers and National Safeguarding staff highlighted particular issues in relation to capacity, family assumption of entitlements to a vulnerable adult's finances and difficulty in relation to sharing PIN numbers. There was also some evidence of financial abuse being perpetrated on at risk adults who had power of attorney orders in place and where powers of attorney had been abused. Amanda Phelan, Deirdre O'Donnell and Sandra McCarthy (2021), Financial abuse of older people by third parties in banking institutions: a qualitative exploration, [https:// www.cambridge.org/core/journals/ageing-and-society/article/financial-abuse-of-old - er-people-by-third-parties-in-banking-institutions-a-qualitative-exploration/8CB9EF - 01B3A1DC261D0DE177A89E671B](https://www.cambridge.org/core/journals/ageing-and-society/article/financial-abuse-of-old-er-people-by-third-parties-in-banking-institutions-a-qualitative-exploration/8CB9EF-01B3A1DC261D0DE177A89E671B)

<sup>15</sup> <https://www.fraudsmart.ie/personal/fraud-scams/online-fraud/online-mobile-banking/> is a relevant example.

## CASH SERVICES

### Question 6:

Noting the concerns being raised that access to cash and cash services are generally reducing, should Government or other relevant stakeholders introduce policy or other measures to protect access to cash? Yes / No.

Please explain the reasons for your answer.

If you have answered “yes”, please outline the measures that could be taken by the firms in the retail banking sector, Government, regulators or other relevant stakeholders to address the issues you identified.

### Question 6: Yes

#### Explanation

Safeguarding Ireland suggests that responses to this question in the context of the current Review will not, on their own, provide a satisfactory answer or sufficient insight into the motivations for certain cohorts’ reliance on cash to support the development of required policy measures.

Amongst adults at risk of harm or abuse, cash use is much more nuanced than for the general population. Older people, older people experiencing cognitive decline, people with an intellectual disability, an acquired brain injury, addiction, or mental health difficulty, and others experiencing coercive control or at risk of financial abuse by a partner, family member/third party, may all have a strong dependence on cash for very different reasons and have specific patterns of usage that are very important to their personal autonomy, well-being and safety<sup>16</sup>.

Safeguarding Ireland suggests that an effective policy response must be based on research involving adults whose current preference is for the use of cash because they are otherwise exposed to harm and abuse, as well as the organisations/entities that support them.

To be effective, cash substitution must be accompanied by a strategic approach to ‘payments inclusion’. Digital alternatives must be truly accessible, affordable and inclusive. The issue of the decline in the availability of cash services is closely related to the nature, accessibility and affordability of digital services that are available to customers. In 2017, the UK’s Money and Mental Health Organisation published a comprehensive report<sup>17</sup> on the ways in which innovative digitalised financial services could be used to assist customers with a variety of mental health issues. Many of the innovations referenced (in the key areas of ‘Money management’, ‘High-control products and

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<sup>16</sup> Safeguarding Ireland’s focus is on adults at risk, however, it is also recognised that for consumers to keep using cash, SME’s need to be able to continue accepting cash. This means that it is critically important for SME’s to be able to deposit cash easily if it is to remain viable as a method of payment.

<sup>17</sup> <https://www.moneyandmentalhealth.org/wp-content/uploads/2017/07/Fintech-for-good-report.pdf>

self-exclusion’, ‘Supporting informed decision making’, ‘Empowering carers’, ‘Spotting the problem early’) are equally relevant to adults at risk of harm or abuse. However, most of the positive/ life-enhancing fintech capabilities outlined are not yet available to Irish consumers.

Cash-back services and availability may also be important, especially where the requirement is for a low denomination note not available from an ATM.

Policy measures must include an emphasis on ensuring that the needs of adults at risk of harm and abuse are considered in the design of new products and services. In particular, the design of, and dependence on, underlying technologies, (e.g., the use of smartphones and apps to deliver financial services), can give rise to opportunities for abusers to coercively control because there is insufficient consideration of the diversity of the user base in product design or the so-called ‘unhappy paths’<sup>18</sup> are not fully explored as part of the design of the customer journey. Firms must be aware that a lack of technical confidence can be ‘weaponised’ as part of an abusive relationship. This risk is compounded by low levels of awareness or understanding of coercive control generally<sup>19</sup> which apply to both consumers and providers/those designing digitalised financial products.

It is possible that, if introduced, a digital euro could become ‘a complement’<sup>20</sup> to cash and vulnerable consumers must be supported to optimise their use of both cash and a regulated digital euro.

To assist with the transition, many will need significant support both to operate effectively and safely online, as well as to realise the potential benefits of digital money management and this must be made available via a trusted third party, i.e., either through their financial services provider or via active support from a State Agency with relevant expertise e.g., MABS, an Independent Advocate, a Decision Supporter, etc.

A further important point that has been raised both at Safeguarding Ireland’s National Safeguarding Advisory Committee and the State Payments Group, which is relevant to debates about cash and digital, is the prevalence of ‘scams’ via mobile and online, i.e., text message fraud, phone scams, phone scam warnings, fraudulent emails, etc. which reference main banks and financial institutions and other main components of the payments infrastructure, i.e., Revenue and the Department of Social Protection. Such scams have several adverse effects as they apply to consumers generally and

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<sup>18</sup> <https://www.ibm.com/blogs/policy/wp-content/uploads/2020/05/CoerciveControlResistantDesign.pdf>

<sup>19</sup> <https://www.safeguardingireland.org/wp-content/uploads/2021/05/Coercive-Control-presentation-FINAL.pdf>

<sup>20</sup> [https://www.ecb.europa.eu/paym/digital\\_euro/html/index.en.html](https://www.ecb.europa.eu/paym/digital_euro/html/index.en.html)

particularly those who may be at risk, i.e., a vulnerable consumer may be at greater risk of being scammed or may opt to use cash only because they view digital as too risky, or an abusive third party may simply take control of a person's financial affairs on the 'pretext' of safeguarding them from online scams and fraud<sup>21</sup>.

**Question 7:**

Given the extent to which the ATM network is now primarily owned by unregulated entities, should Government legislate for the regulation of these providers? Yes / No.

Please explain the reasons for your answer.

If you have answered "yes", please outline the areas or activities that should now be regulated to address the issues you identified.

Question 7: Yes

Explanation

Safeguarding Ireland agrees that providers of the ATM network should be regulated. A failure to regulate gives rise to the possibility that vulnerable consumers may be placed at risk of harm or abuse. Moreover, regulation should require that providers have strong mechanisms for supporting customers in vulnerable circumstances should they have a complaint or otherwise seek redress.

It is particularly important that ATM providers have a requirement to place ATMs in remote areas to ensure continued access to cash for those who rely on it for reasons such as those outlined above. If the number of cash machines continues to decline, inevitably and notwithstanding risk and the advice to the contrary<sup>22</sup>, some consumers will, of necessity, rely on a third party to make cash withdrawals on their behalf and this will give rise to financial abuse. (Safeguarding Ireland has seen this issue with some regularity where a vulnerable person has to rely on a third party to collect a pension and the third party deducts an amount for their own use, it was also the case that during the Pandemic many of those 'cocooning' handed over a debit card and PIN to a third party to make cash withdrawals on their behalf). Safeguarding Ireland suggests that a 'distance to cash threshold'<sup>23</sup> is established to ensure that the population is adequately served by cash access points.

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<sup>21</sup> Safeguarding Ireland notes that this issue is currently being examined by a ComReg Taskforce.

<sup>22</sup> <https://bpfi.ie/wp-content/uploads/2020/08/BPFI-Safeguarding-Customers-Guide-FINAL.pdf>

<sup>23</sup> The UK's FCA has been producing quarterly data on access to cash since 2021 <https://www.fca.org.uk/data/access-cash-coverage-uk>

It should also be noted that bank-owned ATMs serve an important function in providing ease of access to the real-time balance in the account. This is important for those who do not bank online.

It is currently possible to reduce/eliminate the cost of ATM withdrawals but this requires 'shopping around' when choosing a bank/payment provider and/or limiting the number of cash withdrawals.

On the first of these issues, the various terms relating to different accounts can be difficult to understand and clarity of information is vital in assisting consumers, especially those who may be vulnerable/ in need of additional support, to choose the bank/payments provider that best suits their needs. Second, there is a risk that where charges are based on the frequency of withdrawals and/or where ATMs are not easily accessible that some consumers will 'hoard' cash or withdraw more than they need. This poses an obvious safeguarding risk.

### ***Mortgages***

#### **Question 8:**

In your opinion, is there an acceptable level of consumer choice in the Irish market in relation to:

- Number and type of mortgage provider? Yes/No
- The mortgage product range? Yes/No

Please explain the reasons for your answer.

If you have answered "no", please outline the measures that could be taken by the firms in the retail banking sector, Government, regulators or other relevant stakeholders to address the issues you identified.

#### **Question 9:**

There are indications that certain mortgage borrowers in Ireland would benefit from a lower interest rate by switching their mortgage to an alternative provider, however levels of switching have been low.<sup>135</sup>

In your opinion, are there measures that could be taken by the firms in the retail banking sector, Government, regulators or other relevant stakeholders to increase the level of switching? Yes/No.

Please explain the reasons for your answer.

Question 8: Yes

#### Explanation

Safeguarding Ireland produced a short information guide on 'Equity Release Schemes' in 2021<sup>24</sup>. While such schemes may provide an option for some householders in their older years, other solutions are needed for borrowers who face retirement/ the associated reduction in income without having fully paid off their mortgage. This may require an expansion in the mortgage product range to ensure that older adults do not face the prospect/related stress and upheaval of losing their home in their later years.

Question 9: Yes

#### Explanation

Safeguarding Ireland suggests that there is significant scope to simplify the information relating to 'the choice architecture'<sup>25</sup> underpinning an array of financial products (not just mortgages). Moreover, vulnerable consumers<sup>26</sup> may find the so-called 'administrative sludge'<sup>27</sup> overwhelming and, therefore, miss out on the potential to realise financial gains available through switching. Safeguarding Ireland suggests that firms, regulators, Government and other stakeholders could improve the switching process through the inclusion of vulnerable consumers in an inclusive design

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<sup>24</sup> <https://www.safeguardingireland.org/wp-content/uploads/2021/06/Equity-Release-Schemes-FINAL.pdf>

<sup>25</sup> Choice Architectures in the Digital Economy: Towards a New Understanding of Digital Vulnerability, <https://link.springer.com/content/pdf/10.1007/s10603-021-09500-5.pdf>

<sup>26</sup> By way of example, the following issues are noted in <https://www.moneyandmentalhealth.org/seeing-through-the-fog-blog/> :

- A lack of motivation is one of the core symptoms of depression; dealing with money is often just too much to face.
- People with bipolar disorder are likely to have reduced understanding and problem-solving abilities, especially during periods of acute illness. This can make it impossible to be a "good" consumer in a complex marketplace with lots of tariffs and providers to compare.
- Many people with PTSD have severe memory problems. This can make it harder to keep track of security information, such as PIN numbers or internet banking details, and can lead to expensive mistakes such as missed or late bill payments.

<sup>27</sup> <https://www.cambridge.org/core/journals/behavioural-public-policy/article/sludge-audits/12A7E338984CE8807CC1E078EC4F13A7>

process<sup>28</sup> to identify the pain points in the switching process and possible solutions as they apply to vulnerable consumers.

## Questions 10/11/12

NA

### Question 13:

With respect to deposit/savings accounts, in your opinion, is there an acceptable level of choice for consumers and SMEs in the Irish market in relation to the:

- Number and type of providers? Yes/No
- Product range? Yes/No

Please provide reasons for your answers.

If you have answered “no”, please outline the measures that could be taken by the firms in the retail banking sector, Government, regulators or other relevant stakeholders to address the issues you identified.

### Question 13: No

#### Explanation

As previously noted, there is, in Safeguarding Ireland’s view, insufficient innovation/choice in the payments infrastructure to meet the needs of adults who may be vulnerable or at risk of harm or abuse. The lack of appropriate products/services means that adults at risk often rely on workarounds or third parties to manage their money. This both reduces personal agency and heightens risk. A 2020 report by Sage Advocacy outlined the following support needs common to all adults who may be vulnerable to financial abuse, depending on the individual’s circumstances and decision-making capacity:

- To be enabled to control their own money to the greatest extent possible (empowerment need);
- To have ease of access to their own money (accessibility need);
- To be able to use their own finances for their personal benefit to enrich their lives and reach their full potential (social and comfort need);
- To have their money readily and openly identifiable as their own (accountability need);

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<sup>28</sup> <http://www.inclusivedesigntoolkit.com/whatis/whatis.html>

- To have their money kept safe (safeguarding need)<sup>29</sup>.

A policy/regulatory impetus is required to encourage the emergence of a much-improved range of services to meet these needs. The UK's 'sandbox'<sup>30</sup> is an example of how this might be achieved as is its policy emphasis and implementation support for 'open banking'<sup>31,32</sup>, and work undertaken by the Payment Systems Regulator (PSR), via an independent panel on the 'Digital Payments Initiative' to: *'understand the potential barriers to the take-up of digital payments, and identify potential solutions and appropriate regulatory actions that might be required to enable them'*.<sup>33</sup>

Question 15 – please see the response to Question 9.

Questions 16/17/18

NA

### **Regulation**

#### **Question 19:**

A key principle of good regulation is that it is proportionate to the risks it seeks to mitigate. Since the GFC an enhanced regulatory framework has been developed and implemented collaboratively at international level. Given the systemic importance of the banking system at a global, regional and national level, banks are subject to a broader suite of regulatory requirements, compared to other service providers, which includes both regulated and unregulated entities.

In the context of Ireland, in your opinion, do you consider that the regulation of the retail banking sector is applied in a proportionate manner? Yes/No.

Please explain the reasons for your answer.

If you have answered "no", please outline the measures that could be taken by Government, regulators or other relevant stakeholders to address the issues you identified.

In answering this question, you should consider that it may not be within the remit or capacity of any individual stakeholder to change existing regulations.

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<sup>29</sup> <https://www.sageadvocacy.ie/media/1906/suppor-1.pdf>

<sup>30</sup> <https://www.fca.org.uk/firms/innovation/regulatory-sandbox/accepted-firms>

<sup>31</sup> <https://www.openbanking.org.uk/about-us/#:~:text=The%20Open%20Banking%20Implementation%20Entity,transparency%20in%20UK%20retail%20banking.>

<sup>32</sup> <https://www.openbanking.org.uk/insights/obie-consumer-forum-january-2021/>

<sup>33</sup> <https://www.psr.org.uk/media/x3tjjuj1/psr-panel-dpi-report-may22.pdf>

Question 19 No – (with respect to customers/consumers who may be at risk of harm/abuse).

#### Explanation

Safeguarding Ireland's view is that the definition of a 'vulnerable' consumer in the CPC as it relates to customers of Irish retail banks and main payment account providers is too narrow and the related guidance for firms too limited<sup>34</sup>. As a result, firms' responsiveness to vulnerable consumers/adults at risk of harm or abuse receives, in Safeguarding Ireland's view, only limited regulatory scrutiny. By contrast, the FCA has had a sustained focus on vulnerable customers and published extensive guidance for firms on the 'fair treatment of vulnerable' customers in February 2021<sup>3536</sup>.

In Safeguarding Ireland's experience, notwithstanding the lack of regulatory compulsion or guidance, some financial institutions (primarily retail banks) have invested in, developed and implemented very good practices. Over several years, BPI has facilitated multi-stakeholder workshops and meetings to exchange best practices and determine the most practical actions to support customers at risk in order to inform the approach of retail banks. The exit of both KBC and Ulster Bank means that there could be some loss of expertise in this regard and suggests a requirement for the 'receiving' institutions to continue to scale their existing units to support a higher volume of customers following the exits. In addition, the investment and focus made by retail banks are not evident across all providers of regulated financial services. There is a need to embed the safeguarding of adults at risk more holistically within *all* banks and payment providers (incumbents, post offices, credit unions, neo banks, fin-techs, etc.).

This applies regardless of the delivery channel and applies across product and service design, customer onboarding, saving/lending, customer service, staff training and development, data recording/analytics, reporting, and fraud/financial abuse prevention. It also applies in respect of the commercial decision-making by banks and financial institutions (i.e., their Boards and Senior Executives) relating to the design and accessibility of their infrastructure – branches, cash machines, contact centres, and the so-called 'UX' of their digital offerings.

Safeguarding Ireland also notes that it is vital that the Credit Union Act 1997 is amended (specifically Section 24) to ensure compliance with the provisions of the UN Convention on the Rights of Persons

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<sup>34</sup> <https://www.centralbank.ie/docs/default-source/regulation/consumer-protection/other-codes-of-conduct/9-gns-4-2-7-code-guidance-document.pdf?sfvrsn=6> (p12).

<sup>35</sup> <https://www.fca.org.uk/publications/finalised-guidance/guidance-firms-fair-treatment-vulnerable-customers>

<sup>36</sup> Additionally, 'vulnerability' features explicitly as a factor relevant to what the UK's proposed Consumer Duty requires from firms.

with Disabilities and the Assisted Decision-Making (Capacity) Act 2015 in relation to a person whose decision-making capacity has changed or who may lack capacity. It is also necessary that regulations impose appropriate supervisory safeguarding provisions on those officers who have the responsibility to make decisions at local level to ensure the property of each member is fully protected.

A further significant deficit applies to the lack of information on:

- 1) the numbers of vulnerable consumers/customers with additional support needs availing of the services of retail banks or the services of other payment account providers (Safeguarding Ireland notes that customers in vulnerable circumstances or in need of additional support may be reluctant to let their bank /financial services provider know, either a) because they are not aware that support is available and will be forthcoming and/or b) because they are concerned that such a disclosure could inhibit their access to other services such as credit. (Retail banks have confirmed that disclosure relating to a customer's need for additional support will not be used in credit assessments).
- 2) the nature of any additional supports that may be available to them and,
- 3) the numbers of vulnerable/at-risk customers who remain unbanked or 'underbanked'<sup>37</sup> (i.e., use alternative financial services) because incumbents /others do not adequately meet their needs at a cost that they can afford.

Safeguarding Ireland trusts that the forthcoming review of the Consumer Protection Code will address these and related regulatory issues, providing a more expansive definition of the vulnerable consumer, more detailed guidance on the ways in which regulated entities should provide support, and setting a higher bar for regulated firms.

## Question 20

NA

## Question 21:

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<sup>37</sup> The IBCB has an active campaign in partnership with banks to promote access to and uptake of the basic payment account. <https://www.irishbankingcultureboard.ie/irish-banking-culture-board-launches-guide-to-basic-bank-account-supporting-financial-inclusion-and-access-to-banking/>  
This guidance has also been produced in Ukrainian. The BPFi has also prepared guidance for Protection Applicants; <https://bpfi.ie/wp-content/uploads/2021/12/Final-BPFI-Guide-to-Opening-Bank-Accounts-in-Ireland-for-Protection-Applicants-Final.pdf>

In addition to the matters covered in this public consultation, are there other issues relevant to the Terms of Reference, which you wish to bring to the attention of the Department? Yes / No

If you have answered “yes”, please provide a brief summary of those issues, providing any information or references to material that you consider relevant to the Terms of Reference and the Department’s work.

#### Question 21. Yes

##### Explanation

In conclusion, Safeguarding Ireland considers the Review to be an important opportunity for the Department and all stakeholders involved to more fully consider the needs of adults who may be at heightened risk of abuse or harm in their use of financial services (retail banks, credit unions, post offices, neo-banks, non-banks, fintech, etc.). Safeguarding Ireland has identified multiple complex issues of concern as they relate to adults at risk of abuse and harm in their routine acceptance and making of payments for essential goods and services via banks and other organisations (State and other) involved in the overall payments infrastructure.

Safeguarding Ireland would welcome an opportunity to engage with members of the Department’s Review team to discuss items raised in its submission and its experiences and research relating to adult safeguarding and the beneficial role that banks and other financial services and payments providers can, and should, play in empowering and protecting adults who may be at risk.

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