An Roinn Fiontar,
Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

Post Enactment Report

Loan Guarantee Schemes Agreements (Strategic Banking Corporation of Ireland) Act 2021

May 2022

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Purpose of the Act

The purpose of the Loan Guarantee Schemes Agreements (Strategic Banking Corporation of Ireland) Act 2021 [No. 9 of 2021] (‘the Act’) is to provide the Minister for Enterprise, Trade and Employment and the Minister for Agriculture, Food and the Marine with the powers to enter into agreements with the Strategic Banking Corporation of Ireland (SBCI) (subject to the consent of the Minister for Finance and the Minister for Public Expenditure and Reform) to facilitate access to finance for qualifying enterprises.

The Act also provides for the Minister for Enterprise, Trade and Employment and the Minister for Agriculture, Food, and the Marine to commit financial contributions for the purposes of agreements they enter with the SBCI. The Act limits the aggregate of the liability in respect of contributions committed under all agreements (that is regardless of which relevant Minister is a party to the agreement concerned) for the time being in force to €50 million.

The Act facilitated the establishment of the Brexit Impact Loan Scheme, which is a loan guarantee scheme that was developed as an emergency measure to ensure that an appropriate option for access to finance is available for Brexit impacted SMEs, including primary producers, and small mid-caps as they seek to address the challenges associated with Brexit in the context of the simultaneous disruptions arising due to the COVID-19 pandemic.

Policy Objectives

SMEs are hugely important to the Irish economy with the Central Statistics Office reporting that in 2019 they accounted for 99.7% of the total enterprise base. In 2019 they also accounted for 66.4% of employment and contributed 36.9% of Gross Value Added (GVA) by the private business economy. The contribution of the many small businesses associated with primary production activities across agriculture, forestry and fishing are not included in the above figures. Primary producers are also essential contributors to the economy with 137,500 farms producing over €8 billion in output in 2019.

It is imperative that an appropriate option for accessing finance remains available to viable but vulnerable Brexit impacted SMEs (including primary producers) and small mid-caps to help them to finance their adaptation and survival through this time of economic disruption arising from the dual impacts of Brexit and COVID-19. However, the economic uncertainty has led lenders to become more risk adverse resulting in increased credit tightening, and this coupled with the weakened financial position of many SMEs makes it more difficult for some SMEs to access credit at levels that they can afford. There is a strong rationale for Government to make interventions during such periods of emergency and, as such, the Department of Enterprise, Trade and Employment and the Department of Agriculture, Food and the Marine designed a loan guarantee scheme the "Brexit Impact Loan Scheme" (BILS) which had the key aims of:

- Encouraging finance providers to lend to viable but vulnerable Brexit impacted businesses – this to be achieved through the provision of a State-backed uncapped 80% guarantee to participating lenders i.e., a guarantee that any participating lender in the scheme will receive a reimbursement of 80% of the value of any default on a loan drawn through the scheme.

- Making loan repayments affordable to eligible Brexit impacted businesses- to be achieved through competitively priced loans and the option for repayment periods of up to six years.
- Providing lending for loan purposes that are relevant to Brexit impacted businesses- including for working capital and investment purposes as well as some elements of refinancing.
- Minimising the cost to the exchequer of the scheme by leveraging a counter guarantee from the European Investment Fund (EIF) through the European Guarantee Fund (EGF) – the counter guarantee by the EIF resulting in the EIF being liable for part of the 80% reimbursement due to participating lenders when there is a default on a loan drawn through the scheme.

The SBCI was identified as the appropriate organisation to deliver the BILS on behalf of the Minister for Enterprise, Trade and Employment and the Minister for Agriculture, Food, and the Marine: the SBCI was established in September 2014 following Ireland's exit from the EU/IMF programme, to ensure that businesses could access funding when the private sector could not or would not provide funding. The Minister for Finance is the sole owner of the issued share capital of the SBCI, and a Board of Directors and three committees established by the Board oversee the activities of the SBCI.

The enactment of the Loan Guarantee Schemes Agreements (Strategic Banking Corporation of Ireland) Bill 2021 provided the Minister for Enterprise, Trade and Employment and the Minister for Agriculture, Food, and the Marine with the powers to enter into an agreement with the SBCI, which includes making a financial commitment to SBCI, to deliver the BILS on their behalf.

Implementation of the Act to date

Section 1 has defined the “relevant Minister” as the Minister for Enterprise, Trade and Employment or the Minister for Agriculture, Food, and the Marine.

Section 2 (*subsection 1*) has provided the relevant Ministers with the power to enter into agreements with the SBCI with the consent of the Minister for Finance and the Minister for Public, Expenditure and Reform, and **Section 2** (*subsection 2*) provides that the relevant Ministers, as part of any agreement, may commit a financial contribution to SBCI for the purpose of facilitating access to finance for qualifying enterprises.

Following receipt of consent from the Minister for Finance and the Minister for Public, Expenditure and Reform, an agreement was signed on the 7th of September 2021 between the Minister for Enterprise, Trade and Employment and the Minister for Agriculture, Food, and the Marine and the SBCI which set out the terms and conditions upon which funds would be provided by the relevant Ministers to SBCI for the delivery of the BILS. The agreement as signed allows for up to a maximum of €28,213,290 in funds to be provided by the Minister for Enterprise, Trade and Employment and the Minister for Agriculture, Food, and the Marine (on a 60:40 basis) to SBCI to make up to €330 million in lending available through the BILS.

The total committed contribution of all agreements in force under this Act stands at €28,213,290 and this is within the permitted €50 million aggregate limit defined in Section 2 (*subsection 3*) of the Act as the maximum amount in financial contributions that can be committed by the relevant Ministers to the SBCI across all active agreements.

As per **Section 2** (*subsection 4*) of the Act, the relevant Ministers have discharged all fees, costs and expenses that have fallen due for payment under the agreement to date by the provision of €13,766,666 to SBCI and this has allowed for the first tranche of €140 million in lending to be made available through the participating lenders of the scheme. As per the agreement, up to €190 million in further lending can be made available through the scheme and this is subject to the relevant Ministers providing additional funds of up to €14,446,624 to cover further fees, costs and expenses associated with the increased lending capacity.

Section 3 of the Act provides for the relevant Ministers to carry out a review of the operation of the Act, not later than 4 years after the commencement of this section. As all sections of the Act were commenced on the 4th of June 2021, a review of the Act will need to be carried out not later than the 4th of June 2025.

Section 4 of the Act provides that expenses incurred in the administration of the Act, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas. To date there has been no expenses incurred in the administration of the Act.

Section 5 provides for the short title and the commencement provision.

The Act was signed into law by the President on 25th May 2021 and the Loan Guarantee Schemes Agreements (Strategic Banking Corporation of Ireland) Act 2021 (Commencement) Order 2021 (S.I. No. 269 of 2021) was signed by the Minister for Enterprise, Trade and Employment on the 31st May 2021 with the 4th of June 2021 appointed as the date on which the Act came into operation.

Preliminary assessment of the functioning of the Act

The Act has been implemented in full, and this provided for the development of an agreement between the relevant Ministers and SBCI for the delivery of the BILS.

The BILS was launched through the first participating bank in October 2021. Two further banks and 5 credit unions joined thereafter, with all participating lenders available to take loan applications from January 2022.

Through leveraging the knowledge and lending experience of lenders with respect to their customers, the scheme has enabled urgently needed liquidity to be accessed by Brexit impacted SMEs (including primary producers), and small mid-caps as well as finance for investment purposes for those businesses looking to adapt in response to Brexit.

As of 4th April 2022, 634 loans have been approved to businesses to the value of €72.2 million. The higher uptake by agriculture, forestry and fishing, manufacturing, and the wholesale and retail trade sectors indicates that the scheme is assisting businesses and related jobs in sectors particularly exposed to Brexit.

The BILS will remain available to the end of December 2022 to ensure that an appropriate option for access to finance remains available to Brexit impacted SME over the coming period.