Banc Ceannais na hÉireann
Central Bank of Ireland
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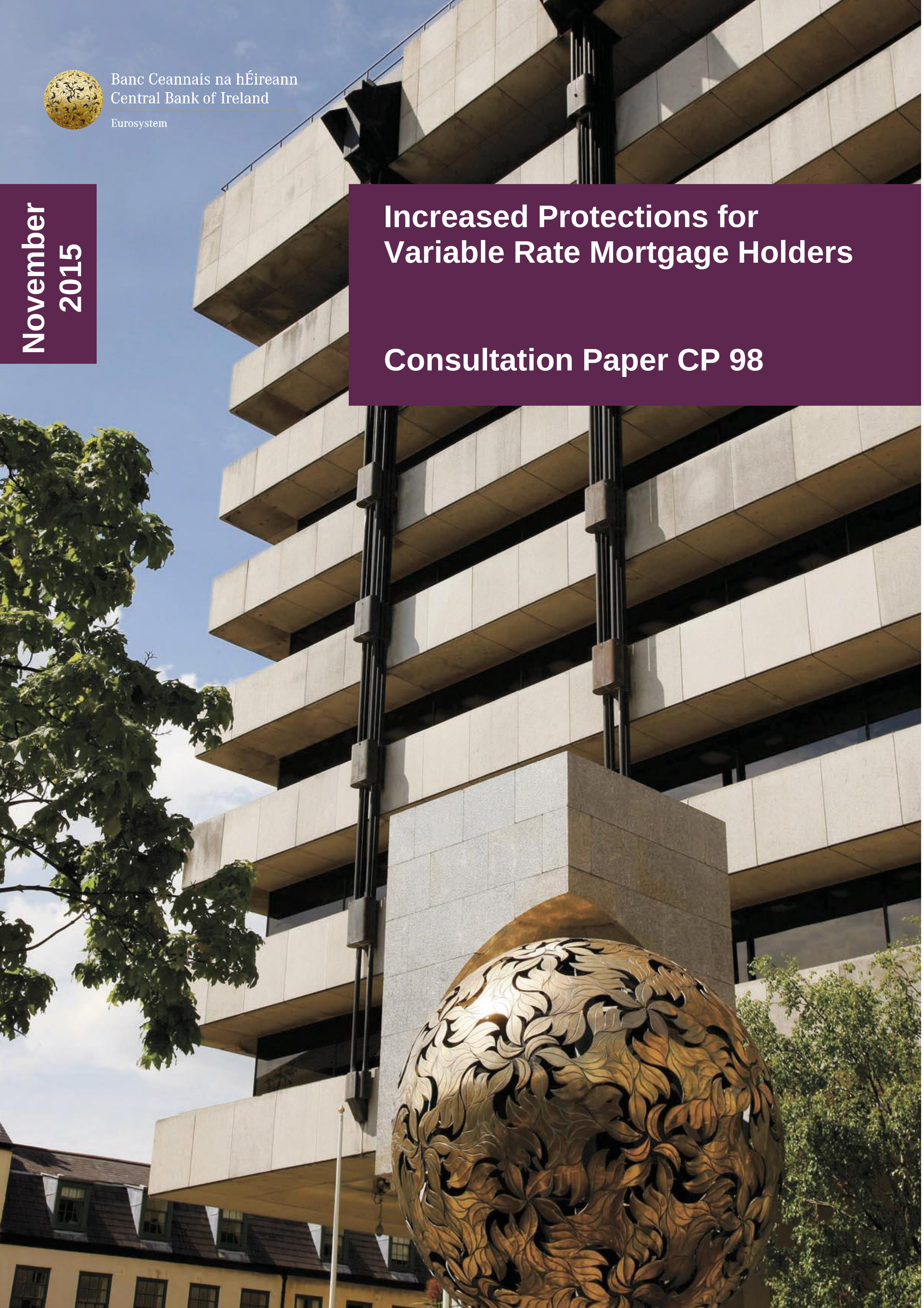

November 2015

Increased Protections for Variable Rate Mortgage Holders

Consultation Paper CP 98

1. Introduction

Taking out a mortgage is one of the biggest financial decisions most consumers make in their lives. In the case of a variable rate mortgage[1], a primary concern for consumers is the rate they will have to pay and how that may vary during the mortgage term. For fixed rate and tracker mortgages, a borrower not only has greater certainty and transparency in terms of actual rates, but also when the rates may change. For mortages where the lender has discretion to vary the rate, the same level of transparency does not exist. We believe there is scope for increasing the level of transparency of variable mortgage rates. The measures proposed in this consultation paper are aimed at increasing transparency and facilitating consumer choices.

These proposals would build on the strong consumer protection framework already in place to protect mortgage borrowers through the Central Bank's Consumer Protection Code 2012 and Code of Conduct for Mortgage Arrears, as well as the protections of the Consumer Credit Act 1995. These existing protections include information to be provided when a borrower is taking out a mortgage, suitability and affordability assessments and protections for borrowers who are in arrears.

2. Proposed enhancements to the Consumer Protection Code

The proposals on which we are consulting in this paper seek to strengthen the existing protections referred to above by requiring enhancements to the information lenders provide to consumers about variable rate mortgages. The Central Bank is also consulting on whether more notice should be given to borrowers about increases in variable rates.

This follows on from the work carried out by the Central Bank to date, which has identified a lack of clarity as to what the terms and conditions of variable rate

[1] References in this paper to 'variable rate mortgages' are to mortgages where the lender has a discretion to vary the rate.

contracts mean, how such rates are calculated and how such rates can change over time. Moreover, it seems clear that there are a number of non-financial barriers to mortgage switching that can, at least in part, be addressed by better transparency and more useful information being provided to borrowers. An Economic Letter[2] published by the Central Bank in July 2015, which explored the reasons for low mortgage switching rates, noted that non-financial costs, related to the complexity of the process or a lack of understanding of the potential savings, may act as a barrier to switching (including that borrowers may struggle to identify a possible saving through switching because of the complexity of the information available).

The detail of the proposed enhancements on which we are consulting are set out below. Annex 1 contains the specific amendments to the Consumer Protection Code 2012 that would be made were the Central Bank to introduce these measures.

The measures fall under the following headings:

(i) a new requirement on lenders to prepare and publish a variable rate policy statement;

(ii) a new requirement on lenders to give information on alternative product options; and

(iii) a request for views on whether to increase the period of notice required to be given to a borrower before a variable rate is increased and to require lenders to provide the reason for the rate change.

2.1 Variable rate policy statement

As mentioned above, there is a concern that the factors that may impact on the setting of a variable rate are not sufficiently clear for borrowers. Currently, borrowers are not informed of the factors that impact on the calculation of such interest rates and the criteria applicable to setting those rates. As part of a new proposed provision in the Consumer Protection Code 2012, lenders will be required to publish on their websites a summary statement of their policy for setting a variable mortage rate. As part of the summary statement, lenders will be

[2] Economic Letter published by the Central Bank in July 2015, entitled 'Switch and Save in the Irish Mortgage Market?

required to:

(i) clearly and unambiguously identify the factors which may result in changes to the variable rate;

(ii) outline the criteria and procedures applicable to setting the rate; and

(iii) clearly outline where the regulated entity applies a different approach to setting the rate for different cohorts of borrowers.

When a lender offers a variable rate mortgage to a borrower, the lender would be required to include the summary statement in the offer document. Lenders would also be required to notify variable rate mortgage borrowers in the event of a change to the lender's summary statement and make available an updated summary statement on their website.

The Central Bank is considering whether the format and content of the information to be provided under this requirement should be prescribed (while not interfering with the contractual relationship between the parties or the commercial decision of lenders as to how to contruct their variable rate mortgages). The Central Bank considers that this may be appropriate in this instance. In particular, we believe that a common approach to format and content would lead to easier comparability for consumers.

Question 1: What are your views on the proposals outlined above?

Question 2: Do you have any suggestions in relation to the format of the summary statement or the level of detail which should be contained in the statement?

Question 3: Do you have any views on the proposal that the Central Bank would prescribe the format and content of the information to be provided in the summary statement?

2.2 Information on alternative product options

As mentioned above, there appears to be non-financial barriers to mortgage switching that can, at least in part, be addressed by better transparency and more useful information being provided to borrowers. Under the Central Bank's proposals, lenders will be required to provide variable rate mortgage holders with a summary of other mortgage products provided by that lender that may provide savings for the borrower and details of where the borrower can obtain further information on these products. This would be required to form part of the annual statement of account already required to be sent to borrowers under provision 6.5 of the Consumer Protection Code 2012. We also propose that this information be included in the notification of an increase in a variable rate, under provision 6.6 of the Consumer Protection Code 2012.

As part of this amendment to provisions 6.5 and 6.6 of the Consumer Protection Code 2012, lenders will also be required to provide the borrower with information about where he or she can obtain further information on these products and include a link to the mortgage switching section on the Competition and Consumer Protection Commission's website (www.consumerhelp.ie)[3].

Question 4: Do you have any views on the proposals that the lender will be required to give variable rate mortgage holders information on alternative options?

2.3 Notice of forthcoming interest rate increase

Currently, lenders are required to give at least 30 days' notice of a forthcoming change to a variable rate on a mortgage loan, other than a tracker rate[4]. The Central Bank is considering whether to extend this 30-day notification period in order to give affected borrowers more time to consider their options and to ensure that borrowers are provided with sufficient time in advance of an interest rate increase to allow them to plan ahead and address any affordability issues. It would also allow them more time to consider changing to another mortgage product with their existing provider or seek a lower rate with another provider, including time to shop around and complete the switching process.

[3] The CCPC provides independent information on mortgage switching at www.consumerhelp.ie/index.jsp?a=212&n=321&p=313 including a mortgage switching comparison tool http://compare.consumerhelp.ie/Mortgage

[4] In the case of a tracker interest rate, the Code requires lenders to inform the borrowers as soon as possible and no later than 10 business days after becoming aware of a change in the underlying rate being tracked.

The Central Bank's Economic Letter on switching points out that borrowers may defer switching because they believe it is important and warrants additional time and effort. In this regard, an increased notification period would assist in providing sufficient time for a borrower to consider the information provided and to shop around before they are affected by such an interest rate increase.

The Central Bank believes that the proposed measures, properly implemented, will ensure that clear, useful information on switching is provided to borrowers at the point in time that it is most useful to them, prompting them to consider whether to take action. On the other hand, the extent of any such increase in the notification period would have to be balanced against the overall impact on the market of constraining the lender's flexibility in relation to variable rates and the avoidance of any unintended consequences.

The proposed changes to the Consumer Protection Code 2012 would not impact on the discretion of a lender to decrease a variable rate, the timing and notification for which would remain a matter for the individual lender (Note: we are also clarifying this point on the current 30 day requirement more generally in the attached amendment by amending the word 'change' in provision 6.7 of the Code to 'increase', in line with guidance previously given to industry on the interpretation of this provision of the Code.)

As part of the amendments to provision 6.6 of the Consumer Protection Code 2012, we are also proposing to require the lender to include in the notification the reason for the change in the interest rate.

Question 5: Do you have any views on the proposal to increase the notification period?

Question 6: If you agree that the notification period should be increased, what do you consider to be an appropriate notice period in order to achieve the objectives set out above**?**

Question 7: Do you have any views on the proposal to require the lender to include the reason for the change in the rate in the notification of an increase in a variable interest rate?

Making your submission

The closing date for submissions is 12 February 2016. Comments and views are welcome from all parties on the issues highlighted in this paper and the proposed enhancements to the provisions of the Consumer Protection Code 2012. The Central Bank will consider feedback it receives on the proposals outlined and questions asked in the consultation paper.

The Central Bank requests that submissions which put forward arguments for changes to the proposals be supported, where possible, by evidence which will aid its consideration of the issues.

Please make your submissions in writing and, if possible, by e-mail (see details below). When addressing any issue raised in this paper, please use the headings in this paper to identify the section you are referring to. If you are raising an issue that is not referred to in this paper, please indicate this in your submission.

The Central Bank intends to make submissions available on its website after the deadline for receiving submissions has passed. Because of this, please do not include commercially sensitive material in your submission, unless you consider it essential. If you do include such material, please highlight it clearly so that reasonable steps may be taken to avoid publishing that material. This may involve publishing submissions with the sensitive material deleted and indicating the deletions.

Despite the approach outlined above, the Central Bank makes no guarantee not to publish any information that you deem confidential. So be aware that, unless you identify any commercially sensitive information, you are making a submission on the basis that you consent to it being published in full.

Please clearly mark your submission 'Variable rate mortgage consultation' and send it to:

Consumer Protection: Policy & Authorisations Division
Central Bank of Ireland
PO Box 9138
6 - 8 College Green
Dublin 2
E-mail: code@centralbank.ie

Annex 1 – Proposed enhanced requirements

It is proposed that the measures outlined in this paper would be imposed via amendments to existing requirements in the Consumer Protection Code 2012. Draft provisions are set out in the table below and new requirements, as well as amendments to existing requirements, are highlighted for ease of reference.

Type of Requirement	Draft requirement
	New Provision
Disclosure - Information for general public	(1) A ***regulated entity*** must prepare a summary statement of its policy for setting each mortgage rate for a ***personal consumer*** that is variable. This summary statement must: • Clearly and unambiguously identify the factors which may result in changes to the variable rate; • Outline the criteria and procedures applicable to the setting of the variable interest rate; and • Clearly outline where the regulated entity applies a different approach to setting the variable rate for different cohorts of borrowers. (2) The summary statement must be in such form and must contain such content as the Central Bank may from time to time specify. (3) Where a ***regulated entity*** operates a website, it must publish the summary statement referred to in subparagraph (1) on such website.
	Amendment to Provision 4.29
Disclosure - Information provided at point of sale	Where a ***regulated entity*** offers a mortgage to a ***personal consumer***, the ***regulated entity*** must include in the offer document: a) the amount of the mortgage; b) the interest rate that applies to the mortgage at the date of offer; c) the term of the mortgage; d) where there is a possibility that the interest rate set out in the offer document may not be the interest rate applicable

	when the mortgage is drawn down, this must be clearly highlighted. The offer document must also outline the circumstances that would result in such a change to the interest rate; e) the length of time for which the mortgage offer is valid, assuming that all details provided by the ***personal consumer*** are correct and do not change; and f) in the case of a mortgage with a variable rate, a summary statement, prepared in accordance with provision X (refer to new provision above).
	New provision
Disclosure – Information provided on an ongoing basis	Where a ***regulated entity*** makes a change to its summary statement produced in accordance with provision X (refer to new provision above), it must notify affected ***consumers*** on paper or on another ***durable medium*** of the change as soon as possible and make available an updated summary of its policy.
	Amendment to provision 6.5
Disclosure - Information provided on an on-going basis	In relation to loans, a ***regulated entity*** must, at least annually, provide to a ***personal consumer*** a statement of the account which includes: a) the opening balance; b) all transactions; c) all interest charged; d) all ***charges***; e) the outstanding balance due; f) details of the interest rate(s) applied to the account during the period covered by the statement; and g) in the case of a mortgage with a variable rate, excluding a ***tracker interest rate***: (i) a summary of other products provided by the regulated entity that may provide savings for the ***personal consumer*** at that point in time, and (ii) details of where the ***personal consumer*** can obtain further information on these products and a link to

	the mortgage switching section on the Competition and Consumer Protection Commission's website, www.consumerhelp.ie. (iii) a reminder that the lender's summary statement produced in accordance with provision X (refer to new provision above) is available on its website.
	Amendment to provision 6.6
Disclosure - Information provided in advance of an interest rate increase	A ***regulated entity*** must notify affected ***personal consumers*** on paper or on another ***durable medium*** of any change in the interest rate on a loan. This notification must include: a) the date from which the new rate applies; b) details of the old and new rate; c) the revised repayment amount; d) an invitation for the ***personal consumer*** to contact the lender if he or she anticipates difficulties meeting the higher repayments; and e) in the case of an increase in the interest rate on a mortgage with a variable rate, excluding a ***tracker interest rate***: (i) the reason for the change in the rate; (ii) a summary of other products provided by the regulated entity that may provide savings for the ***personal consumer*** at that point in time; and (iii) details of where the ***personal consumer*** can obtain further information on these products and a link to the mortgage switching section on the Competition and Consumer Protection Commission's website, www.consumerhelp.ie. In the case of a mortgage where a revised repayment arrangement has been put in place in accordance with the Code of Conduct for Mortgage Arrears, the notification must clearly indicate the revised repayment amount required in Part c) that applies to the revised repayment arrangement.
	Amendment to provision 6.7
Notification	A ***regulated entity*** must provide the notification required under

period	Provision 6.6 to a ***personal consumer*** as follows: a) in the case of an increase in the interest rate on a mortgage with a variable rate, excluding a ***tracker interest rate***, the notification must be provided at least X days in advance of any increase; b) in the case of a ***tracker interest rate***, the ***regulated entity*** must provide the notification required under Provision 6.6 as soon as possible, and no later than 10 ***business days*** after the ***regulated entity*** becomes aware of a change in the underlying rate being tracked; c) for loans other than mortgage loans, where the following conditions are satisfied, the ***regulated entity*** does not need to provide the notification required under Provision 6.6: i. the change in the interest rate is caused by a change in a reference rate which changes on a daily or weekly basis; ii. the new reference rate is made publicly available by appropriate means; and iii. information concerning the new reference rate is kept available on the premises of the ***regulated entity;*** d) in other cases covered by Provision 6.6, at least 30 days in advance of any increase in the interest rate.

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