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Mr. Pearse Doherty T.D.
Dáil Éireann
Kildare Street
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9 November 2022

Re: Properties affected by Defective Concrete Blocks & Forbearance Measures by Retail Banks and Lenders

Dear Deputy Doherty

Thank you for your email to the Governor dated 11 October 2022, regarding properties affected by defective concrete blocks & forbearance measures by retail banks and lenders.

Taking each of your questions in turn:

1. Should there be a common approach for lenders dealing with this issue?

As you will be aware, the Central Bank has responsibility for the regulation and supervision of regulated financial services firms. In line with our mandate and in the context of the broader consumer protection framework in place, we set out requirements in the codes of conduct which detail how regulated firms, such as banks, retail credit firms and credit servicing firms, should deal with and treat their customers.

We understand the difficult situation being faced by homeowners whose properties are affected by defective concrete blocks. In cases where this results in consumers facing arrears on their mortgage, the Code of Conduct on Mortgage Arrears 2013 (CCMA) provides a framework which requires that regulated entities have fair and transparent processes in place for dealing with borrowers in, or facing, mortgage arrears and is part of the national policy framework of supports and protections available to assist borrowers in financial difficulties.

In reply to your question therefore on whether there is (or should be) a common approach by firms to arrears faced by consumers due to defective building blocks, it would be our view that the CCMA provides the common high standard approach that should apply to all arrears cases,



whatever their circumstances. As I know you will be aware from your own work in this field, this framework has been tested and evolved over the course of dealing with arrears arising from the global financial crisis.

Turning then to dealing with any given case of arrears, consistent with the CCMA, it is our view that a case-by-case assessment, which takes into account individual borrower circumstances, is the most suitable way to achieve an appropriate and sustainable solution. The CCMA sets out the common process that entities must follow when a borrower is in or facing difficulties with their mortgage payments. It requires that regulated firms have regard to the fact that each case is unique and needs to be considered on its own merits and with a view to resolving arrears in the context of its individual circumstances. All cases must be handled sympathetically and positively by the regulated entity, with the objective at all times of assisting the borrower to meet his or her mortgage obligations. Our most recent data, [published in September 2022](#), shows that over 63,000 principal dwelling house (PDH) mortgage accounts were categorised as restructured at end June 2022, representing 9 percent of the total PDH mortgage accounts outstanding.

Entities must explore all of the options for alternative repayment arrangements (ARAs) offered by that entity, in order to determine which ARA, if any, is appropriate and sustainable for the borrower's individual circumstances. Supports, including payment breaks, are among a number of ARAs that are available to borrowers. We continue to encourage borrowers who are currently dealing with financial difficulties, or are concerned about potential difficulties, to engage as early as possible with their lenders and to provide the information required to enable an assessment of their individual circumstances.

The CCMA also provides for an appeals mechanism, including where the firm declines to offer an ARA, where the borrower is not willing to enter into an ARA offered, or where the entity classifies the borrower as not co-operating. The nature of lender forbearance measures can vary and remain a decision for the individual institution, based on the individual circumstances of borrowers. In addition, as you are aware, any consumer (as defined in the Consumer Protection Code¹) who is not satisfied with how a regulated firm is dealing with them in the course of providing a service, can also make a formal complaint directly to the regulated firm. If a consumer is not satisfied with how their formal complaint is dealt with, they have the option of making a complaint to the Financial Services and Pensions Ombudsman (FSPO), who has a broad remit to consider complaints from consumers by reference to the individual circumstances of their complaint. Further details can be found at the link [here](#).

¹ You may wish to note that this definition includes a potential consumer and extends beyond individuals to include enterprises of a limited size



2. *Has the Central Bank undertaken supervision in this area?*

The Central Bank's continued supervision of all firms engaging with borrowers in mortgage arrears includes frequent engagement with firms (including senior management in those firms), file review and ongoing industry communications. We also continue to supervise and challenge firms on the adequacy of and use of their forbearance measures. Our supervisory engagement indicates that firms are responding to this challenge, and are reviewing their range of solutions for all borrowers facing a range of challenging circumstances. This supervisory work would cover the full range of arrears and pre-arrears cases that firms encounter, and so (while we have not singled out defective concrete block cases as a specific item) would cover cases arising on foot of the circumstances outlined in your email.

As part of this work, we are always keen to hear of any issues or experiences consumers may have which would inform our supervisory engagements, and the work described above has included (for example) intervention with particular firms on specific issues raised with us by members of the public who contacted us. Accordingly, should you have any such specific information you wish to share with us we would be grateful to receive it.

3. *How such loans are classified on lenders' balance sheets*

Loans are classified by lenders as non-performing if there are material exposures which are more than 90 days past due, or the borrower is assessed as 'unlikely to pay' their credit obligations in full without realisation of collateral. Both the repayment levels and the value of the collateral will determine the extent of provisioning/capital set aside for each loan. This can include adjusting the provisioning for any exposures held to homes affected by defective concrete blocks - both the level of provisions on the mica impacted 'performing' loans, and the mica impacted 'non performing' loans.

The Central Bank is particularly conscious that this is a challenging time for consumers, families and businesses. We expect financial service providers to play their part in supporting their customers, particularly vulnerable consumers and those in or facing financial difficulties. I hope this outline of our approach is helpful to you, and I wish to repeat once again that if you have any specific information on consumer experiences or issues faced which you wish to share with us in the context of our supervisory work please do so.

Yours sincerely,

A handwritten signature in blue ink that reads "Colm Kincaid".

Colm Kincaid
Director of Consumer Protection