



# CONSUMER PROTECTION CODE REVIEW

AIMA Submission on the Discussion Paper

March 2023



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## **Introduction**

The Association of Irish Mortgage Advisors (AIMA) represent the interests of our expert and qualified members whilst promoting professional standards and industry development at all times.

We consistency and proactively engage with industry stakeholders to deliver an ultimately rewarding customer experience.

Given the focus of our membership, the majority of our responses contained in this paper derive from a mortgage perspective and how it relates to the questions raised.

The AIMA welcomes the opportunity to contribute to this Discussion Paper on the Consumer Protection Code and our ongoing proactive engagement with relevant departments within the Central Bank.

We hope our contribution to the Discussion Paper assists the Central Bank in its overall and timely review of the Consumer Protection Code so as to ensure it is relevant and effective in an ever-changing financial services landscape and continues to provide protection for consumers into the future.

## **Broad Theme A – Availability and Choice**

### **Q.1 What are your views on availability and choice of financial services and products for consumers?**

As a result of the departure of KBC Bank & Ulster Bank, who previously accounted for approximately 25% of all new mortgage lending in Ireland and the more recent effective market withdrawal by Finance Ireland and ICS Mortgages (as a result of their funding model), there is currently a severe lack of availability and choice of mortgage products for consumers. On the basis of the above, it is arguable that existing providers are not required to be as competitive and innovative as they would have been 12 months ago. If the above were to continue in the longer term, it would create a negative impact on customers. The role of the mortgage intermediary is therefore essential in ensuring customers get market-based advice on all aspects of their mortgage and in a normal market the existence of mortgage intermediaries can effectively serve as a price and competition regulator for mortgage lenders.

### **Q.2 How important are new providers and new delivery channels to serving consumers' financial needs?**

Leading on from the above, new providers and new delivery channels are urgently required to service mortgage customers' needs and requirements. They encourage innovation and product and price competitiveness. Therefore, new providers and new delivery channels are very important in serving consumers financial needs.

### **Q.3 In implementing its consumer protection mandate, how should the Central Bank reflect the importance of competition in its regulatory approach?**

It can certainly be argued that it is very important, in implementing its consumer protection mandate, the Central Bank should be mindful of the importance of competition in its regulatory approach. This would serve to support a more diverse and fluid market by:

1. Ensuring reduced influence by the dominant incumbents
2. Fostering and protecting new market entrants



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In such a relatively small market, it is vital that the Central Bank use all reasonable endeavours to ensure that the more dominant incumbents provide a product range and service with no differentiation regardless of origination or customer type.

Our mortgage market is relatively small in terms of potential size, therefore the opportunity for new entrants can potentially be limited or viewed commercially unviable.

Given these limitations, it is incumbent on the Central Bank to develop a best-in-class regulatory approach that makes market entry and existence fast, efficient and effective. This is not to suggest a reduction in current regulatory requirements and due diligence.

## **Broad Theme B – Firms Acting in Consumers’ Best Interests**

### **Q.4 Do you agree that the Central Bank should develop guidance on what it means for a firm to act in the best interests of its customers?**

AIMA members as regulated mortgage intermediaries would welcome a clear definition of what is meant by “acting in the best interest of its customers”.

However, we believe that this definition should not be prescriptive. A prescriptive definition could potentially stifle creativity, innovation and choice. We believe firms should be able to retain some level of flexibility to allow this innovation and creativity with the ultimate aim of securing the best interests of their customers.

### **Q.5 Does the suggested outline of ‘customer best interest’ guidance capture the essence of the obligation to act in customers’ best interests? What other guidance would you suggest?**

Yes, we believe that the suggested outline of ‘customer best interest’ guidance captures the essence of the obligation to act in customers’ best interests.

In addition, and in our opinion, there are 2 areas which could be addressed:

1. Currently, consumers are provided with a significant volume of information which often serves to cause confusion. This information is provided on the basis of current legal and regulatory requirements. We believe that streamlining this information in an orderly manner could alleviate some of this confusion and create a better understanding of products and services for the consumer.
2. The introduction of an Industry led specific Financial Literacy Program at schools’ level would greatly enhance a better understanding of financial products for consumers.

## **Theme 1 – Innovation and Disruption**

### **Q.6 Do you agree with our proposed approach to enhancing our Innovation Hub?**

Yes, AIMA members agree with and welcome the proposed approach to enhancing the existing Innovation Hub. Unfortunately, our members have not had the opportunity to engage formally with the Innovation Hub to date.

Future participation in conjunction with other relevant parties would be welcomed and ultimately such interaction and engagement would be to the benefit of consumers.

### **Q.7 What more should be done to support innovation while ensuring consumers' best interests are protected?**

AIMA members believe that constant innovation is essential to the development of the mortgage market in Ireland. This ranges from the initial provision of information to potential consumers to the drawdown of mortgages and the ongoing provision of relevant and easily accessed information for the life of the mortgage. Any proposed innovation should have the consumers best interest at the heart of it.

We would welcome engagement with all relevant parties regarding innovation within the mortgage market.

In terms of supporting innovation while ensuring consumers' best interests are protected, it is important for all regulated entities to understand the various technological capabilities of all customers and their general financial literacy. On this basis, any innovation must be balanced, ensuring access, understanding and ease of use for all consumers.

On a practical level, innovation and its development should also extend to the Central Bank's engagement with regulated entities. We welcome all steps taken to date in this regard.

### **Q.8 How can regulators ensure that neither firms currently in the market, nor new entrants, have unfair advantages which could be a barrier to fair competition?**

We strongly believe that a level playing field exists for all financial services providers in terms of rules and requirements. Equally, regardless of the product or service provider, all consumers should be afforded the same level of consumer protection. Therefore, any new market entrants should be subject to the same requirements as existing market participants.

## **Theme 2 – Digitalisation**

### **Q.9 Do you agree with our analysis of the benefits, challenges and risks around digitalisation in the area of financial services? What are the key issues for you?**

Yes, the AIMA broadly concurs with the Central Bank's assessment of the benefits, challenges and risks around digitalisation in the area of financial services. We believe that there are clear benefits in terms of consumer access, ease of same and the convenience of accessing their financial services provider and the availability of financial services at a time and place that suits the consumer.

In order to satisfy customers' needs and requirements in a digital era, financial service providers need to be easily and instantly accessible to their customers. A large number of our member firms have embraced digital onboarding technology platforms to facilitate an easier mortgage application process for their customers.

The impediments outlined in the Discussion Paper including the threat of fraud, the sharing of personal data and in some cases, financial exclusion are real. All participants in the market should be cognizant of the fact that many consumers are unaware of the risks involved when engaging digitally with a product provider. This is one of the main reasons why we believe that it is essential to develop and implement a Financial Literacy Program as standard for all secondary school students.

### **Q.10 How do you think the personalisation and individual-targeting of ads can be made compatible with the requirement for firms to act in the best interests of customers?**

AIMA believe that when used correctly, both the personalisation and individual-targeting of ads can help and benefit consumers. It will target and identify customers in an appropriate manner and provide those relevant customers with an opportunity to engage with financial services providers without impacting customers who have no requirement to engage.

The aforementioned suggestion to introduce a Financial Literacy Program in secondary schools would provide those potential customers with the confidence to engage digitally and interact appropriately whilst understanding the risks involved.

## **Theme 3 – Unregulated Activities**

### **Q.11 The Code requires regulated firms to provide a statement indicating that they are ‘regulated by the Central Bank’. Do you think this is useful for consumers?**

Yes, we do believe that providing a statement indicating that firms are ‘regulated by the Central Bank’ is useful as it provides a level of comfort and reassurance to consumers. Perhaps it would be worthwhile for the Central Bank to engage in some customer focus groups to further investigate this thought process and obtain important customer feedback regarding the matter.

Where a customer seeks confirmation of a firm’s regulatory status, perhaps having the appropriate registers available in a more prominent and easily accessible location on the Central Bank website would be appropriate.

### **Q.12 How can the difference between regulated and unregulated activities be made clearer for consumers?**

We believe that this question would be best answered by consumers through suitable customer focused workshops.

AIMA members would suggest that a consistent media campaign raising awareness around the potential issues in dealing with unregulated forms and activities would be highly beneficial for consumers. In order to target all potential customers, such a campaign should span the breadth of all media platforms.

### **Q.13 Should there be additional obligations on regulated firms when they undertake unregulated activities?**

Our understanding is that many consumers most likely believe that if a firm is regulated for a specific activity that this regulation extends to all activities, when in fact it is not the case. Whilst noting existing requirements for firms to inform customers when a particular activity is not regulated, perhaps in such instances, firms should be obliged to bring their unregulated activities to the forefront of all their promotional materials publications, website and any other media or advertising platforms utilised.



## **Theme 4 – Pricing Matters**

### **Q.14 What can firms do to improve transparency of pricing for consumers?**

Whilst there is existing legislation in place which AIMA members believe sufficiently addresses the requirement for transparency of pricing for consumers, difficulties can arise at times. This can occur when consumers are trying to compare similar products across the markets as the pricing transparency requirement does not apply to all providers. This is notwithstanding the provision by the Competition and Consumer Protection Commission (CCPC) to provide a comparison website of the products set out in the Payment Accounts Services List. We believe that a streamlined process should be established in order to ensure consistency and ultimately transparency of pricing for consumers.

### **Q.15 In relation to pricing, are there examples of firms using unfair practices to take advantage of customer vulnerabilities?**

In the context of the mortgage market, it is our understanding that there are approximately 85,000 mortgage customers in Ireland, whose mortgage are owned by funds, which do not offer fixed rate mortgage products. In the current increasing interest rate environment, this is disconcerting for many of these customers and in our opinion this practice is unfair.

It is particularly true for a number of these mortgage customers who cannot switch mortgage providers for a variety of reasons. For example, an inability to demonstrate mortgage repayment capacity and/or due to historical arrears profiles. We believe that this matter should be addressed urgently as if it is not there is significant potential for a new wave of mortgage arrears. This is not in the interest of any party.

## Theme 5 – Informing Effectively

### Q.16 How can regulation improve effectiveness of information disclosure to consumers?

It is essential in all disclosures that the use of “Plain English” is in place at all times and that no industry jargon is used, for example “APRC”. In the experience of our members, many mortgage customers are confused by this acronym and in practice consumers are extremely confused by its actual relevance to them. This is on the basis that a switcher culture is developing in the mortgage market, meaning that consumers often do not roll off onto variable rates applicable only at the time of borrowing as they switch provider post fixed rate or indeed fix their mortgage again with the same provider.

Equally, another example is the requirement for relevant documentation to state the impact of a 2% interest rate increase in the prevailing variable rate when the consumer is availing of a fixed rate mortgage offer. This requirement can often lead mortgage customers to be concerned as to the validity of their fixed rate. Notwithstanding this, the requirement to stress test mortgage finance is fully understood and is a welcome and prudent approach.

At all times a literacy friendly approach should be adopted by regulated firms as there is an overwhelming amount of information that some customers find difficult to digest and understand.

AIMA members believe that the issue of regulation to improve effectiveness of information disclosure to consumers should form part of a wider financial literacy program for consumers as outlined earlier in this submission.

### Q.17 How can firms’ better support consumers’ understanding – can technology play a role?

Technology and its advancements play a very important role in better supporting consumers understanding of products and services. However, in our opinion, ultimately, “people” and a personal touch are required to fundamentally assist and support customers understanding. A one size fits all approach does not satisfy all consumers requirements.



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**Q.18 Does the way in which firms approach disclosure in respect of mortgage products need enhancing? If so, how? - taking account of the wide variety of features of mortgage products, and borrowers' different circumstances and needs.**

Firms are required to disclose information in respect of mortgage products as set out in the current Consumer Protection Code. There is a real concern that we are fast approaching information overload from a consumer perspective. Unfortunately, the more information consumers are requested to read and acknowledge, the less likely they are to do so. This can lead to information gaps and potentially significant issues down the road.

We propose that all disclosure in respect of mortgage products in the context of ultimately creating disclosures should be brief, concise, written in Plain English and effective in their messaging.

If this is not done, regardless of the best efforts of all regulated entities, we may see consumers simply providing their signature on documents so as to simply "tick a box".

## Theme 6 – Vulnerability

### **Q.19 Given that vulnerability should be considered more as a spectrum of risk than a binary distinction, how should firms' duty to act in their customers' best interests reflect this?**

In our opinion, the definition of vulnerability needs to be broadened and take into consideration that vulnerability may not be a permanent feature of a consumer's character, in the same way that there may be a graded level of vulnerability as opposed to a definitive yes or no answer to the question.

At all times firms should be aware of this and take the the entire lifecycle of the consumer's relationship into consideration.

The Assisted Decision Making (Capacity) Act 2015 (as amended) (the 2015 Act) should be considered and referenced in the revised Code.

### **Q.20 What other specific measures might be adopted to protect consumers in vulnerable circumstances while respecting their privacy and autonomy?**

At this time, we have no additional specific measures to be adopted. However, AIMA members believe that any measures or requirements introduced by the revised Code regarding vulnerability, complement and enhance the existing practices and procedures so as to achieve best practice and ultimately ensure the best consumer outcomes.



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## **Theme 7 – Financial Literacy**

### **Q.21 What can the responsible authorities do to improve financial education?**

As already outlined in this document, a literacy friendly approach should be adopted in relation to all regulation to which consumers are exposed. This starts with financial education and should be a mandatory program in all secondary schools. All stakeholders should participate in designing a collaborative approach and utilize all platforms to promote its existence.

### **Q.22 How can consumers be empowered to better protect their own interests when dealing with financial matters?**

In our opinion, this question would be best addressed by engaging directly with consumers to understand their needs and requirements in this area. Having done so, regulated firms can design and implement information portals and platforms to enable consumers to empower themselves appropriately. In the interim, firms should that all relevant information is easily accessible and obtainable by consumers.

## **Theme 8 – Climate Matters**

**Q.23 How should the financial system best fulfil its role in supporting the transition to a climate neutral economy?**

**Q.24 How will climate change impact on availability, choice and pricing for financial products and services?**

**Q.25 Does the impact of climate change require additional specific consumer protections?**

As mortgage intermediaries, we acknowledge, support and are committed to transitioning to a climate neutral economy. It is a complex area which requires input and collaboration from all industries to ensure success in achieving a carbon neutral economy for all citizens.

As regulated firms this requires significant resourcing and expertise to implement successfully.

AIMA members are actively encouraging its customers of the benefits of choosing “green” financial and lending products.

We specifically welcome the introduction of appropriately priced “Green Mortgages” for energy efficient properties (BER rating A1 - B3). This will encourage consumers to purchase and create greener homes.

We also note the introduction of similar other “Green” products by lenders which will also encourage proactive activity in this space.

Current legislative proposals are emanating from the EU and any provisions being considered for adoption within the revised Code should be consistent with and enhance EU requirements.