



FINANCIAL REGULATOR
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Re: Desk Based Review of Tracker Rate Mortgage Switches (“the Review”)

Dear <<Greeting>>

I refer to the Financial Regulator’s letter of 7 April 2009 regarding the difficulties faced by some mortgage customers in meeting their repayments and a follow up letter of 24 July 2009 issued to certain mortgage lenders seeking further information in relation to:

- a) the number of mortgage customers who switched from a tracker rate mortgage in the period between April 2008 and March 2009; and
- b) correspondence issued to these customers.

The purpose of this letter is to provide general feedback to all mortgage lenders in relation to the information gathered and analysed as part of the Review and on issues that have arisen since the review commenced. Issues identified with specific mortgage lenders are being followed up separately.

1. Communications with Tracker Rate Mortgage Customers

As you are aware, the Consumer Protection Code (“the Code”) contains the following General Principles which state that:

- *“a regulated entity must ensure that..... it ... acts honestly, fairly and professionally in the best interests of its customers and the integrity of the market”;*
- *“a regulated entity must ensure that...it ... acts with due skill, care and diligence in the best interests of its customers”;*
- *“ a regulated entity must ensure that... it ...does not recklessly, negligently or deliberately mislead a customer as to the real or perceived advantages or disadvantages of any product or service”;*
- *“a regulated entity must ensure that... it ... makes full disclosure of all relevant material information, including all charges, in a way that seeks to inform the customer”;* and
- *“a regulated entity must ensure that... it ... complies with the letter and spirit of this Code”.*

Requirement 12 of Chapter 2 of the Code states that *“a regulated entity must ensure that all information it provides to a consumer is clear and comprehensible, and that key items are brought to the attention of the consumer. The method of presentation must not disguise, diminish or obscure important information”.*

It was noted from the customer communications submitted as part of this Review that it was not always clear that if a customer moved from a tracker rate mortgage to an alternative interest rate (fixed, variable or other rate), for any reason (e.g. customer initiated switches, switches as a result of changes to terms and conditions, etc.), that their agreed tracker rate or an alternative tracker rate may not be available again in the future. This is of particular relevance to customers who switched from their tracker rate after the lender ceased offering tracker rate mortgages.

In order to address this matter the following steps are being taken:

As you are aware, on 5 July 2010, the Mortgage Arrears and Personal Debt Expert Group, established by the Government in February 2010, issued its Interim Report. The Report sets out a recommended process for dealing with mortgage arrears and makes specific recommendations in relation to the Code of Conduct on Mortgage Arrears (“CCMA”). The Financial Regulator has reviewed the CCMA in light of these recommendations and has also taken account of issues that have arisen since the implementation of the CCMA.

Provisions 34 and 35 of the revised CCMA refer to tracker rate mortgages and state that:

- The lender must not require the borrower to change from an existing tracker mortgage to another mortgage type.
- In the case of arrears on a tracker mortgage, where an alternative repayment arrangement includes a fixed interest period, the borrower must be permitted to revert to the original tracker rate at the end of the fixed interest period.

While the revised CCMA is currently the subject of an industry consultation, the Head of Financial Regulation, Mr Matthew Elderfield, wrote to mortgage lenders in advance of this work requesting them to familiarise themselves with the recommendations of the Report and to begin preparations for the implementation of these recommendations in advance of this formal consultation. We expect that this work is continuing to ensure that the recommendations can be implemented as quickly as possible.

In all other circumstances, the Financial Regulator is of the view that customers should be informed of the impact of any switch from a tracker mortgage rate on all customer communications regarding such a switch. In this regard the following information must be set out in all communications with tracker rate mortgage customers prior to any change in rate, for any reason, *with immediate effect*:

1. Indicative comparisons of the cost of monthly repayments of the customer's current tracker rate mortgage and the rates being offered; and
2. Details of the advantages and disadvantages of both the tracker mortgage rate compared to the other rates being offered.

Further, where a mortgage lender deems its commitment to an agreed tracker rate as being at an end following a switch in rate, the mortgage lender must provide a clear statement in all communications that if the customer avails of an alternative interest rate type that they will lose the ability to avail of a tracker rate mortgage in the future. In this regard the following wording must be included in a

prominent position in all communications with these tracker rate mortgage customers prior to any rate change, for any reason, *with immediate effect*:

- ***Switches to Fixed Rates***

If you avail of a Fixed Rate, our tracker rate commitment to you is deemed to be at an end and the lender's prevailing Standard Variable Rate will apply on expiry of this fixed term. For the avoidance of doubt, we wish to advise you that if you avail of a Fixed Rate, you will lose the ability to avail of a Tracker Rate Mortgage in the future.

- ***Switches to Standard Variable Rates or Other Rates***

If you avail of a Standard Variable Rate or Other Rate, our tracker rate commitment to you is deemed to be at an end. For the avoidance of doubt, we wish to advise you that if you avail of a Standard Variable Rate or Other Rate, you will lose the ability to avail of a Tracker Rate Mortgage in the future.

Specific wording to be included on customer communications regarding switches from tracker rate mortgage will be considered in the context of the Code review.

2. Cooling Off Period for Mortgage Interest Rate Switches

The use of a cooling off period for switches in mortgage interest rates was noted as part of the Review. In this regard one mortgage lender advised that customers are requested to consider the implications of a switch in mortgage interest rate and are given a cooling off period during which they can request to reverse the switch in rate.

The Financial Regulator will consider including such a cooling off period in the review of the Code. Mortgage lenders may wish to consider introducing such a cooling off period in advance of this review.

3. Incentives to move Customers from Tracker Rate Mortgages

The Financial Regulator is of the view that mortgage lenders should give careful consideration before offering any incentives to customers to move from tracker rate mortgages. Mortgage lenders are reminded of the General Principles of the Code when dealing with customers in this regard.

Mortgage lenders are requested to advise the Financial Regulator in advance of offering such incentives to customers or if they are planning on conducting any review of tracker rate mortgages.

You are requested to ensure that the content of this letter is brought to the attention of all staff handling mortgages as a matter of priority. As you are aware any breaches of the Financial Regulator's Codes may be considered under the Administrative Sanctions Procedures.

If you have any queries on the contents of this letter, please contact Terry Murphy at terry.murphy@financialregulator.ie or Miriam Lee at miriam.lee@financialregulator.ie.

Yours sincerely

Sharon Donnery
Head of Consumer Protection Codes Department