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Central Bank's themed inspection identifies weaknesses in lenders' compliance with the Code of Conduct on Mortgage Arrears

The Central Bank of Ireland today (24 June 2015) published the outcome of a themed inspection of lenders' compliance with its statutory Code of Conduct on Mortgage Arrears (CCMA).

The CCMA provides a strong consumer protection framework to ensure that each borrower who is struggling to keep up mortgage repayments is treated in a timely, transparent and fair manner by lenders. The purpose of the inspection was to examine lenders' processes for dealing with borrowers and to ensure that lenders can demonstrate full compliance with the letter and spirit of the CCMA.

Issues Identified

The Central Bank inspected seven lenders under the four key areas set out below. While we found that all of the lenders have implemented frameworks as required by the CCMA, weaknesses of varying degrees were identified across all four areas. The inspections also found a number of good practices, which demonstrated that some lenders are, at times, going beyond minimum regulatory requirements to assist distressed borrowers. We also found that lenders engage with borrowers at all stages in the arrears process, even after borrowers have been classified as 'not co-operating'.

Resolution of arrears in a timely manner

The CCMA recognises that it is in the interests of borrowers and lenders to address financial difficulties as speedily, effectively and sympathetically as circumstances allow. The inspection identified a number of cases where there were significant and undue delays, on the part of the lender, in progressing cases through the Mortgage Arrears Resolution Process (MARP). For example we identified delays in:

- passing a copy of the completed Standard Financial Statement (SFS) from a branch to the lender's Arrears Support Unit (ASU) for assessment;
- the ASU assessing the SFS once received; and
- issuing the required communications to borrowers after the ASU's assessment decision was made.

Transparency of borrower communications

One of the key objectives of the revised CCMA is to increase transparency for borrowers to assist with their understanding of the options available to them. The inspection highlighted issues in relation to the quality and consistency of important borrower communications across the majority of lenders. For example, some communications did not contain all of the information required under the CCMA, while others contained incorrect or irrelevant information for the particular borrowers concerned.

Fair process

The essence of the CCMA framework is to ensure that borrowers in arrears are treated fairly by their lenders. Although not widespread, the Central Bank identified some specific practices during the course of the inspections, which are contrary to the letter and spirit of the CCMA and which the Central Bank has instructed the relevant lenders to cease immediately. For example, we identified practices where the lender:

- continued with legal action, notwithstanding that an alternative repayment arrangement (ARA) had been agreed with the borrower;
- continued to seek additional ad hoc payments from borrowers on top of agreed revised repayments, without formally assessing the borrowers' ability to make such additional payments;
- had an internal policy that permitted unilateral changes by the lender to the SFS after it was completed by the borrower; and
- had an internal policy that permitted the lender to remove borrowers from the MARP solely because the borrower had not agreed to an ARA over the telephone (i.e. without issuing the required written communications to the borrower for consideration).

We also identified cases where lenders continued to call borrowers directly and/or did not liaise with third parties, even though borrowers had formally nominated these persons to act on their behalf.

In a small number of lenders, we found issues regarding adherence to some of the specific timeframes set out in the CCMA, in particular timelines between warning and classifying borrowers as not co-operating and timelines to notify borrowers in advance of carrying out unsolicited personal visits.

Process improvement and controls

Under the CCMA, lenders can only move a borrower from an existing tracker mortgage as a last resort. As part of this inspection, all lenders confirmed that, as a matter of policy, they do not and have not required borrowers to move from a tracker mortgage rate to a more unfavourable rate during the lifetime of the mortgage. However, we identified some weaknesses in lenders' monitoring of compliance with these policies and as such, all lenders have been required to reassess their controls and to take appropriate remedial action.

Follow-up action

Formal supervisory requirements, with specific timelines for remediation, have been imposed on those lenders where we have identified risks to borrowers. The Central Bank is also considering further use of its regulatory powers, including but not limited to enforcement action as a result of this themed inspection.

The Central Bank's Deputy Governor (Financial Regulation), Cyril Roux, said: "The Central Bank has, as part of its consumer protection mandate, put in place a statutory code to protect borrowers in mortgage arrears. Our recent inspections of lenders' compliance with this code have identified a number of areas for concern.

It is imperative that firms have proper systems and controls in place to ensure that they are delivering appropriate solutions for consumers in a timely, transparent and fair manner.

The Central Bank will be taking the appropriate actions to ensure that lenders address these weaknesses."

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Notes to editors

Over 350 borrower files and telephone recordings with borrowers in financial difficulties were reviewed during the course of the inspections.

A general industry letter, which provides feedback on the findings of this inspection is available here.

The Central Bank's quarterly Mortgage Arrears and Repossessions Statistics were published on 4 June. These stats showed that 117,263 principal dwelling house mortgage accounts were classified as restructured at end-March, reflecting a quarter-on-quarter increase of 2.3 per cent. Of these restructured accounts, 85.1 per cent were deemed to be meeting the terms of their current restructure arrangement.