Update on Examination of Tracker Mortgages

October 2017

Introduction

This is the latest in a series of status updates provided by the Central Bank since it commenced an industry-wide examination of tracker mortgage-related issues (the "**Examination"**) in late 2015. It provides an update on progress since the Central Bank published its detailed Examination report in March 2017 (the **"March Report**"). It is recommended that this update be read in conjunction with the March Report and other status updates previously published by the Central Bank.

Background

The Central Bank's Examination is focused on ensuring that lenders provide fair outcomes for all customers impacted by their failings. It requires all lenders that provided tracker interest rate mortgages in the Irish market to conduct a complete review of their mortgage loan books to assess compliance with both contractual and regulatory requirements relating to tracker mortgages. Lenders' reviews were required to be conducted in accordance with the Central Bank's framework for completion of the Examination (the **"Framework"**) issued in December 2015. The Framework requires lenders to identify all impacted customers and to address customer detriment in line with the Central Bank's Principles for Redress. Steps being taken by lenders to address customer detriment identified during the course of the Examination include putting customers on the correct interest rates (rate rectification) in order to stop the immediate harm caused to them and providing redress and compensation.

Detail regarding the current status of the Examination is set out below and a summary table regarding the progress of the Examination is included at Appendix 1.

Phase 2 – Information Gathering/Review/Report Submission

The Central Bank has extensively engaged with lenders to progress the Examination since the March Report. Phase 2 of the Examination requires lenders to conduct a review of their mortgage loan books in line with the Framework in respect of in-scope mortgage accounts and submit a report of their findings to the Central Bank. As outlined in the March Report, lenders were required to appoint an external independent party to oversee the conduct of their review.

Phase 2 Reports provide details of:

- the reviews conducted by lenders;
- customers identified by lenders as being in-scope and having been impacted by tracker mortgage-related issues (including the number of impacted accounts, details of how customers have been impacted and the detriment experienced by customers); and
- customers identified by lenders as being in-scope but deemed by lenders not to be impacted for the purposes of the Examination.

All relevant lenders have provided Phase 2 Reports to the Central Bank[1]. However, two lenders are undertaking further review work and are to submit addendums to their Phase 2 reports. The Central Bank is engaged in challenging the two lenders to ensure that this review work is completed without delay. In the meantime, the relevant lenders have already commenced redress and compensation programmes in respect of customers identified as impacted by lenders to date.

[1]In respect of two smaller lenders, a bespoke approach has been adopted in respect of Phase 2 of the Examination due to the nature of their loan books and their particular circumstances. Accordingly, the two lenders have not been required to provide Phase 2 Reports.

Identification of Impacted Accounts & Customer Detriment

Approximately 13,000 impacted accounts have been identified by lenders as at end September, an increase of 3,100 since the March Report. Approximately 60% of impacted accounts arise as a result of customers not receiving tracker products and approximately 40% of impacted accounts arise from customers not receiving correct tracker margins.

The Framework requires that lenders categorise impacted customers by reference to the type and level of detriment suffered. The types of detriment identified range from overcharging due to the application of incorrect interest rates up to loss of ownership of mortgaged properties. Where the latter has occurred, lenders are conducting causation analyses to identify where loss of ownership resulted from their failings. To date lenders have reported that as a result of their failings, loss of ownership has occurred in respect of 23 private dwelling homes and 79 buy to let properties. As lenders' analyses continue, this figure will rise.

Similarly, lenders' overall reviews are subject to ongoing assurance work and vigorous challenge by the Central Bank. Accordingly, it is possible that additional impacted accounts may be identified as the Examination continues to progress.

Assurance

The Central Bank, with the assistance of its panel of experts, is evaluating the Phase 2 Reports submitted by lenders. The primary focus of this ongoing assurance work is on customers whom lenders have deemed not impacted and involves challenging the findings of lenders' reviews through robust engagement in the form of on-site inspections, the review of relevant materials and a substantial number of meetings with lenders.

While assurance work is ongoing in a number of lenders, from the assurance work completed to date, the Central Bank is concerned that two lenders may have failed to identify populations of impacted customer or failed to recognise that certain customers have been impacted by their failures. The Central Bank is of the view that certain of these customers are in fact impacted and accordingly entitled to redress and compensation. As a result of the Central Bank's challenges, the two lenders are reconsidering certain outcomes from their reviews and are due to revert to the Central Bank by end October 2017. As the Central Bank progresses its assurance work, other lenders will be similarly challenged.

The payment of redress and compensation to impacted customers identified by the lenders is not delayed as a result of this ongoing assurance work. The Framework has been designed so that the phases of the Examination, including the payment of redress and compensation, can run concurrently within a lender and at different times across lenders.

Engaging with Impacted Customers to Provide Fair Outcomes

In line with the Central Bank's mandate to ensure that the best interests of consumers are protected, our immediate focus is to ensure that lenders prioritise the identification of impacted customers, stop the harm, and then provide appropriate redress and compensation in line with the Principles for Redress. The purpose of redress is to return customers to the position they would have been in had the issue not occurred. Compensation should be reasonable and reflect the level of detriment suffered by customers.

Most lenders have now commenced engagement with the customers they have identified as impacted. As at end September, lenders have rectified the interest rates applied to approximately 7,700 impacted accounts, an increase of approximately 1,400 accounts since the March Report, which represents 98% of customers identified by lenders as impacted to date who require rate rectification.

All lenders have now submitted their redress and compensation proposals to the Central Bank for assessment. These proposals include details of lenders' redress and compensation packages to be offered to impacted customers and details with regard to the operation of their appeals panels. In assessing these submissions, the Central Bank is working to ensure that lenders' proposals meet the Central Bank's expectations as set out in the Principles for Redress.

A key objective of the Tracker Examination is to ensure that customers who are identified as impacted receive redress and compensation from lenders as early as possible. However, lenders' initial redress and compensation proposals fell short of the Central Bank's expectations. Examples of material deficiencies included:

- failing to offer compensation for certain impacted cohorts of customers;
- unacceptably low offers of compensation;
- unacceptably low payments for independent advice; and
- failure to acknowledge certain types of detriment sustained by impacted customers, including customers who switched lenders as a result of being on the incorrect interest rate, for compensation purposes.

These material deficiencies necessitated the Central Bank to challenge lenders repeatedly to improve their proposals, and has resulted in lenders significantly improving both their redress and compensation proposals and their appeals processes, to the benefit of impacted customers.

Three lenders have commenced payment of redress and compensation to impacted customers. The Central Bank expects that two of these lenders will have progressed the payment of redress and compensation to the majority of the customers they have identified as impacted by year-end.

To end September 2017, €120 million has been provided to customers (approximately 3,300 accounts) pursuant to the Examination. This is in addition to redress and compensation provided by permanent tsb plc (€36.8 million) and Springboard Mortgages Limited (€6.2 million) to customers pursuant to their Mortgage Redress Programme (MRP), which was required by the Central Bank and predated the Examination. Accordingly from July 2015 to end September 2017, the aggregate figure for redress and compensation to customers arising from the MRP and the Examination is €163 million.

Three further lenders are at an advanced stage in the development of their redress and compensation proposals. The Central Bank expects that these lenders will commence the implementation of their redress and compensation programmes shortly. The Central Bank continues to engage with and challenge the remaining lenders in respect of their redress and compensation proposals and expects that they will be in a position to commence providing redress and compensation by year-end.

The Central Bank does not have the statutory power to compel lenders to implement redress and compensation programmes in respect of failures that occurred prior to the introduction of the Central Bank (Supervision and Enforcement) Act, 2013 on 1 August 2013. As a result, the Central Bank cannot require that lenders implement a uniform framework for redress and compensation across all lenders.

Appeals Processes

Appeals form an important part of the overall Examination process by ensuring independent and transparent processes to address complaints from customers about the level of redress and/or compensation offered to them. The Central Bank requires lenders to have such appeals processes in place in advance of making redress and compensation payments to impacted customers. Three lenders have now established appeals processes for customers who have received redress and compensation offers as part of the Examination process. The Central Bank continues to engage with the remaining lenders regarding the setting up of their appeals processes. Redress and compensation is to be paid to impacted customers up front at the point of offer. Redress and compensation cannot be reduced by virtue of a customer lodging an appeal. This ensures that a customer’s need to receive payment upfront is not a determining factor in deciding whether or not to appeal an offer.

To assist customers in the consideration of the redress and compensation offers made to them, including whether to make an appeal in respect of the adequacy of the offers, an additional payment is provided to impacted customers at the point of offer to enable them to take professional advice.

Enforcement

The Central Bank concluded an enforcement investigation in respect of tracker mortgage-related failures identified at Springboard Mortgages Limited on 24 November 2016 and imposed a monetary penalty of €4.5[2] million on the firm in respect of those failures.

The Central Bank is currently pursuing enforcement investigations in relation to tracker mortgage-related issues arising in permanent tsb plc and Ulster Bank Ireland DAC. Two further enforcement investigations into other lenders are in train, and it is anticipated that more enforcement investigations will follow. Enforcement investigations are informed by evidence obtained and gathered as part of the Examination. Enforcement investigations are detailed and forensic and involve the scrutiny of large volumes of documentation and interviews with relevant individuals.

Engagement with Other Bodies

The Central Bank has met and engaged with the Financial Services Ombudsman (the "**FSO**") with regard to the welcome amendments to the time periods for customers to make complaints to the FSO, pursuant to the Central Bank and Financial Services Authority of Ireland (Amendment) Act 2017.

Engagement with other bodies regarding tracker mortgage-related issues continues as appropriate. Since the March Report, the Central Bank has also met with the Competition and Consumer Protection Commission and An Garda Síochána.

[2] The monetary penalty paid by Springboard is the highest penalty ever collected by the Central Bank further to an enforcement investigation.

Next Steps

The Central Bank's assurance work continues and the Central Bank is committed to challenging lenders regarding their Phase 2 reviews.

The Central Bank expects that all lenders will have commenced providing redress and compensation to customers identified by lenders as impacted to date by year-end (Phases 3 and 4).

The Central Bank will rigorously pursue its enforcement investigations.

The Central Bank will also continue to provide public updates as the phased Examination progresses to conclusion and will publish a comprehensive report upon completion of the Examination.

Appendix 1 – Cases identified by lenders as part of the system-wide Examination, as at end September 2017

Matter	Last Update[3]	End September 2017	Increase
Number of impacted customer accounts identified	9,900	c13,000	3,100
Number of accounts requiring rate rectification that have received rate rectification	c6,300 (c90% of accounts requiring rate rectification)	c7,700 (c98% of accounts requiring rate rectification)	1,400
Number of accounts that have received redress and compensation	2,600	c3,300	700
Total amount of redress and compensation provided	€78m	€120m[4]	€42m

[3] Report regarding the Central Bank of Ireland's Examination of Tracker Mortgage-Related Issues, 23 March 2017

[4] This table refers only to the system wide Examination. As per the March Report approximately 7,100 impacted accounts were resolved in the pre-examination period. As at end September 2017, redress and compensation has been paid by permanent tsb plc (€36.8 million) and Springboard Mortgages Limited (€6.2 million) pursuant to their MRP.

Appendix 2: The Tracker Examination – Phases

The Central Bank requires lenders to complete the Examination in four phases, being:

Phase 1: Development and Submission of Detailed Plan;

Phase 2: Information Gathering/Review/Report Submission;

Phase 3: Calculation of Redress and Compensation (where relevant); and

Phase 4: Implementation of Redress Programme (where relevant).