Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

ENFORCEMENT ACTION

Central Bank of Ireland

and

The Governor and Company of the Bank of Ireland

The Governor and Company of the Bank of Ireland reprimanded and fined €100,520,000 by the Central Bank of Ireland for regulatory breaches affecting tracker mortgage customers

On 27 September 2022, the Central Bank of Ireland (the "**Central Bank**") reprimanded and fined The Governor and Company of the Bank of Ireland ("**Bank of Ireland**") €100,520,000 pursuant to its Administrative Sanctions Procedure ("**ASP**") for a series of significant and long-running failings in respect of 15,910 tracker mortgage customer accounts which were impacted between August 2004 and June 2022. Bank of Ireland has admitted in full to 81 separate regulatory breaches.

The Central Bank determined the appropriate fine to be €143,600,000[1], which was reduced by 30% to €100,520,000 in accordance with the settlement discount scheme provided for in the Central Bank's ASP.[2] This is the largest fine imposed to date by the Central Bank and is in addition to the more than €186,400,000 Bank of Ireland has already paid to impacted customers identified prior to and as part of the Central Bank's Tracker Mortgage Examination ("**TME**").

The investigation found that Bank of Ireland failed in its obligations towards its customers under the European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995, the Code of Practice for Credit Institutions 2001 and the Consumer Protection Codes 2006 and 2012. Bank of Ireland's failures resulted in the loss of 50 properties, including 25 family homes, which would have been avoided if Bank of Ireland had complied with the most basic and fundamental of its consumer protection obligations.

[1] All fines collected by the Central Bank are paid to the Exchequer.
[2] The Central Bank's 'Outline of the Administrative Sanctions Procedure' provides for an early settlement discount of up to 30% in order to promote early resolution of matters, which in turn leads to better utilisation of the resources of the Central Bank.

The key findings from the investigation are that:

1. **Bank of Ireland provided unclear contractual documents to its customers**. Bank of Ireland's Mortgage Letter of Offer ("**MLO**") (used when taking out a mortgage) and Mortgage Form of Authorisation ("**MFA**") (used when changing the applicable rate) were unclear and ambiguous regarding customers' right to a tracker rate after a fixed rate period.

2. **Bank of Ireland failed to interpret its unclear contractual documents in customers' best interests.** Bank of Ireland repeatedly, over a period of over nine years, interpreted these unclear documents in its own favour and denied customers a tracker rate.

3. **Bank of Ireland failed to warn customers about the consequences of decisions relating to their mortgage**. Following its decision to withdraw trackers in October 2008, Bank of Ireland failed to warn customers that they would lose their tracker mortgage entitlements if they moved to a fixed rate or if they broke early from a fixed rate period. In addition, Bank of Ireland failed to warn customers, some of whom were in financial distress, that they would lose a future tracker mortgage entitlement when signing up to a forbearance arrangement.

4. **Bank of Ireland implemented an unfair complaints handling practice in respect of customers**. Bank of Ireland implemented an unfair practice of returning customers with these unclear MLOs and MFAs to a tracker rate only in the event that they queried and/or complained about their rate. Other customers with the same unclear mortgage documents who did not complain were not offered a tracker rate.

5. **Bank of Ireland's deficient mortgage systems and controls, contributed to a significant number of operational errors.** Deficiencies in Bank of Ireland's mortgage system, combined with human error in the operation of those systems, resulted in customers being wrongly put on the incorrect interest rate margin and/or product.

6. **Bank of Ireland wrongfully excluded customers from the protections of the TME.** Bank of Ireland wrongfully excluded over 5,000 customers from the TME who had received unclear documents. These customers were excluded arising from the narrow focus of Bank of Ireland's consideration of all matters required under the TME. These failures persisted, until these customers were finally included in 2017, following significant challenge by the Central Bank. Additionally, during the conduct of its TME review, Bank of Ireland failed to implement

the protections afforded by the Stop the Harm requirements, resulting in loss of ownership occurring.

The Central Bank's Director of Enforcement and Anti-Money Laundering, Seána Cunningham, said:

"Customers are entitled to expect that they will be treated fairly and that financial institutions will act in their best interests. Bank of Ireland failed to meet these most basic expectations for almost 16,000 of its customers over an extended period of time. The failings resulted in significant and, at times, devastating detriment for many of those customers.

Our investigation exposed a culture in Bank of Ireland which, when faced with a choice, prioritised its own interests with little to no regard for the impacts on its customers. There were a series of missed opportunities during which Bank of Ireland could have done the right thing by its tracker mortgage customers. Despite these opportunities, Bank of Ireland repeatedly interpreted unclear contractual terms in its own favour and against the customer, which continued the harm and loss caused to customers over many years.

Furthermore, Bank of Ireland's initial redress and compensation proposals under the TME failed to meet the Central Bank's most basic expectations, as a result of which significant Central Bank intervention was again required. Bank of Ireland's approach demonstrated a fundamental lack of care and consideration for the impact that their failings had on their customers, resulted in the delayed payment of redress and compensation to them and prolonged the detriment that they suffered.

The way in which a business measures its success must include how it treats its customers. If a firm has the right culture, the Central Bank's role should not - as was required here - extend to prolonged engagement to ensure fair outcomes for consumers. We expect firms to promptly make things right when things go wrong. Such a consumer-centric culture should not be viewed as a burden or an impediment. It can, and must, sit equally alongside a firm's other business objectives.

This marks the completion of the final in a series of firm-level investigations concerning tracker mortgage related issues, but we continue in our unwavering commitment to hold regulated firms and individuals accountable where there are breaches of regulatory requirements and standards."

<u>Background to the Investigation</u>

Bank of Ireland is a bank licensed pursuant to Section 9 of the Central Bank Act, 1971. It has over 169 branches and approximately 2.2 million customers. Its principal activities consist of retail and commercial banking.

Bank of Ireland introduced tracker mortgages into its suite of mortgage product offerings in 2001. In October 2008, Bank of Ireland withdrew tracker mortgages as a product offering for new customers because, in line with other industry participants, Bank of Ireland viewed tracker mortgages to be unprofitable. At the same time, Bank of Ireland carried out an assessment to determine the tracker entitlements of its existing customers. Although Bank of Ireland determined that many customers were entitled to tracker rates, Bank of Ireland concluded that certain groups of customers were not entitled to revert to a tracker rate after a fixed rate period ended, despite identifying ambiguities in their MLOs and MFAs relating to whether or not customers were entitled to revert to or be offered a tracker rate. Bank of Ireland's actions in doing so were in breach of its regulatory obligations. Bank of Ireland maintained that position until 2017, despite the fact that it either knew or ought to have known that its MLOs and MFAs were unclear.

Bank of Ireland's Deficient Tracker Remediation Programmes

In 2010, the Central Bank challenged Bank of Ireland regarding the lack of clarity of its MLO and MFA documentation. In particular, the Central Bank told Bank of Ireland that those documents were unclear regarding customers' right to a tracker rate after a fixed rate period. Arising out of that engagement, and beginning in early 2011, Bank of Ireland engaged in a voluntary remediation scheme (known as "**Project Lima**") resulting in 2,819 impacted customers being redressed and returned to a tracker mortgage, with an additional 2,409 customers offered a tracker mortgage at the end of their fixed rate period that they otherwise would not have been offered.

However, during the course of the TME the Central Bank uncovered that Bank of Ireland wrongfully excluded 1,650 customers from Project Lima solely on the basis that they signed the MFA prior to the introduction of the Consumer Protection Code 2006 ("**Pre-CPC customers**"). Bank of Ireland did this in circumstances where these customers received the exact same documents as those customers who were deemed impacted by Bank of Ireland. Bank of Ireland failed to notify the Central Bank regarding the exclusion of these customers from remediation at that time.

In 2014, on foot of further supervisory engagement, the Central Bank wrote to Bank of Ireland asking it to undertake an additional review to assess whether or not a group of almost 3,000 customers identified by the Central Bank should also have been offered the option of a tracker rate at the end of a fixed rate period. In this engagement, the Central Bank noted that its original concerns relating to the transparency of Bank of Ireland's mortgage documentation, raised in

2010 in respect of Project Lima also appeared to be applicable to this cohort of customers ("**Tracker Switchers**"). In conducting this review, despite identifying specific issues concerning the clarity of the MLO and MFA across all customers assessed, Bank of Ireland wrongly determined that 90% of Tracker Switchers were not entitled to be offered a tracker rate at the end of their fixed rate period. This occurred despite the fact that the customers Bank of Ireland excluded from remediation had the same MLO and a very similar MFA to the customers who were remediated at that time.

The Central Bank's TME

In December 2015, the Central Bank launched the TME, the industry-wide examination of tracker mortgage related issues. As part of the TME, Bank of Ireland was directed to carry out a full review of all mortgage accounts where customers had a tracker rate or a tracker rate entitlement in order to examine, not only the extent to which it had been meeting its contractual obligations to customers, but also, amongst other things, to assess the clarity of its documentation and communications with customers and other relevant influencing factors in relation to tracker related issues.

Bank of Ireland's initial TME review, submitted to the Central Bank in September 2016, identified 4,256 impacted customer accounts (excluding over 5,000 customer accounts that had been previously identified in Project Lima). The vast majority of these newly identified accounts were impacted as a result of operational failures. In the majority of instances, Bank of Ireland did not deem any customers to be impacted arising from the assessment of the clarity of documents, its regulatory obligations or relevant influencing factors, all of which were key elements of the TME Framework assessment. In conducting the TME, Bank of Ireland once again concluded that the MLO and MFA – the lack of clarity in which caused the Central Bank to write to Bank of Ireland and led to the initiation of Project Lima in 2011 - had no potential to confuse the average customer.

Having initially reported them as not impacted, Bank of Ireland then continued to resist the Central Bank's robust challenge in respect of a number of these cohorts of customers (pre-CPC, Tracker Switcher customers and certain staff accounts) (the **"Disputed Cohorts"**), until November 2017. Bank of Ireland's decision to deem the Disputed Cohorts as impacted at that time followed a period of prolonged and robust challenge from the Central Bank.

Redress and Compensation proposals under the TME

As part of the TME, all industry participants were required to provide the Central Bank with proposals in respect of redress and compensation for impacted customers. These proposals were supposed to ensure that lenders offers to customers were reasonable and fair, and reflected the loss and detriment suffered.

Beginning in 2016 - and for over a period of 12 months - the Central Bank challenged Bank of Ireland in respect of its initial redress and compensation proposals, which the Central Bank viewed as falling far short of both the Central Bank's basic expectations and those of other industry participants.

In the Central Bank's view, Bank of Ireland's initial proposals were indicative of a lack of understanding or consideration on its part of the impact that its failings had on its customers and as to the appropriate steps that it should take to put them back in the position that they would have been in had the failure not occurred.

Following the Central Bank's challenge concerning their proposals for redress and compensation, Bank of Ireland ultimately made increased offers to impacted customers, including significantly increased compensation levels.

Based on findings arising from the TME, an enforcement investigation in respect of Bank of Ireland commenced in December 2017.

Prescribed Contraventions

Bank of Ireland has admitted to 81 regulatory breaches of the European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995, the Code of Practice for Credit Institutions 2001 and the Consumer Protection Codes 2006 and 2012, including multiple instances of the following:

- Failed to act with due skill, care and diligence in the best interests of its customers;
- Failed to act fairly and professionally, in the best interests of customers and the integrity of the market;
- Failed to ensure that, in all of its dealings with customers, it made full disclosure of all relevant material information in a way that sought to inform the customer;
- Failed to ensure that all information it provided to customers was clear and comprehensible, and failed to bring key items to their attention;
- Failed to ensure that in all its dealings with customers and within the context of its authorisation it makes full disclosure of all relevant material information, including all charges, in a way that seeks to inform the customer; and
- Failed to have or effectively employ adequate resources, policies, procedures, systems, and controls.

Further detail on all of Bank of Ireland's regulatory breaches is set out below, by reference to the key failings identified in the investigation:

1. Provision of unclear and ambiguous documents to customers

Between August 2004 and August 2010, Bank of Ireland provided MLOs and MFAs to its customers which were unclear and ambiguous. These documents were contradictory, confusing and ambiguous regarding a customer's right to a tracker rate at the end of a fixed rate period. These documents were also unclear as to whether a customer who was entitled to a tracker rate at the "end" of a fixed rate period retained that entitlement in the event that they broke early from that fixed rate.

Bank of Ireland subsequently introduced a new MLO and MFA in 2010 to make clear to customers before they fixed the rate that tracker rates were withdrawn and would not be available as an option to move to at the end of the fixed rate period.

Bank of Ireland has admitted 12 regulatory breaches concerning the provision of unclear and ambiguous mortgage documents, impacting 11,223 customer accounts, and resulting in the loss of 20 family homes and 25 buy to let properties ("**BTL properties**").

Bank of Ireland has admitted a further three regulatory breaches concerning the lack of clarity in an internal staff notice (dated 9 October 2008). This notice concerning the withdrawal of tracker mortgages and the future entitlement of staff to tracker rates at the end of their then fixed rate period, lacked clarity for those staff who drew down on trackers, impacting 1,468 customer accounts, and resulting in the loss of one family home and one BTL property.

Bank of Ireland has also admitted four further regulatory breaches concerning the lack of clarity for certain customers who broke early from fixed rate periods. This impacted 87 customer accounts and one family home was lost as a result of Bank of Ireland's actions.

Bank of Ireland has admitted to 19 regulatory breaches relating to the provision of unclear and ambiguous documents to customers. Those breaches included that:

- It failed to act with due skill, care and diligence;
- It failed to provide clear and comprehensible information to its customers;

- It failed to ensure that its mortgage terms were drafted in plain and intelligible language; and
- It failed to employ effectively the resources, policies and procedures, systems and controls necessary in order to ensure compliance with its regulatory obligations.

2. Bank of Ireland failed to interpret its unclear contractual documents in customers' best interests

Between October 2008 and November 2017, Bank of Ireland interpreted unclear and ambiguous MLOs and MFAs in its own favour and against the best interest of its customers by not providing impacted customers with an offer of a tracker rate at the end of the fixed rate period. Bank of Ireland maintained its stance regarding the clarity of its documents during that period in circumstances where it knew or ought to have known that the documents were unclear from a plain reading thereof. Further, Bank of Ireland had numerous opportunities to give customers back their tracker mortgages and had been told by customers, the Financial Services and Pensions Ombudsman (the "**FSPO**") and the Central Bank that its MLO and MFA were unclear.

Bank of Ireland has admitted to 16 regulatory breaches concerning contractual interpretation, the consequences of which impacted 8,825 customer accounts and resulted in the loss of 21 family homes and 25 BTL properties. Those breaches included that:

- It failed to adopt the interpretation of unclear terms in documents that was most favourable to its customers;
- It failed to act fairly and professionally in the best interests of its customers and the integrity of the market;
- It failed to act with due skill, care and diligence in the best interests of its customers; and
- It failed to employ effectively the resources, policies and procedures, systems and controls necessary in order to ensure compliance with its regulatory obligations.

3. Bank of Ireland failed to warn customers about the consequences of decisions they might make relating to their mortgage.

Between October 2008 and February 2011, following its decision to withdraw trackers, Bank of Ireland failed to disclose relevant and material information to customers concerning the consequences of their decisions with regard to the loss of the ability to avail of a tracker mortgage in the future.

This occurred in respect of three categories:

a. Customers who wanted to move from a tracker rate to a fixed rate;
b. Customers who were looking to enter into a forbearance arrangement concerning their mortgage with Bank of Ireland; and
c. Customers who were considering breaking early from a fixed rate period.

The fact that customers, who switched interest rates after the withdrawal of tracker rates by Bank of Ireland, would lose their entitlement to a tracker interest rate and would not be able to obtain a tracker mortgage at any time in the future is material information. This material information should have been provided to customers switching interest rates to enable them to make informed decisions about their mortgage interest rates.

Bank of Ireland has admitted to nine regulatory breaches, impacting 206 customer accounts and resulting in the loss of three family homes. These admitted breaches included that:

- It failed to act with due skill, care and diligence in the best interests of its customers;
- It failed to make full disclosure of all relevant material information, including all charges, in a way that seeks to inform the customer;
- It failed to provide clear and comprehensible information to its customers; and
- It failed to employ effectively the resources, policies and procedures, systems and controls necessary in order to ensure compliance with its regulatory obligations.

4. Bank of Ireland implemented an unfair complaints handling practice in respect of customers.

The investigation found that Bank of Ireland breached its regulatory obligations in the manner in which it dealt differently with customers with similarly unclear MLOs and MFAs – which it knew or ought to have known were unclear - depending on whether they complained about their tracker mortgage rate or not. This occurred in a number of different scenarios.

a. Pre-CPC customers

Following FSPO decisions in 2011, upholding complaints made by Pre–CPC customers (who were excluded from Project Lima) concerning their right to a tracker rate after a fixed rate period based on a lack of clarity in the MLO and MFA, Bank of Ireland adopted a practice of settling complaints received from Pre-CPC customers, with those customers reverting to a tracker rate. Other customers with the exact same unclear MLO and MFA who did not complain remained on a higher mortgage rate. In 2014, following the conduct of an internal review of tracker mortgage customer complaints during which this matter was again identified, Bank of Ireland continued with its practice to treat customers with the same unclear documents differently depending on whether they complained or not.

b. Split Mortgage Accounts

Despite being aware from 2011 onwards, through customer complaints and/or queries, that it had failed to redress all impacted customers ("split mortgage" accounts) as part of the Project Lima, Bank of Ireland failed to take any pro-active steps to identify and remediate those accounts, instead only correcting the issue for individual customers if they submitted a complaint and/or query. Customers with identical mortgage documentation who did not complain remained on a higher mortgage rate and were not offered a tracker rate until September 2016 as part of the TME, despite Bank of Ireland knowing that that this was an issue for customers.

c. Misleading and inaccurate representations made in response to staff complaints

Between October 2008 and December 2015, Bank of Ireland responded to complaints received from staff customers in relation to an internal staff notice with answers that were inaccurate and/or misleading. In particular, when customers complained regarding the content of a notice issued to staff concerning the withdrawal of tracker mortgages and the future entitlement of staff to tracker rates, Bank of Ireland responded to them saying that the notice was clear. However, internally Bank of Ireland acknowledged that the notice was confusing and could be misinterpreted concerning customers' entitlement to a tracker mortgage rate at the end of a fixed rate period.

Bank of Ireland has admitted to ten regulatory breaches concerning its handling of customer complaints, impacting 1,611 customer accounts and resulting in the loss of four family homes and ten BTL properties. The admitted breaches included that:

- It failed to adopt the interpretation of unclear terms in documents that was most favourable to its customers;
- It failed to act fairly and professionally in the best interests of its customers and the integrity of the market;
- It failed to act with due skill, care and diligence in the best interests of its customers; and
- It failed to identify, report or resolve the entire impacted population.

5. Bank of Ireland’s deficient mortgage systems and controls, contributed to a significant number of operational errors.

The investigation found that deficiencies in Bank of Ireland’s mortgage system, combined with human error in the operation of that system, resulted in almost 5,000 customers being incorrectly put on the wrong interest rate margin and/or product. For example, some customer accounts were set up on the incorrect product code, resulting either in accounts rolling to an incorrect non-tracker variable rate product at the end of a discounted tracker period, or having their move to a tracker rate product incorrectly delayed.

Bank of Ireland has also admitted that it failed to identify impacted customers while carrying out both the TME, and Project Lima as a result of system limitations. This is additional to other breaches concerning the TME, detailed below.

Bank of Ireland has admitted to 14 regulatory breaches concerning operational and systems failures, impacting almost 5,000 customer accounts resulting in the loss of six family homes and two BTL properties. The admitted breaches included that:

- It failed to act with due skill, care and diligence in the best interests of its customers; and
- It failed to employ effectively the resources, policies and procedures, systems and controls necessary in order to ensure compliance with its regulatory obligations; and
- It failed to maintain up-to-date consumer records.

6. Bank of Ireland incorrectly excluded customers from the protections of the TME and breached its obligations pursuant to the Stop the Harm (“STH”) principles

Bank of Ireland failed to comply with the requirements of the Central Bank’s TME Framework in the following manner:

a. The incorrect exclusion of the Disputed Cohorts

As part of its obligations under the TME, Bank of Ireland was required to examine, not only the extent to which it had been meeting its contractual obligations to customers, but also, amongst other things, to assess the clarity of its documentation and communications with customers and other relevant influencing factors in relation to tracker-related issues.

Despite considering relevant influencing factors and transparency considerations as part of its obligations under the TME e.g. the manner in which it had dealt with complaints, and issues with the clarity of its MLOs and MFAs, some of which Bank of Ireland had identified as far back as 2008, in September 2016 Bank of Ireland determined that its MLOs and MFAs had no potential to confuse the average customer.

Bank of Ireland's consideration of its compliance with its regulatory obligations, the identified influencing factors and the issues concerning the clarity in its MLOs and MFAs was inadequate and contrary to the requirements of the TME Framework. For example, Bank of Ireland's review failed to appropriately consider whether, from a plain reading of the documentation and consumer perspective, there was a potential for its documentation to confuse or mislead, taking into account its regulatory obligations.

Furthermore, the investigation found that Bank of Ireland's Court of Directors, when making decisions as to whether these cohorts of customers were impacted or not, did so in the absence of key material information to enable it to make an informed decision in line with the requirements of the TME Framework.

Bank of Ireland continued to exclude the Disputed Cohorts despite significant and robust challenge from the Central Bank until they were ultimately deemed impacted and included in the TME in November 2017.

Bank of Ireland has admitted to three regulatory breaches concerning its TME failures, impacting 5,346 customer accounts and resulting in the loss of seven family homes and one BTL property. These admitted breaches included that:

- It failed to act fairly and professionally in the best interests of its customers and the integrity of the market;
- It failed to act with due skill, care and diligence in the best interests of its customers; and
- It failed to employ effectively the resources, policies and procedures, systems and controls necessary in order to ensure compliance with its regulatory obligations.

b. Failure to adequately implement the TME's STH principles

The STH Principles were a key part of the TME, requiring lenders to implement controls and/or measures to ensure that impacted or potentially impacted customers did not suffer further harm whilst lenders were determining if they were impacted or not by the lenders tracker mortgage failings.

Our investigation found that Bank of Ireland's interpretation of the STH principles at the outset of the TME review was fundamentally flawed, allowing further steps in the legal process to be taken towards repossessions.

Having rectified this incorrect interpretation in May 2016, Bank of Ireland failed to put in place adequate controls and/or measures to ensure that the STH procedures then in place were followed at all times. This resulted in further harm to those customers it had identified as impacted or potentially impacted under the TME, including the progression of legal activities. Additionally, Bank of Ireland failed to disclose to customers who contacted Bank of Ireland seeking to sell their properties or requesting redemption figures that they may be impacted under the TME and may be due redress and compensation, resulting in these customers making uninformed decisions relating to their mortgages, resulting in the loss of properties, including the family home.

Bank of Ireland has admitted to eight regulatory breaches concerning STH, impacting 1,208 customer accounts and resulting in the loss of seven family homes and one BTL property. These admitted breaches included that:

- It failed to act with due skill, care and diligence in the best interests of its customers;
- It failed to ensure that in all its dealings with customers and within the context of its authorisation it made full disclosure of all relevant material information, including all charges, in a way that seeks to inform the customer;
- It failed to supply information to consumers on a timely basis; and
- It failed to employ effectively the resources, policies and procedures, systems and controls necessary in order to ensure compliance with its regulatory obligations.

7. Provision of inaccurate information to the Central Bank

On 28 February 2018, in response to supervisory engagement undertaken to determine Bank of Ireland's compliance with the requirements of the TME, Bank of Ireland wrote to the Central Bank setting out information on its implementation of the STH Principles that was inaccurate and/or omitted material information. The Central Bank was consequently not made aware of the full extent of the harm suffered by impacted customers who should have been subject to the STH Principles during the TME until Bank of Ireland provided the correct information at a later date following Central Bank challenge.

Bank of Ireland has admitted to two regulatory breaches in respect of this matter, including that:

- It failed to provide the Central Bank with information which was full, fair and accurate in all respects and not misleading and to do so in any period of time or format that may be specified by the Central Bank; and
- It failed to employ effectively the resources, policies and procedures, systems and controls necessary in order to ensure compliance with its regulatory obligations.

<u>**Penalty Decision Factors**</u>

In determining the appropriate sanction to be imposed on Bank of Ireland, the Central Bank has considered the guidance on the sanctioning factors set out in the ASP Sanctions Guidance issued in November 2019. The following factors are of relevance in this case:

The nature, seriousness and impact of the contraventions

- Bank of Ireland's failings impacted 15,910 individual customer accounts from August 2004 to June 2022, resulting in many customers being overcharged interest for an extended period;
- 50 properties were lost as a result of Bank of Ireland's failings including 25 family homes and 25 BTL properties;
- Bank of Ireland's recklessness in its treatment of its customers, particularly with regard to how it:
    - Interpreted documentation in its own favour and contrary to customers' best interests in circumstances whereby it knew or ought to have known it to be unclear; and
    - Treated customers differently on the basis of complaints.
- The contraventions represent a significant departure from the requirements of the Consumer Protection Codes and other consumer protection focused legislation; and
- The negative impact on consumer confidence in the market as a result of Bank of Ireland's failings.

A. Aggravating Factors

- Bank of Ireland's failure to remediate Pre-CPC customers during the course of Project Lima in 2011, which occured due to the narrow interpretation of affected customers it adopted, together with Bank of Ireland's failure to communicate their exclusion to the

Central Bank at that time. These failures resulted in additional and prolonged detriment to these customers;

- Bank of Ireland's approach to its Redress and Compensation programme within the TME initially fell well below the minimum expected by the Central Bank. Significant Central Bank intervention over a prolonged period of time was required to ensure that Bank of Ireland made fair and reasonable offers of redress and compensation commensurate with the detriment suffered, delaying the payment of redress and compensation to impacted customers; and
- The previous record of the entity: Bank of Ireland and its subsidiaries have been the subject of five previous enforcement actions.

B. Mitigating Factors

- Overall, Bank of Ireland engaged purposefully and constructively with the Central Bank's enforcement investigation. Bank of Ireland's co-operation with the investigation, in particular the timely provision of documentation and information, facilitated the progress of the investigation, saving time and resources.

C. Other Considerations

- The turnover of Bank of Ireland.
- The need to have a credible deterrent for Bank of Ireland, and the regulated financial service sector in general.

This enforcement action against the Firm is now concluded.

Notes to Editors

1. The Central Bank imposed a fine of €100,520,000 on Bank of Ireland, which represents an applicable penalty of €143,600,000 with a settlement discount of 30%. The Central Bank's 'Outline of the Administrative Sanctions Procedure' provides for an early settlement discount of up to 30% in order to promote early resolution of matters, which in turn leads to better utilisation of the resources of the Central Bank. For further information on the discount scheme, see the Central Bank's 'Outline of the Administrative Sanctions Procedure', which is here link.

2. The Central Bank's sanctioning powers were increased in 2013, pursuant to Section 68(b) of the Central Bank (Supervision and Enforcement) Act 2013. The maximum penalty which the Central Bank may now impose is €10,000,000, or an amount equal to 10% of the annual turnover of a regulated financial service provider, whichever is the greater.

3. This is the largest monetary penalty ever imposed by the Central Bank under the ASP, is reflective of the very serious long-running nature of the consumer protection failings identified, and is proportionate to the financial position of Bank of Ireland.

4. This is the Central Bank's 152nd enforcement outcome, bringing total fines imposed by the Central Bank to over €400m.

5. Funds collected from penalties are included in the Central Bank's Surplus Income, which is payable directly to the Exchequer, following approval of the Statement of Accounts. The penalties are not included in general Central Bank revenue.

6. The Consumer Protection Codes 2006 and 2012 are available on the Central Bank's website or to download here and here. The 2006 Code ceased to have effect on 31 December 2011 and the 2012 Code came into effect on 1 January 2012.

7. A copy of the ASP Sanctions Guidance November 2019 is available here: link. This guidance provides further information on the application of the sanctioning factors set out in the Outline of the Administrative Sanctions Procedure 2018 and the Inquiry Guidelines prescribed pursuant to section 33BD of the Central Bank Act 1942 (a copy of which is here: link). These documents should be read together.

8. The Tracker Mortgage Examination commenced in December 2015. The Examination required all lenders to review their loan book to ensure compliance with both regulatory and contractual requirements in relation to tracker mortgages. Where impacted customer accounts are identified, the Central Bank expects that those customers will receive redress and

compensation commensurate with the detriment suffered and to have their account balance adjusted accordingly. Information on the Examination is available on the Central Bank's website.