Banking & Payments Federation Ireland

Final

CBI consultation on Enhanced Mortgage Measures: Transparency and Switching

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BPFI

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Contents

1. Introduction

Banking & Payments Federation Ireland (BPFI) represents over seventy domestic and international institutions. We welcome the opportunity to respond to the Central Bank of Ireland (CBI) consultation on Enhanced Mortgage Measures: Transparency and Switching.

At the outset, it is important to acknowledge that consumers currently can and do switch their mortgage between lenders and this is a growing cohort within the Irish market. The level of switching in the mortgage market shows a positive trend with the number of approvals up year on year and accounting for 9% of the total approval activity in August 2017. The trend is likely to persist as the economic situation and the individual financial circumstances of borrowers continue to improve.

According to economic analysis published by the CBI in 2015, the market for switching mortgage lender is limited by a number of factors including Tracker mortgages. The letter includes the following comment *'Roughly half of borrowers cannot currently find a cheaper floating rate mortgage on the market'*[1]

A borrower intending to switch their mortgage must meet the credit underwriting standards which apply to all regulated firms including:

- Consumer Protection Code (CPC) suitability requirements which include a 'Stress Test' at +2%
- European Union (Consumer Mortgage Credit Regulations) 2016 which require a creditworthiness assessment to ensure that the consumer can meet the repayments of the mortgage

'Switcher' mortgages are excluded from the requirements of the current CBI Macroprudential Mortgage regulations, introduced as a stability measure to the Irish market.[2] We note that in this Consultation Paper, the Central Bank has stressed that the new lender must assess the creditworthiness at the point in time that the consumer wishes to switch mortgage lenders, rather than relying on their creditworthiness at the time that they applied for their original mortgage loan. We believe this is vital to ensure that mortgages are affordable for borrowers for the duration of the loan.

We are aware that there is a considerable amount of information available to borrowers who are considering switching their mortgage and we are keen to play our part in ensuring that consumers understand how they can go about this. Our Members have worked to deliver the changes recently introduced through the CBI transparency requirements in support of the switching process and have also introduced new documents in line with EU requirements.

[1] https://www.centralbank.ie/docs/default-source/publications/economic-letters/economic-letter---vol-2015-no-8.pdf
[2] http://www.irishstatutebook.ie/eli/2015/si/47/

We understand that the role of Competition and Consumer Protection Commission is critical in this area in order to create awareness of the potential benefits, risks and savings from switching and to provide independent information to borrowers.

We also note the reference to the use of digital formats when addressing some of the proposals included in the Consultation Paper. This is a welcome development and we recommend the review and amendment of the relevant requirements of CPC which currently limit the ability of Lenders to adopt more customer centric approaches particularly in relation to documentation.

We have set out our responses to the questions raised in the consultation in the following section along with some additional comments in Section 3.

We welcome the opportunity to discuss the proposals and this response at any stage with representatives from the CBI.

2. Response to questions

1. ***Do you have any views on the proposals to enhance the transparency measures for fixed interest rates and for variable interest rates based on LTV? Please explain your answer.***

In our view, the Central Banks approach to ensuring the full transparency of all mortgage information available to customers is the appropriate model. This aligns with the requirements of the Mortgage Credit Directive implemented in Ireland by way of the European Union (Consumer Mortgage Credit Agreement) Regulations (MCR) in March 2016. These regulations introduced pan European requirements for the provision of information to mortgage applicants and borrowers.[3]

The development of consistent regulations within the EU should support the long term objective of a single financial market for Consumers within member states.

Information provided to borrowers in relation to their interest rate can only be calculated and confirmed by their own lender. It is not possible for a lender to provide accurate and reliable information on the interest rates applied by other lenders in the mortgage market.

All fixed rate customers should receive a communication on expiry of a fixed rate term within 30 days of maturity. This communication should highlight all options available for that customer from their existing lender and what their new repayment will be.

In addition to this, with the changes to the Consumer Protection Code (CPC) effective from February 2017, all variable rate customers will receive information on any cheaper rate/product options available to them, from their existing lender, with their annual mortgage statement. Customers who may be eligible to move LTV subject to an up to date valuation can be advised of this option also.

We believe the already publicly available online independent CCPC mortgage comparison tool and extensive switching information is sufficient to allow a customer to make an informed decision.

[3] http://www.irishstatutebook.ie/eli/2016/si/142/made/en/print

2. ***Do you have any views on the proposal to extend the existing Code protection on incentives linked to mortgages for existing mortgage holders to all mortgage holders i.e. for new, existing and switching mortgages? Please explain your answer.***

   In our view, all key information in relation to incentives should be made available to consumers regardless of whether they are new or existing borrowers. The change will encourage a uniform approach with regard to transparency, across all lenders when advertising or offering incentives on both new and existing mortgages. When calculating repayment capacity, an incentive has no impact on the loan repayment.

3. ***What are your views on the impact of lenders offering incentives linked to mortgages to consumers, whether in terms of risks or benefits to consumers?***

   The choice in relation to the most suitable mortgage for a particular borrower must be based on the individual financial needs of that consumer. In our view, incentives are evidence of innovation and competition in the mortgage market with lenders offering a variety of options to provide choice for consumers.

   Incentives, especially cash-based incentives, offer consumers the choice of short-term realisation of benefits as opposed to long-term realisation. For some borrowers, cash up-front can be useful particularly for those who have used their long term savings to meet some / all of the deposit requirements for their new home or those who plan to upgrade or renovate the property.

4. ***Do you have any views on the proposal to introduce a transparency measure on potential mortgage switching savings? Please explain your answer***

   We believe that this proposal requires further clarification in order to understand the objectives of the measure. We support the introduction of transparency measures setting out comparisons of the possible savings that could be made over the lifetime of a mortgage within the lender. There are, however, limitations to this proposed measure as we currently understand it particularly in the context of reliability and accuracy of comparisons with products available from other lenders.

   We believe the onus should be on each bank to give accurate information on its own products and thus allow borrowers to approach competitors with facts on their current loan. The provision of the European Standardised Information Sheet (ESIS) and the APRC calculation shows the total cost and subsequent benefits of a mortgage loan which can then be used by the customer to compare with their existing mortgage to indicate the possible savings that could be made.

In our view, the availability of an independent source of information is the best option to meet the requirement for an assessment of the potential savings for consumers considering switching their mortgage. This information is already available from the Competition & Consumer Protection Commission (CCPC). The borrower can input their specific financial information and generate a list of providers where there are potential savings available. We understand that information on any incentives available from each lender is also published. This would also address the CBI consumer research which included the following key finding '*Easy comparison of mortgage products is a key step in the mortgage switching process'*.[4]

The information published by the CCPC is provided on the following basis:

- Updated every working day. Correct as at xx xx **2017**
- 100% impartial
- Covers the costs & benefits of financial products

While the level of awareness regarding the information contained in the CCPC mortgage switching portal is not high, according to the CBI research, there is potential to raise awareness of this independent and comprehensive facility. This would improve the understanding of the options available to potential switchers.

On a separate note, further consideration needs to be given to the role of the independent advisor brokers and their point of view. In broker applications it is always the broker that provides the advice and not the lender, this needs to remain 'as is'.

5. ***Do you have any views on the proposal to require lenders to provide a suite of standardised switching information to consumers?***

We believe that there are opportunities to improve the suite of information available on switching mortgages. This could include standard headings, layout, format etc and we welcome the opportunity to engage with the CBI in relation to the specific requirements on this proposal.

In implementing the requirements of the MCR, including the ESIS documentation, lenders are already complying with a level of standardisation when developing and providing consumer documentation. The detailed wording used in customer communications, marketing materials etc. is then developed by each lender and may involve a wide range of factors including consumer research, voice of the customer, 'Plain English' etc.

[4] https://www.centralbank.ie/docs/default-source/publications/consumer-protection-research/mortgage-switching-research.pdf?sfvrsn=7

However, it is also important to note that mortgage loan requirements may differ according to individual customer circumstances as well as the Credit Policy of each lender so a prescribed standard format may not be appropriate.

6. ***Do you have any views on the proposed standardised information for consumers or what other information should be provided? Do you have any views on whether lenders should be required to provide this standardised information in a specific format, for example, digitally? Please explain your answer.***

The delivery of information to consumers in relation to mortgage switching should be in a format that suits their needs and aligns with their current banking behaviour. In our view, the critical impact for any regulations in this area must be to ensure maximum flexibility so that there are no unnecessary limitations on potential future developments and positive outcomes for consumers.

We believe that format of the guide should be generic rather than prescriptive. A-switching guide which includes information on timelines, required documents and the overall mortgage process would be sufficient to allow customers make an informed decision. Providing this digitally would seem the best way at this time both from a consumer access point of view and the lender perspective.

7. ***Do you have any views on the proposal to introduce a three business day timeline for the provision of redemption figures? Please explain your answer.***

At the essence of any home purchase or mortgage switch is a legal transaction. This transaction is likely to be the most significant for many consumers whether they purchase one property or whether they repeat it as they switch their home or their mortgage. Notwithstanding the fact that the legal process is determined to be outside the remit of the CBI, for the purpose of mortgage transactions this area is a critical part of the process.

As a result, we are concerned whether the industry could move from the current ten business day timeline to a three business day requirement for all cases. All member banks of the BPFI have agreed to the Law Society of Ireland Approved Guidelines and Agreement (2011 Edition) of a maximum 10 working days timeline. This process is working satisfactorily, and we are not aware of any customer detriment/complaints with the current timeline. The provision of redemption figures can involve complex calculations and we believe that a three business day timeline is too tight.

We would welcome the opportunity to work with the Law Society and the CBI to explore opportunities to improve this process.

8. ***Do you have any views on the proposals to introduce a time-bound switching process, and in particular, on proposed specific timelines for:***

    - ***Acknowledgement within three business days of receipt of each item/documents required to complete the mortgage application;***
    - ***Acknowledgement within three business days of receipt of completed mortgage application;***
    - ***Decision within 10 business days following receipt of all required information for assessment of mortgage application? Please provide reasons for your answer(s).***

    In our view, the critical requirement for any switching process is to ensure that it meets the needs of the customer. As customer behaviours continue to change and move to more digital / online options we believe that there is potential to provide more consumer centric solutions rather than introducing limits and barriers to new initiatives.

    From the lender perspective, developing and implementing a process which makes switching as efficient and straightforward as possible will lead to a more effective business model.

    We have the following specific comments on the items proposed:

    - The acknowledgement of receipt of each item / document is considered to be of little benefit to the customer and in fact may lead to a negative customer journey. With this in mind we feel the cost to implement outweighs any tangible benefit to customers and may end up slowing the overall approval process.
    - The term ‘acknowledgement’ should be defined in as broad a meaning as possible and could include letters, text messages, telephone message, emails, updates on a document portal, updates on an App etc.
    - The time required to build automated communications would be significant.
    - As each application must undergo a creditworthiness assessment, we would recommend that the 10 days decision timeframe begins once all outstanding documentation required have been received and any queries arising from these have been clarified by the customer and satisfactorily addressed from the Bank’s perspective. It is only on this basis that Underwriters can make an informed decision.
    - The introduction of ‘blanket’ timeframes may not be appropriate from a customer service perspective as they will be too short for some and too long for others. In the interest of clarity and in support of a competitive market place for new business it may be more appropriate to enable each

lender to set out timeframes based on their process. This would lead to the development of a 'best in class' model for switching and provide real consumer benefits in the longer term.

9. ***Do you have any views on the proposal to require lenders to establish a switching point of contact/switching team? Please explain your answer. What are your views, if any, on whether the format for the switching point of contact should be prescribed, for example, a digital contact point or hub in addition to a person?***

We agree with the proposal to provide 'clear points of contact' for consumers and it is in the interest of our Members to set up strong communication processes which are aligned with the needs of borrowers, both new and existing. The key consideration must be to support the customer in their choice of channel and engagement whether that is a local branch, dedicated telephone support or perhaps digital options which may be available.

In relation to this specific proposal however our view is that a 'switching team' would require substantial administrative set up for limited value to either the borrower or the lender as all applicants essentially follow the same process. As a result, this proposal would not create sufficient additional benefit for the customer and there are potential implications for both existing lenders and potential new providers possibly deterred from entering the mortgage market.

Each lender applies an operating model that suits their approach to the market and is driven by a range of factors including channel strategy, credit policy, acquisition / retention strategy etc. As a result, the customer engagement process may be determined based on treating all applicants through one contact centre, establishing teams or hubs for specific cohorts or by reacting to the applicants chosen channel of communication. Therefore we do not see the value in requiring the establishment of a switching point of contact / switching team.

3. Additional matters for Consideration

a) Scope of regulations

The proposals set out in Appendix 2 of the consultation include specific provisions which impact the scope of the Consumer Protection Code (CPC) regulations. As currently drafted, the requirements for transparency and additional information may be applied to borrowers in arrears. This is likely to result in confusion and raise the expectations of borrowers who cannot switch their mortgage. A borrower may commence the process, accumulate the required document and complete the application form only to discover that they were ineligible to participate in the switching process to begin with. We believe that the scope of the requirements should exclude those ineligible to switch their mortgage.

b) Documentation

We believe that there is an opportunity to align the CPC requirements with a more up to date, consumer centric approach on documentation. The current requirements focus on the provision of ‘original documents’ which for many consumers is challenging and time consuming. We recommend the extension of this requirement should align to the MCR requirement to ‘appropriately verify’ documentation which could include documents in a digital format and ‘verified copies’ which would ensure the balance between consumer protection and a more up to date view in line with current and future consumer behaviours. We also believe that CPC 5.6 is not in the ‘spirit’ of CPC 2012 as it disadvantages customers and discourages competition between mortgage lenders.

c) Legal process

With a narrow focus on Home Loan Switching, a review of the associated legal process, with the relevant stakeholders, should be conducted to streamline and ensure an exact fit for purpose.

<u>Current situation:</u>

Borrower has to employ a solicitor to certify the title to the new lender despite the fact that a solicitor will already have investigated and certified the title for the borrower in relation to the previous loan. This repeat investigation will mean additional legal costs and delays for the customer.

<u>Suggested approach:</u>

To streamline the legal aspect of Switching, a new lender could accept the previous solicitor’s Certificate of Title (i.e. previous solicitor to accept that the Cert would be relied upon, not just by the previous Lender to whom it was addressed, but also the new lender or indeed any lender).

Note: any change would be subject to agreement with the Law Society of Ireland

Detail of proposal:

- Under the Statute of Limitations, a lender only has a period of 6 years from the date of the Cert. of Title to bring any legal proceedings against the certifying solicitor for breach of the Certificate. The Cert. of Title runs from the date of issue of the loan cheque.
- Where the Cert is still within the 6 year period from the date of issue, it could still be relied upon by a new Lender subject to an updating by the new solicitor from the date of the Cert of Title to the date of advance of the new loan. This updating is just that and would not require that new solicitor to reinvestigate the title. In the event of a breach of the Cert, the new Lender would have recourse to the previous solicitor where the defect is not something caused or omitted by the new solicitor. Therefore the previous solicitor remains liable until the 6 years has expired from the date of issue of the Cert of Title. Where the defect or error arises from something caused or omitted by the new solicitor the new solicitor would be liable.
- Where the Cert has issued more than 6 years from the date of issue, then a new Cert. of Title would be required from the new solicitor in respect of the loan from the new Lender and the existing procedure would be followed.

Disadvantages of Proposed Updating Process:

1. Dependent on the respective insurance companies, who would be providing professional indemnity cover for the previous solicitor and the new solicitor, agreeing to provide cover on this basis
2. Potential disputes between the previous solicitor and the new solicitor and their respective insurers as to whether an error or defect was something which should have been investigated by one or other of the solicitors, it may be difficult to demarcate liability in such circumstances.