Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Feedback Statement CP112

Enhanced Mortgage Measures: Transparency and Switching

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Introduction

The decision to take out or switch a mortgage is one of the most important financial decisions that a consumer will make throughout the course of their life. Maintaining a strong consumer protection framework for mortgage borrowers, at all stages of the mortgage life cycle, continues to be a key priority of the Central Bank.[1]

To that end, the Central Bank published a consultation paper on *Enhanced Mortgage Measures: Transparency and Switching (CP112)*, in August 2017 for a three month public consultation period and included a number of additional requirements to be added to the Central Bank's Consumer Protection Code 2012 ('the Code'). CP112 proposed additional protections to consumers and a series of measures to help consumers make savings on their mortgage repayments and to facilitate mortgage switching through enhancing the transparency of the mortgage framework. The measures, when implemented, are aimed at enhancing the transparency, consistency and effectiveness of the mortgage switching process and general mortgage application process for consumers.

The development of the enhanced mortgage transparency and switching proposals was informed by research,[2] published by the Central Bank in April 2017, into consumer perceptions and attitudes to mortgage switching, as well as the experience of those who had switched their mortgage. The proposed measures were also informed by earlier published research[3] by the Central Bank, which found that many consumers could make significant savings by ensuring they are on the best interest rate available to them. The Central Bank also had regard to the study of the Irish mortgage market[4] published by the Competition and Consumer Protection Commission (CCPC) in June 2017.

The Central Bank is committed to undertaking research and analytics that can inform policy design. Insights from behavioural science can aid in understanding how consumers make decisions in relation to their financial products, including their appetite for switching products or providers. In late-2016, the Central Bank conducted a survey of households on mortgage switching activity and this provided important input to the current proposals. This survey also garnered insights on behavioural traits, and initial analysis shows a link between, for example, risk preferences and mortgage switching activity. The Central Bank is intending to undertake further analysis of the role of behavioural traits in mortgage decisions, which will assist in future policy work in this area.

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[1] The key elements of the existing framework of consumer protections for mortgage borrowers include the Consumer Protection Code 2012 (including the 2016 enhanced protections for variable rate mortgage holders), the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (the Mortgage Credit Regulations) and the Code of Conduct on Mortgage Arrears 2013 (CCMA).
[2] Central Bank Mortgage Switching Research, April 2017
[3] Kenneth Devine, Sarah Frost & Rory McElligott, *Switch and Save in the Irish market*, Economic Letter, Volume 2015, No.8
[4] CCPC, *Options for Ireland's Mortgage Market*, June 2017

CP112 set out a suite of enhanced mortgage transparency and switching measures that would require lenders to:

- inform consumers about other available mortgage options that could save them money and about the impact of mortgage-related incentives on the cost of their mortgage;
- help consumers to compare their existing mortgage to other mortgage options;
- provide consumers with standardised switching information; and
- follow a time-bound switching process.

Proposed amendments to the Code and new provisions were included in CP112, which invited views from all interested stakeholders on the proposed measures.

Ten submissions were received in response to CP112 from a broad cross-section of stakeholders. In general, the majority of respondents broadly supported the aims and objectives of the proposals and welcomed many of the measures proposed. Stakeholders also sought a number of clarifications on the measures as consulted on and proposed amendments or alternative approaches. The proposed measures were also presented to, and well received by, the February 2018 meeting of the Central Bank's Consumer Advisory Group.[5]

Following detailed analysis of the comments received during the consultation process, we have published an addendum to the Code (the June 2018 Addendum). We would like to express our appreciation to all those who provided assistance and feedback during the consultation process.

Please note that this document is for information purposes only. It does not amend or alter the Code and does not form part of the Code. This document does not constitute legal advice and should not be used as a substitute for such advice. The Central Bank does not represent to any person that this document provides legal advice. It is the responsibility of all regulated entities to ensure their compliance with the Code. Nothing in this document should be taken to imply any assurance that the Central Bank will defer the use of its enforcement powers where a suspected breach of the Code comes to its attention.

The Central Bank's position on each of the enhanced mortgage transparency and switching measures as consulted on in CP112, is set out below in parts (1) to (8) and, for ease of reference, each of these sections includes:

- the proposal as consulted on in CP112;
- a brief summary of the responses received on the measure in the consultation process; and
- the Central Bank's final position in relation to each measure.

[5] https://www.centralbank.ie/regulation/consumer-protection/advisory-groups

In addition, part 9 sets out other miscellaneous comments submitted to CP112 that did not relate to the questions in CP112 and were consequently out of scope of the consultation process.

Enhanced Mortgage Measures: Transparency and Switching

1. Fixed Interest Rates Measure

1.1 Measure as consulted on in CP112

Lenders to:
- notify the consumer 30 days before the expiry of a fixed interest rate and include details of the new rate applicable from the expiry date; and
- where the new rate applicable on expiry of a fixed rate is not a tracker interest rate, provide information about other available interest rates and mortgage products and a link to the online CCPC mortgage comparison tool and switching information.

1.2 Submissions

The majority of respondents to the consultation process expressed broad support for the objective of this measure. One respondent noted that, as a long-term product, it is important that consumers assess the suitability and value for money of their mortgage at regular intervals. This respondent also suggested that the measure is regularly reviewed to monitor for any negative unintended consequences.

A number of respondents agreed with the proposed 30 day notification period for fixed interest rate holders. Other respondents supported the proposal but suggested that the proposed 30 day fixed notice period is extended to a 90 day notification period to give consumers more time to consider their options. A further respondent suggested a two stage notification process for the fixed rate mortgage holder at both six months and 30 days before the expiration date. In addition, it was suggested that consumers should be notified that, if switching, a full credit assessment will need to be performed by the new lender which may not be required by their current lender in order to switch rate. Finally, it was suggested that information on how break costs are calculated should be made clearer for consumers as part of this measure.

1.3 Response

The Central Bank will introduce the fixed interest rate transparency measure as consulted on but with a 60 day notification period.

A 60 day notification period will provide a more suitable timeframe for fixed rate borrowers to consider their options and to potentially shop around for an alternative product or lender before the fixed rate expires. The intention of the proposed 30 day notification period was to have consistency with the similar measures introduced in the Code for variable rate mortgage holders[6] in 2016. However, fixed interest rates are a notably different product than variable interest rates and we believe it is appropriate to allow for a divergent notification period between the two. It is our view that an insufficient threshold of evidence has been advanced that a two stage notification process would be in the best interests of consumers.

[6] Central Bank Addendum for increased protections for variable rate mortgage holders, 2016

In terms of break costs, lenders are required under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 ("the 2016 Regulations")[7] to set out their policy on early repayment in the European Standardised Information Sheet (ESIS) that is provided to each consumer. On creditworthiness requirements, the proposed new Code provision on standardised switching information (set out in section 5 below) will require lenders to provide consumers with a standard suite of information on the mortgage application process including the information required from a borrower in order for a new lender to assess the borrower's mortgage application. Finally, as with all new measures introduced by the Central Bank, our ongoing supervisory work with lenders informs our regulatory approach and we continuously seek to ensure that the framework of rules in place serves consumers' best interests.

2. Variable Rates based on Loan-to-Value (LTV) Measure

2.1 Measure as consulted on in CP112

Lenders to notify consumers on an annual basis of whether they can, or cannot, move LTV interest rate bands subject to the provision of an up-to-date valuation to their lender and, at the same time:

- if the lender does permit movement between LTV bands, include an invitation to the consumer to contact the lender to discuss further; or
- if the lender does not permit movement between LTV bands, the lender must notify the consumer that lower rates based on LTV may be available from other lenders and provide a link to the online CCPC comparison tool and switching information.

This information would be included as part of the consumer's annual statement on their mortgage.

2.2 Submissions

Stakeholders generally expressed support for the aim of this measure to enhance transparency for consumers in relation to the operation of variable rates based on LTV.

Two respondents supported the measure but suggested that lenders should be required to automatically move the customer down to a new rate as their LTV decreases. Another respondent proposed that this notification process, i.e., that a consumer is informed of how their variable rate based on LTV operates, is also followed whenever the lender changes their variable interest rate. Three respondents noted that lenders cannot provide accurate and reliable information on interest rates applied by other lenders in the market.

2.3 Response

The enhanced mortgage transparency measure on variable rates based on LTV will be introduced as consulted on, with a clarifying addition to the text of the Code provision.

This amendment would clarify that the annual notification (as to whether the personal consumer can, or cannot, move between LTV interest rate bands) is subject to the provision of an up-to-date valuation and "any other requirements that may apply to movement between LTV bands." This additional text has been added as it is important that consumers are made aware of any other conditions that may affect the operation of the LTV rate, and how often movement between bands can take place, in the annual

[7] http://www.irishstatutebook.ie/eli/2016/si/142/made/en/pdf

notification. In relation to the suggestion on the automatic adjustment of rates, the objective of this measure is to enhance transparency for consumers about lenders' policies on movement between LTV bands rather than to intervene in the operation of those LTV interest rates.

It is also appropriate that, as consulted on, consumers are notified of this information on an annual basis to ensure a balance is struck between enhancing transparency and avoiding overloading consumers with potentially irrelevant or misleading information. In response to the comments on competitor information, the proposed measure does not suggest that lenders would have to provide customers with competitor information but rather requires lenders, if they do not permit movement between LTV bands, to notify the consumer that lower rates based on LTV *may* be available from other lenders and to provide a link to the CCPC website.

3. Incentives linked to Mortgages Measure

3.1 Measure as consulted on in CP112

Measure as consulted on in CP112

Lenders to:

- notify the consumer prior to the purchase of a mortgage of the potential impact of an associated incentive on the cost of their mortgage and any other key information that the consumer should have available to them when considering such an incentive.

If implemented, this measure would extend the existing Code Provision 6.12[8] to all mortgage holders. Provision 6.12 currently sets out a series of transparency requirements when a lender is offering an incentive to an **existing** mortgage holder only. By extending this provision, the same protections would apply to **all mortgage holders, i.e., for new, existing and switching mortgages holders.**

3.2 Submissions

(a) Proposed measure on incentives linked to mortgages

There were two questions on incentives linked to mortgages in CP112. The first question asked for stakeholders' views on the specific proposal in CP112 to extend the existing protections under Code Provision 6.12 to all mortgage holders and thereby enhance the transparency for consumers around incentives linked to mortgages. The majority of respondents broadly agreed with this proposal.

One respondent saw merit in extending the existing Code provision 6.12 to all mortgage holders. Another two respondents suggested that the introduction of the proposed transparency measure would bring a uniform approach to transparency across all lenders when incentives were being advertised or offered. It was also suggested that some of the existing requirements in Code Provision 6.12, as applied to existing

[8] Code Provision 6.12 sets out that:
Where a regulated entity offers an incentive to a personal consumer on an existing mortgage, the regulated entity must provide the personal consumer, on paper or on another durable medium, with the information needed to consider the incentive offered. This information must:
a) quantify the implications for the personal consumer of availing of the incentive including an indicative cost comparison of the total cost of the existing mortgage if they do not avail of the incentive and the total cost of the mortgage if they avail of the incentive;
b) clearly set out the length of time during which the incentive will be available;
c) clearly set out any assumptions used, which must be reasonable and justifiable;
d) set out the advantages and disadvantages to the personal consumer of availing of the incentive;
e) include other key information which the personal consumer should have available to them when considering the incentive; and
f) include a statement that the personal consumer may wish to seek independent advice prior to availing of the incentive.

customers, might not be suitable for new lending as consumers may not have the option to choose the specific mortgage product without the incentive. Another respondent commented that giving consumers information on products they are not eligible for may cause confusion. They also suggested that it may be difficult to compare incentives as some may have a material impact on the pricing of a product and others not.

Two further respondents suggested there should be an outright ban on promotional or cashback incentive offers linked to mortgages. One of these respondents also noted that the paying of legal fees by lenders is fine but that lenders should ultimately be competing on rates alone. It was submitted that all loan documentation should have to specify that there is no clawback on cashback offers. It was also noted that it is important that all incentives are advertised in such a way that consumers can understand the incentive and their implications.

(b) Risks and benefits of incentives linked to mortgages

Stakeholders expressed mixed views on the second, information-seeking question on the risks and benefits of incentives linked to mortgages. A number of respondents highlighted both potential benefits and risks to consumers. Two respondents noted that incentives can promote choice and benefits for consumers and innovation and competition in the market. It was also submitted that a distinction could be drawn between upfront cashback and a contribution towards the cost of switching providers, as, it was submitted, upfront cash incentives could disguise transparency in relation to the lifetime cost of a mortgage.

Another respondent said the ability to offer incentives to customers is to be welcomed; however, a lender's risk appetite in this regard should also be noted and all consumers will still need to meet the eligibility criteria and parameters of the product offered. They added that there was a risk that the approach proposed in CP112 will lead to all lenders having the same product.

It was suggested that incentives which require the consumer to avail of an additional product with the same lender for an extended period of time are not appropriate unless reflected in the interest rate offered to the consumer. A further respondent submitted that warnings should be included on all advertisements and communications on incentives outlining the conditions and restrictions and whether the cost of the incentive is incorporated into the cost of credit. Two respondents noted the FinCoNet Guidance[9] on sales incentives and responsible lending referenced in CP112. Finally, it was suggested that more work may be needed to properly determine the impact of incentives on consumer behaviour.

3.3 Response

The transparency measure on incentives linked to mortgages will be introduced as consulted on. The key objective of this measure is to ensure that there is sufficient clarity for the consumer about the precise nature and scale of the benefit of the incentive being offered to them. The provisions in the measure as

[9] http://www.finconet.org/Guidance_SS_Sales_Incentives_Responsible_Lending.pdf

consulted on are reasonable and appropriate and require the lender to clearly set out the key information in relation to any incentive on offer to a consumer and the potential impact of an associated incentive on the cost of the mortgage. If the consumer has no choice but to accept the incentive as part of the mortgage product, or there are specific eligibility criteria in relation to the incentive, then the lender should clearly set out that information for the consumer.

In relation to clawback, there are requirements under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (the "2016 Regulations") which can apply. In addition, the extension of Provision 6.12[10] as proposed in this suite of measures, should also enhance the degree of protection provided to consumers given that a lender is required to set out the key information the consumer should have when considering the incentive.

In terms of the advertising of incentives, the Code already contains an extensive suite of advertising rules to which regulated firms are required to comply.[11] The Central Bank recently undertook a review of advertisements by mortgage lenders, specifically in the context of incentives. On foot of that review, and following instruction from the Central Bank, a significant number of the advertisements reviewed were required to be withdrawn. The Central Bank also expects regulated entities, in relation to incentives linked to mortgages, to be fully cognizant of robust product oversight and governance (POG) arrangements.[12] Finally, the FinCoNet Guidance referenced in submissions is specifically directed at supervisors in relation to the setting of standards in the field of sales incentives and responsible lending.

4. Potential Switching Savings Measure

4.1 Measure as consulted on in CP112

Lenders to: ■ assist consumers in comparing their existing mortgage to a different mortgage, through all lenders to provide on request, an indicative comparison of the total interest payable on the consumer's existing mortgage and the interest payable on the new mortgage or alternative interest rate.

4.2 Submissions

The majority of respondents expressed broad support for the aim of this measure. One respondent cited their own research which found that consumers have limited knowledge of mortgages, particularly in terms of interest rates and welcomed measures to promote transparency and ensure comparability over the product lifetime.

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[10] For example Provision 6.12(d) requires the lender to set out the 'disadvantages' of the incentive and 6.12(f) states that the information provided by the regulated entity on the incentive is to include '…a statement that the personal consumer may wish to seek independent advice prior to availing of the incentive.'

[11] For example Provision 9.2 states that a regulated entity must ensure that, "a) the design, presentation and content of an advertisement is clear, fair, accurate and not misleading; b) the advertisement does not seek to influence a consumer's attitude to the advertised product or service or the regulated entity either by ambiguity, exaggeration or omission; c) the nature and type of the advertised product is clear and not disguised in any way." 9.6 (a) also states that a regulated entity must "ensure that key information, in relation to the advertised product or service, is prominent and is not obscured or disguised in any way by the content, design or format of the advertisement".

[12] The EBA Guidelines on product oversight and governance arrangements for retail banking, for example, have applied since 3 January 2017.

Three respondents queried whether, as currently set out, lenders would be required to assess other lenders' products and rates and provide this information to consumers which, they believe, could undermine the reliability and accuracy of the measure. They further suggested that lenders should be required to give accurate information on their own products and allow borrowers to approach competitors with facts on their current loan through use, for example, of the ESIS and Annual Percentage Rate of Change (APRC) calculation as required under the 2016 Regulations.[13] Further to this, a number of respondents highlighted the importance of independent sources of information in this regard, and, in particular, the CCPC website.

The reference to "on request" in the proposed new Code provision was also queried and it was suggested that it may reduce the impact of the measure for consumers if they were not aware of it in the first place. Finally, one respondent supported the measure but said it would be more effective if cashback offers were banned and referenced Fianna Fáil's Central Bank (Variable Rate Mortgages) Private Member's Bill.

4.3 Response

The Central Bank will introduce this measure with a drafting amendment to clarify that, on the request of the consumer, lenders will be required to provide existing borrowers with an indicative comparison with alternative or new rates offered by that regulated entity only. If providing this information to a consumer, lenders will also be required to provide a link to the relevant section of the CCPC's website, to allow the consumer to shop around to make sure they are on the best available interest rate.

To increase consumer awareness of this measure, lenders will be required to inform consumers on their website, as part of the suite of standardised information, of their right to request this indicative comparison (as set out in 5.3 below). This will also provide another signpost for the consumer to the CCPC website.

5. Standardised Switching Information

5.1 Measure as consulted on in CP112

> All lenders to provide standard information on the mortgage process and a link to the mortgage section on the CCPC's website. The standardised suite of information from the lender is to at least include:
> - a guide to the lender's mortgage switching process which must include certain prescribed information;
> - application forms; and
> - information on timelines, mortgage process and documents required from the consumer.

5.2 Submissions

[13] European Union (Consumer Mortgage Credit Agreements) Regulations 2016

There were two questions in CP112 on the standardised switching information proposal. The first question asked stakeholders for their views on the proposed measure to require lenders to provide a standardised suite of switching information for consumers. The second, more general question, sought any further views from stakeholders on the type of information that should be provided to consumers and whether standardised information should be provided in specific formats, such as digital.

The majority of respondents broadly supported the objective of the proposed measure. One respondent indicated their support for measures where the Central Bank would prescribe the format and content of the standardised information to ensure consistency of information between providers and ease of comparison for consumers. It was also suggested that consideration should be given to a behavioural economics and experimental research approach in this regard. This respondent highlighted their own focus group research which indicated that where standardised information is prescribed, it should describe the switching process end to end, the costs, the personnel and the timeframe involved.

A number of other respondents suggested that there may be opportunities to improve existing information but that flexibility should be maintained. One respondent noted that they would welcome standardised industry wording and definitions to simplify information being presented to consumers. Another suggested that this measure should be limited to cover standard items and that a balance needed to be struck between increasing transparency and providing excessive information to consumers. A range of respondents highlighted in their responses the importance of the provision of standardised mortgage information in plain English and the growing importance of the use of digital channels.

Respondents sought clarification on a number of issues. Firstly, clarification was sought on the proposed requirement on lenders to provide a statement confirming whether a refused mortgage switching application would result in a negative impact on the personal consumer's credit rating. It was submitted that this may depend on the Central Credit Register (CCR). Secondly, it was suggested that it was not appropriate to require a lender, as part of their guide to mortgage switching, to include "the requirements in relation to insurance policies and the steps a personal consumer can take to maintain existing insurance policies" as this may involve a lender advising consumers on an insurance policy which is not the lender's own product. The specific reference to the provision of all application forms including top-up application forms in the proposed measure was also queried.

5.3 Response

The Central Bank will introduce the standardised switching information measure as consulted on with some drafting amendments to clarify the issues raised on insurance policies and a consumer's credit rating.

Many lenders in the Irish market already provide a range of mortgage-related information for consumers. There are also a range of existing information requirements for lenders under the 2016 Regulations,[14] the

[14] European Union (Consumer Mortgage Credit Agreements) Regulations 2016

ESIS in particular, and the Code. Therefore, prescribing clear requirements on the content of the suite of key standard switching information that each lender must provide for consumers, rather than setting out individual documents or mortgage guides, is the most appropriate approach. It is also appropriate to allow flexibility for consumers in how they engage with their lender, given the increasing use of mobile and digital channels for consumer/lender engagement. Of course, the Central Bank would support any initiative by lenders or their industry representatives to further develop standardised wording/terms in this regard. Code Provision 4.1 already requires that regulated entities must ensure that all information provided to consumers is clear, accurate, up to date, and written in plain English.

In terms of the insurance policies issue, the provision has been revised to require the lender to set out the general requirements that apply in relation to insurance policies for mortgage applicants or switchers and, at the same time, to set out a statement for the consumer that they should consider whether, and how, their existing insurance policy may be maintained should they decide to switch their mortgage. This approach will provide a clear reminder to consumers on the need to maintain the continuity of their existing insurance policy whilst also reflecting the approach that lenders are not required to potentially assess or advise on another lender's product.

After assessing the feedback received, the reference to the potential impact of a refused mortgage application on the consumer's credit rating has been removed. The objective of this measure was to provide reassurance to consumers in their engagement with lenders, not to impact on creditworthiness requirements. Therefore unwarranted consumer confusion may be caused by maintaining this reference in the provision.

Finally, top-up mortgage application forms were included in the proposed measure given that full creditworthiness requirements apply in relation to top-ups. A minor drafting amendment is included in the proposed Code provision to state where "separate top-up application forms exist" to provide flexibility for lenders who may not have specific top-up application forms.

6. Time-Bound Switching Process: Redemption Figures

6.1 Measure as consulted on in CP112

Lenders to:

- provide redemption figures to the consumer or their legal representative within three business days of request.

6.2 Submissions

Respondents to the consultation process generally welcomed the measure as set out in CP112. However, a number of respondents queried the proposed three day timeframe.

One respondent noted they would strongly welcome any measures that improve the consumer's role in the relationship between borrower and lender in the mortgage process. Another agreed with the introduction of a three day timeline. The introduction of definite timelines in the mortgage process was welcomed by another respondent but it was suggested that they should be underpinned by clear penalties if lenders do not strictly adhere to those timelines. Four respondents disagreed with the proposed three day timeline indicating that they may be not achievable given the sometimes complex calculations involved and the importance of ensuring the accuracy of redemption figures.

These respondents cited an existing agreement[15] between members of the Banking and Payments Federation of Ireland (BPFI) and the Law Society of Ireland on a maximum 10 working days timeline for the provision of redemption figures. They also suggested that this agreement is working satisfactorily and they are not aware of any consumer detriment or complaints in relation to these existing arrangements. Another respondent suggested that a five business day timeline would be more practical and reflect the realities of calculating and providing these figures and managing consumer expectations.

6.3 Response

The Central Bank has carefully considered submissions received on this proposal and will introduce the measure with a revised five business day timeframe. Introducing a five day timeframe for the provision of redemption figures will provide a clear, statutorily-defined framework and ensure consistency and predictability for consumers who are seeking to switch their mortgage. It will also address concerns raised in the feedback on the practical ability of lenders to accurately provide the figures within a three day timeframe.

In response to the comment submitted on penalties underpinning these measures, the Central Bank's regulatory approach is undertaken through risk-based supervision, underpinned by a credible threat of enforcement. Our objective is to ensure financial stability, consumer protection and market integrity. To do this, we have a range of regulatory powers in the areas of authorisation, supervision and enforcement.

7. Time-bound Switching Process: Keeping the Consumer Up-to-Date

7.1 Measure as consulted on in CP112

New lender to keep the consumer up to date throughout the process with specific timelines for:

a. acknowledgement within three business days of receipt of each individual item/document required to complete the mortgage application;
b. acknowledgement within three business days of receipt of the completed mortgage application; and
c. decision on mortgage application within 10 business days following receipt of all required information for assessment of mortgage application.

This proposed Code provision in CP112 also set out that if the lender cannot make a decision on the mortgage application within the 10 business day timeframe, then they must inform the consumer and indicate the estimated timeframe for that decision.

7.2 Submissions

[15] The Law Society of Ireland Approved Guidelines and Agreement (2011 Edition)

In general, respondents to the consultation process were broadly supportive of the introduction of a time-bound switching process in order to keep the consumer up-to-date during the mortgage switching process. Two respondents suggested that instead of "blanket" timeframes, a "best in class" model enabling each lender to set out timeframes based on their own process is considered instead.

Respondents generally welcomed the proposed measures to require lenders to acknowledge the completed mortgage application within three business days and to make a decision on the application within 10 business days following receipt of all required information. A number of issues were raised in relation to the proposal to require acknowledgment by lenders of each individual item received to complete the mortgage application.

A number of respondents suggested that the proposal to acknowledge each individual item /piece of documentation received from the consumer may be of little benefit to consumers and only serve to create an administrative burden. It was also noted that it may be costly to build up an automated communications process to comply with such requirements. Two respondents recommended that the format for "acknowledgement" of individual items should be as broad as possible and include letters, text messages, emails, apps, a document portal etc. It was also queried whether acknowledgements through non-traditional formats would comply with the definition of "durable medium"[16] under the Code.

In terms of the proposal for the lender to make a decision on a completed mortgage application within ten business days, it was noted that the 10 business day decision timeframe should only begin once all documentation has been received from the consumer and any issues relating to the documents have been clarified. Another respondent disagreed with the 10 business day timeframe and said that switchers should not be treated as new mortgage applicants and, as such, the proposed timeframe for making a decision should be less than 10 days.

7.3 Response

After assessing the feedback received, measures (b) and (c) will be introduced as consulted on. This means that lenders will have to acknowledge receipt of a consumer's completed mortgage application form within three business days. They will also have to make a decision on a mortgage application within 10 business days following receipt of all required information for assessment of mortgage application. If the lender cannot make a decision on the mortgage application within the 10 business day timeframe, they must inform the consumer and indicate the estimated timeframe for that decision.

In relation to (a), the measure has been amended to instead require lenders to acknowledge receipt of an incomplete or initial mortgage application within three business days and, at the same time, inform the consumer of all outstanding documents needed to complete the mortgage application. This approach will ensure that lenders are required to provide the consumer, in effect, with a checklist of outstanding

[16] "Durable medium" is defined in the Code as meaning any instrument that enables a recipient to store information addressed personally to the recipient in a way that renders it accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

documents at a key stage in the application process. It will also address concerns raised in the public consultation process in terms of the potential onerous nature of acknowledging each individual item received for lenders and information overload for consumers.

The new Code provision already sets out that the 10 business day deadline for making a decision on the mortgage application only begins after the "receipt of all documents or items of information necessary to assess the application." The Central Bank recognises that consumers are increasingly utilising various channels, particularly digital ones, in engaging with lenders. However, the revised proposed measures for keeping the consumer up to date in the mortgage switching process introduce reasonable and appropriate requirements for lenders in communicating with consumers during the mortgage application or switching process. Finally, the Central Bank believes in a 'technology neutral' approach meaning that the same principles of regulation, including the rules of the Code, apply equally to both digital and traditional delivery environments.

8. Time-Bound Switching Process: Clear Points of Contact

8.1 Measure as consulted on in CP112

Both the original and new mortgage lender to establish a switching point of contact/switching team.

8.2 Submissions

Respondents who submitted a response on this proposal were generally supportive of the introduction of the measure. One respondent noted the potential benefits for consumers from the transparency and accountability provided by dedicated switching teams. A number of suggestions were made including that lenders should have a dedicated switcher helpdesk and online support facility resourced by qualified and experienced personnel and that lenders should establish "remortgage credit" and support teams and set out service level agreements with brokers/clients.

A number of submissions suggested that "clear points of contact" for consumers should not necessarily include a requirement on specific switcher teams. It was noted that it is important that a consumer can choose the channel through which they engage with their lender. It was further suggested that prescribing specific switcher teams may be of limited benefit given that the mortgage application process is the same for all consumers, whether new or switching, and the increasingly diverse ways that consumers engage with lenders. The ongoing move to digital channels and models which enable consumers to access services with their lender on a 24 hour basis were also noted in the context of clear points of contact.

8.3 Response

It is recommended that the proposal on points of contact is introduced as consulted on. The introduction of this measure will enhance the transparency and predictability of the process for the consumer as it puts a statutory onus on the lender to have clearly defined points of contact for consumers for switching and other mortgage-related issues. The provision requires the lender to have clear points of contact for the consumer rather than a prescribed specific switching team. In this way, it reflects the reality that consumers increasingly engage with lenders through a variety of channels (including digital and mobile) and may want flexibility in how and when they can contact their lender.

Additional Miscellaneous Submissions

A range of additional comments were submitted to CP112 that did not relate to questions in the consultation paper and as such were outside the scope of the consultation. The purpose of this section is to provide details on these other issues raised and to briefly set out the Central Bank's response to each of these issues:

9.1 Stand-alone Mortgage Switching Code

One respondent noted that they had previously called for a specific Code of Conduct on Mortgage Switching, although they noted that the same outcome may be derived from amending existing codes as proposed in CP112. It is the Central Bank's view that amending the existing Code is the most appropriate option. Many of the identified measures relate to enhancing existing transparency requirements in the Code and several of the proposed new requirements will be applicable to all mortgage applicants, not just those seeking to switch their mortgage. Finally, housing the rules in the existing Code does not in any way diminish their status or enforceability when compared to a separate code.

9.2 Creditworthiness requirements and the switching process

It was highlighted by a respondent that the new lender must assess the creditworthiness at the point in time that the consumer wishes to switch mortgage lenders. In contrast, another respondent suggested that a consumer should be automatically considered eligible for switching if they have a clean credit record for a minimum of five years. As set out in CP112, when 'switching' mortgage in terms of moving lender or borrowing more with an existing lender, a consumer is in fact taking out a new loan. The full suite of protections for consumers apply, including requirements in Irish and EU law,[17] for the lender to conduct a creditworthiness check. This is particularly important to help foster responsible lending, ensure high levels of consumer protection and contribute to financial stability. This means that the new lender must assess the consumer's creditworthiness at the point in time in which they are seeking to move to the new lender.

9.3 Switching process based on the Central Credit Register (CCR)

It was suggested by a respondent that the CCR could provide the basis for the sharing of customer information with the consent of the consumer and allow banks to expedite a switching request from a customer without the provision of documentation from the current provider. The CCR operates on a statutorily defined basis and is an important financial sector reform, contributing to enhanced financial stability and consumer protection. However, it is not an appropriate mechanism in relation to mortgage switching, given, in particular, the range of creditworthiness requirements for mortgage lending as noted in 9.2 above.

9.4 Scope of the proposed Code amendments and their applicability to borrowers in arrears

[17] Requirements relating to creditworthiness exist in the 2016 Mortgage Credit Regulations, the Consumer Protection Code 2012 and the European Banking Authority (EBA) Guidelines on creditworthiness assessment.

Another respondent queried whether, as drafted, some of the proposals may be applied to borrowers in arrears and may result in confusion for borrowers who cannot switch their mortgage. As noted in CP112, when 'switching' mortgage, a consumer is in fact taking out a new loan. Accordingly, a number of the new measures proposed in CP112 would apply equally to all consumers engaged in the mortgage application process, whether a first time buyer, switcher, mover or consumer applying for a top-up mortgage. For this reason, the measures will be introduced by way of a general Addendum to the Code and not as a stand-alone set of requirements on mortgage switching. These measures should enhance the transparency and consistency of the mortgage and switching process for all consumers either seeking a new mortgage or to switch their existing mortgage. Mortgage holders, however, will still have to engage with the lender in terms of their eligibility to switch and meeting creditworthiness requirements.

9.5 Ability of certain borrowers to switch mortgage

Comments were submitted in relation to the ability of certain borrowers to switch mortgage if, for example, their mortgage has been sold or they are in an alternative repayment arrangement (the respondent termed these mortgage holders "Lost Borrowers"). Again, this issue does not fall within the scope of CP112. However, we note that if a borrower is in an alternative repayment arrangement, the protections of the Code of Conduct on Mortgage Arrears (CCMA) would apply.

9.6 The legal process

Many respondents to CP112 highlighted the importance of the legal process to the wider mortgage switching process. Respondents noted that the timeframes associated with the legal process were outside of the lenders' control and may impact on the length of time that the switching process takes. Suggestions were also put forward in relation to processes related to title deeds. As noted in CP112, the legal process is outside the remit of the Central Bank and was consequently not within the scope of this consultation process.

9.7 Code Provision 5.6

A number of respondents suggested that existing Code Provision 5.6, which requires lenders to have "had sight of all original supporting documentation"[18] in assessing a mortgage application, may limit the ability of providers to reduce timeframes in relation to their switching processes. These comments have been noted and they may inform future work undertaken by the Central Bank. However, it is important to note that the original intention of Code Provision 5.6 was to ensure the integrity of the information on which lenders rely to make their decision to provide a mortgage given that any abuse of this process could lead to both irresponsible borrowing and lending.

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[18] Code Protection 5.6 in full sets out that:
Prior to providing a mortgage to a personal consumer, a mortgage lender must either:
a) have had sight of all original supporting documentation evidencing the personal consumer's identity and ability to repay; or
b) receive from a mortgage intermediary a signed declaration that such mortgage intermediary has had sight of all original supporting documentation evidencing the personal consumer's identity and ability to repay.
A declaration signed by the personal consumer, (or his or her representative), certifying income and/or ability to repay is not sufficient evidence for these purposes.

9.8 Role of the mortgage broker

A number of respondents raised the role of the mortgage broker in the mortgage process. It was noted that in broker applications, it is always, and should remain the case, the broker that provides the advice and not the lender. Another respondent recommended that consumers should be encouraged to contact suitably qualified mortgage intermediaries. This issue is again outside of the scope of this consultation process. The Central Bank recognises that the choice of multiple channels in the mortgage process is beneficial to consumers and the measures consulted on in CP112 do not propose any change to the role of the mortgage broker in the mortgage process. However, we note the publication by the Central Bank of a consultation paper on *Intermediary Inducements: Enhanced Consumer Protection Measures*[19] in November 2017, which contained proposals to enhance the protections for consumers when seeking advice from financial intermediaries. The closing date for submissions to that consultation paper was 22 March 2018.

9.9 Mortgage authorisation process

A respondent submitted a number of comments in relation to the authorisation process for mortgage intermediaries, particularly in relation to the introduction of a revised authorisation process in March 2016. This issue is also outside the scope of this consultation process. However, the Central Bank is committed to providing a clear, open and transparent authorisation process while ensuring a rigorous assessment of the applicable regulatory standards. The provision of this robust authorisation framework is important so that firms and consumers can proceed with confidence.

9.10 Fianna Fáil's Central Bank (Variable Rate Mortgages) Bill

The Central Bank (Variable Rate Mortgages) Bill 2016, and in particular, the proposal in that Private Member's Bill to end discrimination between new and existing customers was highlighted in a submission to CP112. The introduction of this, or any legislation, is a matter for the Houses of the Oireachtas.

9.11 Alternative lenders in the mortgage market

One respondent submitted comments on the promotion of alternative lenders in the mortgage market including the credit union sector and the German public banking model. These issues are again outside the scope of the consultation process. In addition, promotion of competition in the financial services industry falls outside the remit of the Central Bank.

[19] Central Bank Intermediary Inducements: Enhanced Consumer Protection Measures Consultation Paper, November 2017

T: +353 (0)1 224 6000
consumerprotectionpolicy@centralbank.ie
www.centralbank.ie

Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem