Citizens Information Board Money Advice & Budgeting Service

MABS Response to CP139

Review of the Standard Financial Statement, Code of Conduct on Mortgage Arrears 2013 and Consumer Protection Code 2012 – Central Bank of Ireland

20 April 2021

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Introduction

The Citizens Information Board (CIB) and the Money Advice and Budgeting Service (MABS) welcome the opportunity to provide feedback on CP139 the Central Bank of Ireland's (CBI) formal consultation on proposals for a revised Standard Financial Statement (SFS).

In the following sections we provide feedback on each of the questions listed in CP139. In this introductory section we provide an overview of the organisational experience which is the basis for this response.

MABS welcomes any effective initiative designed to help borrowers in mortgage arrears and to the extent that the revisions, as proposed, to the SFS component achieves that outcome MABS very much welcomes an opportunity to contribute based on its experience which is very extensive.

While the review of SFS is welcomed, CIB/MABS is of the view that the CCMA should be reviewed because it is not proving sufficiently effective in resolving what have, with the passage of time, become very stubborn legacy arrears. These, rather than the 'newer' arrears¹ that have may accumulated over the period of the Pandemic, are a key focus of MABS work and remain as a persistent policy problem with systemic effects for the wider mortgage and housing markets.

While revisions and improvements to the SFS will have a hopefully beneficial impact in alleviating 'administrative sludge' for all parties (borrowers, lenders, third parties) and making the process more accessible and more empowering; it is MABS experience that weakness in the CCMA/MARP's application by lenders/loan owners, combined with the absence of a clear, standard and transparent 'waterfall' from MARP, to personal insolvency, MTR etc. through which each case can be successfully resolved or concluded that are the bigger impediments to resolving legacy arrears.

To date, both the experience and data show that the throughput remains too low to both insolvency and MTR and borrowers exiting the MARP are not transferring into insolvency or MTR smoothly or seamlessly enough. A review of the submissions on CP63 (2013) when SFS was last looked at, suggests at that time, there was reluctance across a range of stakeholders to create greater linkage from CCMA/MARP to insolvency and we think that is needed now to reduce the administrative burden for borrowers, who may follow this path.

¹ MABS does anticipate that there will be an increase in clients needing its service later in 2021.

While the needs of borrowers are MABS primary concern, it is worth highlighting that the SFS process and related inefficiencies in the current form and related approach impose significant real and opportunity costs on MABS (and any other organisation assisting borrowers). We believe the link between the form, the nature of the related supports and processes and the outcome (attainment of a sustainable ARA, transition to insolvency or MTR as appropriate) are inextricable and our experience suggests that a failure to provide a fully-joined-up process that is solutions-focused will result in suboptimal results regardless of changes made to the form.

Short form SFS

We have already put forward the case for a 'short-form' SFS to deal with temporary difficulties within a defined time-line and the experience of the 'Pandemic payment breaks' suggests that borrowers may have, or even just anticipate, a difficulty for a short-time and then get back on track with payments. Flexibility by lenders and Regulators in accommodating such difficulties appears to have been proven already to work and the lessons-learned should be taken on board for the future both with regard to arrears management and in considering future use of SFS.

When a borrower invests time and energy in the SFS, they do so, initially at least, with a level of trust that the lender, will use the significant data shared to find a sustainable solution with and for them. Experience suggests this aspect is failing and too many are 'cut loose' with a refusal of an offer and an 'unsustainable' letter.

A revised SFS could more constructively be viewed as the first step in cases where there is a longer payment difficulty and should be the gateway, not just to the CCMA/MARP but also to other solutions such as personal insolvency and MTR.

SFS review process as a 'pathfinder' to a more seamless process

We appreciate that the parameters of the CBI's regulatory remit mean that it can only influence certain aspects of the landscape for resolution of mortgage arrears, but improving the SFS is just one, of a multitude of hurdles that remain, in achieving a seamless process for the resolution of stubborn mortgage arrears.

What the exercise carried out on the SFS under the auspices of the CBI may hopefully show (presuming the resulting SFS does achieve a much needed simplification of process) is that the act of convening stakeholders (and particularly those with day to day experience of casework/case management) with a focus on those impediments is worthwhile and our hope would be that this exercise might be a 'pathfinder' for addressing further impediments and bottle-necks and achieving more seamless hand-offs right across the process from MARP to personal insolvency, MTR and Court processes, with the ultimate aim of assisting every borrower to achieve a resolution or conclusion within a defined time-frame. All stakeholders should consider the level of stress a borrower may be under when they first encounter this form and their hope that it will be the beginning of their pathway to an outcome in their case.

The responses to the questions in CP139 are made against this backdrop.

MABS experience.

This submission is based on extensive consultation with MABS staff, both Dedicated Mortgage Arrears Advisers (who advise on late-stage mortgage arrears cases), and Money Advisers who routinely support many borrowers in earlier stages of arrears, colleagues who have provided technical support and training on complex casework over the last decade, MABS Regional Managers and the CIB/MABS Abhaile team. MABS views, as set out in this submission, are therefore based on a collective experience of supporting borrowers daily with the SFS over almost a decade and, each year, MABS assists several thousand borrowers in completing SFS for submission to all loan owners. We conservatively estimate that collectively MABS has likely assisted with the completion of, in the order of 40,000-50,000 SFS over the years. This is therefore a unique and evidence-based perspective which we hope will be given due consideration in the review of the SFS. Logically, that volume of SFS casework also represents very significant levels of engagement by MABS and its clients with all aspects of the CCMA/MARP, Personal Insolvency and the MTR process. We have therefore endeavoured in this submission, to give voice to the experiences not just of our Advisers but of their clients and the changes that might improve the form/process for them.

Additionally, MABS has reviewed other forms in use by lenders/loan owners for similar purposes – i.e., temporary breaks in non-arrears cases which are much shorter and user friendly and suggest that CBI consider /review these forms for short-term breaks/forbearance purposes, or for periodic reviews, or as better practice for the SFS. Further, MABS has reviewed forms used for home

mortgage modification process in the US, New Zealand and Australia and suggests that while all of these forms are similar to the SFS in encompassing the following: borrower information: mortgage information, income, expenses, assets, liabilities, and consents for data sharing/third party access to information, there are better and worse approaches and any good practices identifiable should be considered as part of this review. Finally, there is some limited literature on the roles of 'forms/documentation' in home loan modification internationally, which suggests that the process is problematic for borrowers/and loan owners because of both the administrative burden involved and a misalignment of expectations between borrowers and lenders/loan owners.

A related matter, which surfaces with some frequency as a cause of frustration in MABS casework, is the lack of insight borrowers have as to the value the loan has been sold for and the level of provisioning already made for it.

Question 1

Do you agree with, and/or have any comments on, the proposals for the 'Important information for completing your SFS' section of the revised SFS?

In general CIB/MABS are supportive of the changes proposed under 'Important information for completing your SFS', Advisers suggest that the text here may still be too wordy and that it could be bulleted. It needs to be drafted in plain English and also needs to specify the standard suite of documents needed to fill out the form and to be provided to the lender together with the completed SFS. (Suggestions for revised wording of this section are provided at Appendix 1. (Note: we have included reference to Abhaile, here but it is a Scheme, rather than agency and so that reference may be subject to change depending on the future of the Scheme – see our proposals on decoupling the SFS from the Code)).

The key points made relate to the need for the borrower to have guidance on the following:

- 1. a full and clear understanding of the role of the form in decision-making and text that lets borrowers know they need to have a 'reasonable standard of living' to sustain a restructured mortgage.
- 2. The arrangements potentially available to them and sign-posting to a website (lenders or other² that shows indicative worked examples of how those arrangements work in practice)

² There is the potential for such worked examples to be hosted by MABS – however lenders/BPFI would have to work with MABS on the development of generic 'indicative models'.

- 3. The exact suite of standardised documentation e.g. (3- or 6-months bank statements, documents that may be required by self-employed etc.) they will need to have to hand to complete the form and provide underpinning evidence for the related figures,
- 4. The free supports, such as MABS and Abhaile and MTR available to them to achieve a sustainable solution that will keep them in their home where that is possible.
- 5. Defined timelines for the response on their completed SFS from their lender.

Question 2

Do you agree with, and/or have any comments on, the proposals for Section A (My Details) of the revised SFS?

In general CIB/MABS is in agreement with proposed changes to this section but make the following additional observations.

- The definition of a dependant is a person who *relies on another, especially a family member, for financial support*. A12 should therefore refer to financial contributions from 'other adults in the household'. It has been highlighted also that sometimes MABS clients have family members residing in the home with them who are fully adult, working and would not be considered 'dependents', they nonetheless rely on the mortgage holder to provide their accommodation where, for example, they are saving a deposit for their own accommodation costs.
- At A14 for self-employed, 'please provide details'- clarification on what details are required here, what source of evidence is required. This should then follow on to Section C with detail of proof of income for self-employed. (See further observations throughout submission).
- More consideration for Farmers/self-employed and the seasonal nature of such enterprises
 could be given in section A18 i.e., Cash flow difficulties (e.g., delay in grants/stock sales)
 Business Failure etc, Revenue/Tax bill.
- A.19 it is suggested, should have an 'unsure' section. If somebody is diagnosed with an illness or going through a separation which both parties may be seeking to fix through counselling, it is fair to say "unsure" or "unknown". While we note the question does not have to be answered in the case of bereavement or separation, we suggest separation, illness and bereavement are similar in having an emotional impact on borrowers and also in being capable of having either a short-term or long-term impact on their finances, depending on the nature of issues involved. While these matters need to be carefully and sensitively

managed within the form and the process, at some point in the borrower journey, the lender will need to understand the longevity of the impact. In this regard, we highlight the need for a 'short-form SFS' to enable such borrowers to access temporary forbearance outside of the MARP to address major life-events on a short-term basis, thereafter and after the initial shock of any of these events, if the difficulty will be long-lived, it is appropriate to sensitively address on the form to get a sense of the impact.

- In cases of terminal illness, we think that the process is in its entirety inappropriate to the dignity that people should be afforded at the end of life and each lender should be required to have a protocol to be shared with their customers, MABS /other third parties on how this will be approached.
- In respect of serious mental illness, we draw attention to the UK's 'Breathing Space' and 'Mental Health Breathing Space'³.and would argue strongly that both have significant merit, with the latter being very important for clients undergoing treatment for a mental health difficulty who are also in mortgage arrears.

We highlight that A19 together with Section H and data related to the borrower's age are very significant data fields, central to informing the overall policy response to mortgage arrears resolution. Age, illness, family breakdown and bereavement combined with the related information at 'H' and the total assets and liability data give a good 'macro-level' picture of what the potential options for resolution may be for many borrowers and should be used to frame the policy and regulatory response.

Question 3

Do you agree with, and/or have any comments on, the proposals for Section B (My Mortgage) of the revised SFS?

There is strong support for the revisions to this section within MABS.

MABS is of the view that when a request for a completed SFS issues from the lender the lender should provide the documentation it has on file to the borrower thus facilitating the borrower to complete the SFS.

 $^{^{3} \ \}underline{\text{https://www.gov.uk/government/publications/debt-respite-scheme-breathing-space-guidance-on-mental-health-crisis-breathing-space}$

B3- for borrowers, there is often confusion on whether the total outstanding includes arrears. Perhaps a reference to arrears figure should be mentioned here.

B8 - Additional box to specify Tracker Variable and provide clarity for mortgage holder completing form. In MABS experience the figures inserted by the borrower are usually historic from a letter/documents received in the past few months. The lender has all this information on their system and while it must be shared with the borrower as part of the process, it seems circuitous to impose on the borrower a requirement to access information the lender already has in order to satisfy the lender's requirements. As above if auto-population of this section is not possible borrower should be furnished with the relevant documentation to support completion of this part of the form.

B10 - Is your mortgage restructured? If so, MABS suggests the lender provides details of the restructure as often the client does not completely understand the exact ARA. e.g. PCAI - or Interest Only etc. The bank would have this information and therefore could populate this field. If not – a small list of options for client to tick would be useful.

Question 4

Do you agree with, and/or have any comments on, the proposals for Section D (My Monthly Expenditure) of the revised SFS?

The act of recording expenditure accurately, the associated requirement to disclose such extensive personal information to loan owners, the perception that it is then scrutinised and 'judged', has been one of the elements that is most problematic and stressful for borrowers. MABS experience is that having done this in good faith and 'exposed' the inner workings of the household, borrowers are then subject to repeat demands for further clarification. Even with such further clarification, many borrowers don't then achieve an arrangement and are left disillusioned by the process, sometimes seeing it as a 'test' that they have failed. For all of these reasons this has been, in practice, one of the most difficult and stressful aspects of the SFS for the borrowers MABS supports.

CIB/MABS is therefore in agreement with the changes proposed to this section, *however* in consulting on the proposed changes within MABS there remains considerable concern that notwithstanding the guidance notes and borrowers' efforts to complete this section accurately, lenders may continue to look for the details as contained in the existing SFS and strong commitments from lenders to refrain from such repeat follow-ups around this issue should be sought if this change is to work in practice.

As with other changes, drafting in Plain English and consumer testing could further improve the form.

Further suggestions as follows:

- D1 A note to the effect that 'takeaways' should be included under the 'Food' category at D1. This type of consumption has grown since the Pandemic and MABS notice it more in client bank statements. Similarly, Advisers questioned whether 'eating out' should be considered under Social Inclusion and not food.
- D3 Examples should also list baby/infant costs (nappies etc.)
- D4 'Health' needs further explanation in notes to cover optician, dentist, alternative treatments including special dietary needs and mental health/counselling services etc.

D6 and D9 are broad categories where there could be large variations depending on the household, giving rise to concern that lenders will continue to scrutinise and seek detail related to these costs.

- D8 Examples should also list 3rd level accommodation, 'Erasmus' and related living costs.
- D 13 could include Memberships, Subscriptions, GAA fees etc.

D15 – potentially a household may have several large amounts of expenditure under this heading and Advisers caution that borrowers will continue to be questioned about aggregate data submitted under this heading. For example, it is suggested that rent be included in Section D in its own row as it is a sizeable amount and there is a significant number of people living in rented accommodation with a mortgage also (separated couples etc.), likewise maintenance.

There is strong support for the removal of boxes after C.

Do you agree with, and/or have any comments on, the proposals for Section E (My Other Monthly Debt Payments) of the revised SFS?

CIB/MABS is supportive of the changes proposed but suggests format /design/presentation could be further improved. CIB/MABS highlight again potential for auto-population of, in particular, these aspects of the form with information the lender already has and/or the potential for the lender to furnish the related information and agreements to the borrower to assist in form completion as a first step.

- E1 Replace 'Court Mandated Debt' with Fines/Court Maintenance/Instalments etc.
- E3 Change Personal Loan to Personal Bank Loan.

This section does not call-out Buy Now Pay Later (BNPL) finance, which is a newly emergent and growing area. Likewise, consideration may need to be given in fields related to income /expenses or

otherwise for fintech-enabled products that provide for payment of a percentage of wages in advance.

Consideration also needs to be given to the fact that not all borrowers may know they have a PCP / HP agreement and terms may need to be better explained.

Suggested new section to include 'Revenue Arrangements' - there could be historic or new liabilities due to business closure etc. or ongoing tax issues which would have a significant impact on borrower's available cash.

MABS highlights a Protocol issued by IBF (30 January 2013) 'PROTOCOL ON UNSECURED CREDIT PRINCIPLES'. While accepting this action was external to requirements under CCMA it was useful in helping borrowers to understand what to do about payments to unsecured creditors and why prioritisation of the mortgage was beneficial.

At present, MABS assists its clients to understand expectations in respect of unsecured debt and this is aligned with MABS process but is also compatible with several of the principles in the above Protocol including Principle 5 which provides for a pro-rata allocation to unsecured creditors after the mortgage has been prioritised. We therefore submit that further clarity on what to do about unsecured debts is required for unassisted borrowers in order to ensure that they know how to approach Section E.

Question 6

Do you agree with, and/or have any comments on, the proposals for other amendments to the revised SFS?

In general CIB/MABS is supportive of proposed amendments but highlights again the need for consumer testing before finalisation, to test the extent to which an unassisted borrower can fully complete the form with the accuracy that is required and to identify any difficulties not anticipated by the respondents to CP139.

Additional observations as follows:

- We note there is no question available in CP139 to comment on Section C
- Section C Monthly Income:
 - Two additional fields required: 'Income from Farming'. Above figures should be taken from Revenue Form 11 with copy of same submitted as supporting documentation to Lender.

- o Section C My monthly income- It is difficult for Self Employed/Farmers to provide an accurate Gross/Net Figure for monthly income. This may not be possible due to the nature of some businesses. Some farmers may be reliant on 2/3 grant payments a year and 2/3 Sales Cheques (seasonally) and value of those cheques could vary depending on stock prices etc. at the current time. Is there a standard approach that could be taken to help calculate income in these cases?
- The SFS as it currently is, only seeks income under the word "salary" in Section C. This would be assumed to be from PAYE earnings. Could there be a specific "Self Employed" income line also included which might subdivide to allow a client bring across their income details more clearly from their Annual Revenue Statement (Chapter 4 or Form 11). This could show Annual Earnings before taxation, deductions for taxation, PRSI, USC = Net annual personal income divided by 12 = net monthly personal income. Clients who are self-employed are often puzzled by how they complete their income under "salary" given that in some cases they do not get a regular income (e.g., farmers).
- o Monthly Rental Income Could this be amended to reflect net Monthly income? Can this figure be distorted if expenditure on upkeep, repayments & tax are not taken into account?
- Further clarification required re Section F: 'My Other Properties' Monthly Rental Income and Monthly Expenditure as the net figure should have already been included in Section C My Income.
- Under Section F it is noted that rental income from other properties is requested together with monthly expenditure (upkeep, maintenance). On this basis it is assumed that net rental income available to meet repayments would be one less the other. This is not the case however as this calculation does not take into account other deductions applicable to rental income such as taxation, accountancy fees etc. nor does it take into account any capital allowances etc. The only true way of determining the actual net income from rental property that is available to meet debt is through either financial accounts or from the end of year Annual Revenue Statement (Chapter 4 or Form 11).
- There is very little room to complete Section F
- The length of time a lender has to review the completed SFS, (provided all supporting
 documentation has been provided) needs to be defined with an outer-bound limit of one
 month.
- In E8 to E12 Allow space to put in other debts.

- In Section D- Allow for a scribble box to explain higher than normal expenditure i.e., to explain extra heating costs (for example, after sustained estimation of fuel bills, due to quality of building).
- Proposals for Section H: 'Summary to be completed by the borrower' are welcomed, as this will highlight the overall picture before it is sent to the lender, giving a chance to amend figures if needs be. Given that H is now to be used by the borrower as a summary reflective of their overall position; we wonder whether additional lines or a box could be added to this page summarising the total debt position at D and the total equity/assets position at Sections E& F. This data could be easily extracted via relatively minor amendments to an electronic form and may be very useful in enabling a borrower/their adviser to assess their overall position and their prospects to avail of personal insolvency.

While CIB/MABS would wish to see enhancements via digitalisation including provision of customer portals etc., for borrowers who do not have capacity or resources to access the information or submit their SFS through an online portal, there is a need to have specific protections and supports. This need becomes more acute as branches close; loans are sold etc. While MABS has a remit to support borrowers within MARP or otherwise in debt, borrowers should not have to come to MABS because the necessary supports are not available or accessible from regulated entities.

There is very strong disagreement from MABS on current proposals in respect of the signature page we see it as essential that there is a standard template document across the board. For MABS, which possibly deals with the highest percentage of SFS across all the stakeholders, and certainly supports the greatest share of borrowers in deep or late arrears, and /or with other vulnerabilities (literacy, mental health, illness etc.) this proposal will prove exceptionally challenging:

- 1. it will not enable MABS to replicate a generic SFS within its systems that can be used across all lenders as is currently the case (and was a major gain from the current SFS) and therefore add significantly to MABS overhead in system redesign and updates to facilitate a revised SFS with non-standard elements, as well as administrative burden in updating systems in alignment with lender changes.
- 2. MABS will have to be apprised of all of the consents in the proposed 'bespoke' signature sheets to be able to explain what they mean to borrowers we support.
- 3. MABS will have to be apprised of all changes to those sheets as they occur for the above reasons.
- 4. There is too much scope for an entity to draft or revise wording that could be prejudicial to the borrower.

Our strong view is that the CBI should draft the signature page and amend as required per changes to Irish & EU law.

Question 7

Do you have any other comments on the revised SFS not captured by the above questions

Digitalisation/auto-population

CIB/MABS had proposed at the Working Group that there should be a requirement for lenders to auto-populate sections of the SFS with information the loan owner already has or can access via the CCR and remains of the view that this possibility should be given further consideration. If, for whatever reasons, it is not possible now, it should be an objective for the future as systems' capability evolves. There are many potential developments within Fintech (Open- banking, 'Categorisation as a Service4') that could assist and enhance this process and these should be kept on the agenda.

MABS is trialling e-signature in work with certain clients and would be grateful if all lenders could agree to accept e-signatures for SFS and related documents.

In relation to EID, we note in the 'Ireland for Finance' Report 2019 (p31) re EID that under BPFI/FPAI— the following is noted

'When on-boarding a new customer, a bank will be able to utilise the KYC work already performed by another bank participating in the scheme, thus greatly reducing the burden of proof on the customer. The project will also allow third parties such as utility companies to seamlessly on-board customers to their services. This service will generate cost savings and new revenues for the founding bank'.

We wonder whether there is any potential under this, or similar projects, to reduce the administrative burden for borrowers in home-mortgage arrears.

As an addition or alternative to auto-population, it has been proposed that when issuing an SFS, as standard practice, lenders be required to attach a signed copy of the original loan agreement along

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 $^{^{\}rm 4}$ The Big View – Case study with Advice Scotland (ADS)

[&]quot;The Big View" uses cutting-edge open banking technology that will enable users to get an in-depth view of their finances. The technology itself works through the implementation of a Financial Conduct Authority (FCA) regulated Account Information Service Providers (AISP) platform, allowing individuals to share their transactional financial data. Through this platform, Castlight will then be able to categorise transactions into over 150 categories of income, debt, discretionary and non-discretionary spending. https://www.youtube.com/watch?v=97504EttJyU

with copies of any ARA's since the original borrowing was drawn, as well as providing an up-to-date mortgage/loan statement. If other accounts are provided by the same loan owner it is provided that a minimum of last 3 or 6 months (whichever is mandated for the completion of the revised form) bank statements be issued also.

This would allow for section B "My Mortgage" to be completed immediately without clients having to contact the provider to request this documentation or having the 3rd party request this documentation. It would also help speed up the process of gathering supporting documentation.

We also highlight the need to decouple the SFS from the Code to give CBI the opportunity to review the SFS without the need for a formal consultation process. The Code could instead mandate that an SFS will be used in a format to be prescribed by the CBI from time to time. This would allow for periodic review and updating in line with advances in fin-tech etc. as well as to enable main stakeholders to review its efficacy periodically. A grouping of main stakeholders undertakes periodic reviews of the UK's SFS (which serves similar but slightly different purposes in underpinning 'Debt Management Plans') under the auspices of MAPS (the UK's Money Advice and Pension Service), to ensure it is in line with developments in household circumstances and debt management.

The current SFS pre-dates both personal insolvency and MTR but both are potential pathways to arrears resolution. We view the revised SFS as an opportunity to better align with these processes in so far as possible. In this context, one area that is missing from the form (which is needed for both MTR and PI eligibility assessments) is any question that could confirm whether the borrower is living in a property that suits their needs i.e., to establish that the borrower is not over or underaccommodated, in accordance with Local Authority guidelines as they apply to the MTR process⁵.

While we are conscious of GDPR requirements, the requirements under provision 36, and the full range of further matters that need to be considered by the PIP and the stakeholders in MTR, we wonder whether consideration could be given to an additional question in this area so that the SFS might better act as a gateway to other options for mortgage arrears resolution.

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⁵ https://mortgagetorent.ie/

Question 8

Do you have any comments on the above areas where improved supports for borrowers in completing the SFS could be implemented by regulated entities?

- Auto-population with the documentation the lender holds on file and provision of the necessary documentation at the point the form issued.
- Borrowers need to be given the choice of how they wish to complete the document, i.e., paper, phone, online⁶.
- Signposting to the RLE guidelines is very important for borrowers to gauge their spending, however these are not a blunt instrument for application within MARP.
- Include the interest rate sheet from the lender as they are not always aware of better options available.
- If not already included, the suite of ARA options available together with signposting to a website that includes worked examples of how they apply in a given circumstance (with the COVID payment breaks some lenders provided tables with cost of credit which were very helpful)
- Give example re LTV and explain what this is.
- Information on where to source Revenue form 11 etc. for self-employed should be provided.
- One specific relationship manager who will be the point of contact for the client, and a support contact if that person is unavailable and a direct contact number and email.
- Access to computing equipment at lender site for completion of online SFS with (if necessary) support
- Online SFS and related portal to enable the completion of the SFS by the customer with their Authorised Third Party as necessary.
- Consideration could be given to changing the name of the form itself to make it seem less intimidating.

⁶ "At the borrower's request and with the borrower's written consent, the lender must liaise with a third party nominated by the borrower to act on his/her behalf in relation to his/her arrears situation and therefore the document must conform to the CCMA definition of a Durable Medium i.e. 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

Question 9

Do you have any additional suggestions for improved supports or examples of good practices in this context?

As above, there is a strong appetite in MABS for greater digitalisation of the process where online is accessible for the borrower. Such portals are common-place in the UK in support of debt management plans and enable creditors, borrowers and their advisers to work together to put in place and manage arrangements made.

Question 10

Do you have any specific suggestions for the Central Bank's consumer guide to completing the SFS?

The Consumer Guide will need to be updated in line with this exercise. We suggest that while a paper-based Guide will still be required, an animated 'explainer' would be a more useful supplement. This again to be based on the outputs of consumer testing to capture the issues borrowers struggle with most. Specific guidance is needed within this guide, or elsewhere, on how to complete if self-employed or separated.

Question 11

Do you agree with, and/or have any comments on, the proposed changes to the debt management firm SFS?

We have no observations on Q 11.

Question for discussion:

Do you have any views or comments you wish to raise on the MARP, and/or the CCMA more widely?

While, as the changes will have a significant impact for clients and MABS Advisers, the focus of this exercise and this submission has been on the SFS, MABS would greatly welcome the opportunity to give more constructive and informed feed-back on the CCMA /MARP than this exercise and the related time-frame permits. MABS has gathered feedback on the main points encountered in casework as outlined in the following sections.

The CCMA/MARP was introduced to address an arrears crisis as it evolved. All involved at the time will recall the benefit of the Code in putting in place standardised processes. However, as time has

elapsed it is clear that the Code, while useful in addressing a sustained loss of income, which may ultimately be recoverable over the lifetime of the mortgage via arrears capitalisation/and or term extension (otherwise) it is not correctly calibrated to deal with issues at either end of a 'spectrum of arrears' spanning shorter difficulties to much longer and deeper problems. It is not, as MABS submits it should be, effectively dovetailing with the mechanisms that came after it, particularly MTR and personal insolvency.

On short-term difficulties, the Code leads borrowers too quickly into the MARP and while this may have some 'behavioural' impacts in supporting payment discipline and engagement, it is not aligned with the reality of borrower experiences. Most households (and their lenders) can and should anticipate some payment difficulty over the lifetime of the mortgage. In such cases, where the difficulty is short-lived, borrower and lender should be able to agree forbearance measures without MARP (and via a short-form SFS). This would allow such borrowers to recover from an illness, loss of employment, a bereavement, or a separation which may have an immediate emotional effect but in many cases, only a short-term financial impact. We are not suggesting that during the period no payment should be made to the mortgage. There should always be both engagement and a payment as possible. Rather, that the timelines for entering MARP are too short. At the other end of the spectrum in contrast, the MARP has not resolved a significant number of legacy arrears cases. There are evident impediments7, many of which, in MABS experience both as advisers and as 'Court Mentor's, are attributable to the misapplication/non adherence to aspects of the Code, leading to repeated adjournments at the point at which the case enters the legal process. In many cases during the legal process an ARA is achievable and, in cases where the borrower is engaging and cooperating, it should not take the legal process to achieve this outcome. MABS has data on its experience at Court which may be useful in highlighting the main issues it encounters. It is also the case that there is a significant group that miss the relevant thresholds for MTR and are unable to access personal insolvency as their income is too low to service a PIA while also providing payment for a commercial PIP. MABS also has research on its 'Waterford public-PIP project' to support this.

As suggested, the SFS could be enhanced through inclusion of a question on whether borrowers are suitably accommodated, this information, combined with data on the proposed revised 'Summary' at H, including (as we have proposed) information on aggregate debts and liabilities, would assist

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⁷ https://www.centralbank.ie/statistics/statistical-publications/behind-the-data/understanding-long-term-mortgage-arrears-in-ireland

CBI/others better gauge the numbers of borrowers who could access other solutions and also gear the borrower or their Adviser to better understand the range of options potentially available to them.

A summary of key issues as follows:

- 1. Provision 39 of the Code while a number of options may be available, in practice and in particular arising from the sale of loan books, options are limited. Accordingly MABS would wish to see an increase in the suite of options available to deal with the more intractable issues especially separated borrowers and older borrowers (on the latter point, MABS is noticing a gradual aging of its client-base as more borrowers approach the Service with unresolved debt post retirement⁸).
- 2. A PPR as defined within the CCMA is a 'Primary Residence': means a property which is: a) the residential property which the borrower occupies as his/her primary residence in this State, or b) a residential property which is the only residential property in this State owned by the borrower". MABS has had a number of cases where receivers have been appointed where clients have rented their property and they have lost protections of CCMA/MARP as they are viewed as 'BTL'. While the client may not be not currently residing in the property it is nonetheless their intention to return.

Experience of non-adherence to provisions of CCMA.

MABS Advisers have highlighted areas where there can be non-adherence with various provisions as follows:

- Experience of non-adherence to provision 36- This is experienced with frequency but was raised particularly in relation to cases where there is evidence of MICA in the property- which is an ongoing issue in casework with clients in affected areas.
- Experience non-adherence to provision 37 There is significant feedback from MABS that entities assess based on household make-up and RLE.
- Lack of clarity in respect of provision 38.- Some banks abide by it without and SFS. others seek SFS. Others only allow it once. There is a need to make this provision clearer i.e. that no is SFS required and dependent on circumstances.

⁸ https://www.mabs.ie/downloads/statistics/Mabs National Stats Report 2020 Q4.pdf

- Experience of non-adherence to provision 40; particularly given mandatory and discretionary matters for the court's consideration under the Land and Conveyancing Law Reform (Amendment) Act 2019
- Experience of non- adherence to provision 56a.

In respect of the above MABS Advisers support their Clients with appeals as relevant but feedback relating to appeals suggest they are rarely upheld. Advisers have suggested, given the importance of the issue and the risk of failure to achieve any resolution, as well as the ultimate risk of losing possession of the home, that the appeals process should be independent of the lender. While noting internal mechanisms to ensure the appeals process is 'independent', MABS suggests there is strong potential for conflict of interest where the borrowers' SFS has been completed with the support of staff of the lender.

Communications Issues

Advisers have highlighted issues such as lenders using language which can be intimidating such as 'Legal Action Imminent' when deeming a borrower not cooperating. Less intimidating language is needed (and should be consumer tested). Advisers also reflect that regulated entities are, in some instances, copying and pasting large pieces of text from the CCMA into correspondence.

Separated borrowers

There was very strong feedback that MARP is not effective where one party is not engaging given the consequent time that is needed to achieve a sustainable solution where family law matters also need to be addressed. There is also a need for consistency across institutions in putting ARA's in place without both party agreement in cases of separation.

Loan sales and capacity to access more competitive interest rates.

While certain protections transfer with the loan, for many, sales/transfers mean borrowers are 'locked out' of lower interest rates that might otherwise be available based on LTV. This issue applies to borrowers in arrears but also to borrowers whose original lender has exited the market. There is no technical impediment to switching but the prospects of individual customers being able to switch are in most cases limited.

Appendix 1

Appendix 1 revised suggested text

(Suggest re draft in plain English, *suggested* revisions below – also note text could be less wordy bulleted etc.)

Important information for completing your Standard Financial Statement (SFS)

We at [name of regulated entity] are fully committed to working with customers who are in or facing financial difficulties to find a solution where that is possible

What is the Standard Financial Statement used for?

This SFS assists us to understand your current financial situation. We use the information you give us to explore what type of alternative repayment arrangement (ARA), from the options we offer, is appropriate and sustainable in your individual circumstances.

You can find out more about the options we offer on our website (insert) where we have worked examples of the types of ARA that may be available in different circumstances.

What information will I need to provide?

When completing the SFS, we ask you to provide information about your mortgage, your household, your income, your household expenses, other debts you owe, and any assets you own. We know each household must have a reasonable standard of living and have included a link to some guidelines (link) to help you in thinking about this.

It is important to fill out the SFS fully and accurately, and to provide any relevant documentation that we may need to assess your circumstances.

There is a range of supports available to help you complete the SFS. You can find information on the supports we provide on our website [insert link].

Before you start

You should also check your entitlement to any State supports, such as social welfare benefits. If you also have other loans or debts, you may wish to contact your provider(s) to discuss your options, in order to prioritise your mortgage payments

To complete the form, you will need to have the following documents:

Your original loan agreement

3 months banks statements etc. (Standardised)

You will need to provide these documents to us along with your completed form.

How long will it take me to complete this form?

We suggest you read through it first, to ensure you understand it and what you will need to fill it out accurately (if you have any questions you can contact XYZ)

If you have all of the documents you need it will take you no longer than? base on consumer testing)

What other supports are available to help me?

The Central Bank's Consumer Guide and 'explainer') to completing the SFS [insert link] is another resource, and gives more help on each section of the SFS.

You can also get independent advice from the Money Advice and Budgeting Service (MABS) or alternative debt advisory services. MABS is a free, confidential and independent service that will assist you in all aspects of completing the SFS.

Abhaile is a service to help homeowners find a resolution to home mortgage arrears. Depending on your situation, Abhaile provides vouchers for you to get financial advice, legal advice or insolvency advice and help from experts. The vouchers are available through MABS⁹.

You can call the MABS helpline on 076107 2000 or visit [www.mabs.ie] to find out more.

If you give us your written consent, we will liaise with a third-party adviser, chosen by you, to act on your behalf.

⁹ See above re decoupling SFS from Code - Abhaile is a scheme which is subject to change, thus the form may needed further amendments if the scheme changes is reviewed etc.

Who do I contact if I have a question?

If you have any questions, please contact us at [insert contact details]. We have specially trained staff to deal with customers in or facing financial difficulties, and can help you with completing your SFS.

What happens after I send you my completed SFS.

We will check it for completeness within x days and then we assess it against the options we have available. We will let you know the outcome of that assessment in 30 days.

What if I don't get an ARA?

- You can find more information on the process and next steps in our MARP booklet [insert link].
- If you would like information on your protections, the Central Bank has a 'consumer explainer' for borrowers experiencing difficulties with their mortgage [insert link].