

Strictly Private and Confidential
Central Bank of Ireland
Consumer Protection Code Division
PO Box 559
Dublin 1

6th June 2024

Finance Ireland Credit Solutions DAC
Submission on Consultation Paper CP158: Consumer Protection Code

To whom it may concern,

We welcome the opportunity to respond to the proposed amendments to the Consultation Paper on the Consumer Protection Code (CPC) and are committed to participating in a constructive and supportive manner to this process with the aim of improving the protections afforded to consumers of financial products and services. We contributed to and supported the submission by the Banking & Payments Federation Ireland (BPFI) and our recommendations in this letter are intended to highlight aspects of the Consultation Paper that if implemented would have the most impact to the business of Finance Ireland.

1. Arrears – debt of personal consumers, other than mortgage debt secured by a mortgage borrower’s primary residence – Part 3: Chapter 10

a) Section 279 (1) - Conditions for unsolicited personal visits to personal consumers in relation to arrears

In its current format it is proposed to limit unsolicited personal visits to a personal consumer, for the purposes of discussing arrears, to once in any six-month period, and only where the regulated financial service provider has made unsuccessful attempts to contact the personal consumer by other means.

Recommendation 1: Applying this requirement to Asset Finance e.g. PCP, HP, Lease agreements would not be appropriate given the nature of the underlying agreements where the loan is extended on the basis of the customer making scheduled payments with the lender holding security of the underlying asset. In the proposed scenario where a customer does not meet their repayments and has not engaged in early arrears management, the lender must retain the ability to visit the borrower to ascertain the customer’s circumstances, inspect the underlying asset and confirmation location and, in permitted circumstances, facilitate a voluntary surrender of the asset or ultimately conduct a repossession where it is necessary and reasonable to do so. If this requirement was implemented, it is likely to alter lender appetite to lend and / or adversely impact the economics of the finance agreement.

b) Section 280 (1) - Further conditions for unsolicited contact with personal consumers in respect of arrears

It also proposes that a regulated financial service provider shall not, in any calendar month, initiate more than 3 unsolicited communications by way of telephone calls to a personal consumer in respect of arrears.

Recommendation 2: The wording of this requirement should mirror the requirements regarding unsolicited contact within Part 3: Chapter 9. As above, if a customer is not engaging or meeting their HP / PCP / Lease repayments, and has continued use of the asset, a limit of 3 calls will severely impact the ability of the lender to manage customers in arrears, particularly at the early arrears stage where successful contact results in customers returning to scheduled payments. Circumstances may also occur which would require immediate action, for example where the lender receives notification that the asset has been sold or has been moved outside of the jurisdiction. If this requirement was implemented, it is likely to alter lender appetite to lend and / or adversely impact the economics of the finance agreement.

In Finance Ireland's experience of asset backed loan arrears management, the longer of the period of no engagement with the consumer the greater the risk of a negative outcome. Early intervention is critical and in the best interest of the consumer as it protects the customers' credit profile and limits financial loss.

2. Conflict of Interest and Information on Remuneration – Part 2: Chapter 2**a) Section 31 (1) – Summary of fees, commissions (etc) to be published and made available**

'An intermediary shall publish a summary of the details of any fee, commission, other reward or remuneration, receivable from a regulated financial service provider, on its website.'

Recommendation 3: We request that clarity be provided on the definition of 'intermediary' in this section. We further recommend that it be expressly referenced that it does not apply to credit intermediaries currently regulated by the Competition and Consumer Protection Commission.

b) Section 31 (4)

Before concluding a contract for a financial service, an intermediary shall - (a) (b) bring the summary referred to in paragraphs (1) to (3) to the attention of the consumer and provide any clarification of the information sought by the consumer.

Recommendation 4: Given the proposed expansion of the full Consumer Protection Code to Hire Purchase, Personal Contract Plans & Buy Now Pay Later arrangements, it is important to note that these products are sold through authorised Credit Intermediaries, who have the primary relationship with the consumer.

As authorised Credit intermediaries are regulated by the Competition and Consumer Protection Commission (CCPC), we, the regulated firm, should not be expected to oversee the compliance of the authorised intermediaries with the Consumer Protection Code. We request clarity on the expectations of the regulated firm in supervising authorised intermediaries compliance with this proposal.

3. Knowing the Consumer & Suitability – Part 2: Chapter 1

- a) **Section 15 (3) - Knowing the consumer – information to be gathered and recorded**
'Any sustainability preferences with regard to the financial service'

Recommendation 5: We are seeking clarification on 'sustainability preferences' and if there is a requirement to record if a customer has no sustainability preferences.

Furthermore, where there are no sustainability features available on a suite of products, will the requirement to seek and record this information apply?

- b) **Section 15 (5)**
'For the purposes of paragraph (3)(b), the information shall include where relevant, information on the consumer's - (c) knowledge and experience of financial products'

Recommendation 6: We are seeking clarity on how 'knowledge and experience' can be demonstrated & evidenced given each consumer will have different levels of financial literacy.

- c) **Section 17 (3) - Statement of suitability to be provided**
'The reasons set out in the statement of suitability shall apply the information gathered ... to explain to the consumer how the financial service offered or recommended meets.
(a) needs and objectives,
(b) personal circumstances, and
(c) financial situation;'

Recommendation 7: We are seeking clarification on 'personal circumstances' within this section. We would also welcome advice as to how this provision could be evidenced.

4. Vulnerable Customers – Part 2: Chapter 3

- a) **Section 35 (1) – Trusted Contact Person**

We support the proposal of the CBI to include the role of a 'Trusted Contact Person' into the revised Code.

Recommendation 8: The 'Trusted Contact Person' will be appointed by the consumer and information will be shared, however, as outlined in section 35 (4) the *'trusted contact person has no authority to deal with the affairs of a personal consumer in respect of a regulated financial*

service.’ This may cause confusion for a vulnerable customer and so we are requesting further clarity on the role the ‘Trusted Contact Person’ will have in supporting vulnerable customers.

5. Digitalisation – Part 2: Chapter 4

We recognise the importance of the Digitalisation section into the revised code and support the proposal of ensuring that technology is designed with the consumer in focus.

a) Section 40 (1) – Guidance to be provided on use and navigation of digital platform

‘Financial service provider shall give clear and effective step-by-step guidance to consumers on how to use and navigate the digital platform.’

Recommendation 9: We are requesting confirmation whether this proposal will apply to product journeys only or if it will include websites where generic information is available.

b) Section 45 – Notice of upcoming expiry of cooling off period to be given

‘A regulated financial service provider that has provided a financial service to a consumer by means of a digital platform, to which a right of withdrawal (a ‘cooling off’) period applies, shall contact a consumer at least 3 working days, but no more than 7 working days, prior to the expiry of the withdrawal period, to remind the consumer of the consumer’s right of withdrawal, the date on which this right expires, and how the consumer can exercise this right

Recommendation 10: As the cooling off period is not changing, we consider a reminder unnecessary. We also recommend that this provision is not to be made applicable to Hire Purchase, Lease, Personal Contract Plans & Buy Now Pay Later plans given the potential complications involved in returning an asset.

6. Unregulated Activities – Part 2: Chapter 8

a) Section 74 (1) – Website information on regulated activities to be kept separate

‘A regulated financial service provider shall provide information on its website in relation to regulated activities on a separate webpage from any webpage providing information on its unregulated activities.’

Recommendation 11: We require clarification on what is a ‘separate webpage’ - can this be contained within the website of the regulated firm? Given the practicalities of web page registrations and website site management, where an institution offers both regulated and unregulated products, we would ask that consideration is given to the application of “agree and enter” information on pages dedicated to unregulated activities as opposed to separate webpage address.

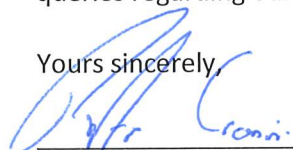
b) Section 75 (1) – Certain outcomes to be ensured

'A regulatory protection that applies in respect of the regulated financial service provider's regulated activities that are not applicable to the regulated financial service provider's unregulated activities are brought to the attention of the consumer;'

Recommendation 12: We are requesting clarification on the level of detail expected to distinguish the difference between regulated & unregulated activities to a consumer.

We would like to thank you for giving us the opportunity to participate in the consultation. If you have any queries regarding our response, please do not hesitate to contact us.

Yours sincerely,



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