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Dear Governor,

I welcome the recent publication of the consultation paper on the revised Consumer Protection Code (Code) proposals and the opportunity to engage and input into this stage of the Code review process.

The financial services sector continues to change at a rapid pace. Many existing products and services on offer are evolving, and new ones are being created. The way consumers interact with their financial services providers is also changing with the ongoing transition to digitalisation. Given this changing landscape, there must be a balance which allows for an innovative and dynamic financial services industry – and also one which ensures stability and proper protection for consumers. It is the responsibility of all of us as legislators, regulators and supervisors to ensure that consumers are protected to the highest possible degree.

At legislative and regulatory level, we have taken important steps to establish the culture we expect firms to demonstrate, including with the legislative change introduced in the landmark Individual Accountability Framework (IAF). It will be important that the interaction and alignment of the consumer protection framework and the recently introduced IAF framework also underpin a culture of securing the consumer's best interests in firms regulated by the Central Bank. In 2023, I published the Roadmap on Consumer Protection.

The Roadmap brings together key information on financial consumer protection policies and legislation and aims to ensure the robust consumer protection framework already in place in Ireland keeps pace with the changing financial services landscape and remains fit-for-purpose.

The Code is the cornerstone of the financial consumer protection framework. For that reason, this comprehensive review and delivery of an updated and modernised Code will further enhance the framework which is rightly centred on the needs and required supports for consumers.

I also note that the revised Code proposals are guided by international best practice, and in particular, the G20/OECD High Level Principles on Financial Consumer Protection (G20/OECD Principles). The revised and updated G20/OECD Principles were adopted by Government on 12 December 2022. They inform my Department's approach to domestic and international financial consumer protection policy development. It is therefore welcome to see this alignment with the revised Code proposals. The work being led by my Department on the National Financial Literacy Strategy and National Payments Strategy (NPS) are both important pieces of domestic policy work that will help to further embed the G20/OECD principles into the Irish consumer protection framework.

Following on from a Retail Banking Review recommendation and in line with our OECD obligations, the development of a National Financial Literacy Strategy is underway to improve financial literacy and wellbeing amongst the people of Ireland. A Mapping Report was published in April and it is intended to publish the National Strategy by end-2024. There has been extensive stakeholder engagement, including with the Central Bank, as this work has progressed. This also included a stakeholder event in November 2023 with a further financial literacy stakeholder event planned for July.

The goal of the National Payments Strategy is to enhance and build public trust in, and the effectiveness of the payments system. The National Payment Strategy will set out a roadmap for the future evolution of the entire payments system, taking account of developments in digital payments and the declining usage of cash.

Specifically, in relation to consumers, one of the core principles of the National Payments Strategy is 'access and choice', noting that when we buy goods or services in a shop or online, or receive our wages, the 'how we pay' is at times taken for granted. Different types of payment are designed to meet a variety of needs.

It is critical that the Irish payment system provides citizens with equal access to a range of payment options that meet their needs. Additionally, fraudulent activity and the risk of being defrauded, can instill mistrust among consumers that may lead to their reluctance to use digital payments.

Consequently, another one of the focuses of the National Payments Strategy is to assess the issue of payments fraud in Ireland and to consider potential responses to ensure that the Irish payments system is secure and trustworthy.

I look forward to the Central Bank's ongoing engagement with my Department as work on both strategies develops and to the Central Bank playing a critical role in contributing to improving financial literacy as it delivers on its mandate.

Following the publication of your earlier Discussion Paper on the Code review in 2023, I wrote to you to highlight a number of areas which were of particular interest from my perspective as Minister for Finance. These included issues related to vulnerability, affordability, recommendations arising from the 2022 Retail Banking Review and the need to ensure a consumer-friendly approach to communicating and informing consumers about the Code.

In relation to those areas and the specific proposals detailed in the current consultation paper and associated guidance, I have set out a number of responses as relevant below. My officials have also engaged bilaterally with the relevant Central Bank teams on a number of specific issues.

### **General Approach**

I welcome the comprehensive nature of the review and consultation process, noting that the package includes:

- a consultation paper setting out the principal and additional policy proposals;
- additional guidance on Securing Customers' Interests and Protecting Consumers in Vulnerable Circumstances; and
- two draft sets of Central Bank Regulations on Standards of Business (under section 17A of the Central Bank Reform Act 2010), and General Requirements (under section 48 of the Central Bank (Supervision and Enforcement) Act 2013). I note that these Regulations will replace the existing Consumer Protection Code and consolidate others existing Codes including the Code of Conduct on Mortgage Arrears (CCMA).

The wide-ranging engagement with stakeholders being undertaken by the Central Bank as part of the consultation process is also welcome. The principal policy areas identified in the consultation paper are appropriate and important areas of focus. They relate to digitalisation, informing effectively, mortgage credit and switching, unregulated activities, frauds and scams, vulnerability and climate risk. I have set out further comments on some of these areas below. The additional policy proposals on consumer credit, SME protections, insurance, and investments and pensions are similarly welcome.

The communication of the revised Consumer Protection Code to consumers and industry in a clear, concise and consumer-friendly way will be vital for embedding the updated Code in the consumer protection framework. I therefore welcome the commitment that the publication of the final updated Code will be accompanied by a range of supports for consumers and firms including explainers, guides and a Consumers' Guide.

### **Securing Customers' Interests**

It is important that regulated financial service providers carry on their business on the fundamental principle that they will operate in the interests of their customers. Through the introduction of Securing Customers' Interests, I welcome the fact that this principle will continue to remain at the centre of the new Central Bank consumer protection framework and that, without prejudice to that overall requirement, increased information and guidance is being provided in the proposed new framework on what this will mean for regulated firms. Therefore, I support the various measures listed in Parts 2 and 3 respectively of the proposed new 2010 Act Regulations.

### **Vulnerability**

The protection of consumers who may be in vulnerable circumstances remains a key concern of mine as Minister for Finance. I therefore welcome the focus on vulnerability as a principal policy proposal in the revised Code. This is aligned with the broader domestic, EU and international legislative and policy landscape including the Assisted Decision-Making (Capacity) Act 2015, the European Accessibility Act and the G20/OECD Principles.

The proposed updated approach to the dynamic nature of vulnerability and the publication of draft standalone Guidance on Protecting Consumers in Vulnerable Circumstances is positive. Specific requirements on training, reporting and disclosure, and the recognition of Trusted Contact Persons in the context of consumers in vulnerable circumstances will be important for firms to engage with.

I trust that the approach to operationalising these measures will ensure effective outcomes for consumers who may be in vulnerable circumstances. It should also provide sufficient guidance for firms to successfully embed these measures in their culture and business strategy.

The proposals in relation to the requirements on informing consumers on the products and services offered, including the new Standard of Business requirement on regulated entities to ensure that all information is presented in a way that seeks to effectively inform the consumer will also contribute to supporting consumers who may be in vulnerable circumstances.

The impact of financial frauds and scams on consumers remains a growing and concerning trend. More vulnerable consumers can be particular targets in this regard. Indeed, the consultation paper notes the heightened risk for those in vulnerable circumstances and who may not be 'tech savvy'.

The Financial Services and Pensions Ombudsman's (FSPO) recently published [2023 Overview of Complaints](#), notes the steady increase in the number of complaints received by the FSPO since 2018 in relation to disputed transactions, which includes fraud.

It is therefore welcome that frauds and scams is one of the principal policy areas of focus in the revised Code proposals. In particular, I welcome the proposed new Standard for

Business requiring firms to control and manage their affairs and systems to counter the risks to customers of financial abuse.

I also welcome the proposed introduction of a definition of financial abuse, supporting Standards of Business on financial abuse and a specific digital financial frauds and scams obligation to inform customers of digital frauds in a timely fashion. Given the complex and multi-dimensional nature of frauds and scams, it is important for all relevant stakeholders to continue to work together to tackle this harmful and pernicious activity.

From my perspective as Minister for Finance, the ongoing alignment and identification of synergies between relevant Code proposals and the work being undertaken as part of the National Payments Strategy and the National Financial Literacy Strategy being developed by my Department is also critical.

### **Mortgage Credit and Switching including Cashbacks**

The regulatory framework should support mortgage borrowers at all stages over the life cycle of a mortgage. Therefore, I note and welcome a number of changes in the proposed consumer protection regulatory framework which seeks to protect borrowers from the beginning to the end of a mortgage.

In relation to the initial stages of the mortgage process, a number of measures are set out to improve disclosure requirements on mortgage offers. Mortgages are a long-term financial liability for borrowers and it is important that all necessary information about the overall cost of such a product is accurately and appropriately presented to a consumer before binding commitments are entered into.

There are concerns that the provision of upfront ‘cashbacks’ could incentivise a consumer to take a particular mortgage that may, in the long run, be costlier than another comparable mortgage product. On the other hand, even if the long-term costs may be somewhat higher than an alternative product, the consumer may still wish to avail of a mortgage incentive given the short term benefit available at a point when the overall burden of a mortgage is likely to be greatest.

Therefore, the enhanced information and warning provisions in relation to mortgage incentives and the focus which is being put on the overall cost of credit is welcome and should assist the consumer in selecting the optimum available mortgage product.

It is also noted that the Central Bank plans to undertake further research and analysis to understand the consumer impact of cashbacks and that potential further actions will be considered once this is complete. This is a welcome commitment and it would be important to commence this work as soon as possible not wait until the revised framework comes into effect in 2026.

At a later stage in the process, mortgage switching has the potential to provide savings for some borrowers and to promote competition between mortgage providers. The consultation paper sets out a number of further disclosure measures in relation to 'internal' mortgage switching such as personalised euro savings estimate for alternative mortgage refinancing options and specific reminder to customers concerning mortgage refinancing options.

In addition, the Central Bank proposes to engage with the Banking and Payments Federation Ireland (BPFI) to examine how certain barriers to mortgage switching between lenders can be overcome. It would also be useful, in line with the recommendations of the Retail Banking Review, to engage with the BPFI to see if lenders can provide increased transparency in relation to the composition of variable mortgage pricing.

Given the legal and conveyancing processes involved, it is acknowledged that mortgage switching is a more complex procedure compared to the switching of many other types of financial product. Nevertheless, given the potential to deliver better outcomes for mortgage borrowers, it is important that the Central Bank, as regulator, and the industry commence this work as soon as possible.

The Government also wishes to promote greater competition and switching in the financial services market and, together with the Competition and Consumer Protection Commission (CCPC), I have promoted behavioural research on switching through the Economic and Social Research Institute (ESRI). The outcome of this work will assist the proposed Central Bank and BPFI engagement on this matter.

Nevertheless, in advance of this work there is still the potential to consider some further external mortgage switching measures which can benefit consumers for immediate inclusion in the proposed 2013 Act Regulations.

One of the points which has recently been raised with the Department is the delay some borrowers have experienced in obtaining title deeds or other evidence of ownership from the current mortgagee.

Therefore, building on the provision contained in Regulation 177 (which requires regulated entities to provide a mortgage redemption figure within five working days), I consider that there should also be a requirement on regulated financial service providers to provide the title deeds or other necessary evidence of ownership to the legal representative of the borrower within an appropriate specified period. In order to enable the borrower switch mortgage to another lender or, subject to any necessary consent of the mortgagee, to enable the borrower (and owner) sell the secured property. Any unnecessary delay in supplying this documentation could cause additional and unnecessary costs for the borrower.

The Working Group on Conveyancing and Probate Group was established by the previous Taoiseach and tasked to carry out a review of current conveyancing and probate processes and identify scope for greater efficiency and streamlining. The final Report and the Recommendations of this Group may provide useful insights to the Central Bank in this area and I would ask for any relevant Recommendations to be considered that would support borrowers taking out a new mortgage or switching a mortgage.

Furthermore, following the redemption of the mortgage there should also be an onus on the mortgagee to return the title deeds etc., or where relevant to confirm that the registered charge has been removed, to the (former) borrower within an appropriate period following the repayment of the mortgage.

### **Retail Banking Review Recommendations**

As you are aware, the 2022 Retail Banking Review carried out by my Department set out a number of recommendations that had implications for the Consumer Protection Code review. Relevant Retail Banking Review recommendations include those on account switching, access to branches and service standards.

In terms of account switching, it is important that lessons are learned and incorporated by industry following the large scale migration of current accounts on foot of the exit of Ulster Bank and KBC from the Irish market. This includes any issues that emerged in relation to customers in vulnerable circumstances.

The consultation paper notes that the learnings from the recent account migration process and consideration of the impacts of open banking will inform any future policy consideration of the need for a payment account switching code. An efficient and effective switching process is vital for consumers as part of a competitive and dynamic retail banking market.

This work therefore should be progressed as a matter of priority and not be dependent on how open banking develops, given the relatively limited open banking offerings currently available in the Irish market. Recent research noted above that is being undertaken by the ESRI on a behaviourally informed app to encourage switching, including of current accounts, should also help inform this work.

Given the recent market exits and other changes to the banking landscape, the needs of customers have to be front and centre if there are any plans by firms to close, merge or move branches. I welcome the series of provisions on informing and protecting consumers' interests in this regard as set out in Chapter 5 of the 2013 Act Regulations.

However, I note that Board approved assessments of a firm's plans to significantly alter or close branch services are not required to be specifically submitted to Central Bank, which was part of the original Retail Banking Review recommendation. The net effect of the change is that firms would be required to notify the Central Bank of closures or

changes but would not be required to formally submit its Board approved assessment to the Central Bank. It would appear that a failure to do will not be an infringement of the revised Code.

The highest standards of customer service should be a priority for all financial services firms operating in Ireland. I note that there is not a specific requirement in the revised Code proposals for all providers of retail banking products and services to set out and publish customer charters, incorporating service standards. I understand this is an approach taken by entities operating in the utilities sector.

Rather the approach proposed is for firms to take ownership of their obligations including in terms of communicating on service standards in line with the relevant business standard requirements. I trust that the Central Bank will ensure that supporting the highest possible standards of customer service for all consumers of financial services in Ireland is prioritised under this approach, in the absence of a specific requirement on firms to publish a customer charter.

#### **Other Issues including Digitalisation, Dispute Resolution, Insurance, Consumer Credit, Climate Issues and Unregulated Products**

I welcome the focus on digitalisation in the consultation paper. The requirements, for example, on digital platforms and the design, use or delivery of technology that does not seek to unfairly exploit or take advantage of behaviours, habits, preferences or biases of customers or cause customer detriment are very important to maintain customer trust. They are also important given the growing use of technologies such as Artificial Intelligence in the wider economy including the financial services sector.

I also welcome the enhanced information measures for consumers on the relevant Ombudsman/Alternative Dispute Resolution service as part of the pre-contractual stage information and at the commencement of the complaints process. The proposal to extend the Code in full to Buy Now Pay Later agreements, Hire Purchase agreements and Personal Contract Plans is a welcome development. In addition, in terms of the Insurance sector, I note the proposed measures on auto-renewal and insurance switching.

In relation to climate issues, I note the consumer research completed in the area of climate risk which shows that, in line with other studies, consumers are supportive of initiatives within the financial system to help create a climate neutral economy. The concerns raised in the research around “greenwashing” are also acknowledged and, in this context, I know the Central Bank is continuing to work with the European Supervisory Authorities in the areas of transparency around environmental reporting by financial services entities.

I want to now turn to unregulated activities, I note the considerable risks for consumers receiving financial advice on and/or sold unregulated investment products by regulated entities. I am informed that other jurisdictions have stronger regulatory measures in place to address such risks, which unfortunately have materialised for many Irish consumers.



I trust that the Central Bank is satisfied that its proposals are sufficiently robust to significantly mitigate the risks of further episodes of consumer detriment arising which involve entities which you regulate.

### **Credit Unions and SME Regulations**

I understand that the application of the revised Consumer Protection Code to credit unions and the consolidation of the SME Regulations into the Code will be considered after the publication of the revised Code by early 2025. This work should begin as soon as possible after publication of the revised Code.

Given the important role of both the credit union and SME sectors in the financial services landscape, I would welcome a commitment by you to hold a specific consultation at the appropriate time in relation to these sectors and to mirror the open engagement with stakeholders that has taken place in this current stage of the review process.

In conclusion, delivering an updated and modernised Code will be an important milestone in ensuring a responsive and up-to-date consumer protection framework for consumers of financial services. I understand the anticipated timelines following the consultation process are to publish the revised Code in early 2025 with a 12-month period for implementation from the date of publication.

Given the importance of this work, I look forward to the publication of the final revised Code within the proposed timeframe and its rolling out as a matter of urgency.

I welcome any further engagement on this matter as the work progresses and the updated Code is finalised. My officials will also continue to engage with yours on this important matter and all other issues of relevance.

Yours sincerely,



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Michael McGrath TD  
Minister for Finance