



GE Money

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Consumer Protection Codes Department
Financial Regulator
PO Box No 9138
6-8 College Green
Dublin 2

3rd September 2010

Re: Review of Code of Conduct on Mortgage Arrears – CP46

Dear Sirs,

Please find enclosed our response to Consultation Paper CP46 on the draft Code of Conduct on Mortgage Arrears (CCMA).

We appreciate that the Financial Regulator has gone to some lengths to update the CCMA in order to enhance the protection for mortgage borrowers who are facing financial difficulties. You will also note the considerable amount of effort invested in our submission to respond to the draft in a practicable manner as possible.

While we have commented on a number of the proposed amendments, we are particularly concerned about the following two areas:

1. *Repossessions: Rule 45 & 46*

In our view, more clarity is required on the twelve-month moratorium in relation to instituting legal proceedings. Our understanding of the provisions in the code is as follows: -

- (a) Where borrowers are in arrears and refuse to engage in the MARP legal proceedings can be instituted without waiting for twelve months.
- (b) Where borrowers are in arrears and engage in the MARP but this results in no agreed alternative arrangement, then legal proceedings can only be instituted after twelve months have elapsed from the date the arrears first arose.
- (c) Where borrowers are in arrears and engage in the MARP and it results in an agreed alternative arrangement, then legal proceedings can only be instituted twelve months after the borrower ceases to adhere to the revised payment arrangement, i.e. stops making payment of the amount agreed in the arrangement.

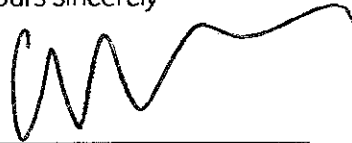
2. *Appeals process*

We submit that an internal appeals process is sufficient. We are concerned about the effect an external appeals process may have on the MARP process, as borrowers may use this process as a stalling tactic. We have found that it can take up to 9 months for a 'Finding' to a complaint to be issued by the Financial Services Ombudsman. In addition to the 12-month moratorium in instituting legal proceedings, this could push out the commencement of legal action to almost 2 years. Such a delay will add to the seriousness

of the borrowers arrears situation and is not in the best interests of any borrower. We would refer you in particular to pages 4 and 5 of our response attached.

If you have queries regarding our response, please don't hesitate to contact Patricia Dardis on 01 4021191.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Ciarán Barr', written over a horizontal line.

Ciarán Barr
CEO, GE Money Mortgages



GE MONEY

RESPONSE TO CP46

GE Money is a trading name of GE Capital Woodchester Limited (reg. no.9380), GE Capital Woodchester Finance Limited (reg. no. 24267) and GE Capital Woodchester Home Loans Limited (reg. no. 34927).
Registered Offices: 31–36 Golden Lane, Dublin 8.

INTRODUCTION

This response to CP46 is on behalf of GE Money, also referred to in the response below as “we/ us/our”.

Our response is structured in 2 parts:

- Section A outlines our response to the 4 areas the Financial Regulator is seeking industry views; and
- Section B contains our submissions on specific chapters and rules in chronological order.

SECTION A

1. Level of communication

Proposal: Lenders would only be permitted three unsolicited communications each month with borrowers.

Issue:

Based on our experience, we submit that 3 unsolicited contacts per month are not sufficient for lenders contacting a borrower in arrears on their mortgage. In addition, we find that the level of communication should directly correlate with the age of the arrears, with higher levels of contact for early arrears.

Our experience shows that when a borrower falls into arrears, quick engagement with the borrower is instrumental in clearance of the arrears, either by (i) collecting the arrears; or (ii) agreeing an arrangement with the borrower (whether temporary or permanent). By not tackling the matter early, the problem becomes much more difficult to resolve causing much unwanted stress for the borrower.

Borrowers respond differently to different contact methods and thus limiting the lender to 3 unsolicited contacts per month would be very restrictive and not in the best interest of the borrower.

In addition, it is important that the Expert Group bear in mind that any restrictions on contact levels should apply equally across all products in the market i.e. unsecured personal loan debt should be treated the same as personal mortgage debt in relation to the level of communication, otherwise borrowers might prioritise payments to non-mortgage creditors.

Proposal:

Based on the above, our view is that the following maximum levels of unsolicited contacts are fair and reasonable:

- i) no more than 2 unsolicited letters per 30 day period; and
- ii) no more than 5 unsolicited telephone calls/lender representative calls to the borrowers home, where a conversation occurs with the borrower.

Please note: Where there are joint borrowers, who are no longer in agreement as to how they wish to deal with their mortgage arrears, this might include up to 5 telephone/lender representative calls to each borrower.

We are of the view that there should be no restrictions on the use of SMS (text messaging) where phone contact has not been made and the lender is merely requesting the borrower to make contact.

In addition unsolicited communication would not include any communication agreed in advance with the borrower. This would include home visits where we agree the visit with the borrower in advance; where a borrower agrees to pay the arrears with their laser card on a certain date and asks us to phone them on that date; or if the borrower asks us to contact them via email.

Unsolicited communication should also not include where we attempt to contact the borrower but they are not available. For example, we may attempt to contact a borrower 10 times in a 30-day period but only make contact with them 4 times in the month. So the number of unsolicited contacts in this example would be 4.

2. Arrears

Issue: Lenders have employed different definitions for arrears.

We consider a mortgage account to be in arrears if a full¹ payment is not made on the scheduled billing date.

If the borrower does not make the necessary payment by month end, the account is deemed to be in arrears at month end. For any account in arrears at month end, the number of days a full payment is overdue is calculated from the billing date (missed

¹ We define a full payment as 90% or greater of the normal monthly repayment

payment) and this information is used in our quarterly data submission to the Financial Regulator.

We consider this a logical interpretation and propose that we continue with this method. We would like to stress that any amendment to our arrears calculation would require considerable changes to our internal IT systems which could take a minimum of 12 months to implement, a considerable investment of time, and at a very significant cost.

3. Primary residence

Issue: Should borrowers not residing in the mortgaged property be protected under the CCMA?

We submit that the CCMA should only apply to primary domestic dwellings where the borrower resides in the property and the property is not being used for investment purposes. In fact we only provide mortgages to such borrowers. The Terms and Conditions of our mortgage agreements are quite clear in this regard in that they state that the property must be occupied exclusively by the borrower.

Where the property has been vacated or abandoned, the lender should be allowed to 'fast track' the repossession of the property in order to prevent deterioration of the property, which would impact both the borrower and the lender through a reduced asset value.

4. Appeals

Issue: Is an external appeals process necessary and if so, how could this be achieved?

We submit that an external appeals process is not necessary. We agree that there should be an internal appeals process for borrowers to appeal the decision of a lender regarding the approach to be taken to address the borrower's arrears situation.

Given that a borrower in financial difficulty seeking an alternative repayment solution goes through a rigorous internal review process, and that a key requirement of this process is an objective assessment of the borrowers affordability based on information and figures provided by the borrower, we cannot see any scope for an external review. The borrowers repayment capacity should be very clear from the data provided in the SFS thus leaving little scope for appeal. We consider an independent internal review by one or

more senior personnel to be adequate. We submit that it is important that the following are considered as part of the internal review:

- i) fair treatment of the borrower(s) per the General Principles of the CPC; and
- ii) the requirements of the CCMA have been adhered to.

We submit that should the Expert Group deem that an external appeals mechanism is required the following should be considered:

- i) It has been our experience that some borrowers who involve the Financial Services Ombudsman's Bureau (FSOB) in a dispute are doing so as a stalling tactic.

Thus if the Expert Group deem the external appeals mechanism is necessary, the borrower must be required to continue making payments during the period of the external investigation and if no effort to pay or engage with the lender is being made then the lender should be in a position to commence legal proceedings whilst the external investigation is ongoing.

- ii) As reported by the Ombudsman in his Annual Report, there is a significant backlog of complaints and we have found that it can take up to 9 months for a Finding to be issued. Added to the 12-month moratorium to commence enforcement of legal action on repossession of a borrowers residence, this could push the commencement of legal action on repossession out to almost 2 years. This inordinate delay is not in the best interests of the borrower or the lender.

Thus, if an external appeals mechanism is deemed necessary, we submit that there should be an obligatory timeline within which the FSOB must issue it's Findings and we submit it should be no longer than 30 working days.

SECTION B
SUBMISSIONS ON SPECIFIC RULES

General

Rule 7: A lender must assist borrowers by ensuring that all requests from *borrowers* for documentation and information required for the purposes of applying for State supports are processed within ten working days of receipt of the request.

Response: We agree that a specified processing time should be detailed and in our experience 10 working days is generally sufficient. However, on occasion there may be a delay in processing a request, which is outside our control, such as retrieval of documents from off-site storage. As a result, we recommend that the regulation specify a maximum of 20 working days to allow for any unexpected delays in the process.

We also suggest that in the best interests of the borrower, the State should also adhere to this timeline and process support applications within 20 working days of receipt of the required documentation and information.

Provision of Information

Rule 11: In all correspondence in relation to an existing mortgage, a lender must make the appropriate point of contact for dealing with arrears and pre-arrears clear to the borrower – whether that is at a branch or Head Office.

Response: We are in agreement that lenders with two or more branches/offices must advise the borrower of the phone number and address of the relevant branch or office where the lenders ASU team is located.

Rule 12: A lender must prepare and make available to borrowers an information booklet providing details of its MARP, which must be drafted in accordance with the requirements set out in paragraph 8 and must include:

- a) an explanation of its MARP, including the alternative repayment measures available to borrowers and the lender's criteria for assessing requests for alternative repayment measures;
- b) a statement that the borrower will not be required to change from an existing tracker mortgage to another mortgage type;

- c) information about the potential availability of State supports such as mortgage interest relief or mortgage interest supplement; and
- d) relevant contact points (i.e., the dedicated arrears contact points not the general customer service contact points);
- e) reference to the Citizens Information Board (CIB)/Money Advice and Budgeting Services (MABS) web-site, www.keepingyourhome.ie.

Response to a): We submit that the rule should be amended to refer to the lenders 'principle' criteria rather than the lenders criteria as each request is reviewed on it's own merits. The principle criteria for assessing a borrower's request for alternative repayment arrangements are the items detailed in Rule 32 of the CCMA. This is the information that should be provided in the information booklet.

Response to b): No comment

Response to c): To ensure that all institutions are providing the same information, the Financial Regulator should publish a list of the relevant State supports.

Response to d): We submit that the phone number and address of the relevant branch or office where the lenders ASU team is located should be clearly referenced.

Response to e): No comment

Rule 13: A lender must have a dedicated section on its website for borrowers in or concerned about financial difficulties which must include:

Response: We submit this rule should only apply in circumstances where the lender has a website. Therefore, we propose an alternative wording for Rule 13 - 'Where a lender has a website, it must have a dedicated section on it's website for borrowers in or concerned about financial difficulties...'

Pre-arrears Situations

Rule 15: A lender must pro-actively carry out regular assessments of existing mortgage customers, at least every six months, with a view to identifying those suffering or anticipated to suffer financial stress.

A lender must attempt to engage with borrowers whom it considers to be at risk of going into arrears...

Response: In order to assess a borrower's circumstances, the lender would require that the borrower complete an SFS. We submit that it is unfair and invasive to request mortgage borrowers who are paying regularly to complete an SFS every 6 months. The responsibility must lie squarely with the borrower to keep their lender apprised of all developments that might impinge on their ability to continue regular payments.

Rule 16: A lender must attempt to engage with borrowers whom it considers to be at risk of going into arrears. At a minimum, a lender must ensure that it sends a periodic mailing, at least every six months, to all mortgage holders it believes to be at risk of going into arrears, setting out options for dealing with financial distress and encouraging early action by the borrower(s).

Response: This is not feasible - lenders cannot identify which borrowers are suffering, or anticipated to suffer, financial stress unless borrowers inform their lender of their changed circumstances. As soon as the lender is made aware of any difficulties, the MARP will commence. We propose this method of dealing with pre-arrears cases is sufficient.

Mortgage arrears resolution process (MARP)

Step 1: Communication with Borrowers

Rule 18: A lender must ensure that the level of contact and communications from the lender, or any third party acting on its behalf, is proportionate and not excessive.

Response: The Financial Regulator must clarify what it means by 'proportionate and not excessive'. We submit that in this reference should be clearly made to the level of communication permitted by the CCMA as set out in 'Level of Communication', page 2 of this document.

Rule 19: Each calendar month, a lender, and/or any third party acting on its behalf, may not initiate more than three unsolicited communications, by whatever means, to a borrower in respect of his/her mortgage arrears situation.

Response: We submit that there must be a consistency in the interpretation of the definition of level of communication and would refer back to 'Level of Communication', page 2 of this document.

Rule 20(a)(vii): When a mortgage account goes into arrears, the lender must provide a general statement about the impact of missed mortgage repayments and repossession on the borrower's credit rating.

Response: We submit that a general statement about the impact of missed mortgage repayments and repossession on the borrower's credit rating should be an industry-wide standard provided by the Financial Regulator.

Rule 23: Where the borrower has not responded to the lender's correspondence in relation to the arrears, the lender must continue in its endeavors to make contact with the borrower.

Response: In cases where the borrower has not responded, (i.e. is not engaging with the lender), the lender should be entitled to seek repossession in accordance with Rule 46d. However, during the legal process the lender should continue its endeavors to make contact with the borrower in accordance with the prescribed number of unsolicited contacts permitted by the CCMA.

Step 2: Financial Information

Rule 25: A lender must use the Standard Financial Statement (SFS) to obtain financial information from a borrower in arrears or at risk of going into arrears.

Response: We agree that a standard financial statement (SFS) is of merit. However having considered the sample SFS included as appendix (c) of the Mortgage Arrears and Personal Debt Expert Group Interim Report published on 5th July 2010, we respectively submit that there are a number of improvements that could be made to the proposed format in order to make it more customer-friendly. It is important that the SFS be sufficiently clear so that: (i) the requirements cannot be misinterpreted by the borrower or lender; and (ii) the borrower is in a position to fully complete the SFS. We suggest the following amendments for your consideration:

- *Financial commitments*: Ensure that the document has enough rows in the table provided to enable borrowers who have extensive financial commitments to list them all individually;
- *Incomings/Outgoings*: Remove the choice of weekly or monthly and specify one (preferably monthly), or ensure that it is clearer on the form that the customer must select whether amount provided is paid weekly or monthly. Incomplete information will delay the process; and
- *Outgoings*: Include more outgoings to the list provided. For example, home phone, broadband, health/life/buildings insurance, property upkeep, holidays, hobbies, and pocket money.

We have enclosed a copy of our SFS, which was designed with the above in mind for your consideration.

The SFS should also include a notice warning that failure to make a full and honest disclosure of information may lead to repossession of the mortgaged property (CCMA Rule 46(c)). This should be an industry-wide statement and provided by the Financial Regulator.

Step 3: Assessment

Rule 32: A lender's ASU must base its assessment of the borrower's case on the full circumstances of the borrower including:

- a) the personal circumstances of the borrower;
- b) the overall indebtedness of the borrower;
- c) the information provided in the SFS;
- d) the borrower's current repayment capacity; and
- e) the borrower's previous payment history.

Response: We submit that the first line of rule 32 should have the words **'but not limited to'** after 'including' as each case is reviewed on its own merits.

Step 4: Resolution

Rule 37: The lender must monitor the arrangement on an ongoing basis and formally review the borrower's case, including the SFS, at least every six months.

Response: We do not agree that this should be a requirement where borrowers are maintaining an agreed repayment arrangement. Rather than reviewing from a time-based perspective, we submit that arrangements should be reviewed from an event-based perspective (i.e., broken arrangement, impending redundancy etc.).

Once the borrower has entered into an arrangement, he/she should be responsible for advising the lender of any further difficulties that might arise during an arrangement period, in which case the lender should then formally review the borrower's case. In addition, in instances where a repayment is missed, as part of follow up with the borrower, a formal review might be initiated.

Rule 39: If a lender is not willing to enter into an alternative repayment arrangement, for example, where it is concluded that the mortgage is unsustainable and an alternative repayment arrangement is unlikely to be appropriate, the reasons must be given in writing to the borrower. In these circumstances, the lender must make the borrower aware of:

- a) other possible options (such as voluntary surrender, trading down or voluntary sale) and the implications of these for the borrower; and
- b) the right to appeal the lender's decision and the procedure for submitting an appeal

Response: There are circumstances where lenders and borrowers cannot agree an alternative repayment arrangement but the borrower chooses to make ad hoc payments. In such cases there is no agreed repayment arrangement and the twelve-month moratorium, before the lender can apply to the courts to commence legal action, will commence despite any such ad-hoc payments being made by the borrower.

Repossessions

Rule 45: The lender must not apply to the courts to commence enforcement of any legal action on *repossession* of the property secured by the mortgage:

- a) until every reasonable effort has been made to agree an alternative arrangement with the *borrower* or his/her nominated representative, or
- b) where the terms of an agreed alternative repayment arrangement are being adhered to; or

- c) where an appeal and/or complaint, including a complaint referred to the Financial Services Ombudsman, is ongoing.

Response: As previously stated, the CCMA should only apply to primary domestic dwellings where the borrower resides in the property and the property is not being used for investment purposes.

Rule 45(c): Please refer to response given under 'Appeals' on page 4 of this document. Given the time it may take from a complaint being submitted to a finding being issued by the FSO, we consider it unreasonable not to be able to commence legal action in these cases especially where a borrower is making no repayments during the Ombudsman's investigation.

Rule 46(a): Where the borrower continues to co-operate reasonably and honestly with the lender, the lender must wait at least twelve months before applying to the courts to commence enforcement of any legal action on repossession of a borrower's primary residence the twelve-month period commences:

- (i) when the arrears first arose, if a revised repayment arrangement has not been agreed, or
- (ii) when the borrower ceases to adhere to the terms of a revised repayment arrangement and no further arrangements are being adhered to.

Response: We are of the opinion that this rule still is unclear. For clarity we suggest the following amendments:

- (a) 'Where the borrower continues to co-operate reasonably and honestly with the lender...' should be amended to 'Where the borrower **has worked through the MARP process** with the lender...'
- (b) We submit that 46a(i) be amended by the addition of '**through the MARP process**'. Thus the rule should read as follows: 'when the arrears first arose, if a revised repayment arrangement has not been agreed through the MARP process'.

Rule 46(c): Where the borrower fails to make a full and honest disclosure of information in the SFS, the lender may seek repossession and is not required to wait twelve months from the time arrears first arise or from the time a revised repayment arrangement breaks down.

Response (c): We submit that in the interests of the borrower the materiality of any missing information should be considered. For example, it would not be appropriate for a lender to seek repossession if the borrower neglected to advise us of their mobile phone bill.

Rule 46(d): Where it is clear that the borrower is deliberately not engaging with the lender, or where other circumstances reasonably justify, the lender may seek repossession in the absence of any engagement with the borrower.

Response (d): To ensure consistency throughout the CCMA and for clarity, we submit that 'not engaging' should be replaced with 'not willing to work through the MARP process with the lender....'



GE Money Mortgage

31-36 Golden Lane
Dublin 8
Ireland
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GE Money Customer Profile Form Strictly Private and Confidential

Agreement Number: M20049876

Personal Details

Name: _____

Home Tel: _____

Address: _____

Work Tel: _____

Mobile Tel: _____

Years at above address: _____

Owner or Tenant: _____

Previous Address: _____

If you have a mortgage please complete the following:

Building Society/Bank: _____

Monthly Instalment: € _____

Arrears: € _____

Arrears: No. of months in the last year _____

Age: _____

Marital Status: _____

No of dependant children: _____

Employment Details

Borrower 1

Employer: _____

Borrower 2

Employer: _____

Address: _____

Address: _____

Monthly Net Income: € _____

Monthly Net Income: € _____

Full time or Part time: _____

Full time or Part time: _____

PAYE or Self Emp: _____

PAYE or Self Emp: _____

Time in Current Employment: _____

Time in Current Employment: _____

Income Details

Your Household Monthly Income	Total Monthly	Your Household Income Cont'd	Total Monthly
Wages /Salary		Non-dependant contributors	
Social Welfare		Other Income's	
Rent/Mortgage Supplement		Lodgers	
Pension		Grants	
Children's Allowance		Insurance payments	
Maintenance		Other	
		Total Monthly Income (A)	



GE Money Mortgage

31-36 Golden Lane
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<i>Your Household Outgoings</i>	<i>Total Monthly</i>
Housing Costs -Monthly	
Rent	
Mortgage	
Mortgage Payment Protection Insurance	
Buildings / Contents Insurance	
Food/Housekeeping	
Food	
Other	
Utilities	
Electricity Cost	
Heat / Fuel Costs	
TV licence	
Waste Charges	
Telephone /Other Utilities	
Home Telephone	
Mobile Telephone	
Digital Television	
Broadband	
Insurance Costs	
Life Insurance	
Health Insurance	
Transportation Costs	
Transport costs bus/taxi	
Car Insurance	
Car Fuel	
Parking	
Car Tax	
Educational Costs	
School Uniform	
School Books	
School Fees	
Other Costs	
Childcare	
Savings	
Clothing Costs	
Maintenance Payments	
3rd level Accommodation	
Medical expense	
Doctors	
Medication	
Other	
Repairs & Maintenance	
Property Upkeep	
Holidays	
Pocket Money	
Entertainment (Cigs/Alcohol)	
Hobbies	
Other Outgoings	
Total Outgoings (B)	

<i>Primary Debts</i>	<i>Balance Owed</i>	<i>Normal Monthly Payment</i>
Mortgage Arrears		
Rent Arrears		
Electricity Arrears		
Fuel/Heating		
Other loans secured on your house		
Other secured loans		
Instalment orders		
Court Fines		
Family Maintenance		
Hire Purchase on your car		
Other secured debts		
Total Primary Debts (C)		

<i>Your Budget</i>	<i>Total</i>
Total Income (A)	
Total Outgoings (B)	
Money For Creditors = (A-B)	
Total Primary Debts (C)	
Money for secondary Debts (Money for Creditors - C)	

<i>Secondary Debts</i>	<i>Balance Owed</i>	<i>Repayment Offer</i>
Bank Debt		
Credit Union		
Credit Card		
Total Secondary Debts (D)		

GE Capital Woodchester Limited (reg. no. 9380), GE Capital Woodchester Finance Limited (reg. no. 24267) and GE Capital Woodchester Home Loans Limited (reg. no. 34927) trading as GE Money are regulated by the Financial Regulator (for Personal Loans, Mortgages and Insurance). Registered Offices: 31-36 Golden Lane, Dublin 8. Registered in Dublin, Ireland. Directors: C. Barr, D. Hannigan, C. Helme, M. Purcell



GE Money Mortgage

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The above is an accurate reflection of my financial position. I hereby consent for GE Money to carry out a credit search with the Irish Credit Bureau Ltd, (or other credit reference agencies, where applicable), on my behalf.

Signed: _____

Date: _____

Important: Please enclose copies of your most recent payslips or benefits received and your most recent creditors' statements.

WHAT TO DO IF YOU ARE UNEMPLOYED OR SICK

If you are unemployed, please have the Certificate of Unemployment below completed by your local Unemployment Exchange

Certificate of Unemployment

Name: _____

PPS Number: _____

Address: _____

Unemployment Exchange Stamp:

Date Unemployment Commenced: ____/____/____

If you are sick please enclose a stamped Medical Certificate from your doctor.