

To: Codes Consultation

Subject: Code of Conduct on Mortgage Arrears

Issues raised in the Consultation Paper CP 46

Level of Communication

I would see three unsolicited communications per calendar month with borrowers in respect of their arrears situation as unduly excessive. I suggest that one unsolicited communication per month is sufficient to keep the line of communications open and the file up to date.

Arrears

I would suggest that the most appropriate definition of arrears for the purposes of the CCMA is "the date the first direct debit on the account was missed". This should lead to early intervention and recognition of the difficulty by both parties. Given the application of the balanced provisions in the CCMA, this has the potential of achieving the overall objective of creating a mutually acceptable, affordable and sustainable solution in a spirit of mutual respect and understanding.

Primary Residence

Given the potential for abuse of this term, and the wide variations possible, as noted in some of the examples cited, I suggest something along the following lines. The term used to describe primary residence is "the property designated by the borrower as their current principal private residence and that currently held as security for same. This should cover the bulk of the situations that are likely to arise. In the event that the borrower is not currently using this property as their principal private residence, then the special case made for such situations does not apply and the issue becomes primarily how to achieve a balanced commercial sustainable solution.

Additional Issue not referred to in the Consultation Paper CP 46

Necessity to widen the scope of the Code of Conduct on Mortgage Arrears (CCMA) in order to include the residential investment mortgage finance market

Given that the focus of the Expert Group on Mortgage Arrears and Personal Debt to date has been on the principal private residence, I think it is reasonable to expect and appropriate that the proposed amendments to the CCMA will address the exceptional and challenging circumstances that currently exist in regard to the residential investment mortgage finance market? This requires that the CCMA be extended to include the residential investment mortgage market, with appropriate amendments to reflect the special case currently rightly given to the principal private residence.

In essence, why should the residential investment mortgage market be excluded from the objective of implementing a "mutually acceptable, affordable and sustainable payment plan" that seems to be the basis of the current protocols that apply re the principal private residence. Surely it is in the interests of all participants in that market and society that an appropriate set of principles or framework are in place to inform practice in regard to the residential investment mortgage finance market and assist in the implementation of the spirit of mutual goodwill and respect that underpins the current CCMA.

Specifically, current anecdotal evidence suggests that unilateral and ad hoc banking practices in the residential investment mortgage finance market such as charging arrears penalties, increasing the rate of interest and/or bank margin, changing standing orders, seeking immediate full or partial capital repayment, demanding additional security and psychological bullying through repeated aggressive telephone calls and correspondence are widespread and need to be addressed. These practices are currently taking place in a select manner and despite full engagement by the borrower and fully serviced interest and partial repayment plans.

The objective should be to ensure that an appropriate set of provisions with a binding code and sanctions, comes into effect, as soon as possible in order to underpin banking practice in the residential investment mortgage market.

Regards
Tom Kennedy