

Consumer Protection Codes Division
Central Bank of Ireland
PO Box 9138
6-8 College Green
Dublin 2

Email: code@centralbank.ie

Re: Code of Conduct on Mortgage Arrears Consultation Paper 63

10th April 2013

Dear Sir/Madam,

We welcome the opportunity to respond to the proposed amendments to the Code of Conduct on Mortgage Arrears (CCMA) as set out in Consultation Paper 63. We have worked closely with the IBF and the other member Banks to provide our industry specific feedback, however, we believe that a Danske Bank specific response is also warranted on some key issues within the proposed paper, which we set out below.

1. Scope of the CCMA

Danske Bank believe that a “primary residence” for the purposes of the CCMA is described as the residential property which the Borrower occupies in the State or a residential property in the State which is the only residential property owned by the Borrower (this could be a residential investment property), provided the Borrower does not own a Principle Private Residence (PPR) outside of the State.

As advised to the Consumer Protection Division of the Central Bank in January 2013, the Bank sought independent legal advice on this issue from our external Solicitors, which detailed that if the Borrower owned a main principle private residence outside of the State, any property owned by them located in the State would not benefit from the protection of the CCMA, as they can only designate one property as their main residence.

We believe that it is imperative that the definition of “primary residence” is amended within the Code to clearly state this.

2. Co-operation and engagement

Danske Bank welcomes the amendment of the Code to clearly classify Borrowers that are non cooperating.

While our arrears management letters clearly set out the implications of non cooperation and the result of inaction on behalf of the Borrower, we believe a new letter under provision 28 (which deems the borrower to be non co-operating and therefore excludes them from the MARP), will greatly assist us in addressing some of our non-engaging long term arrears cases (greater than 90 days in arrears). Please note that Danske Bank does not issue unsolicited personal visit letters or carry out unsolicited personal visits, as part of this process.

3. Link between the CCMA and the Personal Insolvency Act (PIA)

We would fundamentally disagree with the proposal to provide information on the Insolvency Service at the outset of the Mortgage Arrears Resolution Process (MARP).

To ensure clarity for our Borrowers we recommend that the requirement to include ‘relevant publications, produced by the Insolvency Service of Ireland’ be removed from provision **12(e) pre-arrears**, 22c, 44(b), 45 (c), 46 (b). We will ensure that the relevant details of the Insolvency Service are made available to our Borrowers through our existing “managing your finances” pages on our website. We strongly support the view that a reference to the Insolvency Service is more appropriate than specific information on arrangements, as this is likely to cause significant confusion among Borrowers in difficulty, as it implies that the Borrower has a choice between the MARP and the PIA.

4. Treatment of Appeals and Complaints

Danske Bank have an established Independent Appeals Board, which consists of Head of Credit, Head of Legal and The Chief Financial Officer.

All appeals received in writing, which pertain to a decision made by the Credit Department ASU and in respect of a MARP Borrower, are referred to this Appeals Board.

All complaints received in relation to our compliance with the requirements of the MARP or treatment of the borrower’s case will be dealt with by the Business Unit or Borrower Services Standards (CSS) under our standard complaints process.

Where the appeal relates to a credit decision made by the Head of Credit, for impartiality, a Senior Manager from the Credit Department, who has not been previously involved in the original credit decision, will replace the Head of Credit on the Appeals Board.

Appeals Management Information is provided monthly to the Danske Bank MARS Committee for review and analysis.

5. Review of Alternative Arrangements

It is proposed within the Code amendments, that a review of long term arrangements (arrangements with a term greater than 5 years) are conducted every 5 years. Danske Bank have built in an annual review period for Split Mortgage (long term arrangement) loan modification, to ensure we receive up to date cash flow analysis and that we are maximising disposable income levels. This will enable us to work with the Borrower to transfer additional tranches to the affordable balance as appropriate.

6. Tracker Mortgages

We believe that it would be counterproductive to remove tracker rates from our Borrowers that are entering into a Split Mortgage solution. The most mutually agreeable solution in this regard would be to allow the Borrower to retain their existing rate when availing of this option. This will ensure a greater percentage is split onto the "affordable loan" balance and repaid on an amortising basis. However, the borrower would have the option of changing from their existing tracker rate should they so wish.

7. Removal of customers from MARP

A further point which Danske Bank feel is worthy of comment is the process in relation to the removal of customers from the MARP. However, we consider the IBF have covered this sufficiently in their response on behalf of the industry.

Finally, we would emphasise that there will be significant technical development, communication and training required by the Bank in order to introduce the changes currently proposed in the draft provisions and this should be considered when preparing the implementation timeframe.

We trust the above clarifies the position of Danske Bank and we look forward to hearing from you in due course.

Yours sincerely,

Jennie Power
Head of Compliance