



Consumer Protection Codes Division
Central Bank
PO Box 9138
6 – 8 College Green
Dublin 2

10 April 2012

Re: Review of Code of Conduct on Mortgage Arrears – CP63

Dear Sirs,

Pepper Asset Servicing (“Pepper”) welcomes the opportunity to provide feedback to the Central Bank of Ireland (“Central Bank”) in relation to CP63, to review the Code of Conduct on Mortgage Arrears (“CCMA”).

Pepper’s overriding objective is to keep people in their homes and to create sustainable solutions for customer. To do this we deploy a range of different measures and are currently working on rolling out a number of additional forbearance solutions. In making our decisions we take into account the differing circumstances of each individual so that each case is considered on its own merits.

Pepper believes that CP63 is very timely. It appreciates the approach taken by the Central Bank to ensure industry engagement, in addition to taking themed inspections and consumer based research into consideration. The current code is well embedded and both the Central Bank and the industry have had time to identify potential improvements to ensure an effective framework. In addition, it is important to consider the enactment of the Personal Insolvency Act.

We have considered each of the proposed changes and have responded to same in as practicable a manner as possible.

If you have queries regarding our response, please don’t hesitate to contact me on 01 9074906.

Yours sincerely

Patricia Dardis
Head of Compliance & Regulatory Affairs

cc Paul Doddrell, CEO

► 4th Floor, Two Park Place, Upper Hatch Street, Dublin 2 ► Tel 1890 551 504 ► Fax 1890 927 901

www.peppergroup.ie

Pepper Finance Corporation (Ireland) Limited, trading as Pepper Asset Servicing, is regulated by the Central Bank of Ireland.
Registered Offices: 4th Floor, Two Park Place, Upper Hatch Street, Dublin 2. Registered in Dublin, Ireland (no. 34927).
Directors: P. Doddrell (UK), C. Helme (UK), P. Tuttle (AUS), F. Gemmill (NZ)

Pepper Asset Servicing

RESPONSE TO CP63

INTRODUCTION

This response to CP63: Review of the Code of Conduct on Mortgage Arrears (“CCMA”), is on behalf of Pepper Asset Finance Corporation (Ireland) Limited trading as Pepper Asset Servicing (“Pepper”), also referred to in the response below as “we/ us/our”.

Our response is structured in 2 parts and all reference to ‘provisions’ refer to the amended provisions proposed in CP63.

- Section A provides our response to the main issues under consideration as part of the review as outlined by the Central Bank of Ireland (“Central Bank”); and
- Section B contains our submissions on specific provisions in chronological order.

SECTION A

1. Co-operation & engagement

We agree that it is important that the definitions of, and the distinction between, co-operating and not co-operating borrowers are clearly set out. We welcome the proposed amendments to the definition of “not co-operating”.

In relation to borrowers who are not co-operating, we agree that it is important that every effort is made to ensure they are aware of the implications and consequences. We concur with the proposals to include an explanation in the MARP booklet (provision 12 (e)), give the borrower advance notice in writing and where the borrower has not subsequently engaged, to notify the borrower in writing that he or she has been classified as not co-operating (provision 27). However, given this level of communication and the time a borrower will have been afforded before being considered to be not co-operating, we do not agree with the proposal that the borrower should be afforded one further ‘open-ended’ opportunity to re-engage and to be considered co-operating again. If such a measure must be included, there should be a strict timeline applied.

2. Contact between the lender and the borrower

Firstly, we are fully supportive of the proposed changes to the provisions in relation to the removal of the limits relating to contacts albeit that contact and communications should remain proportionate and not excessive and that lenders draw up and implement a contacts policy. However, the requirement in provision 20 (d), to agree future contact with the

borrower in advance 'where possible', should be more specific and state that it is required or it is not required. We are of the view that provision 20 (d) is not required in this instance.

3. Link between the CCMA and the Personal Insolvency Act

Pepper is generally supportive of the Central Bank's proposals in relation to consideration of the interaction between the CCMA and the processes introduced under the Personal Insolvency Act. However, given that the intention is to ensure that the borrower(s) has been through the MARP, we submit that it should not be the responsibility of lenders to provide relevant publications from the Insolvency Service of Ireland as proposed in provision 22 (c). We suggest that in addition to providing the warning in the MARP booklet as specified in provision 12 (e) (iii), links to the Insolvency Service of Ireland website could be provided. Providing a significant amount of information with the 31 day (provision 22) letter is too early in the process and is likely to lead to confusion. We agree with the requirements regarding the provision information as proposed with the provision 44 and 45 letters.

In relation to the two scenarios that affect the application of the 12 month moratorium as outlined on pages 9 and 10 of CP63:

- (i) Where a borrower has declined an arrangement, we support the Central Bank's proposal to give a 30-day notice period before commencing legal action;
- (ii) Where a mortgage is deemed to be unsustainable, we believe that a similar 30-day notice period is a sufficient alternative period of time for a borrower to consider his or her options.

4. Use of the Standard Financial Statement (SFS)

We are of the view that given the escalation of the arrears situation, the on-going efforts to ensure robust solutions are implemented for borrowers in financial difficulty and the implementation of the Personal Insolvency Act, it is crucial that lenders have full and detailed information regarding the borrower's financial situation, which is facilitated via the SFS.

5. Reviews of alternative repayment arrangements

We consider the proposals to categorise repayment arrangements as short, medium and long term is useful to ensure consistency and we believe that whatever approach is taken in the CCMA should be used for all documentation and reporting. Currently there are a number

of categorisations in use. The Mortgage Arrears Resolution Strategy, for example, refers to short term forbearance, long term forbearance and resolution, and the Mortgage Arrears Quarterly Returns refers to temporary and permanent restructures.

Regarding the schedule of reviews, while the proposals are generally reasonable, they won't be appropriate in all cases. For example, a split mortgage is a long term arrangement. However, we would consider a 5 year review timeline as too long. Thus we submit that provision 43 should require that arrangements should be formally reviewed '*at least*' every 12 months; three years and five years as appropriate.

6. Treatment of Appeals and Complaints

We are satisfied with the proposed change.

7. Information on other options

We are satisfied with the proposed change.

SECTION B

SUBMISSIONS ON SPECIFIC PROVISIONS

Provision 17: “A lender must ensure that the MARP framework is applied to the following cases: (a) a mortgage account where arrears have arisen on the account...”

Response: Pepper submits that provision 17 in the current CCMA is clear and does not disadvantage the borrower in any way. Currently MARP applies to arrears that remain outstanding for 31 days. This allows both borrowers and lenders time to rectify technical arrears such as a direct debit not being set up correctly, or arrears that may be due to a borrower's oversight and where the borrower quickly rectifies the situation. We are unclear of any changes required to comply with the proposed revision given that the first communication provided for in Step 1 of the MARP requires that a letter is issued when the account has been 31 days in arrears and lenders will follow up on arrears when they first arise under provision 7.

Provision 25: “A lender may only make an unsolicited personal visit..... (i) when all other attempts at contact in relation to the borrower's arrears have failed; and (ii) immediately prior to classifying a borrower as not co-operating.”

Response: Provision 25 provides for a 3 month wait for an unsolicited personal visit, given that a three month period will have elapsed before a borrower is classified as not co-operating. Pepper submits that 3 months is too long a timeframe where the borrower has not made contact or responded to any communications. Assuming the lender has made a number of attempts to contact the borrower, we submit that a 6 week or 2 month wait period is more than sufficient before attempting an unsolicited visit. It is in the borrower's best interest to endeavor to resolve the arrears situation as soon as possible.

Provision 31: “The lender must pass the completed standard financial statement to its ASU immediately on receipt and provide a copy of the statement to the borrower.”

Response: It is implied in the revision of provision 31 that the lender must pass a copy of the SFS to the borrower immediately on receipt. We contend that it should not be necessary to provide a copy of the statement at that time and it is appropriate to provide it with the ARA decision letter as required by provisions 42, 44 and 45.

Provision 37: “Prior to completing a full assessment of the borrower’s standard financial statement, a lender may put a temporary arrangement in place where a delay in putting such an arrangement in place will further exacerbate a borrower’s arrears or pre-arrears situation. Such a temporary arrangement should not last for more than three months...”

Response: Pepper submits that while three months is likely to suffice in most cases, it will not in every case. All arrangements, whether temporary or otherwise, need to be determined on a case by case basis. For example, a borrower may be actively seeking employment and a six month temporary arrangement may be appropriate to give the borrower sufficient time.

Provision 42: “Where an alternative repayment arrangement is offered by a lender, the lender must provide the borrower with a clear explanation, in writing, of how the alternative repayment arrangement works, including (a) the reasons why the alternative repayment arrangement(s) offered is considered to be appropriate and sustainable for the borrower....”

Response: It is important to acknowledge that when reviewing a mortgage for an alternative repayment arrangement, consideration is given to expected changes in borrower circumstances at the end of the arrangement period, for example an expected change in income or expenditure. Thus we submit that it should be clarified that the “alternative repayment arrangement offered is considered to be appropriate and sustainable for the period of the arrangement.”

Provision 44: “If a lender is not willing to offer a borrower an alternative repayment arrangement,.....the lender must inform the borrower of:

c) other options open to the borrower, including voluntary surrender, trading down,.....”

Response: Provision 44 states that the lender must inform the borrower of other options and states a number of options for inclusion. Pepper submits that this provision should state “other options open to the borrower, such as voluntary surrender, trading down...” as not every lender will provide all these options. For example, Pepper does not currently provide mortgages so trading down is not an option.