

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

Office of Chief Executive
permanent tsb Head Office
56/59 St. Stephens Green
Dublin 2

Telephone 00 353 1 669 5000
Facsimile 00 353 1 669 5221
info@permanentsb.ie
www.permanentsb.ie

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PERMANENT TSB GROUP

Submission on Consultation Paper 63: Code of Conduct on Mortgage Arrears

Dear Sir/Madam,

We welcome this opportunity to respond to the proposed amendments to the Code of Conduct on Mortgage Arrears (CCMA). We are very committed to participating in a constructive and supportive manner to the process. We support the submission by the Irish Banking Federation (IBF) and our comments in this letter are intended to supplement and extend, where applicable, the points made in the IBF submission.

The following response focuses on the specific sections highlighted by the Central Bank of Ireland (CBI) for comment within the Consultation Paper. We have also included comments on a number of additional items contained within the revised Code.

Co-Operation and Engagement

We agree that deliberately delaying real engagement to try to reach a solution is not in the interest of either the borrower or the lender and that the additional/revised proposals set out in the Consultation Paper will assist in addressing this issue. We do not believe that it is necessary to extend this requirement by allowing one further opportunity for the customer to re-engage with the lender as the customer will already have been provided with the required notice prior to being deemed not co-operating. We believe that this inclusion would result in a further

unnecessary delay to real engagement and that it should be at the discretion of the lender as to whether to allow an opportunity for re-engagement or not.

We recommend that the definition of 'not co-operating' contained within the Consultation Paper be expanded to include customers that: refuse to adjust their lifestyle spending; refuse to prioritise their mortgage debt over other short-term unsecured debt; decline an alternative repayment arrangement; or take on additional borrowing.

Contact between Lender and Borrower

We welcome that the CBI is reviewing the current requirement of allowing only three unsolicited contacts per calendar month and instead will allow each financial institution develop their own contact policy. We request that the CBI update the Consumer Protection Code (which restricts unsolicited contact to a maximum of 3 per month) to allow institutions apply the same contact policy to all borrowers thereby ensuring a consistent approach.

Link between CCMA and PIA

We have significant concerns in relation to any link being proposed between the CCMA and the Personal Insolvency Act (PIA). The CCMA deals with customers from pre-arrears to advanced arrears. Whilst the information in relation to the PIA may be relevant to customers in the advanced arrears stage, we feel that providing this information to pre or early arrears customers would be wholly inappropriate. The purpose of the PIA is to deal with and provide a platform for customers who are deemed to be insolvent. In addition, the PIA process can only be accessed by customers who have been co-operating with their lender for at least 6 months within the Mortgage Arrears Resolution Process (MARP). We strongly recommend that references to the PIA should not be mandatory in the following situations: where customers receive the 31 day letter (Req.22); where we are not willing to offer an alternative repayment arrangement (Req. 44); or where the borrower is not willing to enter into an alternative repayment arrangement (Req. 45).

We request that all references to the inclusion of relevant publications produced by the Insolvency Service of Ireland (ISI) be removed.

In relation to the application of the 12 month moratorium, we support the proposal contained within the Consultation Paper recommending a 30 day notice period for cases where the lender has deemed the mortgage to be 'Unsustainable'. This will ensure that the arrears situation is addressed as soon as possible, which is in the interest of both the borrower and the lender.

Use of the Standard Financial Statement (SFS)

We support the proposal by the CBI to consider situations where completion of the SFS is not required. Examples (not exhaustive) of where this could be used include:

- Temporary situations where a borrower requires financial support e.g. maternity leave, illness / accident etc.
- Capitalisation of an arrears balance where the scheduled monthly repayment has been met for a period of months (for example the preceding six months)
- One SFS to cover any 12 month period, supplemented by a review/customer confirmation (verbal or written) that there has been no material change in circumstances.

Review of Alternative Repayment Arrangements

We support the proposal by the CBI that the timing of reviews be based on the duration of the alternative repayment arrangement set-up on the mortgage. This will ensure that borrowers who are continuing to meet their agreed monthly repayments are not subjected to unnecessary communications from their lender and will allow the lender to complete reviews in a more focused manner.

Treatment of Appeals and Complaints

We support the proposal by the CBI to allow appeals in relation to a lender's treatment of the borrower's case under MARP and that a lender's compliance with CCMA be handled by the lender's Complaints Department. We have no objection to decisions made by the Complaints Department being fed back to the Appeals Board on a regular basis.

We request the CBI consider the following proposal in relation to appeals being submitted to the lender in relation to the decision of the lender's Arrears Support Unit (ASU). The Consultation Paper requires that all appeals are issued to the Appeals Board for a response. Typically, the Appeals Board is made up of a number of senior personnel who meet on a regular basis to review cases. This Board will be completing this task outside their 'business as usual' activities

and, for this reason, will not be in a position to respond immediately on appeals. We believe that the process outlined below will ensure a more appropriate and timely response for the borrower.

Our proposal is as follows:

1. The appeal will first be reviewed by the lender's ASU. The ASU may seek further information from the customer to reassess the case.
2. Where the original decision remains, the appeal will be submitted to the Appeals Board for review.
3. Where the original decision has been amended (following further information being received from the customer), the lender's ASU will make an alternative offer to the customer.

Information on Other Options

We recommend that a short summary of each option is included for the borrower along with the relevant warnings as per 44c (ii), (iii) and (iv) and that associated costs and charges are excluded from this requirement.

Tracker Mortgages

We support the proposal by the CBI to remove the restriction on tracker rates where customers are being offered an alternative repayment arrangement.

Feedback on other New Requirements (contained within CP63)

- Requirement 38 provides examples of the type of alternative repayment arrangement which a lender may put in place. Item (k) on the list refers to debt write-off. We recommend (strongly and without reservation) that this option be removed from the list as debt write-off is (definitely) not an alternative repayment arrangement. We have a fiduciary responsibility to protect capital; any signal (however small) that capital is 'up for grabs' will create both moral hazard and impact Ireland's standing in the global capital markets.

- Requirement 42 sets out details of additional information that a lender must provide to a borrower. We request that the CBI review this list of additional requirements from a customer perspective as it is felt that the volume of information has the potential to confuse borrowers. The core intention of this requirement must be that the lender clearly sets out, so that the borrower can clearly understand, the key components of any offer it is making and the costs associated with same.
- Requirement 46 requires that we provide a copy of the SFS and the PIA leaflet to the borrower when either: a) we are unable to provide an arrangement; or b) they refuse to accept an arrangement. We deem this additional requirement to be excessive on the basis that the customer will already have a copy of the most recently completed SFS. The onus is on the customer to complete the SFS (with the assistance of the lender) so a circumstance will not arise where the lender inputs information into the SFS without the borrower's consent/knowledge. In addition, we also recommend that the provision of relevant publications produced by the ISI be removed as a requirement.
- Requirement 52 (c) requires that we provide the customer with the name of one or more individuals appointed by the lender to be the borrower's point of contact in relation to an appeal. We recommend that this requirement be removed on the basis that individual staff names are not static and will be subject to change depending on the requirements of the ASU. We recommend that this requirement is amended to read that any staff member within the ASU will have sufficient information available to them to be able to answer customer queries in relation to an appeal.
- Requirement 65 requires that the lender must maintain recordings of all telephone calls made to and from a borrower in relation to their arrears. This will not always be possible and adherence would limit the contact between the lender and the borrower to the customer's disadvantage e.g. there is no call recording functionality for branches or for mobile collections staff visiting customers. We recommend that this point be amended to read as follows: "The lender will maintain recordings (for an appropriate time) of all telephone calls made to and from the Arrears Support Unit (ASU) in relation to customers in arrears".

Implementation

We are aware of the necessity to implement the provisions of the revised CCMA as soon as possible; however, we request the CBI consider the significant IT development, training and communication work required to implement the proposed changes, in addition to other regulatory initiatives already underway within financial institutions.

Summary

Thank you for giving us the opportunity to participate in the Consultation Process. We are available at any time to discuss the responses/suggestions within this letter.

Yours sincerely,



Jeremy Masding

Group Chief Executive
permanent tsb Group