



Code of Conduct on Mortgage Arrears
Consumer Protection Codes Division
Central Bank of Ireland
PO Box No 9138
6 – 8 College Green
Dublin 2

9thth April 2013

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

Dear Sir/Madam

We welcome the opportunity to respond to the proposed amendments to the Code of Conduct on Mortgage Arrears. Our response addresses issues and concerns we have from the Consultation Paper, in the following order:

1. The main issues under consideration in this review
2. The revised CCMA provisions
3. Any other comments in relation to matters not included in the Consultation Paper

1. The main issues under consideration

i) Co-operation and engagement

Ref Page 6 of CP63:

We note the proposal to classify a borrower as 'not co-operating' if he or she fails to provide information sought by the lender within a reasonable timeframe, as specified by the lender. We propose that a period of up to 20 business days should be stipulated here so that a consistent approach is adopted across the industry. We feel that 20 business days provides an adequate timeframe for borrowers to provide any information required by the lender.

ii) Contact between the lender and the borrower

Ref Page 7 of CP63:

Whilst we welcome the amendment of the CCMA to allow unsolicited personal visits we feel that it would be beneficial to borrowers if these visits were permitted after all other contact attempts over a 2 month period have been unsuccessful; this would negate the need for the lender to wait until the borrower has been classified as not co-operating.

Ref Page 8 of CP63:

We note the proposal to remove the limit of three contacts per calendar month and the requirement to draw up and implement a contacts policy. We believe that the limit on contacts should not be removed; alternatively the limit could be increased to say five per month. This would eliminate the risk of disparate policies being adopted by different lenders and would ensure a common industry wide approach to borrower communications. In this regard the following text (proposed for removal) should remain *"The unsolicited communications do not include any communications to the borrower regarding his/her arrears or pre-arrears situation, which are required by this Code or other regulatory requirements"*.

The introduction of additional and undefined obligations such as 'breathing space' is unnecessary as all contacts will be proportionate and not excessive.

iii) Link between the CCMA and the Personal Insolvency Act

Ref Page 8 & 9 of CP63:

We welcome the enactment of the Personal Insolvency Act which will support borrowers who find themselves in unsustainable financial situations. However we are concerned with the numerous requirements throughout the revised CCMA to provide documentation on the Insolvency Service to borrowers. We feel that providing links and references via our MARP booklet, letters and our website, as we currently do for MABS, ensures that borrowers will have the most up to date and relevant information to hand in respect of this option.

More importantly we feel that providing the documentation on the Insolvency Service at such an early stage in the MARP process (*Prov. 22 Revised CCMA*) would bring confusion to the borrower. The inclusion of arrangements available under the PIA has the potential to 'overload' the borrower, particularly at a time when they have a significant amount of financial issues and information to absorb.

Ref Page 10 of CP63:

In respect of your request for views on whether the 12-month moratorium should continue to apply where a lender has deemed a mortgage to be unsustainable, we believe that a 1 month notice period should be available, to apply on a case by case basis where we determine that the mortgage is unsustainable; we feel that the borrowers situation should be addressed as soon as possible rather than waiting for the 12 month period to elapse and potentially exacerbating the circumstances of the borrower.

iv) Use of the Standard Financial Statement (SFS)

Ref Page 11 of CP63:

We are unsure as to the benefit of putting in place a temporary arrangement whilst a full assessment including an SFS is undertaken. Depending on the case in question putting a temporary arrangement in place will not prevent further exacerbating of a borrower's arrears or pre-arrears situation, particularly if the borrower is not in a position to pay their full contractual Capital & Interest or Interest Only amount.

Finally we are of the opinion that an SFS is required in all circumstances, the detail of information gathered during this process is essential in understanding the extent of the borrower's current financial circumstances, and future, which may only come to light when these all questions are presented.

v) Reviews of Alternative Repayment Arrangements

The proposed definitions of Short Term and Medium Term Arrangements should be amended to the following:

Short Term Arrangements: alternative repayment arrangements with durations of up to twelve months.

Medium Term Arrangements: alternative repayment arrangements with durations greater than twelve months but less than five years.

2. The Revised CCMA Provisions

Prov. 7

The provision refers to the lender communicating promptly with the borrower once the borrower goes into arrears however this differs from earlier in the Consultation Paper (Page 7, 2) where it is stated that the lender must have a conversation with the borrower. We believe a letter or call is sufficient to meet the requirements of this provision.

Prov. 17 a)

We query the rationale and intention behind the removal of the statement "31 days from the date arrears arose" from the current CCMA. This has significant implications for borrowers who may for simple administration reasons (e.g. direct debit returns unpaid but subsequent re-raise is successful) experience a temporary arrears position and do not need consideration under the CCMA; complaint levels could increase due to these borrowers becoming frustrated at being unnecessarily included in the MARP process.

Prov. 21

We are of the view that the limit on the number of contacts should not be removed but increased

Prov. 22

The requirement (22.c) to provide the borrower with the relevant publications produced by the Insolvency Service of Ireland is excessive and will cause confusion to borrowers. Links and references on all applicable letters, booklets and our website will be more than sufficient to allow the borrower to gain access to all relevant information if required.

Prov. 25

Unsolicited personal visits to borrowers should be allowed after all other contact attempts over a 2 month period have been unsuccessful, provided they are proportionate and not excessive.

Prov. 26

The requirement to notify borrowers where three mortgage repayments have not been made in full should be removed and the key points added to the Provision 22 and 24 letters. This will remove the situation where borrowers could potentially receive Provision 26 and Provision 24 letters in the same month. Alternatively this requirement could be changed so that this letter is appropriate after a specific period of time i.e. when the arrears equate to three monthly payments.

Prov. 33

We consider a timeline of up to 20 business days for the return of information to be fair and reasonable.

Prov. 38

The inclusion of debt write off as an alternative repayment arrangement in the list that may be offered by a lender should be removed as we feel that this would mistakenly raise borrowers expectations that they will be automatically considered for this option.

Prov. 46 b)

We recommend that we simply direct borrowers to where they can obtain further information on the PIA as opposed to providing actual publications to them.

3. Other comments

The tone of the CCMA is still very much one of dealing with borrowers who are about to go into arrears or are in early arrears. However as the crisis has been ongoing for some time there are a considerable number of borrowers in long term arrears and subsequently legal proceedings have already commenced. As the MARP process ends after Step 5 - Appeals, it is our belief that any case where proceedings have issued fall outside of MARP. With that ends the requirement, in particular, to provide information to the borrower as per Provision 22 and 24. Also, where proceedings have issued and an alternative repayment arrangement is agreed, the borrower should not fall back within the MARP process although proceedings will be adjourned while the alternative repayment arrangement is in place.

As this is being interpreted differently by the court system, we request that this issue be clarified within the revised CCMA.

Please do not hesitate to contact us should you require clarification on any of the points raised above.

Yours faithfully,



Ian Clarke
Head of Treasury, Compliance & Customer Services