

CG Hotels Dublin Airport Ltd
C/O The Radisson Hotel Dublin Airport
Dublin Airport
Co. Dublin

Consumer Protection – Policy and Authorisations
Central Bank of Ireland
PO Box 559
Dame Street
Dublin 2

30 September 2015

**Consultation on the Authorisation Requirements and Standards for Credit Servicing Firms -
Consultation Paper 96**

To whom it may concern

CG Hotels Dublin Airport Ltd (CG Hotels), trading as the Radisson Blu Hotel Dublin Airport, welcomes the opportunity to respond to the Central Bank of Ireland's proposals in Consultation Paper 96 on the Authorisation Requirements and Standards for Credit Servicing Firms.

CG Hotels Limited owns and operates the Radisson Blu Hotel, Dublin Airport and we have recently engaged with Central Bank of Ireland regarding the treatment of loans acquired by unregulated funds. Specifically, CG Group – on behalf of the Radisson Hotel Dublin Airport – has provided comment on the Consumer Protection (Regulation of Credit Servicing Firms) Act 2015 and the Central Bank's Consultation Paper CP91 'Review of the Code of Conduct for Business Lending to Small and Medium Enterprises'.

The Radisson Blu Hotel, Dublin Airport was purchased by CG from Aer Rianta (now the Dublin Airport Authority (DAA)) in 2006 as part of their tender sale of the Great Southern Hotels. This 4 Star hotel is situated within the Dublin Airport Campus, and has been trading profitably since its acquisition. There are approximately 150 staff members employed at the hotel. CG has secured planning permission for a €59m expansion of the hotel, adding 314 rooms and a conference facility, and thus creating 300 direct and indirect jobs. This development has, however, not been pursued to date due to the insecurity and uncertainty surrounding the hotel, following the sale of our loan to an unregulated entity.

We have limited our comments on this consultation paper to crucial items of direct interest to our business: three sections of the draft Authorisation Requirements and Standards for Credit Servicing Firms, as well as commentary on the consequential amendments to the Code of Conduct for Business Lending to Small and Medium Enterprises.

We would welcome the opportunity to discuss these serious matters further, or to provide any further information you might require.

Yours Sincerely,



Patrick Coyle
Director
CG Hotel Dublin Airport

Response* by CG Group, on behalf of the Radisson Hotel Dublin Airport, to the **Consultation on the Authorisation Requirements and Standards for Credit Servicing Firms – Consultation Paper 96**

**Limited to sections 3, 5 and 8 of the document and the consequential amendments to the Code of Conduct for Business Lending to Small and Medium Enterprises.*

Code of Conduct for Business Lending to Small and Medium Enterprises

CG Group Recommendations:

- ***The SME Code should be amended to specifically note that entities cannot seek to enforce security on performing loans that are not in or near default, and that entities must abide by the spirit of the financial agreement and documents, in addition to the Code itself.***
- ***The ongoing revision to the SME Code must be expedited and published immediately, to coincide with the new consumer protection regime***

Further amendment to the Code of Conduct for Business Lending to Small and Medium Enterprises is required, beyond the three set out in section 7.2, in order to fully realise the intention of the Consumer Protection Act 2015 (i.e. to recover the full consumer protections lost when a loan was sold to an unregulated entity).

Under the new regime, SMEs will see the protection of Central Bank legislation and regulatory codes returned, however these protections are no longer fit for purpose.

The existing Code was generated in the context of SME lending being carried out exclusively by pillar banks. These banks concurrently operated retail banking services and had long-term business intentions, meaning they operated in a consumer-friendly manner that allowed performing loans to operate unhindered by interference. **These protections do not exist for SMEs whose loans have been sold to unregulated entities, who may not require new customers or have any intention on remaining in Ireland for the full duration of the loan.**

As a result, many SMEs are left unprotected by the current Code, whereby customers can find themselves vulnerable to aggressive / 'vulture' practices, where the owner of the loan may wish to enforce security upon the loan in order to yield a short-term gain.

One clear deficiency in the SME Code is that it does not specifically remind regulated entities that measures of enforcement of a loan arrangement should only be carried out when a loan is in financial difficulty. The General Principles of the Code (specifically 1&2) mandating an entity acts fairly, with due diligence and in the best interests of its customers *may* be interpreted to this effect, however ultimately, remain open to interpretation. As such, they cannot provide performing SMEs adequate reassurance that their loan arrangement will be honoured in the same fair and fully protected manner that they would have enjoyed prior to the sale of their loan.

As part of the immediate, consequential amendments to the Code following this consultation, CG Group therefore recommends further amendment to specifically note that **entities cannot seek to enforce security**

on a borrower who is not in financial difficulties, and that entities must abide by the spirit of the financial agreement and documents, in addition to the Code itself.

Further, in light of the enactment of the Consumer Protection Act 2015 and a new regime commencing for SME lending, a fully revised Code should be **published immediately** as a foremost priority.

Organisation and Management (Section 3)

CG Group Recommendations:

- ***The term ‘best interests’ must be defined in order to remove any ambiguity over the actions of Credit Servicing Firms***

CG Hotels welcomes the requirement that a Credit Servicing Firm must demonstrate “*that it is in a position to conduct its affairs in a manner that ensures that the **best interests** of its customers are protected*”. However, a definition of the term ‘best interests’ is required.

As has been the case with similar provisions in Codes of Conduct, the lack of clear guidance on what is considered a customer’s ‘best interest’ has resulted in large variances in interpretation and resultantly, very limited real protection for customers. As such, CG strongly recommends the Central Bank define the ‘best interests’ of customers, in the context of credit servicing as follows:

“A Credit Servicing Firm must not conduct business in such a manner as to jeopardise, prejudice or interfere with the viability of a customer’s financial agreement or operations (in the case of a business loan), where action is not required to ensure the continued performance of an agreement or a loan agreement.”

Relationship with the Central Bank (Section 5)

CG Group Recommendation:

- ***Credit Servicing Firms must notify the Central Bank of any potential conflict of interest and present the Bank with procedures to mitigate against any such conflict***

We welcome the requirement for cooperation between the Central Bank and Credit Servicing Firms, as outlined in Section 5. With regard to 5.1.3 (circumstances a Firm must notify the Central Bank of as soon as it becomes aware), further requirement is necessary in order to prevent potential conflicts of interest arising. **Acquirers of loan books may not be exclusively Credit Servicing Firms; they may also be owners of businesses operating and competing in the same market as their customers.**

In order to ensure adequate protection for these customers, Firms should be obliged to notify the Central Bank of any such potential conflict of interest as it arises. Further, the Firm should outline steps being taken not only to eradicate any potential conflict in order to fully satisfy the Central Bank that there is no impact on the servicing of a loan, but also to show that it is acting in the best interests of its customer as per Section 3 above.

Relationship with Loan Owners (Section 8)

CG Group Recommendations:

- *Credit Servicing Firms must retain all directions issued by loan owners for inspection*
- *Credit Servicing Firms must be able to demonstrate, upon request by the Central Bank, that interactions with loan owners reflect a Firm's obligation to act in the best interests of customers*

The two requirements currently set out in Section 8 are insufficient in establishing adequate consumer protection from the loan owner. Conscious of the limitations of responsibility the Bank can place on owners, further responsibility in documenting the relationship between Credit Servicing Firms and loan owners must be established.

To form a semblance of accountability for owners of loans and protection for the Credit Servicing Firms, Firms must be required to **retain all directions** issued by loan owners in relation to the servicing of each loan, available for inspection upon request by the Central Bank.

Further, Firms must also keep a **record of all interactions** with loan owners in relation to such directions, outlining how all credit servicing actions must comply with their requirement to act in the best interests of customers. This information should also be provided to all associated parties where there is a conflict of interest.
