



the **ability** in financial outsourcing

30th September 2015

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

Dear Sirs

**Proposed Authorisation Requirements and Standards for Credit Servicing Firms (Standards)**

Homeloan Management Ltd (HML) is a leading third party outsourcer with 25 years' mortgage servicing and third-party administration experience for a range of clients across the UK and the Republic of Ireland.

Our clients employ us to undertake mortgage administration services on their behalf on an undisclosed basis (i.e. our clients' borrowers continue to receive correspondence related to their loans on the headed notepaper of our clients, the Loan Owners). Our proposition means that we can work on behalf of multiple clients delivering services consistent with our clients' instructions and their brand.

We would like to thank the Central Bank for providing an opportunity to comment on the Standards.

**Question 1:**

***Do you have any comments on the proposed Authorisation Requirements and Standards for Credit Servicing Firms, in particular the requirements outlined above? If so, please refer to the specific requirement(s) which give rise to your comments and outline the nature of your specific concern together with your alternative proposal(s) and the reasons why you feel those proposals would be more appropriate.***

We welcome the Central Bank's view that borrowers, whose loans are sold to third parties, should maintain the same regulatory protections they had prior to the sale. This view fits well with HML's objective of the fair treatment of our clients' customers throughout our mortgage servicing operations and specifically credit servicing activity as defined in the Consumer Protection (Regulation of Credit Servicing Firms) Act 2015 (Act) and elaborated upon by the Central Bank in its Standards.

During Department of Finance led public consultations prior to the Act becoming law we expressed our concern that authorising the Credit Servicing Firm but not the Loan Owner would not meet the expressed objective of the Irish government to fully protect the consumer.

We re-iterate this concern now that we have had the opportunity to review the Standards. In particular, we note that there is a difference in the degree of regulatory oversight that is imposed on a retail credit firm (whether or not that retail credit firm employs a Credit Servicing Firm) and for a Loan Owner who is not authorised to provide credit in the state and who undertakes credit servicing activities via an authorised third party outsourcer (Credit Servicing Firm), who will be authorised in accordance with the Standards.

HML's business model as a third party outsourcer is to act on the instructions of our client (i.e. the Loan Owner) to deliver mortgage services to customers on behalf of the client in accordance with their policy requirements and overarching regulatory conduct requirements.

This key component of the out-sourced relationship is acknowledged and highlighted in the CP96 under 6.5 Relationship with Loan Owners.

Though we acknowledge that the Standards are the Central Bank's response to the Act and the scope of regulated activity covered by the Standards is limited to what is set down in the Act, we are nonetheless disappointed that the Irish State has not taken the opportunity to ensure all Loan Owners are regulated for the purpose of conducting credit servicing activity, regardless of whether the credit servicing activity is undertaken by the Loan Owner or an out-sourced third party provider such as HML. We believe this approach would create a stronger regulatory regime for the protection of customers by ensuring that those Loan Owners who instruct third party outsourcers to undertake credit servicing activity on their behalf do so with the responsibilities that go along with operating under the regulatory regime and consumer protection framework.

As a result, we believe the Act and Standards place an inordinate amount of increased cost, risk responsibility and accountability for code compliance on to our existing third party outsourced mortgage administration operation whilst our client would remain unregulated, we believe that this will create an unsatisfactory regulatory asymmetry between ourselves, unregulated clients and regulated clients.

We would also like to express concerns regarding the timeframe from the closure of CP96 to the closure date of applications for authorisation under the new regime. We are concerned that six working days will not provide the Central Bank sufficient time to assess the responses to CP96, complete any considered changes to the Standards, publish a final statement and final rules regarding the regulatory framework and indeed provide firms, who are considering their application to the Central Bank, with sufficient time to consider the impact of any such changes into their application process.

Having undertaken an initial analysis of the Standards described in CP96, we consider the increased costs of regulation to ourselves to be significant and we are unclear as to whether the Central Bank has fully assessed the likely costs to third party administrators against the perceived benefits of regulating such firms, without consideration of regulating Loan Owners.

Specifically, we would like to comment on the following elements of CP96:

#### **6.1 PII**

PII coverage and costs are potentially high given the increase accountability placed on Credit Servicing Firms. This does not align with our business model or risk appetite.

Additionally, Section 5 of the Act creates a regulatory risk for Credit Servicing Firms providing services to Loan Owners who are not retail credit firms that does not exist for Credit Servicing Firms acting for retail credit firms. The requirement for PII should not apply in respect of the latter type of loan servicing business.

#### **6.2 Outsourcing**

As a third party mortgage administrator our core business is to provide mortgage administration services to Loan Owners / financial institutions on an outsourced basis. Any onward outsourcing does not generally form part of these arrangements. Rather, the responsibilities set out in contracts appointing HML align with what we would expect the Central Bank to require the asset controller to discharge when placing the administration of its assets with an outsourced provider.

Should this proposal be maintained, we envisage increased costs in the re-structuring of HML's onward out-sourced agreements and increased costs and organisational changes for the implementation of new processes to notify customers in advance of any third party contacting the customer on our behalf.

#### **6.3 IT Systems**

Owing to the nature of the Codes and the bespoke nature of the servicing arrangements there are aspects of administration that would require significant investment in IT systems to automate certain processes. We feel that automation of some aspect of the administration of loan books is not always practical as there may be uncertainty on the longevity of those efforts to develop automation in the context of the changing regulatory environment and nature of client preferences. As a result some administrative processes cannot be automated.

Notwithstanding this point we agree with the principle that a Credit Servicing Firm should be required to have adequate IT systems in place and that there are adequate governance and controls in place to mitigate IT risk.

#### **6.4 Organisation and Management**

In order to meet the requirements our assessment is that significant investment is required in relation to a relatively small part of our business which, if entered into would reduce and/or remove the viability of such an arrangement.

We have already conducted our own reviews of operations, systems and controls in respect of our clients and concluded that they are adequate for the services provided to our clients who are authorised to provide credit in the State.

As part of a major regulated financial service provider group we have sufficient financial resources to meet the obligations set out. However, we are of the opinion that to apply for authorisation without the capital requirements having been disclosed leaves us with no option other than to decline to seek authorisation.

We also understand that the Central Bank may subsequently require Credit Servicing Firms to provide regulatory reporting on its activities; and as yet this has not been defined. Depending on the nature of the reporting required this may require significant IT development and future resource to provide, validate and submit regulatory reporting.

#### **6.5 Relationship with Loan Owners**

Whilst we welcome the view that borrowers, whose loans are sold to third parties, should maintain the same regulatory protections they had prior to the sale, we believe the onus of the regulatory regime should be placed onto the Loan Owner, as well as the third party administrator who is acting on the Loan Owners instruction.

We believe there would be significant cost to HML in the review and restructuring of our existing corporate structure and contractual agreements with unregulated Loan Owner clients to ensure that the requirements contained within the Standards are met and maintained. This cost would also be extended out to the operational changes that would be required as a result of changes to the contractual agreements, revisions to client policies to express regulatory responsibility, increased internal regulatory oversight and monitoring and increased first line quality assurance.

#### **General Authorisation Requirements**

We are unclear whether the general authorisation requirements would require HML to restructure its business arrangements (and therefore create significant cost in the duplication of the governance arrangements and business disciplines) in order to satisfy the Central Bank that adequate and effective control rests within the State. This is in the context of our headquarters being Skipton in the United Kingdom.

HML has well established governance structures and business disciplines such as the operation of a Three Lines of Defence (3LOD) model to ensure that there is a robust approach to compliance with our current regulatory and contractual servicing obligations.

#### **Question 2:**

***Are there any additional requirement(s) that you feel should be included in the Authorisation Requirements and Standards for Credit Servicing Firms? If so, please provide details and outline a rationale for including the requirement(s).***

As described in our comments above we would ask the Central Bank to re-consider its position regarding the regulation of Loan Owners for the purpose of conducting credit servicing activity, regardless of whether the credit servicing activity is undertaken by the Loan Owner or an out-sourced third party,

We believe this would create a stronger regulatory regime for the protection of customers by ensuring that those Loan Owners who instruct third party outsourcers to undertake credit servicing activity on their behalf do so with the responsibility of the regulatory regime and consumer protection.

Yours faithfully

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Jon Mobey  
Head of Compliance Oversight