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Chairman
Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach
Leinster House
Dublin 2
D02 XR20

22 February 2022

Re: Query raised by Deputy Doherty at the Bank's appearance at the Joint Oireachtas Committee on Finance on 8 December 2021 re access to mortgage protection cover in the case of illness.

Dear Deputy McGuinness,

I am writing to you in relation to an issue raised by Deputy Pearse Doherty during the Central Bank's appearance at the Joint Oireachtas Committee on 8 December 2021 concerning the difficulty certain cohorts of individuals are having in securing life insurance cover and his proposal that the Central Bank would enter into a Memorandum of Understanding with the Irish Human Rights and Equality Commission.

Policymakers have intervened legislatively on a number of occasions to limit the risk factors that insurers can consider. Notable examples include:

- Section 42 of the Disability Act, 2005 provides that the results of genetic tests cannot be used in relation to insurance, a mortgage or a personal pension product;
- The EU Gender Directive which required insurance companies to disregard a person's gender when determining insurance premiums from 21 December 2012 for new insurance contracts; and



- The various Health Insurance Acts and regulations arising that provide for a Private Medical Insurance (PMI) system here in Ireland that has open enrolment and community rating. Essentially, anybody can apply and will be granted cover regardless of age or health status (there is an age related premium adjustment if someone takes out PMI for the first time where they are aged higher than 34).

At present, under Section 33AK of the Central Bank Act 1942, there is no gateway for the Central Bank to share information with the Irish Human Rights and Equality Commission (IHREC).

The Equal Status Acts 2000 - 2018 prohibit certain kinds of discrimination in the provision of goods, facilities and services, obtaining or disposing of accommodation and in relation to educational establishments. The legislation protects against discrimination on nine specific grounds. With regard to financial services, the legislation also provides that people can be treated differently on any of the grounds (except gender) in relation to certain annuities, pensions, insurance policies or other matters related to the assessment of risk – but only where the differences are based on actuarial or statistical data or other relevant underwriting or commercial factors and are reasonable.

The Central Bank acknowledges that there may be situations where insurers decline to provide cover in certain circumstances, and this undoubtedly causes difficulty for individuals, in particular in cases where they are seeking life insurance cover as part of the overall process of securing a mortgage for a home. However, in relation to the scale of the issue raised by Deputy Doherty, this specific issue has not been highlighted or reported to the Central Bank.

Where an individual has been refused cover, General Provision 2.11 of the Consumer Protection Code provides that *“A regulated entity must ensure that in all its dealings with customers and within the context of its authorisation it, without prejudice to the pursuit of its legitimate commercial aims, does not, through its policies, procedures, or working practices, prevent access to basic financial services.”* In addition, under section 126(2) (b) of the Consumer Credit Act 1995, a mortgage lender is not obliged to arrange mortgage protection insurance in the case of *“loans to persons who belong to a class of persons which would not be acceptable to an insurer, or which would only be acceptable to an insurer at a premium significantly higher than that payable by borrowers generally.”* It should also be noted that where a consumer is dissatisfied with the failure or refusal of a regulated entity to



provide a product or service to them, they can make a complaint to the relevant regulated entity. If the consumer is unhappy with the response received from the relevant provider in relation to the complaint raised, the individual may make a complaint to the Financial Services and Pensions Ombudsman.

I trust that the overview above adequately addresses the point raised by Deputy Doherty at the Joint Oireachtas Committee in December 2021.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Gerry Cross'.

Gerry Cross

Director Financial Regulation, Policy and Risk