



Information Release

1 July 2011

Central Bank Monitors Lenders Compliance with the Revised Code of Conduct on Mortgage Arrears

Inspection Examines Mortgage Arrears Charges Imposed by Lenders

The Central Bank of Ireland ('Central Bank') today (1 July 2011) published the findings of a themed inspection of mortgage lenders which examined compliance with the requirement of the revised Code of Conduct on Mortgage Arrears ('CCMA') specifically relating to charges on mortgage accounts in arrears, and the related Letter of Direction ('Direction').

The Central Bank found that the six mortgage lenders inspected had taken specific steps to be in compliance with the requirement. Two of the mortgage lenders were in full compliance. While four mortgage lenders were not in full compliance, the failings occurred for various reasons, including one-off system errors, inadequate monitoring processes and lack of adherence to the procedures in place.

The issues found as a result of the inspection impacted almost 3,100 mortgage arrears accounts that were overcharged by nearly €70,000. All of these accounts have been refunded and the systems errors have been corrected. As a result of this inspection, the Central Bank is currently extending its list of prohibited charges to provide further protection to mortgage customers in arrears.

The inspection identified that:

- The mortgage account charges prohibited in the Direction were not applied in the majority of accounts reviewed (484 of 655 accounts reviewed).
- Some charges which were not included in the initial Direction were identified during the inspections by the Central Bank and will now be included in the

Direction as charges which can no longer be imposed on mortgage accounts in arrears, for example 'Duplicate Statement' charges.

- Some third party charges, such as 'debt counsellor call out' charges were applied to some mortgage accounts. Clearing bank charges which arise, for example, when a direct debit bounces, were also identified¹. The Central Bank has asked mortgage lenders to consider the future application of such charges.

Director of Consumer Protection, Bernard Sheridan, said: "The Central Bank is committed to ensuring that mortgage lenders implement and fully adhere to the CCMA. This inspection demonstrates that while the mortgage lenders inspected had taken steps to be in compliance with the charging requirement of the CCMA further effort was required by some of these lenders to achieve full compliance. While the refunded amounts may be small, they are significant to those mortgage customers who are in an arrears situation and for whom every cent counts. Lenders are reminded that compliance with the CCMA is a supervisory priority which may lead to enforcement action as stated in our Enforcement Strategy issued last year."

The compliance issues identified during this inspection have been the subject of separate engagement with the mortgage lenders concerned and the Central Bank is satisfied that the issues identified are being addressed. Correct procedures should also be in place to identify those customers that hold Residential Investment Properties ('RIPs') that fall within the scope of the CCMA. In addition, all mortgage lenders have been requested to carry out a review to ensure they are fully compliant with the Direction and the requirement of the CCMA specifically relating to charges on mortgage accounts in arrears.

Consumers who are in arrears can be confident that the Central Bank is monitoring firms to ensure they adhere to the strict requirements of the CCMA. Consumers in mortgage arrears, or who feel they may be at risk of falling into arrears, are urged to contact their lender as soon as possible to discuss their situation.

Separately, lenders have also been reminded that they are obliged to ensure that their dealings with pre-arrears and arrears customers should be carried out in a timely and responsive manner.

¹ Third party fees which are passed onto borrowers unencumbered, with no added costs by the lender, fall outside the remit of Section 149 of the Consumer Credit Act, 1995.

ENDS

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Notes to Editors

- Revised Code of Conduct on Mortgage Arrears ('CCMA')
The revised CCMA for all regulated mortgage lenders became effective from 1 January 2011. Lenders were informed of a six month period (ended 30 June 2011), where the Central Bank of Ireland ('Central Bank') would be cognisant of issues relating to systems development or other technical difficulties and required staff training.
- The Central Bank issued Letters of Direction ('Direction') in December 2010 to mortgage lenders prohibiting them from imposing specific arrears charges or surcharge interest on mortgage accounts in arrears. Lenders are not permitted to impose charges on a borrower who is in arrears and co-operating reasonably and honestly with the lender in the Mortgage Arrears Resolution Process ('MARF').
- The Central Bank took immediate steps to oversee compliance with the revised CCMA. The inspection was carried out in March and April 2011 to ensure that mortgage lenders were complying with the CCMA and related Letter of Direction. The onsite inspection included credit institutions and other types of mortgage lenders, and reviewed 655 customer mortgage accounts.
- The Central Bank has published a guide for consumers on mortgage arrears '**Mortgage Arrears – A Consumer Guide to Dealing with your Lender**'. The guide is available on the Central Bank website <http://www.centralbank.ie/regulation/processes/consumer-protection-code/Documents/Consumer%20Booklet%20-%20FINAL%20Feb%202011.pdf> .
- Charges may arise on a current account when a mortgage payment or other direct debit is missed. Customers are encouraged to monitor the operation of current accounts and seek to inform themselves of ways to avoid unnecessary charges. Further information can be obtained from the National Consumer Agency's personal finance website www.itsyourmoney.ie.
- Residential Investment Property ('RIP') customers are reminded to contact their mortgage lender if the status of their property changes from RIP to "Primary Residence" i.e. if the investment property has become the residential property which the borrower occupies as their primary residence or the investment property is their only property as they will be covered by the CCMA if they find themselves facing arrears.
- Section 149 of the Consumer Credit Act, 1995 ('CCA') outlines that a credit institution or, subject to the Competition Act 1991, a group of any such credit institutions in respect of a service offered jointly by the group, shall notify the Central Bank of every proposal to a) increase any charge that has been previously notified to the Central Bank or b) impose any charge in relation to the provision of a service to a customer or to a group of customers, that has not been previously notified to the Central Bank. A charge includes a penalty or surcharge interest by whichever name called, being an interest charge imposed in respect of arrears on a credit agreement or a loan, but does not include any rate of interest or any charge, cost or expense levied by a party other than a credit institution in

connection with the provision of a service to the credit institution or the customer and that is to be discharged by the customer. The Central Bank may under Section 149 of the CCA amend or revoke a subsisting direction and may amend or revoke a subsisting direction, which has been amended.