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RE: Contact provisions of the Consumer Protection Code 2012 and the Code of Conduct on Mortgage Arrears

The protections and limits on contact with consumers in both the Consumer Protection Code 2012 ('2012 Code') and the Code of Conduct on Mortgage Arrears ('CCMA') provide a strengthening of the rules in this area in order to protect consumers from undue pressure and harassment from contacts by telephone or visits at their home from a representative of a regulated firm. The fundamental principle, as set out in both Codes, is that the level of contact and communications is, at all times, proportionate and not excessive.

The Central Bank has been considering the many views put forward by consumer and industry stakeholders in recent weeks in relation to the provisions in both the 2012 Code and the CCMA and is of the view that early proactive engagement with a consumer in arrears is crucial to identifying a possible solution to an arrears situation, and consequently, reaching a positive outcome for that consumer. To address this, we are issuing guidance to lenders on our interpretation of a number of the provisions of either the 2012 Code or the CCMA, as set out in the attached schedule. We are not making any amendments to the specific provisions of either code at this time.

We believe that early, proactive engagement needs to occur in order to identify why arrears have arisen and to provide an opportunity for both parties to discuss next steps, particularly before a lender decides that a borrower is being un-cooperative. It is clearly in the interests of the borrower that a process of finding a workable solution to the arrears situation commences as early as

possible. This initial engagement provides the opportunity to agree a process for future contact and engagement following this initial contact.

While unsolicited personal visits could be particularly difficult for some borrowers, we believe that a lender should be able to visit the home, where attempts at contact have failed and before deciding to commence legal action. This is particularly important in the case of mortgage borrowers who do not make contact with, or respond to any communications from, a lender and can be considered as not co-operating. This means that many of the protections under the CCMA no longer apply and the lender may commence legal action for repossession. However, it is important that any such visits represent a positive experience for the borrower and are conducted in an appropriate manner.

In providing these interpretations, the over-riding requirement of contact with consumers being proportionate and not excessive remains. There will be no tolerance, from the Central Bank's perspective, of any perceived harassment or undue pressure being placed on consumers in relation to their arrears.

If you have any queries in relation to the contents of this letter, please email code@centralbank.ie.

Yours sincerely

A handwritten signature in black ink that reads "Sharon Donnery". The signature is written in a cursive, flowing style.

Sharon Donnery

Head of Consumer Protection: Banking and Policy

SCHEDULE

1. Code of Conduct on Mortgage Arrears (CCMA)

1.1. Initial communication - Provision 7

- ‘Communication’, as set out in provision 7 refers to successful contact with the consumer, e.g., a letter issued or a telephone conversation held.
- This initial communication does not count towards the limit of three unsolicited contacts, as it is required by the CCMA.
- Attempts at successful communication are limited by the requirement to ensure that the level of contact and communications is proportionate and not excessive (Provision 20).
- This initial communication should be made promptly, but can be attempted up to three months after arrears first arise.
- Once the communication is successfully made, the consumer should be given sufficient breathing space before communication is attempted again.

1.2. Unsolicited personal visit in respect of CCMA arrears (provision 3.37 of 2012 Code)

Unsolicited personal visits in respect of mortgage loans which fall under the CCMA are allowed. We expect lenders to conduct visits in line with the following guidance:

- An unsolicited personal visit should only be made when all other attempts at contact have failed and, prior to classifying a consumer as not co-operating.
- We refer to successful visits, i.e., where contact is made with the borrower, so a lender may have numerous attempts at a visit. These attempts are limited by the requirement to ensure that the level of contact and communication is proportionate and not excessive (Provision 20).
- The visit does not count towards the limit of three unsolicited contacts per month.
- The consumer must be provided with advance notice, in writing, of the lender’s intention to make an unsolicited visit within a specified time frame (for example, in the next ten working days). At least five working days’ notice should be given. This letter does not count towards the limit of three unsolicited contacts per month.

The tone of the letter should be appropriate and positive. It should outline the importance of engagement between the borrower and the lender, setting out the consumer protections

available under the CCMA and explaining the intention of the visit, which should be to discuss the consumer's arrears situation and the next steps for dealing with the arrears. The letter should also give the contacts details for the lender's Arrears Support Unit and offer the consumer the facility to meet in a local branch instead of in the consumer's home. In addition, the consumer should be advised that they may wish to consider having a third party present, if they feel that it would be of assistance.

- A lender should offer to explain the Standard Financial Statement (SFS) to the consumer. However, they should not insist on completion of an SFS during this visit.
- A further personal visit may be agreed with the consumer in compliance with provision 3.38 of the 2012 Code.

1.3. Limit of three unsolicited contacts (provision 21)

- The limit applies to successful communication (e.g., a letter issued, text message sent or a telephone conversation held) and voicemails, and is not intended to apply to missed calls or engaged numbers.
- Attempts at contact should be proportionate and not excessive (provision 20).
- Once the communication is successfully made, the consumer should be given sufficient breathing space before communication is attempted again.

2. Consumer Protection Code 2012

2.1. Initial communication - provision 8.4

- This initial communication is per account (as set out in the provision) and does not count towards the limit of three unsolicited contacts, as it is required by the 2012 Code.
- 'Communication', as set out in provision 8.4, refers to successful contact with the consumer, e.g., a letter issued or a telephone conversation held.
- Attempts at successful communication are limited by the requirement to ensure that the level of contact and communications is proportionate and not excessive (Provision 8.13).
- This initial communication can be attempted from 10 business days after the arrears first arise up until 31 calendar days after the arrears first arise, at which point the day 31 letter must be issued.
- Once the communication is successfully made, the consumer should be given sufficient breathing space before communication is attempted again.

2.2. Unsolicited personal visits in respect of 2012 Code arrears (provision 3.37)

We expect lenders to conduct such visits in line with the following guidance.

- An unsolicited personal visit should only be made where the regulated entity has met the requirements of the 2012 Code and all other attempts at contact have failed.
- We refer to successful visits, i.e., where contact is made with the borrower, so a lender may have numerous attempts at a visit. These attempts are limited by the requirement to ensure that the level of contact and communications is proportionate and not excessive (Provision 8.13).
- The visit does not count towards the limit of three unsolicited contacts
- The consumer must be provided with advance notice, in writing, of the lender's intention to make an unsolicited visit within a specified time frame (for example, in the next ten working days). At least five working days' notice should be given. This letter does not count towards the limit of three unsolicited contacts per month.
- The tone of the letter should be appropriate and positive. It should outline the importance of engagement between the borrower and the lender, setting out the consumer protections available under the 2012 Code and explaining the intention of the visit, which should be to discuss the consumer's arrears situation and the next steps for dealing with the arrears. The letter should also give the contacts details for the lender's Arrears Support Unit and offer the consumer the facility to meet in a local branch instead of in the consumer's home. In addition, the consumer should be advised that they may wish to consider having a third party present, if they feel that it would be of assistance.
- A further personal visit may be agreed with the consumer in compliance with provision 3.38 of the 2012 Code.

2.3. Limit of three unsolicited contacts (provision 8.14)

- The limit applies to successful communication (e.g., a letter issued, text message sent or a telephone conversation held) and voicemails, and is not intended to apply to missed calls or engaged numbers.
- Attempts at contact should be proportionate and not excessive (provision 8.13).
- Once the communication is successfully made, the consumer should be given sufficient breathing space before communication is attempted again.