



[FIRM]

22 March 2019

Re: Obligations under the Code of Conduct on Mortgage Arrears (CCMA)

Dear Sir/Madam,

The purpose of this letter is to set out the Central Bank of Ireland's (the Central Bank) expectations of firms in relation to the information to be provided to borrowers in arrears on the assessment of their case under the Code of Conduct on Mortgage Arrears (CCMA).

The CCMA is a statutory Code, introduced by the Central Bank to ensure that relevant regulated firms have fair and transparent processes in place for dealing with borrowers in or facing mortgage arrears. Within this process, due regard must be given to the fact that each borrower's case is unique and needs to be considered on its own merits. All cases must be handled sympathetically and positively by the regulated firm, with the objective at all times of assisting the borrower to meet his or her mortgage obligations.

The CCMA places a number of requirements on regulated firms when dealing with borrowers in or facing mortgage arrears, some of which are detailed in Appendix 1 to this letter. With respect to the specific requirements relating to communications with borrowers where an alternative repayment arrangement (ARA) is offered or not offered, the Central Bank expects regulated firms to provide the following additional information to borrowers:

1. A copy of the firm's assessment of the borrower's case carried out in accordance with Provision 37 and as documented by the firm in compliance with Provision 40; and
2. The reasons why ARAs considered by the firm, but not offered to the borrower, are not appropriate and not sustainable for the borrower's individual circumstances, as documented by the firm in compliance with Provision 40.

The provision of this information will enhance transparency for borrowers about the reasons why they have, or have not been, offered particular ARAs. It will also assist



borrowers with understanding how their case has been assessed and equip them to make a more informed decision on whether they wish to avail of the internal appeals process¹.

Finally, in meeting the Central Bank's expectations in terms of the provision of specific and relevant material information to borrowers, firms are reminded of the obligation to provide information to borrowers in a clear and consumer friendly manner, in accordance with the relevant provisions of the CCMA and the Consumer Protection Code 2012.

Yours sincerely

A handwritten signature in black ink that reads "Gráinne McEvoy". The signature is written in a cursive style with a large, looping 'y' at the end.

Gráinne McEvoy
Director of Consumer Protection

¹ In November 2018, the Central Bank published the Section 6A '[Report on the Effectiveness of the CCMA in the context of the Sale of Loans by Regulated Lenders](#)'. Arising from the findings of the work undertaken to inform the Report, the Central Bank committed to engaging with industry on the information provided to borrowers on the assessment of their case.



Appendix 1: Relevant regulatory requirements

In the context of the Central Bank's expectations relating to information to be provided to borrowers on the assessment of their case, the following provisions of the CCMA are particularly relevant:

➤ Provision 36 –

“A lender’s Arrears Support Unit must examine each case on its individual merits.”

➤ Provision 37 –

“A lender’s Arrears Support Unit must base its assessment of the borrower’s case on the full circumstances of the borrower including:

- a) the personal circumstances of the borrower;*
- b) the overall indebtedness of the borrower;*
- c) the information provided in the standard financial statement;*
- d) the borrower’s current repayment capacity; and*
- e) the borrower’s previous repayment history.*

➤ Provision 40 –

“A lender must document its considerations of each option examined under Provision 39 including the reasons why the option(s) offered to the borrower is/are appropriate and sustainable for his/her individual circumstances and why the option(s) considered and not offered to the borrower is/are not appropriate and not sustainable for the borrower’s individual circumstances.”

➤ Provision 42(a) –

“Where an alternative repayment arrangement is offered by a lender, the lender must advise the borrower to take appropriate independent legal and/or financial advice and provide the borrower with a clear explanation, on paper or another durable medium, of how the alternative repayment arrangement works, including:

- a) the reasons why the alternative repayment arrangement(s) offered is considered to be appropriate and sustainable for the borrower as documented by the lender in compliance with Provision 40, including demonstrating, by reference to the borrower’s individual circumstances, the advantages of the offer for the borrower and explaining any disadvantages; ...”*

➤ Provision 45 –

“If a lender does not offer a borrower an alternative repayment arrangement, for example, where it is concluded that the mortgage is not sustainable and an alternative repayment arrangement is unlikely to be appropriate, the lender must provide the reasons, on paper or another durable medium, to the borrower.”



While the CCMA prescribes key information that must be provided to borrowers at relevant points, firms are reminded that more generally, under General Principle 2.6 of the Consumer Protection Code 2012 (the Code), firms must make full disclosure of all relevant material information in a way that seeks to inform consumers.

In addition, the CCMA requires that a lender must ensure that all information relating to a lender's handling of arrears and pre-arrears cases must be presented to the borrower in a clear and consumer friendly manner (Provision 12(b)). The Code requires that a regulated entity must ensure that all information it provides to a consumer is clear, accurate, up to date, and written in plain English (Provision 4.1). Key information must be brought to the attention of the consumer. The method of presentation must not disguise, diminish or obscure important information.