Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

Intermediary Times

June 2024



Welcome to the Intermediary Times

Welcome to the first edition of the Intermediary Times for 2024. The purpose of this newsletter is to highlight specific areas of interest and key pieces of work undertaken in the Retail Intermediary sector.

Message from Des Ritchie, Head of Consumer Protection: Investment Firms, Intermediaries & Client Assets Division

It has been a busy start to 2024 with the publication of the Central Bank's first Regulatory & Supervisory Outlook Report and the Consultation Paper on updates to the Consumer Protection Code, which will play an important role in delivering positive outcomes for consumers over the coming years.

Thematic Reviews are an invaluable supervision tool for the Central Bank, helping us to better understand compliance levels and deliver meaningful feedback to a large and diverse sector. We recently concluded a Thematic Review which examined Retail Intermediaries' compliance with the Minimum Competency Code (MCC), Knowing the Consumer (KYC) and Suitability Requirements of the Consumer Protection Code. Following the publication of the review's Industry Letter I take this opportunity to remind all Retail Intermediaries to reflect upon the findings and consider how they apply to your business, and to take action where necessary – see related article on page 2.

I hope you find this newsletter informative; we have taken on-board your feedback and have produced a more streamlined newsletter, with articles grouped together as set out below. We welcome any further feedback, as well as any suggested topics that you would like to see in future editions.

Intermediary Insights – pages 2 to 5

An insight into key developments impacting Retail Intermediaries over the first half of 2024, including finalising the Thematic Review and the CMCAR Mortgage License Renewal Initiative.

Policy Updates – pages 6 to 7

Important policy updates for all Retail Intermediaries, including upcoming changes to Professional Indemnity Insurance requirements.

Central Bank Insights – pages 8 to 11

Contents

	Page
Thematic Review of MCC, KYC & Suitability	2
Regulatory & Supervisory Outlook Report	3
Mortgage Intermediary License Renewal Update	4
Certificates of Authorisations / Registrations	5
Consumer Protection Code Review Update	6
Changes to PII Limits	7
Individual Accountability Framework	8
Phishing Emails	9
Industry Funding Levy 2023	10
ICCL Levy Funding Year	10
Thematic Review on Early Mortgage Arrears	11
Contact Us	12

Intermediary Insights

Thematic Review of MCC and KYC/Suitability

In May 2024, the Central Bank published the findings of its Thematic Review (the Review) of Retail Intermediaries' compliance with the MCC, KYC and Suitability Requirements of the Consumer Protection Code (Code). The Central Bank has issued an Industry Letter on its website to all Retail Intermediaries outlining the findings and expectations of Retail Intermediaries.

Key Findings

The overarching finding of the Review is that compliance levels in Retail Intermediaries are linked to the size of firm. Although findings were identified in the majority of firms, the volume of issues identified was greater in smaller firms. The Review identified a number of significant weakness, poor practices and instances of non-compliance across each of the topics under review. In several cases, firms were unable to provide adequate evidence and/or documentation to demonstrate compliance with MCC and KYC/Suitability Requirements. It is apparent that these weaknesses arose due to inadequate or ineffective internal processes and controls, and general poor record keeping and file management.

Additional findings include:

- KYC and Suitability Weaknesses: for example, inadequate standards of Statements of Suitability and KYC fact-finds not sufficiently detailed;
- Minimum Competency Gaps: including poor maintenance of Accredited Person Registers;
- Variable Remuneration Policies: Absence of such policies in firms of sufficient scale that should have a documented variable remuneration policy; and
- Vulnerable Consumers: some firms placed the onus on the client to opt to be treated as a vulnerable consumer.

A number of good practices were also identified and are detailed in the letter, including:

- Statements of Suitability that were compiled in an easy to read document and were bespoke to each consumer's requirements;
- MCC registers that were reviewed on a continuous basis; and
- Regular training for all members of staff.

Central Bank Expectations and Actions Required

1. All Retail Intermediaries, irrespective of firm size, must demonstrate a minimum standard of compliance in terms of MCC and KYC/Suitability.
2. The Central Bank expects all Retail Intermediaries to review the findings and complete the actions required as set out in the Industry Letter. Firms are reminded that their review in this regard should be documented, with an action plan discussed and approved by the firm's senior management team by 31 August 2024. The Central Bank expects that this document and evidence of senior management signoff will be available for review during future engagements with any Retail Intermediary.

Consumer Hub

Did you know the Central Bank website has a dedicated Consumer Hub, which includes a variety of topics to help consumers better understand the role of the Central Bank and financial service providers?

Keep an eye on the Hub over the coming months – we will be adding content on Retail Intermediaries / Brokers, including how the findings from the Thematic Review can impact consumers.

Firm Revocations

We have also recently updated the section of the Central Bank's website containing details of firms whose authorisation was involuntarily revoked.

The involuntary revocation of a firm's authorisation is amongst the most serious actions that the Central Bank can take.



Regulatory and Supervisory Outlook Report

In February 2024, the Central Bank published its Regulatory & Supervisory Outlook Report. This new report sets out the Central Bank's perspective on the key trends and risks that are shaping the financial sector's operating landscape and also our regulatory and supervisory priorities for the next two years.

The report sets out six overarching supervisory priorities, including our focus on achieving proactive risk management and a consumer-centric approach by the leadership of firms.

Section 4 provides a sector-by-sector view, with **pages 86 to 90** specifically covering the Retail Intermediary sector, including an assessment of sectoral trends and risks. The key risks in the Retail Intermediary sector are identified as:

- **Risk that customers' needs are not being adequately met.** A key risk for a customer of a Retail Intermediary is that the firm provides negligent or poor professional advice or sells an unsuitable product that is not appropriate to the customer's needs, circumstances and attitude to risk. All Retail Intermediaries should pay particular attention to this risk, in light of the findings from the recent Thematic Review, including failure to gather and record adequate, up-to-date KYC information. This may result in consumers purchasing products unsuitable to their current needs and situation;
- **Commissions and ineffective disclosure risks.** Key risks associated with an incentivised remuneration model in the Retail Intermediary sector derive from an inherent conflict of interest. In relation to ineffective disclosures, the main risk is that the consumer is not adequately informed of key information, including remuneration arrangements and level of risk associated with a product or service, which can lead to poor consumer outcomes; and
- **Changing operational landscape.** The financial landscape is undergoing rapid change, creating opportunities and risks for consumers. The impact of increased costs of living is affecting many households. Retail Intermediaries can also play an especially important role at a time when consumers are focused on shopping around and ensuring that their needs are being met.

Regulatory & Supervisory Outlook - Supervisory Priorities

1. Proactive risk management and consumer-centric leadership of firms.
2. Firms are resilient to the challenging macro environment.
3. Firms address operating framework deficiencies.
4. Firms manage change effectively.
5. Climate change and Net Zero transition are addressed.
6. The Central Bank enhances how it regulates and supervises.



Mortgage Intermediary License Renewal Update

The Central Bank launched the mortgage intermediary license renewal initiative in quarter four 2023. The aim of the initiative is to assist firms holding time dated mortgage licenses to obtain an 'evergreen' license and to support those firms through the application process.

Firms who signed up for the initiative were issued with a simplified version of the 'Application Form for Authorisation as a Retail Intermediary – A Form' and all participants were invited to attend one of two Webinars held in February and March of this year, which specifically focused on the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (CMCAR) and the Consumer Credit Act, 1995 (CCA) sections of the application form.

There was a good response to the initiative with over 50 firms expressing an interest in participating in it. Firms are being prioritised based on the expiry date of their existing license. Two groups of firms have been invited to submit their applications to date, the first group are nearly all authorised and the second group are currently going through the authorisation process.

Tips for the next group of applicants

Overall, the first group of applicants were of good quality, however: for the next group of applicants we offer the following advice:

- Q6.1.3 and Q6.1.4 of the application form: Firms must ensure that all clients are included for each authorisation type held, i.e. the IIA/IDR/CMCAR/CCA. Previous clients are not to be included;
- The information in the applicant's latest Annual Return for clients, employees, net profit and net assets must tie in to the information contained within the application form; and
- The turnover provided in Q6.1.4 for each authorisation type held must be accurate and in line with market averages.

If you are interested in participating in the initiative and have a mortgage licence that will be expiring shortly, please contact RIauthorisations@centralbank.ie.

Authorisations Webinar

The Retail Intermediaries Authorisations Team will be hosting its next webinar on how to complete an application for authorisation as a Retail Intermediary - A Form on 17 September 2024. If you wish to register for the webinar, please email your contact details to RIauthorisations@centralbank.ie.



Certificate of Authorisations/Registrations

There is a change to the process for requesting replacement certificates of authorisation and/or registration relating to the Investment Intermediaries Act 1995, the European Union (Insurance Distribution) Regulations 2018 ('the IDR'), the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 ('the CMCAR') and the Consumer Credit Act 1995.

Previously replacement certificates were issued as a matter of course when a firm submitted any request change (i.e. change of address, change of person responsible for the IDR/CMCAR) via the Central Bank's Portal. Now, if a firm would like to request a replacement certificate, a specific request for a replacement certificate must be submitted via the Portal as a 'Change Request'.

Where such change requests from firms are submitted to postauthorisations@centralbank.ie and/or brokers@centralbank.ie, these will not be processed, but instead will be directed to resubmit the request via the Portal, which may result in delays.

Where firms are experiencing any issues accessing the Portal, please contact Portal Support directly on 01-2244400 or by email to portalsupport@centralbank.ie.

Policy Updates

Consumer Protection Code Review Update

In March 2024, we launched a Consultation Paper on the review of the Consumer Protection Code (Code). The Consultation Paper is the second of three steps the Central Bank is taking to modernise and update the Code. The purpose of our review is to deliver an updated and modernised Code which is centred on firms' securing customers' interests. We are also proposing a targeted package of protections that reflects how consumers are accessing financial services today. This package includes proposals relating to digitalisation, informing effectively, mortgage credit and switching, unregulated activities, frauds and scams, vulnerability and climate risk.

The feedback from our stakeholders as part of our Discussion Paper on the review helped inform the proposals put forward in the Consultation Paper.

Securing Customers' Interests

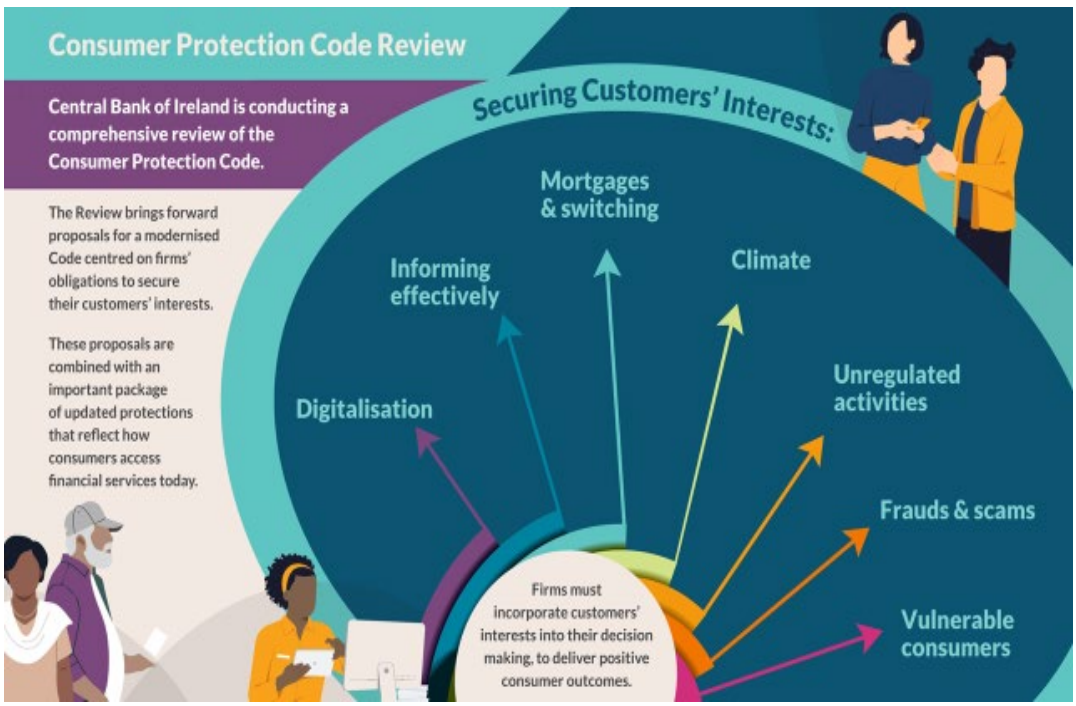
One of our key goals in revising the Code is to assist firms to effectively incorporate customers' interests into their overall business model, commercial decision-making and by taking ownership of consumer issues. This is addressed through an obligation on firms to secure their customers' interests with guidance for firms to support them in meeting this obligation.

A more integrated, accessible Code

The revised Code will consolidate other consumer protection requirements and has been converted into regulations to provide an integrated consumer protection framework. We also want to support consumers, users and firms in accessing the Code and so we intend to provide digital tools, explainers and guides to help consumers access the information they need.

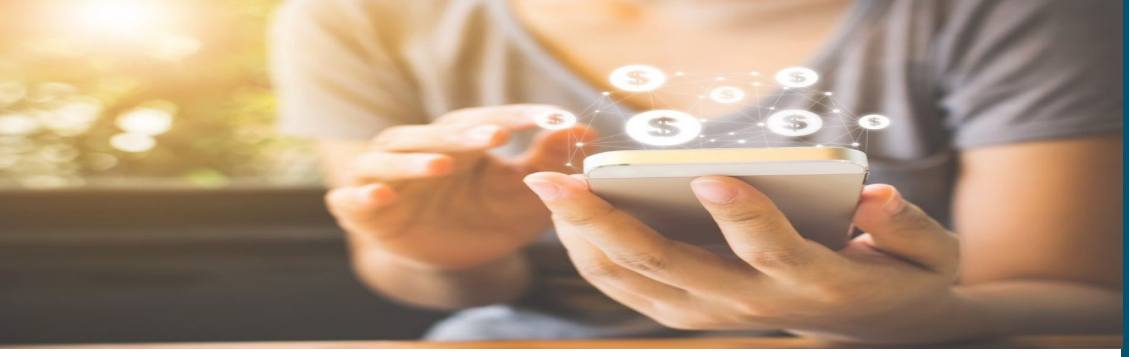
Stakeholder Engagement

Continuing the approach taken during the Discussion Paper engagement process, the Central Bank has engaged with our stakeholders throughout the consultation period, through a number of forums including bilateral meetings and industry engagements.



EIOPA Consumer Trends Report

On 23 January 2024, EIOPA published its Consumer Trends Report 2023. The latest report examines the financial well-being of consumers amid the ongoing cost-of-living crisis. The report highlights that a significant proportion of EU consumers have seen their insurance premiums and/or deductibles increase since last year, prompting some to suspend, surrender or cancel their insurance and pension products. The report also highlights that EU consumers now have lower confidence in achieving a financially comfortable retirement compared to last year, and that sales of insurance products via digital channels has surged in recent years.



Changes to Professional Indemnity Insurance Limits

The Insurance Distribution Directive (IDD) sets the minimum amount of Professional Indemnity Insurance (PII) cover to be held by IDD intermediaries. EIOPA is required to review the minimum amounts for PII and financial capacity every five years. Following the first review in 2018, EIOPA carried out this exercise for the second time and submitted the new set of draft Regulatory Technical Standards (RTS) to the European Commission in June 2023.

The Commission Delegated regulation concerning RTS adapting the base amounts for PII for insurance, reinsurance and ancillary insurance intermediaries has been published in the Official Journal of the European Union:

- The base PII amount applying to each claim is to increase from €1,300,380 to **€1,564,610**; and
- The base aggregate PII amount per year is to increase from €1,924 560 to **€2,315,610**.

The European Commission approved the changes in March 2024. They will apply from **9 October 2024**.

Firms are reminded to keep up to date with any changes to the IDD regulations and ensure they hold adequate PII in line with the requirements.

Investment Intermediaries

The Central Bank is in the process of updating the Handbook of Prudential Requirements for Investment Intermediaries (the Handbook), to align the PII obligations for investment intermediaries with those for insurance intermediaries, as has previously been the case.

Correspondence has recently issued to investment intermediaries on this matter to inform them of this proposal. Firms can make submissions regarding the proposed changes to the Handbook by 21 June 2024.

Where changes are made to the Handbook for investment intermediaries, the Central Bank will issue further communication in due course.

Retail Investment Strategy - Update

We provided an overview of the Retail Investment Strategy (RIS) proposals in our November 2023 Intermediary Times. Readers will recall that the proposals will amend MiFID II, IDD, PRIIPs, the UCITS Directive and AIFMD. There are a large number of proposals covering a wide range of topics. The current update on the RIS is that negotiations are continuing at EU level. We will continue to update you on this matter in the Intermediary Times and provide an overview of the final package, once agreed.



Central Bank Insights

Individual Accountability Framework

On 9 March 2023, the Central Bank (Individual Accountability Framework) Act 2023 was enacted. This Act provides for the introduction of the Individual Accountability Framework (IAF), which is designed to improve governance, performance and accountability in firms providing financial services to individuals and businesses.

Following in depth engagement with stakeholders during a consultation process, the Central Bank published a Feedback Statement and issued Regulations and Guidance to firms on the IAF in November 2023.

The key areas of the IAF that impact Retail Intermediaries, and those individuals occupying Controlled Function (CF) roles within those firms, are the Conduct Standards and the amendment to the F&P Regime relating to certification.

Conduct Standards

The IAF provides for Conduct Standards which set out the standards of behaviour the Central Bank expects of firms and the individuals working within them. The Conduct Standards set out a single set of applicable standards of behaviour which will apply to relevant individuals irrespective of sector. Specifically, these comprise Common Conduct Standards for CFs (which include all PCFs as a subset of CFs) and Additional Conduct Standards for individuals performing PCF roles and other individuals who may exercise significant influence on the conduct of a firm's affairs (i.e. CF-1 roles).

The Guidance on the IAF sets out how the Conduct Standards will operate in practice and includes the Central Bank's expectations regarding how individuals subject to the Conduct Standards should comply with them.

Certification

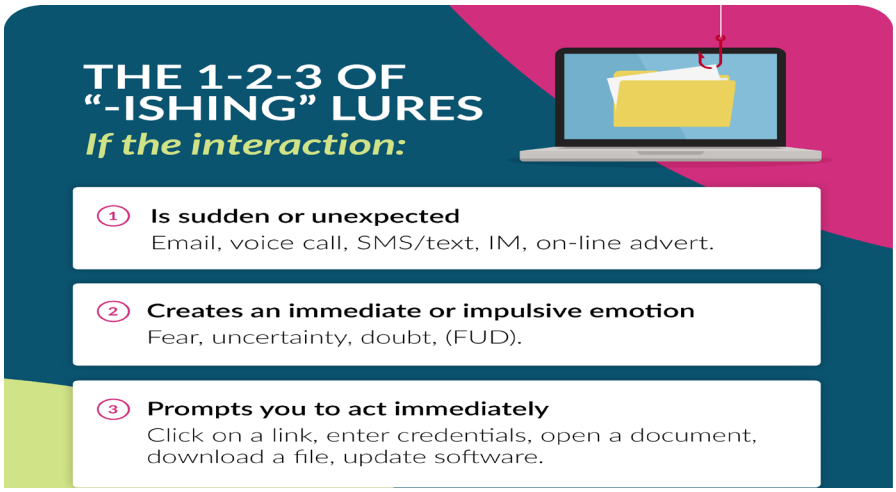
Certification requires firms to certify on an annual basis that CFs (including PCFs) comply with the Standards of Fitness and Probity. The Guidance on the IAF provides further detail on the certification process and confirms that as part of the Annual PCF Confirmation process firms will be required to: (i) submit confirmation of the completion of the certification process for each PCF role holder to the Central Bank on an annual basis; and (ii) confirm the completion of the overall certification process in respect of all other CF role holders on an annual basis. The first annual submission will relate to the 2024 calendar year and can be submitted from 1 January 2025, as set out in the PCF Annual Confirmation Guidance.

Phishing Emails

Phishing attacks have long been a staple in the arsenal of cybercriminals, relying on deceptive emails to trick individuals into divulging sensitive information or unwittingly downloading malware. While the basic premise of phishing remains unchanged, the methods and tools employed have undergone a significant transformation, becoming more refined, with a heightened level of sophistication. Many institutions are reporting experiencing targeted campaigns containing a higher degree of complexity with more appropriate, well-researched content. Poorly crafted, obvious scams littered with spelling errors and dubious requests are now often being replaced with meticulously crafted emails bearing logos and language that closely mimic legitimate communications from trusted sources.

A recent impersonation and spoofing attempt serves as a stark reminder of the ever-present threat posed by sophisticated phishing attacks. In this instance, cybercriminals masqueraded as a reputable financial institution, sending out emails purporting to be from a senior executive, with a call to action which was - fortunately – incomplete. The emails were expertly crafted, featuring an official logo, business-style language and spoofed sender details that appeared genuine at first glance. As cybercriminals continue to refine their tactics, the onus falls on individuals and businesses to remain vigilant against the threat of phishing attacks. Implementing robust cybersecurity measures, such as multi-factor authentication and baseline education for all staff re the tell-tale signs of fraud is wise. Reminders to review sender email addresses, study any links prior to clicking and never opening an unexpected attachment, are cornerstone security actions of which users must be continually reminded. FUD (fear, uncertainty, doubt) are emotions criminals seek to instil to create a knee-jerk reaction. Encourage all staff to trust their instincts (i.e. if it feels wrong, stop!).

Additionally, cultivating a culture of "healthy scepticism" and encouraging individuals to exercise caution when interacting with all electronic communication - but especially emails - can go a long way in thwarting fraudulent attacks. Establishing an easy means to report suspicious emails and instilling a "no-blame" culture encourages everyone to report any error, enabling swift mitigation of a potential threat. In the ever-evolving landscape of cyber threats, one thing remains certain: the sophistication of phishing attacks will only continue to increase. Remaining informed, vigilant and proactive in our cybersecurity efforts, we can all better defend against these insidious threats and safeguard our digital assets from harm.



Remember…

Cybercriminals spare no effort in creating convincing likenesses designed to deceive even the most discerning recipients.



Industry Funding Levy 2023

The Industry Funding Levy notices for 2023 will issue later this year. To ensure firms are charged the correct levy, it is important that firms report their fee and commission income correctly, under rows 17 & 18 of the Financial Information section of the Annual Return. Common reporting errors made by firms include:

- **Keying errors:** e.g. additional zeros;
- **Fee and Commission Income**: these figures should be shown as gross, i.e. before the deduction of any fee or commission payable to a third party (including inter-group companies); and
- **Zero income**: if a firm is reporting a zero income it must provide the rationale for this in row 22 of the Financial Information section of the return. Please note, firms are required to explain why they require a Central Bank authorisation, if they are not trading for an extended period. Where a firm is no longer trading, it should consider submitting a voluntary revocation application.

All figures entered into the Annual Return must be based on documentary evidence, (audited accounts or management accounts, where relevant), which must be available to the Central Bank on request.

ICCL Levy Funding Year

A discount of 5% (capped at €25) is available to all participant firms on their ICCL annual levy if they pay by Direct Debit.

- Single signatory mandate firms can sign-up to Direct Debit via the ICCL website; or
- If you have a dual signatory mandate or prefer a paper mandate, please request one by emailing info@investorcompensation.ie quoting your authorisation reference number.

You must sign-up before 31 July 2024 to avail of the discount for your 1 August 2024 to 31 July 2025 levy.

For a step-by-step guide to register and sign-up for Direct Debit online, please consult the link here.

Levy Correspondence

All firms should recently have received a message via the Unity Portal to check their email address is up-to-date on the Portal. This is important as the Central Bank is looking to move to issuing levy invoices via email in the future.



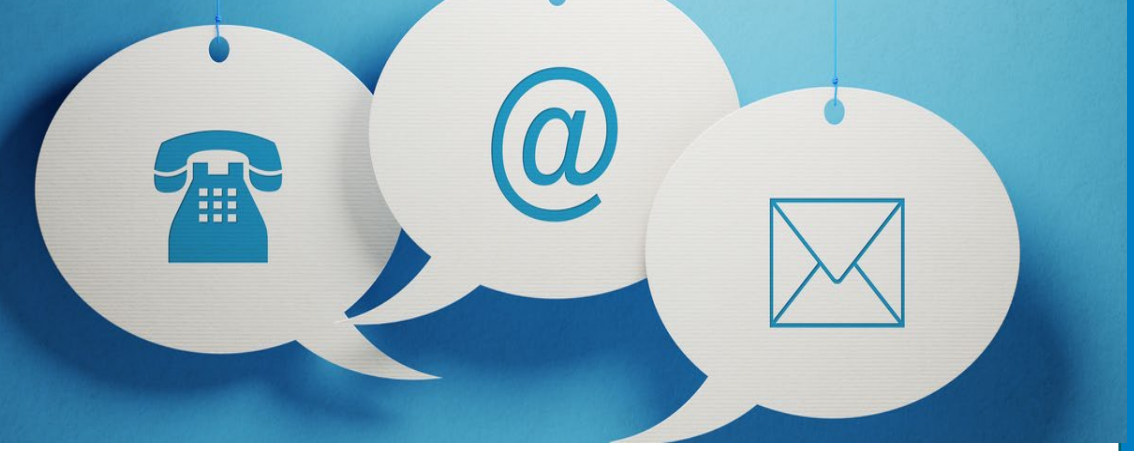
Thematic Review on Early Mortgage Arrears

In April 2024, the Central Bank published the findings of a Thematic Review on Early Mortgage Arrears (the Review) for industry in a Dear CEO letter. The Central Bank communicated its expectations to all regulated firms on protecting consumers in a changing economic landscape in the November 2022 Dear CEO letter and the Review was undertaken as part of ongoing work to ensure firms are supporting consumers in that context. As part of the Review, an assessment of the effectiveness of the borrower journey was conducted, with a particular focus on engagement and communications to ensure that firms have the necessary supports, resources and service levels in place for borrowers in, or facing, early arrears.

Key Findings

Overall, the Review found that the consumer protection framework continues to provide solutions for borrowers who engage with their lenders to progress through the Mortgage Arrears Resolution Process (MARP) as set out in the Code of Conduct of Mortgage Arrears (CCMA). A variety of supports and good practices were found to be in place to support borrowers who are in or facing financial difficulties. However, the Review also identified areas for improvement in how firms provide information as well as how they engage and support borrowers through the MARP. Strong and effective customer services are necessary to ensure borrowers are fully supported through all steps of their engagement and provided with clear, accurate and timely information. Early engagement by borrowers dealing with financial difficulty continues to lead to solutions being found.

Alongside the overarching outcomes and feedback in the Dear CEO letter, the Central Bank has also set out the improvements that need to be made to the firms included in the Review through targeted use of supervisory tools.



Contact Us

Retail Intermediary Queries	Division	Contact
Authorisation Queries **Supervision Queries** **Revocation Queries** **Statutory Duty Confirmation Reports Queries** **RI Roadshow Queries**	**Consumer Protection Division**	riauthorisations@centralbank.ie brokers@centralbank.ie revoke@centralbank.ie statutoryduty@centralbank.ie riroadshows@centralbank.ie
Fitness and Probity: Individual Questionnaire Queries	**Regulatory and Business Services Division**	fitnessandprobity@centralbank.ie
Funding Levy Queries	**Financial Control Division**	billing@centralbank.ie
Online Reporting Queries	**Regulatory & Business Services Division**	onlinereturns@centralbank.ie

Recent Central Bank Speeches & Publications

- A Revised Consumer Protection Code: a foundation for further success (11 April) - remarks by Gerry Cross, Director Financial Regulation Policy and Risk
- Financial Industry Forum, International Subgroup (28 March) - Remarks by Deputy Governor Sharon Donnery
- Climate Risk and Sustainable Finance Forum - Capacity Building Working Group (27 March) - Remarks by Deputy Governor Sharon Donnery
- Governor's Blog – The Economic Outlook for the Irish and Euro Area Economies (15 March)
- Launch of Consultation Paper on Review of the Consumer Protection Code (7 March) - Deputy Governor, Derville Rowland
- "Innovation and Trust – Regulating in the interests of us all" (7 February) - Remarks by Deputy Governor, Sharon Donnery, at the Milano Hub