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Mr Pearse Doherty T.D.
Dáil Éireann
Kildare St.
Dublin 2

22 February 2022

Re: Mortgage Providers requiring certification to confirm property not affected by defective blocks containing Mica or Pyrite.

Dear Deputy Doherty,

I refer to your email of 26 January 2022 to the Governor of the Central Bank of Ireland (the Central Bank) in relation to your concerns about certain mortgage providers (of buyers) requiring certification from property sellers in Donegal, to confirm that the property being sold is not affected by defective blocks containing Mica or Pyrite.

As you will be aware, the Central Bank has responsibility for the regulation and supervision of regulated financial services firms. As part of our consumer protection mandate and in the context of the broader consumer protection framework in place, the Central Bank sets out requirements in its codes of conduct, which detail how regulated firms should deal with and treat their customers, when providing products and services. The EBA Guidelines on Loan Origination and Monitoring (extract attached at Appendix 1) prescribes the information that should be obtained by a bank in relation to immovably property valuation, which includes but is not limited to, any known circumstances that may affect the value in the short term and the attributes of the property etc. Furthermore, Regulation 20 of the European Union (Consumer Mortgage Credit Agreements) Regulations (the Regulations) details the requirements (extract attached at Appendix 2) that a creditor must follow around property valuation- however it does not specify how a creditor should deal with matters regarding engineering reports or structural issues.



We are not aware of mortgage providers implementing a policy such as the one you refer to for sellers in Donegal, from our engagement with larger mortgage providers. While we understand the challenge that such a required certification from mortgage providers could present for prospective sellers, individual lending decisions and credit policy requirements are commercial decisions for regulated firms. In relation to the matters you raise, you may therefore wish to consider engaging directly with mortgage providers to discuss further and/or engage directly with the BPFi regarding industry practice.

Finally, as you are aware, any consumer (as defined in the Consumer Protection Code¹) who is not satisfied with how a regulated firm is dealing with them in the course of providing a service, can also make a formal complaint directly to the regulated firm. If a consumer is not satisfied with how their formal complaint is dealt with, they have the option of making a complaint to the Financial Services and Pensions Ombudsman (FSPO), who has a broad remit to consider complaints from consumers by reference to the individual circumstances of their complaint. Further details can be found at the link [here](#).

Yours sincerely,

A handwritten signature in blue ink that reads "Colm Kincaid". The signature is written in a cursive style and is positioned above a horizontal line.

Colm Kincaid

Director of Consumer Protection

¹ You may wish to note that this definition includes a potential consumer and extends beyond individuals to include enterprises of a limited size



**Appendix 1 - European Banking Authority Guidelines on Loan Origination and Monitoring
(2020)**

213. At the end of the valuation process, institutions should ensure that they have obtained, for each property collateral, a clear and transparent valuation report documenting all elements and parameters that determine the value of the collateral, including all the information necessary and sufficient for easy understanding of these elements and parameters, in particular:

- a. the reference value of the collateral;
- b. the approaches, methodology and key parameters and assumptions that have been used to assess the value;
- c. a description of the collateral, including its current use or multiple uses if applicable, and the property type and quality, including age and state of preservation;
- d. a description of the location of the collateral, the local market conditions and the liquidity;
- e. the legal and actual attributes of the collateral;
- f. any known circumstances that may affect the value in the short term, including drawing attention to and commenting on any issues affecting the degree of certainty or uncertainty.



Appendix 2: European Union (Consumer Mortgage Credit Agreements) Regulations 2016

Property valuation:

20. (1) A creditor shall use reliable standards, such as those developed by the International Valuation Standards Council, the European Group of Valuers' Associations or the Royal Institution of Chartered Surveyors, when carrying out a property valuation of residential immovable property for credit purposes, or take reasonable steps to ensure that reliable standards are applied where a valuation is conducted by a third party.
- (2) A creditor shall ensure that internal and external appraisers conducting property valuations are professionally competent and sufficiently independent from the credit underwriting process so that they can provide an impartial and objective valuation, which shall be documented in a durable medium and of which a record shall be kept by the creditor.