

Name

Address 1

Address 2

Address 3

Address 4

Address 5

6 December 2010

Dear Name

I wish to advise that the Central Bank of Ireland is introducing a revised Code of Conduct on Mortgage Arrears (CCMA), a copy of which is available on our website. The CCMA has been revised in light of the recommendations of the Government Expert Group on Mortgage Arrears and Personal Debt ("Expert Group") and other issues which have arisen since its implementation.

The revised CCMA builds on the provisions of the previous version, but includes more detailed requirements, including the establishment of a formal Mortgage Arrears Resolution Process (MARP). Other examples of significant changes are:

- pre-arrears cases must be treated in accordance with the MARP;
- arrears have been defined;
- the primary residences which can be protected by the CCMA have been defined;
and
- an Appeals process under the CCMA replaces the complaints process under the Consumer Protection Code.

The CCMA is being imposed under Section 117 of the Central Bank Act, 1989. Contraventions of the CCMA may be subject to the imposition of administrative sanctions.

With effect from 1 January 2011, we expect mortgage lenders to take immediate steps towards implementing the necessary changes to their systems, procedures and documents and providing relevant staff training. During the six month period ending 30 June 2011, we will be cognisant of issues relating to systems development or other technical difficulties and required staff training, in monitoring compliance with the revised CCMA.

Standard Financial Statement

Recommendation 26 in the Expert Group's Interim Report was that "a standard financial statement (SFS) should be developed for use by all lenders and MABS, to assess a borrower's financial position and to identify a best course of action". As a standard format for an SFS has not yet been agreed between the relevant parties, lenders may use their own version of an SFS or one developed by the Irish Banking Federation (IBF) in the interim. However, if it is the case that a standard SFS is not agreed, the Central Bank of Ireland may move to prescribe the format of a standard SFS to be used by all mortgage lenders, next year.

Properties protected by the revised CCMA

In CP46, we sought views on the types of properties, loans or personal circumstances that the protections of the revised CCMA should apply to. Almost all submissions received commented on this issue, all of which were considered in the drafting of the final wording. We have decided that the protections of the revised CCMA apply to a borrower's "*primary residence*" which has been defined as a property which is:

- (i) the residential property which the *borrower* occupies as his/her primary residence in this State, or
- (ii) a residential property in this State which is the only residential property owned by the *borrower*.

Part (ii) of the definition above has been included in an effort to address situations where a person owns one residential property (in total) but has not, or currently does not, reside in the property. For example:

- borrower(s) who emigrate for work;
- borrower(s) who purchased a property but who never moved into the property because they could not afford the repayments / because they wanted to back out of the purchase of a negative equity property etc;
- borrower(s) who purchased a property, lived in it for a time, but have now moved home to live with relatives in order to earn rental income to assist with the mortgage repayments.

The definition of "primary residence" has been worded in this way in order to apply the protections of the CCMA to borrowers who are making efforts to maximise their income in order to help meet their mortgage payments on their main residence/home, whether or not they are still living in the property.

Lenders' Relationship with Borrowers

As envisaged by the original CCMA, the Expert Group supported the need for a co-operative relationship between lenders and borrowers, with both sides recognising the need to work together to address an actual or potential mortgage arrears situation.

Lenders must treat borrowers fairly and work with them to facilitate borrowers to meet their mortgage obligations. This means, among other things, providing the borrower with information they need promptly, and ensuring that this information is presented in a way that it is easily understood.

While we require that lenders pro-actively encourage borrowers to engage with them, we have imposed a limit on the number of unsolicited communications which a lender can make each calendar month to three. Such communications:

- include those instances where contact is not made with the borrower, for example, missed calls or where voicemails are left; and
- exclude communications which are required by the CCMA or other regulatory requirements.

We believe that this approach strikes the right balance between encouraging a borrower to deal with an arrears situation while minimising undue additional pressure for consumers who are experiencing financial difficulties.

In addition, the revised CCMA now requires lenders to treat those borrowers who contact them about financial difficulties in the same way as those who go into mortgage arrears.

Transitional Arrangements

From 1 January 2011, this Code applies to all existing arrears cases and lenders must ensure that they comply with all provisions of this Code.

Lenders' attention is specifically brought to the following provisions in the CCMA:

- The limits on unsolicited contact, as set out in Provision 21;
- Borrowers in arrears must not be moved from an existing tracker mortgage, as set out in provision 35;
- The twelve month period during which the lender must refrain from commencing legal action for repossession, as set out in provision 47;
- Where no formal arrangement is in place, a lender must review each borrower's case, in accordance with Steps 3 and 4 of the MARP;
- Where an alternative repayment arrangement (which was already in place before the introduction of this Code) breaks down, the lender's ASU must review the borrower's case immediately, in accordance with provision 41; and

- Where a borrower wishes to make an appeal and the lender has not yet established its Appeals Board, the appeal should be placed on hold until the Appeals Board is in place. Any time period between the receipt of the appeal and the establishment of the Appeals Board cannot be included in the 12 month delay on legal action set out in provision 47.

Dis-application of Provisions in the Consumer Protection Code

The revised CCMA now includes all requirements for dealing with borrowers in mortgage arrears and in pre-arrears. We recognise that this has resulted in some overlap of requirements between the existing Consumer Protection Code and the revised CCMA. Accordingly, Provisions 46, 47 and 48 of Chapter 2 (complaints handling) of the Consumer Protection Code and Provisions 4 and 11 of Chapter 4, have been dis-applied for mortgage lenders when dealing with mortgage arrears and pre-arrears cases. A notice to this effect has also been placed on our website.

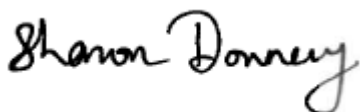
Arrears Charges

In relation to provision 9, separate correspondence is being issued to lenders to restrict the application of charges previously approved under Section 149 of the Consumer Credit Act 1995 (as amended), on a mortgage account in arrears.

Please note that copies of the new CCMA can be downloaded from our website www.centralbank.ie.

Any queries on the CCMA should be submitted by email to code@centralbank.ie.

Yours sincerely



Sharon Donnery
Head
Consumer Protection Codes Department