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Re: Thematic Review on Early Mortgage Arrears

Dear CEO,

The protection of consumers in the changing economic landscape is a key priority for the Central Bank. Recognising the impact of rising costs on consumers, in November 2022, we issued a Dear CEO letter to set our expectations for how all regulated firms support their customers in the face of cost of living challenges. This formed part of a phased programme of work to ensure firms were supporting customers to navigate this changing economic landscape.[1] This has included a sustained focus on supporting mortgage borrowers across the financial system, including on all aspects of mortgage arrears.

As part of this phased programme of work, the Central Bank recently completed a Thematic Review on Early Mortgage Arrears (the Review) across a representative sample of all mortgage lenders, including banks, retail credit firms and credit servicing firms.[2] This Review was planned for H2 2023 to coincide with the anticipated stress on borrowers' finances as rising costs of living and interest rates began to impact on their budgets. This stress is evident in the recent upward trajectory of the level of early mortgage arrears, though significant increases have not yet been observed.[3]

The aim of the Review was to ensure that the regulatory framework is working as intended to support those borrowers in or facing such early arrears. It did so by assessing the effectiveness of the borrower journey through the arrears resolution process, with a particular focus on

[1] Protecting consumers in a changing economic landscape (April 2023)
[2] For the purposes of the Review, early mortgage arrears is defined as mortgages on primary residences that are in arrears less than 90 days past due. It also includes pre-arrears, defined in the Code of Conduct on Mortgage Arrears 2013 (CCMA) as arising where either: *a) the borrower contacts the regulated entity to inform it that they are in danger of going into mortgage arrears; or b) the regulated entity establishes that the borrower is in danger of going into financial difficulties which may impact on the borrower's ability to meet his/her mortgage obligations.*
[3] Central Bank Residential Mortgage Arrears and Repossessions Statistics

engagement and communications. It sought to ensure that firms have the necessary supports, resources and service levels in place for borrowers in or facing early arrears. The purpose of this letter is to set out the overarching outcomes and feedback from this Review. Additional information on the approach to the Review is provided in **Appendix One**.

Outcomes of the Review

The Review found that firms are progressing borrowers who are in pre- and early arrears through the Mortgage Arrears Resolution Process[4] (MARP) and that solutions are being found for borrowers. This provides further evidence that when properly applied, the mortgage arrears resolution framework set out in the Code of Conduct on Mortgage Arrears (CCMA) is well positioned to support borrowers in or facing financial difficulty. The Central Bank also observed practices that go beyond minimum compliance with regulation, and evidence of firms making further improvements for borrowers - further detail on these practices is set out in **Appendix Two**.

However, the Review also identified deficiencies that reduce the effectiveness of the borrower journey, and which can result in poor customer service, and ineffective disclosures and engagement. There were a wide variety of issues identified in this context, broadly relating to (i) provision of information, (ii) engagement, and (iii) delays and errors. An overview of these is provided in **Appendix Three**. The Central Bank considers that the nature of issues arising can heighten the following risks in particular:

a) That firms may not be operationally ready to respond to any material increase in the volume of arrears cases and ensure that cases are resolved in a timely and consumer-centric manner; and
b) That borrowers may dis-engage from the process, resulting in their financial position continuing to deteriorate and making the path to resolution increasingly more difficult.

The Review also demonstrated that firms could, in certain circumstances, make more effective use of temporary alternative repayment arrangements (ARAs) in order to support borrowers, and could

[4] The MARP is a four step process set out in the CCMA that regulated entities must follow to consider an appropriate and sustainable alternative repayment arrangement (ARA) for a borrower's individual circumstances.

provide additional information on these ARAs to further enhance customer decision-making.[5] Further information on our expectations in this regard is provided in **Appendix Three**.

Feedback to Industry

The Review found that, properly applied, the CCMA framework is effective to support and find solutions for borrowers in or facing early mortgage arrears (evidenced by the outcomes achieved in those cases of engagement we observed). However the Review also highlights that firms need to take additional steps to ensure that borrowers are getting effective customer service and information that supports them while managing these difficult circumstances.

Firms are required to consider and address the findings in full, taking a consumer-centric approach that will help sustain borrower engagement. This includes considering the examples of positive practices outlined in **Appendix Two** and seeking to continuously drive and support positive consumer-focused experiences and outcomes in all cases.

Where issues arise, such as those found in this Review, firms need to be prompt in dealing with them. Firms also need to take a holistic approach to undertaking a robust root cause analysis. This analysis should go beyond specific process failures, and also investigate the effectiveness of governance and oversight as well as behavioural and cultural root causes that may be contributing to deficiencies in the borrower journey. This includes, but is not limited to, firms ensuring that they have sufficient operational capacity and have appropriately skilled staff so that borrowers can be proactively engaged with to swiftly identify and offer ARAs, where appropriate.

Firms should also have regard to the key drivers of consumer risk set out in the Central Bank's Regulatory & Supervisory Outlook Report 2024. These are underlying drivers of the instances of consumer harm (or risk of harm) where the Central Bank's assessment shows that more could be done to protect consumers and the integrity of the financial system. Three of these risk drivers in particular were observed in the findings of deficiencies in this Review – poor business practices and weak business processes; ineffective disclosures to consumers; and inadequate support of borrowers in the context of the changing operational landscape. Firms need to focus their efforts on making long-term sustainable improvements in these areas, as sustained concrete action by firms would make a material positive difference for consumers of financial services.

[5] In this context, temporary ARAs refers to those provided for in Provision 38 of the CCMA, where a regulated entity can put in place an ARA for a limited period prior to completing the full assessment of the Standard Financial Statement (SFS) where a delay will further exacerbate a borrower's arrears or pre-arrears situation.

Follow-up Actions

The Central Bank has issued each firm included in the Review with correspondence detailing the issues and concerns identified for the relevant firm and the actions required. This includes tailored Risk Mitigation Programmes where the risks are outside of the Central Bank's supervisory risk appetite.

In order to drive further improvements for borrowers as early as possible given the current economic environment, the Central Bank also provided feedback to firms on aspects of the Review prior to completion of all supervisory work. We have seen firms respond to this early feedback and implement additional enhancements, for example, in respect of information available to support borrowers. We also observed some firms responding to ongoing supervisory engagement throughout the Review and self-identifying changes before these were formally communicated as an outcome of the Review. The Central Bank considers these to be positive cultural indicators of firms seeking to make improvements for borrowers, and we expect this behaviour to continue.

We will continue our direct engagement with relevant firms to ensure that appropriate actions are taken to address the findings of the Review. In addition, please note that feedback provided in this industry letter and associated correspondence will be considered during future supervisory activities.

Our experience shows that early and effective engagement between the firm and the borrower is critical not only to dealing with the specific early arrears but also to mitigating the risk of those borrowers falling into longer term arrears. It is especially important therefore that banks, retail credit firms and credit servicing firms take the steps outlined in these findings to support their customers in an environment where the number of borrowers entering into early arrears has increased.

I thank you for your attention to this matter.

Yours sincerely,

Wesley L. Murphy

Wesley Murphy

Head of Consumer Protection Supervision: Credit & Lending

Appendix One: Overview of the Review

The Review builds on the Central Bank's expectations for protecting consumers in the changing economic landscape and beyond, as communicated in a Dear CEO letter (November 2022); a note detailing the supervisory work ongoing in relation to mortgages (April 2023); and the Regulatory & Supervisory Outlook Report (February 2024). Given the heightened risks associated with the economic environment, the Review targeted borrowers in pre- and early-arrears with a mortgage secured on a primary residence, though many of the findings are also relevant to other borrowers in arrears. Seven firms were included in scope including retail banks, retail credit firms and credit servicing firms, who together hold approximately 90% of all PDH early mortgage arrears accounts.

Compliance with targeted requirements and expectations provided for in the following legislation and publications were assessed as part of the Review:

- Code of Conduct on Mortgage Arrears 2013;
- Consumer Protection Code 2012;
- November 2022 Dear CEO letter and April 2023 publication regarding protecting consumers in a changing economic landscape; and
- Feedback Statement to the 2021 Review of the Standard Financial Statement.

The Review was conducted through a number of core supervisory activities, including:

1. Review of a sample of borrower files, including listening to targeted samples of recorded telephone calls between firms and their customers;
2. On-site engagements with firms; and
3. Assessment of key borrower communications, including websites, letters and MARP booklets.

In total, supervisors reviewed approximately 1,500 documents and 150 call recordings. Firms were also required to complete detailed questionnaires regarding policies, procedures and controls for handling of mortgage arrears cases, to further inform the Review.

Appendix Two: Supports and improvements for borrowers

As set out in the April 2023 note, the Central Bank has seen firms respond to our expectations regarding the changing economic landscape. This has included firms putting appropriate early warning indicators in place and further enhancing the analysis of their borrower population, as well as undertaking proactive contact with borrowers including those at greatest risk of default. Firms have also continued to provide the supports available to borrowers in or facing financial difficulty, including ARAs where appropriate.

In the Review, the Central Bank observed further evidence of firms supporting borrowers, as well as various practices that may deliver additional positive outcomes. The following table provides some examples of these practices. The Central Bank expects that all firms give these appropriate consideration, with a view to implementing further enhancements to the borrower journey.

Examples of positive practices that can provide additional support for borrowers
• Including hard copies of various forms and/or pre-paid return envelopes alongside borrower letters. • Obtaining Plain English endorsements for borrower information from third parties with expertise in Plain English. • Incentives for completing the Standard Financial Statement (SFS). • Including information on services such as MABS in the main body of key letters.[6] • Call centre agents verbally advising borrowers of the supports available from MABS.[7] • Verbal discussion with the borrower regarding the outcome of the SFS assessment, as a complement to the written communication.[8] • Written confirmation of an agreed overpayment arrangement for repaying arrears. • Call centre agents demonstrating empathy and willingness to accommodate borrowers through particularly difficult situations such as bereavement. • Using borrower testimonials and examples of circumstances that can cause financial difficulty on websites, to encourage borrowers to engage. • Providing budgeting tools and tips on managing finances on websites.

[6] This was over and above those cases where such information is required to be included under regulation.
[7] This was in addition to the CCMA requirements to include information on MABS in written correspondence at various points of the borrower journey.
[8] For clarity, this should not be a replacement for the provision of clear, borrower-specific information in writing, but should be considered an additional support to ensure borrowers understand the written information provided.

The Central Bank also found evidence of firms having implemented the published good practices to support borrowers with the SFS.[9] Nonetheless, additional action can be taken by firms to more fully implement these good practices with a view to further enhancing the supports in place for borrowers. In particular, the Central Bank encourages firms to implement functionality for borrowers to complete the SFS online, including to save progress and return at a later stage if needed.[10]

[9] Feedback Statement to the 2021 Review of the SFS.

[10] The majority of firms included in the Review do already provide the option to complete the SFS online, though the functionality of the online SFS varied, for example, for some of these firms the borrower could save progress on the SFS, but for other firms, this was not possible.

Appendix Three: Key issues identified

The following is an overview of the key findings at an industry level, relating to:

1. **Information provided to borrowers**
2. **Engagement with borrowers**
3. **Other issues in the borrower journey**
4. **Temporary Alternative Repayment Arrangements**

For the avoidance of doubt, not all of the issues set out were found in all individual firms. Also, in some cases, these issues were identified in firms where we also observed cases of good practice and highly supportive approaches by staff in the firm (including even seeing both deficiencies and high standards of support in a single customer case).

1. **Information provided to borrowers**

The Central Bank identified a number of issues in relation to the information provided to borrowers that heighten the risk of ineffective disclosure. It was particularly concerning to the Central Bank that some of these issues were also identified in the Central Bank's 2015 Themed Inspection on the CCMA, and communicated to individual firms and to industry at the time. In such cases the Central Bank has or will have further follow up engagement with the firms in question on this point.

All firms must ensure that materials such as websites, MARP booklets and letters contain all of the required information, and present all information fully, fairly and clearly to support customer decision-making.

Specific issues that were identified include:

Letters	• Information not presented in a clear and consumer friendly manner, key information not in a prominent position and/or the method of presentation obscured key information. • Information not issued within the required timeframe. • Omissions of required information, and/or inclusion of irrelevant information. • Provision of generic rather than borrower-specific information.

	• Incorrect letters, or inclusion of incorrect information within letters, issued to borrowers.
Websites	• Information on websites regarding financial difficulties and the supports available not presented in a clear and consumer-friendly manner and/or easily accessible from a prominent link on the home page.
MARP booklets	• Omissions of required information.

2. Engagement with borrowers

The Central Bank identified issues that heighten the risk of ineffective engagement and in many cases constituted poor customer service. There was a wide variety of individual issues in this context, and these have been broadly categorised under the following headings:

Overarching issue	**Examples**
Inadequate follow up with the borrower	Instances where the firm did not progress engagement with the borrower in an appropriate manner. Generally, these issues arose in the pre-SFS assessment phase i.e. before the borrower had submitted to the firm a fully complete SFS and all supporting documentation. Poor follow up with borrowers was observed on a number of occasions, sometimes for lengthy periods of time, for example in relation to: • Establishing why the borrower has gone into arrears; • Outstanding documentation or clarifications needed; • Reviewing an ARA that has not been adhered to; and • Further contact either requested by or committed to the borrower, which was not fulfilled.
Weaknesses in staff knowledge and communications	Instances where staff demonstrated insufficient knowledge of the mortgage arrears resolution process and supports available, of the firm's policies and procedures, and/or of information on the borrower's case. In some cases, this resulted in the provision of incorrect or unclear information to the borrower.

Failure to appropriately recognise financial difficulties	Instances where the firm failed to recognise clear indications from the borrower of financial difficulties, and thus did not immediately provide the borrower with the appropriate support. In some cases, the focus was exclusively on obtaining payment, including instances of proactively offering to set up overpayments for arrears, without sufficient recognition of the reasons for the arrears arising.
Other engagement issues	Other issues observed that heighten the risk of ineffective engagement with the borrower. Examples include: • Failure to appropriately record and address complaints; • Minimal assistance with SFS completion; • Excessive contact attempts given the specificities of the borrower's circumstances; and • Issuing the SFS or other information at inappropriate points in the journey, for example, providing a blank SFS for completion the borrower has already submitted an SFS, or providing information on being in pre-arrears when the borrower was actually in arrears.

3. Other issues related to the borrower journey

There were a number of delays identified that impacted on the effectiveness of the borrower journey. These included delays with providing information to the borrower and/or assessing the borrower's case either within regulatory timeframes or within the firm's own process timelines.

The Review also found errors that did not necessarily result in a delay in progressing the borrower's journey, but which nonetheless should not have occurred, and which had varying degrees of impact for the borrower. For example, correspondence issued to an outdated address, and the incorrect application of a temporary ARA to an account.

4. Temporary Alternative Repayment Arrangements (ARAs)

Provision 38 of the CCMA enables a regulated entity to agree a temporary ARA with a borrower for a limited period prior to completing the full assessment of the SFS, where a delay in putting an ARA in place will further exacerbate a borrower's arrears or pre-arrears situation. The Central Bank has previously encouraged firms to make effective use of these types of temporary ARAs where there are indications that the borrower's situation will deteriorate during the time needed for the borrower to complete and the firm to assess the SFS.[11]

The Review found minimal usage of these types of temporary ARAs in the majority of firms, and it was not always clear in firms' policies what circumstances exactly provide for their use. In our view, there is greater potential for temporary ARAs to be used as a support for borrowers while the SFS is being assessed. The Central Bank expects firms to give deeper consideration to making more effective use of these temporary ARAs, in line with expectations set out in the April 2023 note on protecting consumers in a changing economic environment.

In all cases where temporary ARAs were offered, firms provided both verbal and written information to the borrower. While generally the key information was set out in letters, in some cases the temporary nature of the ARA and the next steps for the borrower regarding SFS assessment was not clear. In addition, the majority of letters did not contain borrower-specific information on the cost of credit of the temporary ARA. The Central Bank expects all firms to include this information going forward, in order to ensure effective disclosure and to support borrower understanding of the temporary ARA.

[11] For example, in the April 2023 note on protecting consumers in the changing economic environment, and in the Industry Letter on the 2015 CCMA Themed Inspection.