



Banc Ceannais na hÉireann
Central Bank of Ireland
Eurosystem

2016

Addendum to Consumer Protection Code 2012



CONSUMER PROTECTION CODE 2012

Contents of the Addendum to the Consumer Protection Code 2012:

- Part 1: Addendum for Increased Protections for Variable Rate Mortgage Holders;
- Part 2: Addendum for Consequential Amendments to the Consumer Protection Code arising from Transposition of the Mortgage Credit Directive; and
- Part 3: Addendum for Amendments to the Consumer Protection Code arising from the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015 (S.I. No. 585 of 2015).

PART 1 - ADDENDUM FOR INCREASED PROTECTIONS FOR VARIABLE RATE MORTGAGE HOLDERS

Introduction

In November 2015, the Central Bank published a consultation paper ('Increased Protections for Variable Rate Mortgage Holders') seeking views from stakeholders on proposals aimed at increasing transparency and facilitating consumer choice for variable rate mortgage holders.

Having considered the responses received to the public consultation, the Central Bank has decided to amend certain provisions of the Consumer Protection Code 2012 (the "2012 Code") and to introduce new provisions for the purposes of increasing transparency and facilitating consumer choice for variable rate mortgage holders. The purpose of Part 1 of this Addendum is to give effect to these increased protections.

Part 1 of this Addendum is effective from 1 February 2017.

For the purposes of giving effect to the increased protections, the following parts of the 2012 Code are now amended:

- Chapter 4 – Provision of Information
- Chapter 6 – Post-sale Information Requirements
- Appendix F – Variable Rate Policy Statement

LEGAL BASIS

Pursuant to Section 117 of the Central Bank Act 1989, the 2012 Code is hereby amended as set out below.

CHAPTER 4 – PROVISION OF INFORMATION

The following new provisions are added to Chapter 4 of the Code, after Provision 4.28:

“4.28a A **regulated entity** must produce a summary statement of its policy for setting each variable mortgage interest rate, for those rates that it makes available to a **personal consumer**, excluding a **tracker interest rate**, and update that summary statement when the policy changes.

4.28b A **regulated entity** must ensure that the summary statement produced in accordance with Provision 4.28a:

- i. clearly identifies the factors which may result in changes to the variable interest rate;
- ii. clearly outlines the criteria and procedures applicable to the setting of the variable interest rate;
- iii. clearly outlines where the **regulated entity** applies a different approach to setting the variable interest rate for different cohorts of borrowers and the reasons for the different approach;
- iv. is in such form and contains such content as set out in Appendix F to this Code; and
- v. where a **regulated entity** operates a website, is at all times published on such website.

4.28c Where a **regulated entity** is offering a mortgage with a variable interest rate, excluding a **tracker interest rate**, to a **personal consumer**, the **regulated entity** must provide, with the offer document, a copy of the currently applicable summary statement produced in accordance with Provision 4.28a.

4.28d Where a **regulated entity** makes a change to a summary statement produced in accordance with Provision 4.28a, it must, as soon as possible, provide **personal consumers** to whose mortgage that summary statement applies, with a notification, on paper or on another **durable medium**, setting out the changes, and make available the updated summary statement to those **personal consumers**.”

CHAPTER 6 – POST-SALE INFORMATION REQUIREMENTS

Provision 6.5 (e) has been amended to delete the word 'and' after the words 'balance due'.

Provision 6.5 (f) has been amended to replace '.' with '; and'.

Provision 6.5 has been amended to insert the following subparagraph after Provision 6.5 (f):

“(g) in the case of a mortgage with a variable interest rate, excluding a ***tracker interest rate***:

- i) a summary of other mortgage products provided by the ***regulated entity*** that could provide savings for the ***personal consumer*** at that point in time;
- ii) details of how the ***personal consumer*** can obtain further information on these mortgage products;
- iii) a statement that the ***personal consumer*** should keep their mortgage arrangements under review as there may be other options that could provide savings for the ***personal consumer***;
- iv) a link to the relevant section on the Competition and Consumer Protection Commission’s website relating to switching lenders or changing mortgage type; and
- v) a reminder that the ***regulated entity’s*** summary statement produced in accordance with Provision 4.28a is available on its website.”

Provision 6.6 (c) has been amended to delete the word 'and' after the words 'repayment amount'.

Provision 6.6 (d) has been amended to replace '.' with '; and'.

Provision 6.6 has been amended to insert the following subparagraph after Provision 6.6 (d):

“(e) in the case of an increase in the interest rate on a mortgage with a variable interest rate, excluding a ***tracker interest rate***:

- i) the reason, by reference to the summary statement produced in accordance with Provision 4.28a, for the change in the interest rate;
- ii) a summary of other mortgage products provided by the **regulated entity** that could provide savings for the **personal consumer** at that point in time;
- iii) details of where the **personal consumer** can obtain further information on these mortgage products;
- iv) a statement that the **personal consumer** should keep their mortgage arrangements under review as there may be other options that could provide savings for the **personal consumer**; and
- v) a link to the relevant section on the Competition and Consumer Protection Commission's website relating to switching lenders or changing mortgage type."

APPENDIX F

The following new appendix is inserted after Appendix E:

"APPENDIX F

Variable Rate Policy Statement

Warning: We may change the interest rate on this loan. This means the cost of your monthly repayments may increase or decrease.

What do we consider when setting our variable interest rates?

This section must include the following information:

- *the factors and criteria that the **regulated entity** uses in making a decision on the setting or changing of the variable interest rate. For example, where factors and criteria such as credit risk, cost of funds, operational costs, regulatory requirements, competitive position and environment, profitability and business strategy are relevant they must be included in this explanation in a manner that seeks to explain these factors and criteria in an informative and non-technical manner; and*
- *a statement outlining that variations/changes in the factors and criteria stated under this heading could result in changes to the variable interest rate.*

How do we make decisions when setting variable interest rates?

*This section must include information on the governance processes and procedures applied by the **regulated entity** in setting the variable interest rate. These processes and procedures should be explained at a high level using non-technical terms with a focus on the level within the **regulated entity** at which decisions are made and their frequency on both a normal and extraordinary basis.*

Why do we have different variable interest rates?

*In this section, the **regulated entity** must set out the circumstances when it applies different variable interest rates to different cohorts of **personal consumers** and the reasons why different rates apply to those consumer cohorts.*

Could you get a different type of interest rate or a lower interest rate?

*In this section, the **regulated entity** must encourage the **personal consumer** to consider their mortgage options on a regular basis, note where information on alternative options with the **regulated entity** is available (e.g. a link to the relevant section of their website), and encourage the **personal consumer** to contact them if they consider that there may be a better offer available for them (explaining how the **personal consumer** can do so).*

Instructions to regulated entities when completing their Variable Rate Policy Statement

The Variable Rate Policy Statement must be drafted in a clear, consumer friendly manner and in plain English.

*Before providing the Variable Rate Policy Statement to **personal consumers** or publishing it on its website, the **regulated entity** must first conduct consumer testing on the content to ensure that the content is clear and easily understood. "*

PART 2 - ADDENDUM FOR CONSEQUENTIAL AMENDMENTS TO THE CONSUMER PROTECTION CODE ARISING FROM TRANSPOSITION OF THE MORTGAGE CREDIT DIRECTIVE

Introduction

Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (the Mortgage Credit Directive) was transposed into Irish law by the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016).

Arising from transposition of the Mortgage Credit Directive into Irish law, a number of consequential amendments to the Consumer Protection Code 2012 (the "2012 Code") are required.

For the purposes of giving effect to the consequential amendments, the following parts of the 2012 Code are now amended:

- Chapter 3 – General Requirements
- Chapter 4 – Provision of Information
- Chapter 5 – Knowing the Consumer and Suitability
- Chapter 12 - Definitions

LEGAL BASIS

Pursuant to Section 117 of the Central Bank Act 1989, the 2012 Code is hereby amended as set out below.

CHAPTER 3 – GENERAL REQUIREMENTS

The '**Clarification of Scope**' Section of Chapter 3 is amended to insert the following additional text:

"Mortgage Credit

- a) Provisions 3.17, 3.18 a) and c) and 3.19 do not apply to activities coming within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016).
- b) Provisions 3.16 and 3.32 a) do not apply to the provision of advisory services and credit intermediate services when coming within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016)."

CHAPTER 4 – PROVISION OF INFORMATION

The '**Clarification of Scope**' Section of Chapter 4 is amended to insert the following additional text:

"Mortgage Credit

- a) Provisions 4.54, 4.57, 4.58 and 4.61 do not apply to activities coming within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016).
- b) Provision 4.55 does not apply to the provision of advisory services and credit intermediate services when coming within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016)."

CHAPTER 5 – KNOWING THE CONSUMER AND SUITABILITY

The '**Clarification of Scope**' Section of Chapter 5 is amended to insert the following additional text:

"Mortgage Credit

- a) Provisions 5.4 and 5.13 do not apply to activities coming within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016).
- b) Provision 5.16 c) does not apply to the activities of a creditor coming within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016)."

CHAPTER 12 – DEFINITIONS

The definition of 'mortgage intermediary' is amended to insert the words 'and shall include a ***mortgage credit intermediary***' after the words 'Consumer Credit Act 1995'.

The following definition is hereby inserted into Chapter 12 of the 2012 Code:

"*mortgage credit intermediary*" has the meaning given to it by Regulation 3 of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016);"

PART 3 - ADDENDUM FOR AMENDMENTS TO THE CONSUMER PROTECTION CODE ARISING FROM THE CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION 48) (LENDING TO SMALL AND MEDIUM-SIZED ENTERPRISES) REGULATIONS 2015 (S.I. NO. 585 OF 2015) (THE "REGULATIONS")

Introduction

In December 2015, the Central Bank published new regulations for regulated entities lending to small and medium-sized enterprises. The "Handling Complaints" section of the Regulations reflects the same process for complaints handling as in the Consumer Protection Code 2012 (the "2012 Code"). As such, a consequential amendment to the 2012 Code is required.

For the purposes of giving effect to the amendment, the following part of the 2012 Code is now amended:

- Chapter 10 – Errors and Complaints Resolution

LEGAL BASIS

Pursuant to Section 117 of the Central Bank Act 1989, the 2012 Code is hereby amended as set out below.

CHAPTER 10 – ERRORS AND COMPLAINTS RESOLUTION

The '**Clarification of Scope**' Section of Chapter 10 is amended to insert the following additional text:

"Central Bank's SME Lending Regulations

Provisions 10.7 to 10.12 do not apply to the extent that the complaint is in relation to one or more 'relevant activities' within the meaning of that term in Regulation 2 of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015 (S.I. No. 585 of 2015) and, in respect of such complaint, the provisions of those Regulations with respect to handling complaints apply."

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