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Introductory statement by Philip R. Lane

Governor of the Central Bank of Ireland

At the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach

18 January 2018

I welcome the opportunity to appear before the Committee today to update you on the progress of the Central Bank of Ireland's Tracker Mortgage Examination.

I am joined by Derville Rowland, Director General, Financial Conduct; Ed Sibley, Deputy Governor, Prudential Regulation; and Helena Mitchell, Head of Consumer Protection Supervision Division.

A mortgage is the most significant financial commitment for most people. They have a right to expect their lenders to treat them fairly and honour contractual commitments. The Central Bank's role is to ensure that the best interests of consumers are protected in their dealings with financial firms. That is why, after pursuing tracker issues with a number of individual lenders through extensive supervisory and enforcement work prior to 2015, the Central Bank launched the industry-wide Tracker Mortgage Examination[1].

We did so because the more we learned in our pursuit of those individual issues, and the more concerns were voiced by customers, consumer advocates and public representatives such as yourselves, the more certain we became that an investigation across every lender was required.

As the largest, most complex and most significant consumer protection review undertaken by the Central Bank to date, the Examination has exposed unacceptable failings by lenders on an industry-wide basis and the lack of a consumer-centred culture in lenders. These failings have had a detrimental and, in some cases, devastating impact on many tracker mortgage customers, up to and including the loss of homes and investment properties. It is clear that all lenders did not sufficiently recognise or address the scale of those failings until intervention by the Central Bank. We are using all appropriate powers to force banks to undo the harm caused by their unacceptable failings.

Progress To Date

Unusually for live supervisory work, we have published regular updates on the Examination since its launch in 2015.

When we appeared before the Committee last October, we reported that the Examination had at that point ensured that approximately 13,000 customers would receive redress and compensation as a result of lender failings, together with the 7,100 cases resolved through our work prior to the Examination. We also made clear that more would follow as we challenged lenders to include all

[1] An outline of the Central Bank's policy and supervisory interventions and enforcement activity in relation to tracker mortgage-related issues in the pre-Examination period is contained in the annex to this statement.

customers harmed by mis-handling of tracker mortgages. Last month, we published a progress report provided to the Minister for Finance. Today, we can provide a further update to the Committee based on end-December information.

The end-2017 figures show that lenders have been forced to pay €316 million in redress and compensation. More will follow, as the remainder of the 33,700 customers that were denied tracker products or charged the wrong rates receive redress and compensation and as claims submitted to the independent appeals processes are adjudicated[2].

When we last appeared before you, we outlined the phased structure of the Examination and that lenders had submitted their Phase 2 reports. We made clear we regarded certain reports to be deficient. In particular, we said that certain lenders had left out groups of customers whom, in our view, had been affected by their failures and were therefore entitled to redress and compensation. We emphasised that we would robustly challenge any such deficiency as we moved through our assurance work.

In that work, we scrutinised lenders' reports, undertook on-site inspections, hauled in lenders' senior management and impressed on them the need to take a consumer-focused approach in complying with the Examination.

The result of this intensive engagement is that the issues around the inclusion of disputed groups of customers identified to that point have now been resolved to the satisfaction of the Central Bank.

As a result of our challenge, there has been a large increase in the numbers of customers between October last and today who will be included in redress and compensation schemes – a further 13,600 customers.

In short, the Examination is delivering for consumers.

I wish to acknowledge the work of this Committee and the Minister of Finance & Public Expenditure and Reform in shining the public spotlight on those lenders involved in the Examination, adding to the sustained pressure we have exerted on the lenders since the outset. Like any regulator, the Central Bank is limited by law in the amount of information we can publicly disclose about any regulated financial institution. Much of the pressure we exert on lenders in order to protect consumers must necessarily be done in private until outcomes are final and announced.

Of the initial group of 13,000 customers accepted by lenders up to end-September last, 74% have now received their redress and compensation. The majority of the outstanding customers will receive theirs between now and end-March, with the remainder receiving payment by end-June. €181 million has been paid out to date to these customers, with more to follow.

Of the 13,600 additional customers accepted since October, 29% have received redress and compensation of €87.9m. We expect the remainder to receive their redress and compensation between now and end-June.

[2] 26,600 affected customers identified through the Examination and 7,100 cases remedied following Central Bank intervention outside of the Examination

Lenders are counting the cost of this scandal. In addition to the redress and compensation we require them to pay, these institutions are bearing significant administrative costs to conduct the Examination in line with our requirements. This can be seen in their provisioning statements and their staffing levels. By way of example, the main lenders have now made combined provisions of circa €900 million in respect of the Examination, broken down as approximately €600m for redress and compensation and €300m for costs, while one lender recently disclosed that it had up to 500 people working on its redress scheme. These institutions also must repair damaged reputations, not only as a result of the original mis-handling of tracker mortgages but also due to the partial and delayed engagement of some lenders with the requirements of this Examination.

While the Central Bank's view is that the vast majority of customers have now been identified, we will continue to review, challenge and verify the work undertaken by the lenders and complete our intrusive on-site inspection programme, which is probing lender compliance with all aspects of the Examination framework and gathering evidence to support our enforcement activity.

I acknowledge that this work has taken time to complete and I am conscious of the devastating impact that lenders' failures have had on customers, up to and including the loss of their homes and investment properties.

I acknowledge also that no amount of money will ever fully compensate a person or family for the trauma involved in losing their home.

The Central Bank has heard many distressing personal testimonies from customers who have contacted us. Our awareness of the harm caused to so many families has underpinned our drive to ensure all affected customers receive the appropriate financial redress and compensation, and that we leave no stone unturned in seeking evidence to support enforcement actions.

The scale, range and complexity of the Examination, in addition to the material deficiencies in certain lenders' responses, has required robust and sustained Central Bank intervention. This has resulted in many more customers being included, and lenders significantly improving both their redress and compensation proposals and their independent appeals processes, to the benefit of those affected. While this has meant that the Examination has taken longer than expected, the results are now becoming evident in terms of the numbers of people identified as affected and the scale of redress and compensation being paid.

In tandem with our supervisory work, enforcement work is ongoing.

Enforcement

Four enforcement investigations are currently under way, and we expect that all of the main lenders will face enforcement investigations.

Enforcement investigations are detailed and forensic, and routinely involve the scrutiny of thousands of documents and the conduct of interviews as part of the investigative process, to establish the exact circumstances of matters under investigation.

In our enforcement investigations, the Central Bank will consider all possible angles, including potential individual culpability.

While we are investigating, it is also important to remember that the board members and senior personnel of lenders have significant legal obligations to report potential regulatory breaches to the Central Bank and to report certain potential criminal offences to An Garda Siochána under the Criminal Justice Act 2011.

In that context, we are writing to the board members and senior personnel requiring signed confirmation from them that they are aware of their legal obligations.

Culture Within Lenders

The Central Bank's Consumer Protection Code requires that lenders act in the best interests of their customers. While many lenders publicly state that they put customers first, evidence from the Examination firmly suggests otherwise.

The Examination has exposed the manner in which certain lenders have treated their customers and the degree of regulatory force required to make them rectify such behaviour.

It is clear that significant behavioural and cultural issues and challenges in some of the lenders still exist and that customer interests have not been sufficiently protected or prioritised.

The Minister for Finance has mandated the Central Bank to report on the issue of behaviour and culture within lenders later this year.

We are currently completing our scoping work and the next step is to commence on-site assessments, which will include engagement within each of the lenders at senior management, middle management and staff levels to probe behaviour and cultural issues within lenders.

It is important to note that culture is about more than behaviour. A partial list includes prioritising the best interests of customers, offering responsible products, reviewing board effectiveness, committing to diversity and inclusion and having robust internal audit and risk management procedures. A defining cultural test is how a firm deals with adverse situations: does it make sure that the best interests of customers are protected, even if this damages short-term profitability?

The review will be underpinned by our enhanced Consumer Protection Risk Assessment model, which facilitates us in determining how financial firms identify and manage consumer risks, including the risk that a firm's culture does not promote and support the protection of consumers. The behaviour we witnessed in lenders as part of the Examination very much informed the development of this new model. We are working with the Dutch Central Bank (De Nederlandsche Bank– **'DNB'**), recognised leaders in the supervision of behavior and culture, who will participate with us in on-site inspections at lenders.

The culture of a firm is the responsibility of that firm. In particular, the members of its board should constantly be asking questions of themselves and their firm. Such as: what counts for promotions – high sales figures or high-quality interactions with customers? Are the right products being sold to the right people? How do staff incentives and rewards influence product sales and consumer outcomes? Are the interests of customers taken into account when decisions are made in the boardroom? Is the tone from the top signalling the right values to staff?

These are critical issues which lenders must prioritise and get right if they are to truly reflect a consumer-focused culture.

The Central Bank is effectively using the full range of our powers to deliver for affected customers in relation to the Tracker Examination. We keep under constant review the question of whether additional powers would enable us to deliver more effectively our mission of safeguarding stability and protecting consumers.

In that context, our report into behaviour and culture at lenders will help identify any regulatory enhancements that are required and whether any additional legislative changes are needed.

Another example of how we keep our powers under constant review is our response this month to the Law Reform Commission issues paper on regulatory enforcement and corporate offences.

Payments

Finally, I wish to stress an important message for affected customers receiving their redress and compensation.

The Examination Framework has been designed to ensure affected customers have further options if they believe the redress and compensation offered by their lender is insufficient.

Customers can accept the redress and compensation offered and still make an appeal – they can "cash the cheque" safe in the knowledge that what they have, they hold. Redress and compensation offers cannot be reduced in the event of a customer making an appeal.

Lenders have been required to establish independent appeals panels, specifically to deal with customers who are not satisfied with any aspect of the redress and compensation offers that they receive from lenders.

Together with redress and compensation, affected customers will receive a separate payment which they can use to pay for independent advice regarding the adequacy of their lender's offer.

In line with the State consumer protection framework, all other recourse options are open to customers, such as the Financial Services Ombudsman, who will deal independently with their concerns, or the courts.

Conclusion

The tracker mortgage scandal is unprecedented in its scale and has required an unprecedented regulatory response. Our pursuit of lenders continues to ensure that they include all affected customers and discharge their responsibilities under the Framework. This will continue to involve intrusive supervisory scrutiny, which means we will continue to review, challenge and verify the work undertaken by the lenders and complete our own multi-faceted inspection programme. In parallel, our enforcement investigations will continue.

ENDS

Appendix – Outline of the Central Bank's policy and supervisory interventions and enforcement activity in relation to tracker mortgage-related issues in the pre-Examination period

The Central Bank, as a regulator and supervisor, has a key role in ensuring that there is a strong consumer protection framework in place for consumers and in supervising firms' conduct, under that framework, on a risk- and evidence-basis.

During the period pre-commencement of the Examination, the Central Bank intervened with a number of individual lenders where it was concerned that tracker mortgage customers were not being treated fairly. The Central Bank also kept the regulatory framework, as it relates to tracker mortgage customers, under constant review, leading to much enhanced statutory protections for customers, including those who are in arrears and pre-arrears.

For example, in late 2008 – precisely at the time that trackers were becoming loss-making for lenders - the Central Bank issued a public warning to lenders in respect of their duty to act in the best interests of their customers when recommending a switch from tracker to fixed or variable rate mortgages.

During the period 2010 to 2013, we strengthened the Consumer Protection Code (the "**Code**") and the Code of Conduct on Mortgage Arrears (the "**CCMA**"). Specifically, the CCMA was updated and provides that a lender must only require a borrower who is in arrears or pre-arrears to change from an existing tracker mortgage to another rate as a last resort, and where all other options have been considered to be unsustainable.

Prior to 2015, we pursued tracker mortgage issues with a number of individual lenders and ensured 7,100 cases were resolved in favour of affected customers.

We also took enforcement action against Springboard Mortgages Limited, resulting in a reprimand and monetary penalty of €4.5 million, the highest penalty ever collected by the Central Bank further to an enforcement investigation.

A full history of these interventions can be found in Part II of our March 2017 update on the Tracker Mortgage Examination, which is available together with all previous updates on the Examination here: www.centralbank.ie/consumer-hub/tracker-mortgage-examination