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NPL Update: Report of Mortgage Arrears Review Group published

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The Report of the Interdepartmental Mortgage Arrears Review Group was published this week. The Group first met in October 2023 and examined the Irish framework for dealing with PDH mortgage arrears against the backdrop of a changing interest rate environment and the increased cost of living.

No further changes proposed to the CCMA

The Report doesn't recommend changes to the Central Bank's Code of Conduct on Mortgage Arrears (**CCMA**) (noting that some changes are already planned as part of the Central Bank's current project to revise the Consumer Protection Code). Those planned changes, covered in our April 2024 insights would give borrowers additional information on what alternative repayment arrangements (**ARAs**) are available; include present and future repayment capacity as part of an assessment of potential ARAs; require the provision of information on the sale of a property on foot of a repossession order; introduce a 12-month validity period for a standard financial statement (**SFS**); place further limitations on unsolicited visits; and require further, regular information to borrowers in arrears on the impact of a personal insolvency arrangement (**PIA**). The Central Bank also plans to publish updated guidance on what is meant by *'appropriate'* and *'sustainable'* in the context of ARAs.

Engagement with those in long-term mortgage arrears

A key theme running through the Report is the impact of non-engagement by a segment of those in long-term mortgage arrears (**LTMA**) (any PDH mortgage in > 1 years' arrears). The importance of engagement underpins recommendations for the establishment of an Interagency Mortgage Arrears Forum (focused on trends and policy interventions) and a communications group which would report to that forum on channels for borrower engagement, and how best to optimise awareness and engagement.

The Report's "*strong view [is] that engagement with borrowers needs to be improved*…" This is consistent with the message given by the Central Bank to banks and non-banks earlier this year, when the results of its thematic review highlighted issues with late, incomplete and unclear information, and with how regulated firms engage with and support borrowers facing early mortgage arrears.

Current arrears levels

The Central Bank's latest published statistics on residential mortgage arrears (published in July for Q1 2024) showed that the number of PDH mortgages in arrears decreased slightly, with a reduction in > 90 days' arrears cases (largely attributable to a decrease in the number of 2-5 year arrears cases) somewhat cancelled out by a slight increase in the number of early (< 90 days' arrears) cases. At the end of Q1 2024, 20,258 PDH mortgage accounts were in LTMA. 10% of PDH mortgages in arrears have been in arrears for more than 10 years (12% are in arrears for 5-10 years, and 20% in arrears for 1-5 years).

The level of legal proceedings taken in LTMA cases is also scrutinised in the Report, which notes that 71% of PDH mortgages in any stage of arrears are not subject to legal proceedings. In respect of most of the 57% of arrears cases that are in < 1 years' arrears, this is likely to be because they are still subject to the Mortgage Arrears Resolution Process under the CCMA (and benefitting from the 8-month moratorium on enforcement) or are attempting to negotiate an ARA. Of the 20,258 PDH mortgages in LTMA, 56% involve non-cooperative borrowers. The Report highlights the potentially significant impact of non-cooperative borrowers on the ability of banks and non-banks to make decisions regarding the resolution of those mortgages.

Notable recommendations

While most of the Report's 11 recommendations focus on improving engagement with borrowers and related service standards, improving engagement between stakeholders, and promoting the work of the refreshed Mortgage-to-Rent Scheme and the Abhaile service, two recommendations are particularly notable:

Changes to Personal Insolvency Acts: The Report recommends:

- Removing the €3 million cap on the value of secured debt to qualify for a PIA.
- Introducing procedural changes such as (a) applications for protective certificates being decided by the Insolvency Service (not the courts); (b) a mandatory timeframe for a creditor to object to a borrower's application for a court review of a creditor's decision to veto a PIA proposal; and (c) enabling the court to send suggested amendments to a PIA for a creditors' vote (rather than simply approving / rejecting it).

Court Process: The Report noted feedback from regulated firms to the Central Bank in December 2022 on roadblocks in the court process such as external delays (the need for more court resources); variations between various court circuits (in terms of processes, requirements and timeframes); and lack of borrower engagement (or strategic (non-meaningful / temporary) engagement). Feedback received by the Group from the judiciary and the Courts Service didn't indicate capacity constraints, but the Report recommends that the Central Bank continue to engage with regulated lenders on this.