



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Legal costs on mortgage accounts in arrears – update on outcome of Central Bank intervention

June 2021

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- In early 2019, the Central Bank began an investigation of regulated entities that were applying costs associated with the legal process including third party costs (the costs) to mortgage accounts in arrears and charging interest on those costs.
- The investigation concluded that the practice of applying such costs to a mortgage account prior to the conclusion of repossession proceedings and prior to a decision by a court to award such costs to a regulated entity, was not in borrowers' best interests. It also concluded that at no point should interest be charged on the costs.
- While it is legally permissible to charge the costs in respect of a mortgage account in arrears, and the Central Bank has no legal basis to prevent this, under General Principle 2.1¹ of the Consumer Protection Code, 2012, the Central Bank expects that costs should not be applied to a mortgage account prior to the conclusion of repossession proceedings, or prior to a decision by the court to award such costs to a regulated entity.
- The charging of interest on the costs is contrary to Regulation 29(2) of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (CMCAR). In the interest of treating customers fairly and equally, the Central Bank expects that equivalent protections provided by Regulation 29(2) of the CMCAR should be afforded to all mortgage credit agreements, irrespective of when the agreement was entered into.
- On conclusion of the investigation, the Central Bank issued a letter to all banks, retail credit and credit servicing firms (32 firms in total) setting out these expectations.
- Of these 32 firms, six confirmed that the costs and interest had never been applied and 13 confirmed that this practice was not applicable. The Central Bank engaged with the 13 firms that previously applied the costs to accounts of borrowers in mortgage arrears, prior to the conclusion of repossession proceedings and prior to a decision by a court to award such costs to a regulated entity. Following the Central Bank's intervention, these firms have ended this practice and are now unwinding the costs previously applied to borrowers' accounts and refunding the interest charged on those costs.
- At end February 2021, c32,600 borrowers' accounts were affected, with c€79m costs to be unwound and c€15m interest to be refunded to borrowers.
- We will continue to monitor regulated entities' account reviews, including account adjustments and refunds, which are expected to be complete by the end of 2021, as part of our regular supervisory engagement.

¹ "A regulated entity must ensure that in all its dealings with customers and within the context of its authorisation it acts honestly, fairly and professionally in the best interests of its customers and the integrity of the market."

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