

Briefing  
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# Mortgage Switching: Changes proposed to Consumer Protection Code

## KEY CONTACTS

If you require advice or further information, please contact a member of our team, or your usual Arthur Cox contact.



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The Central Bank is consulting on [mortgage switching and transparency measures](#) with a view to updating its Consumer Protection Code (CPC).

This consultation follows the Central Bank's paper on [Switch and Save in the Irish Market? \(2015\)](#) and its [Mortgage Switching Research Results \(April 2017\)](#).

The proposed measures, which are designed to ensure that transparent and standardised information on mortgage switching and potential savings are provided to consumers, and which will implement a time-frame for mortgage switching, are expected to take effect by way of amendments to the CPC. This follows the changes made to the CPC in July 2016 to provide further protections to variable rate mortgage holders (for further information, read our client briefing: [Variable rate mortgage holders given further protection](#)).

In its Consultation Paper, the Central Bank stressed that new lenders must assess the consumer's creditworthiness at the point in time that the consumer wishes to switch mortgage lenders, rather than relying on their creditworthiness at the time that they applied for their original mortgage loan. It also noted other

measures in the area of mortgage switching, including the [dedicated switching website](#) set up by the Department of Finance, the [Mortgage Comparison Tool](#) on the website of the Competition and Consumer Protection Commission (CCPC) and the CCPC's recent proposals on [Options for Ireland's Mortgage Market](#) (which in particular noted consumers' attitudes towards the switching process).

The Central Bank's proposals are summarised below.

### FIXED RATE MORTGAGE HOLDERS

The lender must tell the consumer, 30 days before the fixed rate period expires, that it is going to expire and what the new rate will be.

If the new rate will not be a tracker rate, the lender must give the consumer information about the other interest rates available, and the other mortgage products available. It must also give the consumer a link to the mortgage comparison tool and switching information provided by the CCPC.

### VARIABLE RATE MORTGAGES BASED ON LTVS

Where a consumer has a variable rate

mortgage, and the variable rate mortgage is based on a loan-to-value (LTV) ratio, the lender must notify the consumer annually as to whether the consumer can move LTV interest rate bands on the provision of an up-to-date valuation.

If the lender does allow movement between LTV bands, it must invite the consumer to contact the lender to discuss this further.

If the lender does not allow movement between LTV bands, it must notify the consumer that lower LTV-based rates may be available from other lenders. It must also give the consumer a link to the mortgage comparison tool and switching information provided by the CCPC.

These provisions will not apply to tracker mortgages.

### INCENTIVES RELATED TO MORTGAGES

A lender must notify a consumer, before the consumer avails of a mortgage from that lender, of the potential impact of any associated incentive on the cost of the consumer's mortgage.

Examples of such incentives are cash advances for the consumer's legal and other professional fees, or offers of a percentage of the mortgage back as cash.

The lender must also give the consumer any other key information that the consumer should have when considering such an incentive.

### INDICATIVE COMPARISONS

To help consumers compare their mortgage to different mortgages, all lenders must provide (on request) an indicative comparison of the total interest payable on a consumer's existing mortgage and the interest payable on the new mortgage or as a result of the alternative interest rate.

If the consumer is proposing to switch lender, an indicative comparison should be provided on request by the

new lender. The original lender will need to provide the indicative comparison on request where the consumer is looking to change interest rate or mortgage product with the same lender.

### STANDARD INFORMATION

All lenders must provide standard information on the mortgage switching process, together with a link to the relevant section on CCPC's website.

The standard information must include, at a minimum, the following:

the lender's mortgage switching guide, including details of the lender's switching process, an explanation of the legal process involved and how the lender will engage with the consumer or its solicitors, and the lender's requirements in respect of insurance;

- » application forms;
- » information on timelines, mortgage process and documents required from the consumer; and
- » confirmation of whether a refusal will negatively impact the consumer's credit rating.

### SWITCHING TIME-FRAMES: ORIGINAL LENDER

The original lender will be required to give redemption figures to the consumer or their legal representative within 3 business days of a request being made.

### SWITCHING TIME-FRAMES: NEW LENDER

The new lender will be required to keep the consumer updated throughout the switching process as follows:

- » it must acknowledge receipt of a switching application within 3 business days;
- » it must tell the consumer what documents it needs to confirm

the consumer's identity, assess the consumer's creditworthiness, and complete the drawdown process;

- » it must acknowledge receipt of each document from the consumer within 3 business days and let the consumer know what documents are outstanding;
- » it must tell the consumer of its decision within 10 business days of receiving all documents (if it will be unable to make a decision within that period, it must give the consumer an expected time-frame for a decision);
- » if the application is approved, the new lender must tell the consumer what documents it needs to complete the drawdown process, and acknowledge each document within 3 business days while letting the consumer know what documents remain outstanding.

### SWITCHING POINT OF CONTACT

The Central Bank will want both the original lender and new lender to have clear points of contact for any switching enquiries.

### OTHER NOTABLE POINTS

#### *Legal process*

While the Central Bank's research indicated that 28% of consumers had encountered delays with the legal process involved in mortgage switching, the Central Bank noted that the legal process was outside of its remit, but that it would welcome any initiatives of developments that could enhance that process.

#### *Code of conduct*

While the [2016 Programme for Partnership Government](#) included a commitment to develop a code of conduct for mortgage switching, the Central Bank's view is that the better approach is to amend the CPC, rather than developing a separate stand-alone code.

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**NEXT STEPS**

The consultation will close for comment on 1 November 2017.

As mentioned in our recent briefing: [MiFID II: Department of Finance publishes Feedback Statement on MiFID II Consultation](#), amendments to the CPC have also been signposted by the Department of Finance in connection with the exercise of the discretion in Article 3(1) of MiFID II to exempt, from the scope of MiFID II, persons who meet the conditions in Article 3(1)(a), (b) and (c).

It remains to be seen whether the CPC will be updated once only to cover both MiFID II and the results of this consultation on mortgage switching.