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FINANCE

COVID-19: Payment Breaks Extended to Six Months

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As expected, on 30 April 2020 the Banking & Payments Federation (Ireland) (**BPFI**) announced the extension of the three-month payment breaks announced by lenders on 18 and 19 March 2020 by a further three months. By way of reminder, the payment breaks were first agreed under a joint plan formulated by the five Irish retail banks. As such, they are non-legislative in nature.

On 18 March 2020, the BPFI announced on behalf of the five retail banks (AIB, Bank of Ireland, KBC, permanent tsb and Ulster Bank) that a range of supports would be put in place by those banks, including three-month payment breaks, for personal and business customers impacted by the COVID-19 pandemic. On 19 March 2020, eight other regulated non-bank lenders and credit servicers also agreed to make those payment breaks available. Further information on the original announcements is set out in our briefing of 20 March 2020: COVID-19: Supports announced for affected customers of banks and other lenders.

According to the BPFI, more than 65,000 mortgage payment breaks, and more than 22,000 payment breaks for SMEs, have been granted since the payment breaks were first announced.

In light of the ongoing public health measures and their potential impact on personal and business customers, the BPFI announced on 30 April that the payment breaks would be extended to six months for customers who continue to be impacted by the COVID-19 pandemic. This extension will also benefit customers who are impacted by the pandemic but have not yet applied for a payment break.

Detailed guidance is expected to be made available by both the BPFI and the banks over the coming days.

EBA Guidance

We highlighted in our earlier briefing (COVID-19: Supports announced for affected customers of banks and other lenders) the importance of receiving clarification from the European Banking Authority (**EBA**) that loans in respect of which COVID-19 payment breaks are granted will not be re-classified as non-performing/in forbearance solely as a result of those payment breaks.

On 2 April 2020, the EBA published its Guidelines on legislative and non-legislative moratoria on loan repayments applied in light of Covid-19 (the **Guidelines**). The Guidelines helpfully clarify when a payment break:

- will not trigger a forbearance classification for the relevant loan; and
- will not be treated as a distressed restructuring of the relevant loan.

We will be publishing a more detailed briefing on the Guidelines shortly. Provided that the criteria set out in the Guidelines are met, a loan in respect of which a COVID-19 payment break (of the type announced by the BPFI) is granted will not be re-classified as non-performing/in forbearance solely as a result of that payment break.

Central Bank's Expectations

While these payment breaks are non-legislative in nature, the Central Bank of Ireland has set out its expectations regarding how the relevant lenders can ensure that the payment breaks operate in the best interests of borrowers.

When an agreed payment break ends, the Central Bank expects borrowers who are in a position to return to making full repayments to be given the option to:

- repay the loan within its remaining term; or
- extend the term of the loan,

with the impact of both options on the overall cost of credit and monthly repayments being fully explained to the borrower.

Where a borrower chooses to exit a payment break at any stage, the Central Bank expects the relevant lender to:

- engage with that borrower; and
- ensure that appropriate sustainable solutions, including forbearance, are available to that borrower.

The Central Bank also expects lenders to make a prudent assessment of the distress levels in their loan portfolios and reflect this in their provisioning levels (even though provisions may not yet have been taken at individual borrower level).

Central Credit Register

The Central Bank has confirmed that a six-month payment break will not be specifically identified on a borrower's credit report with the Central Credit Register.

Deferral of Court Proceedings

While the retail banks and other regulated firms that offer payment breaks also agreed in March 2020 to defer court proceedings by three months, that three-month period has not been extended at the time of writing. Further information on the three-month deferral is set out in our Litigation Group's briefing of 25 March 2020: COVID-19 Practical Considerations: Court proceedings to be deferred for borrowers.

Comment

Through these measures, the retail banks and the main regulated non-bank lenders and credit servicers have responded quickly to assist customers in potential payment difficulties, and have adjusted their supports to take account of the duration of the public health measures introduced by the Government. The announcements do not apply to unregulated lenders and it remains to be seen whether they will provide similar supports on a voluntary basis. The measures taken are similar to measures introduced in other European countries.

Securitisations of Irish residential mortgages and SME loans are expected to face their own unique challenges. It is anticipated that market participants will work together to minimise the impact of the temporary measures on the functioning of an effective securitisation market, which continues to be a vital funding tool.

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