FINANCE

COVID-19 Payment Breaks: Active engagement and tailored sustainable solutions remain the Central Bank's priorities

9 December 2020

The European Banking Authority has reactivated its Guidelines on Payment Moratoria. While this has no direct impact in Ireland (the ability to apply for the Irish industry-wide payment breaks introduced in March 2020 ended on 30 September 2020), the Central Bank of Ireland has taken this opportunity to remind lenders and borrowers of the need for effective early engagement, and the importance of supporting borrowers on a case-by-case basis.

As mentioned in our recent briefing (COVID-19 Payment Breaks: Looking back, and looking ahead), most borrowers began to roll-off payment breaks granted under the March 2020 industry-wide scheme at the end of September 2020. That coincided with the 21 September 2020 announcement by the European Banking Authority (**EBA**) that it would phase out its Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis (**the Guidelines**). The beneficial regulatory treatment set out in the Guidelines continued to apply to all eligible payment breaks granted before 30 September 2020 to avoid any sudden need to re-classify the relevant loans as in forbearance.[1]

EBA Reactivates Guidelines

The EBA announced last week that it is reactivating the Guidelines, which will remain in place until 31 March 2021. These Guidelines were relevant to the five Irish retail banks that granted payment moratoria under the industry-wide scheme announced in March 2020[2], as that scheme was a "*general payment moratorium*" for the purposes of the Guidelines. The Irish scheme closed to new applications on 30 September 2020, meaning that there is no "*general payment moratorium*" in place in Ireland at the moment to which the reactivated Guidelines apply. Instead, the focus in Ireland is on active lender-borrower engagement, and the implementation of appropriate and sustainable solutions on a case-by-case basis.

Central Bank Expects Active Engagement and Sustainable Solutions

In June 2020, the Central Bank of Ireland (**Central Bank**) confirmed its supervisory expectations to the CEOs of the regulated lenders that offered payment breaks. Active engagement with borrowers, transparent communication, and the timely identification of appropriate and sustainable solutions for borrowers who remain in financial difficulties were its key focus areas. For more information, read our briefing: COVID-19: Payment Breaks – Central Bank Confirms Supervisory Expectations.

Central Bank Deputy Governor Ed Sibley clarified in a speech on 28 September 2020 that there was no regulatory impediment to lenders offering further payment breaks on a case-by-case basis after 30 September 2020, provided that it is appropriate to do so. He also highlighted that the Central Bank expects the boards and senior management of all regulated lenders to ensure that those lenders are proactively engaging with retail and SME borrowers to assess repayment capacity and establish whether additional forbearance is needed, and whether the relevant loan can be restructured or otherwise resolved.

The Central Bank reiterated those messages last week, and highlighted the EBA's observation that where repayments are postponed, suspended or reduced for long periods, borrowers who encounter severe financial difficulties are less likely

1 For further information on the EBA Guidelines, read our earlier briefings: COVID-19: EBA Guidelines on Payment Moratoria, COVID-19: EBA Guidelines on Payment Moratoria: Application to Securitisations and COVID-19: EBA extends application of Guidelines on Payment Moratoria.

2 See our earlier briefings for further details: COVID-19: Supports announced for affected customers of banks and other lenders and COVID-19: Payment Breaks Extended to Six Months.

to receive the immediate, tailored advice and support that they need. It noted that approximately 24,000 borrowers remained on payment breaks at the end of October 2020, and that this number continued to reduce in November 2020 (payment breaks were granted for > 220,000 loans under the Irish industry-wide scheme (> 152,000 of those loans were to Irish borrowers)).

The importance of early lender-borrower engagement and tailored solutions was also emphasised by the Banking & Payments Federation (Ireland) (**BPFI**) last week. The BPFI also took the opportunity to remind borrowers that while payment breaks granted under the March 2020 industry-wide scheme did not need to be recorded on the Central Credit Register, other payment breaks and alternative repayment arrangements do now need to be recorded.

Comment

The Central Bank previously signalled that regulated lenders can expect intrusive engagement to ensure that they are meeting the Central Bank's expectations regarding the treatment of borrowers in financial difficulties. It noted last week that regulated lenders have increased their capacity and capability to support, on a case-by-case basis, borrowers impacted by the COVID-19 pandemic. For borrowers whose loan arrears are with regulated lenders, this, together with the well-capitalised nature of the Irish banking sector, and the well-embedded arrears handling processes in place across the relevant regulated lenders in line with their obligations under the Consumer Protection Code, the Code of Conduct on Mortgage Arrears and the SME Regulations should provide some comfort as we head into a period where residential and commercial loan arrears may increase considerably. The picture is less clear however for SME or commercial borrowers whose loan arrears are with unregulated lenders.

KEY CONTACTS

Glenn Butt
Partner
+353 1 920 1197
glenn.butt@arthurcox.com

Darragh Geraghty
Partner
+353 1 920 1045
darragh.geraghty@arthurcox.com

Orla O'Connor
Partner, Chair of the firm
+353 1 920 1181
orla.oconnor@arthurcox.com

Brendan Wallace
Partner
+353 1 920 1069
brendan.wallace@arthurcox.com

Robert Cain
Partner
+353 1 920 1050
robert.cain@arthurcox.com

Gráinne Hennessy
Partner
+353 1 920 1202
grainne.hennessy@arthurcox.com

Niamh Quinn
Partner
+353 1 920 1189
niamh.quinn@arthurcox.com

Maedhbh Clancy
Of Counsel
+353 1 920 1225
maedhbh.clancy@arthurcox.com

Phil Cody
Partner, Head of New York Office
+1 212 782 3290
phil.cody@arthurcox.com

Cormac Kissane
Partner, Head of Finance
+353 1 920 1186
cormac.kissane@arthurcox.com

Ultan Shannon
Partner
+353 1 920 1188
ultan.shannon@arthurcox.com

Declan McBride
Of Counsel
+353 1 920 1065
declan.mcbride@arthurcox.com

Matt Dunn
Partner
+353 1 920 2020
matt.dunn@arthurcox.com

Kevin Lynch
Partner
+353 1 920 1199
kevin.lynch@arthurcox.com

Imelda Shiels
Partner
+353 1 920 1070
imelda.shiels@arthurcox.com

Sinéad Cantillon
Professional Support Lawyer
+353 1 920 1083
sinead.cantillon@arthurcox.com

Kathleen Garrett
Partner
+44 207 832 0205
kathleen.garrett@arthurcox.com

David Molloy
Partner, Head of London Office
+44 207 832 0207
david.molloy@arthurcox.com

Aiden Small
Partner
+353 1 920 1072
aiden.small@arthurcox.com