

S.I. No. of 20[]

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION 48)
(CONDUCT OF BUSINESS) REGULATIONS 20[]

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S.I. No. of 20[]

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013 (SECTION 48)
(CONDUCT OF BUSINESS) REGULATIONS 20[]

In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 48 of the Central Bank (Supervision and Enforcement) Act 2013 (No. 26 of 2013) (the “Act”), the Bank, having consulted, in accordance with section 49 of the Act, with the Minister for Finance, the Minister for Enterprise, Trade and Employment and other persons that the Bank considers appropriate to consult in the circumstances, hereby makes the following regulations:

Part 1

PRELIMINARY AND GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the [Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Conduct of Business) Regulations 20[]].

(2) [These Regulations come into operation on [day in numeral] [month in words] [year in numeral].]

Interpretation

2. (1) In these Regulations –

“account information service” has the meaning given to it in Article 4 of Directive 2015/2366/EU of the European Parliament and of the Council of 25 November 2015¹;

“Act of 1942” means the Central Bank Act 1942 (No. 22 of 1942);

“Act of 1995” means the Consumer Credit Act 1995 (No. 24 of 1995);

“Act of 1997” means the Central Bank Act 1997 (No. 8 of 1997);

“Act of 2014” means the Companies Act 2014 (No. 38 of 2014);

“Act of 2015” means the Assisted Decision-Making (Capacity) Act 2015 (No. 64 of 2015);

¹ OJ No. L 337, 23.12.2015, p.35.

“advertisement” means any communication in respect of a regulated financial service provider, which is addressed to the consumer public or a section of it, the purpose being to advertise a regulated activity or a regulated financial service provider the subject of these Regulations, excluding name plaques, material that only communicates the regulated financial service provider’s brand name rather than the promotion of a specific financial service, and a prospectus drawn up in accordance with the Prospectus Regulation;

“advertised financial service” means the financial service that is the subject of an advertisement;

“arrears” arise where a personal consumer -

- (a) has not made a full repayment of all outstanding amounts due, or only makes a partial repayment of any such amount, as set out in the original loan account contract, by the scheduled due date, or
- (b) in the case of a credit card account, has not made the minimum repayment by the due date for such repayment,

and “in arrears” means a situation in which arrears have arisen.

“associate” in relation to a person (the “first person”) means -

- (a) an undertaking in the same group as that first person,
- (b) any other person whose business, private or familial relationship (other than as arises solely because that person is a client of the firm) with the first person or its associate might reasonably be expected to give rise to a common interest between them which may involve a conflict of interest in dealings with third parties, or
- (c) any other persons whose business, private or familial relationship (other than as arises solely because that person is a client of the firm) with the first person is such that he or she has influence over the first person’s judgment as to how to invest the first person’s property or exercise any rights attaching to the first person’s investments;

“associated undertaking” means an associated undertaking within the meaning of the Act of 2014;

“Bank” means Central Bank of Ireland;

“BNPL” means buy now pay later;

“BNPL agreement” means an agreement for the provision of credit, as defined in section 28 of the Act of 1997, indirectly to a consumer for the purchase of goods or services from a vendor, whereby the provider of the credit makes a payment to the vendor in respect of the goods or services and the consumer owes an equivalent amount to the provider of the credit;

“bundle” means the bundle referred to in the definition of “bundling”;

“bundling” means the packaging of 2 or more distinct products into a bundle, where each of these products can be purchased separately from or through the regulated financial service provider;

“Central Credit Register” means the Central Credit Register referred to in section 5 of the Credit Reporting Act 2013 (No. 45 of 2013);

“certified person” has the meaning given to it in section 55 of the Investment Intermediaries Act 1995 (No. 11 of 1995);

“charge” means any cost or fee which a consumer must pay in connection with a financial service provided by a regulated financial service provider;

“claimant” means any of the following:

- (a) a consumer making a claim under an insurance policy;
- (b) a person (in this definition referred to as a “third party”) making a claim of liability against another person (in this definition referred to as the “policyholder”), in circumstances where -
 - (i) the insurance undertaking with whom the policyholder is insured is handling the claim made by the third party, and
 - (ii) but for the fact that the third party may not be a customer of the insurance undertaking referred to in subparagraph (b)(i), the third party otherwise meets the definition of a consumer;
- (c) an actual or potential beneficiary under an insurance policy who is making a claim under that policy and who, but for the fact that the beneficiary may not be a customer of the relevant insurance undertaking, otherwise meets the definition of a consumer;

“complaint” refers to an expression of grievance or dissatisfaction by a consumer, either orally or in writing, in connection with -

- (a) the provision or the offer of the provision of a financial service to a consumer by a regulated financial service provider, or
- (b) the failure or refusal of a regulated financial service provider to provide a financial service to a consumer;

“connected party” shall, except where otherwise stated, include –

- (a) a partner, officer, controller, associated undertaking, related undertaking or subsidiary undertaking or employee of the regulated financial service provider, including any associate of the person concerned, and
- (b) in the case of a high cost credit provider, includes, in addition to paragraph (a), a person authorised to engage in the business of high cost credit on behalf of a high cost credit provider, including any associate of the person concerned;

“consumer” means, subject to paragraph (4), a customer that is -

- (a) a natural person,
- (b) a group of natural persons, including a partnership, club, charity, trust or other unincorporated body, or
- (c) an incorporated body, that is not –
 - (i) an incorporated body that had an annual turnover in excess of €5 million in the previous financial year, or
 - (ii) an incorporated body that is a member of a group of companies having a combined turnover greater than €5 million,

and includes, where appropriate, a potential “consumer” within the above meaning.

“consumer-hire agreement” has the meaning given to it in section 2 of the Act of 1995;

“consumer in vulnerable circumstances” means a consumer that is a natural person and whose individual circumstances make that consumer especially susceptible to harm, particularly where a regulated financial service provider is not acting with the appropriate levels of care, and ‘vulnerable circumstances’ shall be construed accordingly;

“credit institution” means an undertaking which satisfies point (a) of the definition of ‘credit institution’ in Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013²;

“Crowdfunding Regulation” means Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020³.

“crowdfunding service” has the meaning given to it in Article 2 of the Crowdfunding Regulation;

“crowdfunding service provider” has the meaning given to it in Article 2 of the Crowdfunding Regulation;

“customer” means -

- (a) any person to whom a regulated financial service provider provides or offers financial services,
- (b) any person who requests the provision of financial services from the regulated financial service provider,
- (c) a relevant borrower in a case where a regulated financial service provider undertakes credit servicing in respect of the credit agreement concerned, or
- (d) a hirer in a case where a regulated financial service provider undertakes credit servicing in respect of the consumer-hire agreement or hire-purchase agreement concerned.

"debt management firm" has the meaning given to it by Section 28 of the Act of 1997;

“debt management services” has the meaning given to it by section 28 of the Act of 1997;

“deposit agent” means any person who holds an appointment in writing from a single credit institution enabling him to receive deposits on behalf of that institution and prohibiting him from acting in a similar capacity on behalf of another credit institution;

² OJ L 176, 27.6.2013, p. 1

³ OJ L 347, 20.10.2020, p. 1

“deposit broker” means any person who brings together with credit institutions persons seeking to make deposits in return for a fee, commission or other reward;

“digital platform” means an online system through which contracts can be concluded to provide financial services to consumers, or a website or application that provides access to consumers to conclude contracts for the provision of financial services;

“Distance Marketing Regulations” means European Communities (Distance Marketing of Consumer Financial Services) Regulations, 2004 (S.I. No. 853 of 2004);

“durable medium” means any instrument that enables a recipient to store information addressed personally to the recipient in a way that renders it accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

“electronic money” has the meaning given to it in Regulation 3 of the European Communities (Electronic Money) Regulations 2011 (S.I. No. 183 of 2011);

“employee” means a person employed under a contract of service or a person otherwise employed by a regulated financial service provider;

“fair analysis of the market” means providing services on the basis of a sufficiently large number of contracts or investment products and product producers available on the market to enable the intermediary to make a recommendation, in accordance with professional criteria, regarding which contract or investment product would be adequate to meet the consumer’s needs;

“financial abuse” means any of the following:

- (a) the wrongful or unauthorised taking, withholding, appropriation, or use of a consumer’s money, assets or property;
- (b) any act or omission by a person, including through the use of a power of attorney, guardianship, or any other authority regarding a consumer, to –
 - (i) obtain control, through deception, intimidation or undue influence, over the consumer’s money, assets or property, or
 - (ii) wrongfully interfere with or deny the consumer’s ownership, use, benefit or possession of the consumer’s money, assets or property;

“financial services” include financial products;

“Financial Services and Pensions Ombudsman” has the meaning given to it in section 2(1) of the Act of 1942;

“group” includes, unless otherwise specified, a company, its parent and its subsidiaries and any associated undertaking or related undertaking;

“high cost credit” has the meaning given to it in section 2 of the Act of 1995;

“high cost credit provider” has the meaning given to it in section 2 of the Act of 1995 and includes a representative of a high cost credit provider;

“hire-purchase agreement” has the meaning given to it in section 2 of the Act of 1995;

“home reversion agreement” has the meaning given to it in section 28 of the Act of 1997;

“information barriers” means an arrangement within the regulated financial service provider, or between the regulated financial service provider and any associate of that regulated financial service provider, which requires information held, or the fact of information held by the regulated financial service provider, or as the case may be, any associate of that regulated financial service provider, or a particular operating unit within the regulated financial service provider or within any associate of that regulated financial service provider in the course of carrying on one part of its business of any kind, to be withheld and properly segregated in certain circumstances from other operating units or from persons with whom it deals in the course of carrying on another part of its business of any kind in order to preserve the confidentiality of the information and avoid a potential conflict of interests;

“Insurance and Reinsurance Regulations” means the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015);

“Insurance Distribution Regulations” means the European Union (Insurance Distribution) Regulations 2018 (S.I. No. 229 of 2018);

“insurance-based investment product” has the meaning given to it by Regulation 2 of the Insurance Distribution Regulations;

“insurance distributor” has the meaning given to it by Regulation 2 of the Insurance Distribution Regulations;

“insurance intermediary” includes insurance intermediaries and ancillary insurance intermediaries that are subject to the Insurance Distribution Regulations;

“insurance undertaking” means an insurance undertaking within the meaning of, as appropriate, Regulation 3 of the Insurance and Reinsurance Regulations, Regulation 2 of the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. 359 of 1994), and Regulation 2 of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);

“interest-only mortgage” means a mortgage loan for which a consumer makes interest repayments to a regulated financial service provider for a specified period and no capital repayments during that same period;

"introductory interest rate" means an interest rate favourable to the consumer that applies for a specified period of time at the beginning of the contract;

“investment product” means:

- (a) an “investment instrument” within the meaning of section 2 of the Investment Intermediaries Act 1995, and
- (b) an insurance product which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations but does not include -
 - (i) non-life insurance products as listed in Annex I to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009⁴, and
 - (ii) life insurance contracts where the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or infirmity;

“key information” means any information which is likely to influence a consumer’s actions with regard to a financial service;

⁴ OJ No. L 335, 17.12.2009, p. 1

“life insurance” means insurance of a class falling within Schedule 2 to the Insurance and Reinsurance Regulations or Annex I to the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);

“lifetime mortgage” means a loan secured on a borrower’s home where -

- (a) interest payments are rolled up on top of the capital throughout the term of the loan,
- (b) the capital is repaid on a specified event or events, or by repayments as detailed in the terms of the loan, and
- (c) the borrower retains ownership of their home whilst living in it;

“limited analysis of the market” means providing services on the basis of a limited number of contracts and product producers available on the market, that is to say, while not tied to one product producer the services are not provided on the basis of a fair analysis of the market;

“MABS” means the Money Advice and Budgeting Service established by the State to provide money advice services;

“Member State” means a state which is a member of the European Union and, where relevant, includes a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992 (as adjusted by the Protocol signed at Brussels on 17 March 1993), as amended;

“MiFID Article 3 services” means the services specified in Regulation 4(3) of the MiFID Regulations 2017, transposing Article 3(1)(b) and Article 3(1)(c) of Directive 2014/65/EU;

“MiFID Delegated Regulation” means Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council⁵;

“MiFID Regulations 2017” means the European Union (Markets in Financial Instruments) Regulations 2017 (S.I. No. 375 of 2017);

“minor non-monetary benefit” means such minor non-monetary benefit that is capable of enhancing the quality of the service provided to a consumer and is of a scale and nature such that it could not be judged to impair compliance with a regulated financial service provider’s duty to act in the best interest of the consumer;

⁵ OJ L 87, 31.3.2017, p. 1

“mortgage borrower” includes all individuals that are parties named on the mortgage loan account;

“mortgage intermediary” has the meaning specified in section 2 of the Act of 1995 and shall include a mortgage credit intermediary within the meaning of Regulation 3 of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016);

“non-life insurance” means insurance of a class falling within Part 1 of Schedule 1 to the Insurance and Reinsurance Regulations or Part A of Annex I to the European Communities (Non-Life Insurance) Framework Regulations 1994 (S.I. No. 359 of 1994);

“officer” has the meaning given to it in section 28 of the Act of 1997;

“outsourced activity” is an activity where a regulated financial service provider employs another person, other than a natural person who is an employee of the regulated financial service provider under a contract of service, to carry out the activity on its behalf;

“payment service” has the meaning given to it in Article 4 of Directive 2015/2366/EU of the European Parliament and of the Council of 25 November 2015;

“person” means, unless otherwise specified, a natural person or a legal person;

“personal consumer” means a consumer who is a natural person acting outside his or her business, trade or profession;

“power of attorney” has the meaning given to it in the Powers of Attorney Act 1996 (No. 12 of 1996);

“PRIIPs Regulation” means Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014⁶;

“product producer” means any regulated financial service provider that produces, manufactures or packages a product of a financial or investment nature, and is not limited to a product producer as defined in the Investment Intermediaries Act 1995;

⁶ OJ L 352, 9.12.2014, p. 1

“Prospectus Regulation” means Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017⁷;

“protection policies” includes the following:

- (a) policies of non-life insurance;
- (b) policies of life insurance of classes 1, 3 or 4 as set out in Schedule 2 to the Insurance and Reinsurance Regulations, or classes I, III or IV as set out in Annex I to the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994), where the purpose and intention of the policy is solely to provide benefits on death or in respect of incapacity due to injury, sickness or disability;

“record” means any document, file or other record of information, whether stored electronically or otherwise, and which is capable of being reproduced in a legible form;

“regulated activities” means the provision of financial services that are provided in this State by a regulated financial service provider and which are subject to the regulation of the Bank and a “regulated activity” is the provision of any one such financial service;

“related undertaking” means -

- (a) companies related within the meaning of section 2(10) of the Act of 2014,
- (b) undertakings where the business of those undertakings is carried on in such a way that the separate business of each undertaking, or a substantial part thereof, is not readily identifiable, or
- (c) undertakings where the decision as to how and by whom each shall be managed can be made either by the same person or by the same group of persons acting in concert;

“residential property” has the meaning given to it in Regulation 2(1) of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Housing Loan Requirements) Regulations 2022 (S.I. No. 546 of 2022);

“terms of business” means the document in which a regulated financial service provider sets out the basis on which it will conduct business with consumers;

⁷ OJ L 168, 30.6.2017, p. 12

“tracker bond” means a deposit or life insurance policy which has either or both of the following features:

- (a) it provides for a minimum payment, at the expiration of a specified period of time, of a specified percentage of the amount of capital invested by a consumer in the product;
- (b) it provides for a potential cash bonus payable after a specified period of time, which is linked to, or determined by, changes over the period of investment in the level of one or more recognised stock market indices, commodity prices, any other recognised financial indices or the price of one or more securities specified at the outset or from time to time;

“tracker interest rate” means a mortgage interest rate which tracks a rate which comes from a publicly available source which can be verified by both the consumer and the regulated financial service provider, including without limitation, a rate that tracks the European Central Bank main refinancing operations rate;

“variable-share contract” means a home reversion agreement where the portion of the property held by the regulated financial service provider changes during the term of the home reversion agreement;

“working day” means a day which is not a Saturday, Sunday or public holiday.

(2) Unless otherwise stated –

- (a) references to provision of products and services means provision of financial services the subject of these Regulations, and
- (b) references to the provision of services in these Regulations include the provision of advice.

(3) For the purposes of the definition of “customer” in paragraph (1), “relevant borrower”, “credit servicing”, “credit agreement”, “consumer-hire agreement”, “hire-purchase agreement” and “hirer” have the same meaning as in Part V of the Act of 1997.

(4) Where a high cost credit provider is engaged in the activity of providing high cost credit, “consumer” means a consumer within the meaning of the Act of 1995.

Scope and application

3. (1) These Regulations apply to the regulated activities of regulated financial service providers operating in the State.

(2) Subject to paragraph (1), unless specified in an individual Regulation, Chapter or Part, these Regulations apply in respect of -

- (a) customers in the State that are consumers or, where specified, personal consumers, mortgage borrowers, or consumers within the meaning of the Act of 1995, and
- (b) insofar as concerns Chapter 10 of Part 4, unless otherwise specified in the context of an individual regulation of that Chapter, claimants in the State.

(3) Where these Regulations apply, the application of these Regulations is further subject to Regulations 4 to 13.

(4) These Regulations do not apply in the circumstances referred to in Regulation 14.

Restricted application where European Communities (Consumer Credit Agreements) Regulations 2010 apply

4. (1) Where a regulated financial service provider is providing credit under credit agreements which fall within the scope of the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010), then only the following provisions of these Regulations, in addition to this Part and Part 6, apply to that regulated financial service provider:

- (a) The following provisions of Part 2:
 - (i) Regulations 19 to 28;
 - (ii) Chapters 3 and 4;
 - (iii) Regulations 46 to 48;
 - (iv) Regulations 73(1) to 73(5);
 - (v) Chapter 8;
 - (vi) Chapters 10 to 15;
- (b) The following provisions of Part 3:
 - (i) Regulation 139;
 - (ii) Regulation 167;
 - (iii) Chapters 3, 5, 7 and 10;
- (c) Chapter 3 of Part 4;
- (d) Chapter 5 of Part 5.

(2) This Regulation applies subject to Regulation 6.

Restricted application where European Union (Consumer Mortgage Credit Agreements) Regulations 2016 apply

5. (1) The following Regulations do not apply to activities within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016:

- (a) Regulation 15(11);

- (b) Regulation 29, Regulation 30 and Regulation 32;
- (c) Regulation 63;
- (d) Regulation 68;
- (e) Regulation 92 and Regulation 93;
- (f) Regulation 132(4);
- (g) Regulation 166(a) and Regulation 166(c).

(2) The following Regulations do not apply to the provision of advisory services and credit intermediate services when within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016):

- (a) Regulation 26(a);
- (b) Regulation 69;
- (c) Regulation 165.

Restricted application to high cost credit providers

6. Where a high cost credit provider is engaged in the activity of providing high cost credit, only the following provisions of these Regulations, in addition to this Part and Part 6, apply to that high cost credit provider:

- (a) The following provisions of Part 2:
 - (i) Chapter 3 of Part 2;
 - (ii) Regulation 47, Regulation 51 and Regulation 52;
 - (iii) Regulation 73(1) to Regulation 73(5), and Regulation 74;
 - (iv) Regulation 76, Regulation 79(1)(a), Regulation 79(1)(b), Regulation 79(2)(a) to Regulation 79(2)(g), Regulation 80, Regulation 81, Regulation 82(a), Regulation 82(d), Regulation 87(a), Regulation 87(c), Regulation 87(d) and Regulation 89;
 - (v) Chapters 11, 12 and 14 of Part 2;
 - (vi) Regulation 121, Regulation 122, and Regulation 130;
- (b) The following provisions of Part 3:
 - (i) Chapter 8 of Part 3;
 - (ii) Regulation 275;
 - (iii) Chapter 11 of Part 3.

Restricted application to credit unions

7. These Regulations apply to credit union activities only when acting as insurance intermediaries.

Restricted application in respect of relevant activities related to SMEs

8. Chapter 12 of Part 2, and Regulation 117(1)(m) do not apply to the extent that the complaint is in relation to one or more “relevant activities” within the meaning of that term in Regulation 2 of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Lending to Small and Medium-Sized Enterprises) Regulations 2015 (S.I. No. 585 of 2015).

Restricted application where providing payment services or issuing electronic money

9. (1) Where a regulated financial service provider is providing payment services or issuing electronic money, only the following provisions of these Regulations, in addition to this Part and Part 6, apply to that regulated financial service provider:

- (a) The following provisions of Part 2:
 - (i) Regulations 21 to 28;
 - (ii) Chapters 3 and 4;
 - (iii) Regulation 73(1) to 73(6);
 - (iv) Chapter 8;
 - (v) Regulation 76, and Regulations 79 to 90;
 - (vi) Chapters 10 to 13;
 - (vii) subparagraphs (a) (b), (c), (d), (e), (f), (j), (k), (m) and (n) of Regulation 117(1), and Regulations 119 to 120;
 - (viii) Regulations 121 and 122;
- (b) The following provisions of Part 3:
 - (i) Regulations 157 and 158;
 - (ii) Regulation 166;
 - (iii) Chapter 10 of Part 3.

(2) Paragraph (1) is subject to Regulation 10, Regulation 99(2), Regulation 100(3), and Regulation 107(5).

Restricted application to regulated financial service providers providing solely account information services

10. Where a regulated financial service provider is providing solely account information services, Chapter 12 of Part 2, and Regulation 117(1)(m) do not apply to that regulated financial service provider.

Restricted application to insurance distributors and insurance-based investment products

11. (1) Regulation 26, Regulation 61, Regulation 63, Regulations 92 to 93, and Chapter 5 of Part 5 do not apply to insurance distributors;

(2) Regulation 21, Regulation 23, Regulation 25, Regulations 27 to 28 and Regulation 68 do not apply to the distribution of insurance-based investment products;

(3) Chapter 1 of Part 2 does not apply to the provision of advice on insurance-based investment products;

Restricted application to packaged retail and insurance-based investment products

12. Regulations 61, 371, and 376, and Schedule 7 do not apply in relation to packaged retail and insurance-based investment products within the scope of the PRIIPs Regulation.

Restricted application to crowdfunding services

13. Where a regulated financial service provider is providing crowdfunding services then only the following provisions of these Regulations, in addition to this Part and Part 6, apply to that regulated financial service provider:

- (a) The following provisions of Part 2: Regulation 73(7), Regulation 76, Regulations 79 to 81, Regulation 82(a), Regulation 82(d), Regulations 83 to 86, Regulation 87(a), Regulation 87(c), Regulation 87(d), and Regulations 89 to 91;
- (b) The following provisions of Part 5: Regulation 386, Regulation 389, Regulation 391, and Regulation 396.

Circumstances in which these Regulations do not apply

14. These Regulations do not apply to the following:

- (a) services provided by regulated financial service providers to persons outside the State;
- (b) any service or activity set out in Schedule 1 of the MiFID Regulations 2017, but not including any service or activity of a person to whom such Regulations do not apply by virtue of Regulation 4(3) of the MiFID Regulations 2017;
- (c) reinsurance business.

Part 2

GENERAL CONDUCT OF BUSINESS REQUIREMENTS

Chapter 1

Knowing the Consumer and Suitability

Knowing the consumer – information to be gathered and recorded

15. (1) A regulated financial service provider shall gather and keep a record of sufficient information from a consumer in accordance with this Regulation prior to offering, recommending, arranging or providing a financial service appropriate to that consumer.

(2) For the purposes of paragraph (1), the regulated financial service provider shall gather information that is –

- (a) appropriate to the nature and complexity of the financial service sought by the consumer, and
- (b) sufficient to provide a professional service to the consumer.

(3) The information referred to in paragraphs (1) and (2) shall include information on the consumer's -

- (a) needs and objectives,
- (b) personal circumstances,
- (c) financial situation,
- (d) where relevant, attitude to risk, and
- (e) any sustainability preferences with regard to the financial service.

(4) For the purposes of paragraph (3)(a), the information shall include, where relevant, information on –

- (a) the length of time for which the consumer wishes to hold a product,
- (b) the consumer's need for access to funds, including emergency funds, and
- (c) the consumer's need for accumulation of funds.

(5) For the purposes of paragraph (3)(b), the information shall include where relevant, information on the consumer's -

- (a) age,
- (b) health,
- (c) knowledge and experience of financial products,
- (d) dependents,
- (e) employment status, and
- (f) known future changes to his or her circumstances.

(6) For the purposes of paragraph (3)(c), the information shall include, where relevant, information on the consumer's -

- (a) income,
- (b) savings,
- (c) financial products and other assets, and
- (d) debts and financial commitments.

(7) For the purposes of paragraph (3)(d) the information shall include in particular, the importance of capital security to the consumer.

(8) Paragraphs (3) to (7) do not apply unless the gathering and recording of such information is relevant to an assessment of suitability to be carried out by a regulated financial service provider pursuant to this Chapter.

(9) Prior to offering, recommending, arranging or providing a further financial service to the consumer, a regulated financial service provider shall –

- (a) seek confirmation of whether there are any material changes to the information gathered from a consumer pursuant to paragraphs (1) to (8),
- (b) gather information on any such material changes, and
- (c) keep a record of any such material changes.

(10) For the purposes of paragraph (9), where there is no material change, the regulated financial service provider shall make a note of this on the consumer's records.

(11) Where a consumer refuses to provide the information requested by a regulated financial service provider for the purposes of paragraphs (1) to (10), the regulated financial service provider shall inform the consumer that, as it does not have the relevant information necessary to assess suitability, it cannot offer, recommend, arrange or provide the consumer the financial service sought.

(12) Paragraph (11) does not apply to insurance intermediaries or insurance undertakings carrying out insurance distribution activities in relation to sales of insurance-based investment products where no advice is provided.

(13) A regulated financial service provider shall endeavour to ensure that a consumer certifies the accuracy of the information that it has provided to the regulated financial service provider pursuant to paragraphs (1) to (10).

Assessing and ensuring suitability

16. (1) A regulated financial service provider shall assess the suitability of a financial service for a consumer in accordance with this Regulation.

(2) When assessing the suitability of a financial service for a consumer, the regulated financial service provider shall assess and document whether, on the basis of the information gathered in accordance with Regulation 15(1) to (10), excluding information on sustainability preferences with regard to the financial service -

- (a) the financial service meets that consumer's needs and objectives and whether there is a more suitable financial service available,
- (b) the consumer -
 - (i) is likely to be able to meet the financial commitment associated with the product on an ongoing basis, and
 - (ii) is financially able to bear any risks attaching to the financial service, and
- (c) the financial service is consistent with the consumer's attitude to risk.

(3) A regulated financial service provider shall ensure that any financial service offered to a consumer is suitable for that consumer, having regard to the facts disclosed by the consumer and other relevant facts about that consumer of which the regulated financial service provider is aware.

(4) Where a regulated financial service provider offers a selection of product options to a consumer, the product options contained in the selection shall represent the most suitable from the range available from the regulated financial service provider.

(5) Where a regulated financial service provider recommends a product to a consumer, the recommended product shall be the most suitable product for that consumer having regard to the facts referred to in paragraph (3).

Statement of suitability to be provided

17. (1) Prior to providing or arranging a financial service, a regulated financial service provider shall prepare, sign and date a statement of suitability on paper or on another durable medium and shall provide it to the consumer.

(2) The statement of suitability shall set out one of the following, as applicable:

- (a) the reasons why a financial service offered to a consumer is considered to be suitable to that consumer;
- (b) the reasons why the product options contained in a selection of product options offered to a consumer are considered to be the most suitable to that consumer;
- (c) the reasons why a recommended product is considered to be the most suitable product for that consumer.

(3) The reasons set out in the statement of suitability shall apply the information gathered under Regulation 15(1) to (10), where applicable, excluding information on any sustainability preferences with regard to the financial service, to explain to the consumer how the financial service offered or recommended meets, where relevant, the consumer's -

- (a) needs and objectives,
- (b) personal circumstances, and

(c) financial situation;

(4) The statement of suitability shall include an outline of how each of the following is aligned with the consumer's attitude to risk, where relevant:

(a) the risk profile of the product;

(b) the nature, extent and limitations of any guarantee attached to the product.

(5) The statement of suitability shall identify where a financial service set out in the statement of suitability meets any sustainability preferences gathered from the consumer in accordance with Regulation 16.

(6) A regulated financial service provider shall include a notice in the following format at the beginning of the statement of suitability:

“Important Notice - Statement of Suitability

This is an important document which sets out the reasons why the product(s) or service(s) offered or recommended is/are considered suitable, or the most suitable, for your particular needs, objectives and circumstances.”

(7) Where a regulated financial service provider has provided an oral explanation to the consumer of the financial service offered or recommended, a regulated financial service provider shall include a record of this explanation in, or with, the statement of suitability.

(8) This Regulation does not apply where a regulated financial service provider is providing debt management services.

Exemption from knowing the consumer and suitability requirements

18. (1) The requirements referred to in paragraph (4) do not apply if any of the following situations arise:

(a) the consumer has instructed a regulated financial service provider that it wishes to proceed with respect to a product, specifying the name of the product and the product producer and the consumer has not received any assistance from the regulated financial service provider in the choice of either or both that product and product producer;

(b) the consumer is seeking a term deposit of less than one year or a notice deposit account and the regulated financial service provider has informed the consumer of any restrictions on the term deposit or notice deposit account;

(c) an insurance intermediary or insurance undertaking is carrying out insurance distribution in relation to sales of insurance-based investment products and all of the requirements in Regulation 42(4) of the European Union (Insurance Distribution) Regulations 2018 (S.I. No. 229/2018) are satisfied.

(2) Paragraph 1(a) does not apply where a personal consumer is seeking any of the following:

(a) a credit amount above €75,000;

(b) a mortgage loan;

(c) a home reversion agreement.

(3) If the situation referred to in paragraph 1(a) applies, prior to providing an investment product to a consumer, a regulated financial service provider shall warn the consumer, on paper or on another durable medium, that the regulated financial service provider does not have the information necessary to determine the suitability of that product for the consumer.

(4) The requirements referred to in paragraph (1) are the following: Regulations 15 to 17, Regulation 133, Regulations 179 to 182, Regulations 341 and 342, and Regulation 370.

Chapter 2

Conflicts of Interest and information about remuneration

Fees, commissions, rewards (etc) permitted to be paid or provided to certain persons only

19. A regulated financial service provider may pay or provide a fee, commission, other reward or remuneration in respect of the provision of regulated activities only to a person that is any of the following:

- (a) a regulated financial service provider;
- (b) a certified person;
- (c) an individual for whom a regulated financial service provider has taken full and unconditional responsibility under the Investment Intermediaries Act 1995;
- (d) an agent, branch or entity to which activities are outsourced in accordance with the European Union (Payment Services) Regulations 2018 where the regulated financial service provider remains fully liable for the acts of that agent, branch or entity to which activities are outsourced;
- (e) a distributor, agent, branch or entity to which activities are outsourced in accordance with the European Communities (Electronic Money) Regulations 2011 where the regulated financial service provider remains fully liable for the acts of that distributor, agent, branch or entity to which activities are outsourced;
- (f) a person that is specifically exempted by law from a requirement to hold an authorisation, licence or registration to carry out the regulated activity in respect of which the fee, commission, other reward or remuneration is paid;
- (g) a credit intermediary within the meaning of the Act of 1995 and the European Communities (Consumer Credit Agreements) Regulations 2010;
- (h) a person that is no longer providing a regulated activity, but the fee, commission, other reward or remuneration is paid in respect of a regulated activity that the person provided when the person was a person referred to in any of paragraphs (a) to (g).

Conditions where fees, commissions, rewards (etc) are paid or provided

20. (1) A regulated financial service provider shall ensure that, in providing a regulated activity to a consumer, if it pays or provides, or is paid or provided with, any fee, commission, other

reward or remuneration in connection with the provision of that regulated activity to or by any person other than the consumer or a person acting on behalf of the consumer, the fee, commission, other reward or remuneration -

- (a) does not impair compliance with the regulated financial service provider's duty to act honestly, fairly and professionally in the best interests of the consumer,
 - (b) does not impair compliance with the regulated financial service provider's obligation to satisfy the conflicts of interest requirements set out in this Part and, as applicable, the Insurance Distribution Regulations,
 - (c) does not impair compliance with the regulated financial service provider's obligation to satisfy suitability requirements and, as applicable, the Insurance Distribution Regulations, and
 - (d) in the case of a non-monetary benefit, is designed to enhance the quality of the service to the consumer.
- (2) In this Regulation "suitability requirements" means the following Regulations:
- (a) Regulations 16 and 17;
 - (b) Chapter 1 of Part 3;
 - (c) Regulations 183 to 185;
 - (d) Regulations 341 and 342;
 - (e) Regulation 370.

Conflicts of interest policy to be in place

21. (1) A regulated financial service provider shall establish, maintain and adhere to a robust conflicts of interest policy appropriate to the nature, scale and complexity of the regulated activities carried out by the regulated financial service provider.

(2) The conflicts of interest policy referred to in paragraph (1) shall with reference to its regulated activities –

- (a) identify the circumstances which constitute, or may give rise to, a conflict of interest with respect to its customers who are consumers, including those conflicts that are the subject of Regulation 22, and
- (b) specify procedures to be followed, and measures to be adopted, to properly identify and manage any conflicts identified, excluding those conflicts that are the subject of the obligation referred to in Regulation 22 and which therefore must be avoided.

Certain conflicts of interest that are to be avoided

22. A regulated financial service provider shall avoid conflicts of interest relating to the following:

- (a) fees, commission, other rewards or remuneration linked to the achievement of targets that do not consider a consumer's best interests, including targets

relating to volume (including override commission) and bonus payments linked to business retention;

- (b) agreements under which the regulated financial service provider receives a fee, commission, other reward or remuneration in the form of goods or services, in return for which it agrees to direct business through or in the way of another person.

Steps in respect of conflicts of interest that may be managed

23. (1) This Regulation does not apply to conflicts of interest that are the subject of Regulation 22 on the basis that those conflicts are required to be avoided pursuant to that Regulation and there are no circumstances in which such conflicts are permitted to be managed pursuant to paragraphs (2) and (3).

(2) Where a conflict of interest arises with respect to a consumer and cannot be reasonably avoided, a regulated financial service provider shall -

- (a) disclose the nature and source of the conflict of interest to the consumer, and
- (b) ensure that the conflict does not result in any damage to the interests of that consumer.

(3) For the purposes of this Regulation, a regulated financial service provider may not provide a regulated activity to a consumer if a conflict arises directly or indirectly unless –

- (a) the regulated financial service provider has fully and transparently disclosed the existence and details of the conflict in writing,
- (b) the consumer has acknowledged, on paper or on another durable medium, that he or she understands the conflict and wishes to proceed, and
- (c) the regulated financial service provider has taken all steps within its control to appropriately manage the conflict and minimise the impact of the conflict on the consumer.

No specified level of consumer business to be required of intermediary in order to retain appointment

24. (1) A regulated financial service provider shall not require an intermediary to provide a specified level of business from consumers in order to retain an appointment from that regulated financial service provider.

(2) This Regulation applies only to a regulated financial service provider that distributes its products to consumers through an intermediary.

Product producers - commission paid to intermediary based on levels of business provided

25. (1) This Regulation applies to a product producer that distributes its products to consumers through an intermediary and pays commission to an intermediary based on levels of business provided by that intermediary.

(2) A product producer shall ensure that the arrangements referred to in paragraph (1) -

- (a) do not impair the intermediary's duty to act in the best interests of consumers, and

- (b) do not give rise to a conflict of interest between the intermediary and a consumer.

Conditions for employee remuneration arrangements

26. (1) A regulated financial service provider shall not structure its remuneration arrangements with employees such that they could result in employees providing, arranging or recommending a financial service to a consumer in a manner that may be inconsistent with the regulated financial service provider's obligations -

- (a) to act in the best interests of consumers, and
- (b) to satisfy suitability requirements.

(2) In this Regulation, "suitability requirements" has the meaning given to it in Regulation 20(2).

Information barriers to be put in place

27. (1) A regulated financial service provider shall put in place effective information barriers between different employees and business areas of the regulated financial service provider, and between the regulated financial service provider and its connected parties, in relation to information which could give rise to a conflict of interest with consumers.

(2) A regulated financial service provider shall establish, maintain and adhere to procedures relating to the robust maintenance of information barriers and the consequences for and handling of breaches of information barriers.

(3) A regulated financial service provider shall notify the procedures referred to in paragraph (2) to officers and employees of the regulated financial service provider for whom the procedures are relevant.

Offering, giving, accepting (etc) gifts or rewards not to create conflict of interest

28. Subject to Regulation 22, a regulated financial service provider shall take reasonable steps to ensure that it or any of its officers or employees do not offer, give, solicit or accept any gifts or rewards, monetary or otherwise, likely to conflict with any duty of the regulated financial service provider towards consumers or any duty of the recipient officer or employee towards consumers in relation to his or her activities in the regulated financial service provider.

Disclosure of fees, commissions etc – mortgage intermediaries and regulated financial service providers authorised under the Investment Intermediaries Act 1995

29. (1) Prior to offering, recommending, arranging or providing a financial service to a consumer, a mortgage intermediary and a regulated financial service provider authorised under the Investment Intermediaries Act 1995 shall disclose directly to each consumer any fee, commission or other remuneration received or receivable from a product producer in relation to that financial service.

(2) The disclosure referred to in paragraph (1) shall -

- (a) describe the nature and amount of the fee, commission or other remuneration,
- (b) be comprehensive, accurate and easily understood by the average consumer,

- (c) be made on paper or on another durable medium, and
- (d) be specifically brought to the attention of the consumer.

(3) For the purposes of paragraph (2)(a), where the amount cannot be ascertained at the time of the disclosure, the method of calculating that amount shall be disclosed.

(4) This Regulation does not apply where the financial service relates to an insurance policy.

Ongoing remuneration from product producers – intermediaries to disclose information

30. (1) Where remuneration is receivable by an intermediary from a product producer on an ongoing basis in respect of a financial service, the intermediary shall disclose to a consumer the basis on which the product producer is providing such remuneration to the intermediary and the nature of the service to be provided to the consumer in respect of this remuneration.

(2) The disclosure referred to in paragraph (1) shall be –

- (a) made prior to the provision of a financial service by an intermediary to the consumer,
- (b) made on paper or on another durable medium, and
- (c) specially brought to the attention of the consumer.

Summary of fees, commissions (etc) to be published and made available

31. (1) Subject to paragraph (2), an intermediary shall publish a summary of the details of any fee, commission, other reward or remuneration, receivable from a regulated financial service provider, on its website.

(2) Where an intermediary does not have a website, but has public offices, it shall make available the summary referred to in paragraph (1) in its public offices.

(3) The summary referred to in paragraphs (1) to (2) shall include, at a minimum, the following:

- (a) where the fee, commission, other reward or remuneration is receivable by the intermediary in the form of an agreed amount or percentage, an indication of that amount or percentage;
- (b) an explanation of the arrangement, including details of the type of fee, commission, other reward or remuneration receivable by the intermediary, which shall include details with regard to any sales commission or trail commission, and details affecting the fee, commission, other reward or remuneration receivable, which shall include details with regard to any clawback provisions;
- (c) details of any other agreed fees, administrative costs, or non-monetary benefits, where details of any non-monetary benefits shall include details of any benefits which are not related to an intermediary's individual sales.

(4) Before concluding a contract for a financial service, an intermediary shall -

- (a) bring the summary referred to in paragraphs (1) to (3) to the attention of the consumer, and
- (b) provide any clarification of the information sought by the consumer.

Fees - option of payment, amount, and commission offset, to be explained by intermediaries

32. Where for the purposes of payment of an intermediary for its services, the intermediary allows a consumer the option to pay for its services by means of a fee, the option of payment by fee and the amount of the fee shall be explained in advance to the consumer.

(2) If an intermediary charges a fee and also receives commission in respect of a financial service provided to a consumer, the intermediary shall specifically explain to the consumer whether or not the commission will be offset against the fee, either in part or in full in advance of any such fee being charged.

Chapter 3

Consumers in vulnerable circumstances

Consumers in vulnerable circumstances to be assisted

33. Where a regulated financial service provider has identified that a consumer that is a natural person is in vulnerable circumstances, the regulated financial service provider shall provide that consumer with such reasonable assistance as may be necessary to facilitate that consumer in their dealings with the regulated financial service provider.

Consumers in vulnerable circumstances – training requirements

34. (1) A regulated financial service provider shall ensure that the persons specified in paragraph (2) receive appropriate training in relation to vulnerable circumstances with the objective that the persons specified in paragraph (2) have –

- (a) the knowledge and awareness to understand and recognise consumers in vulnerable circumstances, and how the regulated financial service provider and persons acting on behalf of the regulated financial service provider can respond to the needs of those consumers, and
- (b) knowledge and awareness of the policies, procedures, systems and controls within the regulated financial service provider for responding to the needs of consumers in vulnerable circumstances.

(2) The persons referred to in paragraph (1) are persons performing the following functions on behalf of the regulated financial service provider:

- (a) consumer-facing functions in respect of consumers that are natural persons;
- (b) functions concerned in the design and development of financial services for consumers that are natural persons;
- (c) functions concerned in the sale or marketing of financial services to consumers that are natural persons;
- (d) functions involving the oversight of and responsibility for persons performing any of the functions referred to in subparagraphs (a), (b) and (c);
- (e) any other function in respect of which the person performing the function may have cause to deal with consumers in vulnerable circumstances at any time.

(3) A regulated financial service provider shall –

- (a) identify all persons that may require training with respect to vulnerable circumstances in accordance with paragraph (2), and
- (b) ensure that those persons identified to receive training on vulnerable circumstances receive and complete the necessary training.

(4) A regulated financial service provider shall review, at least once every 2 years, whether the requirements of this Regulation including the objective referred to in paragraph (1) are being achieved and prepare a report of the findings of such review for the board of directors, or the entity or persons controlling the regulated financial service provider.

Trusted Contact Person

35. (1) A regulated financial service provider shall, at the request of a personal consumer, record the name and contact information of an individual (referred to in this Regulation as a “trusted contact person”) who the consumer has nominated and agreed, in accordance with paragraph (3), that the regulated financial service provider may contact in circumstances where

-

- (a) the regulated financial service provider has a concern about possible financial abuse of the personal consumer,
- (b) the regulated financial service provider needs to confirm the specifics of –
 - (i) the consumer’s current contact information,
 - (ii) the consumer’s health status, or
 - (iii) the identity of any appointed legal guardian, executor, trustee, holder of a power of attorney, co-decision maker, decision-making assistant, designated healthcare representative, or decision-making representative, or
- (c) the regulated financial service provider experiences difficulties in communicating with the consumer.

(2) Where a regulated financial service provider decides to contact a trusted contact person, the regulated financial service provider may, provided that the regulated financial service provider complies with paragraph (3), disclose confidential information about the personal consumer to the trusted contact person for the purposes of discussing the relevant matter referred to in paragraph (1).

(3) Paragraph (2) does not apply unless the regulated financial service provider has received–

- (a) the written consent of the personal consumer that the regulated financial service provider may contact the trusted contact person in the relevant circumstances referred to in paragraph (1) to discuss confidential information in relation to that matter with the trusted contact person, and
- (b) the written consent of the trusted contact person confirming that the regulated financial service provider may-
 - (i) retain the trusted contact person’s name and contact information for the purposes referred to in paragraph (1),

- (ii) contact the trusted contact person in the circumstances referred to in paragraph (1), and
- (iii) discuss the matters referred to in paragraph (1) with the relevant trusted contact person.

(4) For the avoidance of doubt, a trusted contact person has no authority to deal with the affairs of a personal consumer in respect of a regulated financial service provider, and is not a legal representative for the purposes of these Regulations, solely on account of having been recorded or contacted by the regulated financial service provider as a trusted contact person.

(5) In this Regulation, “co-decision maker”, “decision-making assistant”, “designated healthcare representative”, and “decision-making representative”, have the meaning assigned to them in section 2 of the Act of 2015.

Reporting of concerns by employees

36. A regulated financial service provider shall establish, maintain and adhere to clear policies and procedures for its employees to report, within the regulated financial service provider, concerns that a personal consumer is at risk of financial abuse by any person.

Disclosure by consumers of sensitive information

37. (1) Where a regulated financial service provider has been informed by a personal consumer of circumstances or facts that suggest that the consumer may be a consumer in vulnerable circumstances, the regulated financial service provider shall, with the consent of the consumer, record that information.

(2) Prior to recording the information referred to in paragraph (1), the regulated financial service provider shall inform the consumer that the information will be recorded by the regulated financial service provider to assist the regulated financial service provider in dealing with the consumer if, and only if, the consumer consents to the recording of the information.

(3) With regard to the information provided by a consumer to a regulated financial service provider, as referred to in paragraph (1), the regulated financial service provider shall ensure that its systems and processes can support –

- (a) the recording of such information, and
- (b) the accessing, in appropriate circumstances connected with the provision of financial services to the consumer, of such information by employees of the regulated financial service provider.

Certain standards to be ensured

38. Where a regulated financial service provider is engaging with a consumer by means of a digital platform, for the purposes of providing the consumer with a financial service, the regulated financial service provider shall ensure the following:

- (a) the digital platform is designed for use by a consumer without requiring specialist knowledge in the use of the technology of the digital platform, so that the digital platform is easy to use, understand and navigate;
- (b) the digital platform has undergone testing to ensure that it is easy to use, understand and navigate as referred to in paragraph (a);
- (c) any computer programmes or algorithms used by or within the digital platform
 - (i) are designed to produce outcomes which are objective and consistent for consumers,
 - (ii) have been properly documented, and
 - (iii) have undergone testing before their first use, and thereafter on a regular basis, to ensure that the computer programme or algorithm concerned meets the outcomes referred to in paragraph (c)(i).

Provision of certain preselected options prohibited

39. Where a regulated financial service provider is engaging with a consumer by means of a digital platform, for the purposes of providing the consumer with a financial service, the regulated financial service provider shall not provide preselected options to the consumer which indicate that the consumer has confirmed that the consumer has read or understood information provided by the regulated financial service provider in relation to the financial service.

Guidance to be provided on use and navigation of digital platform

40. (1) Where a regulated financial service provider is engaging with a consumer by means of a digital platform, for the purposes of providing the consumer with a financial service, the regulated financial service provider shall give clear and effective step-by-step guidance to consumers on how to use and navigate the digital platform.

(2) A regulated financial service provider shall ensure that a means of accessing the guidance given on the digital platform referred to in paragraph (1) is displayed prominently on that digital platform at all times.

Information to be provided on available assistance when using digital platforms

41. (1) Where a regulated financial service provider is engaging with a consumer by means of a digital platform, for the purposes of providing the consumer with a financial service, the

regulated financial service provider shall give information to consumers, on the digital platform, on where and how assistance may be obtained with the following:

- (a) a specific query with regard to use of the digital platform for the purposes of being provided with such financial services;
- (b) further information on the financial service provided.

(2) The information referred to in paragraph (1) and any associated contact details shall be displayed prominently on the digital platform at all times.

Consumer filtering to be facilitated

42. Where a regulated financial service provider is engaging with a consumer by means of a digital platform, for the purposes of providing the consumer with a financial service, the regulated financial service provider shall, when offering a range of more than 3 financial services of the same type through that platform, or making information available through that platform in connection with offering a range of more than 3 financial services of the same type, ensure that the digital platform allows the consumer to filter the financial services shown to the consumer in accordance with pre-set criteria which may be selected by the consumer.

Pause statement to be provided prior to providing financial service

43. (1) Where a consumer requests a financial service from a regulated financial service provider by means of a digital platform, the regulated financial service provider shall, prior to agreeing to provide the financial service, provide the consumer with a warning, displayed prominently, in the following format:

“You are about to enter into a contract for financial services. Think carefully about whether this financial service is right for you.”

(2) A regulated financial service provider shall not agree to provide the financial service until the consumer has acknowledged the warning.

Notification to be provided of withdrawal of access to systems

44. (1) Where a regulated financial service provider provides information pursuant to a requirement of these Regulations, which is addressed to a consumer but provided only by means of systems to which the consumer must be given access by the regulated financial service provider in order to be provided with the relevant information, the regulated financial service provider shall notify the consumer at least 15 working days in advance of any withdrawal of access to those systems or to the information concerned.

(2) In the circumstances referred to in paragraph (1), the regulated financial service provider shall notify the consumer that the relevant information may be downloaded, printed, or otherwise retained prior to withdrawal of the means of access..

Notice of upcoming expiry of cooling off period to be given

45. A regulated financial service provider that has provided a financial service to a consumer by means of a digital platform, to which a right of withdrawal (a ‘cooling off’) period applies, shall contact a consumer at least 3 working days, but no more than 7 working days, prior to the expiry of the withdrawal period, to remind the consumer of the consumer’s right of withdrawal, the date on which this right expires, and how the consumer can exercise this right.

Chapter 5

Informing effectively

Names of financial services not to be misleading with regard to nature or benefits

46. A regulated financial service provider shall not use a name for a financial service that is misleading in terms of the nature of the financial service or the benefits that the financial service can deliver to a consumer.

Warning statements to be prominent etc.

47. Unless otherwise specified in these Regulations, a regulated financial service provider shall ensure that all warning statements required by these Regulations that it uses in a document, advertisement, or other information, are prominent, and when in text, in a box, in bold type and of a font size that is at least equal to the predominant font size used throughout the document, advertisement, or other information.

Notice of changes to range of services to be provided

48. (1) Where a regulated financial service provider intends to amend or alter the range of services it provides as regulated activities, it shall give clear notice, on paper or on another durable medium, to affected consumers at least one month in advance of the amendment being introduced.

(2) The notice referred to in paragraph (1) shall include particulars of the changes being made, together with relevant details of the position prior to such changes, in order that the consumer can compare the position before and after those changes.

(3) In the circumstances referred to in Regulation 162(1), reference to “one month” in paragraph (1) is substituted with “4 months”.

Technical terms to be explained

49. A regulated financial service provider shall ensure that all information that it provides to a consumer explains any technical terms, the use of which cannot be avoided, in plain language, where first used or in a clearly referenced glossary.

Key information to be presented clearly

50. A regulated financial service provider shall not present key information in a way which disguises, diminishes or obscures the importance of key information.

Arrangements to be in place to ensure security of information when communicating by electronic media

51. Where a regulated financial service provider communicates with a consumer using electronic media, it shall ensure that it has in place appropriate arrangements to ensure the security of information received from the consumer and the secure transmission of information to the consumer.

Written information to have appropriate font size

52. In all written information provided to consumers, a regulated financial service provider shall use a font size that is clearly legible, and appropriate to the type of document and the information contained therein.

Terms of business to be drawn up and provided

53. (1) A regulated financial service provider shall draw up its terms of business and shall provide a copy on paper or on another durable medium to each consumer to whom it provides financial services, prior to providing the first service to that consumer.

(2) For the purposes of paragraph (1), insofar as concerns a regulated financial service provider that is an intermediary providing regulated activities on behalf of another regulated financial service provider, only the intermediary is required to provide a copy of its terms of business to the consumer.

(3) A regulated financial service provider shall provide its terms of business to a consumer as a stand-alone document.

(4) A regulated financial service provider shall make its terms of business available to consumers on any website of the regulated financial service provider, and shall clearly identify on the website where those terms may be read.

Content of terms of business

54. (1) A regulated financial service provider shall provide to consumers, in its terms of business, information clearly setting out the basis on which the regulated financial service provider provides its regulated activities and such information shall include at least the following:

- (a) the legal name, trading name, address, and contact details of the regulated financial service provider;
- (b) if the regulated financial service provider is part of a group, the name of the group to which the regulated financial service provider belongs;
- (c) confirmation that the regulated financial service provider is authorised, licensed or registered and the name of the competent authority that has authorised, licensed or registered it;
- (d) a statement that it is subject to Bank codes of conduct and Bank regulations which the regulated financial service provider must comply with, which offer protection to consumers and which can be found on the Bank's website, specifying the website of the Bank for that purpose;
- (e) a description of the regulated activities that the regulated financial service provider provides;
- (f) if the regulated financial service provider acts as an intermediary, whether it provides a fair analysis of the market or a limited analysis of the market and an explanation of that type of service in a way that seeks to inform a consumer as to the nature and distinction between these forms of analysis;
- (g) if the regulated financial service provider is tied for any of the regulated activities it provides, it shall specify -

- (i) the name of any financial service for which it is so tied, and
- (ii) the name of the regulated financial service provider to which it is tied for the financial service concerned;
- (h) a general statement of how charges are imposed by the regulated financial service provider itself and information on where the schedule of charges required pursuant to Regulation 70 is located;
- (i) a summary of the regulated financial service provider's policy in relation to the identification and management of conflicts of interest;
- (j) an outline of the action and remedies which the regulated financial service provider may take in the event of default by a consumer;
- (k) a summary of the complaints procedure which is operated by the regulated financial service provider and available to a consumer;
- (l) if the regulated financial service provider is a member of a statutory compensation scheme, the name of the scheme and the nature and level of protection available from the scheme;
- (m) the date on which the terms of business came into effect and confirmation that they remain up to date.

(2) For the purposes of paragraph (1), a regulated financial service provider shall not include information setting out the basis on which the regulated financial service provider provides any activities that are not regulated activities.

Deposit agents to provide relevant credit institution's terms of business

55. (1) A deposit agent shall provide each consumer to whom it provides financial services with a copy of the relevant credit institution's terms of business prior to providing the first financial service to that consumer.

(2) For the purposes of paragraph (1), the terms of business shall set out the nature of the relationship between the credit institution and the deposit agent and the basis on which the deposit agent's regulated activities are provided.

Use of term "independent" by intermediaries subject to conditions.

56. (1) An intermediary may use the term "independent" or use any other word or expression that is a derivative of, or similar to this term in its legal name, trading name or any other description of the intermediary, only where all regulated activities provided by the intermediary are provided on the basis of a fair analysis of the market.

(2) An intermediary may use the term "independent" or use any other word or expression that is a derivative of, or similar to this term in any description of a regulated activity provided by the intermediary, only where that regulated activity is provided on the basis of a fair analysis of the market.

(3) Paragraphs (1) and (2) are subject to the further condition that an intermediary may use the description "independent" or use any other word or expression that is a derivative of, or similar to this term as provided for by paragraph (1) or (2) only where the intermediary does not accept

and retain any fee, commission, other reward or remuneration where the intermediary provides advice in respect of its regulated activities, other than -

- (a) a minor non-monetary benefit, and
- (b) a fee paid by a consumer, or a person acting on behalf of a consumer to whom the advice is provided.

(4) This Regulation does not apply to a regulated financial service provider within the scope of Regulation 57 of these Regulations or Regulation 23(5) of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016.

MiFID Article 3 services – use of term “independent”

57. (1) A regulated financial service provider providing MiFID Article 3 services may use the term “independent” or use any other word or expression that is a derivative of, or similar to this term, as provided for in respect of an intermediary pursuant to Regulation 56(1) and Regulation 56(2).

(2) A regulated financial service provider providing MiFID Article 3 services may use the term “independent” or use any other word or expression that is a derivative of, or similar to this term for the purposes of paragraph (1), only where –

- (a) the factors to be taken into consideration by the regulated financial service provider in conducting its fair analysis of the market include the criteria set out in Article 53(1)(d) of the MiFID Delegated Regulation, and
- (b) the regulated financial service provider complies with Regulation 411.

Use of term ‘broker’ by intermediaries subject to conditions

58. An intermediary shall not use the term ‘broker’ in the provision of financial services to consumers unless the principal regulated activities of the intermediary are provided on the basis of a fair analysis of the market.

Intermediaries which do not provide financial services on the basis of a fair analysis of the market

59. Where an intermediary does not provide a financial service on the basis of a fair analysis of the market, it shall clearly disclose to the consumer the names of those product producers whose financial services it intends to consider as part of its analysis.

Intermediaries to disclose tied status

60. An intermediary that is tied to a single product producer in respect of a particular financial service, shall disclose this fact to a consumer in all communications with the consumer in relation to that financial service.

All key information to be provided

61. (1) Prior to offering, recommending, arranging or providing a financial service, a regulated financial service provider shall provide to the consumer all key information about the financial service concerned to assist the consumer in understanding the financial service.

(2) Without prejudice to the generality of paragraph (1), the key information shall include –

- (a) a statement as to whether there will be a right to cancel or withdraw from the contract for the provision of the financial service concerned, or that there will be no such right, as the case may be, and
- (b) if there will be a right to cancel or withdraw from the contract for the provision of the financial service concerned-
 - (i) the terms that will apply to that right, including the period during which that right must be exercised, and
 - (ii) instructions on how the consumer can exercise that right.

(3) For the purposes of paragraph (1), the information shall be provided on paper or on another durable medium.

(4) Paragraphs (1) to (3) do not apply to the extent that the contract for the provision of the financial service concerned is a distance contract for the supply of a financial service under the Distance Marketing Regulations.

Terms and conditions to be provided

62. (1) A regulated financial service provider shall provide a consumer with the terms and conditions attaching to a financial service before the consumer enters into a contract for that financial service.

(2) For the purposes of paragraph (1), the terms and conditions shall be provided on paper or on another durable medium.

(3) Paragraphs (1) and (2) do not apply to the extent that the contract for the provision of the product is a distance contract for the supply of a financial service under the Distance Marketing Regulations.

Information on relevant Ombudsman and alternative dispute resolution service to be provided

63. (1) Prior to entering into a contract with a consumer, a regulated financial service provider shall inform the consumer of the relevant Ombudsman, and, if applicable, any alternative dispute resolution service, other than the relevant Ombudsman, that will deal with a complaint in the event that the consumer does not accept the decision of the regulated financial service provider's complaints process.

(2) Paragraph (1) does not apply to the extent that, prior to entering into a contract with a consumer, the regulated financial service provider is required to inform the consumer, in compliance with any applicable law, of the relevant Ombudsman or alternative dispute resolution service, including an ADR entity or out-of-court complaints and redress.

(3) For the purposes of this Regulation, "ADR entity" has the meaning given to it in Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013⁸.

Revised terms of business to be provided

⁸ OJ L 165, 18.6.2013, p. 63

64. (1) Where a regulated financial service provider makes a material change to its terms of business, it shall provide each affected consumer with-

- (a) the revised terms of business, and
- (b) a notice which sets out particulars of the changes made, together with relevant details of the position prior to such changes, in order that the consumer can compare the position before and after those changes.

(2) The information required to be provided pursuant to paragraph (1) shall be provided by the regulated financial service provider on paper or on another durable medium, at least 5 working days prior to the date on which the change takes effect.

Recording telephone conversations

65. A regulated financial service provider shall ensure that, where it intends to keep a record of a telephone conversation with a consumer, the regulated financial service provider informs the consumer, at the outset of the conversation, that the telephone conversation is being recorded.

Information to be drafted and presented for understanding by an average consumer

66. A regulated financial service provider shall, at all times, ensure that all information it provides to consumers is drafted and presented in a way that an average consumer who considers the information can be expected to have a reasonable level of understanding to appreciate the decisions that they make and to which the information relates.

Product producers to ensure that information enables consumer understanding

67. A product producer shall -

- (a) ensure that the information, including documentation, which it provides when producing, manufacturing or packaging a product of a financial or investment nature -
 - (i) to consumers, and
 - (ii) to intermediaries where the information, including documentation, is required to be provided to intermediaries for the purpose of those intermediaries providing it to consumers,

is designed to readily enable consumer understanding having regard to the target market for that product,

- (b) ensure that the requirement referred to in paragraph (a) is incorporated into the product producer's processes for product and service design, and
- (c) have in place a process to regularly review, test and monitor the effectiveness of the information and documentation referred to in paragraph (a) in order to comply with the requirement referred to in that paragraph.

Information about charges

Written breakdown of charges to be provided

68. (1) Prior to providing a financial service to a consumer, a regulated financial service provider shall provide the consumer with a written breakdown of all charges, including third party charges, which will be payable by the consumer in respect of the financial service concerned.

(2) The breakdown of charges referred to in paragraph (1) shall be provided on paper or on another durable medium.

(3) This Regulation does not apply to a regulated financial service provider providing MiFID Article 3 services;

Information to be provided where charge for provision or arrangement of loan to personal consumer

69. (1) Where a regulated financial service provider intends to impose a charge in respect of the provision or arrangement of a loan to a personal consumer, and it is proposed that this charge is incorporated into the amount advanced to the personal consumer, the regulated financial service provider shall provide the following information to the personal consumer on paper or on another durable medium:

- (a) the amount of the charge;
- (b) that the personal consumer has a right to pay for this charge separately to any loan repayment;
- (c) if the personal consumer chooses to pay for this charge separately, it will not be added to the loan amount advanced;
- (d) if the personal consumer chooses not to pay for this charge separately and the charge is to be added to the loan amount advanced, the total cost of paying the element referable to the charge over the term of the loan.

(2) The information referred to in paragraph (1) shall be provided to the personal consumer prior to signing any loan application form.

Schedule of fees and charges to be displayed

70. A regulated financial service provider shall prominently and clearly display a schedule of its fees and charges in each of its public offices and on its websites.

Consumers to be notified regarding increases and decreases in charges

71. (1) A regulated financial service provider shall on paper or on another durable medium -

- (a) directly notify affected consumers of increases in charges, specifying the previous and increased charge, or the introduction of any additional charges, at least 30 calendar days prior to the increased or additional charges taking effect, and
- (b) where charges are accumulated and applied periodically to accounts, directly notify consumers at least 10 working days prior to the application of charges,

providing each consumer with a breakdown of any such charges, except where these charges total an amount of €10 or less.

(2) A regulated financial service provider shall notify consumers of any decrease in charges as soon as practicable.

Consumers to be notified of methods to mitigate or avoid likelihood of penalty charges

72. A regulated financial service provider shall notify consumers that have been charged with penalty charges, including surcharge interest, on paper or on another durable medium, of the methods by which the likelihood of these penalties applying may be mitigated or avoided.

Chapter 7

Information about regulatory status

Regulatory disclosure statement to be used

73. (1) A regulated financial service provider shall include a regulatory disclosure statement as to its regulatory status for consumers -

- (a) on the business stationery that it uses in connection with its regulated activities,
- (b) on any webpage on its website that relates to its regulated activities, and
- (c) in its electronic communications with consumers, where such communications are in connection with its regulated activities.

(2) A regulated financial service provider shall not use a regulatory disclosure statement as to its regulatory status unless provided for by paragraph (1).

(3) For the purposes of paragraph (1), the content of the business stationery, webpage or electronic communication shall relate solely to regulated activities.

(4) The regulatory disclosure statement shall comply with either of the following formats, depending on the Member State where the regulated financial service provider has been authorised, registered or licensed, and shall state no other additional text:

- (a) “[Full legal name of the regulated financial service provider], trading as [insert all trading names used by that regulated financial service provider relevant to the financial service concerned] is regulated by the Central Bank of Ireland”;
- (b) “[Full legal name of the regulated financial service provider], trading as [insert trading names used by that regulated financial service provider relevant to the financial service concerned], is authorised/licensed or registered by [insert name of the competent authority from which it received its authorisation or licence, or with which it is registered] in [insert name of the Member State where that competent authority resides] and the Central Bank of Ireland”.

(5) A regulated financial service provider shall not present its regulatory disclosure statement in such a way as to appear to be an endorsement by the Bank or other relevant EU competent authority of the regulated financial service provider or any of its financial services.

(6) A regulated financial service provider shall include a regulatory disclosure statement in its advertisements which refer, or relate, to a regulated activity which can be provided, or is available, to a consumer.

(7) A regulated financial service provider that is a crowdfunding service provider shall include a regulatory disclosure statement in all advertisements which refer, or relate, to a regulated activity which can be provided, or is available, to a consumer, which complies with either of the following formats depending on the Member State where it has been authorised:

- (a) “[Full legal name of the crowdfunding service provider], trading as [insert all trading names used by the crowdfunding service provider] is regulated by the Central Bank of Ireland”;
- (b) “[Full legal name of the crowdfunding service provider], trading as [insert all trading names used by that crowdfunding service provider], is regulated by [insert name of the competent authority from which it received its authorisation] in [insert name of the Member State where that competent authority resides] under the Crowdfunding Regulation, and is subject to regulation by the Central Bank Ireland in respect of [conduct of business rules] relating to advertising.”

Chapter 8

Unregulated activities

Website information on regulated activities to be kept separate

74. (1) A regulated financial service provider shall provide information on its website in relation to regulated activities on a separate webpage from any webpage providing information on its unregulated activities.

(2) In this Regulation, “unregulated activities” means the provision of services of a financial nature, which are not otherwise regulated activities, to consumers in the State.

Certain outcomes to be ensured

75. (1). A regulated financial service provider shall establish, maintain, implement and adhere to systems and controls, processes, policies and procedures to achieve the following outcomes:

- (a) information that is given to consumers, or within advertisements which refer, or relate, to a regulated activity which can be provided, or is available, to a consumer, is clear, accurate and up-to-date, and identifies which of the regulated financial service provider’s activities are regulated activities and which are unregulated activities;
- (b) where the regulated financial service provider is engaging with a consumer, by means of a digital platform, for the purposes of providing the consumer with a

financial service, the digital platform is configured so that the information provided to the consumer about the financial service is clear, accurate and up-to-date, and identifies which of the regulated financial service provider's activities are regulated activities and which are unregulated activities;

- (c) regulatory protections that apply in respect of the regulated financial service provider's regulated activities that are not applicable to the regulated financial service provider's unregulated activities are brought to the attention of the consumer;
- (d) any written correspondence to a consumer where the regulated financial service provider is disclosing information in relation to unregulated activities shall include the following statement:

“Warning: The provision of this product or service does not require licensing, registration or authorisation by the Central Bank of Ireland, and as a result is not covered by Central Bank of Ireland rules designed to protect consumers or by a statutory compensation scheme.”

(2) In this Regulation, “unregulated activities” means the provision of services of a financial nature, which are not otherwise regulated activities, to consumers in the State.

Chapter 9

Advertising

Scope and application (Chapter 9)

76. This Part applies to advertisements which refer, or relate, to a regulated activity which can be provided, or is available, to a consumer.

Information to be reviewed and updated

77. A regulated financial service provider shall ensure that, at least once in every 12 month period, information given to consumers in its advertisements is reviewed for compliance with these Regulations and, where necessary, updated.

(2) For the purposes of paragraph (1), a regulated financial service provider shall keep a record of the steps undertaken to carry out the review and any necessary update.

Hyperlinks linking to information permitted under certain conditions

78. (1) A regulated financial service provider may include a hyperlink, within an advertisement, linking to information that forms part of the advertisement, where the information given in the advertisement that is not linked in this manner only specifies either or both of the following:

- (a) the name of the financial service;
- (b) an invitation to consumers to discuss the financial service in more detail with the regulated financial service provider.

(2) The hyperlink referred to in paragraph (1) shall -

- (a) be displayed prominently within the advertisement,
- (b) link to all of the information that the regulated financial service provider is required by this Chapter to provide, and
- (c) link directly to the information on a single webpage of the regulated financial service provider's website.

Information provided to meet certain standards

79. (1) A regulated financial service provider shall ensure that -

- (a) the design, presentation and content of the information in its advertisements is clear, fair, accurate and not misleading,
- (b) the information in its advertisements does not seek to influence a consumer's attitude to the advertised financial service or the regulated financial service provider by ambiguity, exaggeration or omission, and
- (c) any research, statistics or claims quoted in its advertisements are substantiated and refer in the advertisement to the source of the research or statistics, or grounds for the claim, including the date of the research or statistics and any assumptions that the regulated financial service provider has made based on the research, statistics or claims.

(2) Without limiting the generality of paragraph (1), a regulated financial service provider shall ensure that information in its advertisements is not misleading in relation to the following:

- (a) the regulated financial service provider's independence or the independence of the information it provides;
- (b) the regulated financial service provider's ability to provide the advertised financial service;
- (c) the scale of the regulated financial service provider's activities;
- (d) the extent of the resources of the regulated financial service provider;
- (e) the nature of the regulated financial service provider's or any other person's involvement in the advertised financial service;
- (f) the scarcity of the advertised financial service;
- (g) past performance or possible future performance of the advertised financial service;
- (h) describing a financial service as free where the financial service is not in its entirety available free of charge to a consumer with no obligation to purchase a financial service after availing of the initial offering.

- (i) the extent to which the regulated financial service provider has a reputation of supporting sustainability factors;
- (j) the features of a financial service in terms of sustainability factors or the impact of acquiring its financial services on sustainability factors.

(3) In this Regulation, “sustainability factors” means environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

Company name and trading name to be specified

80. A regulated financial service provider shall ensure when publishing an advertisement that its name, including any company name and trading name, is clearly specified in all advertisements.

Advertisement to identify that it is an advertisement

81. A regulated financial service provider shall ensure, when publishing an advertisement, that the advertisement identifies that it is an advertisement.

Requirements relating to key information, advertising benefits, and use of small print and footnotes

82. A regulated financial service provider shall ensure each of the following in respect of information provided by way of advertisement:

- (a) key information, in relation to an advertised financial service, is clearly identified in the advertisement and is not obscured or disguised in any way by the content, design or format of the advertisement;
- (b) where more than one advertised financial service is specified in the advertisement, the key information referred to in paragraph (a) is distinguished between each such advertised financial service;
- (c) if the benefits of an advertised financial service are specified in the advertisement, the risks attached to the advertised financial service are also specified and, where those risks are specified in print, in a font size that is at least equal to the predominant font size used throughout the advertisement;
- (d) information in the advertisement is specified without small print or footnotes unless the small print or footnotes are only used to supplement or elaborate on the key information in the advertisement and are of sufficient size and prominence to be clearly legible.

Information on qualifying criteria relating to fixed prices or greatest amount of savings to be clear

83. A regulated financial service provider shall ensure that information provided by way of advertisement on any qualifying criteria in relation to obtaining a fixed price for the advertised financial service, or benefiting from the potential greatest amount of savings relating to the advertised financial service, is clearly identified in the advertisement and that the information is not specified in small print or footnotes within the advertisement.

Requirements for warning statements

84. (1) A regulated financial service provider shall ensure that warning statements required by this Chapter -

- (a) are reviewed to ensure that they meet the criteria specified in Regulation 47, and
- (b) subject to paragraph (2) appear simultaneously in the advertisement with any reference to the benefits of the advertised financial service.

(2) Warning statements required by this Chapter and provided by way of audio advertisement may be provided at the end of the audio advertisement concerned.

Option not to display warning statements in limited circumstances

85. (1) Subject to paragraph (2), a regulated financial service provider may opt not to display the warning statements required by this Chapter where the advertisement only specifies either or both of the following:

- (a) the name of the financial service;
- (b) an invitation to consumers to discuss the financial service in more detail with the regulated financial service provider.

(2) A regulated financial service provider shall not have the option referred to in paragraph (1) where the advertisement refers to any terms or conditions of the financial service as part of the name of the financial service concerned, or elsewhere, in the advertisement.

Promotional or introductory interest rates – required information

86. A regulated financial service provider shall ensure that where its advertisement specifies promotional or introductory interest rates, the advertisement clearly states the expiry date of that interest rate and provides an indication of the rate that will apply thereafter.

Recommendations or commendations to meet certain requirements

87. A regulated financial service provider shall ensure that any recommendations or commendations quoted within its advertisement are -

- (a) genuine, complete, fair, accurate and not misleading at the time of issue, and relevant to the advertised financial service,
- (b) attributed to the person that is the author of the recommendation or commendation, and dated as of the date of the recommendation or commendation concerned,
- (c) only used where the consent of the author has been obtained, and
- (d) state, if such is the case, that the author is an employee of the regulated financial service provider or a connected party of the regulated financial service provider, or has received any payment from the regulated financial service provider or a connected party of the regulated financial service provider in respect of an advertisement.

Intermediaries to specify where tied to single provider

88. Where an intermediary is tied to a single provider for a particular financial service, the intermediary shall specify this fact in all its advertisements in respect of the intermediary's advertised financial service.

Comparisons and contrasts to meet certain standards

89. (1) A regulated financial service provider shall ensure that comparisons or contrasts in the information given in its advertisements are based either on facts verified by the regulated financial service provider, or on reasonable assumptions stated within the advertisement concerned.

(2) The comparisons or contrasts referred to in paragraph (1) shall be specified in a clear, fair and balanced way and not omit any key information from the comparison or contrast.

(3) Differences in key information between products shall be specified clearly for the purposes of a comparison or contrast referred to in paragraph (1).

Initialisms and acronyms to be explained

90. A regulated financial service provider shall ensure that where its advertisement contains any initialisms or acronyms, the advertisement also states the meaning of each letter in the initialism or acronym concerned.

Warning statement on investment in crowdfunding projects

91. (1) A crowdfunding service provider shall ensure that advertisements to prospective investors carry the following risk warning:

“Warning: Investment in crowdfunding projects entails risks, including the risk of partial or entire loss of the money invested. Your investment is not covered by a deposit guarantee scheme or by an investor compensation scheme.”

(2) For the purposes of paragraph (1), “investor” has the meaning given to it in Article 2 of the Crowdfunding Regulation.

Chapter 10

Bundling and contingent selling

No sale of financial service to be made contingent on purchase of another financial service

92. (1) A regulated financial service provider shall not make the sale of a financial service contingent on a consumer purchasing another financial service from the regulated financial service provider or a connected party of the regulated financial service provider.

(2) Paragraph (1) does not prevent a regulated financial service provider from offering additional financial services to consumers who are existing customers which are not available to potential consumers.

(3) This Regulation does not apply in respect of payment accounts with basic features provided by relevant credit institutions coming within the scope of the European Union (Payment Accounts) Regulations 2016 (S.I. No. 482 of 2016).

No bundling except where cost saving

93. A regulated financial service provider shall not engage in bundling except where it can show that there is an overall cost saving for a consumer.

Required information on bundled product

94. A regulated financial service provider shall provide a consumer with the following information on paper or on another durable medium prior to offering, recommending, arranging or providing a product by way of bundling to the consumer:

- (a) the overall cost to the consumer of the bundle;
- (b) the cost to the consumer of purchasing each product separately;
- (c) information on how the consumer may switch products within the bundle;
- (d) the cost to the consumer of switching products within the bundle;
- (e) information on how the consumer may terminate the provision of products to the consumer by way of the bundle;
- (f) the cost to the consumer of terminating the provision of products to the consumer by way of the bundle.

Steps where request to switch products in a bundle or exit bundle

95. Where a consumer requests a regulated financial service provider to switch one or more products in a bundle or to terminate the provision of products to the consumer by way of a bundle, the regulated financial service provider shall -

- (a) provide the consumer with the information referred to in Regulation 94(c) and (d), or Regulation 94(e) and (f) as appropriate, on paper or on another durable medium, and
- (b) if the consumer has requested to terminate the provision of products to the consumer by way of a bundle, permit the consumer to retain any product in the bundle that the consumer wishes to keep, without penalty or additional charge other than the loss of any discount.

Steps where optional extras offered

96. (1) Where a regulated financial service provider offers a financial service to a consumer with anything else that may be purchased at the option of the consumer (referred to in this Regulation as an 'optional extra'), the regulated financial service provider shall -

- (a) inform the consumer on paper or on another durable medium -
 - (i) that the consumer does not have to purchase the optional extra in order to purchase the financial service,
 - (ii) of the cost of the financial service excluding the cost of the optional extra, and
 - (iii) of the cost of the optional extra, and
- (b) not charge the consumer a fee for any optional extra that the regulated financial service provider offers with a financial service unless the consumer has provided prior written confirmation that he or she wishes to purchase the optional extra.

Steps regarding information on bundling where communicating by telephone only

97. For the purposes of the requirement to provide information pursuant to Regulation 94 to 96, if the regulated financial service provider is communicating with the consumer by way of telephone only, the regulated financial service provider shall -

- (a) provide the required information orally at the time of offering, recommending, arranging or providing the product,
- (b) provide the required information to the consumer on paper or on another durable medium immediately after arranging or providing the product in order that the consumer may confirm the information related to the relevant product, and
- (c) obtain from the consumer the confirmation referred to in paragraph (b).

Chapter 11

Errors resolution

Robust governance arrangements required for errors handling

98. (1) A regulated financial service provider shall have in place robust governance arrangements, including written procedures, for the appropriate and effective handling of errors that affect consumers.

(2) The arrangements referred to in paragraph (1) shall include the following:

- (a) at a minimum, provision for -
 - (i) identification of the cause and potential impact of the error on consumers,
 - (ii) identification of all potentially affected consumers,
 - (iii) the timely detection, classification and urgent escalation to the board of directors, or the entity or persons controlling the regulated financial service provider, of errors of such scale and significance as would reasonably be termed significant errors that affect consumers, and of a nature that such management ought to be made aware of, and
 - (iv) proper control of the correction process;
- (b) arrangements for the proper oversight of the handling of errors;
- (c) analysis at the appropriate level of the rate of occurrence and patterns of errors, to include the causes of same, on a regular basis and, in that regard, at least once every 6 months;
- (d) arrangements within the regulated financial service provider for reporting to the compliance or risk function of the regulated financial service provider, or any other relevant function of the regulated financial service provider as required, as well as to the board of directors, or the entity or persons controlling the regulated financial service provider, of aggregated information on the number

of errors handled and the number of such errors that have been resolved, and on the analysis referred to in subparagraph (c).

Errors to be resolved

99. (1) A regulated financial service provider shall resolve all errors speedily and no later than 6 months after the date the error was first discovered, including by way of the following:

- (a) correcting any internal systems failures including IT systems failures;
- (b) ensuring effective controls are implemented to prevent any recurrence of the identified error;
- (c) effecting a refund with appropriate interest to all consumers who have been affected by the error, in accordance with Regulation 100 and taking any other appropriate remediation steps;
- (d) notifying all affected consumers, both current and former, in a timely manner, of any error that has impacted or may impact negatively on the cost of the service, or the value of the product provided, where possible.

(2) Paragraph (1)(c) applies to regulated financial service providers providing payment services without prejudice to the rights and obligations arising pursuant to Part 4 (Rights and Obligations in relation to the provision and use of payment services) of the European Union (Payment Services) Regulations 2018 (S.I. No. 6 of 2018).

Refunds to be made

100. (1) A regulated financial service provider shall take all reasonable steps to make a prompt refund due to a consumer as a result of an error made by the regulated financial service provider causing a consumer to make an overpayment or to suffer a financial loss, and shall keep a record of the steps that it has taken to make the refund concerned.

(2) Where the regulated financial service provider has taken all reasonable steps for the purposes of paragraph (1), but has been unable to make the refund, the regulated financial service provider –

- (a) shall not benefit from the refund amount, and
- (b) shall make the refund with appropriate interest when claimed by a consumer to whom the refund is due.

(3) Paragraphs (1) and (2) apply to regulated financial service providers providing payment services without prejudice to the rights and obligations arising pursuant to Part 4 (Rights and Obligations in relation to the provision and use of payment services) of the European Union (Payment Services) Regulations 2018 (S.I. No. 6 of 2018).

Log of errors to be maintained

101. (1) A regulated financial service provider shall maintain an up-to-date log of all errors identified which affect regulated activities provided to consumers.

(2) The log referred to in paragraph (1) shall contain the following:

- (a) details of each error;
- (b) the date each error was discovered;
- (c) an explanation of how the error was discovered;
- (d) the period of time over which the error occurred;
- (e) the number of consumers affected;
- (f) the overall monetary amounts involved in the error;
- (g) the status of the error in terms of whether the error is fully resolved, partially resolved, or unresolved;
- (h) the date the error was fully resolved;
- (i) the number of consumers refunded in response to the error;
- (j) the total amount refunded in response to the error;
- (k) details of any charitable donations of the refund amount;
- (l) details of any other remediation steps taken.

Record of steps taken to resolve errors to be maintained

102. A regulated financial service provider shall keep a record of all steps taken to resolve an error which affects consumers, and shall include details of the steps taken where -

- (a) any affected consumers were dissatisfied with the outcome,
- (b) there were difficulties contacting affected consumers, and
- (c) a refund could not be repaid.

Chapter 12

Complaints resolution

Reasonable steps to be taken to resolve complaints

103. A regulated financial service provider shall take all reasonable steps to resolve any complaint with the complaining consumer.

Complaints made orally - consumers to be offered complaints process

104. When a regulated financial service provider receives an oral complaint, it shall offer the consumer the opportunity to have that complaint handled in accordance with the regulated financial service provider's complaints process.

Form of complaints that shall be facilitated

105. A regulated financial service provider shall permit and facilitate submission of complaints in writing by post and by electronic means.

Systems to track and manage complaints progress to be in place

106. A regulated financial service provider shall implement and maintain systems and controls to effectively track and manage the progress and resolution of complaints.

Procedures for managing and resolving complaints

107. (1) A regulated financial service provider shall implement a procedure for managing and resolving complaints.

(2) A regulated financial service provider shall make the complaints procedure referred to in paragraph (1) available in a prominent place on all of its websites and shall provide a hard copy of the procedure to a consumer, on request, within 5 working days of the request.

(3) The procedure referred to in paragraph (1) need not apply where a complaint has been resolved, to the satisfaction of the consumer making the complaint, within 5 working days, provided however that a log of the complaint shall be kept and maintained as required by Regulation 108.

(4) At a minimum, the procedure referred to in paragraph (1) shall provide for the following:

- (a) the regulated financial service provider shall acknowledge each complaint on paper or on another durable medium within 5 working days of the complaint being received, and such acknowledgement shall include -
 - (i) clear and complete details of the regulated financial service provider's procedure for handling complaints,
 - (ii) information that where the circumstances described in subparagraphs (f) and (g) arise, a consumer can refer the matter to the relevant Ombudsman, and
 - (iii) the contact details of the relevant Ombudsman;
- (b) in respect of a complaint submitted electronically, the regulated financial service provider shall, instead of providing an acknowledgement in accordance with paragraph (4)(a), provide an immediate or automatic acknowledgement using the same medium, confirming receipt of the complaint;
- (c) the regulated financial service provider shall provide the consumer making the complaint, or the person making the complaint on the consumer's behalf, with a point or points of contact in relation to the complaint until the complaint is resolved or all steps of the regulated financial service provider's complaints handling procedures have been exhausted;
- (d) the regulated financial service provider shall provide the consumer making the complaint with a regular update, on paper or on another durable medium, on the progress of the investigation of the complaint at intervals no greater than 20 working days, starting from the date on which the complaint was received;

- (e) the regulated financial service provider shall investigate and make reasonable efforts to resolve a complaint within 40 working days of having received the complaint;
- (f) where the 40 working day period referred to in subparagraph (e) has elapsed and the complaint is not resolved, the regulated financial service provider shall –
 - (i) notify the consumer making the complaint of the anticipated timeframe within which the regulated financial service provider hopes to resolve the complaint,
 - (ii) inform the consumer of their right to refer the matter to the relevant Ombudsman, and
 - (iii) provide the consumer with the contact details of such Ombudsman;
- (g) within 5 working days of the completion of the investigation, the regulated financial service provider shall advise the consumer making the complaint on paper or on another durable medium of -
 - (i) the decision at the conclusion of the investigation, including the reasons for that decision,
 - (ii) where applicable, the terms of any offer or settlement being made to the consumer making the complaint,
 - (iii) the fact that the consumer may refer the matter to the relevant Ombudsman, and
 - (iv) the contact details of such Ombudsman.

(5) Where a regulated financial service provider is providing payment services –

- (a) paragraph (4)(d), paragraph (4)(e) and paragraph (4)(f) do not apply to that regulated financial service provider, and
- (b) paragraph (4)(a)(ii) does not include information on the circumstances described in paragraph (4)(f).

Log of complaints to be maintained

108. (1) A regulated financial service provider shall keep and maintain an up-to-date log of all complaints from consumers.

(2) The log referred to in paragraph (1) shall contain the following:

- (a) details of each complaint, to include the core reason for the complaint in order to facilitate analysis of the complaint by category;
- (b) the date that each complaint was received;
- (c) a summary of the regulated financial service provider's response including the date of such response to the consumer who made the complaint;
- (d) details of any other relevant correspondence or records;

- (e) the steps taken to resolve each complaint;
- (f) the date the complaint was fully resolved;
- (g) where relevant, the current status of a complaint which has been referred to the relevant Ombudsman and the current status of an appeal of a decision from the relevant Ombudsman.

Governance arrangements for complaints handling

109. (1) A regulated financial service provider shall implement robust governance arrangements for the appropriate handling of complaints from consumers.

(2) The arrangements referred to in paragraph (1) shall include -

- (a) processes for the proper oversight of complaints handling,
- (b) analysis on a regular basis and, in that regard, at least once every 6 months, of the rate of occurrence and patterns of complaints, which shall include complaints resolved within 5 working days, and
- (c) arrangements within the regulated financial service provider for reporting to the compliance or risk function of the regulated financial service provider, or any other relevant function of the regulated financial service provider as required, as well as to the board of directors, or the entity or persons controlling the regulated financial service provider, of aggregated information on the number of complaints handled and resolved, and on the analysis referred to in subparagraph (b).

Chapter 13

Unsolicited personal visits and telephone calls

Subject to exceptions, no unsolicited personal visits to consumers who are natural persons

110. (1) A regulated financial service provider shall not make an unsolicited personal visit to a consumer who is a natural person.

(2) A regulated financial service provider may make a personal visit to a consumer who is a natural person if that consumer has provided his or her written consent to being contacted by the regulated financial service provider by this means.

(3) For the purposes of paragraph (2), a regulated financial service provider shall obtain consent in advance of each personal visit.

(4) For the purposes of this Regulation, “consent” means consent with respect to the following:

- (a) the purposes for which a personal visit is to be made, including in the case of sales and marketing, the types of product to be discussed during the personal visit;
- (b) the time, date and location for the personal visit;
- (c) any fee that the regulated financial service provider proposes to charge for the personal visit.

Initiating telephone calls with consumers that are existing customers

111. (1) A regulated financial service provider may initiate oral communication by means of a telephone call with a consumer who is an existing customer, only if one or more of the following conditions is met:

- (a) the regulated financial service provider has provided that consumer with a financial service similar to the one that is the purpose of the contact within the previous 12 months;
- (b) the consumer holds a product which requires the regulated financial service provider to maintain contact with the consumer in relation to that product, and the contact relates to that product;
- (c) the purpose of the contact is to offer a protection policy only;
- (d) the consumer has given his or her written consent to being contacted in this manner by the regulated financial service provider.

(2) Paragraph (1) is subject to the further condition that the making of the telephone call is not prohibited under any other applicable law.

Initiating telephone calls with consumers that are potential or former customers

112. (1) A regulated financial service provider may initiate oral communication by means of a telephone call with a consumer who is a potential customer or former customer (referred to in this Regulation as the “contacted person”), if any one of the following conditions is met:

- (a) the contacted person has provided his or her written consent for the regulated financial service provider to contact him or her for a specific purpose within the previous 12 months, and the contact relates to that purpose;
- (b) the contacted person has made their contact details public in the State by inclusion in, or on, any one of the following and contact is made via those contact details:
 - (i) the business listing section of a current telephone directory or classified telephone directory;
 - (ii) trade or professional directories;
 - (iii) a website, software app, or other digital technology operated by a business, where contact is made with the consent of the contacted person.
- (c) the contacted person is a director of a company, or a partner in a firm with an entry in one of the directories or other means referred to in subparagraph (b),

and contact is made via the business contact details of the company or firm in question and is in connection with their role as director of the company or partner in the firm;

- (d) the regulated financial service provider has received a referral in respect of the contacted person from another regulated financial service provider, another entity within the same group, a solicitor or a certified person and the following further conditions have been met:
 - (i) the contacted person has provided written consent for contact in this manner to the relevant person providing the referral;
 - (ii) the regulated financial service provider notifies the contacted person that it has received a referral of a kind referred to in this paragraph and seeks, and receives, the written consent of the contacted person to proceed to make contact.
- (e) the purpose of the contact is to offer a protection policy only.

(2) Paragraph (1) is subject to the further condition that the making of the telephone call is not prohibited under any other applicable law.

Initiating telephone calls to be proportionate, reasonable and not excessive

113. Where contact is made with a consumer in accordance with Regulations 111 and 112, a regulated financial service provider shall ensure that the extent of communications is proportionate, reasonable and not excessive taking into account the circumstances of the consumer.

Permitted contact by telephone or visit to be made only during certain times

114. Permitted contact with a consumer, by telephone or by visit, made in accordance with these Regulations, may be made only between 9.00 a.m. and 9.00 p.m. Monday to Saturday, excluding public holidays, unless otherwise agreed in writing with the consumer.

Information to be provided / established

115. When making a personal visit or initiating oral communication by means of telephone call, in accordance with these Regulations, a regulated financial service provider shall ensure that its representative immediately upon initiating contact and in the following order -

- (a) provides the consumer with his or her name and the name of the regulated financial service provider on whose behalf the consumer is being contacted and the legitimate purpose of the contact,
- (b) informs the consumer that the telephone contact is being recorded, if this is the case,
- (c) where relevant, discloses to the consumer, the source of the referral supporting the telephone contact, and
- (d) establishes if the consumer wishes the personal visit or telephone call to proceed and, if not, end the contact immediately.

Sales and marketing - Instructions to be complied with for no further visits or telephone calls

116. A regulated financial service provider shall comply with an instruction from a consumer not to make a further personal visit to him or her, and not to initiate further oral communication by means of telephone call with him or her, for sales and marketing purposes.

Chapter 14

Records and Compliance

Required records

117. (1) A regulated financial service provider shall prepare and maintain up-to-date records that include at least the following:

- (a) records evidencing compliance with the applicable requirements, including the conditions of such requirements, of these Regulations;
- (b) a copy of all documents and other information required for each consumer's identification and profile, including any such documents and other information relevant to an assessment of the suitability of a financial service for a consumer;
- (c) a consumer's contact details;
- (d) all information and documents prepared in compliance with these Regulations;
- (e) information on the financial service provided to a consumer;
- (f) a copy of all correspondence between the regulated financial service provider and a consumer, including with a representative of the consumer, and a copy of any other information provided to the consumer by the regulated financial service provider in relation to a financial service;
- (g) all instructions received by the regulated financial service provider from a consumer or from a person acting on behalf of a consumer, including the date of receipt of the instruction, and, where relevant, the date of transmission by the regulated financial service provider of the instruction to another person or the date of any action undertaken by the regulated financial service provider in accordance with the instruction;
- (h) where a regulated financial service provider accepts an instruction from a consumer that is subject to any condition imposed by the consumer, a record of the condition to which the instruction is subject;
- (i) where a regulated financial service provider is authorised to make a decision on behalf of a consumer with respect to a product and the decision is at the discretion of the regulated financial service provider, a record of the decision and the underlying reasons for such decision.
- (j) all documents or applications provided to the regulated financial service provider that are completed or signed by a consumer;

- (k) copies of all original documents provided to the regulated financial service provider that are submitted by a consumer in support of an application for the provision of a financial service to the consumer;
- (l) a record evidencing consents that are required from a consumer by these Regulations, in the required form if any;
- (m) comprehensive records in respect of each complaint received from a consumer;
- (n) all other relevant information and documentation concerning the consumer.

(2) For the purposes of paragraph (1)(l) –

- (a) where the required form is written consent, this means consent recorded in writing by the consumer, and
- (b) where there is no required form of consent, this means consent recorded in writing by the consumer or an audio recording of the consumer's consent.

Customers who are consumers to be identified in records

118. A regulated financial service provider shall identify in its records those customers who are consumers as defined by these Regulations.

Period of retention of records

119. (1) Subject to paragraphs (2) and (3), a regulated financial service provider shall –

- (a) retain any records which detail consumer transactions in respect of its regulated activities for 6 years after the date on which the particular transaction is discontinued or completed, and
- (b) retain any records in respect of its regulated activities provided to consumers, other than those referred to in subparagraph (a), for 6 years from the date on which the regulated financial service provider ceased to provide any financial service to the consumer concerned.

(2) Where a consumer has requested the provision of, or has been offered, a financial service, but has not been provided with the financial service concerned, a regulated financial service provider shall retain any record in respect of that request or offer for 12 months.

(3) Where the consumer requests that the record referred to in paragraph (2) is no longer retained by the regulated financial service provider, the requirement to retain the record pursuant to that paragraph does not apply.

Records to meet certain standards

120. (1) A regulated financial service provider shall maintain complete, orderly, accurate, and readily accessible records.

(2) Where the Bank requires a regulated financial service provider to keep a record in respect of the regulated financial service provider's compliance with these Regulations and provide such record to the Bank, the regulated financial service provider is required to provide a record which is complete, orderly and accurate.

(3) For the purposes of paragraph (2), the regulated financial service provider shall provide the record in any period of time and in any format that may be specified by the Bank.

Chapter 15

Miscellaneous business requirements

Outsourcing activity

121. A regulated financial service provider shall ensure that any outsourced activity complies with the requirements of these Regulations.

Policies and procedures to be in writing and accessible to employees

122. Where a regulated financial service provider is required to maintain a policy or procedure pursuant to these Regulations, the policy or procedure shall be in writing and readily accessible to any employee of the regulated financial service provider requiring access to it for the effective performance of his or her duties on behalf of the regulated financial service provider.

Instructions to be acknowledged and processed

123. (1) A regulated financial service provider shall acknowledge all instructions from a consumer, or from a person acting on behalf of a consumer, within a reasonable timeframe, but no later than 3 working days from the date of receipt of the instruction.

(2) The acknowledgement referred to in paragraph (1) shall –

- (a) be made in writing on paper or on another durable medium,
- (b) be issued to the consumer, and
- (c) refer to the specific instruction received.

(3) A regulated financial service provider shall process all instructions from or on behalf of a consumer properly and promptly.

Receipt to be provided

124. (1) Subject to paragraph (3), a regulated financial service provider that is in receipt of a payment directly from a consumer, or directly from a person making a payment on behalf of a consumer, for a financial service, shall provide the consumer with a receipt, on paper or on another durable medium.

(2) The receipt referred to in paragraph (1) shall include the following information:

- (a) the name and address of the regulated financial service provider;
- (b) the name of the consumer who provided the payment, or on whose behalf the payment is provided;

- (c) the value of the payment received and the date on which it was received;
- (d) the purpose of the payment.

(3) A regulated financial service provider is not required to provide a receipt for regular payments made by a consumer in compliance with an agreed payment schedule set out in its contract with the consumer.

Original documentation conferring ownership rights to be given or held for safekeeping

125. A regulated financial service provider shall give original documentation conferring ownership rights to a consumer in a timely manner or shall hold the documents for safekeeping under an agreement on paper or on another durable medium with the consumer, in accordance with the terms of the regulated financial service provider's authorisation.

Confirmation of power of attorney to be obtained where relevant

126. (1) Where a regulated financial service provider deals with a person who is acting for a consumer under a power of attorney, the regulated financial service provider shall -

- (a) obtain a certified copy of the power of attorney,
- (b) in the case of an enduring power of attorney made under Part 7 of the Act of 2015 or an enduring power under the Act of 1996, satisfy itself as to the status of the power of attorney, and
- (c) operate within the limitations set out in the power of attorney.

(2) In this Regulation, "enduring power of attorney" and "enduring power under the Act of 1996" have the meanings assigned to them in section 2 of the Act of 2015.

Procedure to be complied with on ceasing to operate, merging business or transferring regulated activities

127. (1) Where a regulated financial service provider intends to cease operating, merge business with another person, or to transfer all or part of its regulated activities to another regulated financial service provider it shall -

- (a) notify the Bank of its intention without delay,
- (b) if a decision by the regulated financial service provider is made to proceed, provide at least 6 months' notice of its decision to consumers to whom it is providing the relevant financial services which it intends to cease operating, or which are the subject of the merger or transfer, to enable them to make alternative arrangements,
- (c) ensure that all outstanding business with consumers is properly completed prior to the transfer, merger or cessation of operations, as the case may be, or, alternatively in the case of a transfer or merger, inform consumers of how continuity of service will be provided to them following the date of transfer or merger,
- (d) in the case of a merger or transfer of regulated activities, inform a consumer in advance that their details are being transferred to the other regulated financial service provider, if that is the case, and obtain any required consents from the consumer,

- (e) in the case of a merger or transfer of regulated activities, provide to consumers to whom it is providing the relevant financial services, at least 2 months prior to the merger or transfer, the name, address and contact details of the other regulated financial service provider with which the merger or the transfer is taking place, and refer to the specific terms and conditions in the consumer's contract that provide for the transfer or merger of regulated activities,
- (f) in the case of a transfer of mortgage loans, facilitate any due diligence exercise conducted by the other regulated financial service provider in respect of those regulated activities, and
- (g) in the case of a merger or transfer of regulated activities, provide all relevant documentation to the other regulated financial service provider with which the merger or to which the transfer is taking place, to enable the relevant financial service to be administered in accordance with the terms and conditions agreed with consumers and in accordance with any other specific commitments made by the regulated financial service provider to consumers.

(2) Paragraph (1)(f) does not apply to a regulated financial service provider that is an intermediary.

Proposed transferee or merging entity to conduct due diligence and verify continuity of service

128. Where a regulated financial service provider is the proposed transferee of regulated activities from another regulated financial service provider, or proposes to merge with another regulated financial service provider, it shall -

- (a) conduct due diligence to ensure that the interests of consumers, to whom it will provide regulated activities in the event of completion of the transfer or merger, are protected in the event of the transfer or merger, and
- (b) satisfy itself that it is capable of providing continuity of service to those consumers to whom it will provide regulated activities in the event of the transfer or merger, in accordance with those consumers' contracts with the regulated financial service provider with whom the merger or from whom the transfer is taking place.

Information to be provided and obtained prior to opening joint account for consumers

129. Prior to opening a joint account for 2 or more consumers, a regulated financial service provider shall -

- (a) warn each of the consumers as to the legal and practical implications for a party to a joint account in opening and operating such an account as compared with an account for a sole account holder;
- (b) inform each of the consumers of the particular operations of the account for which consent is and is not required from all account holders;
- (c) ascertain agreed instructions from the consumers as to whether they wish each of the joint account holders to be provided with statements, and
- (d) ascertain agreed instructions from the consumers as to whether they wish to impose any limitations on the operations of the account.

Exclusion and restriction of duties and liabilities to be avoided

130. When providing regulated activities to a consumer, a regulated financial service provider shall not, in any communication or agreement with a consumer, except where permitted by applicable law, exclude or restrict, or seek to exclude or restrict -

- (a) any legal liability or duty of care to a consumer which it has under these Regulations or other financial services legislation,
- (b) any other duty to act with skill, care and diligence which is owed to a consumer in connection with the provision to that consumer of financial services, or
- (c) any liability owed to a consumer for failure to exercise the degree of skill, care and diligence that may reasonably be expected of it in the provision of a financial service.

Regulated financial service providers negotiating with debt management firms

131. Where a regulated financial service provider is a creditor of a consumer and negotiates with a debt management firm for the discharge of a debt of that consumer, in circumstances where the debt management firm is providing debt management services to that consumer, the regulated financial service provider shall allow a minimum of 5 working days for the consumer to consider any proposed outcome of the negotiations before taking any action.

Part 3

CONSUMER BANKING, CREDIT, ARREARS, AND CERTAIN OTHER FINANCIAL ARRANGEMENTS

Chapter 1

Knowing the consumer and suitability – additional requirements

Affordability assessment to be carried out

132. (1) Prior to offering, recommending, arranging or providing a credit product, hire-purchase agreement, consumer-hire agreement or BNPL agreement, to a personal consumer, a regulated financial service provider that is a lender shall carry out an affordability assessment to ascertain the personal consumer's likely ability to repay the debt over the duration of the agreement.

(2) For the purposes of paragraph (1), an affordability assessment shall include consideration by the lender of the information gathered under Regulation 15(3)(b) and Regulation 15(3)(c).

(3) The lender shall notify the intermediary through whom the credit product, hire-purchase agreement, consumer-hire agreement or BNPL agreement, is distributed to the consumer, if any, of the results of the affordability test referred to in paragraphs (1) and (2).

(4) A regulated financial service provider shall take account of the result of the affordability assessment when deciding whether a personal consumer is likely to be able to repay the debt for that amount and duration in the manner required under the applicable credit agreement, hire-purchase agreement, consumer-hire agreement or BNPL agreement.

(5) When assessing and documenting the matters referred to in Regulation 16(2), the regulated financial service provider shall also assess and document whether, on the basis of the information gathered under Regulation 15(1) to (10), in the case of credit products, hire-purchase agreements, consumer-hire agreements or BNPL agreements, a personal consumer has the ability to repay the debt in the manner required under the credit agreement, hire-purchase agreement, consumer-hire agreement or BNPL agreement, on the basis of the outcome of the assessment of affordability.

(6) Paragraph (5) does not apply to the activities of a creditor within the scope of the European Union (Consumer Mortgage Credit Agreements) Regulations 2016.

Lenders to carry out further affordability and suitability assessment

133. (1) A regulated financial service provider shall carry out a further affordability and suitability assessment, in accordance with Regulations 16 and 132, including, where applicable, Regulation 183, prior to offering, recommending, arranging or providing additional credit, hire-purchase, consumer-hire or BNPL facilities, to a personal consumer, whether by way of a top-up on an existing loan or agreement, or by a new credit agreement, hire-purchase agreement, consumer-hire agreement or BNPL agreement.

Chapter 2

Additional information requirements

Requirement for publishing notices regarding change in interest rates

134. Where a regulated financial service provider publishes a notice for consumers regarding a change in interest rates, the regulated financial service provider shall specify in the notice the old rate, the new rate and the date from which the changes will apply.

Information publication services on interest rates to be updated

135. Where a regulated financial service provider publishes interest rates by any means that it uses to publish information for consumers, including telephone helplines and websites, the regulated financial service provider shall update the information specified by such means as soon as any interest rate change comes into effect.

Personal consumers to receive explanation of consequences of missing scheduled repayments

136. (1) Prior to approving credit for a personal consumer, a regulated financial service provider shall explain to the personal consumer the consequences under the credit agreement of missing any scheduled repayments.

(2) A regulated financial service provider shall highlight the consequences of missing the scheduled repayments in all documentation related to such credit agreement provided to the personal consumer.

(3) A regulated financial service provider shall provide the following warning statement in the credit agreement documentation referred to in paragraph (2):

“Warning: If you do not meet the repayments on your credit agreement, your account will go into arrears. This may affect your credit report, which may limit your ability to access credit in the future.”

Reasons to be provided for not approving personal consumer credit application

137. (1) A regulated financial service provider that does not approve a personal consumer’s formal application for credit shall provide to the personal consumer the reasons why the credit was not approved.

(2) For the purposes of paragraph (1), the regulated financial service provider shall –

- (a) offer to provide the reasons on paper or on another durable medium,
- (b) if requested by the personal consumer, provide the reasons on paper or on another durable medium, and
- (c) provide the reasons on paper or on another durable medium within 10 working days of such request.

Worked examples to be provided for personal consumers regarding fixed interest rates

138. (1) Paragraph (2) applies where a regulated financial service provider -

- (a) offers credit on a fixed interest rate to a personal consumer, or
- (b) offers a personal consumer the option to fix their interest rate or to switch to a fixed interest rate, in respect of an existing credit agreement with the personal consumer.

(2) In the circumstances referred to in paragraph (1), a regulated financial service provider shall provide in its credit documentation a worked example, specific to the personal consumer, of the early redemption charge in monetary terms, and details in relation to the calculation of this charge.

Information to be provided on guarantee documentation

139. Where a regulated financial service provider offers credit to a personal consumer subject to provision of a guarantee, the regulated financial service provider shall ensure that the guarantee documentation –

- (a) clearly specifies the obligations of the guarantor in respect of the credit, and
- (b) contains a warning statement in the following format:

“Warning: As a guarantor of this credit, you will have to pay off any outstanding debt amount, the interest and all associated charges up to the level of your

guarantee if the borrower(s) do(es) not. Before you sign this guarantee you should get independent legal advice.”

Indicative comparison of total cost to be provided to personal consumers when consolidating loans

140. (1) Prior to offering, recommending, arranging or providing a loan to a personal consumer for the purpose of consolidating other loans or credit, a regulated financial service provider shall provide the personal consumer, on paper or on another durable medium, with an indicative comparison of the total cost of the consolidated loans or credit and the total cost of the consolidating loan.

(2) Any assumptions used by a regulated financial service provider for the purposes of the comparison referred to in paragraph (1) shall be reasonable, justifiable and clearly stated.

Information to be provided to personal consumers on lifetime mortgages

141. Prior to offering, recommending, arranging or providing a lifetime mortgage to a personal consumer, a regulated financial service provider shall inform the personal consumer of the legal and practical consequences of entering into a lifetime mortgage providing, at a minimum, the following information on paper or on another durable medium:

- (a) the terms of repayment of the loan, including any terms providing for repayment prior to the date of maturity of the loan;
- (b) details of the applicable interest rate;
- (c) an explanation of the impact of the compounding of the interest over the duration of the loan;
- (d) the monetary amount required to repay the loan at maturity, based on the interest rate applicable to the loan at drawdown applying for the duration of the term of the loan;
- (e) the effect on an existing mortgage, if any;
- (f) if the terms referred to in paragraph (a) provide for early repayment, an indication of the likely early redemption costs which would be incurred if the loan was redeemed on each of the following dates:
 - (i) 3 years from the date of the provision of the loan;
 - (ii) 5 years from the date of the provision of the loan;
 - (iii) the date at the end of each remaining 5 year period within the term of the loan after the date referred to in subparagraph (ii);
- (g) the party that would be liable for any redemption costs;
- (h) whether the personal consumer or their estate would be liable for any shortfall arising when the proceeds of sale of the mortgaged property are used to repay the loan;
- (i) details of any costs which may apply over the term of the lifetime mortgage or on the sale of the mortgaged property.

Information to be provided to personal consumers on home reversion agreements

142. Prior to offering, recommending, arranging or providing a home reversion agreement to a personal consumer, a regulated financial service provider shall inform the personal consumer of the legal and practical consequences of entering a home reversion agreement providing, at a minimum, the following information on paper or on another durable medium:

- (a) the circumstances in which the agreement comes to an end;
- (b) the effect on the personal consumer's existing mortgage, if any;
- (c) in the case of a variable-share contract, an indication of the potential change over the duration of the agreement in the portioning of ownership of the property between that held by the home reversion firm and the personal consumer.

Conditions for reliance on assumptions in providing information pursuant to Regulations 141 and 142

143. Where it is necessary for a regulated financial service provider to rely on assumptions in the provision of the information provided pursuant to Regulations 141 and 142, the assumptions shall be reasonable, justifiable and clearly stated.

Importance of obtaining independent legal advice to be notified with lifetime mortgages and home reversion agreements

144. Prior to offering, recommending, arranging or providing a lifetime mortgage or a home reversion agreement to a personal consumer, a regulated financial service provider shall inform the personal consumer of the importance of obtaining independent legal advice regarding the proposed transaction.

Warning statements to be included with information on lifetime mortgages and home reversion agreements

145. (1) When giving information to a personal consumer regarding a lifetime mortgage or a home reversion agreement, a regulated financial service provider shall include warning statements on the following:

- (a) an application form or any other document provided to the personal consumer;
- (b) the regulated financial service provider's website.

(2) For the purposes of paragraph (1), warning statements in relation to all lifetime mortgages shall contain the following texts:

- (a) "Warning: While no interest is payable during the term of the mortgage, interest is charged each month and added to the amount owed. The amount owed plus the added interest is then payable in full in circumstances such as death, or permanent vacation or sale of the mortgage property.";
- (b) "Warning: Unlike certain other mortgages where interest is charged on a sum that decreases with time, interest on lifetime mortgages is charged on an increasing sum (made up of the outstanding mortgage and added interest amounts), and therefore the total amount owed can increase quickly. As you do not make any repayments, the interest on your mortgage is added to your

outstanding debt on a continual basis and you are effectively charged interest on that interest. This is called ‘compound interest’.”;

- (c) “Warning: The longer a lifetime mortgage remains unpaid, the more money you will owe and the amount you owe could eventually come close to, equal, or exceed, the value of your home.”;
- (d) “Warning: Purchasing this product may negatively impact on your ability to fund future needs. Before purchasing this product, you should get independent advice.”.

(3) For the purposes of paragraph (1), warning statements in relation to a lifetime mortgage subject to a variable rate shall further contain the following text:

“Warning: If interest rates rise, the interest payable on your lifetime mortgage loan will further increase. This means that the amount you owe will further increase and at a faster rate, leaving less (or no) proceeds from the sale of your home and a potential shortfall.”

(4) For the purposes of paragraph (1), warning statements in relation to home reversion agreements shall contain the following texts:

- (a) “Warning: The money you receive in exchange for transferring a share in your home may be much less than the actual market value of the share in your home.”;
- (b) “Warning: Purchasing this product may negatively impact on your ability to fund future needs as a result of transferring a share in your home.”.

Credit institutions to provide information on term and notice deposit accounts

146. (1) In relation to a term and notice deposit account provided by a credit institution to a consumer with a balance in excess of €100, or the equivalent amount in a currency other than euro, the credit institution shall provide to the consumer, on paper or on another durable medium, at least every 12 months, the following:

- (a) a statement of the account which includes, where applicable -
 - (i) the opening balance,
 - (ii) all additions,
 - (iii) all withdrawals,
 - (iv) all interest credited,
 - (v) all charges,
 - (vi) the closing balance,
 - (vii) details of the interest rate applied to the account during the period covered by the statement, and
 - (viii) where tax is deducted from interest credited, information on the tax deducted or on how consumers may obtain a certificate detailing the tax paid;

- (b) details of interest rates applied to other similar accounts available to the consumer from that credit institution.

(2) Where the term of the term and notice deposit account referred to in paragraph (1) is less than one year, the credit institution shall provide to a consumer a closing statement which contains the information referred to in paragraph (1)(a) and (b).

(3) Where a regulated financial service provider is required to provide a consumer with a statement pursuant to this Regulation, the regulated financial service provider shall inform the consumer that he or she may request the statement to be provided on paper, and, if requested by the consumer, the regulated financial service provider shall provide the statement on paper to the consumer.

Credit institutions to provide information on fixed term deposits

147. (1) Prior to the maturity of a fixed term deposit made by a consumer, a credit institution shall notify the consumer making the deposit about its impending maturity and the maturity date, in accordance with paragraphs (2) and (3).

(2) For the purposes of paragraph (1) the credit institution shall provide to the consumer -

- (a) at least 10 working days' notice in respect of a fixed term deposit with a term of less than 12 months, or
- (b) at least 30 calendar days' notice in respect of a fixed term deposit with a term of 12 months or more.

(3) Paragraphs (1) and (2) do not apply where the maturity date of the fixed term deposit is less than 30 calendar days.

Providers of loan accounts to provide statements to personal consumers

148. (1) In relation to a loan account provided by a regulated financial service provider to a personal consumer, the regulated financial service provider providing the loan account shall, at least every 12 months, provide to the personal consumer, on paper or on another durable medium, a statement of the account which includes the following:

- (a) the opening balance;
- (b) all transactions;
- (c) all charges including interest charged;
- (d) the outstanding balance due;
- (e) details of the interest rate applied to the account during the period covered by the statement.

(2) Where a regulated financial service provider is required to provide a consumer with a statement pursuant to this Regulation, the regulated financial service provider shall inform the consumer that he or she may request the statement to be provided on paper, and, if requested by the consumer, the regulated financial service provider shall provide the statement on paper to the consumer.

Providers of loans to notify personal consumers of interest rate changes

149. (1) A regulated financial service provider shall notify a personal consumer to whom it provides a loan of any change in the interest rate on the loan, on paper or on another durable medium.

(2) The notification referred to in paragraph (1) shall include the following:

- (a) the date from which the new interest rate applies;
- (b) details of the old interest rate and the new interest rate;
- (c) the revised repayment amount;
- (d) an invitation for the personal consumer to contact the lender if he or she anticipates difficulties meeting any higher repayments.

(3) For the purposes of paragraph (2)(c), in respect of a mortgage where an alternative repayment arrangement has been put in place in accordance with Part 3 Chapter 9, the notification shall clearly indicate the revised repayment amount that applies to the alternative repayment arrangement.

(4) A regulated financial service provider shall provide the notification required pursuant to paragraph (1) –

- (a) at least 30 calendar days in advance of any increase in the interest rate, subject to Regulation 188(6), and
- (b) in respect of a decrease in the interest rate, as soon as practicable.

(5) A regulated financial service provider is not required to comply with the notification requirement pursuant to paragraph (1) in respect of a loan that is not a mortgage loan, provided that all of the following conditions are satisfied:

- (a) the change in interest rate is caused by a change in a reference interest rate which changes on a daily or weekly basis;
- (b) the new reference interest rate is made publicly available by appropriate means;
- (c) information concerning the new reference interest rate is kept available in the regulated financial service provider's public offices and on its websites on which it provides information in respect of its regulated activities.

(6) Where an exemption applies to a regulated financial service provider pursuant to paragraph (5), the regulated financial service provider may choose to comply with the notification requirement pursuant to paragraph (1) if it wishes to do so.

Chapter 3

Additional post-sale information requirements

Guarantor of personal consumer credit to be notified

150. Where a regulated financial service provider has advanced credit to a personal consumer subject to a guarantee, the regulated financial service provider shall promptly notify the guarantor, on paper or on another durable medium, if the terms of the credit agreement change.

Chapter 4

Advertisements

Scope and application (Chapter 4)

151. (1) Subject to paragraph (2), this Chapter applies to advertisements which refer, or relate, to a regulated activity which can be provided, or is available, to a consumer.

(2) Regulations 152 to 156, and Regulation 159, apply only to advertisements which refer, or relate, to a regulated activity which can be provided, or is available, to a personal consumer.

Advertisement referring to annual percentage rate of charge

152. (1) A regulated financial service provider shall ensure that in an advertisement in which it refers to an annual percentage rate of charge, it states if the applicable interest rate is fixed or variable.

(2) For the purposes of paragraph (1), where the interest rate is a fixed interest rate, the regulated financial service provider shall specify the term of the fixed interest rate in the advertisement concerned and shall specify the interest rate that will apply after the fixed interest rate has expired.

Advertising term loans and other arrangements which specify annual percentage rate of charge and term

153. (1) Subject to paragraph (2), a regulated financial service provider shall ensure that in an advertisement in which it advertises a term loan, hire-purchase agreement, a consumer-hire agreement or a BNPL agreement, specifying the annual percentage rate of charge and the term, it also specifies the total cost of credit, the hire-purchase agreement, the consumer-hire agreement, or the BNPL agreement, by means of an example.

(2) Paragraph (1) does not apply to an advertisement in respect of a mortgage loan.

Advertising fixed-rate loans and other arrangements – warning statement regarding early payment

154. A regulated financial service provider shall ensure that, in an advertisement in which it advertises a fixed-rate loan, a hire-purchase agreement, a consumer-hire agreement or a BNPL-agreement, it provides a warning statement in the following format, inserting the appropriate information in place of the instruction in square brackets for that purpose:

“Warning: You may have to pay charges if you pay off a [state product type: fixed-rate loan, hire-purchase agreement, consumer-hire agreement or BNPL-agreement] early.”

Advertising personal lending and other arrangements - warning statement regarding failure to make repayments

155. A regulated financial service provider shall ensure that, in an advertisement in which it advertises personal lending, a hire-purchase agreement, a consumer-hire agreement or a BNPL-agreement, it provides a warning statement in the following format, inserting the appropriate information in place of the instruction in square brackets for that purpose:

“Warning: If you do not meet the repayments on your [state product type: loan, hire-purchase agreement, consumer-hire agreement or BNPL-agreement], your account will go into arrears. This may affect your credit report, which may limit your ability to access credit, a hire-purchase agreement, a consumer-hire agreement or a BNPL-agreement in the future.”

Advertising for credit enabling consolidation of debts – required information

156. (1) A regulated financial service provider shall ensure that an advertisement for credit enabling the consolidation of 2 or more debts provides the following warning statement:

“Warning: This new credit may take longer to pay off than your previous credit. This means you may pay more than if you paid off your credit over a shorter term.”

(2) Where the advertisement referred to in paragraph (1) offers sample figures in the advertisement, the regulated financial service provider shall ensure that the advertisement indicates the difference between the total cost of credit to a consumer of the consolidated credit and the total cost of credit to a consumer of the individual debts that are the subject of consolidation.

Advertising - required information for displaying interest rate for savings or deposit account

157. A regulated financial service provider shall ensure that, in an advertisement in which it displays an interest rate for a savings or deposit account, the following information is clearly and prominently stated:

- (a) whether the interest rate quoted is fixed or variable;
- (b) if the interest rate quoted is fixed, the period for which it is fixed and, an indication of the rate that will apply after that fixed period;
- (c) the relevant interest rate for each term quoted and the annual equivalent rate, and each such interest rate and annual equivalent rate shall be of equal size and prominence;
- (d) the minimum term or amount required to qualify for a specified rate of interest, if applicable;
- (e) if any tax is payable on the interest earned on the account.

Advertising - requirements for information on annual equivalent rates

158. A regulated financial service provider shall ensure that in an advertisement in which it displays an annual equivalent rate -

- (a) the annual equivalent rate is not misleading,
- (b) any assumptions used in the calculation of the annual equivalent rate are reasonable, accurate and clearly stated, and

- (c) a record of the manner of the calculation of the annual equivalent rate is maintained.

Advertising - warning statement for home reversion agreements

159. A regulated financial service provider shall ensure that, in an advertisement in which it advertises a home reversion agreement, it provides the following warning statements:

- (a) “Warning: The money you receive in exchange for transferring a share in your home may be much less than the actual market value of the share in your home.”;
- (b) “Warning: Purchasing this product may negatively impact on your ability to fund future needs as a result of transferring a share in your home”.

Chapter 5

Additional miscellaneous business requirements for credit institutions and provision of credit

Credit institutions to follow timelines for crediting funds to term or notice deposit accounts

160. (1) A credit institution shall credit any funds received by it, directly or via a deposit agent, which are to be lodged to a consumer’s term or notice deposit account, to that account by close of the working day on which the funds are received.

(2) Where the funds are not credited on the day they are received by the credit institution in accordance with paragraph (1), the credit institution shall backdate credit for those funds to that day.

Credit institution to give information and protect consumer interests when closing, merging or moving branches

161. (1) When intending to close a branch, merge branches, or move a branch, in the State, a credit institution shall take the following action:

- (a) notify the Bank without delay when the decision to close, merge, or move has been made;
- (b) provide the notification referred to in subparagraph (a) at least 2 months in advance of notifying affected consumers or the wider community of the decision;
- (c) inform the Bank of any relevant planned steps or subsequent developments which have the potential to affect consumers during the period from the date of notification referred to in subparagraph (a) to the date of closure, merger or move;
- (d) subject to notifying the Bank in accordance with subparagraphs (a) and (b), provide at least 6 months’ individual notice to every consumer that is a customer of the credit institution through the relevant branch, prior to the closure, merger or move, to enable such consumers to make alternative arrangements;

- (e) properly complete all business of the branch prior to the closure, merger or move, or, alternatively, inform the consumers referred to in subparagraph (d) of how continuity of an equivalent service will be provided through another branch;
- (f) subject to notifying the Bank in accordance with subparagraphs (a) and (b), notify the wider community of the closure, merger or move at least 6 months in advance, by way of public notification in a manner appropriate to the individual characteristics of the locality in which the branch is located.

(2) Where it intends to close a branch in the State, the credit institution shall promptly prepare an assessment, approved by the board of directors, or the entity or persons controlling the regulated financial service provider, of the anticipated impact of the closure on consumers that are customers of the credit institution with regard to –

- (a) access to financial services, and
- (b) range of financial services available to the consumers.

(3) The assessment referred to in paragraph (2) shall include an assessment of the following:

- (a) the suitability of alternative arrangements for provision of a financial service provided in the closing branch;
- (b) where those alternative arrangements are suitable, the credit institution's plans for transferring consumers that are customers of the credit institution to those arrangements, including any plans necessary for consumers in vulnerable circumstances.

(4) No later than 2 months prior to the closure of the branch, a credit institution shall -

- (a) publish the assessment, as prepared in accordance with paragraph (2), in the relevant branch and on a website of the regulated financial service provider, and
- (b) arrange publication of details of the fact that the assessment, as prepared in accordance with paragraph (2), has been carried out, and where a copy of the assessment may be found, in one or more local newspapers that are local to the relevant branch.

(5) Where a credit institution has closed a branch in the State, the credit institution shall –

- (a) within 9 months following the closure, commence an assessment of the impact of the closure on consumers that are customers of the credit institution, and for whom alternative arrangements were made, in order to assess those consumers' satisfaction and experience with regard to the alternative arrangements put in place following the branch closure,
- (b) complete the assessment before 15 months have elapsed following closure,
- (c) publish the assessment on a website of the regulated financial service provider,
- (d) arrange publication of details of the fact that the assessment has been carried out, and where a copy of the assessment may be found, in one or more local newspapers that are local to the closed branch, and

- (e) re-assess the suitability of the alternative arrangements of the consumers referred to in subparagraph (a) and, where material adverse issues arise with regard to the suitability of those arrangements, rectify those issues.

(6) This Regulation does not apply where the closure, merger or move will be temporary.

Credit institution to give information and protect consumer interests when significantly amending branch services

162. (1) Where a credit institution intends to significantly amend the financial services that it provides in a particular branch in the State by way of ceasing any part of this business, it shall take the following action:

- (a) give the 4 month notice required by Regulation 48;
- (b) prepare an assessment, approved by the board of directors, or the entity or persons controlling the regulated financial service provider, of the anticipated impact of the intended amendment on consumers that are customers of the credit institution with regard to –
 - (i) access to financial services, and
 - (ii) range of financial services available to the consumers.

(2) The assessment referred to in paragraph (1)(b) shall include an assessment of the following:

- (a) the suitability of alternative arrangements for provision of the financial service where the regulated financial service provider anticipates that alternative arrangements may be required;
- (b) where those alternative arrangements are suitable and may be required, the credit institution's plans for transferring consumers that are customers of the credit institution to those arrangements, including any specific plans necessary for consumers in vulnerable circumstances.

(3) No later than 2 months prior to the amendment, a credit institution shall –

- (a) publish the assessment, as prepared in accordance with paragraph (1)(b), in the relevant branch and on a website of the regulated financial service provider, and
- (b) arrange publication of details of the fact that the assessment, as prepared in accordance with paragraph (1)(b), has been carried out, and where a copy of the assessment may be found, in one or more local newspapers that are local to the relevant branch.

(4) The credit institution shall -

- (a) within 9 months following the amendment, commence an assessment of the impact of the amendment on consumers that are customers of the credit institution, and for whom alternative arrangements were made, in order to assess those consumers' satisfaction and experience with regard to the alternative arrangements put in place following the amendment,
- (b) complete the assessment before 15 months have elapsed following amendment,
- (c) publish the assessment in the relevant branch,

- (d) publish the assessment on a website of the regulated financial service provider,
- (e) arrange publication of details of the fact that the assessment has been carried out, and where a copy of the assessment may be found, in one or more local newspapers that are local to the relevant branch, and
- (f) re-assess the suitability of any alternative arrangements of the consumers referred to in subparagraph (a) and, where material adverse issues arise with regard to the suitability of those arrangements, rectify those issues.

Unsolicited pre-approved credit to personal consumers

163. A regulated financial service provider shall not recommend or offer unsolicited pre-approved credit to a personal consumer.

No increase of personal consumer's credit limit without agreement

164. A regulated financial service provider may not increase a personal consumer's credit limit without obtaining the agreement of the personal consumer.

Separate payment by personal consumers to be permitted in respect of loan charge

165. Where a regulated financial service provider intends to impose a charge in respect of the provision of a loan to, or arrangement of a loan for, a personal consumer, and it proposes to incorporate this charge into the loan amount advanced to the personal consumer, the regulated financial service provider shall permit the personal consumer to pay this charge separately and to elect not to incorporate the charge into the loan amount.

Credit institution not prevented from requiring opening of feeder account

166. Regulation 92(1) shall not prevent a credit institution from requiring a consumer to open an account, in order to avail of another product, to be used by the consumer for the purpose of facilitating payments in respect of that product (referred to in this Regulation as a 'feeder account'), provided that all of the following conditions are met:

- (a) the credit institution shall not require the consumer to use the feeder account for purposes other than facilitating payments in respect of the product concerned;
- (b) the credit institution shall not apply charges for using the feeder account for the purpose for which it was established;
- (c) any additional facilities available on the feeder account, including any subject to a charge, shall be made optional by the credit institution and shall only be activated by the credit institution if requested by the consumer in writing;
- (d) the credit institution shall clearly communicate each of the conditions referred to in paragraphs (a) to (c) to the consumer in writing.

Steps where offering payment protection insurance with a loan

167. Where a regulated financial service provider offers payment protection insurance with a loan, the regulated financial service provider shall -

- (a) exclude the payment protection insurance premium from the initial repayment estimate of the loan provided to a consumer and separately inform the consumer of the premium amount for such payment protection insurance, and

- (b) use separate application forms for each of the payment protection insurance and the loan.

Chapter 6

Additional requirements specific to mortgage business

Interpretation (Chapter 6)

168. In this Chapter, “incentive” in relation to a mortgage, includes short-term cost savings, payment breaks, payment moratoria, cashback offers or other offers, which –

- (a) may be advantageous to a personal consumer, as compared with not availing of those offers, for a period less than the term of the mortgage, but
- (b) if availed of may, over the whole term of the mortgage, have the consequence of additional costs to a personal consumer.

Register to be maintained of appointed mortgage intermediaries

169. A regulated financial service provider shall maintain an up-to-date publicly accessible register, which may be maintained on a website of the regulated financial service provider, of all mortgage intermediaries that it has appointed.

(2) A regulated financial service provider shall provide a confirmation on paper, or on another durable medium, to the Bank, upon termination or cessation of the appointment of a mortgage intermediary, that the intermediary has been removed from the register maintained in accordance with paragraph (1).

Personal consumers to be provided certain information with mortgage calculators and approval in principle documents

170. (1) Where a regulated financial service provider gives information to a personal consumer by means of a mortgage calculator which states, based on information provided by the personal consumer, the required mortgage repayments or the total amount that may be borrowed by way of a mortgage loan, the information shall include an indicative figure of the total cost of the mortgage loan that would be payable by the personal consumer.

(2) Where a regulated financial service provider is providing information to a personal consumer with a mortgage calculator with regard to a mortgage loan secured on residential property that may be offered with an incentive, the regulated financial service provider shall provide the following warning statement with the mortgage calculator:

“Warning: You should consider the total cost of a mortgage loan, including any potential additional cost of an incentive offered with it.”

(3) Where a regulated financial service provider is providing a document to a personal consumer containing an estimate of the amount that may be borrowed by the personal consumer by way of a mortgage loan secured on residential property (referred to in this Regulation as an ‘approval in principle document’), the regulated financial service provider shall provide the following warning statement on the approval in principle document in circumstances where the mortgage loan may be offered with an incentive:

“Warning: You should consider the total cost of the mortgage loan that may be offered to you, including any potential additional cost of an incentive offered with it.”

(4) Where a regulated financial service provider is providing information to a personal consumer with regard to a mortgage loan secured on residential property in either of the circumstances referred to in paragraph (2) or paragraph (3), other than the fact that there is no incentive that is offered with the mortgage loan, the regulated financial service provider shall provide the following warning statement on the approval in principle document or with the mortgage calculator concerned:

“Warning: You should consider the total cost of a mortgage loan.”

Information on mortgage switching to be given to personal consumers

171. A regulated financial service provider shall give personal consumers the following information on its website in relation to mortgage loans provided to personal consumers and shall provide such information on paper to a consumer on request:

- (a) a guide to mortgage switching, to include at least the following information:
- (b) the switching process that the regulated financial service provider has in place;
- (c) an explanation of the legal process and how the regulated financial service provider will engage with a personal consumer and a personal consumer’s legal representative;
- (d) the regulated financial service provider’s requirements in relation to loan security and insurance policies when switching mortgage;
- (e) a statement that a personal consumer should consider whether, and how, their existing insurance policy may be maintained;
- (f) mortgage loan application forms, including any separate application forms applicable to top-up mortgages;
- (g) the timelines which apply to the assessment of a mortgage loan application as set out in the regulated financial service provider’s policies and procedures;
- (h) the information required from a personal consumer in support of a personal consumer’s mortgage loan application;
- (i) a link to the relevant webpage on the Competition and Consumer Protection Commission’s website relating to switching regulated financial service providers providing mortgage loans or changing mortgage type;
- (j) a statement that, at the request of a personal consumer or a personal consumer’s legal representative, the regulated financial service provider will provide an indicative comparison of the personal consumer’s existing mortgage interest rate with alternative interest rates that may be offered by the regulated financial service provider.

Personal consumers to be provided with indicative comparison on total mortgage interest payable

172. (1) At the request of a personal consumer or the personal consumer's legal representative, a regulated financial service provider shall provide to the personal consumer, using reasonable and justifiable assumptions that are clearly stated, an indicative comparison of –

- (a) the total interest payable over the remaining term of a mortgage loan provided by that regulated financial service provider to the personal consumer, to
- (b) the total interest payable over the term of a new mortgage loan, or under an alternative interest rate, offered by that regulated financial service provider.

(2) Where a regulated financial service provider provides information pursuant to paragraph (1), it shall provide, together with that information, a hyperlink to, or website address of, the relevant webpage on the Competition and Consumer Protection Commission's website relating to switching regulated financial service providers providing mortgage loans to personal consumers or changing mortgage type.

(3) The information referred to in paragraphs (1) and (2) shall be provided on paper or on another durable medium.

Interest rates for mortgages to be published on websites

173. Where a regulated financial service provider operates a website, it shall publish on its website the interest rates for mortgages which are currently available to consumers from that regulated financial service provider.

Summary statement on variable mortgage interest rates

174. (1) A regulated financial service provider shall draw up a summary statement of its policy for setting each variable mortgage interest rate that it offers to a personal consumer.

(2) A regulated financial service provider shall update the summary statement referred to in paragraph (1) when it changes the policy.

(3) Paragraphs (1) and (2) do not apply in respect of a variable mortgage interest rate that is a tracker interest rate.

(4) The summary statement referred to in paragraphs (1) to (3) shall -

- (a) identify the factors which may result in changes to the variable interest rate,
- (b) outline the criteria and procedures applicable to the setting of the variable interest rate,
- (c) specify the circumstances in which the regulated financial service provider applies different approaches to setting the variable interest rate in respect of different cohorts of borrowers and the reasons for the different approach, and
- (d) be in such form and contain such content as set out in Schedule 1 to these Regulations.

(5) Where a regulated financial service provider operates a website, it shall ensure that the summary statement referred to in paragraph (1) is at all times published and up to date on such website.

(6) A regulated financial service provider that offers a variable mortgage interest rate to a personal consumer shall provide, with the offer document, a copy of the currently applicable summary statement produced in accordance with paragraphs (1) to (4).

(7) Paragraph (6) does not apply in respect of a variable mortgage interest rate that is a tracker interest rate.

(8) Where a regulated financial service provider changes a summary statement that it has drawn up in accordance with paragraphs (1) to (4), it shall notify, as soon as possible, personal consumers to whose mortgage that updated summary statement applies.

(9) The notification referred to in paragraph (8) shall be made on paper or on another durable medium and shall set out particulars of the changes made to the summary statement, together with relevant details of the position prior to such changes, in order that the consumer can compare the position before and after those changes.

(10) A regulated financial service provider shall make the updated summary statement available to those personal consumers to whose mortgage the updated summary statement applies.

Required information to be included with offer document on mortgage

175. A regulated financial service provider that offers a mortgage to a personal consumer shall include in the offer document the following information:

- (a) the amount of the mortgage;
- (b) the interest rate that applies to the mortgage at the date of offer;
- (c) the term of the mortgage;
- (d) where there is a possibility that the interest rate specified in the offer document may not be the interest rate applicable by the time that the mortgage is drawn down, a statement highlighting this possibility;
- (e) an outline of the circumstances that would result in the change in interest rate referred to in paragraph (d);
- (f) notification of any known upcoming change to the interest rate following drawdown;
- (g) the length of time for which the mortgage offer is valid, assuming that all details provided by the personal consumer are correct and do not change.

Personal consumers to be provided with redemption figure on existing mortgage

176. (1) A regulated financial service provider shall provide to a personal consumer or their legal representative, on request, the redemption figure applicable to an existing mortgage provided by the regulated financial service provider to that personal consumer.

(2) The redemption figure referred to in paragraph (1) shall be provided by the regulated financial service provider within 5 working days.

Warning statement for interest-only mortgages

177. The following warning statement shall be included in the credit agreement documentation of an interest-only mortgage:

“Warning: If the value of the capital lump sum or asset sale proceeds anticipated by your proposed repayment plan falls short of what you expect, you may be unable to meet the capital repayment that falls due when you reach the end of your interest-only term. You will be liable for any shortfall.”

Information to be provided on incentives and other offers where offered prior to mortgage approval

178. (1) Where a regulated financial service provider offers an incentive to a personal consumer prior to a mortgage being approved, the regulated financial service provider shall provide the personal consumer with the following information on paper or on another durable medium:

- (a) the consequences for the terms and conditions of the mortgage offer, including an indicative cost comparison of the total cost of the mortgage loan, if the incentive is availed of and if it is not;
- (b) the period of time for which the incentive will be offered;
- (c) any assumptions used, and any such assumptions shall be reasonable and justifiable;
- (d) any other key information which may be relevant for the personal consumer in deciding whether to avail of the incentive.

(2) The regulated financial service provider shall include with the information provided pursuant to paragraph (1), a statement that the personal consumer may wish to seek independent advice prior to availing of the incentive.

(3) This Regulation does not apply to alternative repayment arrangements within the scope of Part 3, Chapter 9.

Supporting documentation to be obtained prior to providing mortgage

179. (1) Prior to providing a mortgage loan to a personal consumer, a regulated financial service provider that is a mortgage lender shall either -

- (a) obtain all original supporting documentation, including any electronic originals, evidencing the personal consumer’s identity and ability to repay the mortgage, or
- (b) obtain from a mortgage intermediary an authenticated declaration that the mortgage intermediary has obtained all such original supporting documentation, including any electronic originals, evidencing the personal consumer’s identity and ability to repay the mortgage.

(2) Obtaining a declaration authenticated by a personal consumer, or a representative of the personal consumer, certifying the personal consumer’s income or ability to repay or both, shall not by itself suffice for the purposes of satisfying the obligation on a regulated financial service provider that is a mortgage lender pursuant to paragraph (1)(a).

(3) Obtaining an authenticated declaration from a mortgage intermediary which is authenticated solely on the basis of the mortgage intermediary having obtained a declaration referred to in paragraph (2), shall not suffice as an authenticated declaration for the purposes of satisfying the obligation on a regulated financial service provider that is a mortgage lender pursuant to paragraph (1)(b).

(4) A mortgage intermediary shall not provide to a regulated financial service provider that is a mortgage lender a declaration authenticated by the mortgage intermediary, for the purposes of evidencing a personal consumer's identity and ability to repay the mortgage, which is authenticated by the mortgage intermediary solely on the basis of the mortgage intermediary having obtained a declaration referred to in paragraph (2)

Process to be followed for dealing with mortgage loan applications by personal consumers

180. A regulated financial service provider shall –

- (a) acknowledge receipt of a complete mortgage loan application within 3 working days of receipt of all documents or items of information necessary for a complete application,
- (b) where a mortgage loan application is not complete, acknowledge receipt of the mortgage loan application within 3 working days of receipt and, together with that acknowledgement, provide notification of any documents or items of information required to be submitted to the regulated financial service provider by a personal consumer to complete the application,
- (c) inform a personal consumer of the regulated financial service provider's decision on the personal consumer's mortgage loan application within 10 working days of receipt of all documents or items of information necessary to assess the application,
- (d) if the regulated financial service provider cannot make a decision on whether it will grant or refuse the application within 10 working days of receipt of all documents or items of information necessary to assess the application, inform a personal consumer of the reasons why the regulated financial service provider's assessment of the application will take longer than 10 working days and the expected timeframe within which a decision will be made, and
- (e) provide clear points of contact for any enquiries from a personal consumer who is considering switching their mortgage, and for any other enquiries relating to mortgage lending.

Assessing reasonableness (etc) of information in support of mortgage application

181. A regulated financial service provider shall –

- (a) assess the reasonableness of the information contained in the documentation referred to in Regulation 179(1), including its accuracy, authenticity and veracity, submitted by a personal consumer to the regulated financial service provider in support of a mortgage loan application, and

- (b) take all reasonable steps to verify that the documentation referred to in paragraph (a) is authentic.

Mortgage lenders to obtain valuation report

182. (1) A regulated financial service provider that is a mortgage lender shall obtain, in durable medium, an independent valuation report for the property which will act as security for the mortgage, prior to providing a mortgage loan.

(2) It shall suffice for the purposes of paragraph (1), if the regulated financial service provider has obtained such an independent valuation report in compliance with any other applicable law.

Affordability assessment - additional test for mortgage products provided to personal consumers

183. (1) Prior to offering, recommending, arranging or providing a credit product that is a mortgage provided to personal consumers, a regulated financial service provider that is a lender shall include in the affordability assessment, which it is required to carry out pursuant to Regulation 132(1), the application of the test referred to in paragraphs (2) to (7).

(2) The test shall consist of a robust test of the personal consumer's ability to repay the payment instalments due, over the duration of the mortgage agreement, on the basis of a minimum 2% interest rate increase above the interest rate offered to the personal consumer.

(3) The test referred to in paragraph (2) does not apply to a mortgage where the interest rate applicable to the mortgage is fixed for a period of 5 years or more.

(4) Where the lender offers an introductory interest rate, it shall apply the test referred to in paragraph (2) on either -

- (a) the variable interest rate to be applied after the introductory period has ended, if this is known at the time of the offer of the introductory interest rate, or
- (b) on the current variable interest rate, if the variable interest rate to be applied after the introductory period has ended could not reasonably be determined at the time of carrying out the test.

(5) Where a credit product is an interest-only mortgage provided on an interest-only basis for the duration of the mortgage term, the test referred to in paragraph (2) shall further include an additional assessment in order to ascertain the personal consumer's likely ability to repay the principal at the end of the mortgage term.

(6) Where a credit product is an interest-only mortgage provided on an interest-only basis for a duration less than the mortgage term, the test referred to in paragraph (2) shall further include an additional assessment in order to ascertain the personal consumer's likely ability to repay the capital and interest at the end of the interest-only period.

(7) The additional assessment referred to in paragraph (6) shall consist of an assessment based on a minimum 2% interest rate increase –

- (a) above the interest rate applicable at the end of the interest-only period, if this is known at the time of the offer of the interest-only mortgage, or
- (b) above the current variable interest rate if the variable interest rate to be applied after the end of the interest-only period could not reasonably be determined at the time of carrying out the assessment.

Mortgage intermediaries to provide information for affordability assessment

184. For the purpose of the affordability assessment referred to in Regulation 132(1), a mortgage intermediary through whom a mortgage loan is distributed by a lender to a personal consumer shall provide all relevant information obtained from the personal consumer in accordance with Regulation 15(1) to (10) to the lender to enable an affordability assessment to be carried out by the lender.

Revised figures to be provided to personal consumer regarding variable interest rate mortgage

185. (1) A regulated financial service provider shall, when offering or recommending a variable interest rate mortgage to a personal consumer, provide the personal consumer with figures reflecting the revised periodic repayment instalments following a 2% interest rate increase above the variable interest rate offered.

(2) A regulated financial service provider shall provide the figures referred to in paragraph (1) on paper or on another durable medium.

(3) If the lender offers an introductory interest rate, the revised periodic repayment amount provided in accordance with paragraph (1) shall reflect an increase of 2% on -

- (a) the variable interest rate to be applied after the introductory period has expired, or
- (b) the current variable interest rate, if the variable interest rate to be applied after the introductory period has expired could not reasonably be determined at the time.

Mortgage drawdown – information to be provided to personal consumers

186. A regulated financial service provider shall -

- (a) notify a personal consumer of the documentation required to complete the mortgage drawdown process, and
- (b) provide points of contact for any enquiries from a personal consumer regarding matters relating to mortgage lending, including in relation to the mortgage drawdown process.

Statements of account on mortgages to provide for additional matters in certain circumstances

187. (1) In addition to the matters referred to in Regulation 148(1)(a) to (e), in the case of a mortgage with a variable interest rate, excluding a tracker interest rate, the statement of account referred to in Regulation 148(1) shall include the following:

- (a) a summary of any other mortgages provided by the regulated financial service provider that could provide savings for the personal consumer at that point in

time together with an estimate specified with respect to each such other mortgage of -

- (i) the euro amount by which the personal consumer's individual regular monthly mortgage repayments would decrease based on the other mortgage, and
- (ii) the euro amount by which the personal consumer's total yearly mortgage repayments would decrease based on the other mortgage, being the euro amount specified in point (i) multiplied by 12;
- (b) details of how the personal consumer can obtain further information on the mortgages referred to in subparagraph (a);
- (c) a statement that the personal consumer should keep their mortgage arrangements under review as there may be other options that could provide savings for the personal consumer;
- (d) a hyperlink to, or website address of, the relevant section on the Competition and Consumer Protection Commission's website relating to switching regulated financial service providers that are lenders or changing mortgage type;
- (e) a reminder that the regulated financial service provider's summary statement produced in accordance with Regulation 174(1) to Regulation 174(4) is available on its website;
- (f) if the interest rate applied is based on a ratio of Loan-to-Value (referred to in this Regulation as a "Loan-to-Value interest rate band"), a notification as to whether the mortgage provides for movement by the personal consumer between Loan-to-Value interest rate bands subject to the provision of an up-to-date valuation and any other requirements that may apply to movement between Loan-to-Value interest rate bands by the personal consumer;
- (g) if the personal consumer is permitted to move between Loan-to-Value interest rate bands, an invitation to the personal consumer to contact the regulated financial service provider to discuss further;
- (h) if the personal consumer is not permitted to move between Loan-to-Value interest rate bands, a notification that the personal consumer may be able to avail of lower Loan-to-Value interest rate bands from another regulated financial service provider based on an up-to-date valuation;
- (i) detail on the benefits of early contact with the regulated financial service provider if the personal consumer is in arrears or is at risk of going into arrears.

(2) For the purposes of paragraph (1)(a), the regulated financial service provider shall write the estimate in a font colour other than the predominant font colour used in the statement of account.

(3) Where a regulated financial service provider is required to provide the information referred to in paragraph (1)(a), the regulated financial service provider shall provide the personal consumer with a reminder to consider that information, on paper or on another durable medium, after 4 weeks, and before 8 weeks, have elapsed since the regulated financial service provider provided that information.

(4) Where a regulated financial service provider is required to provide a consumer with a statement including the additional matters referred to in paragraph (1), Regulation 148(2) applies to a statement including those additional matters.

Notification of interest rate changes to provide for additional matters in certain circumstances

188. (1) In the case of an increase in the interest rate on a mortgage with a variable interest rate, excluding a tracker interest rate, a notification required pursuant to Regulation 149 shall also include, in addition to the other matters prescribed by Regulation 149(1) to (3), the following:

- (a) the reason, by reference to the summary statement produced in accordance with Regulation 174(1) to (4), for the change in the interest rate;
- (b) a summary of other mortgages provided by the regulated financial service provider that could provide savings for the personal consumer at that point in time;
- (c) details of where the personal consumer can obtain further information on the mortgages referred to in subparagraph (b);
- (d) a statement that the personal consumer should keep their mortgage arrangements under review as there may be other options that could provide savings for the personal consumer;
- (e) a hyperlink to, or website address of, the relevant section on the Competition and Consumer Protection Commission's website relating to switching lenders or changing mortgage type.

(2) In the case of a mortgage interest rate that is a fixed interest rate, a notification required pursuant to Regulation 149 shall also include, in addition to the other matters prescribed by Regulation 149(1) to (3), 60 calendar days prior to the expiry of the fixed interest rate period, the default rate of interest applicable on the expiry of the fixed rate period.

(3) Where the default rate of interest is not a tracker interest rate, a notification required pursuant to Regulation 149 and paragraph (2) of this Regulation shall further include the following:

- (a) a summary of other mortgage interest rates provided by the regulated financial service provider that could provide savings for the personal consumer compared to the default rate of interest at the time of notification, together with an estimate specified with respect to each such other mortgage interest rate of -
 - (i) the euro amount by which the personal consumer's individual regular monthly mortgage repayments would decrease based on the other mortgage interest rate, and
 - (ii) the euro amount by which the personal consumer's total yearly mortgage repayments would decrease based on the other mortgage interest rate, being the euro amount specified in point (i) multiplied by 12;

- (b) details of how the personal consumer can obtain further information on the default rate of interest and other mortgage interest rates provided by the regulated financial service provider referred to in subparagraph (a);
- (c) a statement that the personal consumer should keep their mortgage arrangements under review as there may be other options that could provide savings for the personal consumer;
- (d) a hyperlink to or website address of the relevant section on the Competition and Consumer Protection Commission's website relating to switching lenders or changing mortgage type;
- (e) a reminder that the regulated financial service provider's summary statement produced in accordance with Regulation 174(1) to Regulation 174(4) is available on its website.

(4) For the purposes of paragraph (3)(a), the regulated financial service provider shall write the estimate in a font colour other than the predominant font colour used in the statement of account.

(5) Where a regulated financial service provider is required to provide the information referred to in paragraph (3)(a), the regulated financial service provider shall provide the personal consumer with a reminder to consider that information, on paper or on another durable medium, after 4 weeks, and before 8 weeks, have elapsed since the regulated financial service provider provided that information.

(6) In the case of an increase in a tracker interest rate, a regulated financial service provider shall provide the notification required pursuant to Regulation 149 as soon as possible, and no later than 10 working days after the regulated financial service provider becomes aware of the change in the interest rate being tracked.

Switching from tracker interest rate - personal consumer to be informed

189. (1) Where a personal consumer has an option under the terms of his or her mortgage to switch from a tracker interest rate to a mortgage interest rate that is not a tracker interest rate (referred to in this Regulation as an 'alternative mortgage interest rate'), and notifies the regulated financial service provider that is the lender of his or her intention to exercise that option, that lender shall provide the personal consumer with the following information on paper or on another durable medium:

- (a) an indicative comparison of the cost of the personal consumer's monthly mortgage repayment at their tracker interest rate and each alternative mortgage interest rate available to the personal consumer;
- (b) an indicative comparison of the total cost of the mortgage if the personal consumer continues with the tracker interest rate and each alternative mortgage interest rate available to the personal consumer;
- (c) information that details and contrasts for the personal consumer how the tracker interest rate is calculated as compared to each alternative mortgage interest rate available to the personal consumer.

(2) For the purposes of paragraph (1) –

- (a) any information provided by the regulated financial service provider pursuant to paragraph (1) shall be up to date,
- (b) the regulated financial service provider shall provide an indicative time period over which any alternative mortgage interest rate is likely be available to the personal consumer, and
- (c) any assumptions used by the regulated financial service provider in respect of the requirements referred to in paragraph (1) shall be reasonable, justifiable and clearly stated.

(3) The following warning statement shall be included by the regulated financial service provider with the information referred to in paragraph (1) if a personal consumer will not be contractually entitled to revert to a tracker interest rate following a decision to switch to an alternative mortgage interest rate available to the personal consumer:

“Warning: If you switch to an alternative mortgage interest rate, you will not be contractually entitled to revert to a tracker interest rate at any time in the future.”

(4) This Regulation does not apply to a regulated financial service provider in respect of a mortgage borrower within the scope of Chapter 9 of Part 3 which is in arrears or pre-arrears within the meaning of that Chapter.

Switching from tracker interest rate to fixed interest rate – personal consumer to be notified of tracker margin on expiry of fixed term

190. (1) Where a personal consumer -

- (a) has an option under the terms of his or her mortgage to switch from a tracker interest rate to a fixed interest rate and notifies the regulated financial service provider that is the lender of his or her intention to switch, and
- (b) has an entitlement under the terms of his or her mortgage to a tracker interest rate when the fixed interest rate period expires,

the regulated financial service provider shall notify the personal consumer prior to implementing the switch, on paper or on another durable medium, of the tracker margin that will be included within the tracker interest rate available to the personal consumer at the time of expiry of the fixed interest rate period, if the personal consumer chooses to revert to a tracker interest rate.

(2) For the purposes of this Regulation, “tracker margin” means the percentage above which a tracker interest rate must not exceed the reference rate which it tracks as referred to in the terms of the loan.

(3) This Regulation does not apply to a regulated financial service provider in respect of a mortgage borrower within the scope of Chapter 9 of Part 3 which is in arrears or pre-arrears within the meaning of that Chapter.

Switching from tracker interest rate – personal consumer to be notified prior to implementing switch

191. (1) Prior to amending the terms of a personal consumer’s mortgage to switch from a tracker interest rate to a mortgage interest rate that is not a tracker interest rate (referred to in this Regulation as an ‘alternative mortgage interest rate’), or otherwise implementing such a

switch, a regulated financial service provider shall provide the personal consumer with written notice which states that by switching to the alternative mortgage interest rate, the tracker interest rate will or, as applicable, will not, be available following the switch.

(2) Where paragraph (1) applies, a regulated financial service provider shall not implement the switch to an alternative interest rate until it receives written confirmation from the personal consumer that the personal consumer has received the required written notice from the regulated financial service provider.

(3) For the purposes of this Regulation, “tracker margin” has the meaning given to it in Regulation 190(2).

(4) This Regulation does not apply to a regulated financial service provider in respect of a mortgage borrower within the scope of Chapter 9 of Part 3 which is in arrears or pre-arrears within the meaning of that Chapter.

Switching from tracker interest rate - personal consumer to be allowed time to consider information

192. (1) A regulated financial service provider shall allow a personal consumer at least 30 calendar days to consider the information provided in accordance with Regulations 189 to 191.

(2) A regulated financial service provider shall advise the personal consumer of this entitlement on paper or on another durable medium, together with the information provided in accordance with Regulations 189 to 191 and no change shall be effected to the personal consumer’s rate until the expiry of the time period referred to in paragraph (1).

(3) A personal consumer may waive the 30 calendar day period provided for in this Regulation and the chosen alternative relevant rate may be applied by the regulated financial service provider prior to the expiry of this time period, where a regulated financial service provider receives written confirmation from the personal consumer prior to the alternative rate being applied confirming that -

- (a) the personal consumer has been provided with the information required under Regulations 189 to 191, and
- (b) the personal consumer understands that he or she is waiving the 30 day period available in accordance with paragraph (1) to consider this information.

Switching to a fixed interest rate - personal consumers to be notified of loss of discount (etc)

193. (1) This Regulation applies where a personal consumer is eligible to switch to a fixed interest rate from a different fixed interest rate or from another type of interest rate, whether a variable interest rate, tracker interest rate or otherwise, pursuant to the terms and conditions of a mortgage, but would revert to that different fixed interest rate, that other type of interest rate, or any interest rate other than a fixed interest rate, on expiry of the fixed interest rate period.

(2) Where this Regulation applies and a personal consumer would lose a discount in respect of charges or any other advantageous term of the mortgage that applied prior to the switch, the regulated financial service provider providing the mortgage shall notify the personal consumer of that fact prior to applying the switch in interest rate to the mortgage concerned.

(3) The requirement to notify pursuant to paragraph (2) does not apply in respect of the unavailability of a tracker interest rate for which a requirement to provide written notice pursuant to Regulation 191 applies and has been discharged.

Personal consumer to be provided with information when offering incentive on existing mortgage

194. (1) Where a regulated financial service provider offers an incentive to a personal consumer in respect of an existing mortgage, the regulated financial service provider shall provide the personal consumer with the following information on paper or on another durable medium:

- (a) the consequences for the terms and conditions of the mortgage including an indicative cost comparison of the total cost of the existing mortgage if the incentive is availed of and if it is not;
- (b) the period of time for which the incentive will be offered;
- (c) any assumptions used, and any such assumptions shall be reasonable and justifiable;
- (d) any other key information which may be relevant for the personal consumer in deciding whether to avail of the incentive.

(2) A regulated financial service provider shall include with the information provided pursuant to paragraph (1) a statement that the personal consumer may wish to seek independent advice prior to availing of the incentive.

(3) This Regulation does not apply to alternative repayment arrangements within the scope of Chapter 9 of Part 3.

Warning statement for certain advertisements

195. (1) Paragraphs (2) to (7) apply only to advertisements which refer, or relate, to a regulated activity which can be provided, or is available, to a personal consumer.

(2) A regulated financial service provider shall ensure that in an advertisement in which it advertises a residential mortgage, it provides the following warning statement:

“Warning: If you do not keep up your repayments you may lose your home.”.

(3) A regulated financial service provider shall ensure that in an advertisement in which it advertises a residential mortgage, including in respect of which it offers an incentive, it provides the following warning statement:

“Warning: You should consider the total cost of the mortgage and any applicable incentive included in a mortgage offer.”

(4) A regulated financial service provider shall ensure that, in an advertisement in which it advertises a variable interest rate mortgage, where the regulated financial service provider has discretion to vary the interest rate, it provides the following warning statement:

“Warning: Your interest rate may increase and the amount of your mortgage repayments may increase as a result.”

(5) A regulated financial service provider shall ensure that, in an advertisement in which it advertises an interest-only mortgage, it provides the following warning statement:

“Warning: The entire amount that you have borrowed will still be outstanding at the end of the interest-only period.”

(6) A regulated financial service provider shall ensure that, in an advertisement in which it advertises a lifetime mortgage, it provides a recommendation to seek independent legal advice and the following warning statements:

- (a) “Warning: While no interest is payable during the term of the mortgage, interest is charged each month and added to the amount owed. The amount owed plus the added interest is then payable in full in circumstances such as death, or permanent vacation or sale of the mortgage property.”;
- (b) “Warning: Unlike certain other mortgages where interest is charged on a sum that decreases with time, interest on lifetime mortgages is charged on an increasing sum (made up of the outstanding mortgage and added interest amounts), and therefore the total amount owed can increase quickly. As you do not make any repayments, the interest on your mortgage is added to your outstanding debt on a continual basis and you are effectively charged interest on that interest. This is called ‘compound interest’.”;
- (c) “Warning: The longer a lifetime mortgage remains unpaid, the more money you will owe and the amount you owe could eventually come close to, equal, or exceed, the value of your home.”;
- (d) “Warning: Purchasing this product may negatively impact on your ability to fund future needs. Before purchasing this product, you should get independent advice.”.

Chapter 7

Deposit agents

Deposit Agents not to retain consumer account passbook

196. A deposit agent shall not retain in its possession an account passbook of a consumer.

Deposit Agents not to operate from same premises as deposit broker

197. A deposit agent shall not operate from the same premises as a deposit broker.

Chapter 8

High Cost credit providers

Interpretation (Chapter 8)

198. (1) In this Chapter –

“existing consumer” means a consumer who has outstanding credit with the high cost credit provider;

“relevant Regulations” means the provisions of these Regulations which apply in accordance with Regulation 6 where a high cost credit provider is engaged in the activity of providing high cost credit.

(2) In this Chapter, “APR”, “consumer”, “credit”, “financial accommodation”, “high cost credit provider”, “high cost credit”, “high cost credit agreement” and “running account” have the meaning given to them in section 2(1) of the Act of 1995.

Scope and application (Chapter 8)

199. (1) This Chapter applies to a high cost credit provider licensed under the Act of 1995 when engaged in the activity of the provision of high cost credit.

(2) With the exception of Regulations 7(3), 8(1)(p), 8(11), 11(3), 13(7), 13(9) and 20(1) of the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010), Regulations 7, 8, 11, 13 and 20 of the European Communities (Consumer Credit Agreements) Regulations 2010 shall apply in respect of a high cost credit agreement within the scope of the relevant Regulations and involving a total amount of credit of less than €200.

(3) In this Regulation, “total amount of credit” in relation to a high cost credit agreement means the limit of the credit, or the total sum, made available under the high cost credit agreement.

Expertise for engaging in high cost credit

200. A high cost credit provider shall provide appropriate training on an on-going basis to employees and agents concerned with the provision of high cost credit and this shall include, at a minimum, training with respect to the policies and procedures the high cost credit provider has in place to comply with Regulation 205.

Unsolicited credit facilities

201. (1) A high cost credit provider shall not approve the provision of credit to a consumer in advance of an application by the consumer for the credit.

(2) A high cost credit provider may only increase the limit on a consumer's running account following an application from the consumer for an increase to the limit on the consumer's running account.

(3) A high cost credit provider shall not make an unsolicited offer of credit to an existing consumer of that high cost credit provider in circumstances where -

- (a) the consumer made full repayment within the preceding month of a high cost credit agreement with that high cost credit provider, or
- (b) the consumer is party to a high cost credit agreement with the high cost credit provider and the final repayment date of such high cost credit agreement is within the next month.

(4) In this Regulation, "unsolicited offer of credit" means a direct offer to an identified consumer to apply for credit where that offer is made -

- (a) otherwise than at the request of the consumer, or
- (b) without the prior agreement of the consumer,

but excludes general advertisements for credit to the public.

Unsolicited contact

202. (1) When contacting a consumer, other than an existing consumer, a high cost credit provider may make an unsolicited contact, only if-

- (a) the consumer has signed a statement, within the previous 12 months, giving the high cost credit provider permission to make unsolicited contact, or
- (b) the consumer is the subject of a referral received by the high cost credit provider from one of the following:
 - (i) a person authorised by the Bank to provide financial services in the State;
 - (ii) a person within the same group as the high cost credit provider;
 - (iii) a solicitor;
 - (iv) a certified person.

(2) When a high cost credit provider contacts a consumer following a referral referred to in paragraph (1)(b), the high cost credit provider shall inform the consumer that such a referral has been made and ask the consumer for consent to proceed with an unsolicited contact.

(3) A high cost credit provider shall ensure that, when it makes an unsolicited contact on foot of a referral, referred to in paragraph (1)(b), it retains a record of the referral.

(4) An unsolicited contact by a high cost credit provider to a consumer, other than an existing consumer, may only be made between 9.00 a.m. and 9.00 p.m., from Monday to Saturday, excluding public holidays, unless otherwise requested by the consumer.

(5) When making an unsolicited contact in accordance with the relevant Regulations, a high cost credit provider shall immediately carry out the following actions in the following order:

- (a) identify himself or herself by name and identify the name of the high cost credit provider on whose behalf the person is contacting the consumer and the commercial purpose of the contact;
- (b) inform the consumer that the telephone contact is being recorded, if that is the case;
- (c) where relevant, disclose to the consumer, the source of the business lead or referral supporting the personal visit or telephone contact;
- (d) confirm that the consumer wishes the personal visit or telephone contact to proceed and if not, end the telephone contact or personal visit immediately.

(6) A high cost credit provider shall adhere to a request from a consumer not to make an unsolicited contact to him or her and this request shall be recorded by the high cost credit provider.

(7) A high cost credit provider shall not reach a binding agreement with a consumer on the basis of unsolicited contact alone.

(8) When contacting an existing consumer for the purposes of sales and marketing, a high cost credit provider may make an unsolicited contact, only if -

- (a) the consumer has given specific confirmation, by a statement or by a clear affirmative action, that the consumer agrees to be the recipient of such contact, and
- (b) the consumer's consent remains valid.

(9) For the purposes of this Regulation the following definitions apply:

“group” includes a company, any subsidiary and any related undertaking;

“related undertaking” means a related company within the meaning of Part 1 of the Act of 2014;

“subsidiary” means a subsidiary within the meaning of Part 1 of the Act of 2014;

"unsolicited contact" means contact with a consumer without prior agreement by way of personal visit or telephone call, but not including written contact with the consumer or returning a telephone call from a consumer.

Communications

203. (1) A high cost credit provider shall ensure that the level of contact and communications from the high cost credit provider to a consumer is proportionate, reasonable and not excessive.

(2) A high cost credit provider shall ensure that, where it intends to keep a record of a telephone conversation with a consumer, the high cost credit provider informs the consumer, at the outset of the conversation, that the telephone conversation is being recorded.

Prohibition on incentivising credit purchases

204. A high cost credit provider providing goods or services to a consumer, in connection with a high cost credit agreement, shall not offer any discount to a consumer to purchase goods or services on credit, where the discount is only available if the goods or services are purchased by the consumer on credit.

Lending policy and procedures

205. (1) A high cost credit provider shall establish, maintain and adhere to lending policies and procedures, which shall comply with the relevant Regulations, and these lending policies and procedures shall be approved by the board of directors of the high cost credit provider or the entity or persons controlling the high cost credit provider.

(2) The approval of a high cost credit provider's lending policies and procedures by the board of directors of the high cost credit provider, or the entity or persons controlling the high cost credit provider, shall constitute an affirmation on the part of the board of directors of the high cost credit provider, or the entity or persons controlling the high cost credit provider, that the high cost credit provider's policies and procedures comply with the relevant Regulations and any other legal and regulatory requirements with which the high cost credit provider must comply.

(3) A high cost credit provider shall carry out an annual review to ensure that it is acting in compliance with the lending policies and procedures referred to in paragraph (1) and the high cost credit provider shall report the results of the annual review to the board of directors of the high cost credit provider or the entity or persons controlling the high cost credit provider.

(4) A high cost credit provider's lending policies and procedures referred to in paragraph (1) shall have the core objectives of ensuring -

- (a) consistency of approach by the high cost credit provider in its dealings with consumers, and

- (b) that all regulatory requirements as regards suitability of the high cost credit provider's activities for its consumers and the creditworthiness of the high cost credit provider's consumers, including the requirements to act in the best interests of consumers, are complied with by the high cost credit provider.

(5) A high cost credit provider's lending policies and procedures referred to in paragraph (1) shall, at a minimum, include the following information:

- (a) the lending policies and procedures that the high cost credit provider will apply when dealing with applications for credit from consumers, including consumers in vulnerable circumstances;
- (b) the information to be sought from consumers applying for credit;
- (c) the criteria which the high cost credit provider will apply when considering an application for credit;
- (d) the following statement:

“The core objectives of this policy is to ensure that we approach all applications for new and additional credit consistently and to ensure that we meet all of our regulatory requirements as regards suitability of the product and the creditworthiness of consumers and to act in the best interests of consumers.”;
- (e) the supports available to employees and agents of the high cost credit provider involved in the consideration of applications for credit;
- (f) the safeguards which the high cost credit provider has in place to ensure that section 99 of the Act of 1995 is complied with;
- (g) the manner in which the high cost credit provider will maintain a record of the steps taken to assess an application for credit;
- (h) the manner in which the high cost credit provider will maintain a record of all lending decisions;
- (i) the safeguards which the high cost credit provider has in place to ensure that consumers are not offered or approved unsolicited credit facilities, other than in accordance with the relevant Regulations, by the high cost credit provider or by an employee or agent of the high cost credit provider, in advance of an application for credit by a consumer.

206. (1) A high cost credit provider shall ensure that -

- (a) any removal of a repayment book from a consumer is properly recorded and that a receipt in a durable medium is issued to the consumer, and
- (b) a consumer's personal details contained in repayment books are regularly confirmed and updated.

(2) If a high cost credit provider provides a collection service, in respect of repayments due under a high cost credit agreement, the high cost credit provider shall, before making any collection of repayments, agree with the consumer the location for such collection, which shall be appropriate and secure.

Pre-contract information

207. A high cost credit provider shall, prior to entering into a high cost credit agreement with a consumer where the APR is in excess of 23 per cent, indicate the high-cost nature of the credit on all documentation in the following form:

“Warning: This is high-cost credit. Consider alternative options before applying for this credit, including alternatives from other lenders regulated by the Central Bank of Ireland.”

Provision of information to consumers

208. A high cost credit provider shall -

- (a) include the following statement, in bold type, at, or near, the beginning of any application form or process relating to a high cost credit agreement, regardless of whether the means of application or process is paper based or otherwise:

“If you require this credit to pay for accommodation, food, electricity, heating, medication or other similar costs, please read the below information carefully”,

- (b) immediately following the statement referred to in paragraph (a), provide the consumer with the information set out in Schedule 2 to these Regulations in the form prescribed in that Schedule,
- (c) ensure that the statement set out in paragraph (a) is -
 - (i) presented in a prominent manner,
 - (ii) in a box,

- (iii) in bold type, and
- (iv) of a font size that is at least equal to the predominant font size used throughout the document, and
- (d) ensure that the information set out in Schedule 2 to these Regulations is presented in a font size that is at least equal to the predominant font size used throughout the document.

Information to be provided on guarantee documentation

209. Where a high cost credit provider offers credit to a consumer subject to provision of a guarantee, the high cost credit provider shall ensure that the guarantee documentation –

- (a) clearly specifies the obligations of the guarantor in respect of the credit, and
- (b) contains the following warning statement:

“Warning: As a guarantor of this credit, you will have to pay off any outstanding debt amount, the interest and all associated charges up to the level of your guarantee if the borrower does not. Before you sign this guarantee you should get independent legal advice.”.

Additional disclosure requirements

210. (1) In addition to the requirements of Regulation 73(1)(a) to (c), a high cost credit provider shall include a regulatory disclosure statement as to its regulatory status for consumers in its high cost credit agreements, repayment books, authorisation cards, advertisements, catalogues and brochures.

(2) Regulation 73(1)(a) to (c) does not include a high cost provider’s text messages.

Information notice on website and application form

211 (1) If a high cost credit provider enters, or offers to enter, into a high cost credit agreement with an APR in excess of 23 per cent, a high cost credit provider shall display the information set out in Schedule 3 to these Regulations in the form prescribed in that Schedule in the following places -

- (a) where it operates a website, on the section of the high cost credit provider's website that relates to high cost credit or other activities for which the high cost credit provider is regulated by the Bank, and

- (b) at, or near, the beginning of any application form or process relating to a high cost credit agreement, regardless of whether the means of application or process is paper based or otherwise.

(2) For the purpose of paragraph (1) it shall not be sufficient for the high cost credit provider to provide the information through a link to that information.

Information notice at premises

212 (1) If a high cost credit provider enters, or offers to enter, into a high cost credit agreement with an APR in excess of 23 per cent, a high cost credit provider shall display the information set out in Schedule 3 to these Regulations in every premises from which it engages with consumers in respect of high cost credit activities and such information shall be -

- (a) as set out in Schedule 3 to these Regulations,
- (b) in poster form,
- (c) at least A4 in size,
- (d) in typeface that is at least 18 points in size, and
- (e) in bold font.

(2) The information provided by a high cost credit provider in accordance with paragraph (1) shall be displayed -

- (a) in an area inside the premises from which the high cost credit provider engages in high cost credit activities, and
- (b) where it is clearly visible from the location at which consumers would ordinarily deal with the high cost credit provider or an employee or agent of the high cost credit provider.

(3) For the purpose of paragraph (2), where the premises from which the high cost credit provider engages in high cost credit activities -

- (a) are not enclosed, or
- (b) are of a kind where a consumer can approach the high cost credit provider, or an employee or agent of the high cost credit provider, without going through a door,

the information shall be displayed so that it is clearly visible on a counter, desk, table or other item of furniture at which the high cost credit provider, or an employee or agent of the high cost credit provider would deal with the consumer.

Knowing the consumer

213. Without prejudice to a high cost credit provider's other legal and regulatory obligations, a high cost credit provider shall ensure that, where a consumer refuses to provide information sought by the high cost credit provider in compliance with the relevant Regulations, the refusal by the consumer is noted on that consumer's records.

Post-contract information

214. Except in the case of a high cost credit agreement under which repayments are collected from the consumer at an agreed location in accordance with the Act of 1995 and Regulation 206, a high cost credit provider shall issue statements -

- (a) at least monthly to consumers who pay weekly, and
- (b) at least quarterly to consumers who pay monthly.

Provision of information to guarantors

215. If a high cost credit provider has advanced credit to a consumer subject to a guarantee, the high cost credit provider shall notify the guarantor, on paper or on another durable medium, if -

- (a) the terms of the high cost credit agreement change, or
- (b) the amount guaranteed by the guarantor is to be increased.

Subsequent high cost credit agreements

216. (1) A high cost credit provider, who has entered into a high cost credit agreement with a consumer which has not been repaid in full, shall before entry into a second or subsequent high cost credit agreement with a consumer provide the consumer with the following information, in a durable medium, aggregated to include the second or subsequent high cost credit agreement in question:

- (a) the total number of high cost credit agreements in force between the high cost credit provider and the consumer;
- (b) the total balance of credit outstanding between the consumer and the high cost credit provider;

- (c) the date for final repayment by the consumer on the high cost credit agreement with the longest remaining term;
- (d) the aggregated repayment amount due from the consumer on the first repayment date subsequent to the new high cost credit agreement.

(2) A high cost credit provider shall make it clear that the information provided in accordance with paragraph (1) relates solely to high cost credit agreements, including the second or subsequent high cost credit agreement in question, between that high cost credit provider and the consumer and that it does not relate to any agreements for the provision of credit from other high cost credit providers or other providers of credit.

(3) Pursuant to a request by a consumer, a high cost credit provider shall provide the information outlined in paragraph (1) free of charge to the following:

- (a) the consumer;
- (b) with the consumer's consent, a third party acting on the consumer's behalf.

(4) Paragraph (3) does not apply to a request made by a consumer less than 4 weeks after a previous request by that consumer which was complied with by the high cost credit provider.

Advertising

217. (1) If a high cost credit provider enters, or offers to enter, into a high cost credit agreement with an APR in excess of 23 per cent, a high cost credit provider shall ensure that all advertisements relating to such high cost credit agreement contain the following warning statement:

“Warning: This is high-cost credit. Consider alternative options before applying for this credit, including alternatives from other lenders regulated by the Central Bank of Ireland.”

(2) A high cost credit provider shall ensure that its marketing strategy -

- (a) is fair and reasonable taking into account the particular circumstances of consumers, and
- (b) is approved by the board of directors of the high cost credit provider or the entity or persons controlling the high cost credit provider.

(3) The approval of a high cost credit provider's marketing strategy by the board of directors of the high cost credit provider, or the entity or persons controlling the high cost credit provider, shall constitute an affirmation on the part of the board of directors of the high cost credit

provider, or the entity or persons controlling the high cost credit provider, that the high cost credit provider's marketing strategy complies with the relevant Regulations and any other legal and regulatory requirements with which the high cost credit provider must comply.

(4) A high cost credit provider shall carry out an annual review to ensure that it is acting in compliance with its marketing strategy referred to in paragraph (1) and the high cost credit provider shall report the results of the annual review to the board of directors of the high cost credit provider or the entity or persons controlling the high cost credit provider.

Consumer records

218. (1) In addition to the requirements of Regulation 117, a high cost credit provider shall prepare and maintain a copy of any documents provided to the high cost credit provider by the consumer evidencing a consumer's income and expenditure which are relied upon by the high cost credit provider for the purpose of assessing the consumer's creditworthiness.

(2) For the purposes of this Regulation, "income" means the income of a consumer before the deduction of tax or other deductions.

Provision of records to third parties

219. (1) Upon receipt of a written request for copies of consumer records, from a third party acting on behalf of a consumer, a high cost credit provider shall furnish the third party with all consumer records referred to in the request within 10 working days, where the consumer has provided written consent.

(2) If any consumer record requested pursuant to paragraph (1) is not available, or has not been retained, the high cost credit provider shall advise the third party that such record is not available, as part of its written response.

Chapter 9

Arrears - Mortgage debt secured by a mortgage borrower's primary residence

Interpretation (Chapter 9)

220. (1) In this Chapter -

"Act of 2012" means the Personal Insolvency Act 2012 (No. 44 of 2012);

"appeals board" means the appeals board which a regulated financial service provider is required to establish pursuant to Regulation 259;

"arrears" means arrears arising on a mortgage loan account where a mortgage borrower has not made a full repayment of all outstanding amounts due, or only makes a partial repayment of

any such amount, as set out in the original mortgage loan contract, by the scheduled due date, and "in arrears" means a situation in which arrears have arisen;

“arrears support unit” means the arrears support unit which a regulated financial service provider is required to establish and maintain pursuant to Regulation 240;

‘credit servicing’ has the meaning given to it under Part V of the Act of 1997;

“Insolvency Service of Ireland” means the Insolvency Service of Ireland established by the Act of 2012;

“MARP” means the mortgage arrears resolution process which a regulated financial service provider is required to establish and maintain pursuant to Regulation 239;

“mortgage loan” means a mortgage loan of a mortgage borrower which is secured by the mortgage borrower’s primary residence;

“mortgage to rent” means an arrangement whereby the mortgage borrower voluntarily allows the regulated financial service provider to take possession of the primary residence, and the mortgage borrower becomes a tenant in that primary residence, including an arrangement whereby the regulated financial service provider sells the primary residence to a third party and the mortgage borrower is a tenant of that third party;

“not co-operating” has the meaning given to it in Regulation 222;

“personal insolvency practitioner” means a person authorised, under Part 5 of the Act of 2012, to act as a personal insolvency practitioner;

“personal insolvency arrangement” means –

- (a) an arrangement entered into by a debtor, or
- (b) an arrangement for which a proposal is made, under Chapter 4 of Part 3 of the Act of 2012;

“pre-arrears” means a case in which a mortgage borrower is or is likely to be in financial difficulty, and that arises in any one or more of the following circumstances:

- (a) a mortgage borrower contacts the regulated financial service provider to whom the mortgage debt is owed to inform it that he or she is in danger of experiencing financial difficulties;
- (b) a mortgage borrower contacts the regulated financial service provider to whom the mortgage debt is owed to inform it that he or she is concerned about going into mortgage arrears;
- (c) a regulated financial service provider to whom a mortgage debt is owed by a mortgage borrower establishes that the mortgage borrower is in danger of

experiencing financial difficulties that may impact on the mortgage borrower's ability to meet his or her mortgage debt repayments;

and references to a mortgage borrower 'in pre-arrears' shall be construed accordingly;

"primary residence" means a property which is -

- (a) the residential property which the mortgage borrower occupies as his or her primary residence in the State, or
- (b) a residential property which is the only residential property in the State owned by the mortgage borrower;

"repossession" means any situation where a regulated financial service provider takes possession of a property to which this Chapter applies including, without limitation, by way of voluntary agreement with the mortgage borrower, through abandonment of the property by the mortgage borrower without notifying the regulated financial service provider, or by court order;

"standard financial statement" means the document in the prescribed form referred to in Schedule 4, which complies with the requirements of that Schedule, and which a regulated financial service provider shall use to obtain financial information from a mortgage borrower in order to complete an assessment of that mortgage borrower's case;

"trading down" means circumstances in which a mortgage borrower sells his or her primary residence and buys a lower value property;

"unsolicited personal visit" means a visit to a mortgage borrower's primary residence that has not been requested by, or agreed in advance with, the mortgage borrower;

"voluntary sale" means a voluntary sale by the mortgage borrower of his or her primary residence in order to repay part, or all, of the mortgage loan;

"voluntary surrender" means voluntary surrender, by the mortgage borrower, to the regulated financial service provider, of the primary residence.

Scope and application (Chapter 9)

221. (1) Subject to paragraph (2), this Chapter applies to mortgage lending activities, and credit servicing activities in respect of mortgage loans, of regulated financial service providers.

(2) This Chapter applies in respect of mortgage borrowers in arrears and mortgage borrowers in pre-arrears, where the mortgage debt is secured by the mortgage borrower's primary residence.

(3) In the case of joint mortgage borrowers who notify the regulated financial service provider in writing that they have separated or divorced, the regulated financial service provider should treat each mortgage borrower as a single mortgage borrower under this Chapter, except to the extent that an action requires, as a matter of law, the agreement of both mortgage borrowers.

(4) To the extent that this Chapter applies, Regulation 150, Regulations 189 to 191, and Chapter 10 do not apply.

Meaning of not co-operating

222. (1) In these Regulations, “not co-operating”, in relation to a mortgage borrower not co-operating with a regulated financial service provider, means that condition 1 and condition 2 apply.

(2) In paragraph (1), “condition 1” means that any of the following circumstances apply:

- (a) the mortgage borrower fails to make a full and honest disclosure of information to the regulated financial service provider and this information would have a significant impact on the regulated financial service provider’s assessment of the mortgage borrower’s financial situation;
- (b) the mortgage borrower fails to provide information relevant to the mortgage borrower’s financial situation within the timeline specified by the regulated financial service provider in accordance with Regulation 252(3);
- (c) a 3 month period elapses where -
 - (i) the mortgage borrower has not entered into an alternative repayment arrangement and during that 3 month period the borrower –
 - I. has failed to meet his or her mortgage loan repayments in full in accordance with the mortgage loan contract, or
 - II. has met his or her mortgage loan repayments in full in accordance with the mortgage loan contract but has an arrears balance remaining on the mortgage, or
 - (ii) the mortgage borrower has entered into an alternative repayment arrangement and during that 3 month period the mortgage borrower has failed to meet his or her repayments in full as specified in the terms of an alternative repayment arrangement,

and,
 - (iii) during that 3 month period the mortgage borrower -
 - I. has failed to make contact with, or respond to any communications from, the regulated financial service provider or a third party acting on the regulated financial service provider’s behalf, or

- II. has made contact with, or responded to communications from, the regulated financial service provider or a third party acting on the regulated financial service provider's behalf, but has not engaged in such a way that enables the regulated financial service provider to complete an assessment of the borrower's circumstances;

(3) In paragraph (1), "condition 2" means that the letter, required pursuant to Regulation 250, has been issued to the mortgage borrower and the mortgage borrower has not carried out the actions specified in that letter.

Dedicated person to be appointed for dealing with arrears

223. A regulated financial service provider shall ensure that within each branch of a regulated financial service provider, or office in the case of a regulated financial service provider that does not operate a branch network, there is appointed at least one person in that branch, or office, with specific responsibility for –

- (a) dealing with arrears and pre-arrears cases, and
- (b) liaising with the regulated financial service provider's arrears support unit in respect of these cases.

All relevant information to be available prior to communicating with mortgage borrower

224. Prior to communicating with a mortgage borrower in respect of arrears or pre-arrears, a regulated financial service provider shall ensure that it has available all the relevant information that has been furnished to the regulated financial service provider by the mortgage borrower.

Regulated financial service providers to have procedures for dealing with arrears and pre-arrears

225. (1) A regulated financial service provider shall establish, maintain and adhere to appropriate and effective policies and procedures for the handling of arrears, and pre-arrears cases, including those mortgage borrowers to whom the MARP applies.

(2) The procedures referred to in paragraph (1) shall -

- (a) allow for a flexible approach by the regulated financial service provider in the handling of these cases,
- (b) be procedures which have the core objective of assisting the mortgage borrower to resolve their financial difficulties,
- (c) set out how the regulated financial service provider will implement the 4 steps of the MARP, and
- (d) set out how the arrears support unit will assess cases referred to it, including the types of alternative repayment arrangements or any other relief method that may be offered to mortgage borrowers by the regulated financial service provider.

Management information systems to be in place

226. A regulated financial service provider shall have in place management information systems to keep and maintain information on its dealings with mortgage borrowers in relation to arrears, pre-arrears and MARP cases, including all alternative repayment arrangements with mortgage borrowers.

Consumer-facing staff to be provided with training or information as appropriate

227. (1) A regulated financial service provider shall provide appropriate training to its consumer-facing staff dealing with mortgage borrowers in arrears or in pre-arrears.

(2) With respect to consumer-facing staff other than those referred to in paragraph (1), a regulated financial service provider shall inform such staff of the regulated financial service provider's policy for dealing with arrears and pre-arrears cases, the relevant contact persons for dealing with such cases and the applicable process for dealing with such cases.

Conditions for setting targets or offering incentives to relevant staff

228. Where a regulated financial service provider sets targets or offers incentives to staff dealing with mortgage borrowers in arrears or pre-arrears, the regulated financial service provider shall ensure that such staff targets or incentives:

- (a) do not impair the quality of communication with a mortgage borrower or how the mortgage borrower is treated by the regulated financial service provider, and
- (b) take into account compliance with the requirements of this Chapter.

Timeline for processing mortgage borrower information requests relating to State support applications

229. A regulated financial service provider shall process all requests from mortgage borrowers for documentation or other information, for the purposes of applying for State supports in relation to mortgages, within 10 working days of receipt of the request.

Mortgage borrower's nominated third party to be liaised with

230. (1) At a mortgage borrower's written request and with a mortgage borrower's written consent, a regulated financial service provider shall liaise with a third party nominated by the mortgage borrower to act on the mortgage borrower's behalf in relation to the mortgage borrower's arrears or pre-arrears case.

(2) For the avoidance of doubt, paragraph (1) does not prohibit a regulated financial service provider from the following:

- (a) contacting a mortgage borrower directly in relation to matters other than the mortgage borrower's arrears or pre-arrears case;
- (b) issuing communications required by these Regulations directly to a mortgage borrower.

Mortgage borrower's reasons for missing repayment schedule to be ascertained

231. As soon as a mortgage borrower is in arrears, a regulated financial service provider shall communicate promptly and clearly with the mortgage borrower to establish the reasons why the repayment schedule required by the mortgage borrower's mortgage loan contract has not been adhered to by the mortgage borrower.

Mortgage borrowers to be encouraged to engage on financial difficulties

232. (1) A regulated financial service provider shall pro-actively encourage mortgage borrowers to engage with it about financial difficulties which may prevent the mortgage borrower from meeting the mortgage borrower's mortgage loan repayments.

(2) A regulated financial service provider shall provide a written communication to all mortgage borrowers on at least an annual basis to encourage early contact with the regulated financial service provider if the mortgage borrower is in arrears or is concerned that he or she is in danger of going into arrears.

No charges or surcharge interest on arrears where mortgage borrower is cooperating

233. A regulated financial service provider shall not impose charges, surcharge interest, or both, on arrears arising on a mortgage loan account in arrears to which this Chapter applies, unless the relevant mortgage borrower is not co-operating.

Unsolicited personal visits to comply with certain conditions

234. (1) A regulated financial service provider may make an unsolicited personal visit to a mortgage borrower's primary residence to discuss the mortgage borrower's arrears and the steps to deal with the arrears only once in any 6 month period, and only if, in that period, either of the following circumstances apply:

- (a) the regulated financial service provider has been unsuccessful in its attempts to contact the mortgage borrower by other means;
- (b) the visit is made immediately prior to classifying the mortgage borrower as not co-operating.

(2) Before making an unsolicited personal visit for the purposes of paragraph (1), the regulated financial service provider shall provide the mortgage borrower with at least 5 working days' notice in writing of –

- (a) the regulated financial service provider's intention to make the visit, and
- (b) the timeframe within which it intends to make the visit.

(3) For the purposes of paragraph (2) –

- (a) the regulated financial service provider shall not specify a timeframe that exceeds the date that is 15 working days from the date of the notice, and
- (b) the regulated financial service provider shall provide notice which -

- (i) outlines the importance of engagement between the mortgage borrower and the regulated financial service provider,
- (ii) unless the mortgage borrower is already deemed to be not co-operating with the regulated financial service provider, sets out the protections which are not available where a mortgage borrower is not co-operating with the regulated financial service provider to address the mortgage borrower's arrears,
- (iii) explains that the intention of the visit is to discuss the mortgage borrower's arrears and the steps to deal with the arrears,
- (iv) provides the contact details for the regulated financial service provider's arrears support unit,
- (v) where the regulated financial service provider has a local branch, provides the contact details of that branch and offers to discuss the arrears at that branch, and
- (vi) states that the mortgage borrower may wish to consider having a third party present when the personal visit takes place, if he or she considers that this would be of assistance to the mortgage borrower.

(4) When carrying out an unsolicited personal visit, a regulated financial service provider shall offer to -

- (a) explain the standard financial statement to the mortgage borrower, and
- (b) assist the mortgage borrower to complete the standard financial statement.

(5) A regulated financial service provider shall not compel a mortgage borrower to complete a standard financial statement during the course of an unsolicited personal visit.

(6) Regulation 110(1) applies subject to this Regulation.

(7) Paragraph (1) does not prevent a regulated financial service provider from agreeing a further personal visit with the mortgage borrower in compliance with paragraphs (2) to (4) of Regulation 110.

Communications to be open to engaging with mortgage borrower

235. A regulated financial service provider shall use language in communications with a mortgage borrower which indicates a willingness to work with the mortgage borrower to address the arrears or pre-arrears situation.

Arrears and pre-arrears meetings with mortgage borrowers not to be in public

236. A regulated financial service provider shall ensure that all meetings that it conducts with mortgage borrowers in relation to arrears or pre-arrears are not conducted in public.

MARP information booklet required

237. (1) A regulated financial service provider shall prepare and make available to mortgage borrowers an information booklet providing details of its MARP.

(2) A regulated financial service provider shall draft the information booklet in accordance with the requirements of Regulations 49, 50, and 235, and in accordance with any relevant standards prescribed by the Bank pursuant to section 17A(2) of the Central Bank Reform Act 2010 (No. 23 of 2010).

(3) The information booklet shall include the following:

- (a) an explanation of the regulated financial service provider's MARP;
- (b) an explanation of the alternative repayment arrangements available to mortgage borrowers including –
 - (i) an explanation of how these arrangements work,
 - (ii) the key features of the arrangements, and
 - (iii) an outline, in general terms, of the regulated financial service provider's criteria for assessing requests for alternative repayment arrangements;
- (c) a statement that the availability of alternative repayment arrangements is subject to an individual assessment of each case and meeting the regulated financial service provider's criteria;
- (d) an explanation of all options offered by the regulated financial service provider for resolution of mortgage arrears other than an alternative repayment arrangement, such as voluntary surrender, voluntary sale, mortgage to rent, trading down, or otherwise, and a statement that the availability of such options is subject to an individual assessment of each case and meeting the regulated financial service provider's, or a third party's, criteria;
- (e) in circumstances where the regulated financial service provider may require a mortgage borrower to enter into a confidentiality agreement or similar agreement to maintain confidentiality, in circumstances where an alternative repayment arrangement or other arrangement for resolution of mortgage arrears is offered to a mortgage borrower, summary information on the regulated financial service provider's potential use of such agreements;
- (f) an explanation of when a mortgage borrower will be deemed by the regulated financial service provider as not cooperating with the regulated financial service provider;

- (g) the implications, for the mortgage borrower, of not co-operating with the regulated financial service provider, which shall include -
 - (i) that the MARP does not apply if the mortgage borrower is not co-operating,
 - (ii) information on the imposition of charges, surcharge interest, or both, on arrears arising on a mortgage loan account,
 - (iii) a warning that the regulated financial service provider may commence legal proceedings for repossession of the property immediately after classifying a mortgage borrower as not co-operating, and
 - (iv) a warning that not co-operating may impact on a mortgage borrower's eligibility for a personal insolvency arrangement in accordance with the eligibility criteria set out in the Act of 2012;
- (h) information about the potential availability of relevant State supports that provide financial assistance to pay or refund the cost of a mortgage including, where potentially available, information about mortgage interest relief, and mortgage interest supplement;
- (i) a statement reminding those who have purchased payment protection insurance in relation to a mortgage loan account that is in arrears that they may wish to investigate if a claim is possible on that policy;
- (j) information explaining how data relating to the mortgage borrower's arrears will be reported by the regulated financial service provider to the Central Credit Register or any other credit reference agency or credit register, where permitted by contract or required by law;
- (k) the regulated financial service provider's dedicated arrears contact points;
- (l) a statement that the mortgage borrower may wish to seek assistance from the MABS, contact details for the MABS national helpline, and the website address of any relevant website operated by the MABS for the purpose of providing assistance to borrowers;
- (m) information on the mortgage borrower's right to consult with a personal insolvency practitioner for the purposes of considering a personal insolvency arrangement, the implications of a personal insolvency arrangement for a mortgage borrower and his or her mortgage loan account, and a reiteration of the warning referred to in subparagraph (g)(iv);
- (n) a hyperlink to, or website address of, any website operated by the Insolvency Service of Ireland which provides information to mortgage borrowers on the debt solutions and the associated processes prescribed by the Act of 2012;

- (o) a summary of the regulated financial service provider's policy regarding communications with mortgage borrowers, required in accordance with Regulation 244;
- (p) information on how the mortgage borrower may appeal a decision of the regulated financial service provider pursuant to the appeals process which the regulated financial service provider is required to maintain in accordance with Regulation 259, including a description of the process and the timeframe for submitting an appeal;
- (q) information on how the mortgage borrower may make a complaint in accordance with the complaints procedure which the regulated financial service provider is required to maintain in accordance with Regulation 261, including a description of the procedure and timeframe for submitting a complaint;
- (r) a statement that in the event that legal proceedings are initiated, and the property is repossessed and disposed of, the mortgage borrower will remain liable for any outstanding debt related to the mortgage, including any accrued interest, charges, legal, selling and other related costs, if this is the case.

(4) In this Regulation, "confidentiality agreement" means an agreement whereby the mortgage borrower is required to keep information relating to an alternative repayment arrangement or other option, intended to resolve the arrears situation, confidential.

Dedicated webpage to be maintained

238. Where a regulated financial service provider has or operates a website, a regulated financial service provider shall have a dedicated webpage on its website for mortgage borrowers in, or concerned about, financial difficulties which satisfies the following conditions:

- (a) The dedicated webpage shall make available -
 - (i) the information booklet required by Regulation 237,
 - (ii) information on the level of charges that may be imposed on mortgage borrowers who are deemed to be not co-operating with the regulated financial service provider,
 - (iii) a hyperlink to any website operated by the MABS that contains information for mortgage borrowers about taking action to address mortgage arrears,
 - (iv) the standard financial statement,
 - (v) a copy of the regulated financial service provider's guide to completing a standard financial statement or a hyperlink to the Bank's Consumer Guide to Completing a Standard Financial Statement, and

- (vi) a hyperlink to any website operated by the Insolvency Service of Ireland which provides information to mortgage borrowers on the debt solutions and the associated processes prescribed by the Act of 2012;
- (b) The dedicated webpage is made easily accessible to any mortgage borrower who accesses the website, and from a prominent hyperlink on the regulated financial service provider's home page.

MARP required

239. (1) A regulated financial service provider shall establish, maintain and adhere to a mortgage arrears resolution process as its framework for handling cases referred to in Regulation 241.

(2) A regulated financial service provider shall incorporate in its MARP the following steps:

- (a) "Step 1: Communication with borrowers";
- (b) "Step 2: Financial information";
- (c) "Step 3: Assessment";
- (d) "Step 4: Resolution".

(3) A regulated financial service provider shall comply with the following requirements under the corresponding step, subject to Regulation 242:

- (a) The requirements of "Step 1: Communication with borrowers", as referred to in paragraph (2)(a), are prescribed by Regulations 243 to 251;
- (b) The requirements of "Step 2: Financial information", as referred to in paragraph (2)(b), are prescribed by Regulation 252;
- (c) The requirements of "Step 3: Assessment", as referred to in paragraph (2)(c), are prescribed by Regulation 253;
- (d) The requirements of "Step 4: Resolution", as referred to in paragraph (2)(d), are prescribed by Regulations 254 to 258.

Arrears support unit required

240. A regulated financial service provider shall establish and maintain an arrears support unit, being an adequately staffed centralised unit of the regulated financial service provider dedicated to managing cases to which the regulated financial service provider's MARP applies.

Circumstances in which MARP to be applied

241. A regulated financial service provider shall apply its MARP in the following cases:

- (a) a mortgage borrower's mortgage loan account has been in arrears for 31 calendar days from the date the arrears first arose;
- (b) a pre-arrears case, subject to Regulation 242;
- (c) where an alternative repayment arrangement put in place breaks down;
- (d) where the term of an alternative repayment arrangement expires.

Application of MARP to pre-arrears cases

242. A regulated financial service provider shall apply its MARP to pre-arrears cases on the following basis:

- (a) Only the following requirements of "Step 1: Communication with borrowers", apply: Regulations 243 to 245, Regulation 250 and Regulation 251;
- (b) Regulations 252 to 258 apply in full.

Mortgage borrower to be informed of appointment of third party for engaging with mortgage borrower

243. Where a regulated financial service provider has appointed a third party to engage with a mortgage borrower in relation to a case referred to in Regulation 241, the regulated financial service provider shall inform the mortgage borrower of that fact on paper or on another durable medium and shall explain to the mortgage borrower the role of the third party.

Policy on communications with mortgage borrowers required

244. (1) A regulated financial service provider shall establish, maintain and adhere to a policy regarding the regulated financial service provider's communications with mortgage borrowers in the cases referred to in Regulation 241 which is consistent with the requirements imposed on regulated financial service providers by Regulation 245.

(2) A regulated financial service provider shall ensure that its policy is approved by its board of directors, or the entity or persons controlling the regulated financial service provider.

Standards for communicating with mortgage borrowers

245. (1) A regulated financial service provider shall ensure that the extent of communications from the regulated financial service provider, including any third party acting on its behalf, to a mortgage borrower in a case referred to in Regulation 241, is proportionate, reasonable and not excessive, taking into account the circumstances of the mortgage borrower, and the principle that unnecessarily frequent communications should not be made;

(2) A regulated financial service provider's communications with mortgage borrowers in the cases referred to in Regulation 241 shall not be made in an aggressive, intimidating or harassing manner.

(3) A regulated financial service provider shall provide sufficient time to a mortgage borrower, in a case referred to in Regulation 241, to complete an action that the mortgage borrower has committed to before follow up communication is attempted.

(4) For the purposes of paragraph (3), a regulated financial service provider shall provide the mortgage borrower sufficient time having regard to the action that a mortgage borrower has committed to complete and whether he or she may require assistance from a third party in completing the action.

(5) A regulated financial service provider shall take steps to agree with a mortgage borrower, in a case referred to in Regulation 241, on future communication with the mortgage borrower.

Mortgage borrower and guarantor to be informed in case of arrears

246. With regard to a case referred to in Regulation 241(a) where a mortgage borrower's mortgage loan account is in arrears for 31 calendar days after the arrears first arose, the regulated financial service provider shall, within 3 working days, take the following action:

- (a) notify each mortgage borrower and any guarantor of the mortgage loan, unless the mortgage loan contract explicitly prohibits such information to be given to the guarantor, of the status of the account, on paper or on another durable medium;
- (b) include the following information in the notification given to a mortgage borrower or guarantor for the purposes of paragraph (a):
 - (i) the date upon which the mortgage loan account fell into arrears;
 - (ii) the number and total amount of repayments that have not been made by the mortgage borrower, including partial repayments that have been made;
 - (iii) the monetary amount that has not been repaid in relation to the arrears as of the date of the notice;
 - (iv) confirmation that the regulated financial service provider is treating the mortgage borrower's situation as a case to which it is applying its MARP;
 - (v) the regulated financial service provider's dedicated arrears contact points;
 - (vi) an explanation of the meaning of "not co-operating" under the MARP and, separately, the implications for the mortgage borrower of not co-operating including the following, where applicable:
 - I. the imposition of charges, surcharge interest, or both, on arrears arising on the mortgage loan account, including details of any such charges or surcharge interest;

- II. that the regulated financial service provider may commence legal proceedings for repossession of the property over which the mortgage loan is secured if the mortgage borrower is deemed to be not co-operating with the regulated financial service provider;
 - III. a warning that not co-operating with the regulated financial service provider may impact on a mortgage borrower's eligibility for a personal insolvency arrangement in accordance with the Act of 2012;
- (vii) a statement reminding those who have purchased payment protection insurance in relation to the mortgage loan account in arrears that they may wish to investigate if a claim is possible on that policy and, if the mortgage borrower has purchased payment protection insurance from that regulated financial service provider in relation to the account in arrears, a statement advising the mortgage borrower of the following:
- I. that the mortgage borrower has purchased payment protection insurance;
 - II. the mortgage borrower's policy number;
 - III. that a copy of the mortgage borrower's policy is available on request from the regulated financial service provider;
- (viii) an explanation of how any data relating to the mortgage borrower's arrears will be reported by the regulated financial service provider to the Central Credit Register, or any other credit reference agency or credit register, where permitted by contract or required by law, and an explanation of the impact on the mortgage borrower's credit report;
- (ix) a hyperlink to, or website address of, any website operated by the Insolvency Service of Ireland which provides information to mortgage borrowers on the debt solutions and the associated processes prescribed by the Act of 2012;
- (c) provide the borrower with the information booklet referred to in Regulation 237.

MARP information booklet to be provided in pre-arrears case

247. In the circumstances of a pre-arrears case referred to in Regulation 241(b), in which the mortgage borrower contacts a regulated financial service provider to inform it that either the mortgage borrower is in danger of going into financial difficulties, or the mortgage borrower is concerned about going into mortgage arrears, or both, the regulated financial service provider shall provide the mortgage borrower with the information booklet referred to in Regulation 237.

Updated information to be provided where arrears persist

248. Where the arrears persist in a case referred to in Regulation 241, a regulated financial service provider shall, every 3 months, provide the mortgage borrower with an updated version of the information provided in accordance with Regulations 246(b)(ii), 246(b)(iii) and 246(b)(v), on paper or on another durable medium.

Mortgage borrower to be notified of consequences when 3 repayments missed

249. Where, in a case referred to in Regulation 241, a mortgage borrower fails to make 3 full mortgage loan repayments in accordance with the original mortgage loan contract agreed by the mortgage borrower, and such repayments remain outstanding, and an alternative repayment arrangement has not been put in place, the regulated financial service provider shall notify the mortgage borrower, on paper or on another durable medium, of the following:

- (a) the potential for legal proceedings for repossession of the property on which the mortgage loan is secured where the mortgage borrower is not co-operating with the regulated financial service provider, together with an estimate of the costs to the mortgage borrower of such proceedings;
- (b) that taking independent advice in such circumstances is important and that the mortgage borrower could take such advice from his or her local MABS, or from a legal advisor or personal insolvency practitioner;
- (c) that irrespective of how the property on which the mortgage loan is secured is repossessed and disposed of, the mortgage borrower will remain liable for the outstanding debt, including any accrued interest, charges, legal, selling and other related costs, if this is the case.

Letter to be provided to mortgage borrower prior to classification as 'not co-operating'

250. In a case referred to in Regulation 241, a regulated financial service provider shall write a letter to a mortgage borrower, prior to classifying the mortgage borrower as not co-operating with the regulated financial service provider, which shall notify the mortgage borrower of the following:

- (a) that he or she will be classified by the regulated financial service provider as not co-operating with the regulated financial service provider if he or she does not undertake the specific actions referred to in paragraph (b), within 20 working days of the date of the letter, with the aim of enabling the regulated financial service provider to complete an assessment of the mortgage borrower's circumstances;
- (b) the specific actions that the regulated financial service provider requires the mortgage borrower to take within the 20 working day period referred to in paragraph (a) in order to avoid being classified by the regulated financial service provider as not co-operating;
- (c) the ongoing actions that the regulated financial service provider requires the mortgage borrower to take to avoid being classified by the regulated financial service provider as not co-operating with the regulated financial service provider, including a statement that if any of these ongoing actions are not

undertaken at any point in the future, the regulated financial service provider may classify the mortgage borrower as not co-operating without further warning;

- (d) the implications of the mortgage borrower not co-operating with the regulated financial service provider, including the following:
 - (i) that the regulated financial service provider's MARP will not apply to the mortgage borrower and the protections of the MARP will no longer apply;
 - (ii) that the regulated financial service provider may commence legal proceedings for repossession of the property on which the mortgage loan is secured immediately after the regulated financial service provider classifies the mortgage borrower as not cooperating with the regulated financial service provider;
 - (iii) a warning of the impact that classification of the mortgage borrower as not co-operating may have on the mortgage borrower's eligibility for a personal insolvency arrangement;
- (e) that the mortgage borrower may wish to seek independent legal or financial advice;
- (f) that the MABS is an available advisory service;
- (g) the potential for legal proceedings and that, irrespective of how the property on which the mortgage loan is secured is repossessed and disposed of, the mortgage borrower will remain liable for the outstanding debt related to the mortgage, including any accrued interest, charges, legal, selling and other related costs, if this is the case.

Mortgage borrower to be informed of certain matters following classification as 'not co-operating'

251. Where, in a case referred to in Regulation 241, a regulated financial service provider has classified a mortgage borrower as not co-operating, following a period whereby the mortgage borrower has been given an opportunity by the regulated financial service provider to co-operate in accordance with the requirements which the regulated financial service provider has set out in the letter referred to in Regulation 250, the regulated financial service provider shall notify the mortgage borrower on paper or on another durable medium that he or she has been classified by the regulated financial service provider as not co-operating and shall inform the mortgage borrower of the following:

- (a) that legal proceedings for repossession of the property on which the mortgage loan is secured may commence immediately;

- (b) that the regulated financial service provider's MARP no longer applies to the mortgage borrower and the protections of the regulated financial service provider's MARP no longer apply;
- (c) options that may be available to the mortgage borrower in these circumstances, such as voluntary surrender, trading down, mortgage to rent or voluntary sale, and the implications of each option for the mortgage borrower and his or her mortgage loan account, including the following information:
 - (i) an estimate of the total amount of costs or the total amount of charges associated with each option presented to the mortgage borrower, where known, and where the total amount associated with an individual option is not known, a list of the individual types of associated costs or charges;
 - (ii) the requirement to repay outstanding arrears even where the mortgage borrower avails of an option presented, if this is the case;
 - (iii) the impact on the mortgage borrower's credit report, as anticipated by the regulated financial service provider, where the mortgage borrower avails of such an option;
 - (iv) that taking independent advice in relation to the options presented is important and that the mortgage borrower should take such advice from his or her local MABS or from an appropriate alternative;
- (d) the mortgage borrower's right to appeal in writing, setting out the grounds for the appeal, the regulated financial service provider's decision to classify the mortgage borrower as not co-operating;
- (e) the mortgage borrower's right to consult a personal insolvency practitioner, provided however that the regulated financial service provider shall also inform the mortgage borrower that the regulated financial service provider's classification of the mortgage borrower as not co-operating may impact on the mortgage borrower's eligibility for a personal insolvency arrangement.

Requirements for obtaining financial information from a mortgage borrower

252. (1) A regulated financial service provider shall use the standard financial statement to obtain financial information from a mortgage borrower in arrears or in pre-arrears in a case referred to in Regulation 241.

(2) For the purposes of paragraph (1), the regulated financial service provider shall -

- (a) provide the mortgage borrower with the standard financial statement at the earliest appropriate opportunity,
- (b) offer to assist the mortgage borrower to complete the standard financial statement, and

- (c) inform the mortgage borrower that he or she may wish to seek independent advice, in order to assist the mortgage borrower to complete the standard financial statement, from his or her local MABS or from an appropriate alternative.

(3) Where a regulated financial service provider requires a mortgage borrower in a case referred to in Regulation 241 to return information, including a standard financial statement, according to a particular timeline, the timeline shall be fair and reasonable and shall provide sufficient time to the mortgage borrower having regard to the type of information requested and having regard to whether the mortgage borrower may need to obtain such information from a third party.

(4) A regulated financial service provider shall ensure that its arrears support unit is provided with the standard financial statement completed by the mortgage borrower, immediately on the regulated financial service provider's receipt of same, and shall provide a copy of the completed standard financial statement to the mortgage borrower.

(5) Subject to paragraph (6), where in a case referred to in Regulation 241, less than 12 months have elapsed since a completed standard financial statement was last received from the borrower, the regulated financial service provider may deem that standard financial statement last received, together with any information which has changed in that standard financial statement according to the mortgage borrower's confirmation, to be the completed standard financial statement obtained for the purposes of paragraph (4).

(6) Where in a case referred to in Regulation 241, 12 months or more have elapsed since a completed standard financial statement, excluding any completed standard financial statement deemed as such pursuant to paragraph (5), was last received from the mortgage borrower, the regulated financial service provider shall again comply with the requirements of paragraphs (1) to (4).

(7) This Chapter shall not prevent a regulated financial service provider from either –

- (a) requiring a mortgage borrower, in a case referred to in Regulation 241, to provide supporting documentation to corroborate information provided by the mortgage borrower in a standard financial statement or,
- (b) requiring a mortgage borrower to provide supporting documentation to corroborate information which has changed in a completed standard financial statement according to the mortgage borrower's confirmation.

Assessment of mortgage borrower case

253. (1) In a case referred to in Regulation 241, a regulated financial service provider shall, through its arrears support unit –

- (a) assess a completed standard financial statement in a timely manner,
- (b) examine the case on its individual merits, and

- (c) assess the case on the full circumstances of the mortgage borrower relevant to the MARP including the following:
 - (i) the personal circumstances of the mortgage borrower insofar as relevant to the MARP;
 - (ii) the overall indebtedness of the mortgage borrower;
 - (iii) the information provided in the standard financial statement;
 - (iv) the mortgage borrower's current and future capacity to repay the mortgage loan;
 - (v) the mortgage borrower's history of repayment of the mortgage.

(2) A regulated financial service provider shall provide the mortgage borrower with a summary of the information assessed for the purposes of paragraph (1), in non-technical language.

Requirements when considering alternative repayment arrangement options

254. (1) In order to determine which options for alternative repayment arrangements are viable for a mortgage borrower's case, a regulated financial service provider shall assess all of the options for alternative repayment arrangements offered by that regulated financial service provider.

(2) For the purposes of paragraph (1), the options for alternative repayment arrangements offered by the regulated financial service provider shall be comprised of a suite of alternative repayment arrangements options that is, amongst any other relevant elements, appropriate and sustainable, and broad enough, to meet the needs of the regulated financial service provider's customers that are mortgage borrowers.

(3) For the purposes of paragraph (2), the alternative repayment arrangements within the suite of alternative repayment arrangement options shall have an objective of, amongst any other relevant objectives –

- (a) supporting the regulated financial service provider's customers that are mortgage borrowers to meet their mortgage obligations, and
- (b) addressing those mortgage borrowers' financial difficulties as effectively as circumstances allow.

(4) The suite of alternative repayment arrangements referred to in paragraph (1) may include the following, amongst any other options for alternative arrangements offered by the regulated financial service provider:

- (a) interest only repayments on the mortgage loan for a specified period of time;
- (b) permanently reducing the interest rate on the mortgage loan;
- (c) temporarily reducing the interest rate on the mortgage for a specified period of time;

- (d) fixing the interest rate on the mortgage loan;
- (e) an arrangement to pay interest and part of the normal capital amount for a specified period of time;
- (f) deferring payment of all or part of the scheduled mortgage loan repayments for a specified period of time;
- (g) extending the term of the mortgage;
- (h) changing the type of the mortgage;
- (i) adding arrears and interest to the principal amount due;
- (j) equity participation;
- (k) setting aside ('warehousing') part of the mortgage, including through a split mortgage, where a regulated financial service provider agrees to split a mortgage borrower's mortgage loan into an affordable mortgage loan, which the mortgage borrower continues to repay, and a remaining balance, which is set aside (i.e. warehoused to a later date);
- (l) writing down the capital sum to a specified amount;
- (m) any voluntary scheme to which the regulated financial service provider has signed up.

(5) A regulated financial service provider shall document its consideration of each option assessed in accordance with paragraph (1).

(6) Paragraph (5) includes documenting the reasons why -

- (a) any option offered to the mortgage borrower is appropriate and sustainable for his or her individual circumstances, and
- (b) any option assessed and not offered to the mortgage borrower is not appropriate and not sustainable for his or her individual circumstances.

(7) A regulated financial service provider shall provide the mortgage borrower with a copy of the information documented by the regulated financial service provider in accordance with paragraphs (5) and (6).

(8) In this Regulation, "equity participation" means an arrangement whereby the principal sum due on the primary residence is reduced, provided that a share in the mortgage borrower's equity in the primary residence is transferred to the regulated financial service provider, or a third party.

Requirements when offering alternative repayment arrangements

255. (1) Where an alternative repayment arrangement is offered by a regulated financial service provider to a mortgage borrower in a case referred to in Regulation 241, the regulated financial service provider shall advise the mortgage borrower to take appropriate independent legal advice, financial advice, or both, and shall provide the mortgage borrower with a clear explanation, on paper or on another durable medium, of how the alternative repayment arrangement works, including the following information:

- (a) the reasons why the alternative repayment arrangement offered is considered to be appropriate and sustainable for the mortgage borrower's individual circumstances as documented by the regulated financial service provider in accordance with Regulation 254(5) and Regulation 254(6), including demonstrating, by reference to the mortgage borrower's individual circumstances, the advantages of the offer for the mortgage borrower and explaining any disadvantages;
- (b) the new mortgage loan repayment amount;
- (c) the term of the alternative repayment arrangement;
- (d) the implications of entering into the alternative repayment arrangement for the mortgage borrower's existing mortgage loan, including the impact on -
 - (i) the mortgage loan term,
 - (ii) the balance outstanding on the mortgage loan account, and
 - (iii) the existing arrears on the mortgage loan account, if any;
- (e) a statement that the alternative repayment arrangement may impact on the mortgage borrower's mortgage protection insurance cover;
- (f) the frequency with which the alternative repayment arrangement will be reviewed by the regulated financial service provider in accordance with Regulation 258(1), the reason for undertaking such reviews and the potential outcome of any such reviews where -
 - (i) the mortgage borrower's circumstances which require the alternative repayment arrangement improve,
 - (ii) the mortgage borrower's circumstances which require the alternative repayment arrangement disimprove, and
 - (iii) the mortgage borrower's circumstances which require the alternative repayment arrangement remain the same;

- (g) details of any residual mortgage debt which, at the end of the term of an alternative repayment arrangement, will remain due and owing by the mortgage borrower;
- (h) information on how interest will be applied to the mortgage loan account as a result of entering into the alternative repayment arrangement;
- (i) information on how the alternative repayment arrangement will be reported by the regulated financial service provider to the Central Credit Register or any other credit reference agency or credit register, and the anticipated impact of entering into this arrangement on the mortgage borrower's credit report;
- (j) the timeframe within which the mortgage borrower is required to accept or decline the offer.

(2) A regulated financial service provider shall not require a mortgage borrower in a case referred to in Regulation 241 to agree to amend his or her mortgage interest rate from a tracker interest rate to an interest rate other than a tracker interest rate, as part of agreeing to any alternative repayment arrangement offered to the mortgage borrower, except in the circumstances referred to in paragraph (3).

(3) Where a regulated financial service provider is considering alternative repayment arrangement options in respect of a mortgage loan with a tracker interest rate in accordance with Regulation 254(1) to Regulation 254(4) and the regulated financial service provider concludes that there is no option which is appropriate and sustainable for the mortgage borrower's individual circumstances whereby the mortgage borrower may retain the tracker interest rate, the regulated financial service provider may offer the mortgage borrower an alternative repayment arrangement pursuant to which the tracker interest rate is amended to an interest rate other than a tracker interest rate, if that alternative repayment arrangement is a long-term appropriate and sustainable arrangement for the mortgage borrower, and the reasons for same are documented in accordance with Regulation 254(5) and Regulation 254(6).

(4) This Chapter does not prevent a regulated financial service provider agreeing an alternative repayment arrangement with a mortgage borrower for a limited period of time, prior to completing its assessment of the mortgage borrower's standard financial statement, if a delay in agreeing an alternative repayment arrangement would exacerbate a mortgage borrower's arrears or, in a pre-arrears case, the mortgage borrower's relevant financial difficulty or likelihood of financial difficulty.

(5) For the purpose of paragraph (4), "limited period of time" means a period of time sufficient to enable the regulated financial service provider to receive and complete a full review of the standard financial statement.

Reasons and additional information to be provided where alternative repayment arrangement refused

256. (1) Where a regulated financial service provider decides not to offer a mortgage borrower an alternative repayment arrangement in a case referred to in Regulation 241 for any reason,

including where the regulated financial service provider concludes that the mortgage borrower's mortgage is not sustainable for the mortgage borrower's circumstances and an alternative repayment arrangement is unlikely to be appropriate, the regulated financial service provider shall, within 10 working days of its decision, provide the reasons for that decision to the mortgage borrower on paper or on another durable medium.

(2) In addition to the reasons referred to in paragraph (1), the regulated financial service provider shall inform the borrower of the following:

- (a) options available to the mortgage borrower, other than alternative repayment arrangements, such as, where available, voluntary surrender, trading down, mortgage to rent, voluntary sale, or otherwise, and the implications of each option for the mortgage borrower and his or her mortgage loan account including -
 - (i) an estimate of the total amount of costs or charges associated with each option where known and, where the total amount associated with an individual option is not known, a list of the individual types of costs or charges associated with that option;
 - (ii) the requirement to repay outstanding arrears even where the borrower avails of such an option, if this is the case,
 - (iii) the impact on the mortgage borrower's credit report, as anticipated by the regulated financial service provider, where the mortgage borrower avails of such an option, and
 - (iv) that it is important for the mortgage borrower to seek independent advice in relation to the options presented;
- (b) the mortgage borrower's right to appeal, to the regulated financial service provider's appeals board, the regulated financial service provider's decision not to offer an alternative repayment arrangement to the borrower;
- (c) that the regulated financial service provider's MARP no longer applies to the mortgage borrower and that the protections of the regulated financial service provider's MARP no longer apply;
- (d) that the regulated financial service provider may commence legal proceedings after 3 months have elapsed from the date the reasons were provided to the mortgage borrower, or after 8 months have elapsed from the date upon which the arrears first arose, whichever date is the later, and that, irrespective of how the property on which the mortgage borrower's mortgage loan is secured is repossessed and disposed of, the mortgage borrower will remain liable for the outstanding debt related to the mortgage loan, including any accrued interest, charges, legal, selling and other related costs, if this is the case;

- (e) that the mortgage borrower should notify the regulated financial service provider if his or her circumstances requiring consideration of an alternative repayment arrangement improve;
- (f) that it is important for the mortgage borrower to seek independent legal advice, financial advice, or both;
- (g) the mortgage borrower's right to consult with a personal insolvency practitioner;
- (h) a hyperlink to, or website address of, any website operated by the Insolvency Service of Ireland which provides information to mortgage borrowers on the debt solutions and the associated processes prescribed by the Act of 2012;
- (i) that a copy of the most recent standard financial statement completed by the mortgage borrower can be obtained from the regulated financial service provider on request.

Information to be provided where alternative repayment arrangement offered but not agreed by mortgage borrower

257. If a mortgage borrower does not agree to enter into an alternative repayment arrangement offered by the regulated financial service provider, the regulated financial service provider shall inform the mortgage borrower without delay, on paper or on another durable medium, of the following:

- (a) options available to the mortgage borrower, other than alternative repayment arrangements, such as, where available, voluntary surrender, trading down, mortgage to rent, voluntary sale, or otherwise, and the implications of each option for the mortgage borrower and his or her mortgage loan account, including-
 - (i) an estimate of the total amount of costs or charges associated with each option where known and, where the total amount associated with an individual option is not known, a list of the individual types of costs or charges associated with that option,
 - (ii) the requirement to repay outstanding arrears even where the mortgage borrower avails of such an option, if this is the case,
 - (iii) the impact on the mortgage borrower's credit report, as anticipated by the regulated financial service provider, where the mortgage borrower avails of such an option, and
 - (iv) that it is important for the mortgage borrower to seek independent advice in relation to the options presented;

- (b) the mortgage borrower's right to appeal, to the regulated financial service provider's appeals board, the regulated financial service provider's decision on the alternative repayment arrangement;
- (c) that the regulated financial service provider's MARP no longer applies to the mortgage borrower and that the protections of the regulated financial service provider's MARP no longer apply;
- (d) that the regulated financial service provider may commence legal proceedings after 3 months have elapsed from the date that the information was provided to the mortgage borrower, on paper or on another durable medium, or after 8 months have elapsed from the date upon which the arrears first arose, whichever date is later, and that, irrespective of how the property on which the mortgage borrower's mortgage loan is secured is repossessed and disposed of, the mortgage borrower will remain liable for the outstanding debt related to the mortgage loan, including any accrued interest, charges, legal, selling and other related costs, if this is the case;
- (e) that the mortgage borrower should notify the regulated financial service provider if his or her circumstances requiring consideration of an alternative repayment arrangement improve;
- (f) that it is important for the mortgage borrower to seek independent legal advice, financial advice, or both;
- (g) the mortgage borrower's right to consult with a personal insolvency practitioner;
- (h) a hyperlink to or website address of any website operated by the Insolvency Service of Ireland which provides information to mortgage borrowers on debt solutions and the associated processes prescribed by the Act of 2012;
- (i) that a copy of the most recent standard financial statement completed by the mortgage borrower may be obtained from the regulated financial service provider on request.

Alternative repayment arrangements with mortgage borrowers to be reviewed

258. (1) A regulated financial service provider shall review the appropriateness of an alternative repayment arrangement for a mortgage borrower at intervals that are appropriate to the type and duration of the arrangement, including at least 30 calendar days prior to the term of the alternative repayment arrangement coming to an end.

(2) In undertaking the review, the regulated financial service provider shall request the mortgage borrower to confirm whether there has been any change in his or her circumstances in the period since the alternative repayment arrangement was put in place or since the last review was conducted.

(3) Subject to paragraph (4), where in response to the request referred to in paragraph (2) –

- (a) the mortgage borrower confirms that there has been a change in his or her circumstances, and
- (b) less than 12 months have elapsed since a completed standard financial statement was last received from the mortgage borrower,

the regulated financial service provider may deem that standard financial statement last received, together with any information which has changed in that standard financial statement according to the mortgage borrower's confirmation, to be the completed standard financial statement, and shall consider the appropriateness of the alternative repayment arrangement for the mortgage borrower.

(4) Where, in response to the request referred to in paragraph (2) –

- (a) the mortgage borrower confirms that there has been a change in his or her circumstances, and
- (b) 12 months or more have elapsed since a completed standard financial statement, excluding any completed standard financial statement deemed as such pursuant to paragraph (3), was last received from the mortgage borrower,

the regulated financial service provider shall again comply with the requirements of Regulation 252(1) to Regulation 252(4) and shall consider the appropriateness of the alternative repayment arrangement for the mortgage borrower.

(5) For the avoidance of doubt, Regulation 252(7) applies to a review referred to in this Regulation.

(6) A regulated financial service provider shall carry out a review of the terms of an alternative repayment arrangement at any time, if requested by a mortgage borrower.

(7) A regulated financial service provider shall ensure that its arrears support unit formally reviews the mortgage borrower's case, including the standard financial statement, immediately, where a mortgage borrower ceases to adhere to the terms of an alternative repayment arrangement.

Appeals process to be in place

259. (1) A regulated financial service provider shall establish, maintain and adhere to an appeals process for a mortgage borrower to appeal a decision of the regulated financial service provider made in accordance with this Chapter, including the following decisions:

- (a) a decision by a regulated financial service provider to offer an alternative repayment arrangement to a mortgage borrower which the borrower does not agree to enter into;
- (b) a decision by a regulated financial service provider not to offer an alternative repayment arrangement to a mortgage borrower;
- (c) a decision by a regulated financial service provider to classify a mortgage borrower as not co-operating.

- (2) For the purposes of paragraph (1), a regulated financial service provider shall establish an appeals board to consider and determine appeals submitted by mortgage borrowers.
- (3) A regulated financial service provider shall establish the appeals board in compliance with the following conditions:
- (a) there shall be 3 members of the appeals board;
 - (b) at least one member of the appeals board shall be a person who meets the following conditions:
 - (i) the person is an experienced professional, independent of the regulated financial service provider's management team, including an independent member of the regulated financial service provider's audit committee or an experienced professional who is independent of the regulated financial service provider, such as a solicitor, barrister, accountant or other experienced professional;
 - (ii) the person does not have a conflict of interest in respect of cases referred to the appeals board;
 - (c) any member of the appeals board other than a member referred to in subparagraph (b) is drawn from the regulated financial service provider's senior employees who have not previously been involved in dealing with the mortgage borrower's arrears or pre-arrears in respect of the mortgage loan.
- (4) A regulated financial service provider shall establish, maintain and adhere to a procedure for the proper handling of appeals.
- (5) At a minimum, the procedure referred to in paragraph (4) shall provide for the following:
- (a) the appeals board shall only consider written appeals;
 - (b) the regulated financial service provider shall acknowledge each appeal on paper or on another durable medium within 5 working days of the appeal being received by the regulated financial service provider;
 - (c) the regulated financial service provider shall provide the mortgage borrower with the name of one or more individuals appointed by the regulated financial service provider to be the mortgage borrower's point of contact in relation to the appeal, until the appeals board makes a decision in relation to the appeal;
 - (d) the regulated financial service provider shall provide the mortgage borrower with a regular update, on paper or on another durable medium, on the progress of the appeal, at intervals of not greater than 20 working days, starting from the date on which the appeal was received;
 - (e) the regulated financial service provider shall consider and adjudicate on an appeal within 40 working days of having received the appeal;

- (f) the regulated financial service provider shall, on paper or on another durable medium, within 5 working days of the completion of the consideration of the appeal, notify the mortgage borrower of –
 - (i) the decision of the appeals board,
 - (ii) the reasons for that decision, and
 - (iii) if the regulated financial service provider is making an offer to the mortgage borrower, the terms of that offer;
- (g) the regulated financial service provider shall inform the mortgage borrower of his or her right to refer the matter to the Financial Services and Pensions Ombudsman and shall provide the borrower with the contact details of that Ombudsman.

(6) The procedure referred to in paragraph (4) may provide for any other matter that is relevant or appropriate to the regulated financial service provider's proper handling of appeals.

(7) A regulated financial service provider shall allow a mortgage borrower at least 20 working days from the date of notification of the decision of the regulated financial service provider following assessment by its arrears support unit, to submit an appeal to the regulated financial service provider for consideration by its appeals board.

Appeals to be logged and analysed

260. (1) A regulated financial service provider shall keep and maintain an up-to-date log of all appeals received from mortgage borrowers.

(2) The log referred to in paragraph (1) shall contain the following:

- (a) a summary of the information submitted by the mortgage borrower for the purposes of the appeal considered by the appeals board;
- (b) the date the appeal was received;
- (c) a summary of the regulated financial service provider's response including the date of such response;
- (d) details of any other relevant correspondence or records, including the grounds on which the appeal was considered by the appeals board;
- (e) the steps taken by the appeals board to determine each appeal;
- (f) the date the appeal was determined by the appeals board and the decision of the appeals board;
- (g) where relevant, the current status of the appeal which has been referred to the Financial Services and Pensions Ombudsman.

(3) A regulated financial service provider shall, at least once every 6 months, undertake an appropriate analysis of the patterns of appeals made to the regulated financial service provider by mortgage borrowers, including analysing whether an appeal indicates an isolated issue or a more widespread issue.

(4) The regulated financial service provider shall ensure that the analysis of patterns of appeals from mortgage borrowers is provided to -

- (a) the regulated financial service provider's arrears support unit,
- (b) the regulated financial service provider's compliance or risk function, and
- (c) the regulated financial service provider's senior management.

Complaints resolution

261. (1) For the purposes of this Regulation, "complaint" means a complaint submitted by a mortgage borrower in relation to either of the following:

- (a) the regulated financial service provider's treatment of the mortgage borrower's case under this Chapter;
- (b) the regulated financial service provider's compliance with the requirements of this Chapter.

(2) A regulated financial service provider shall apply Chapter 12 of Part 2, and Regulation 117(1)(m) to deal with complaints referred to in paragraph (1).

(3) A regulated financial service provider shall ensure that the arrangements which, pursuant to paragraph (2), it is required to have in place in accordance with Regulation 109 to deal with complaints, and which include the analysis of those complaints in accordance with Regulation 109(2)(b), include arrangements for reporting of that analysis, in accordance with Regulation 109(2)(c), to the regulated financial service provider's arrears support unit.

Requirements prior to commencement of legal proceedings for repossession

262. (1) Subject to paragraph (3), where a mortgage borrower is in arrears, a regulated financial service provider may only commence legal proceedings for repossession of the mortgage borrower's primary residence where -

- (a) the regulated financial service provider has taken reasonable steps in compliance with this Chapter to agree an alternative arrangement with the mortgage borrower, or his or her nominated representative, and
- (b) either of the conditions of paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1)(b) are the following:

- (a) the period referred to in Regulation 256(2)(d) or Regulation 257(d), as applicable, has expired;
- (b) the mortgage borrower has been classified as not co-operating and the regulated financial service provider has issued the notification required by Regulation 251.

(3). Paragraphs (1) and (2) do not apply to the commencement of legal proceedings by the regulated financial service provider for repossession of the mortgage borrower's primary residence, where the mortgage borrower is in arrears, in circumstances where –

- (a) a fraud has been perpetrated on the regulated financial service provider by the mortgage borrower, or
- (b) there has been a breach of contract by the mortgage borrower other than the existence of arrears.

(4) A regulated financial service provider shall notify a mortgage borrower on paper or on another durable medium of the regulated financial service provider's application to court to repossess the mortgage borrower's primary residence 7 days before it applies to court to commence those proceedings.

Contact to be maintained with mortgage borrower where legal proceedings for repossession commenced

263. (1) Where the legal proceedings referred to in Regulation 262(1) have commenced, the regulated financial service provider shall continue to make contact periodically with the mortgage borrower, or his or her nominated representative, with the purpose of endeavouring to agree an alternative repayment arrangement.

(2) Where an alternative repayment arrangement is agreed between the regulated financial service provider and the mortgage borrower before a court order enabling repossession in those proceedings is granted, the regulated financial service provider shall seek an order from the court to put the proceedings on hold, for the period during which the mortgage borrower adheres to the terms of the alternative repayment arrangement.

Information to be provided following repossession

264. (1) A regulated financial service provider shall inform a mortgage borrower on paper or on another durable medium when, following repossession, the relevant property is placed on the market for sale, and shall inform the mortgage borrower in the same manner when the property has been sold.

(2) Where, following repossession of the mortgage borrower's primary residence, a regulated financial service provider has disposed of the relevant property, the regulated financial service provider shall notify the mortgage borrower on paper or on another durable medium, of the following:

- (a) the balance of outstanding mortgage debt, if any;

- (b) details, including the amount, of any costs arising from the disposal which have been added to the mortgage loan account as debts of the mortgage borrower;
- (c) the interest rate to be charged on the remaining balance of the mortgage loan account, if any;
- (d) any liability of the mortgage borrower to pay any of the debts or costs referred to subparagraphs (a) to (c).

(3) A regulated financial service provider shall provide the information referred to in paragraph (2) to the mortgage borrower in a timely manner following the completion of the disposal of the property concerned.

Records to be kept and maintained

265. (1) Other than where specified in this Regulation, Chapter 14 of Part 2 of these Regulations does not apply for the purposes of this Chapter.

(2) For the purposes of this Chapter, a regulated financial service provider shall keep and maintain the following:

- (a) up-to-date records of –
 - (i) all steps taken in compliance with this Chapter,
 - (ii) all considerations taken into account by the regulated financial service provider when making a decision or assessment in compliance with this Chapter,
 - (iii) the outcome of all assessments and decisions made in compliance with this Chapter, and
 - (iv) all communications with borrowers in arrears and in pre-arrears;
 - (v) complaints in respect of which a regulated financial service provider is required to apply Regulation 117(1)(m) in accordance with Regulation 261(2);
- (b) up-to-date recordings of all telephone calls made by the regulated financial service provider's arrears support unit to a mortgage borrower, or from a mortgage borrower to the arrears support unit, in relation to his or her arrears or pre-arrears.

(3) For the purposes of paragraph (2)(b), a regulated financial service provider shall inform a mortgage borrower, at the outset of the conversation, that the telephone conversation is being recorded.

(4) A regulated financial service provider shall maintain the records required by this Regulation and for that purpose shall comply with Regulation 120(1) in relation to those records.

(5) A regulated financial service provider shall provide to the Bank the records required by this Regulation if requested to do so, and for that purpose shall provide those records in accordance with Regulation 120(2) and Regulation 120(3).

(6) Subject to paragraph (7), a regulated financial service provider shall retain records which it is required to keep by this Chapter and which demonstrate compliance with this Chapter, for 6 years.

(7) A regulated financial service provider shall retain all records in respect of a mortgage borrower until a period of 6 years has elapsed following the date on which the mortgage borrower ceases to be a customer of the regulated financial service provider concerned.

Chapter 10

Arrears - debts of personal consumers, other than mortgage debt secured by a mortgage borrower's primary residence

Scope and Application (Chapter 10)

266. (1) This Chapter applies only to the debts of a personal consumer owed to a regulated financial service provider.

(2) Subject to paragraph (3), and unless otherwise stated, this Chapter applies to mortgage debt and non-mortgage debt.

(3) This Chapter does not apply where Chapter 9 of this Part applies.

Legal proceedings

267. Where legal proceedings have been issued in respect of a relevant debt, Regulation 270 and paragraph (2) of Regulation 273 do not apply in respect of that debt.

Policies and procedures for handling arrears to be in place

268. A regulated financial service provider shall establish, maintain and adhere to appropriate and effective policies and procedures for the handling of arrears cases.

Dedicated webpage to be maintained

269. (1) Where a regulated financial service provider has or operates a website, a regulated financial service provider shall have a dedicated webpage on its website, which makes available the following:

- (a) information stating the potential legal and practical effects of not dealing with arrears cases, including the risk of any mortgaged property being repossessed, legal proceedings and additional charges;

- (b) relevant contact details of the regulated financial service provider for dealing with arrears cases;
- (c) details of the charges that may be imposed on personal consumers in arrears;
- (d) a hyperlink to the MABS website.

(2) The information referred to in paragraph (1) shall be -

- (a) easily accessible from a prominent hyperlink on the homepage of each website of a regulated financial service provider, and
- (b) provided to a personal consumer in a durable medium on request.

Agreed approach on arrears to be sought

270. In relation to an arrears case, a regulated financial service provider shall seek to agree a reasonable arrangement with a personal consumer, or through a third party nominated by the personal consumer in accordance with Regulation 272, that will assist the personal consumer in resolving the arrears case.

Notification of existing arrears and enquiries

271. Where an account remains in arrears 10 working days following the date upon which arrears first arose, a regulated financial service provider shall, within a further 3 working days, communicate with the personal consumer concerned to notify the person of the existence of the arrears and to make enquiries as to why the arrears have arisen.

Personal consumer's nominated third party to be liaised with

272. (1) At a personal consumer's written request and with the personal consumer's written consent, a regulated financial service provider shall liaise with a third party nominated by the personal consumer to act on his or her behalf in relation to the personal consumer's arrears case.

(2) For the avoidance of doubt, paragraph (1) does not prohibit a regulated financial service provider from -

- (a) contacting a personal consumer directly in relation to matters other than the personal consumer's arrears case;
- (b) issuing communications required by these Regulations directly to the personal consumer.

Notification of particular information relating to account in arrears

273. (1) Where an account is in arrears for 31 calendar days after the arrears first arose, the regulated financial service provider shall, within 3 working days, take the following action:

- (a) notify the personal consumer and any guarantor of the personal consumer's loan, on paper or on another durable medium, of the status of the account;
- (b) include the following information in the notification referred to in subparagraph (a):
 - (i) the date upon which the account fell into arrears;
 - (ii) the number and total amount of repayments that have not been made by the personal consumer, including partial repayments that have been made;
 - (iii) the monetary amount that has not been repaid in relation to the arrears as of the date of the notice;
 - (iv) the interest rate applicable to the amount that has not been repaid;
 - (v) details of any charges that may become payable by the personal consumer arising from the arrears;
 - (vi) the benefits of the personal consumer engaging with the regulated financial service provider in order to address the arrears;
 - (vii) relevant contact details of the regulated financial service provider for dealing with arrears;
 - (viii) the consequences of continuing to not make repayments, including the sharing of data relating to the personal consumer's arrears with the Central Credit Register or, or where applicable, a credit reference agency;
 - (ix) where applicable, any legal, contractual and practical impact of continuing to not make repayments on other accounts held by the personal consumer with that regulated financial service provider, including a regulated financial service provider's entitlement to set-off accounts, where the personal consumer's existing terms and conditions provide for this possibility;
 - (x) a statement that the personal consumer may wish to seek assistance from the MABS, the contact details for the MABS national helpline and the link to the MABS website;
 - (xi) a hyperlink to any website operated by the Insolvency Service of Ireland which provides information to personal consumers on the processes under personal insolvency legislation;
 - (xii) a statement that personal consumers who have purchased payment protection insurance (referred to in this Regulation as 'PPI') in relation

to an account that is in arrears may wish to investigate if a claim is possible on that policy, and, if the personal consumer has purchased PPI from that regulated financial service provider in relation to the account in arrears, a statement advising the personal consumer of the following:

- I. that the personal consumer has purchased PPI;
- II. the personal consumer's policy number;
- III. that a copy of the personal consumer's policy is available on request from the regulated financial service provider.

(2) Where the arrears persist, a regulated financial service provider shall, every 3 months, provide the personal consumer with an updated version of the information provided in accordance with paragraph (1), on paper or on another durable medium.

Mortgage debt – notification of potential for further proceedings

274. Where, in respect of a mortgage debt, a personal consumer fails to make 3 full mortgage loan repayments in accordance with the original mortgage loan contract agreed by the personal consumer, and such repayments remain outstanding, and a revised repayment arrangement has not been put in place, the regulated financial service provider shall notify the personal consumer, on paper or on another durable medium, of the following:

- (a) the potential for legal proceedings for repossession of the property on which the mortgage loan is secured, together with an estimate of the costs to the personal consumer of such proceedings;
- (b) that taking independent advice in such circumstances is important and that the personal consumer should take such advice from his or her local MABS or from an appropriate alternative;
- (c) that irrespective of how the property on which the mortgage loan is secured is repossessed and disposed of, the personal consumer will remain liable for the outstanding debt, including any accrued interest, charges, legal, selling and other related costs, if this is the case.

Notification to be provided where engaging third party

275. (1) If a regulated financial service provider intends to appoint a third party to engage on its behalf with a personal consumer in relation to arrears, it shall notify the personal consumer of its intention and explain the role of the third party, on paper or on another durable medium.

(2) The regulated financial service provider shall issue the notification referred to in paragraph (1) to the personal consumer prior to the third party making contact with the personal consumer.

Information to be provided where agreement on revised repayment arrangement

276. Where a regulated financial service provider reaches an agreement on a revised repayment arrangement with a personal consumer, the regulated financial service provider shall provide

the personal consumer with the following on paper or on another durable medium within 5 working days of reaching such agreement:

- (a) all details of the revised repayment arrangement;
- (b) the data relating to the personal consumer's arrears that will be shared with the Central Credit Register or a credit reference agency.

Reasons to be recorded and provided where revised repayment arrangement is rejected

277. Where an offer to a regulated financial service provider, by a personal consumer, of a revised repayment arrangement, is rejected by the regulated financial service provider, the regulated financial service provider shall maintain a record of its reasons for rejecting the offer and communicate these reasons to the personal consumer on paper or on another durable medium within 10 working days of its decision.

Communications policy on arrears to be in place and communications to reflect certain principles

278. (1) A regulated financial service provider shall produce and adhere to a policy regarding communications with personal consumers in arrears, and the regulated financial service provider shall arrange for this policy to be approved by its board of directors, or the entity or persons controlling the regulated financial service provider.

(2) A regulated financial service provider shall ensure that in its dealings with personal consumers in arrears, or those of a third party acting on the regulated financial service provider's behalf -

- (a) the extent of communications is proportionate, reasonable and not excessive taking into account the circumstances of the personal consumer,
- (b) communications with personal consumers are not aggressive, intimidating or harassing, and
- (c) personal consumers are given sufficient time to complete an action agreed with the regulated financial service provider to which they have committed, before follow up communication is attempted.

Conditions for unsolicited personal visits to personal consumers in relation to arrears

279. (1) A regulated financial service provider may make an unsolicited personal visit to a personal consumer for the purposes of discussing arrears to which this Chapter applies, but only once in any six month period, and only where the regulated financial service provider has made unsuccessful attempts to contact the personal consumer by other means.

(2) Before making an unsolicited personal visit for the purposes of paragraph (1), a regulated financial service provider shall provide the personal consumer with at least 5 working days' notice, in writing, of the regulated financial service provider's intention to make an unsolicited personal visit.

(3) The notice referred to in paragraph (2) shall –

- (a) state the importance of engagement between the personal consumer and the regulated financial service provider,
- (b) state the intention of the personal visit to discuss the personal consumer's arrears and the steps to deal with the arrears,
- (c) state the timeframe within which the regulated financial service provider intends to make the visit, not being a timeframe that exceeds the date that is 15 working days from the date of the notice,
- (d) where the regulated financial service provider has a local branch, provide the contact details of that branch and offer to discuss the arrears at that branch, and
- (e) state that the personal consumer may wish to consider having a third party present when the personal visit takes place, if the personal consumer considers that this would be of assistance to the personal consumer.

(4) Regulation 110(1) applies subject to this Regulation.

Further conditions for unsolicited contact with personal consumers in respect of arrears

280. (1) A regulated financial service provider, shall not, in any calendar month, initiate more than 3 unsolicited communications by way of telephone call to a personal consumer in respect of arrears.

(2) For the purposes of this Regulation, the 3 unsolicited communications include any communication where contact is attempted but not made with the personal consumer but do not include:

- (a) any communication that has been requested by, or agreed in advance with, the personal consumer; and
- (b) any communication to the personal consumer the sole purpose of which is to comply with the requirements of these Regulations or other regulatory requirements.

Chapter 11

Arrears – debts in relation to high cost credit agreements

Interpretation (Chapter 11)

281. (1) In this Chapter –

“arrears” in relation to a high cost credit agreement means where a consumer has not made a full repayment of all outstanding amounts due, or only makes a partial repayment of any such amount, as set out in the original high cost credit agreement, by the scheduled due date;

“relevant Regulations” means the provisions of these Regulations which apply in accordance with Regulation 6 where a high cost credit provider is engaged in the activity of providing high cost credit.

(2) In this Chapter, “consumer”, “high cost credit provider”, “high cost credit” and “high cost credit agreement” have the meaning given to them at section 2(1) of the Act of 1995.

Scope and application (Chapter 11)

282. This Chapter applies to a high cost credit provider licensed under the Act of 1995 when engaged in the provision of high cost credit.

Consumer's nominated third party to be liaised with

283. (1) At a consumer's written request and with the consumer's written consent, a high cost credit provider shall liaise with a third party nominated by the consumer to act on the consumer's behalf in relation to the consumer's arrears case.

(2) For the avoidance of doubt, paragraph (1) does not prohibit a regulated financial service provider from -

- (a) contacting a consumer directly in relation to matters other than the consumer's arrears case;
- (b) issuing communications required by the relevant Regulations directly to the consumer.

Agreed approach on arrears to be sought

284. In relation to an arrears case, a high cost credit provider shall seek to agree a reasonable arrangement with a consumer, or through a third party nominated by the consumer in accordance with Regulation 283, that will assist the consumer in resolving the arrears case.

Arrears handling

285. (1) A high cost credit provider shall establish, maintain and adhere to appropriate and effective policies and procedures for the handling of arrears cases.

(2) A high cost credit provider shall advise a consumer of relevant debt counselling services, and the contact details for such services including the name and address of a local MABS office upon the third default or missed payment under a high cost credit agreement, whether consecutive or otherwise, during the currency of a high cost credit agreement.

(3) Paragraph (2) does not apply to circumstances where -

- (a) a consumer is unable to make one or more repayments, in accordance with a high cost credit agreement under which repayments are paid by the consumer to the high cost credit provider or his or her representative at any place other than the business premises of the high cost credit provider or the business premises of the supplier of goods or services under the agreement, due to the consumer being unavailable to make the repayment at the usual time and location, where the consumer has contacted the high cost credit provider to re-arrange the repayment,
- (b) the high cost credit provider has agreed to the variation of the repayment schedule with the consumer in advance of the repayment falling due, or
- (c) the consumer has already paid, by way of pre-payment or previous over-payment, the amount due on the missed payment date.

(4) A high cost credit provider shall maintain a record of such agreement to vary a repayment schedule as referred to in paragraph (3)(b).

Debt collection

286. If a high cost credit provider engages the services of a third party to collect debts on its behalf, the high cost credit provider shall have in place a written contractual arrangement with that third party which ensures that its consumers are treated in accordance with the relevant Regulations and the relevant provisions of the Act of 1995.

Chapter 12

Debt Management Firms

Interpretation (Chapter 12)

287. In this Chapter –

“insolvency option” means a Debt Relief Notice, Debt Settlement Arrangement, Personal Insolvency Arrangement or bankruptcy (each within the meaning of the Personal Insolvency Act 2012 (No. 44 of 2012));

“standard financial statement” means the document in the prescribed form referred to in Schedule 5, which complies with the requirements of that Schedule, and which a debt management firm shall use to obtain financial information from a consumer in order to complete a financial assessment;

Scope and application (Chapter 12)

288. This Chapter applies to the provision of debt management services by a debt management firm.

Information about debt management services

289. In addition to the requirements set out in Regulation 62, prior to entering into an agreement with a consumer for the provision of debt management services, a debt management firm shall provide the consumer with standard information, on paper or on another durable medium, in the form set out in Schedule 6 to these Regulations.

Signed agreement to be obtained

290. (1) A debt management firm shall not provide debt management services to a consumer, or accept payment in respect of those services from a consumer, prior to receiving an agreement that has been signed by the consumer demonstrating the consumer’s acceptance of the terms of that agreement.

(2) The agreement referred to in paragraph (1) shall contain terms that specify the following:

- (a) the debt management services that will be provided by the debt management firm;
- (b) a clear breakdown of charges payable for those debt management services;
- (c) when the charges will become payable and the manner in which they may be paid;
- (d) the estimated duration of the agreement;
- (e) whether or not the debt management firm is authorised to hold client funds and make payments on behalf of the consumer to the consumer's creditors;
- (f) any charges that will be payable if the consumer terminates the agreement and when, and in what circumstances, those charges will become payable;
- (g) if the debt management firm receives a fee, commission, or other reward or remuneration from any person in respect of customer referrals;
- (h) if the debt management firm receives a fee, commission, or other reward or remuneration for the provision of information by the debt management firm to any person for identifying potential customers.

(3) The agreement referred to in paragraph (1) shall include the following warning statement:

“Warning: You may still have debt outstanding after completing the debt management process.”

(4) The agreement referred to in paragraph (1) shall be provided to the consumer on paper or on another durable medium.

No recommendations, arrangements or assistance for payment of fees or charges by way of credit

291. A debt management firm shall not –

- (a) recommend to a consumer a provider of credit,
- (b) arrange for the provision of credit to a consumer, or
- (c) assist a consumer in entering into a credit agreement,

for the purpose of the consumer paying fees or charges to the debt management firm for debt management services.

Information to be provided where proposed payment of fees or charges by way of credit

292. Where a consumer proposes to enter into a credit agreement with a provider of credit to pay fees or charges to a debt management firm for debt management services, the debt management firm shall inform the consumer that the credit provided will increase the amount of debt owed by the consumer.

No payment of fees, commissions (etc) for customer referrals or identification

293. A debt management firm shall not pay a fee, commission, other reward or remuneration to any person in respect of customer referrals to the debt management firm or in respect of information identifying potential customers for the debt management firm.

No prevention or obstruction of consumer from directly communicating with free services or creditors

294. A debt management firm shall not prevent, seek to obstruct, or divert a consumer from communicating directly with -

- (a) providers of debt management services that are available free of charge, or
- (b) the consumer's creditors.

No standard financial statement to be provided to creditors without prior written consent

295. A debt management firm shall not provide a consumer's standard financial statement to a creditor of that consumer unless the debt management firm has received the consumer's prior written consent to do so.

Standard financial statement to be used

296. In the provision of debt management services, a debt management firm shall use a standard financial statement to obtain a consumer's financial information required under Regulation 15(1) to (8).

Certain specific matters to be assessed and recorded in assessing suitability

297. (1) When providing debt management services to a consumer, a debt management firm shall, in addition to the requirements of Regulation 16(1) and (2), also assess and record, on paper or on another durable medium, at a minimum:

- (a) whether the following options meet the consumer's needs and objectives:
 - (i) arrangements with creditors to apply reduced debt repayments for an interim period;
 - (ii) arrangements with creditors to reschedule debt repayments, including reducing interest rates or extending debt repayments over a longer term;
 - (iii) arrangements with creditors to restructure outstanding debt, including reducing or waiving the debt obligation;
 - (iv) insolvency options;
- (b) whether the proposed course of action for the consumer is likely to be affordable and suitable for that consumer, taking into account the term of the arrangement and the consumer's circumstances;
- (c) whether the course of action proposed by the debt management firm could impact on the consumer's eligibility for, or ability to, pursue an insolvency option in the future.

Debt management arrangement to be in best interests of consumer

298. If, in the provision of debt management services, a debt management firm negotiates a debt management arrangement with a consumer's creditors, it shall ensure that the arrangement is in the best interests of the consumer, taking into account both the short and long term interests of the consumer.

Assessing suitability of transactions or series of transactions

299. (1) Without prejudice to Regulations 16(1), 16(2) and 297, when assessing the suitability of a transaction or series of transactions for a consumer, a debt management firm shall determine that the transaction or series of transactions concerned is not suitable where the transaction or series of transactions is not aligned with the consumer's attitude to risk, or financial situation, because of the frequency of such transactions or their amount.

(2) Where a determination in accordance with paragraph (1) has been made by the debt management firm, the debt management firm shall advise the consumer of that determination and shall advise the consumer not to proceed with the relevant transaction or series of transactions.

Non-application of certain requirements in respect of negotiation without advice

300. Regulations 297, Regulation 301 and Regulation 302 do not apply where a debt management firm –

- (a) has been appointed by the consumer in accordance with the agreement referred to in Regulation 290 for the purpose only of negotiating with that consumer's creditors for the discharge of their debts, and
- (b) does not provide the consumer with debt management services within the meaning of paragraph (a) of the definition of "debt management services" in section 28(1) of the Act of 1997, or any similar activity to that activity as referred to in paragraph (c) of that definition except to the extent that this is solely in connection with the purpose referred to in paragraph (a).

Statement of advice to be prepared following suitability assessment

301. (1) When, following the assessment carried out in accordance with Regulation 297, a debt management firm has identified a proposed course of action for a consumer, it shall prepare a written statement of advice detailing the reasons for proposing the course of action to the consumer, including suitability and affordability for that consumer.

(2) A debt management firm shall include the following notice at the beginning of the statement of advice:

"Important Notice - Statement of Advice

This is an important document which sets out the reasons why the advice recommended is considered suitable, or the most suitable, for your particular needs, objectives and circumstances."

(3) The reasons set out in the statement of advice shall-

- (a) be based on information obtained in accordance with Regulation 15(1) to (8) and Regulation 296, and
- (b) detail the options available to the consumer, including a description of how these options operate and of the actual, or potential, legal, contractual and practical consequences for the consumer of pursuing such options.

(4) The description of consequences referred to in paragraph (3)(b) shall include, where relevant, the following:

- (a) that the consumer is responsible for making payments to creditors;
- (b) that the consumer is responsible for undertaking the actions proposed and whether a third party may be engaged to assist the consumer in any of those actions;
- (c) if, because of the nature of the proposed course of action, third party assistance is recommended by the debt management firm and the likely cost of that engagement if known to the debt management firm;
- (d) that a creditor is not obliged to accept reduced repayments or, temporarily or otherwise, waive interest or charges;
- (e) that a creditor's debt collection activities may continue even though a debt management firm has been engaged;
- (f) that if the consumer cancels payments to their creditors, they will be in breach of their agreement and their account will go into, or further into, arrears;
- (g) that reducing their debt repayments may mean it takes longer to pay off their creditors and they may pay more than if they made repayments over a shorter term;
- (h) that if the consumer is a property owner, they may be required to re-mortgage their property as part of any arrangement to discharge their debt obligations in whole or in part;
- (i) that if the circumstances in subparagraph (h) apply, the consumer's ability to re-mortgage may be restricted and a mortgage may only be offered at an interest rate higher than their existing mortgage interest rate;
- (j) that if the consumer is a property owner, failure to make the negotiated payments under the proposed course of action to creditors could result in the consumer losing their home.

(5) The statement of advice referred to in paragraph (1) shall include the following warning statement:

“Warning: Undertaking the proposed course of action may affect your credit report, which may limit your ability to access credit in the future.”

(6) (a) The statement of advice referred to in paragraph (1) shall detail the following:

- (i) the monetary amount of any cost savings that may be achieved by the consumer when compared with the consumer's existing expenditure as detailed in the information obtained in accordance with Regulation 15(1) to (8) and Regulation 296;
 - (ii) if the proposed course of action will lead to an increase in the total cost of credit to the consumer under any credit agreement to which the consumer is a party;
 - (iii) any additional fees or charges that may be incurred by the consumer in pursuing the proposed course of action, including those that will be charged by the debt management firm;
 - (iv) any fee, commission or monetary benefit receivable by the debt management firm from a third party.
- (b) For the purposes of subparagraph (a)(i), a debt management firm shall not consider a reduction in debt repayments as constituting a cost saving where the total amount repayable in respect of that debt is increased or remains the same.

(7) Where the debt management firm assesses that insolvency options are the most suitable course of action for the consumer, the debt management firm shall inform the consumer of how the consumer can obtain further information in connection with considering those options.

(8) A debt management firm shall provide a signed and dated statement of advice to the consumer on paper or on another durable medium.

(9) When providing the statement of advice referred to in paragraph (1), the debt management firm shall also provide to the consumer, on paper or on another durable medium, details of the charges payable to the debt management firm as of the date of that statement.

(10) A debt management firm shall ensure that the notice referred to in paragraph (2) is-

- (a) presented in a prominent manner,
- (b) in a box,
- (c) in bold type, and
- (d) of a font size that is at least equal to the predominant font size used throughout the statement of advice.

Oral explanation to be provided of next steps in relation to statement of advice

302. When providing the statement of advice in accordance with Regulation 301, or as soon as possible thereafter, a debt management firm shall provide the consumer with an oral explanation of –

- (a) the steps that the consumer must take in order to undertake the proposed course of action, and
- (b) the matters referred to in Regulation 301(4)(b) and Regulation 301(4)(c).

Conditions to begin negotiations with creditors for discharge of debts

303. (1) Subject to paragraph (3), a debt management firm shall not undertake any action outlined in the statement of advice provided in accordance with Regulation 301 until after-

- (a) a period of 5 working days has elapsed following the provision of the statement of advice to the consumer, and
- (b) the debt management firm has received the consumer's written consent to begin such actions and the terms upon which such actions will be conducted.

(2) A debt management firm shall commence communicating with a consumer's creditors in respect of negotiations within 3 working days following the date on which the conditions referred to in paragraph (1) are met.

(3) Where Regulation 300 applies, the debt management firm shall commence communicating with the consumer's creditors in respect of negotiations within 3 working days of the consumer providing the debt management firm with the information required in accordance with Regulation 15(1) to (8) and Regulation 296.

Notification to be provided of outcome of negotiations with each creditor

304. (1) A debt management firm shall provide a separate notification to a consumer, on paper or on another durable medium, of the outcome of negotiations with each creditor of the consumer for the discharge of that consumer's debts within 3 working days of confirmation by that creditor to the debt management firm of the outcome.

(2) Where in connection with negotiations with a creditor for the discharge of a consumer's debt, a creditor has imposed a shorter timeframe for acceptance of a negotiated outcome than 3 working days, the notification referred to in paragraph (1) shall be provided as soon as reasonably practicable before the expiry of that timeframe.

(3) The notification referred to in paragraph (1) shall-

- (a) where relevant, highlight any variations from the proposed course of action outlined in Regulation 301,
- (b) detail the reasons that the negotiated outcome is considered by the debt management firm to be suitable and affordable for that consumer, and
- (c) include details of the following:
 - (i) the steps that the consumer must take in order to comply with the terms negotiated with a creditor and the timeline imposed by the creditor for complying with these steps;
 - (ii) the circumstances in which the consumer can withdraw from the arrangements proposed under the negotiated outcome and the steps required to withdraw from those arrangements;
 - (iii) any charges which may become payable by the consumer if, following acceptance of those arrangements, the consumer withdraws from those arrangements;

- (iv) any penalties that may be applied by the creditor if the consumer fails to meet the terms of the arrangements proposed under the negotiated outcome.

(4) A debt management firm shall notify a consumer of the details of any creditor of the consumer that has declined to engage with the debt management firm within 3 working days of the creditor so declining.

No agreement to negotiated outcome for discharge of debts without prior written agreement of consumer

305. (1) A debt management firm shall not communicate to a creditor of a consumer that the consumer agrees to the outcome negotiated with that creditor for the discharge of that consumer's debts without the prior written agreement of the consumer.

(2) A debt management firm shall keep a copy of the agreement referred to in paragraph (1).

Regular updates on status of negotiations to be provided

306. (1) While a debt management firm is engaged in ongoing negotiations with a consumer's creditors for the discharge of that consumer's debts, it shall provide details on paper or on another durable medium to the consumer, at least every 30 calendar days, on the status of the negotiations.

(2) The details referred to in paragraph (1) shall be provided until the provision of services in relation to negotiating with the consumer's creditors has concluded.

Statement of activities and fees to be provided where services provided over more than 6 months

307. (1) Where a debt management firm provides debt management services to a consumer over a period longer than 6 months, it shall provide a statement to the consumer at least every 6 months, on paper or on another durable medium.

(2) The statement provided in accordance with paragraph (1) shall include the following in respect of the period to which that statement relates, where relevant:

- (a) details of the services provided and actions completed by the debt management firm;
- (b) fees charged by the debt management firm in accordance with the agreement between the consumer and the debt management firm required pursuant to Regulation 290.

Part 4

INSURANCE

Chapter 1

Preliminary

Interpretation (Part 4)

308. In this Part –

“Act of 2019” means Consumer Insurance Contracts Act 2019 (No. 53 of 2019);

“method of direct settlement” means a method of settlement whereby an insurance undertaking provides or arranges for a repair, replacement or reinstatement of property rather than paying a monetary sum in settlement of a claim;

“Personal Injuries Assessment Board” means the Personal Injuries Assessment Board established under the Personal Injuries Assessment Board Act 2003, or any successor thereto.

Chapter 2

Additional business requirements

Receipt to be provided - insurance intermediaries

309. Where an insurance intermediary provides a receipt to a consumer in accordance with Regulation 124, the receipt shall, in addition to the information specified in Regulation 124(2), state that the acceptance by the insurance intermediary of a completed insurance proposal does not itself constitute the effecting of a policy of insurance, where relevant.

Chapter 3

Premium Handling

Non-application of Chapter

310. (1) This Chapter does not apply to an insurance intermediary where-

- (a) the State is not the insurance intermediary’s home Member State, and
- (b) responsibility for the requirements referred to in this Chapter is reserved to the insurance intermediary’s home Member State competent authority in accordance with Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016⁹ on insurance distribution (recast).

(2) In this Regulation, “home Member State” has the meaning given to it in Regulation 2 of the Insurance Distribution Regulations.

Client premium account

⁹ OJ L 26, 2.2.2016, p. 19

311. (1) An insurance intermediary shall lodge funds received in respect of a premium or a premium rebate to a segregated bank account.

(2) An insurance intermediary shall ensure that an account opened and operated in accordance with paragraph (1) is designated “Client Premium Account”.

(3) An insurance intermediary shall operate separate client premium accounts for life insurance business and non-life insurance business.

(4) An insurance intermediary shall ensure that all payments from a client premium account operated by the insurance intermediary clearly state that the payment emanated from a client premium account.

(5) An insurance intermediary shall ensure that a client premium account operated by the insurance intermediary is not overdrawn.

Permitted payments into and out of client premium account

312. (1) An insurance intermediary shall ensure that only the following are paid into a client premium account maintained in accordance with Regulation 311:

- (a) funds received from a consumer in respect of the renewal of an insurance policy, which has been invited by an insurance undertaking, or a proposal for insurance accepted by an insurance undertaking;
- (b) funds received from a regulated financial service provider representing a premium rebate intended for transmission to a consumer;
- (c) a transfer from another client premium account operated by the insurance intermediary for the same form of insurance;
- (d) a transfer from an office account of the insurance intermediary to allow an amount to be maintained in the client premium account to cover the costs of the account, and any such transfers shall be clearly identifiable in terms of their source and purpose;
- (e) proceeds received from a regulated financial service provider in respect of the settlement of a claim intended for transmission to the claimant;
- (f) any interest accruing on the funds in the account;
- (g) a mixed remittance consisting of premium and non-premium funds in accordance with paragraph (3)(a).

(2) An insurance intermediary shall ensure that only the following are paid out of a client premium account maintained in accordance with Regulation 311:

- (a) funds paid to a regulated financial service provider for renewal of an insurance policy, which has been accepted by an insurance undertaking, or a proposal, accepted by an insurance undertaking;
- (b) funds paid to a consumer or, where there is an agreement in place between the insurance intermediary and another insurance intermediary as referred to in Regulation 350, funds transferred to that other insurance intermediary for payment to a consumer, and which in either case represents a rebate of a premium received from an insurance undertaking;

- (c) commissions and fees paid to the insurance intermediary where there is documentary evidence that these funds are properly due to the insurance intermediary;
- (d) a transfer to another client premium account operated by the insurance intermediary for the same form of insurance;
- (e) a payment of a settlement amount in satisfaction of a claim to a consumer;
- (f) any interest payable on the funds in the account;
- (g) the portion of a mixed remittance that consists of non-premium funds in accordance with paragraph (3)(b);
- (h) a payment in respect of a charitable donations in accordance with Regulation 349.
- (i) bank charges, where these are paid out of the amount referred to in paragraph (1)(d).

(3) Where an insurance intermediary receives a mixed remittance consisting of premium and non-premium funds, the insurance intermediary shall ensure that-

- (a) the total amount of the mixed remittance is first lodged to the appropriate client premium account, and
- (b) the portion of that mixed remittance that consists of non-premium funds is transferred to or to the order of the consumer without delay.

Client premium account - reconciliation

313. An insurance intermediary shall undertake a detailed reconciliation to establish the balance on each client premium account it operates on a monthly basis and, in so doing, ensure that funds in the account correspond to amounts due to regulated financial service providers.

Chapter 4

Differential pricing

Interpretation (Chapter 4)

314. In this Chapter –

“close matched product” means a home insurance product or motor insurance product which provides a consumer with core cover and benefits which are broadly equivalent to the core cover and benefits enjoyed by the consumer under their existing home insurance or motor insurance policy;

“closed book” means an individual home insurance product or motor insurance product in respect of which its policies are not available for renewal by way of first renewal;

“equivalent first renewal price” means the price an insurance undertaking or insurance intermediary would offer to a consumer upon the first renewal of a particular home insurance policy or motor insurance policy;

“first renewal ” means any renewal of a home insurance policy or a motor insurance policy by a consumer which is a first renewal of such home insurance policy or motor insurance policy;

“first renewal price” means the price an insurance undertaking or insurance intermediary offers to a consumer upon the first renewal of a home insurance policy or motor insurance policy;

“related additional financial service” means a financial service related to a home insurance policy or a motor insurance policy sold to a consumer at the same time as the insurance policy;

“subsequent renewal” means any renewal of a home insurance policy or a motor insurance policy by a consumer subsequent to the first renewal of the home insurance policy or motor insurance policy;

“subsequent renewal price” means the price offered by an insurance undertaking or insurance intermediary to a consumer to renew a home insurance policy or motor insurance policy on any renewal subsequent to the first renewal of the insurance policy, including where more than one policy is sold together as part of a package;

“tenure” means the number of years a consumer has held their insurance policy, including any renewal of the insurance policy.

Scope and application (Chapter 4)

315. This Chapter applies to insurance undertakings and insurance intermediaries in relation to the following activities:

- (a) setting the subsequent renewal price;
- (b) setting the price for any related additional financial service sold to the consumer at the subsequent renewal of a home insurance policy or motor insurance policy.

Setting subsequent renewal prices

316. (1) An insurance undertaking or insurance intermediary shall not set a subsequent renewal price that is higher than the equivalent first renewal price.

(2) Subject to paragraph (3) and Regulation 317, in determining the equivalent first renewal price, an insurance undertaking or insurance intermediary shall apply the following assumptions:

- (a) that the consumer has used the same channel that the consumer most recently used for the purposes of renewing their insurance policy;
- (b) that the consumer has selected the same payment method as they currently use to pay for the insurance policy.

(3) Where an insurance undertaking or insurance intermediary no longer accepts renewals through the channel that the consumer most recently used to renew the insurance policy, the insurance undertaking or insurance intermediary shall assume that the consumer used the channel most commonly used by consumers of the regulated financial service provider.

Closed books

317. (1) Where a consumer’s insurance policy is in a closed book, the insurance undertaking or insurance intermediary shall determine the consumer’s equivalent first renewal price in accordance with this Regulation.

(2) The insurance undertaking or insurance intermediary shall identify from the home insurance and motor insurance products that it currently actively markets or distributes, whether it has one or more home insurance or motor insurance product that is a close matched product.

(3) Where the insurance undertaking or insurance intermediary no longer actively markets or distributes any home insurance or motor insurance product which is a close matched product but it is part of a group which does actively market or distribute home insurance or motor insurance products, the insurance undertaking or insurance intermediary shall, where possible, identify a close matched product from those products actively marketed or distributed by the insurance undertaking's or insurance intermediary's group.

(4) Where there is more than one product which is a close matched product, the insurance undertaking or insurance intermediary shall either-

- (a) select the close matched product which is the most similar to the consumer's existing insurance policy, or
- (b) where it is not possible to identify the most similar close matched product, select the close matched product which will lead to the most favourable pricing outcome for consumers who hold an insurance policy in the closed book.

(5) (a) Where a close matched product is identified or selected, the equivalent first renewal price for a consumer in the relevant book shall be the equivalent first renewal price the insurance undertaking or insurance intermediary would offer for the close matched product, subject to any permitted adjustments set out in subparagraph (b) and, where appropriate, the assumptions set out at Regulations 316(2) and 316(3).

- (b) The permitted adjustments are those which fairly and proportionately reflect the difference in costs for the insurance undertaking or insurance intermediary arising from differences between the cost to serve or cover or benefits (including any compulsory excess) provided by the insurance policies in the closed book and the close matched product.

(6) Where an insurance undertaking or insurance intermediary is unable to generate an equivalent first renewal price or identify a product which is a close matched product because an insurance policy-

- (a) is not part of an insurance undertaking's or insurance intermediary's or its group's standard insurance policy offering,
- (b) falls outside the insurance undertaking's or insurance intermediary's or its group's underwriting policies, or
- (c) although part of its group's standard policy offering, is not an insurance policy in respect of which the insurance undertaking's or the insurance intermediary's group may share the relevant pricing information, the insurance undertaking or insurance intermediary shall set the subsequent renewal price in accordance with Regulation 322.

Insurance intermediaries' involvement in setting price

318. An insurance intermediary that is involved in the setting of any portion of the subsequent renewal price of an insurance policy shall ensure that the portion the insurance intermediary

sets or its contribution to that portion is set at a level that is no higher than it would be set for a first renewal.

Responsibility of insurance undertaking or insurance intermediary where more than one insurance undertaking or insurance intermediary is involved in setting the subsequent renewal price

319. Where more than one insurance undertaking or insurance intermediary is jointly responsible for setting the subsequent renewal price, each insurance undertaking or insurance intermediary shall take reasonable steps to assure itself that the subsequent renewal price is set in accordance with Regulations 315 to 322 Regulations.

Related additional financial services

320. Subject to Regulation 321, an insurance undertaking or insurance intermediary that has responsibility for setting the price of a related additional financial service that is available to a consumer in connection with a home insurance policy or motor insurance policy shall ensure that the price of the related additional financial service at the subsequent renewal of the home insurance policy or motor insurance policy is no higher than the price at which the related additional financial service would be offered to the consumer at first renewal.

Related additional financial services where financial service no longer available at first renewal

321. Where an insurance undertaking or insurance intermediary no longer offers to consumers at first renewal a related additional financial service which is available to a consumer in connection with the subsequent renewal of a home insurance policy or motor insurance policy, the price for that related additional financial service shall be set as follows:

- (a) where the related additional financial service is an insurance policy, the insurance undertaking or insurance intermediary shall, subject to any necessary modifications:
 - (i) apply the requirements in respect of closed books in accordance with Regulation 317; or
 - (ii) if the related additional financial service has no close matched product, apply Regulation 322;
- (b) where the related additional financial service is not an insurance policy, the insurance undertaking or insurance intermediary shall apply Regulation 322.

Firms' assurance over consumer outcomes

322. (1) An insurance undertaking or insurance intermediary shall ensure that it does not systematically discriminate against consumers based on their tenure, when determining any of the following:

- (a) an equivalent first renewal price;
- (b) the subsequent renewal price for consumers in closed books where an insurance undertaking or insurance intermediary is unable to identify a close matched product;

- (c) the price for any related additional financial service sold to the consumer at subsequent renewal of an insurance policy;
- (d) any other matter provided for under Regulations 315 to 322.

(2) An insurance undertaking or insurance intermediary shall ensure that the equivalent first renewal price does not systematically exceed the first renewal price for consumers.

Annual review and record keeping

323. (1) An insurance undertaking or insurance intermediary shall carry out, within 2 months of each year end, an annual review of its home insurance and motor insurance pricing policies and processes in order to assess the following -

- (a) whether the insurance undertaking or insurance intermediary complies with the obligation, set out at Regulation 322, that the insurance undertaking or insurance intermediary shall not systematically discriminate against consumers based on tenure;
- (b) whether the equivalent first renewal price for consumers of longer tenure systematically exceeds the first renewal price for consumers;
- (c) whether adequate controls are in place, including controls to ensure that any pricing models used do not-
 - (i) generate prices which are systematically higher the longer a consumer's tenure, or
 - (ii) impair the insurance undertaking's or insurance intermediary's obligation to comply with Regulations 4(1)(a), (b) and (d) of the Central Bank Reform Act 2010 (Section 17A) (Standards for Business) Regulations 20[].

(2) An insurance undertaking or insurance intermediary shall, following the annual review referred to in paragraph (1), rectify any deficiencies identified in its pricing policies and processes.

(3) An insurance undertaking or insurance intermediary shall retain written records of the annual review referred to in paragraph (1), including the action taken to rectify any deficiencies found.

(4) Prior to implementing a material decision in relation to the insurance undertaking's or insurance intermediary's compliance with Regulations 315 to 322, an insurance undertaking or insurance intermediary shall keep a record in writing of its consideration of the extent to which that decision is consistent with Regulations 315 to 322.

Chapter 5

Automatic renewals

Scope and application (Chapter 5)

324. This Chapter applies to insurance undertakings and insurance intermediaries in respect of policies of non-life insurance.

Automatic renewals - cancellations

325. An insurance undertaking or insurance intermediary shall allow a consumer to exercise the right to cancel the automatic renewal of an insurance policy -

- (a) at any time during the duration of the insurance policy, and
- (b) free of charge.

Automatic renewals – notifications in respect of policies with a duration of 10 months or more

326. (1) Where an insurance undertaking or an insurance intermediary proposes to automatically renew a consumer's insurance policy, with a duration of 10 months or more, the insurance undertaking or insurance intermediary shall provide a notification on paper or on another durable medium to the consumer at least 20 working days prior to the renewal date of the insurance policy which shall include the following:

- (a) a statement that the insurance policy will renew automatically if the consumer does not cancel the automatic renewal before a specified date;
- (b) details on how the consumer can stop the automatic renewal of the insurance policy if the consumer does not wish to automatically renew, including-
 - (i) the existence of the right to cancel the automatic renewal of the insurance policy,
 - (ii) the conditions for exercising the right to cancel the automatic renewal of the insurance policy,
 - (iii) the consequences of exercising the right to cancel the automatic renewal of the insurance policy, and
 - (iv) the practical steps required for exercising the right to cancel the automatic renewal of the insurance policy, including, at a minimum, the options available for cancelling the automatic renewal of the insurance policy;
- (c) except where Section 14(6) of the Act of 2019 applies, confirmation of any changes to the terms of the insurance policy upon renewal;
- (d) details of any fee payable specifically in respect of the automatic renewal of the insurance policy and the services provided for such fee;
- (e) the website address of the relevant section of the Competition and Consumer Protection Commission's website and, where relevant, the Health Insurance Authority's website relating to getting insurance quotes;
- (f) a statement that the consumer should keep their insurance arrangements under review as there may be other alternatives in the market that could provide savings for the consumer for similar cover.

(2) Where an automatic renewal arrangement of a consumer's insurance policy, with a duration of 10 months or more, is in place and the insurance undertaking or insurance intermediary does not propose to renew such insurance policy, the insurance undertaking or insurance intermediary shall provide a notification on paper or on another durable medium to the consumer at least 20 working days prior to the renewal date that the insurance undertaking or insurance intermediary does not wish to invite a renewal.

(3) Paragraph (2) does not apply where Regulation 5(1)(b) of the Non-Life Insurance (Provision of Information) Regulations 2007 (S.I. No. 74 of 2007) applies.

Automatic renewals – notifications in respect of policies with a duration of less than 10 months

327. (1) Where an insurance undertaking or an insurance intermediary proposes to automatically renew a consumer's insurance policy, with a duration of less than 10 months, the insurance undertaking or insurance intermediary shall provide a notification on paper or on another durable medium to the consumer, at least once a year from the date of entry into of the insurance policy for so long as the insurance policy continues to be renewed, which shall include the following:

- (a) a statement that the insurance policy renews automatically including the frequency of the automatic renewal and any end date of such automatic renewal;
- (b) details on how the consumer can stop the automatic renewal of the insurance policy if the consumer does not wish to automatically renew, including-
 - (i) the existence of the right to cancel the automatic renewal of the insurance policy,
 - (ii) the conditions for exercising the right to cancel the automatic renewal of the insurance policy,
 - (iii) the consequences of exercising the right to cancel the automatic renewal of the insurance policy, and
 - (iv) the practical steps required for exercising the right to cancel the automatic renewal of the insurance policy, including, at a minimum, the options available for cancelling the automatic renewal of the insurance policy;
- (c) details of any fee payable specifically in respect of the automatic renewal of the insurance policy and the services provided for such fee;
- (d) the website address of the relevant section of the Competition and Consumer Protection Commission's website and, where relevant, the Health Insurance Authority's website relating to getting insurance quotes;
- (e) a statement that the consumer should keep their insurance arrangements under review as there may be other alternatives in the market that could provide savings for the consumer, for similar cover.

(2) Where an automatic renewal arrangement of a consumer's insurance policy, with a duration of less than 10 months, is in place and the insurance undertaking or insurance intermediary does not propose to renew such insurance policy, the insurance undertaking or insurance

intermediary shall provide a notification on paper or on another durable medium to the consumer prior to the renewal date that the insurance undertaking or insurance intermediary does not wish to invite a renewal.

(3) Paragraph (2) does not apply where Regulation 5(1)(b) of the Non-Life Insurance (Provision of Information) Regulations 2007 (S.I. No. 74 of 2007) applies.

Automatic renewal of pet insurance, travel insurance, gadget insurance or dental insurance

328. (1) An insurance undertaking or insurance intermediary shall not automatically renew a policy of pet insurance, travel insurance, gadget insurance or dental insurance with a consumer unless the consumer has, prior to the entry into of the insurance policy which is being renewed, provided their consent to such automatic renewal.

(2) Paragraph (1) shall apply only in relation to an insurance policy which is first entered into after the commencement of these Regulations (and to the renewal of such a policy after the commencement of these Regulations).

(3) In this Regulation –

“dental insurance” means insurance the sole purpose of which is to provide for the making of payments by an insurance undertaking for the reimbursement or discharge, in whole or in part, of fees or charges in respect of dental expenses or services and related ancillary benefits;

“gadget insurance” means insurance which provides cover against the risk of breakdown, theft, loss, or damage, solely in respect of one or more personal electronic devices.

Chapter 6

Information about insurance products specifically

Information to be provided in insurance quotation - general

329. (1) An insurance undertaking or insurance intermediary shall provide the following information in any insurance quotation:

- (a) the monetary amount of the quotation;
- (b) the period of time for which the quotation is valid;
- (c) the registered legal name of the proposed underwriter of the insurance policy.

(2) In this Regulation and in Regulations 330 to 331, the term ‘insurance quotation’ shall be understood to include a renewal notification containing an insurance quotation.

Information to be provided in insurance quotation – warranties and endorsements

330. (1) An insurance undertaking or insurance intermediary shall set out clearly any warranties or endorsements that apply to an insurance policy in an insurance quotation provided to a consumer.

(2) If the insurance quotation is provided on paper or on another durable medium, the information referred to in paragraph (1) shall not be in a smaller font size than is used for other information appearing in the document.

Information to be provided in insurance quotation – discounts or loadings

331. An insurance undertaking or insurance intermediary shall set out clearly in an insurance quotation –

- (a) any discount or loading that has been applied in generating the insurance quotation for a consumer, including the monetary value and percentage of any discount or loading that has been so applied, and
- (b) the premium that would apply in the absence of any such discount or loading.

Policy documentation to state name of underwriter

332. An insurance undertaking or insurance intermediary shall state the registered legal name of the underwriter of the insurance policy on all policy documentation issued to a consumer.

Information to be provided about disclosure obligations

333. (1) Where a consumer is completing a proposal form for an insurance policy, an insurance undertaking or insurance intermediary shall notify the consumer, on paper or on another durable medium, of the possible consequences for the consumer of failing to comply with the duty of disclosure applicable to that consumer.

(2) The notification referred to in paragraph (1) shall include the following consequences, as applicable:

- (a) that a policy may be cancelled;
- (b) that claims may not be paid;
- (c) that the consumer may encounter difficulty in trying to purchase insurance elsewhere;
- (d) in the case of property insurance, that the failure to have property insurance in place, including by way of cancellation, could lead to a breach of the terms and conditions attaching to any loan secured on that property.

Information to be provided about permanent health insurance

334. (1) Prior to a consumer completing a proposal form for a permanent health insurance policy, an insurance undertaking or insurance intermediary shall explain the following to a consumer:

- (a) the meaning of disability as defined in the policy;
- (b) any benefit available under the policy;
- (c) the exclusions that apply to the policy;
- (d) any reduction applied to any available benefit if the consumer receives a disability payment from another source.

(2) In this Regulation, “permanent health insurance policy” means a policy of insurance of class 4 as set out in Schedule 2 to the Insurance and Reinsurance Regulations, or class IV as set out in Annex I to the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No 360 of 1994).

Information to be provided about serious or critical illness insurance

335. Prior to a consumer completing a proposal form for a serious or critical illness policy, an insurance undertaking or insurance intermediary shall explain to the consumer any restriction, condition or exclusion applicable to the policy.

Information to be provided about property or motor insurance

336. Prior to offering a property or motor insurance policy to a consumer, an insurance undertaking or insurance intermediary shall explain to the consumer that the insurance undertaking may, where relevant, appoint its own expert to undertake restitution work on a property or motor vehicle.

Refusal to quote for motor or property insurance

337. (1) An insurance undertaking that refuses to quote a consumer for motor insurance shall do the following within 5 working days of the date of its decision to refuse:

- (a) inform the consumer of its decision to refuse;
- (b) provide the consumer with the reasons for refusing cover;
- (c) notify the consumer of their right to refer the matter to the Declined Cases Committee and provide details of the process for such a referral;
- (d) inform the consumer that they may request that the information in subparagraphs (a) to (c) be provided to them on paper or on another durable medium.

(2) An insurance undertaking that refuses to quote a consumer for property insurance shall do the following within 5 working days of the date of its decision to refuse:

- (a) inform the consumer of its decision to refuse;
- (b) provide the consumer with the reasons for refusing cover;
- (c) notify the consumer that failure to insure a property may result in a breach of terms and conditions of any loan agreement which has been secured on that property;
- (d) inform the consumer that they may request that the information in subparagraphs (a) to (c) be provided to them on paper or on another durable medium.

(3) Where a consumer makes a request in accordance with paragraph (1)(d) or 2(d), an insurance undertaking shall provide this information on paper or on another durable medium within 5 working days of the request.

Information to be provided where premium may be subject to review

338. (1) Prior to offering, recommending, arranging or providing an insurance policy where the premium payable by the consumer may be subject to review by the insurance undertaking during the term of the policy, an insurance undertaking or insurance intermediary shall -

- (a) explain clearly to the consumer the risk that the premium may increase, and
- (b) provide the consumer with details of the time period for which the initial premium is fixed.

(2) An insurance undertaking shall include a warning statement in the following format on the application form for an insurance policy of the kind referred to in paragraph (1), inserting the appropriate information in place of the instruction in square brackets for that purpose:

“Warning: The Premium [insert ‘may’ or ‘will’ as appropriate] increase after [insert period of time for which the premium is fixed].”

(3) This Regulation does not apply where the premium payable by a consumer may be subject to review as a result of an amendment to the policy requested by the consumer.

Insurance quotation – explanation of difference in cost between payment of premium by lump sum or by instalment

339. (1) When providing an insurance quotation to a consumer, an insurance undertaking or insurance intermediary shall explain any difference in cost between paying the premium by way of a lump sum or in instalments.

(2) The explanation referred to in paragraph (1) shall detail the monetary value of any difference arising between the 2 options.

(3) In this Regulation, the term ‘insurance quotation’ shall be understood to include a renewal notification containing an insurance quotation.

Consent to be obtained for follow up telephone communication in respect of an insurance quotation provided on a digital platform

340. (1) Notwithstanding Regulations 111 and 112, when an insurance undertaking or insurance intermediary provides an insurance quotation to a consumer on a digital platform or via a website, the insurance undertaking or insurance intermediary shall not make follow up oral communication by means of telephone call for the purposes of discussing the insurance quotation unless the consumer has provided his or her consent to it doing so during the quotation process.

(2) In this Regulation, the term ‘insurance quotation’ shall be understood to include a renewal notification containing an insurance quotation.

(3) Paragraph (1) is subject to the further condition that the making of the follow up telephone call is not prohibited under any other applicable law.

Chapter 7

Knowing the Consumer and Suitability – Insurance Specific Provisions

Statement of suitability where immediate cover required

341. In the case of an insurance policy where immediate cover is required by a consumer, the statement of suitability referred to in Regulation 17(1) may be issued to the consumer prior to, or within 5 working days of, the insurance policy being entered into.

Statement of suitability in the case of travel, motor or home insurance

342. In the case of a policy of travel, motor or home insurance provided to a personal consumer, the statement of suitability referred to in Regulation 17(1) may be in a common format.

Chapter 8

Post-sale Information Requirements - Information about Insurance Products

Issuance of insurance policy

343. (1) An insurance undertaking shall issue an insurance policy, within 5 working days of the insurance policy being entered into, to any consumer to whom it has sold its insurance policy directly or to any insurance intermediary that has sold its insurance policy.

(2) On receipt of the insurance policy issued in accordance with paragraph (1), an insurance intermediary shall provide the insurance policy to the consumer that purchased it within 5 working days.

(3) When an insurance policy is entered into by a consumer by means of telephonic, video or other electronic communication, including through a digital platform, the insurance undertaking or, where the insurance policy was entered into by the consumer through an insurance intermediary, the insurance intermediary, shall provide the consumer with immediate digital confirmation that-

- (a) the insurance policy is in place, and
- (b) the insurance policy documents will be issued within 5 working days.

(4) In the circumstances referred to in paragraph (3), an insurance undertaking or insurance intermediary may provide the consumer with the terms of business referred to in Regulation 53 at the same time as the insurance undertaking or insurance intermediary provides the consumer with the confirmation referred to in that paragraph.

(5) This Regulation shall apply equally where a consumer renews an existing policy.

Terms and conditions applicable to no claims discount to be provided to consumer

344. Where a no claims discount has been applied to the premium charged in respect of an insurance policy, an insurance undertaking or insurance intermediary shall include with the insurance policy issued to the consumer in accordance with Regulation 343, notification, on paper or on another durable medium, of the terms and conditions that apply to such discount, including any restrictions on the use or availability of the discount.

Appointed claims representative

345. When a consumer is a holder of a motor insurance policy and notifies the insurance undertaking or insurance intermediary that provided that policy of an intention to use an insured vehicle in another Member State, the insurance undertaking or insurance intermediary shall

provide the consumer with contact details of the insurance undertaking's appointed claims representative for that Member State.

Information concerning surrender value of a life insurance policy

346. (1) Where a policyholder seeks information on the early surrender of a life insurance policy from the insurance undertaking or insurance intermediary that has provided that policy and the policyholder is a consumer, the insurance undertaking or insurance intermediary shall provide the consumer with details of the surrender value of the policy.

(2) If a secondary market exists for the sale of a policy of the kind referred to in paragraph (1) on which the policy may be sold, the insurance undertaking or insurance intermediary shall disclose this fact to the consumer at the same time as providing the details required in accordance with paragraph (1).

Advance notification of expiry date of a policy of non-life insurance

347. An insurance undertaking or insurance intermediary shall, not less than 20 working days prior to issuing a notification to a consumer in respect of a policy of insurance pursuant to –

- (a) Regulation 5 or Regulation 6 of the Non-Life Insurance (Provision of Information) Regulations 2007 (S.I. No. 74 of 2007), or
- (b) Regulation 326,

provide a consumer with notification on paper or on another durable medium of the date on which that policy is due to expire or fall due for renewal.

Chapter 9

Premium Rebates

Premium Rebates - Timing

348. (1) Subject to paragraph (3), an insurance undertaking shall provide to a consumer any premium rebate that is due from the insurance undertaking to the consumer within 10 working days of the rebate becoming due.

(2) For the purposes of this Regulation, a premium rebate is due from an insurance undertaking as soon as the insurance undertaking becomes aware of the circumstances giving rise to the premium rebate and determines that the premium rebate is due.

(3) Where an insurance intermediary acts as agent of an insurance undertaking in respect of a consumer, the insurance undertaking shall either –

- (a) provide to the insurance intermediary a premium rebate due from the insurance undertaking to the consumer within 5 working days of the rebate becoming due, or
- (b) notify the insurance intermediary, within 5 working days of the premium rebate becoming due, that the rebate is due and at the same time permit the

intermediary to issue the premium rebate from funds held by the insurance intermediary which are due to the insurance undertaking.

(4) An insurance intermediary shall provide the premium rebate referred to in paragraph (3) to the consumer within 5 working days of the insurance intermediary either –

- (a) receiving the premium rebate referred to in paragraph (3)(a), or
- (b) receiving the notification referred to paragraph (3)(b).

Option of deduction from renewal or other premium or donation in lieu of premium rebate

349. (1) Prior to providing a premium rebate to a consumer for the purposes of Regulation 348, an insurance undertaking or insurance intermediary may offer the consumer the choice of, instead of receiving the premium rebate, either –

- (a) receiving a corresponding deduction from a renewal premium or other premium currently due to that insurance undertaking or insurance intermediary from the consumer, or
- (b) the insurance undertaking or insurance intermediary making a donation of the premium rebate amount to a registered charity.

(2) An insurance undertaking or insurance intermediary shall obtain a consumer's consent on each occasion for the purposes of making either a deduction in accordance with paragraph (1)(a) or a donation in accordance with paragraph (1)(b).

(3) Where an insurance undertaking or insurance intermediary obtains a consumer's consent for the purposes of paragraph (2), the insurance undertaking or insurance intermediary shall make a deduction or donation in accordance with that consent and Regulation 348 shall not apply to the insurance undertaking or insurance intermediary concerned.

(4) Where an insurance undertaking or insurance intermediary does not obtain a consumer's consent for the purposes of paragraph (2), the insurance undertaking or insurance intermediary shall provide the premium rebate to the consumer within the time period referred to in Regulation 348.

(5) An insurance undertaking or insurance intermediary shall document a donation made in accordance with the consent obtained from the consumer for the purposes of paragraph (2) and shall obtain and retain a receipt from the relevant charity.

(6) In this Regulation, "registered charity" means a registered charitable organisation within the meaning of section 2 of the Charities Act 2009 (No. 6 of 2009).

Premium rebate processing agreement

350. An insurance intermediary shall process premium rebates due to consumers only on the basis of a written agreement pursuant to which the insurance intermediary acts as agent of an insurance undertaking or another insurance intermediary in processing such rebates due to consumers and pursuant to which the insurance intermediary does not become a debtor of the consumer when processing such rebates.

Full rebate amount to be paid in the absence of agreement

351. (1) Subject to Regulation 349, an insurance undertaking or insurance intermediary shall provide to a consumer the full rebate amount due to the consumer by way of premium rebate.

(2) For the purposes of paragraph (1), any charges that the consumer owes the insurance undertaking or insurance intermediary shall not be deducted from the rebate amount without obtaining the prior written consent of the consumer.

(3) Where a consumer has agreed to the deduction of any charges for the purposes of paragraph (2), these charges shall be clearly specified by the insurance undertaking or insurance intermediary in correspondence accompanying notification of the rebate to the consumer.

Return and reissue of rebate

352. (1) Where an insurance intermediary has issued a rebate cheque to a consumer on behalf of an insurance undertaking, and the rebate cheque has not been presented for payment within 6 months from the date of issue, the insurance intermediary shall return the rebate to the insurance undertaking.

(2) Where a consumer requests from an insurance undertaking or insurance intermediary a rebate that has been returned to an insurance undertaking in accordance with paragraph (1), the requested insurance undertaking or insurance intermediary shall provide the rebate in accordance with Regulations 348, 349 and 351.

Chapter 10

Claims Processing

Scope and application (Chapter 10)

353. (1) This Chapter does not apply where a method of direct settlement in respect of health insurance is used by an insurance undertaking in respect of a claim under a health insurance contract.

(2) In this Regulation –

“health insurance contract” has the meaning given to it in section 2(1) of the Health Insurance Act 1994 (No. 16 of 1994);

“method of direct settlement in respect of health insurance” means a method of settlement whereby an insurance undertaking pays a health care provider directly in settlement of a claim by a policyholder under a health insurance contract, rather than paying a monetary sum to the policyholder at a later date.

Verification of claims

354. An insurance undertaking shall verify the validity of a claim received from a claimant prior to making a decision on its outcome.

Claims handling procedure

355. (1) An insurance undertaking shall establish, maintain and adhere to a procedure for the effective and proper handling of claims.

(2) The procedure referred to in paragraph (1) shall, at a minimum, provide for the following:

- (a) where an accident or event has occurred giving rise to a personal injury claim, the insurance undertaking shall provide a copy of a guide for claimants produced by the Personal Injuries Assessment Board to a claimant as soon as the insurance undertaking is notified of the claim;
- (b) where a consumer has been involved in a motor accident with an uninsured or unidentified vehicle or with a foreign registered vehicle, the insurance undertaking shall advise the consumer to contact the Motor Insurers' Bureau of Ireland;
- (c) where a claim form is required to be completed for the purposes of a claimant making a claim, the insurance undertaking shall provide the form to the claimant within 5 working days of receiving notice of the claim;
- (d) the insurance undertaking shall offer to assist a claimant in the process of making a claim, including, in the case of a claimant falling within paragraph (a) or (c) of the definition of "claimant", alerting the claimant to policy terms and conditions that may be of benefit to the claimant, where relevant;
- (e) the insurance undertaking shall comply with a request from a claimant for the insurance undertaking to use a particular means of communication with the claimant in relation to a claim, unless to do so would be unreasonable or the means of communication requested by the claimant is not a means of communication currently employed by the insurance undertaking for this purpose;
- (f) the insurance undertaking shall keep a record of all conversations with the claimant in relation to the claim, including audio recordings of telephone calls where these are recorded;
- (g) where the insurance undertaking makes audio recordings of telephone calls in connection with the provision of financial services to consumers, the insurance undertaking shall make and keep audio recordings of telephone calls with a claimant in relation to a claim and shall inform a claimant at the outset of a telephone conversation that the telephone conversation is being recorded;
- (h) the insurance undertaking shall, while the claim is being processed, provide the claimant with updates of any developments concerning the outcome of the claim within 5 working days of learning of the development;
- (i) where the insurance undertaking requires additional documentation or clarification from a claimant, the insurance undertaking shall notify the claimant as soon as the additional document or clarification is required and, if necessary, the insurance undertaking shall provide the claimant with a reminder of the notification on paper or on another durable medium.

Assisting a consumer in making a claim

356. An insurance intermediary who assists a consumer in making a claim under an insurance policy shall, on receipt of the completed claims documentation in respect of that claim, transmit such documentation to the insurance undertaking with whom the policy is held within one working day.

Engagement of loss adjustor or expert appraiser

357. (1) Where an insurance undertaking engages the services of a loss adjustor or an expert appraiser, or both, for the purposes of assisting in the processing of a claimant's claim, it shall provide the claimant with the contact details of the person engaged.

(2) When an insurance undertaking provides a claimant with contact details for the purposes of paragraph (1), the insurance undertaking shall, at the same time, notify the claimant on paper or on another durable medium that the person engaged acts in the interest of the insurance undertaking and such notification shall include an explanation of the function of the person engaged.

Notification that a claimant may appoint a loss assessor

358. Within 5 working days of an insurance undertaking receiving notice of a motor insurance, property insurance, or other claim, the insurance undertaking shall, where relevant to the type of claim, notify the claimant on paper or on another durable medium that the claimant may appoint a loss assessor to act in the claimant's interests but that any such appointment will be at the claimant's expense.

Engagement with third party in relation to a claim

359. Upon a claimant's written request, an insurance undertaking or insurance intermediary shall engage with a third party which a claimant has appointed to act on his or her behalf in relation to a claim.

Insurance undertaking to be available to discuss claims

360. An insurance undertaking shall be available to discuss all aspects of a claim with the claimant, including assessment of liability and damages, during normal office hours which are deemed to be between 09.00 and 17.00 on a working day.

Restitution work – appointment of third party

361. (1) Where an insurance undertaking proposes to appoint a third party to undertake restitution work in respect of the settlement of a claim, the insurance undertaking shall provide the claimant with details of the scope of the work that has been approved by the insurance undertaking for the purposes of settlement and a detailed breakdown of the proposed cost to the insurance undertaking.

(2) The information referred to in paragraph (1) shall be provided to the claimant on paper or on another durable medium in advance of the appointment of the third party.

Restitution work - certification

362. (1) Where a method of direct settlement has been used, an insurance undertaking shall certify to the claimant, on paper or on another durable medium, that the restitution work undertaken by any third party appointed by the insurance undertaking to restore a claimant's property has been undertaken in a manner in which the claimant's property has been restored at least to the standard of the property that existed prior to the insured event.

(2) An insurance undertaking shall not require a claimant to provide any form of certification of the kind referenced in paragraph (1) above on its behalf.

Claim settlement offer to represent best estimate of a claimant's reasonable entitlement

363. (1) An insurance undertaking shall ensure that any claim settlement offer made to a claimant represents its best estimate of the claimant's reasonable entitlement.

(2) In determining that any claim settlement offer made to a claimant is its best estimate of the claimant's reasonable entitlement, an insurance undertaking shall take into account all relevant factors, including the following:

- (a) any evidence submitted by the claimant, or any third party acting on his or her behalf, to support the value of the claim;
- (b) any evidence made known to the insurance undertaking by a third party or evidence that should be reasonably available to the insurance undertaking;
- (c) the procedures used by the insurance undertaking in determining the monetary amount of compensation offered.

(3) This Regulation does not apply to a claimant falling within paragraph (b) of the definition of "claimant" where liability is not agreed.

Decision on a claim

364. (1) Within 5 working days of making a decision in respect of a claim, an insurance undertaking shall inform the claimant of the following, on paper or on another durable medium:

- (a) the outcome of its investigation of the claim;
- (b) where applicable, the terms of any claim settlement offer;
- (c) where the insurance undertaking has decided to decline the claim, the reasons for this decision;
- (d) any appeals mechanism provided by the insurance undertaking in respect of the decision made.

(2) When making a claim settlement offer, the insurance undertaking shall ensure that the following conditions have been satisfied:

- (a) the insured event has been proven, or accepted by the insurance undertaking;
- (b) all specified documentation has been received by the insurance undertaking from the claimant;
- (c) the entitlement of the claimant to receive payment under the policy has been established.

(3) An insurance undertaking shall retain a record of the decision referred to in paragraph (1).

Minimum period for acceptance or rejection of a claim settlement offer

365. (1) An insurance undertaking shall allow a claimant at least 10 working days to accept or reject a claim settlement offer unless this right is waived by the claimant.

(2) Where a claimant waives this right as provided for in paragraph (1), the insurance undertaking shall retain a record of the claimant's decision.

(3) This Regulation does not apply in the case of surrender or encashment of insurance-based investment products or to claims on policies falling within paragraph (b) of the definition of “protection policies” where the settlement amount is set out in the policy’s terms and conditions.

Settlement of claim

366. (1) Where a claimant has agreed to accept the offer made by an insurance undertaking to settle a claim or, where applicable, that part of a claim that has been quantified, the insurance undertaking shall pay the claim settlement offer to the claimant within 10 working days from the date on which the claimant agreed to accept the offer notwithstanding that legal costs, where applicable, may not yet have been agreed.

(2) Where a method of direct settlement is being applied, the insurance undertaking shall discharge any claim without delay.

Insurance undertaking to publish details of appeals mechanism

367. (1) An insurance undertaking shall publish details of any appeals mechanism it provides in respect of decisions regarding claims on its website.

(2) An insurance undertaking shall provide the details referred to in paragraph (1) to claimants on paper or on another durable medium on request. A request under this paragraph (2) shall be facilitated within 5 working days.

Information concerning settlement where a consumer policyholder is not the beneficiary

368. (1) Where a policyholder who is a consumer is not the beneficiary of a settlement, the insurance undertaking shall advise the policyholder at the time that settlement is made, on paper or on another durable medium, of the following:

- (a) subject to paragraph (2), the amount for which the claim has been settled and the reason or reasons for its being settled;
- (b) where applicable, that the settlement of the claim will affect future insurance contracts entered into by the policyholder of the type that was the subject of the settlement..

(2) Paragraph (1)(a) does not apply to a claim in respect of which section 16(4)(d) of the Act of 2019 applies.

Part 5

Investments

Chapter 1

Preliminary

Interpretation (Part 5)

369. In this Part -

“compound annual rate” means the equivalent annual rate of interest, where interest is paid on previously earned interest as well as on the principal, payable at the end of the year, on a deposit;

“Key Features Document” means the document referred to in Regulation 376;

“PRSA” has the meaning given to it in Part X of the Pensions Act 1990;

“Standard PRSA” has the meaning in Part X of the Pensions Act 1990;

“target market” for an investment product means the profile of the group of consumers at which the regulated financial service provider aims a particular investment product.

Chapter 2

Additional suitability requirements

Assessing and determining suitability of investment product transaction or series of such transactions

370. (1) For the purposes of Regulation 16, when assessing the suitability of an investment product transaction or series of investment product transactions, should a regulated financial service provider determine that the investment product transaction or series is not aligned with a consumer’s attitude to risk, or financial situation, because of the frequency of such transactions or their amount, it shall determine that the investment product transaction or series is not suitable.

(2) A regulated financial service provider shall advise a consumer of the determination referred to in paragraph (1) on paper or on another durable medium and shall advise the consumer not to proceed with the relevant investment product transaction or series.

(3) If a regulated financial service provider has advised the consumer as referred to in paragraph (2), and the consumer instructs the regulated financial service provider to proceed with the relevant transaction or series, the regulated financial service provider shall make a contemporaneous record that it has advised the consumer of its determination.

Chapter 3

Information about Investment products

Information to be provided to consumers

371. Prior to offering, recommending, arranging or providing an investment product, a regulated financial service provider shall provide a consumer with information on, or in relation to, the following, where relevant:

- (a) capital security;
- (b) the risk that some or all of the investment may be lost;
- (c) leverage and its effects;
- (d) any limitation on the sale or disposal of the investment product;

- (e) any restriction on access to funds invested;
- (f) any restriction on the redemption of the investment product;
- (g) the impact, including the cost, of exiting the investment product early;
- (h) the minimum recommended investment period;
- (i) the risk that the estimated or anticipated return on the investment product may not be achieved;
- (j) the potential effects of volatility in price, fluctuation in interest rates, and movements in exchange rates on the value of the investment;
- (k) the identity of any guarantor and the level, nature, extent and limitations of its guarantee.

(2) The information referred to in paragraph (1) shall be provided in a stand-alone document, except where such information is already required to be disclosed in accordance with the Life Assurance (Provision of Information) Regulations 2001 (S.I. No. 15 of 2001) or any other regulations made under Section 43D of the Insurance Act 1989 concerning provision of information for life assurance policies and where such information is disclosed to the consumer in a manner which complies with such Regulations.

(3) This Regulation does not apply to a tracker bond.

Warning statement to be provided with illustrations of figures on performance of investment product

372. (1) A regulated financial service provider shall include the following warning statement with all illustrations of figures in relation to performance of an investment product, including graphs and other visual representations:

“Warning: These figures are estimates only. They are not a reliable guide to the future performance of your investment.”

(2) This Regulation does not apply to illustrations included in the key information document to be drawn up and provided to retail investors in accordance with the PRIIPs Regulation.

Prospectus to state where representing or containing terms of contract

373. Where a prospectus represents or contains the terms of a contract between a regulated financial service provider and one or more of its consumers, this fact must be clearly stated in the prospectus.

(2) This Regulation does not apply to a prospectus within the scope of the Prospectus Regulation.

Warning statement and information on periodic suitability assessments to be provided in respect of certain investment products

374. (1) Where a regulated financial service provider recommends an investment product falling within paragraph (a) of the definition of “investment product” to a consumer, the regulated financial service provider shall, prior to the conclusion of a contract for that investment product, inform the consumer -

- (a) whether the regulated financial service provider will provide the consumer with a periodic assessment of the suitability of the investment product recommended to that consumer,
- (b) where applicable, the steps that the regulated financial service provider will take to periodically assess whether the investment product remains suitable for the consumer and the frequency with which that assessment will be carried out, and
- (c) any services that the regulated financial service provider will provide to the consumer relating to the management of the investment product.

(2) Where a regulated financial service provider recommends an investment product falling within paragraph (a) or (b) of the definition of “investment product” to a consumer, and where the regulated financial service provider will not provide the consumer with a periodic assessment of the suitability of the investment product recommended to that consumer, the regulated financial service provider shall, prior to the conclusion of a contract for that investment product, provide the consumer with an explanation why such periodic assessment will not be done.

(3) The information referred to in paragraphs (1) and (2) shall be provided to the consumer on paper or on another durable medium.

(4) A regulated financial service provider shall include a warning statement in the following format on any application form for an investment product falling within paragraph (a) or (b) of the definition of “investment product” other than an insurance-based investment product:

“Warning: Due to the long-term nature of this product, it is important to ensure that it remains suitable for you. We recommend that you engage with your financial advisor on a regular basis to ensure its ongoing suitability.”

Tracker bonds - Product brochure and application form to include certain warning statements

375. A regulated financial service provider shall give the following information prominently in any tracker bond product brochure and tracker bond application form, inserting the appropriate information in place of any related instruction in square brackets:

- (a) for an investment in a product that does not commit to provide a 100% return of a consumer’s capital on maturity, the following warning:

“Warning: The value of your investment may go down as well as up. You may get back less than you invest.”;

- (b) where there is a promised return which is known but is less than the initial 100% invested by a consumer, the following warning:

“Warning: If you invest in this product you could lose [insert figure]% of the money you invest.”;

- (c) if a consumer’s return on capital only becomes payable on a specific date, the following warning:

“Warning: If you cash in your investment before [specify the particular date] you may lose some or all of the money you invest.”;

- (d) if there is no access to funds for the term of the product, the following warning:

“Warning: If you invest in this product you will not have any access to your money for [insert time required before the product matures].”;

- (e) the identity of any guarantor and the nature, extent and limitations of its guarantee.

Tracker bonds - Key Features Document to be provided

376. (1) A product producer of a tracker bond shall provide a document (referred to in this Regulation as a “Key Features Document”), in the form prescribed in Schedule 7 to these Regulations, to any intermediary that offers that tracker bond to consumers, for provision to those consumers.

(2) Where the information required by the Key Features Document referred to in paragraph (1) is otherwise already provided to a consumer as required pursuant to the Life Assurance (Provision of Information) Regulations 2001 or any other regulations made under Section 43D of the Insurance Act 1989 requiring the provision of information to consumers regarding life assurance policies, the regulated financial service provider is not required to include that information in the Key Features Document.

(3) A regulated financial service provider shall provide a Key Features Document to a consumer prior to them signing an application form for a tracker bond.

(4) Where the terms of the tracker bond provide that return on investment is limited, the Key Features Document shall include an explanation in relation to this limitation.

Tracker bonds - Illustration to be provided where facility to borrow funds to invest

377. (1) Where a regulated financial service provider offers a consumer the facility to borrow funds to invest in a tracker bond, the regulated financial service provider shall provide an illustration to the consumer showing the following:

- (a) the year-by-year and total interest payments the consumer is likely to be required to pay in respect of the borrowed funds, until the date the product matures;
- (b) the equivalent compound annual rate of the return payable under the relevant tracker bond shown prominently;
- (c) the difference between the return payable under the tracker bond and the total projected outgoings of the consumer over the period to the maturity date of the tracker bond.

(2) For the purposes of the illustration referred to in paragraph (1)(a), the fixed interest rate offered by the lender for the period to the date of the promised payment under the tracker bond shall be used or, if the lender does not offer a fixed interest rate over this period, an equivalent open market fixed interest rate shall be used.

(3) For the purposes of paragraph (1)(c), “total projected outgoings” means any borrowed funds, any capital repayments related to such borrowings and any capital investment by the consumer other than the borrowed funds.

PRSAs – information to be provided

378. (1) Prior to offering, recommending, arranging or providing a PRSA, a regulated financial service provider shall provide to a consumer the information referred to in Schedule 8 to these Regulations in the prescribed form.

(2) If a non-standard PRSA is offered or recommended to a consumer, the regulated financial service provider shall, in addition to the requirement referred to in paragraph (1) complete the declaration in Schedule 9 to these Regulations in the prescribed form.

Product producers to provide statement on investment products

379. (1) For each investment product held with it, a product producer shall, at least once every 12 months, provide to a consumer, on paper or on another durable medium, a statement in respect of the previous 12 month period, which includes, where applicable, the following:

- (a) the opening balance or statement of value at the beginning of the relevant 12 month period;
- (b) any additions, including additional amounts invested;
- (c) any withdrawals;
- (d) the total sum invested;
- (e) the number of units held;
- (f) any interest charged or accrued;
- (g) any charges and deductions affecting the investment product including any charges associated with the management, sale, set up and ongoing administration of the investment product;
- (h) the aggregate amount, expressed as a monetary amount, of the charges and deductions referred to in subparagraph (g);
- (i) the closing balance or statement of value at the end of the relevant 12 month period.

(2) Subject to paragraph (3), in the case of an investment product falling within paragraph (b) of the definition of “investment product” and for which the policy terms and conditions provide for periodic premium reviews, the statement referred to in paragraph (1) shall also set out the projected premiums required to maintain existing protection benefits from the date of the statement until the ages of 55, 65, 75 and 85.

(3) Where the investment product referred to in paragraph (2) is a joint life or dual life insurance policy, the projected premiums required to maintain existing protection benefits which are to be set out in the statement referred to in paragraph (1) shall be calculated on the basis of the younger of the lives insured.

(4) A product producer shall include the following warning statement in the statement referred to in paragraph (1):

“Warning: Due to the long-term nature of this product, it is important to ensure that it remains suitable for you. We recommend that you engage with your financial advisor on a regular basis to ensure its ongoing suitability.”

(5) Where a product producer is required to provide a consumer with a statement pursuant to this Regulation, the product producer shall inform the consumer that he or she may request the statement to be provided on paper, and, if requested by the consumer, the product producer shall provide the statement on paper to the consumer.

Tracker bonds - Product producers to issue information document following sale

380. (1) A product producer of a tracker bond shall issue a document to a consumer to whom it has sold its tracker bond, or to an intermediary that has sold its tracker bond (to be provided to the consumer), within 5 working days of the start date of the term of the tracker bond with the following information:

- (a) the name and address of the consumer;
- (b) the start date of the term of the tracker bond;
- (c) the amount of investment;
- (d) the date or dates on which any right to a minimum payment amount becomes payable;
- (e) disclosure of the key features of the investment, if those features differ from those shown in the Key Features Document provided in accordance with Regulation 376;
- (f) the date that the investment will mature;
- (g) the number of days from the commencement of the investment date or date of receipt of policy document a consumer has available to cancel the tracker bond, if such a right is available in respect of the investment.

(2) An intermediary shall, within 5 working days of receiving the document from a product producer in accordance with paragraph (1), provide that document to the consumer that purchased the tracker bond.

Chapter 4

Specific requirements for advertising relating to investment products

Scope and application (Chapter 4)

381. This Part applies to advertisements for an investment product which refer, or relate, to a regulated activity which can be provided, or is available, to a consumer.

Warning statement regarding return on investment

382. A regulated financial service provider shall ensure that an advertisement for an investment product where a consumer’s return on their investment may not include the full amount of their capital invested contains the following warning statement:

“Warning: If you invest in this product, you may lose some, or all, of the money you invest.”

Warning statement where return on capital applicable on or from a specific date

383. A regulated financial service provider shall ensure that an advertisement for an investment product where the advertised return of capital applies on, or from, a specific date, contains the following warning statement, inserting the appropriate information in place of the instruction in square brackets for that purpose:

“Warning: If you seek to realise your investment before [specify the particular date], you may lose some, or all, of the money you invest.”

Warning statement where no access to funds invested for product term

384. A regulated financial service provider shall ensure that an advertisement for an investment product where there is no access to the funds invested for the term of the investment product contains the following warning statement, inserting the appropriate information in place of the instruction in square brackets for that purpose:

“Warning: If you invest in this product you will not have any access to your money for [insert time required before the product matures].”

Provision of information on past performance to meet certain conditions

385. (1) Where a regulated financial service provider provides information about the past performance of an advertised financial service or of the regulated financial service provider, this information shall -

- (a) be based on a financial service similar to that being advertised,
- (b) not be selected so as to exaggerate the success or disguise the lack of success of the advertised financial service,
- (c) state the source of the information,
- (d) be based on actual performance,
- (e) state clearly the period chosen, which must cover the preceding 5 years, or the whole period for which the advertised financial service has been provided, where less than 5 years,
- (f) include the most recent period where more than one period of past performance may be used,
- (g) specify, where applicable, details of transaction costs, interest and taxation, and take these details into account in the calculations outlining past performance, and
- (h) disclose the effect of commissions, fees or other charges, where the indication is based on gross performance.

Warning statement to be provided regarding past performance

386. A regulated financial service provider shall ensure that an advertisement which contains information on past performance contains the following warning statement:

“Warning: Past performance is not a reliable guide to future performance.”

Statement to be included where position or holding in a financial service

387. (1) Where a regulated financial service provider has a position or holding in the financial service that is the subject of an advertisement by that regulated financial service provider, it shall include a statement to this effect in accordance with paragraph (2) in the advertisement.

(2) For the purposes of paragraph (1), a regulated financial service provider shall be deemed to have a position or holding in a financial service where it has an interest in the financial service in respect of which it may be subject to a financial gain or loss, and the statement required in accordance with paragraph (1) shall detail this possibility.

Information on simulated performance to meet certain conditions

388. (1) Where a regulated financial service provider provides information in an advertisement about the simulated performance of the advertised financial service or of a regulated financial service provider, this information shall -

- (a) in relation to an advertised financial service, be based on the actual past performance of one or more investment products which are the same as or substantially the same as the advertised financial service, and the information relating to the past performance used for this purpose shall comply with Regulation 385,
- (b) not be selected so as to exaggerate the success or disguise the lack of success of the advertised financial service or of the regulated financial service provider,
- (c) state the source, and
- (d) indicate whether, and to what extent, transaction costs, interest and taxation have been taken into account.

Warning statement to be provided where illustrations or information on simulated performance

389. A regulated financial service provider shall ensure that an advertisement which contains illustrations or information on simulated performance contains the following warning statement:

“Warning: These figures are estimates only. They are not a reliable guide to the future performance of this investment.”

Conditions for describing product as guaranteed or conveying the same meaning or impression

390. A regulated financial service provider shall ensure that an advertisement does not describe an investment product as guaranteed, either fully or partially, or by using descriptive terms that convey such a meaning or impression, unless -

- (a) there is a legally enforceable guarantee agreement in place in which a guarantor undertakes to meet, to whatever extent is stated in the advertisement, a consumer’s claim under the guarantee,

- (b) the regulated financial service provider has made, and can demonstrate that it has made, an assessment of the amount of the guarantee,
- (c) it clearly states the nature and extent of limitations of the guarantee and the name of the guarantor, and
- (d) the advertisement states that the guarantee is provided by a connected party of the regulated financial service provider, if applicable.

Reference to the impact of taxation

391. A regulated financial service provider shall ensure that where an advertisement contains a reference to the impact of taxation, it shall -

- (a) state the assumed rate of taxation,
- (b) where tax reliefs are applied, reference the reliefs that apply as of the date of publication of the advertisement,
- (c) specify the person to whom the tax reliefs referred to in the advertisement are available,
- (d) state, where applicable, if the taxation impacts referenced are limited in their application to a particular class of consumer with particular tax liabilities, identifying the class of consumer and the type of liabilities concerned,
- (e) identify the party that is responsible for applying for the tax benefits advertised,
- (f) identify, where applicable, if income payable from an investment product is subject to income tax that is deducted at source, and
- (g) identify, where applicable, if the value of the advertised financial service is linked to a product which is liable to capital taxation.

Warning on value of investment that can fluctuate

392. A regulated financial service provider shall ensure that if the value or price of the advertised financial service can fluctuate, an advertisement contains the following warning statement:

“Warning: The value of your investment may go down as well as up.”

Statement to be made if return determined on a particular date

393. A regulated financial service provider shall ensure that where the return on an advertised financial service is determined on a particular date, this information is stated in the advertisement and the relevant date identified.

Warning statement where income can fluctuate

394. A regulated financial service provider shall ensure that where an investment product is described in an advertisement as potentially yielding income or as suitable for a consumer seeking income, and the income arising with respect to that investment product may fluctuate, the advertisement contains the following warning statement:

“Warning: The income you earn from this investment may go down as well as up.”

Effect of withdrawal of amount from capital amount invested as income equivalent to be explained

395. Where an investment product that is the subject of an advertisement includes an option to withdraw an amount from the capital amount invested in the product as an income equivalent, a regulated financial service provider shall ensure that the effect of that withdrawal upon the investment product is explained in the advertisement.

Warning statement where financial service may be affected by change in currency exchange rates

396. A regulated financial service provider shall ensure that where an advertised financial service is denominated or priced in a currency other than euro, or where the value of an advertised financial service may be directly affected by changes in currency exchange rates, the advertisement contains the following warning statement, inserting the appropriate information in place of the instruction in square brackets for that purpose:

“Warning: This [insert “product” or “service” as appropriate] may be affected by changes in currency exchange rates.”

Required warning where investment product not readily realisable

397. A regulated financial service provider shall ensure that an advertisement for an investment product, which is not readily realisable, states that it may be difficult for consumers to sell or exit the investment product and/or obtain reliable information about its value or the extent of the risks to which it is exposed.

Statement to be provided if investment product cannot be encashed prior to maturity date or early redemption charge

398. A regulated financial service provider shall ensure that an advertisement for an investment product states if the relevant investment product cannot be encashed prior to its maturity date, or if a consumer incurs an early redemption charge if encashed prior to its maturity date.

Statement to be provided where deductions for charges and expenses not made uniformly

399. A regulated financial service provider shall ensure that an advertisement for an investment product subject to deductions for charges and expenses that are not made uniformly throughout the term of the investment product, and are applied earlier in the investment product’s term, states that -

- (a) deductions for charges and expenses are applied in this manner,
- (b) if a consumer withdraws from the investment product prior to its maturity date, the practice of applying deductions for charges and expenses in this manner will impact on the amount of the consumer’s return, and
- (c) if applicable, that a consumer may not get back the full amount they invested on the maturity date of the product.

Information on deposit interest rate on investment represented by tracker bond or component thereof

400. (1) Where a regulated financial service provider advertises a deposit interest rate in respect of an investment represented by a tracker bond, or a component of that investment, the advertisement shall state the following:

- (a) whether the interest rate quoted is fixed or variable;
- (b) if the interest rate quoted is fixed, the period for which it is fixed and, an indication of the rate that will apply after that fixed period if the term of the tracker bond is longer than the applicable fixed period;
- (c) the relevant compound annual rate calculated in respect of the term of the tracker bond that is applicable to the investment, or a component of that investment, to be placed on deposit;
- (d) whether any tax is payable on the interest earned on the investment, or a component of that investment, placed on deposit.

(2) Each rate provided to a consumer in accordance with this Regulation shall be of equal font size and prominence.

Information on projected return on investment for tracker bond

401. (1) Where a regulated financial service provider advertises a projected return on investment for a tracker bond, the regulated financial service provider shall ensure that the equivalent compound annual rate is expressed and shown as prominently in the advertisement as the projected return of that tracker bond.

(2) For the purposes of paragraph (1), where the investment representing a tracker bond is invested in separate components, the requirement to express and show the equivalent compound annual rate as prominently shall apply in respect of each of those components over the term of the tracker bond.

Chapter 5

Product producer responsibilities

Information to be provided to intermediaries for consumers in relation to new investment products

402. A product producer shall provide the following information to an intermediary in relation to a new investment product designed by that product producer for sale by an intermediary to consumers:

- (a) the key characteristics and features of the product;
- (b) the target market of consumers for the product;
- (c) the nature and extent of the risks inherent in the product;
- (d) the level, nature, extent and limitations of any guarantee attaching to the product and the name of the guarantor.

Information on investment products to meet certain standards

403. A product producer using an intermediary to sell its investment product to consumers shall provide clear, accurate, and up to date information to the intermediary about the investment product that is not misleading to the intermediary or consumers and that includes the information referred to in Regulations 371 and 402.

Facility to be given to intermediaries when seeking information on investment product

404. (1) A product producer shall provide an ongoing facility to an intermediary to raise questions and obtain information on an investment product that is the subject of Regulations 371 and 402.

(2) A product producer shall notify the intermediary of the availability of the facility referred to in paragraph (1) and shall provide it to the intermediary for the duration of the period in which that investment product is offered for sale by the product producer and sold to consumers through that intermediary.

Information on new investment product to be updated and provided to intermediary

405. (1) Subject to paragraph (2), within one year of providing the information referred to in Regulation 402 and within each year thereafter, or on a more frequent basis, a product producer shall update that information and shall provide the updated information to the intermediary.

(2) A product producer shall update the intermediary with respect to any additional material information, which the product producer has implemented or of which the product producer is aware, in relation to the matters referred to in Regulation 402(a) to Regulation 402(d), within 10 working days of implementation or of becoming aware.

Chapter 6

MiFID Article 3 services

Scope and application (Chapter 6)

406. This Chapter applies to a regulated financial service provider when providing MiFID Article 3 Services.

Recording of telephone conversations or electronic communications

407. (1) A regulated financial service provider shall either -

- (a) comply with Regulations 23(5) to (12) of the MiFID Regulations 2017 and Article 76(1)(b), 76(8) and 76(10) of the MiFID Delegated Regulation, or
- (b) where telephone conversations or electronic communications relating to the provision of client order services that relate to offering, arranging or providing an investment product are not recorded -
 - (i) promptly follow up the telephone conversation with a written communication to the client which confirms the key details of the telephone conversation, and

- (ii) provide the client with an opportunity to disagree with the content of the written communication or to otherwise stop the order being executed within a specified time-frame.

(2) The written confirmation referred to in paragraph (1)(b)(i) shall include, at a minimum, the order details and the details of any recommendation in connection with that order.

Disclosure of conflicts of interest

408. (1) A regulated financial service provider shall ensure that disclosure to consumers includes a specific description of the conflicts of interest that arise in offering, recommending, arranging or providing an investment product.

(2) The description referred to in paragraph (1) shall explain -

- (a) the risks to the client that arise as a result of the conflicts of interest, and
- (b) the steps undertaken to mitigate those risks,

in sufficient detail to enable that client to take an informed decision with respect to the investment business service in the context of which the conflicts of interest arise.

Conflicts of interest policy

409. A regulated financial service provider shall assess and periodically review, on at least an annual basis, its conflicts of interest policy and shall take all appropriate measures to address any deficiencies.

Target market and information on products

410. Where a regulated financial service provider offers, recommends, arranges or provides an investment product, it shall have in place adequate arrangements to-

- (a) obtain all appropriate information on the investment product and the investment product approval process, including the identified target market of the investment product, and
- (b) understand the characteristics and identified target market of each investment product.

Independent advice - fees, commissions, etc.

411. A regulated financial service provider shall comply with Regulation 32(13)(b) of the MiFID Regulations 2017, subject to Regulation 32(15) of those Regulations.

Independent advice – information

412. A regulated financial service provider shall comply with Article 52(1) and 52(3) of the MiFID Delegated Regulation.

Independent advice – restriction on natural person providing both independent and non-independent advice

413. A regulated financial service provider offering investment advice on both an independent basis and on a non-independent basis shall not allow a natural person to provide both independent and non-independent advice.

Information relating to execution of orders

414. A regulated financial service provider shall ensure that Article 59 of the MiFID Delegated Regulation is complied with.

Information on costs and associated charges

415. A regulated financial service provider shall comply with the following:

- (a) Regulations 32(4)(d) and 32(7) to (9) of the MiFID Regulations 2017;
- (b) Article 50(2), 50(5), 50(8), 50(9) (second subparagraph) and 50(10) of the MiFID Delegated Regulation.

Periodic suitability assessments

416. A regulated financial service provider shall comply with the following:

- (a) Regulation 32(5)(c) of the MiFID Regulations 2017;
- (b) Article 54(12) (third subparagraph) and Article 54(13) of the MiFID Delegated Regulation.

Remuneration

417. A regulated financial service provider shall comply with Article 27(4) of the MiFID Delegated Regulation.

Part 6

FINAL PROVISIONS AND REVOCATIONS

Revocations

418. (1) The following are revoked:

- (a) Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylender) Regulations 2020 (S.I. No. 196 of 2020);
- (b) Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022.

(2) The revocation of the Consumer Protection Code as amended, the Code of Conduct on Mortgage Arrears as amended, the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Licensed Moneylender) Regulations 2020 (S.I. No. 196 of 2020), or the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Insurance Requirements) Regulations 2022 does not -

- (a) affect any direction given by the Bank, investigation undertaken, or disciplinary, sanctioning or enforcement action undertaken by the Bank or any other person, in respect of any matter in existence at, or before, the time of the revocation, or

- (b) preclude the taking of any legal proceedings, or the undertaking of any investigation, or disciplinary, sanctioning or enforcement action by the Bank or any other person, in respect of any contravention of an enactment or requirement imposed under an enactment, or any misconduct which may have been committed before the time of the revocation.

Amendments

419. (1) Regulation 4(c) of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Housing Loan Requirements) Regulations 2022 (S.I. No. 546 of 2022) is substituted with the following:

- “(c) without limiting the generality of paragraph (b), a housing loan entered into as part of the mortgage arrears resolution process described in Regulation 239 of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Conduct of Business) Regulations 20[].”

(2) Regulation 4(3) of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Investment Firms) Regulations 2023 (S.I. No. 10 of 2023) is substituted by the following:

“(3) An investment firm shall -

- (a) not change its name without the prior written approval of the Bank,
- (b) notify the Bank within 5 working days, in writing, of any change to the investment firm's registered office address, postal address, telephone number or email address,
- (c) where issuing correspondence relating to regulated activities, state on the investment firm's headed paper that it is regulated by the Bank, and
- (d) take appropriate steps to mitigate the risk that a customer will understand an activity to be, or to carry the protections of, a regulated activity where this is not the case, including through clearly distinguishing between the firm's regulated activities and its unregulated activities.

(4) An investment firm shall not provide the Bank, in purported compliance with supervisory and regulatory requirements, with information which it knows or ought reasonably to know to be false or misleading in a material respect.

(5) In this Regulation –

“regulated activities” means the provision of financial services, including financial products, that are provided in this State by an investment firm and which are subject to the regulation of the Bank;

“unregulated activities” means the provision of services of a financial nature, which are not otherwise regulated activities, to consumers in the State.”

Failure to comply with these Regulations

420. A failure by a regulated financial service provider to comply with any requirement or obligation imposed pursuant to these Regulations is a prescribed contravention for the purpose of the administrative sanctions procedure under Part IIIC of the Act of 1942 and may be subject

to enforcement action and the imposition of administrative sanctions by the Bank in accordance with that Part.

SCHEDULE 1

Regulation 174(4)(d)

Variable Rate Policy Statement

[Note to regulated financial service providers: Warning statements must be in compliance with Regulation 47 i.e. in a box, in bold type and of a font size that is at least equal to the predominant font size used throughout the summary statement.

“Warning: We may change the interest rate on this loan. This means the cost of your monthly repayments may increase or decrease.”]

What do we consider when setting our variable interest rates?

[Include the following information:

- (a) the factors and criteria that the regulated financial service provider uses in making a decision on the setting or changing of the variable interest rate. For example, where factors and criteria such as credit risk, cost of funds, operational costs, regulatory requirements, competitive position and environment, profitability and business strategy are relevant, include these factors and criteria in a manner that seeks to explain these factors and criteria in an informative and non-technical manner;
- (b) a statement outlining that variations/changes in the factors and criteria stated under this heading could result in changes to the variable interest rate.]

How do we make decisions when setting variable interest rates?

[Include information on the governance processes and procedures applied by the regulated financial service provider in setting the variable interest rate. Explain these processes and procedures at a high level using non-technical terms with a focus on the level within the regulated financial service provider at which decisions are made and their frequency on both a normal and extraordinary basis.]

Why do we have different variable interest rates?

[Set out the circumstances when the regulated financial service provider applies different variable interest rates to different cohorts of personal consumers and the reasons why different rates apply to those consumer cohorts.]

Could you get a different type of interest rate or a lower interest rate?

[Encourage the personal consumer to consider their mortgage options on a regular basis, note where information on alternative options with the regulated financial service provider is available (e.g. a website address or hyperlink to the relevant section of the regulated financial service provider's website), and encourage the personal consumer to contact the regulated financial service provider if they consider that there may be a better offer available for them, explaining how the personal consumer can do so.]

Instructions to regulated financial service providers when completing their Variable Rate Policy Statement

Draft the statement in a clear, consumer friendly manner and in plain English.

Before providing the Variable Rate Policy Statement to personal consumers or publishing it on its website, the regulated financial service provider shall first conduct consumer testing on the content to ensure that the content is clear and easily understood.

SCHEDULE 2

Regulation 208

Information notice

✓If you require this credit to pay for accommodation, food, electricity, heating, medication or other similar costs, availing of credit from a high cost credit provider may not be in your best interests. You can find more information on the Money Advice and Budgeting Service website at www.mabs.ie, including in relation to the debt counselling services of the Money Advice and Budgeting Service. [Insert the contact details for the Money Advice and Budgeting Service and information on any relevant charities which have notified the high cost credit provider that they may be able to assist consumers through the provision of emergency funds or items to meet their immediate basic needs.]

✓If you would like to take time to consider your options prior to completing a credit application further, please do so. However, you can proceed with your credit application if you wish. If you choose not to proceed with your credit application today, you can contact us again should you wish to discuss future credit.

SCHEDULE 3
Regulations 211 and 212

Information notice about credit from a licensed high cost credit provider

Warning: This is high-cost credit.

[Name of high cost credit provider] is the provider of high-cost credit.

Consider alternative options before applying for this credit, including alternatives from other lenders regulated by the Central Bank of Ireland.

For example:

- ✓ Shop around in order to know whether you can obtain credit on terms better suited to you.

- ✓ If you are struggling to manage your finances, talk to your creditors to agree a payment plan and ask the Money Advice and Budgeting Service for help. You can find more information on the MABS website at www.mabs.ie.

- ✓ If you are in receipt of social welfare payments, you may qualify for additional financial support which may address your immediate financial needs. Contact your local citizens information office for more information.

[Our high cost credit agreements have an APR of [insert interest rate as APR] with a cost of credit of [insert cost of credit in euro] per €100 borrowed.

or

Our high cost credit agreements range from having an APR of [insert lowest interest rate product provided as APR] with a cost of credit of [insert lowest cost of credit in euro] per €100 borrowed, to an APR of [insert highest interest rate product provided as APR] with a cost of credit of [insert highest cost of credit in euro] per €100 borrowed.

or in relation to running accounts

Our high cost credit agreements have a maximum APR of [insert interest rate as APR].]

Licensed high cost credit providers must assess your creditworthiness in accordance with regulatory requirements. Before providing credit, we will seek such information from you.

[Payments collected in person include a home collection charge. There are alternative collection methods that do not incur a charge, these are: [include details] [delete if not applicable]].

SCHEDULE 4

Regulation 220 – definition of “Standard Financial Statement”

[Note to regulated financial service providers: Provided that the standard financial statement (SFS) meets the prescribed format, a regulated financial service provider may improve the design and presentation of the SFS for the purpose of making the SFS more user-friendly for mortgage borrowers.]

Information to help you with completing the Standard Financial Statement (SFS)

Please read carefully

To complete the SFS, please use the Guide to completing a Standard Financial Statement published by the Central Bank and available on its website [insert “here” with relevant hyperlink].

We at [insert name of regulated financial service provider] are committed to working with customers who are in or facing financial difficulties to find a solution where that is possible. Before you complete this Standard Financial Statement (SFS), please read the following information which will assist you with understanding the document.

What is this Standard Financial Statement?

This SFS helps you set out your financial situation. After you complete it, we will assess your information as part of the Mortgage Arrears Resolution Process (MARP). We will then explore what type of alternative repayment arrangement (ARA), from the options we offer, is appropriate and sustainable for your individual circumstances. While it may look like a lot of information to provide, we only ask for the information we really need to help us to assess your financial situation and find, when possible, a suitable solution for you.

Where can I find more information on the MARP?

- Our MARP booklet can be found [insert “here” with relevant hyperlink]. The MARP booklet also provides useful information where no alternative solution is offered to you.
- The Central Bank’s [guide to the CCMA] outlines your protections when experiencing difficulties with your mortgage and can be found [insert “here” with relevant hyperlink].

What supports are available to help me complete the SFS?

Check our website for the range of the supports we provide [insert “here” with relevant hyperlink].

The **Central Bank’s Guide to completing a Standard Financial Statement** can be found [insert “here” with relevant hyperlink].

The **Money Advice and Budgeting Service (MABS)**: MABS is a free, confidential and independent service which will help you to complete the SFS. They will talk you through the document and give advice about the supporting documents you may need to provide.

Call the MABS [insert ‘Helpline’ or succeeding name of MABS Helpline] on [insert appropriate telephone number] and/or visit the website of MABS [insert “here” with relevant hyperlink].

Abhaile is a service to help homeowners find a resolution to home mortgage arrears. Depending on your situation, Abhaile provides vouchers for you to get financial advice, legal advice or insolvency advice and help from experts. The vouchers are available through MABS.

Mortgage to Rent (MTR) is a government scheme to help homeowners who are at risk of losing their homes due to mortgage arrears. The MTR scheme is a social housing option only available if you are eligible for social housing support and your mortgage is unsustainable.

For more information visit [insert “here” with hyperlink to relevant government website].

Other debt advisory services like a financial adviser

If you decide that you want a MABS adviser or a lawyer, accountant or financial adviser to act for you, we ask that you agree in writing for us to contact them. We will then work with them directly and no longer contact you except in relation to matters other than your arrears situation.

Other resources:

You can also check the website of the Competition and Consumer Protection Commission (**CCPC**) for useful information about loans and mortgages [insert “here” with hyperlink to CCPC website].

Who do I contact if I have a question?

If you have any questions, please contact us at [insert relevant contact details].

We have specially trained staff to deal with customers experiencing financial difficulties, and can help you with completing your SFS.

What’s in the SFS?

Please fill out all sections of the SFS fully and accurately and provide any documents that we may need to assess your financial circumstances. Any

missing documents will slow down the assessment of your SFS. The Table below outlines the content of each section of the SFS along with key points for you to note.

For information, all the terms in blue are explained in **Appendix 1** available at the end of this document. Please refer to this Appendix as you complete the SFS.

Appendix 2 provides a checklist of all documents which may be required to complete your SFS. Please note we may request additional documents from you if necessary to the assessment of your SFS.

[Note to regulated financial service providers: In the following pages of the document, use blue font for text in square brackets marked with an asterisk. “Borrower” has the same meaning as the defined term “mortgage borrower”.]

Information to be provided

| Section | This section asks for? | Tick when completed |
|--|--|----------------------------|
| Section A My details | Details about your personal circumstances, your name, address, occupation and the number of people living in your household. | [] |
| Section B My mortgage | Details about your mortgage on your primary residence, that is, the residential property you occupy as your primary residence, or the only residential property you own. This section also helps you to better understand the key elements of your mortgage. | [] |
| Section C My monthly income | Details on all your monthly income. | [] |
| Section D My monthly household expenditure | Details of all your expenditure or outgoings, calculated on a monthly basis. Details of all expenses that may be incurred during the expected period of financial difficulty should be included in the SFS | [] |
| Section E My monthly debt payments | Details about monthly amounts of all your other debt repayments (other than your mortgage repayment on your primary residence). | [] |
| Section F My other properties | Details on properties you own which are not your primary residence. | [] |
| Section G My other assets | Details of all other assets you own, either on your own or with someone else for example savings, cars, and shares. | [] |
| Section H Summary of your SFS | This section will help you to review the figures you inputted in sections B, C, D and E. | [] |

Section A: My details

| | | Borrower 1 | Borrower 2 |
|------------|--|--|-------------------|
| A1 | Name | | |
| A2 | [Correspondence address*] | | |
| A3 | Property address (if different to correspondence Address) | | |
| | | Please indicate preferred contact method | |
| A4 | Home telephone | | |
| A5 | Mobile | | |
| A6 | E-mail | | |
| A7 | Marital status | | |
| A8 | Date of birth | DD/MM/YYYY | DD/MM/YYYY |
| A9 | Total number of all persons in household | | |
| A10 | No. and age of [dependants*] | Dependant 1 Dependant 2 Dependant 3 Dependant 4 | |
| A11 | Are any of these dependants in third level education? [Yes/No] If Yes, please provide the number of expected years remaining. | | |
| A12 | Are any of these dependants or persons living in the household without being a dependant financially contributing to the household on a monthly basis? [Yes/No] If Yes, please include the monthly contribution in field C8. | | |
| A13 | Do any of these dependants have medical or care needs that have an impact on your financial situation? [Yes/No] If Yes, please include the monthly cost of any related medical expenses in field D4. | | |
| A14 | Are you currently employed? [Yes/No] If you are self-employed, please provide details. | | |
| A15 | What is your current occupation? If you are unemployed or retired, please include your previous occupation. | | |
| A16 | Are you in permanent employment? [Yes/No] | | |
| A17 | Name of current employer and your length of service | | |

| | | | |
|-------------------|--|---|---|
| <p>A18</p> | <p>For what reason(s) are you having, difficulty meeting your mortgage and/or other debt repayments? Please select all that apply.</p> | <p><input type="checkbox"/> Unemployment <input type="checkbox"/> Reduced Income <input type="checkbox"/> Illness <input type="checkbox"/> Divorce/Separation <input type="checkbox"/> Bereavement <input type="checkbox"/> School/College Fees <input type="checkbox"/> Household bills <input type="checkbox"/> Other (Please specify)</p> | <p><input type="checkbox"/> Unemployment <input type="checkbox"/> Reduced Income <input type="checkbox"/> Illness <input type="checkbox"/> Divorce/Separation <input type="checkbox"/> Bereavement <input type="checkbox"/> School/College Fees <input type="checkbox"/> Household bills <input type="checkbox"/> Other (Please specify)</p> |
| <p>A19</p> | <p>How long do you expect these difficulties to continue? (If you are not in a position to answer this question, please contact your mortgage provider to seek support on how to answer this question)</p> | <p><input type="checkbox"/> 0-3 months <input type="checkbox"/> 3-6 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12+ months</p> | <p><input type="checkbox"/> 0-3 months <input type="checkbox"/> 3-6 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12+ months</p> |

Section B: My mortgage

This section relates to the mortgage on your primary residence, that is, the residential property you occupy as your primary residence, or the only residential property in the State you own.

| | | | |
|------------|---|--|--|
| B1 | Mortgage provider | | |
| B2 | Mortgage Account Reference Number(s) | | |
| B3 | Account reference of any other mortgage account(s) on your primary residence (for example top-up account) | | |
| B4 | Total outstanding mortgage balance (€) (do not include arrears) This total should include the balances of B2 and B3 (if applicable) | | |
| B5 | Estimated current value of primary residence (€) | | |
| B6 | Monthly mortgage repayments due (€) | | H4 |
| B7 | Monthly mortgage repayments being paid (€) | | |
| B8 | Remaining term of mortgage | | |
| B9 | Current Interest Rate (%) Is this rate fixed, or variable? Please select Variable for tracker rate. | | <input type="checkbox"/> Fixed <input type="checkbox"/> Variable <input type="checkbox"/> Part fixed and part variable |
| B10 | Arrears balance (€) (if applicable) | | |
| B11 | Is your mortgage currently [restructured*]? [Yes/No] | | |
| B12 | Do you have a Payment Protection Insurance policy? [Yes/No] | | |

Section C: My monthly income

If you face seasonal or irregular income, please engage with your mortgage provider for further assistance on completing this section.

Please consult the SFS consumer Guide on how to calculate monthly income.

| | | Borrower 1 | Borrower 2 | TOTAL € | |
|---------------|--|-------------------|-------------------|----------------|-----------|
| C1 | [Gross monthly salary*] (for self-employed please refer to Revenue Form 11) | | | | |
| C2 | [Net monthly salary*] (for self-employed please refer to Revenue Form 11) | | | | |
| C3 | Monthly social welfare benefits Please list under rows C3 a, b and c. | | | | |
| C3 (a) | Benefit (please specify) | | | | |
| C3 (b) | Benefit (please specify) | | | | |
| C3 (c) | Benefit (please specify) | | | | |
| C4 | Child Benefit | | | | |
| C5 | [Mortgage Interest Supplement*] | | | | |
| C6 | Working Family Payment | | | | |
| C7 | Maintenance received | | | | |
| C8 | [Other (please specify)*] | | | | |
| C9 | Monthly rental income (from other properties) (report figure from F5) | | | | |
| C10 | Monthly income from non-property assets (report figure from G7) | | | | |
| C11 | Total monthly income (sum of C2 to C10) | | | | H1 |

Section D: My monthly household expenditure – Guidance

The figures you include in section D are based on your household’s individual circumstances. When calculating the average monthly cost for each of the expenses, you should seek to include the examples of items listed below in your figure for ‘average monthly cost’. To calculate your monthly average costs consult the SFS Guide [here]. You only need to include costs that are relevant to your household.

| | Expense | Examples of items to include in average monthly cost figure |
|------------|------------------------------------|---|
| D1 | Food | Groceries, takeaways and eating out (restaurants, cafés, canteens) |
| D2 | Clothing | Clothes and footwear |
| D3 | Personal care | Personal hygiene, baby/infant costs and grooming items |
| D4 | Health | Medicines and medical visits and appointments |
| D5 | Household goods | Furniture, appliances, cleaning products |
| D6 | Household services | Bin charges, household repairs and maintenance, local property tax, management fees, TV licence, TV channels and streaming services, bank charges or fees |
| D7 | Communications | Phone (mobile and landline) and internet |
| D8 | Education | Uniforms, books, school/college/course fees and contributions, extracurricular activities and costs linked to 3rd level accommodation. |
| D9 | Transport | Petrol, motor tax, NCT, vehicle repairs and maintenance, parking and tolls, public transport costs (including school transport), taxis, rental costs |
| D10 | Household Energy | Electricity and home heating |
| D11 | Insurance and Pension | Any type of insurance, including motor, home, health, mortgage protection, payment protection, income protection, life assurance, pension contribution, where not deducted from salary at source. |
| D12 | Savings | |
| D13 | Social inclusion and participation | Social events, sports and hobbies, special occasions such as Christmas or any religious holidays and birthdays, and other events or activities |
| D14 | Childcare | |
| D15 | Rent | For example, in the case of separated borrowers, where one borrower is not living in the household and is paying rent for other accommodation. |
| D16 | Other | Any other expenses not already captured. May include maintenance paid to spouse/child, costs associated with another property, elderly care, nursing home fees, carer fees, legal costs, children’s/ teenagers’ pocket money. |

Section D: My monthly household expenditure

Please read the guidance above before you fill in this section.

| | | Average Monthly Cost € | Arrears (where applicable) € |
|-----------|----------|-------------------------------|-------------------------------------|
| D1 | Food | | |
| D2 | Clothing | | |

| | | | | |
|------------|---|--|-----------|--|
| D3 | Personal care | | | |
| D4 | Health | | | |
| D5 | Household goods | | | |
| D6 | Household services | | | |
| D7 | Communications | | | |
| D8 | Education | | | |
| D9 | Transport | | | |
| D10 | Household energy | | | |
| D11 | Insurance and pension | | | |
| D12 | Savings | | | |
| D13 | Social inclusion and participation | | | |
| D14 | Childcare | | | |
| D15 | Rent | | | |
| D16 | Other (please specify) | | | |
| D17 | Total Monthly Expenditure (sum of D1 to D16) | | H2 | |

If there is any additional information not captured above that may impact your monthly expenditure, please include here [you may also use this text box to explain a high level of costs for certain items above]

Section E: My monthly debt payments

| | Debt type | Monthly repayments | | Remaining term | Total outstanding balance€ | Arrears balance€ | Provider |
|------------|--|--------------------|--------------|----------------|----------------------------|------------------|----------|
| | | Due € | Being paid € | | | | |
| E1 | [Court mandated debt*] (Please specify) | | | | | | |
| E2 | Credit union loan | | | | | | |
| E3 | Personal bank loan | | | | | | |
| E4 | [High cost credit loan / moneylending loan*] | | | | | | |
| E5 | Loans from family/friends | | | | | | |
| E6 | [Hire purchase/PCP agreement*] | | | | | | |
| E7 | [Credit card*] | | | | | | |
| E8 | Mortgage repayments on other properties (see F5) | | | | | | |
| E9 | [Revenue Debt*] | | | | | | |
| E10 | [Other debt (please specify)*] | | | | | | |
| E11 | [Other debt (please specify)*] | | | | | | |
| E12 | [Other debt (please specify)*] | | | | | | |
| E13 | Total (sum of E1 to E12) | | H5 | | | | |

Section E: My monthly debt payments

| | Debt type | Purpose of loan/debt | Is this debt secured [Yes/No] | Is this debt currently restructured? [Yes/No] |
|------------|--|-----------------------------|--|--|
| E1 | Court mandated debt (Please specify) | | | |
| E2 | Credit union loan | | | |
| E3 | Personal bank loan | | | |
| E4 | [High cost credit loan / moneylending loan*] | | | |
| E5 | Loans from family/friends | | | |
| E6 | Hire purchase/PCP agreement | | | |
| E7 | Credit card | | | |
| E8 | Mortgage repayments on other properties (see F5) | | | |
| E9 | Revenue Debt | | | |
| E10 | Other debt (please specify) | | | |
| E11 | Other debt (please specify) | | | |
| E12 | Other debt (please specify) | | | |
| E13 | Total (sum of E1 to E12) | | | |

Section F: My other properties (other than primary residence)

This section relates to properties you own or partially own which are not your primary residence.

When completing this section, please ensure the following:

- The figures for monthly rental income and monthly expenditure should also be included in Sections C (My Monthly Income) and D (My Monthly Expenditure)
- The figures for monthly mortgage repayments due and being paid should also be included in Section E (My Monthly Debt Payments)

| | Property (include details below) | [Property type*] | [Ownership type*] | Estimated current value € | Loan balance € | Arrears balance € | Monthly rental income € | [Monthly expenditure*] | |
|-----------|--|-------------------------|--------------------------|----------------------------------|-----------------------|--------------------------|--------------------------------|-------------------------------|--|
| F1 | 1 | | | | | | | | |
| F2 | 2 | | | | | | | | |
| F3 | 3 | | | | | | | | |
| F4 | 4 | | | | | | | | |
| F5 | Total | | | | | | | C9 | |

Section F: My other properties (other than primary residence)

This section relates to properties you own or partially own which are not your primary residence. When completing this section, please ensure the following:

- The figures for monthly rental income and monthly expenditure should also be included in Sections C (My Monthly Income) and D (My Monthly Expenditure)
- The figures for monthly mortgage repayments due and being paid should also be included in Section E (My Monthly Debt Payments)

| | Is this debt currently [restructured*]? [Yes/No] | Monthly mortgage repayments | | Mortgage provider | Is this property currently for sale? [Yes/No] |
|----|---|-----------------------------|-------------|-------------------|--|
| | | Due € | Being paid€ | | |
| F1 | | | | | |
| F2 | | | | | |
| F3 | | | | | |
| F4 | | | | | |
| F5 | | | E16 | | |

My other properties (other than primary residence)

| Property | Address | Date of purchase |
|----------|---------|------------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |

Section G: My other assets

| Asset Type | Original cost/ value € | Estimated current value € | Net monthly income | Please give any relevant details |
|------------|---------------------------|------------------------------|-----------------------|-------------------------------------|
| | | | | |

| | | | | | |
|-----------|---|--|--|--|-----------------|
| G1 | Savings/deposits/current account | | | | |
| G2 | [Shares*] | | | | |
| G3 | Redundancy payment(s) | | | | |
| G4 | Long-term investment (s) (for example, a pension fund) | | | | |
| G5 | Other investment(s) | | | | |
| G6 | Other assets (for example, vehicles, stock, machinery) | | | | |
| G7 | Total (sum of G1 to G6) | | | | C1 0 |

Please list all other liabilities, for example any guarantees given with respect to company borrowing or borrowing by a family member.

| Section H: Summary of financial situation (to be completed by the borrower) | | |
|--|--|---|
| H1 | Total Monthly Income (C11) | |
| H2 | Total Monthly Expenditure (D17) | – |
| H3 | Sub-Total (H1 minus H2) | = |
| H4 | Monthly Mortgage Repayments Due (B6) | – |
| H5 | Other Monthly Debt Repayments Due (E13) | – |
| H6 | Total Surplus/Deficit (Take away H4 and H5 from H3) | = |

Signature Page

All regulated financial service providers must ensure that the signature page of the Standard Financial Statement (SFS) is compliant with applicable Irish and/or EU law.

Data protection law and requirements:

All regulated financial service providers must include information for the borrower on the regulated financial service provider's obligations under applicable data protection law, for example, relating to the collection, processing and holding of the borrower's information.

Consent requirements:

A regulated financial service provider cannot deem a Standard Financial Statement to be incomplete where any optional consents have not been signed by the borrower.

It is the responsibility of a regulated financial service provider to ensure that the signature page of the Standard Financial Statement includes any wording or requests for consent necessary to comply with applicable Irish and/or EU law.

Borrower's declaration:

All regulated financial service providers must request a declaration from the borrower confirming the accuracy of the information provided in the Standard Financial Statement.

Appendix 1 - Glossary

Please find below useful guidance (terms explained and examples) to help you to complete your SFS.

| Section A My details | | |
|----------------------|------------------------|--|
| A2 | Correspondence address | This address will be used for all correspondence relating to this SFS. |

| | | |
|---|---|--|
| A10 | Dependant | A person who financially relies on you. |
| Section B My mortgage | | |
| B11 | Restructured | Select Yes if you have previously agreed with your mortgage provider to change the terms and conditions of your mortgage due to financial difficulties - for example reduced monthly payments. |
| Section C My monthly income | | |
| C1 | Gross monthly salary | Before tax and any other deductions at source |
| C2 | Net monthly salary | If you have a deduction from your salary at source for example for health insurance, pension, credit union or Revenue payments do not include them again. |
| C5 | Mortgage Interest Supplement | If you were previously eligible for and receiving this payment under the Mortgage Interest Supplement scheme, you should now receive it as part of the Supplementary Welfare Scheme. |
| C8 | Other | For example pension, room rent (for primary residence), grants, financial contribution from dependants. Please do not repeat any monthly income already covered under previous headings. |
| Section E My monthly debt payments | | |
| | Secured | Select yes if a security for example a property, a vehicle or a guarantee is attached to the debt. |
| | Restructured | Select yes if you have previously agreed with your loan provider to change the terms and conditions of your loan due to financial difficulties for example reduced monthly payments. |
| E1 | Court mandated debt | For example, fines, instalment orders, judgements. |
| E4 | High cost credit loan / moneylending loan | Typically small loans at a high rate of interest over a short period of time. |

| | | |
|--|-----------------------------|---|
| E6 | Hire purchase/PCP agreement | Type of credit, often associated with car financing. Under a hire purchase (HP) agreement, you hire the car, pay an agreed amount usually in monthly repayments, and only become the legal owner of the car at the end of the agreement. The legal owner of the car is the finance company that gave you the money to buy the car and you cannot sell the car without the finance company's permission. |
| E7 | Credit cards | Including credit cards linked to shops. |
| E9 | Revenue Debt | For example all arrangements you may have in place with the Revenue to pay taxes you were not in a position to pay fully. |
| E10 E11 E12 | Other Debt | For example additional loans or credit cards, overdrafts, payment of arrears on utilities, Buy Now Pay Later or shop credit. |
| Section F My other properties(other than primary residence) | | |
| | Ownership Type | For example, sole or joint ownership. Where you do not 100% own a property, please state the % of the property that you do own. |
| | Monthly Expenditure | For example, upkeep, maintenance, property tax. |
| | Restructured | Select yes if you have previously agreed with your mortgage provider to change the terms and conditions of your mortgage due to financial difficulties for example reduced monthly payments. |
| Section G My other assets | | |
| G2 | Shares | For example, credit union shares, bank shares, employee share schemes. |

Appendix 2

Please see below list of all documents needed to support your SFS.

Please note we may request additional documentation if needed to assess your financial circumstances

| Section | Documentation needed to complete this section (You only need to provide the documents relevant to your individual situation with your completed SFS) | Tick when completed |
|---|---|---------------------|
| Section A My details | No document required to complete this section | [] |
| Section B My mortgage | <p>Your annual mortgage statement</p> <p>A statement from your mortgage provider showing the total left to pay on your mortgage</p> <p>A statement of mortgage payments or confirmation from your mortgage provider of the amount of monthly mortgage payment</p> <p>Your mortgage provider should be in a position to give you with all the above information, so please engage with your mortgage provider.</p> <p>Print out showing current estimated value of your property</p> | [] |
| Section C My monthly income | <p>Employee: proof of income in the form of recent payslips</p> <p>Self-employed: audited or certified accounts, business account statements, personal tax return or tax balancing statement, Revenue Form 11</p> <p>Unemployed: most recent social welfare receipt for each social welfare payment received</p> <p>Retired: proof of receipt and amount of monthly pensions</p> <p>Proof of receipt of maintenance payments</p> <p>Proof of other income (see also Section F and Section G)</p> <p>Proof of monthly financial contribution received from dependants and/or non-dependants living in the household (for example bank statements).</p> | [] |
| Section D My monthly household expenditure | <p>Recent Bills (electricity, gas/oil, internet, telephone landline, mobile)</p> <p>Documents proving the amount spent on childcare and/or elderly care</p> <p>Proof of insurance (including motor, home, health, mortgage protection, payment protection, income protection, life assurance) and pension payments (pension contribution not deducted from</p> | [] |

| | | |
|---|---|-----|
| | <p>salary at source)</p> <p>Proof of maintenance payments</p> <p>Proof of rent paid</p> | |
| <p>Section E</p> <p>My monthly debt payments</p> | <p>Proof of any court payment due</p> <p>Statement related to any loans you have (credit unions, personal loans, credit cards, overdrafts, PCP/hire purchases)</p> <p>Statements should include the amount outstanding, the payments being made, the time left on each loan, the arrears balance, the reason for the loan</p> | [] |
| <p>Section F</p> <p>My other properties</p> | <p>Print outs showing estimated value of your properties</p> <p>Statement from your mortgage provider showing the full amount left to pay on each mortgage</p> <p>Statement of arrears on your mortgage accounts</p> <p>Proof of rental income</p> <p>Statement of mortgage payments or confirmation from your mortgage provider(s) of the amount of monthly mortgage payment</p> | [] |
| <p>Section G</p> <p>My other assets</p> | <p>Receipts and/or statements of purchase price for any asset</p> <p>Statement of current estimated value</p> | [] |

SCHEDULE 5

Regulation 287 – definition of “Standard Financial Statement”

[Note to regulated financial service providers: Provided that the standard financial statement (SFS) meets the prescribed format, a regulated financial service provider may improve the design and presentation of the SFS for the purpose of making the SFS more user-friendly for consumers.]

Information to help you with completing the Standard Financial Statement (SFS)

Please read carefully

To complete the SFS, please use the Guide to completing a Standard Financial Statement published by the Central Bank and available on its [website](#) [Insert “here” with relevant hyperlink].

For information, all the terms in blue are explained in **Appendix 1** available at the end of this document. Please refer to this Appendix as you complete the SFS.

Appendix 2 provides a checklist of all documents which may be required to complete your SFS. Please note we may request additional documents from you if necessary to the assessment of your SFS.

[Note to regulated financial service providers: In the following pages, use the document prescribed in Schedule 4 to these Regulations, excluding the information in that document entitled “Information to help you with completing the Standard Financial Statement (SFS)”, and use blue font for terms in square brackets marked with an asterisk.]

SCHEDULE 6

Regulation 289

INFORMATION TO BE PROVIDED TO CONSUMER

The following information, which is to be communicated to a consumer before entering into a contract for the provision of debt management services, shall be provided in a clear and accurate manner and on paper or on another durable medium. The title shall appear prominently at the top of the first page of the document followed by the explanatory statements.

WHAT YOU SHOULD KNOW ABOUT DEBT MANAGEMENT SERVICES

This document provides you with key information about debt management services. It is not marketing material. The information is required to help you understand the nature of this service and the risks of using the service. You are advised to read it so that you can take an informed decision about whether debt management services are suitable for your personal circumstances. You can engage with your creditors directly at any point in the process.

WE WILL CHARGE YOU FOR OUR SERVICES BUT THERE ARE SOURCES OF FREE DEBT ADVICE AND SERVICES

The Money Advice and Budgeting Service (MABS) offers free advice for people in debt, or in danger of getting into debt, in Ireland.

MABS can be contacted at its [insert 'Helpline' or succeeding name of MABS Helpline] [insert appropriate telephone number] which operates [insert Monday to Friday or applicable range of days] [insert times that MABS are available] or by email at: [insert helpline@MABS.ie or succeeding email address].

For details of your nearest office, visit the [Contact MABS](#) area of its website at: www.mabs.ie

OUR SERVICE COMMITMENT TO YOU

[Insert if relevant: WE CANNOT MAKE PAYMENTS TO YOUR CREDITORS ON YOUR BEHALF

We are not authorised to hold your funds or make payments on your behalf. If an arrangement is agreed with your creditor(s), it will be your responsibility to make the revised payments to the creditors].

YOU WILL KNOW THE TOTAL COST TO YOU OF ANY FEES AND CHARGES ASSOCIATED WITH THE SERVICE

Our fee and charges will be applied as follows:

[Insert details of the basis on which fees and charges will be calculated and on the precise services that will be provided for each of those fees and charges]

[Insert if relevant: YOUR ADVISOR WILL GO THROUGH A FULL FINANCIAL ASSESSMENT PROCESS WITH YOU WHICH WILL COVER ALL THE OPTIONS FOR DEALING WITH YOUR DEBT]

Your advisor will use a standard financial statement to obtain financial information from you.

You must ensure that all information about your personal and financial circumstances which you supply as part of the financial assessment is accurate.

[Insert if relevant: Your advisor will consider the debt management options available to you.]

YOU WILL RECEIVE A STATEMENT OF ADVICE

This statement of advice will provide you with details of a proposed course of action for you and explain why this proposed course of action is suitable and affordable for you.

How the proposed options work as well as any actual or potential consequences of the proposed course of action will be explained to you in the statement of advice.]

[Insert if relevant: AS YOU ARE AVAILING OF DEBT MANAGEMENT SERVICES ONLY IN RESPECT OF NEGOTIATION BETWEEN US AND YOUR CREDITORS, WE WILL NOT CONSIDER ALL THE OPTIONS FOR DEALING WITH YOUR DEBT AND YOU WILL NOT RECEIVE A STATEMENT OF ADVICE.]

OTHER INFORMATION YOU SHOULD BE AWARE OF

- You may be responsible for undertaking the actions proposed and you may engage a third party to assist you.
- Your creditors are not obliged to accept reduced repayments or freeze interest or charges.
- Your creditors' collection activities may continue even though you have engaged a debt management firm.
- If you cancel payments to your creditors, you will be in breach of your agreement with them and your account(s) will go into arrears or further into arrears.

- If you reduce your payments it may mean it takes longer to pay off your creditors and you may pay more than if you paid over a shorter term.
- If you undertake a proposed course of action it may affect your credit rating, which may limit your ability to access credit in the future.
- If you are a property owner, as part of any arrangement, you may be required to sell or re-mortgage your property to pay off some or all of your debts. Your ability to do so may be restricted and a mortgage may only be offered at a higher interest rate.
- If you are a property owner, failure to make the negotiated payments to creditors could result in you losing your home.

IF YOU WANT TO STOP USING OUR SERVICES AT ANY STAGE YOU MAY DO SO

If you wish to stop using our services, you can notify the firm that this is the case.

If you stop using our services, any outstanding charges will be payable as follows:

[Insert a description of how any outstanding charges for services provided will be dealt with if the consumer ceases using the service]

IF YOU ARE NOT HAPPY WITH SERVICE YOU RECEIVE FROM US, YOU HAVE THE RIGHT TO COMPLAIN

If you are not happy with the services we provide to you, you have the right to make a complaint to us. This will be handled in accordance with our complaints handling process.

If your complaint is not resolved to your satisfaction, you have the right to refer your complaint to:

Financial Services and Pensions Ombudsman,

[Insert Financial Services and Pensions Ombudsman's address].

Telephone: *[Insert telephone number(s) of the Financial Services and Pensions Ombudsman]*

SCHEDULE 7

Regulation 376(1)

KEY FEATURES DOCUMENT FOR TRACKER BONDS

HOW DOES THE [INSERT NAME] TRACKER BOND WORK?

This section shall include the following information:

- the name and address of the product producer(s);
- a brief description of the benefits promised by the tracker bond to the consumer, including the promised payment which applies. The compound annual rate equivalent of the promised payment, related to the total investment amount, must be shown;
- if there is a risk that the consumer may lose some or all of the money invested, a statement of this risk;
- if there is a risk that the consumer will not achieve the estimated or anticipated return on his or her investment, a statement of this risk;
- if averaging and/or any lock-in provisions can impact negatively on the promised benefits, as compared with an identical investment without such benefits, the way in which such an averaging or lock-in provision can lead to reduced return on his or her investment, which shall be disclosed prominently;
- whether or not the tracker bond will benefit from dividends payable on the underlying shares. If the tracker bond will benefit from such dividends, a clear statement of the extent to which the tracker bond will benefit. If the tracker bond will not benefit from such dividends, a clear statement that the tracker bond is suitable only as a capital growth investment;
- if the relevant credit institution or insurance undertaking benefits from any dividend or interest income arising from the investment used to secure the cash bonus promised to the consumer, a statement of this fact;
- if there is any currency risk, interest rate risk and/or price volatility risk to the consumer, in relation to the benefits promised, a statement of this risk;
- the period to the date of the promised payment;
- if the tracker bond is guaranteed, the level, nature, extent and limitations of the guarantee and the name of the guarantor;
- if the tracker bond involves leveraging, a statement of the effects.

WHERE DOES MY INVESTMENT GO?

This section shall show clearly the split of the investment amount (or a typical investment amount for this type of product if the disclosure is being made on a provisional or generic basis) into three components:

- 1 the open market value, at the date of investment, of the payment promised to the consumer;
- 2 the open market value, at the date of investment, of the cash bonus promised to the consumer; and
- 3 charges representing the balance.

The implied compound annual rate of the amount promised to the consumer, relative to the total investment amount, should also be stated prominently.

The disclosure shall take the following format:

| |
|---|
| <p>Your proposed investment of €xx,xxx will be used, at the date of investment, as follows: €xx,xxx, or xx%, will be used to secure the promised payment of €xx,xxx payable after yy years and mm months. This is equivalent to a promised return on this part of your investment of xx% pa, before tax is deducted. €xx,xxx, or xx%, will be used to secure the cash bonus which may be payable after yy years and mm months. €xx,xxx, or xx%, will be taken in charges. If applicable, intermediary remuneration must be disclosed in this section. €xx, xxx Total</p> <p>If the cash bonus is zero, the promised payment will represent a return of x.x% pa, on your total investment over the period to the date of the promised payment, before any tax is deducted.</p> <p>Where relevant, insert an explanation that the consumer's return on his or her investment will be capped/limited. This explanation should clearly set out that the excess of any earnings over the cap/limit will be retained by the product producer and / or a third party.</p> |
|---|

The open market value referred to above is the open market cost of the benefit promised to the consumer at the date of investment, net of the value of any commission or other reward or benefit payable to the credit institution or insurance undertaking and/or a connected party to that credit institution or insurance undertaking.

DO I HAVE ACCESS TO MY INVESTMENT?

In this section, the consumer shall be informed of the limited nature of the promised payment, e.g. that it is payable on one specified date only. This section shall also include the following information:

- whether or not the consumer can get access to part or all of their investment, before the date of the promised payment;
- if access is provided before this date, whether the encashment will be on promised terms or not;
- whether or not the consumer is likely to suffer a penalty or financial loss if access is provided to part or all of their investment, before the date of the promised payment.

WHAT HAPPENS IF I DIE BEFORE THE TRACKER BOND MATURES?

This section shall include the following information:

- the circumstances, if any, in which the tracker bond may or must be encashed on death and the procedure for encashing it on death, if this is allowed;
- the benefit payable on encashment of the tracker bond on death, when this benefit is payable, how this benefit is calculated, and whether there is any promised level of benefit payable on death.

WHAT ABOUT TAX?

This section shall include the following information:

- the tax that may be deductible by the regulated financial service provider from benefits payable;
- the circumstances, if any, in which the tax referred to above, may not be deductible from the benefits payable;
- a general statement that a consumer should satisfy themselves in relation to revenue reporting requirements and the implications of non-disclosure where required.

SCHEDULE 8

Regulation 378(1)

PRSA (PERSONAL RETIREMENT SAVINGS ACCOUNT)

WHAT IS A PRSA?

A PRSA is a way of helping people provide for their retirement by saving now. It is a long-term investment product sold by financial institutions and intermediaries. It allows you to create a pension fund for yourself when you retire; you can vary the amount you pay into it over time and, if you change employment, you can continue to use the same PRSA. You can switch from one PRSA to another at any time free of charge.

Types of PRSA:

There are two types of PRSA:

- Standard PRSA – where the charges you have to pay are capped i.e. there is a maximum level of charges allowed and where there are certain investment restrictions on how your money is invested.
- Non-Standard PRSA – where there is no maximum level of charges and there are fewer investment restrictions.

DO YOU NEED A PRSA?

To see if you need a PRSA you should ask yourself some questions:

- **Can you join an existing pension scheme in your job?** You should find out if there is a good scheme available to you through your job. If not, you will need to consider making provision for your retirement and should consider a PRSA. If you already have good pension arrangements you may not need to make any additional provisions or you may be able to top-up your benefits through making Additional Voluntary Contributions (AVCs).
- **What if you are in a Defined Benefit Scheme?** If you have a defined benefit pension scheme – a pension related to your salary, for example, two thirds of final salary on retirement – you may not need to make any further pension provisions or you may already have a facility to make additional voluntary contributions (AVCs). Transferring from a defined benefit scheme into a PRSA involves a risk and should only be done after very careful assessment of your financial position and the advantages/disadvantages for you – you will be foregoing a defined salary related pension in retirement for an uncertain income.
- **What if you are in a Defined Contribution Scheme?** If you are in a defined contribution scheme you are already carrying the investment risk – your pension will depend on the contributions you make together with the investment performance of

your fund less the charges involved. But your employer may be making a contribution to the Scheme – would this contribution continue if you transferred into a PRSA?

➤ **Should you start a PRSA if you already have a Personal Pension Plan?** You will need to take professional advice based on your personal circumstances.

WHAT TYPE OF PRSA IS BEST FOR YOU?

A Standard PRSA is likely to meet the requirements of most people. You cannot be charged more than the maximum level of charges allowed (5% of contributions paid and 1% per year of the PRSA assets).

The level of charges is very important. Charges reduce the fund you can build up. The size of your fund on retirement will depend on your contributions and the Investment performance less the charges deducted. Investment performance cannot be predicted, but higher charges are just like a weight handicap in a horse race – creating a need to produce a better investment performance just to remain level with products carrying lower charges.

Charges on non-Standard PRSAs are not capped and, in most cases, may be higher than on Standard PRSAs.

A second difference between Standard and non-Standard PRSAs is in the way in which your money is invested. A Standard PRSA invests only in pooled funds, where the risk is spread across a large number and type of investments. A non-Standard PRSA can offer you a wider investment choice. If a non-Standard PRSA is offered to you on the basis of the investment choice it gives you, you need to be sure that you understand the investment choices, and that you understand why you need them. This is your pension, your income in your retirement years. If you do not understand how your pension will be invested then perhaps you should consider again if this particular product is the one for you.

You should keep the level of your contributions and the investment performance of your PRSA under regular review, so you can see if your PRSA will provide you with the pension you need.

BUYER BEWARE - WHAT TO LOOK OUT FOR

Where a non-Standard PRSA is being offered or recommended to you, make sure you understand the differences between this product and a Standard PRSA, in particular the charges and investment choices of each product.

Beware of suggestions of better returns on non-Standard PRSAs. Predicting investment performance is notoriously difficult.

Beware if it is suggested to you, or you are advised, to abandon an existing pension plan in favour of a new PRSA. Make sure that you understand the reasons why this would be the best course of action for you.

SCHEDULE 9

Regulation 378(2)

NON-STANDARD PERSONAL RETIREMENT SAVINGS ACCOUNT

DECLARATION

TO BE COMPLETED BY THE VENDOR (WHETHER PRODUCT PRODUCER OR INTERMEDIARY).

Name of consumer to whom a non-Standard PRSA has been offered or recommended:
(Print name in block capital letters)

Name of non-Standard PRSA offered to the consumer:

Name of non-Standard PRSA product producer:

- a) I declare that I have explained to this consumer that there are differences between a non-Standard PRSA and Standard PRSA, and focused on the fact that the charges may be higher and the investment risks are greater for this non-Standard PRSA.
- b) I declare that in my opinion it is in the best interest of the above named consumer to purchase this non-Standard PRSA.
- c) I declare that in my opinion the non-Standard PRSA I have offered/recommended to the above named consumer is the PRSA product most suited to this consumer from among all those I am able to provide.

Signature of Salesperson:

Name of Salesperson (in block capitals):

Position Held:

Name of Regulated Entity:

Date of completion of the declaration:

Signed for and on behalf of the CENTRAL BANK OF IRELAND

on [day in numerals] [month in words] [year in numerals]

NAME,
Office/Position