



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Danièle NOUY

Chair of the Supervisory Board

Mr John McGuinness, TD
Mr Michael McGrath, TD
Dáil Éireann
Leinster House
Dublin 2

Frankfurt am Main, 8 November 2017

Re: Your questions on tracker mortgages in Ireland

Honourable Members of Parliament, dear Deputy McGuinness, dear Deputy McGrath,

On 27 October you approached the President of the ECB regarding the matter of tracker mortgages in Ireland. Given that you refer to the ECB's supervisory tasks, the President has forwarded your question to me. Please note that according to the SSM Regulation¹, national parliaments can address questions to ECB Banking Supervision.

The SSM Regulation has tasked the ECB with supervising credit institutions from a prudential perspective. This task is without prejudice to the responsibilities and related powers of the competent authorities of the participating Member States to carry out supervisory tasks not conferred on the ECB by the SSM Regulation². Therefore, supervisory tasks not conferred on the ECB remain with the national authorities. Those tasks include, among others, consumer protection³.

Tracker mortgage-related issues concern failures by some lenders in their treatment of some customers related to these kinds of contracts. This is therefore a consumer protection matter. Accordingly, consumer protection-related issues on tracker mortgages do not fall under the supervisory tasks conferred on the ECB but belong within the mandate of the Central Bank of Ireland.

The latter institution is therefore your relevant counterpart on the consumer protection aspects of your questions. In fact, in 2015 the Central Bank of Ireland launched an industry-wide Tracker Mortgage Examination and regularly publishes updates on this⁴. In addition, it has set up a framework for conducting the Tracker Mortgage Examination and Principles for Lenders with tracker mortgage-related issues.

At the same time, the failure by credit institutions to comply with their obligations towards their customers may have prudential implications and may therefore raise supervisory concerns for the ECB. Such concerns

¹ Article 21(2) of the SSM Regulation.

² Article 1 of the SSM Regulation.

³ Recital 28 of the SSM Regulation.

⁴ See <https://www.centralbank.ie/consumer-hub/tracker-mortgage-examination>

include those relating to the extent of the financial implications for credit institutions that may be required to pay compensation for the damage suffered by their customers and that may become subject to sanctions from the Central Bank of Ireland for breaching their contractual obligations towards their clients, and hence whether banks hold sufficient capital against operational/conduct risk as well as the adequacy of banks' governance and internal controls in preventing misconduct. Any matters that may have prudential implications are assessed under the Supervisory Review and Evaluation Process (SREP) of the ECB and measures are taken to address supervisory concerns.

These measures are therefore distinct in nature from conduct supervision, which strives to detect, correct and sanction any type of misconduct by banks in the market. This conduct supervision is also part of the mandate of the Central Bank of Ireland and is not among the tasks conferred on ECB Banking Supervision.

Yours sincerely,

[signed]

Danièle Nouy