



STATUTORY INSTRUMENTS.

S.I. No. 546 of 2022

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013
(SECTION 48(1)) (HOUSING LOAN REQUIREMENTS) REGULATIONS
2022

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In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 48(1) of the Central Bank (Supervision and Enforcement) Act 2013 (the “Act”), the Bank, having consulted with the Minister for Finance in accordance with section 49(1) of the Act, hereby makes the following regulations:

Regulation 1 Citation

(1) These Regulations may be cited as the Central Bank (Supervision and Enforcement) Act 2013 (Section 48(1)) (Housing Loan Requirements) Regulations 2022.

(2) These Regulations come into operation on 1 January 2023.

Regulation 2 Definitions

(1) In these Regulations -

“appraiser” means the individual appointed by a lender to determine the market value of a residential property in accordance with Regulation 8;

“arrears” means any amount under a housing loan that is due but unpaid;

“Bank” means the Central Bank of Ireland;

“borrower” means a person, or where there is more than one person, each of such persons, to whom a lender advances a housing loan;

“civil partner” has the meaning given by Section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24 of 2010);

“cohabitant” has the meaning given by Section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“consumer” means:

(a) a natural person who is acting for purposes outside his or her trade, business or profession; or

(b) a person who satisfies both of the following:

(i) has an annual turnover of €3 million or less in the financial year before the housing loan is advanced;

(ii) is not a member of a group of persons having a combined annual turnover of more than €3 million in the financial year before the housing loan is advanced;

“durable medium” means any instrument that enables a lender to store information 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;

“equity release product” means a new housing loan for principal home purposes, other than a lifetime mortgage, where the borrower-

- (a) was previously advanced a housing loan by a lender for principal home purposes, and was treated as a first-time borrower in respect of that housing loan, and
- (b) the new housing loan is secured or to be secured on the same residential property as the housing loan referred to in (a);

“first-time borrower” means, subject to paragraph (2), a borrower to whom no housing loan has ever before been advanced, or a borrower in respect of which one or more of the following apply:

- (a)
 - (i) the borrower, together with a spouse, a civil partner, or a cohabitant, was previously advanced a housing loan for principal home purposes, and was treated as a first-time borrower in respect of that housing loan,
 - (ii) the marriage, civil partnership or relationship has ended,
 - (iii) the borrower has divested of his or her interests in the residential property the subject of the housing loan referred to in (i), and has discharged of his or her liabilities in respect of that property, and otherwise does not have an outstanding liability under any other housing loan, and
 - (iv) the borrower is advanced a new housing loan for principal home purposes;
- (b) a borrower is advanced an equity release product;
- (c) a borrower who was advanced a housing loan in respect of a principal home which the borrower has since sold, or has been divested of, as part of a personal insolvency or bankruptcy arrangement or proceedings or other legal process consequent upon same, and is advanced a new housing loan for principal home purposes;

“government shared equity scheme” means a scheme whereby the Minister for Housing, Local Government and Heritage may, out of moneys provided by the Oireachtas, contribute funds towards a special purpose vehicle established to make funds available to purchase an equity share in dwellings for the purpose of assisting persons to purchase such dwellings in accordance with the terms of a memorandum of agreement made between the Minister for Housing, Local Government and Heritage and such special purpose vehicle, as provided for at Part 4 of the Affordable Housing Act 2021 (No. 25 of 2021);

“group” includes the following associations, relationships and arrangements:

- (a) associated undertakings within the meaning of paragraph 20 of Schedule 4 to the Companies Act 2014 (No. 38 of 2014);

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

“housing loan” means –

- (a) the amount advanced or the total sum of amounts advanced by a lender to a borrower which are or are to be secured on a residential property, or
- (b) where the context so requires in:
 - (i) Regulation 5(4),
 - (ii) Regulation 6(5), or
 - (iii) Regulation 7(3),

the amount to be advanced or the total sum of amounts to be advanced by a lender to a borrower which will be secured on a residential property;

“housing loan agreement” means an agreement in writing entered into by a lender to provide a loan which is to be secured on a residential property;

“income” means the total gross annual income, before tax or other deductions, of the borrower;

“lender” means a regulated financial service provider that provides a housing loan to a borrower;

“lifetime mortgage” means a housing loan where-

- (a) the housing loan is made for principal home purposes,
- (b) no amount outstanding under the housing loan is due, or capable of becoming due, to be repaid or paid, including by way of periodic instalments, until either of the following events occurs:
 - (i) the death of the borrower;
 - (ii) the residential property on which the housing loan is secured ceases to be the principal home of the borrower, whether as a result of it being vacated permanently, or disposed of, by the borrower, or as a result of another residential property owned or acquired by the borrower becoming their principal home, or for any other reason, and
- (c) subparagraph (b) of this definition is without prejudice to –
 - (i) any voluntary repayment or payment by the borrower, and

- (ii) the exercise by any person of a legal right, including, but not limited to, the right to take possession, compel the sale or enforce the security held in respect of the residential property on which the housing loan is secured.

“loan-to-value ratio” means the ratio of the total amounts advanced under a housing loan to the value of the residential property as determined in accordance with the following equation and expressed as a percentage of that value: Where: LTV = loan-to-value ratio L = the total amounts advanced under the housing loan V = the value of the residential property;

“market value” is the market value assessed in accordance with Regulation 8, and means, in relation to a residential property, the estimated amount for which the residential property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion, and “market valuation” shall be construed accordingly;

“negative equity loan” means, subject to paragraph (3), an amount that a borrower owes to a lender under a loan that had been a housing loan made for principal home purposes where the relevant principal home has been sold and the proceeds from the sale have been insufficient to discharge in full the amounts (whether principal, interest, arrears, other amounts or any combination of them) that had been outstanding under the housing loan;

“pre-arrears” means a housing loan in respect of which there is a reasonable prospect that the borrower will go into arrears;

“principal home” means, subject to paragraph (4), a residential property which an individual who is a borrower under a housing loan secured or to be secured on that residential property, occupies or intends to occupy as his or her principal residence or, where the housing loan is provided for the purpose of constructing a building, where the individual intends to occupy that building as his or her principal residence following completion of the building;

“principal home purposes” means a residential property which a borrower uses or intends to use for the purpose of his or her principal home;

“relevant period” means the period from 1 January 2023 up to and including 31 December 2023 and, thereafter, the period from 1 January up to and including 31 December in each subsequent year;

“residential property” means-

- (a) a building or part of a building, and land on which a building is to be constructed which at the date the conveyance or lease is executed, was used, or it is the intention of the borrower that the building or part of the building would be used, as a dwelling or would have a dwelling constructed on it, and
- (b) the building, or part of the building, does not have or will not have a commercial use on a primary basis;

“value” means:

- (a) where the borrower already has a housing loan secured on the residential property, the market value of that residential property;
 - (b) where the housing loan agreement is entered into for the purpose of either purchasing land with the intention of constructing a building on that land, or constructing a building, the value is the lower of -
 - (i) the market value of the land on which the building is to be constructed and the estimated cost of construction of that building at the time of entering into the housing loan agreement, or
 - (ii) the value of the residential property, the subject of that housing loan agreement, as assessed by a suitably qualified person appointed by the lender, where that suitably qualified person's assessment of value is based on the estimated amount for which the residential property should exchange between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion, where that estimated amount includes the estimated amount by which completion of all proposed construction works should alter the value of the land or buildings of that residential property;
 - (c) in any other case, the price agreed in the contract of sale between the buyer and the seller for the residential property excluding associated costs for such sale, such as legal fees and stamp duty or, if lower, the market value of the residential property.
- (2) Where-
- (a) the borrower under a housing loan is more than one person, and
 - (b) one or more of those persons constituting the borrower is not a first-time borrower,
- none of those persons shall be regarded as a first-time borrower.
- (3) Where the borrower under a negative equity loan is more than one person, all borrowers will be regarded as borrowers under negative equity loans where any one or more of the persons under the housing loan is a borrower under a negative equity loan.
- (4) Where a borrower under a housing loan is more than one person, and at least one of those persons occupies the residential property or intends to occupy the residential property as a principal home, that residential property is a principal home for the purposes of these Regulations.

Regulation 3 Scope of the Regulations

- (1) These Regulations apply to a housing loan -
 - (a) secured or to be secured on residential property in the State, and
 - (b) advanced to -
 - (i) a borrower who is a consumer, or
 - (ii) more than one borrower where at least one of these borrowers is a consumer.
- (2) A lender shall not-
 - (a) engage in a practice,
 - (b) enter into an arrangement or transaction,
 - (c) execute a document, or
 - (d) structure or restructure a loan,

for the purpose or having the effect (whether or not as the sole or primary purpose or effect) of avoiding its obligations under these Regulations.

(3) A lender shall not be taken to have contravened paragraph (2), with regard to a lender's participation in the government shared equity scheme, where the lender participates in the government shared equity scheme.

Regulation 4 Exemptions

These Regulations shall not apply to:

- (a) a new housing loan under which amounts are advanced by the lender to refinance the full amount outstanding under an existing housing loan, where the new housing loan is secured or to be secured on the same residential property as the existing housing loan, and the amount to be advanced under the new housing loan does not exceed the amount outstanding under the existing housing loan (whether or not the lender in respect of the existing housing loan and the new housing loan are the same). In determining the amount advanced under the new housing loan no account shall be taken of-
 - (i) arrangement fees,
 - (ii) professional fees and costs, or
 - (iii) administration costs,

payable in respect of the new housing loan;
- (b) a housing loan the purpose of which is to address the arrears or pre-arrears of the borrower on an existing housing loan by agreeing alternative repayment arrangements;
- (c) without limiting the generality of paragraph (b), a housing loan entered into as part of the Mortgage Arrears Resolution Process described in provision 16 of the Code of Conduct on Mortgage Arrears issued by the Bank.

Regulation 5 First-Time Borrowers

- (1) Subject to paragraph (2) and paragraph (3), a lender shall ensure that –
- (a) a housing loan advanced by the lender to a first-time borrower for principal home purposes does not exceed a multiple of 4 times the first-time borrower's income, and
 - (b) the loan-to-value ratio of a housing loan advanced by the lender to a first-time borrower for principal home purposes shall not exceed 90 per cent.

(2) Paragraph 1(a) shall not apply to a lifetime mortgage.

(3) A lender shall ensure that the total aggregate monetary amounts advanced under housing loans –

- (a) made to borrowers who are first-time borrowers,
- (b) made for principal home purposes, and
- (c) which do not comply with either paragraph 1(a) or paragraph 1(b) or both,

within a relevant period does not exceed 15 per cent of the total aggregate monetary amounts advanced to borrowers who are first-time borrowers under housing loans made for principal home purposes in that relevant period.

(4) If, in a relevant period referred to in paragraph (3), a lender has issued a fully underwritten approval in respect of a housing loan for principal home purposes to a first-time borrower, and the housing loan –

- (i) does not comply with either paragraph 1(a) or paragraph 1(b) or both, and
- (ii) is not advanced during that relevant period,

provided that the housing loan is advanced within 6 months of the end of that relevant period, it may be regarded as having been advanced during the relevant period referred to in paragraph (3) for the purposes of calculating the total aggregate monetary amounts advanced to first-time borrowers made for principal home purposes and which do not comply with either paragraph 1(a) or paragraph 1(b) or both.

(5) The value of the total aggregate monetary amounts advanced by a lender to which paragraph (4) applies, shall not be included for the purposes of calculating the total aggregate monetary amounts advanced by a lender to first-time borrowers under housing loans made for principal home purposes in any relevant period.

Regulation 6 Borrowers who are not First-Time Borrowers

- (1) Subject to paragraph (2) and (3), a lender shall ensure that –
- (a) a housing loan advanced by the lender to a borrower that is not a first-time borrower for principal home purposes does not exceed a multiple of 3.5 times that borrower's income, and

- (b) the loan-to-value ratio of a housing loan advanced by the lender to a borrower that is not a first-time borrower for principal home purposes shall not exceed 90 per cent.
- (2) Paragraph 1(a) shall not apply to a lifetime mortgage.
- (3) Paragraph 1(b) shall not apply to a new housing loan for the purchase of a principal home advanced to a borrower who, at the time that the housing loan is advanced, is a borrower under a negative equity loan.
- (4) A lender shall ensure that the total aggregate monetary amounts advanced under housing loans-
 - (a) made to borrowers who are not first-time borrowers,
 - (b) made for principal home purposes, and
 - (c) which do not comply with either paragraph 1(a) or paragraph 1(b) or both,
 within a relevant period does not exceed 15 per cent of the total aggregate monetary amounts advanced to borrowers who are not first-time borrowers under housing loans made for principal home purposes in the relevant period.
- (5) If, in a relevant period referred to in paragraph (4), a lender has issued a fully underwritten approval in respect of a housing loan for principal home purposes to a borrower that is not a first-time borrower, and the housing loan-
 - (i) does not comply with either paragraph 1(a) or paragraph 1(b) or both, and
 - (ii) is not advanced during that relevant period,
 provided that the housing loan is advanced within 6 months of the end of that relevant period, it may be regarded as having been advanced during the relevant period referred to in paragraph (4) for the purposes of calculating the total aggregate monetary amounts advanced to borrowers who are not first-time borrowers made for principal home purposes and which do not comply with either paragraph 1(a) or paragraph 1(b) or both.
- (6) The value of the total aggregate monetary amounts advanced by a lender to which paragraph (5) applies, shall not be included for the purposes of calculating the total aggregate monetary amounts advanced by a lender to borrowers that are not first-time borrowers under housing loans made for principal home purposes in any relevant period.

Regulation 7 Housing Loans that are not for Principal Home Purposes

- (1) Subject to paragraph (2), a lender shall ensure that the loan-to-value ratio of a housing loan which is not made for principal home purposes shall not exceed 70 per cent.
- (2) A lender shall ensure that the total aggregate monetary amounts advanced under housing loans that are not made for principal home purposes and that do not comply with paragraph (1) shall not exceed 10 per cent of the total aggregate monetary amounts advanced to borrowers under housing loans which are not made for principal home purposes in that relevant period.

(3) If, in a relevant period referred to in paragraph (2), a lender has –

- (a) issued a fully underwritten approval in respect of a housing loan to be advanced to a borrower under a housing loan which is not made for principal home purposes and which does not comply with paragraph (1), and
- (b) that housing loan is not advanced during that relevant period,

provided that the housing loan is advanced within 6 months of the end of that relevant period, it may be regarded as having been advanced in the relevant period referred to in paragraph (2) for the purposes of calculating the total aggregate monetary amounts advanced by the lender to borrowers under housing loans which are not made for principal home purposes and which do not comply with paragraph (1).

(4) The value of the total aggregate monetary amounts advanced by a lender to which paragraph (3) applies, shall not be included for the purposes of calculating the total aggregate monetary amounts advanced to borrowers under housing loans which are not made for principal home purposes in any relevant period.

Regulation 8 Valuation of Residential Property

(1) The market value of a residential property shall be determined in the manner set out in paragraphs (2), (3) and (4).

(2) A lender shall appoint an appraiser to calculate the market value of the relevant residential property and such appraiser shall:

- (a) be professionally competent and sufficiently independent from the housing loan underwriting process so that he or she can provide an impartial and objective valuation;
- (b) assess the market value of the residential property and document that assessment in a clear and transparent manner;
- (c) record the methodology for, and the outcome of, the calculation of the market value in a durable medium;
- (d) provide a copy of the information referred to in paragraph (c) to the lender.

(3) Subject to paragraph (4), a lender shall ensure that the appraiser appointed by that lender shall undertake a market valuation of a residential property which is required under these Regulations not earlier than a period of 4 months before the date on which the advance under the housing loan is made by the lender.

(4) Where the housing loan is provided for the purpose of purchasing land with the intention of constructing a building, or for the construction of a building, the market value of the land on which the building is to be constructed shall be assessed not earlier than 4 months before the date on which the housing loan agreement is entered into by the lender.

(5) A lender shall maintain a copy of the information referred in subparagraph (2)(c) in a durable medium.

Regulation 9 Transitional Arrangements –Carry-over of Allowances

(1) In respect of housing loans to which -

- (a) Regulation 5(1A),
- (b) Regulation 5(2A),
- (c) Regulation 6(2)(b),
- (d) Regulation 6(2A)(b), or
- (e) Regulation 6(4)(b),

of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Housing Loan Requirements) Regulations 2015 [S.I. No. 47 of 2015] apply at the conclusion of the relevant period, the following Regulations of the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Housing Loan Requirements) Regulations 2015 shall continue in effect until 30 June 2023 as if these Regulations had not come into operation:

- (a) Regulations 5(1A) and Regulation 5(1B);
- (b) Regulation 5(2A) and Regulation 5(2B);
- (c) Regulation 6(2)(b) and Regulation 6(2)(c);
- (d) Regulation 6(2A)(b) and Regulation 6(2A)(c); and
- (e) Regulation 6(4)(b) and Regulation 6(4)(c).

(2) In paragraph (1) ‘relevant period’ means the period beginning 1 January 2022 and ending 31 December 2022 inclusive.

Regulation 10 Saver

Without prejudice to the generality of section 27 of the Interpretation Act 2005 (No.23 of 2005), the revocation of any enactment, or part of enactment, by these Regulations—

- (a) shall not affect any direction given by the Bank, any investigation undertaken, or disciplinary 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, and
- (b) shall not preclude the taking of any legal proceedings, or the undertaking of any investigation, or disciplinary or enforcement action by the Bank or any other person, in respect of any contravention of an enactment (including anything revoked by these Regulations) or any misconduct which may have been committed before the time of the revocation.

Regulation 11 Revocations

The following are revoked:

- (a) the Central Bank (Supervision and Enforcement) Act 2013 (Housing Loan Requirements) Regulations 2015 (S.I. No. 47 of 2015);

- (b) the Central Bank (Supervision and Enforcement) Act 2013 (Housing Loan Requirements) (Amendment) Regulations 2016 (S.I. No. 568 of 2016);
- (c) the Central Bank (Supervision and Enforcement) Act 2013 (Housing Loan Requirements) (Amendment) Regulations 2017 (S.I. No. 559 of 2017);
- (d) the Central Bank (Supervision and Enforcement) Act 2013 (Housing Loan Requirements) (Amendment) Regulations 2019 (S.I. No. 369 of 2019); and
- (e) the Central Bank (Supervision and Enforcement) Act 2013 (Housing Loan Requirements) (Amendment) Regulations 2021 (S.I. No. 666 of 2021).

Signed for and on behalf of the CENTRAL BANK OF IRELAND
28 October 2022

GABRIEL MAKHLOUF,
Governor of the Central Bank of Ireland.

EXPLANATORY NOTE

(This note does not form part of the Instrument and does not purport to be a legal interpretation)

These Regulations set limits for lenders on the proportion of mortgage loans that they may advance in certain categories by reference to:

- a.the value of the property on which the mortgage loan is or is to be secured, and
- b.the income of the borrower.

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