



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Danièle NOUY
Chair of the Supervisory Board

Mr Brian Hayes
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 24 November 2017

Re: Your letter (QZ100)

Honourable Member of the European Parliament, dear Mr Hayes,

Thank you for your letter relating to tracker mortgages-related issues in Ireland, which was passed on to me by Mr Roberto Gualtieri, Chair of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 7 November 2017.

The SSM Regulation¹ 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 Regulation.² Therefore, supervisory tasks not conferred on the ECB remain with the national authorities. Those tasks include, among others, consumer protection.³

Tracker mortgage-related issues in Ireland concern failures by some lenders in their treatment of certain customers under tracker mortgage contracts. These issues are considered to be consumer protection matters. As a consequence, they do not fall under the supervisory tasks conferred on the ECB but are within the mandate of the Central Bank of Ireland.

The latter institution is therefore your relevant counterpart on the consumer protection and enforcement 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 its progress.⁴ In addition, it has set up a framework for conducting the Tracker Mortgage Examination and has laid down the Principles for lenders when tracker mortgage-related issues are identified for redress.

¹ 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>

The assessment of systemic risk remains, in the first instance, within the mandate of the national competent authorities; therefore, the Central Bank of Ireland is also your relevant counterpart on this topic. In the course of our interaction with the Central Bank of Ireland, it has confirmed that while the relevant Irish credit institutions have booked provisions to deal with the tracker mortgage issue, work is ongoing to assess the adequacy of the level of coverage. The ECB has not received any indication from the Central Bank of Ireland that the issue could pose a systemic risk.

At the same time, any failure by credit institutions to comply with their obligations towards their customers may have prudential implications, which would raise supervisory concerns for the ECB. For example, the financial implications for credit institutions that may be required to pay compensation for the damage suffered by their customers, or that may be subject to sanctions imposed by the Central Bank of Ireland for breaching their contractual obligations towards their customers, would raise supervisory concerns, as would whether banks hold sufficient capital against operational/conduct risk, as well as the adequacy of banks' governance and internal controls for 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 from conduct supervision, which strives to detect, correct and impose sanctions for any type of misconduct by banks in the market. 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