CO-OPERATION AGREEMENT

BETWEEN

THE COMPETITION AND CONSUMER PROTECTION COMMISSION

AND

THE CENTRAL BANK OF IRELAND

This Agreement is made on the 13 day of December 2021 pursuant to section 19 of the Competition and Consumer Protection Act 2014

Between

The Competition and Consumer Protection Commission, Bloom House, Railway Street, Dublin 1

and

The Central Bank of Ireland, North Wall Quay, New Wapping Street, Dublin 1.

1. Definitions

1.1. For the purposes of this Agreement, the following definitions shall apply:

"Agreement" means all provisions of this Agreement, as from time to time amended by agreement between the Parties in accordance with Clause 13 of the Agreement;

"Bank" means the Central Bank of Ireland;

"CCPC" means the Competition and Consumer Protection Commission;

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

"Competition Act" means the Competition Act 2002 (No. 14 of 2002);

"Competition and Consumer Protection Act" means the Competition and Consumer Protection Act 2014 (No. 29 of 2014);

"Consumer Credit Agreements Regulations" means the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010);

"Consumer Protection Act" means the Consumer Protection Act 2007 (No. 19 of 2007);

"Credit Transfers and Direct Debits in Euro Regulations" means the European Union (Requirements for Credit Transfers and Direct Debits in Euro) Regulations 2013 (S.I. No. 132 of 2013);

"Distance Marketing Regulations" means the European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004 (S.I. No. 853 of 2004);

"Interchange Regulations" means the European Union (Interchange Fees for Card-based Payment Transactions) Regulations 2015 (S.I. No. 550 of 2015);

"Liaison Officer" means a liaison officer designated from time to time by the Parties to this Agreement for the purpose of transmitting or receiving information between the Parties pursuant to law;

"Mortgage Credit Agreements Regulations" means the European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016);

"Party" means the CCPC and/or the Bank, and "Parties" shall be construed accordingly;

"Payment Accounts Regulations" means the European Union (Payment Accounts) Regulations 2016 (S.I. No. 482 of 2016);

"Regulated financial service provider" has the same meaning as in section 2(1) of the Central Bank Act;

"Unfair Terms Regulations" means the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 (S.I. No. 27 of 1995).

1.2. A word or expression used in this Agreement has, unless the contrary intention appears, the same meaning, description or explanation in this Agreement that it has in the Consumer Protection Act, the Competition Act, the Competition and Consumer Protection Act or the Central Bank Act.

2. Purpose of this Agreement

2.1. The purpose of this Agreement is to provide a framework for the relationship between the CCPC and the Bank in the performance of their respective functions. The parties enter into this Agreement pursuant to section 19 of the Competition and Consumer Protection Act, setting out the terms under which the Parties agree to give effect to the provisions of section 19(1) of that

Act. Among other things, the Parties wish to facilitate the performance of their concurrent functions under, inter alia, (i) the Consumer Protection Act, and (ii) the Unfair Terms Regulations.

2.2. The Parties acknowledge that, notwithstanding any other provision of this Agreement, they may only disclose information in accordance with this Agreement if permitted or not prevented under any applicable laws, including section 33AK of the Central Bank Act and EU Law. All expressions of co-operation, consultation or exchange of information etc. shall be construed by reference to this paragraph.

2.3. This Agreement is a Co-operation Agreement and is not intended to create binding or legal obligations on either Party.

2.4. The Parties shall provide mutual assistance as set forth in this Agreement to the extent possible.

THE PARTIES NOW AGREE AS FOLLOWS, PURSUANT TO THE PROVISIONS OF SECTION 19(1) OF THE COMPETITION AND CONSUMER PROTECTION ACT

3. Establishment of the Parties

3.1. The CCPC was established under Part 2, Chapter 1 of the Competition and Consumer Protection Act. Its statutory functions are set out principally in section 10 of that Act.

3.2. The Bank was established pursuant to Part II of the Central Bank Act and its statutory functions are set out therein.

4. Roles of the Parties

The roles of the Parties are summarised below:

4.1. *The CCPC*

The CCPC is charged with: (a) promoting competition; (b) promoting and protecting the interests and welfare of consumers; (c) carrying out an investigation, either on its own initiative or in response to a complaint made to it by any person, into any suspected breach, which may be occurring or has occurred, of the provisions referred to in section 10(1)(c) of the Competition and Consumer Protection Act; (d) enforcing the "relevant statutory provisions" (as defined in Section 2 of the Competition and Consumer Protection Act); (e) encouraging compliance with the relevant statutory provisions; (f) setting the strategic objectives for the CCPC; and (e) ensuring that appropriate systems and procedures are in place to achieve the CCPC's strategic objectives and taking all reasonable steps available to it to achieve those objectives.

4.2. *The Bank*

In addition to the primary European System of Central Banks ("ESCB") objective of price stability, the Bank has the following objectives: (a) the stability of the financial system overall; (b) the proper and effective regulation of financial service providers and markets, while ensuring that the best interests of consumers of financial services are protected; (c) the efficient and effective operation of payment and settlement systems; (d) the provision of analysis and comment to support national economic policy development; (e) resolution of financial difficulties in credit institutions; and (f) the discharge of such other functions and powers as are conferred on it by law. In order to attain these objectives the Bank has a variety of powers and functions.

5. Principal Concurrent and Related Functions of the Parties

5.1. In accordance with section 5A(4) of the Central Bank Act certain functions under the Consumer Protection Act and the Unfair Terms Regulations are vested concurrently in both the CCPC and the Bank. In this respect, and insofar as these functions relate to a financial service provided by a regulated financial service provider, the functions specified in section 5A(5) of the Central Bank Act can be performed by either the CCPC or the Bank. The CCPC and the Bank also have concurrent functions under other legislation, including the Consumer Credit Agreements Regulations and the Distance Marketing Regulations. The functions referred to in this Clause 5.1 are hereinafter referred to as "Concurrent Functions".

5.2. The Parties have non-concurrent, but related, functions under other legislation including (i) the Interchange Regulations, (ii) the Credit Transfers and Direct Debits in Euro Regulations, (iii) the Mortgage Credit Agreements Regulations, and (iv) the Payment Accounts Regulations. The functions referred to in this Clause 5.2 are hereinafter referred to as "Related Functions".

6. General Co-operation

6.1. The Parties will seek to maintain strong and constructive relationships with each other, in particular in order to promote and protect the best interests of consumers of financial services. The Parties recognise the importance of close co-operation and communication between them insofar as the exercise of their respective functions is concerned. In particular, the Parties recognise the importance of close co-operation and communication between them in the performance of the Concurrent Functions.

7. Consultation

7.1. The Parties have agreed, to the extent permissible by law, to observe the following principles:

(i) To achieve consistency of approach where appropriate and to avoid confusion or misunderstanding as to their respective roles insofar as they relate to the exercise of the Related Functions.

(ii) To seek, where appropriate, to exercise their respective responsibilities in a complementary fashion to address issues and problems that affect consumers of financial services.

(iii) Where considered appropriate by both Parties, to conduct joint studies or analyses of matters common to the functions of both Parties which relate to consumer protection and welfare, issues of concern to consumers of financial services or issues of competition.

(iv) Insofar as the exercise of the Concurrent Functions is concerned –

(a) to consult, at an early stage, on any issues that might have implications for either Party,

(b) to consult, at an early stage, where either Party is making proposals for legislative amendments that may affect the exercise of any of the Concurrent Functions,

(c) to seek to achieve consensus between the Parties as to which Party is best placed to lead and/or act in a particular case involving the exercise of any of the Concurrent Functions,

(d) to seek to avoid unnecessary duplication of activities.

(v) Each Party (Party A) shall consult the other Party (Party B) in relation to any findings, decisions, recommendations or proposals by Party A which refer to or directly affect the functions of Party B with respect to consumers of financial services or issues of competition between undertakings, in advance of such finding, decision, recommendation or proposal being finalised and made.

7.2. With a view to observing the principles set out in Clause 7.1 above, the Parties will ensure, to the extent permissible by law, that there is an appropriate and timely flow of information and know-how between them, in particular in relation to the exercise of any of the Concurrent Functions. Should either Party request a meeting in relation to any matter, the other Party will facilitate such a request either at the time sought by the requesting Party or at the earliest available opportunity thereafter.

7.3. In circumstances where one of the Parties is leading and/or acting in a particular case involving the exercise of a Concurrent Function, that Party may, subject to the extent permissible by law, keep the other Party fully informed as to the progress of the case and will share any know-how with the other Party arising from its experience of exercising the Concurrent Function in that case.

8. Exchange of Information

8.1. Each Party will, upon request, as far as practicable and where it agrees that the request is reasonable, furnish to the other Party, subject to the extent permissible by law, information in its possession of the kind specified in a request for information. The request shall state that the information is required by the requesting Party for the purpose of the performance of its functions. The exchange of information between Parties is subject to the extent that they are permitted to do so by law and to the constraints outlined below.

8.2. Requests for information shall be made in writing (for the avoidance of doubt, "writing" includes electronic mail) to the Liaison Officer of the respondent Party. In cases of urgency, requests for information may at first instance be made orally, and the responses given orally, provided that both the request and response are subsequently confirmed in writing.

8.3. The Party requesting the information (the "Requesting Party") may ask that the request itself be considered to be confidential.

8.4. For the avoidance of doubt, a Party may furnish information to the other Party pursuant to this Agreement in circumstances where the information in question has not been requested by that other Party.

8.5. The Parties recognise that the exchange of information between them may be an important contribution to the efficient and effective discharge of their respective statutory duties. Both Parties are equally conscious of the need for discretion and for the adoption of procedures that protect the following:

(i) the confidential nature of certain information,
(ii) the professional secrecy obligations of the Bank under section 33AK of the Central Bank Act and under EU law, to which the terms of this Agreement are subject (where applicable), and
(iii) the confidentiality obligations of the CCPC under section 25 of the Competition and Consumer Protection Act.

8.6. In line with the requirements set out in this Clause 8 (in particular, in Clauses 8.10 to 8.12 below), the Parties consider it prudent for them to commit to a level of confidentiality between them as regards the exchange of non-public information.

8.7. Where the Requesting Party requests information from the other Party, the Requesting Party shall state in its request the purpose of such a request and the proposed use by the Requesting Party of such information.

8.8. Where one Party provides information to another Party (whether pursuant to a request or otherwise), the Party receiving such information shall use the information only for the purpose of the performance by it of any of its functions, and only where agreed with, or consented to by, the Party providing the information. Where the information has been provided pursuant to a request, if it has not already done so under Clause 8.7, the Party receiving the information shall inform the Party which has provided the information of the purpose for the information request. Where information has been provided by a Party on its own initiative, the Party receiving the information will inform the providing Party of the purpose or purposes for which the information may potentially be used by the receiving Party.

8.9. Where one Party provides information to another Party (whether pursuant to a request or otherwise), the Party receiving such information shall use the information only for the purpose or purposes which it previously disclosed to the providing Party in accordance with Clause 8.8 above. The receiving Party may use the information for another purpose only with the prior written approval of the providing Party.

8.10. A Party shall not disclose to a third party non-public information received from the other Party (whether pursuant to a request or otherwise) except with the consent in writing of the Party that provided such information, or pursuant to a legally enforceable demand or obligation. A Party that is subject to such demand or obligation shall inform the other Party of the legal provision(s) that require such disclosure within a reasonable time of such Party becoming aware of such demand or obligation.

8.11. The Parties acknowledge their legal obligations under all applicable data protection legislation and shall ensure that any exchange of personal data complies with their obligations, in their respective capacities as data controller/data processor as applicable.

8.12. The Parties acknowledge that, notwithstanding any other provision of this Agreement, they may only disclose information in accordance with this Agreement if permitted or required to do so, or not prevented from doing so, under any applicable laws.

9. Consumer Information in relation to Financial Services

9.1. In accordance with section 10(3)(j) of the Competition and Consumer Protection Act, the CCPC has statutory responsibility for promoting the interests of consumers by (i) providing information in relation to financial services, including information in relation to the costs to consumers, and the risks and benefits associated with the provision of those services, and (ii) promoting the development of financial education and capability. In view of this statutory role,

the CCPC shall be the primary source of consumer information on financial products and services.

9.2. In accordance with Regulation 7 of the Mortgage Credit Agreements Regulations, the CCPC has a specific financial education and information role in relation to mortgage credit agreements for consumers.

9.3. In accordance with Regulation 7 of the Payment Accounts Regulations, the CCPC is charged with responsibility for operating a comparison website that compares the fees charged by payment service providers.

9.4. Section 5C of the Central Bank Act provides that, to enable the Bank to carry out its responsibilities, the Bank may:

(a) undertake studies, analyses and surveys with respect to the provision of relevant financial services to consumers,
(b) collect and compile information for that purpose, and
(c) publish the results of any such studies, analyses or surveys.

9.5. The CCPC may, if it is of the opinion that information obtained by the Bank pursuant to section 5C of the Central Bank Act is relevant to any of the CCPC's functions referred to in Clauses 9.1 to 9.3 above, request such information from the Bank and the Bank may provide that information to the CCPC unless prevented from doing so under section 33AK of the Central Bank Act.

10. Performance of Concurrent Functions

10.1. For the avoidance of doubt, nothing in this Clause 10 or in this Agreement shall prevent either Party from exercising any of its powers under applicable legislation.

10.2. A Party will agree to forbear to perform its Concurrent Functions in relation to a matter in circumstances where consensus has been achieved, in accordance with Clause 7.1(iv)(c) above, that the other Party is best placed to lead and/or act in relation to that matter.

10.3. Where a Party intends to forebear to perform its functions in the manner described in Clause 10.2, it shall first discuss the issue with the other Party, inform it of its intention to apply forbearance, and give the other Party an opportunity to respond.

10.4. Either Party may request the other to exercise forbearance in any particular case in accordance with the approach set out in this Clause 10. The other Party may agree to exercising forbearance

where it is satisfied that the requesting Party is performing functions in relation to that matter. Such agreement as to forbearance shall not be unreasonably withheld or delayed.

10.5. Where one Party has agreed to forebear to perform it functions in any particular matter, it may so inform any relevant third parties as it sees fit.

10.6. The Parties will ensure that in relation to a specific matter no person is the subject of:

(i) proceedings (whether civil or criminal) under the Consumer Protection Act, the Unfair Terms Regulations or any other enactment, or

(ii) the exercise of any power under section 73 or 75 of the Consumer Protection Act,

in respect of an alleged contravention of a provision of the Consumer Protection Act, the Unfair Terms Regulations or any other enactment, by more than one of the Parties.

10.7. Where any section of the Consumer Protection Act or the Competition and Consumer Protection Act specified in section 5A(5) or section 5A(8) of the Central Bank Act provides for anything to be done in relation to the CCPC (whether the giving of notice to it, the submitting of a thing to it or the doing of any other thing) then, insofar as the Bank is exercising a function pursuant to section 5A(4) of the Central Bank Act, it is sufficient compliance with the said section of the Consumer Protection Act or the Competition and Consumer Protection Act concerned if the thing is done in relation to the Bank.

10.8. Any consultation or discussions entered into between the Parties pursuant to this Clause 10 will occur initially between each Party's Liaison Officer.

11. Meetings

11.1. The Parties will meet regularly (at appropriate levels of seniority), and not less than once every six months, to discuss matters of mutual interest and will communicate as required between meetings on such matters of shared interest that may arise in the course of day-to-day business.

12. Co-operation Agreement

12.1. This Agreement is entered into pursuant to section 19 of the Competition and Consumer Protection Act and includes the provisions provided for in section 19(3) of that Act.

12.2. This Agreement shall not operate to make a Party (or any employee, officer or agent thereof) liable to any person in damages or otherwise for anything done or omitted for which such person would not otherwise be so liable.

13. Variation of the terms of the Co-operation Agreement

13.1. Where a Party proposes a variation of the Agreement that Party shall submit, in writing, to the other Party the text of the proposed variation and the reasons thereof.

13.2. This Agreement may only be varied with the consent of both Parties in writing.

14. Implementation and Review

14.1. The Parties will continue to monitor the operation and performance of this Agreement and will review it on an annual basis, with the first review taking place after the Agreement is in operation for six months.

15. Costs

15.1. Each Party agrees to bear its own costs, fees and expenses incurred on foot of a request for information under this Agreement, subject to the Parties agreeing to alternative arrangements in circumstances where the Party to whom the request is made incurs excessive costs, fees (including legal fees) or expenses on foot of such a request.

16. Miscellaneous

16.1. In accordance with section 19(5) of the Competition and Consumer Protection Act, the CCPC shall furnish the Minister for Enterprise, Trade and Employment and the Minister for Finance with a copy of this Agreement, including any variation of this Agreement, within one month after the date upon which this Agreement (or any variation of this Agreement) is made.

16.2. Where the requirements set out in Clause 16.1 have been met, the Parties shall, as soon as practicable, arrange for the Agreement (or any variation of it) to be published on the internet in accordance with section 19(6) of the Competition and Consumer Protection Act.

17. Term of Agreement

17.1. This Agreement will commence on the later of the two dates signed below and will continue for a period of three years. The Agreement will be automatically renewed for successive periods of three years thereafter. Either Party may terminate this Agreement by providing notice in writing to the other Party.

Given under the common seal of the Competition and Consumer Protection Commission this 13 of ~~November~~ December 2021.

Present when the common seal of the Competition and Consumer Protection Commission was affixed hereto

[redacted]

Member
For and on behalf of the Competition and Consumer Protection Commission

[redacted]

Member
For and on behalf of the Competition and Consumer Protection Commission

The Bank hereby confirms its agreement to the terms contained in this Agreement.

[redacted]

Gabriel Makhlouf
Governor
For and on behalf of the Central Bank of Ireland
Date: 24 NOVEMBER 2021